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## REASSESSING COMMITTAL PROCEEDINGS IN TANZANIA MAINLAND: A LESSONS FROM COMPERATIVE JURISDICTIONS

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### Abstract

This article examined the role of committal proceedings in Tanzania criminal justice system, especially in relation to offences including murder. Although committal proceedings were intended to streamline case transfers from subordinate courts to the High Court, in realities they have become a source of delay, prolonged pre-trial detention and human rights concerns. The study provided the historical development and current legal framework under the Criminal Procedure Act, established the constitutional implications of delayed justice and evaluates case law from the African Court on Human and Peoples' Rights. Drawing on comparative experiences from the United Kingdom, Kenya, and Australia, the paper proposes reforms. Ultimately, it provided that the current system undermines the constitutional guarantee of a fair and timely trial and calls for legislative and institutional reforms to enhance efficiency, fairness, and compliance with human rights standards.

**Key Terms:** Committal Proceedings, Criminal justice system, Pre-Trial Detention and Comparative Jurisdictions

## INTRODUCTION

The committal proceedings play a pivotal but a disputable role in the criminal justice system of Tanzania.<sup>i</sup> They are a formal step of the procedure to all criminal offences that cannot be tried by inferior courts particularly capital offences like murder<sup>ii</sup>, treason and some key crimes in the economic field. Tried in lesser courts like the District Court or the Court of a Resident Magistrate, a committal process is a preliminary trial that is usually formal, and the purpose of which is to familiarize the accused with the charges, and the outline of evidence that the prosecution intent to rely upon.<sup>iii</sup>

Though this is designed to facilitate easy transfer of cases to the High Court, concerns have been raised about its role in contributing to delays and inefficiencies in the process especially in the case of murder where the accused is not allowed to get bail<sup>iv</sup>. Practically, this led to the fact that due to the lack of statutory timelines, as well as the purely administrative character of the case, accused persons are kept in the remand prison without their case being tried<sup>v</sup>. This has cast very basic concerns as to whether the

present committal proceedings system is compatible with constitutional entitlements to fair and timely justice<sup>vi</sup>.

This paper is a critical review of the degree to which the committal proceedings in their present form are a source of injustice in the murder trials in Tanzania. It examines the legal framework in force, looks into the characteristics of the procedure that create delays, reviews the constitutional and human rights concerns, and provides comparative lessons of other jurisdictions. The paper finishes by making practical suggestions that can transform the process to meet the principles of fairness, efficiency, and safeguarding of the individual rights.

## THE BACKGROUND OF COMMITTAL PROCEEDINGS IN TANZANIA MAINLAND

The origin of committal proceedings in Tanzania can be traced back to the colonial times when Tanganyika was under British rule. Criminal procedure at this time was under the Criminal Procedure Ordinance (CPO) that brought about the criminal preliminary inquiry system of serious offences like murder and treason.<sup>vii</sup> Under this system, subordinate courts had the mandate to make inquiries on whether there was sufficient evidence to establish a



prima facie case before an accused person could be pressed into trial in the High Court. This was done to offer an early filtering mechanism, and stop weak or unfounded prosecutions going to trial<sup>viii</sup>.

After gaining independence in the year 1961, Tanzania retained a significant part of the colonial law system, including those of the Criminal Procedure Ordinance. Preliminary inquiries were still conducted by the magistrate's courts in capital crimes. This system, however, as time went by was criticized to be lengthy and duplicative in that it entailed the examination of the witnesses twice first in the inquiry stage and then in the trial stage<sup>ix</sup>.

During more widespread changes to ease and modernize the criminal procedure, in 1985, the system of preliminary enquiries was abolished by the formation of the Criminal Procedure Act, Cap. 20. This law introduced committal proceedings to replace preliminary inquiry<sup>x</sup>. In contrast to their predecessor, committal proceedings were to be easy and less time consuming. They also demanded that the prosecution should prepare a statement of evidence that would be relied upon in the trial and that this statement should be read to the accused before the case was passed on to the High Court.<sup>xi</sup>

Since, the committal proceedings have continued to be a core process of dealing with capital crimes in Tanzania. They have now been governed by parts 260 to 268 of the Criminal Procedure Act, providing the scheme of the preparation of the committal documents, their production before a magistrate, and the formal committal of the accused to stand trial in the High Court.<sup>xii</sup>

## THE CONCEPT OF COMMITTAL PROCEEDINGS IN TANZANIA MAINLAND

In Tanzania Mainland, committal proceedings refer to pre-trial hearings held in the subordinate courts, especially in the District and Resident Magistrates Courts, of offences whose trials are only possible by the High Court. Such crimes involve murder and treason<sup>xiii</sup>. As subordinate courts have no prerogative of deciding on such weighty cases, committal proceedings act as a legal interlocutor between the lower courts and the High Court. In the process the Director of Public Prosecutions (DPP) presents information in the form of an information before the lower court and attaches the witness statements and any other documentary evidence to the same. These are records that are provided to the accused to make him know what he/she is charged with and what evidence will be used in court. The magistrate then arraigns the accused and thus commits him to trial in the High Court after procedural requirements are met<sup>xiv</sup>. It should be mentioned that the magistrate is not required to examine adequacy of evidence and to decide whether the accused is guilty or not, he is only required to perform a procedural role that concerns disclosure and passing the case on to the High Court.<sup>xv</sup>

The use of committal proceedings in the Tanzania main land has a number of rationale. To begin with, they are a prerequisite of jurisdiction since subordinate courts have no power to put on trial capital crimes, and thus proceedings are the official route by which

such cases are sent to the High Court. Second, under committal proceedings, the constitutional right to a fair trial, as stipulated in Article 13 of the Constitution of the United Republic of Tanzania, 1977, is guaranteed since the accused will be notified of the charges and shown evidence prior to the trial commencing<sup>xvi</sup>. This avoids trial by ambush and also gives the accused an opportunity to mount a defence. Third, committal proceedings aid in management of cases by ensuring the charges and information presented by the prosecution is procedurally sound, and, thus, it saves unnecessary technical delays when the matter arrives at the High Court. Fourth, they enhance judicial efficiency because the High Court resources will be used in substantive trials, and not on initial administrative cases. Lastly, the proceedings serve as a protection to the accused person in the sense that the accused does not get caught unawares during the trial by disclosing the evidence early on, and it enhances transparency and fairness in the criminal procedure.

Thus, committal proceedings on Tanzania Mainland are a procedural protection and jurisdictional relief between the subordinate courts on the one hand, and the High Court on the other hand. They make sure that the serious criminal offences are handled under the right legal framework and that it is efficient in the judicial system as well as that it does not infringe upon the constitutional rights of the accused.

## LEGAL FRAMEWORK GOVERNING COMMITTAL PROCEEDINGS IN TANZANIA

Committal proceedings in Tanzania are very much legalized and are based more on the Constitution, the Criminal Procedure Act (CPA), and the Penal Code. Collectively, the instruments define the jurisdictional structure, the boundaries of criminogenic offences to be committed, and the steps that will be adopted.

The Constitution of the United Republic of Tanzania, 1977 entitles the right to fair trial and access to justice. Attributed to Article 13(6)(a) states that any individual convicted of a criminal offence is entitled to a fair hearing and in a reasonable period, before an independent and unbiased tribunal.<sup>xvii</sup> Article 107A(2)(b) also invites courts to make sure that justice is administered promptly other than waiting too long.<sup>xviii</sup> These clauses in the constitution create a general requirement to the judicial and prosecutorial authorities to oversee committal proceedings and subsequent trials in a manner that does not affect the rights of the accused persons.

The statutory terms of committal proceedings are given by the Criminal Procedure Act. Under Section 260 to 268 sets out the process of the offences that can be tried only by the Court of high jurisdiction. In an incidence where an individual is accused of such an offence in any lower court, the Director of Public Prosecutions (DPP) must prepare an information with the summary of the evidence he intends to use in trial.<sup>xix</sup> The magistrate will read the charge and the summary to the accused, make note of any statement made and then ensure the accused is held to stand trial in the High Court.<sup>xx</sup>

The CPA also has central provisions as far as bail is concerned. Section 151 identifies crimes where one cannot be bailed, such as murder, treason, armed robbery and some drug crimes.<sup>xxi</sup> This implies that any accused individual suspected of murder should be kept in custody since the time of initial appearance in a minor court, during committal proceedings and until trial in the High Court starts.

The Penal Code supplements this structure by giving meaning to murder and the punishment prescribed. The murder has been defined by section 196 and the penalty of death is provided by section 197.<sup>xxii</sup> The severity of this crime is the reason why it can only be tried by the High Court and charged by the inferior courts during the committal proceedings.

Therefore, the domestic legal system declares committal proceedings as an essential step in the course of trial in murder cases. It represents a compromise between the need to make sure that the accused is formally notified about the charges and evidence against him, and a need to maintain the jurisdiction of the High Court in capital crimes.

## THE CONDUCT OF COMMITTAL PROCEEDINGS IN TANZANIA MAINLAND

The section 260 to 268 of the Criminal Procedure Act, regulates the conduct of committal proceedings in the Tanzania Mainland.<sup>xxiii</sup> These adequately control the processing of cases that cannot be tried elsewhere but by the High Court, such as murder, treason and so on, in a subordinate court in order to reach the trial stage in the High Court. The rationale behind this is to treat the accused just but at the same time be efficient in the processes.

In case a person is taken to a subordinate court in a charge that can not be heard by the High Court, the subordinate court has no authority to hear the case. Rather, Director of Public Prosecutor (DPP should draft an information with the formal charges with the statements by witnesses and other evidence.<sup>xxiv</sup> This is the documentation which is presented to the subordinate court and is the basis of the committal proceedings. At this point the accused is not pleaded in court. The magistrate is only restricted to explain the contents of the charge and the evidence in support of the case hence making the accused aware of the case against him or her.<sup>xxv</sup>

Section 261 concerns itself with the provision of the accused with copies of information, summary of evidence and statements of witnesses once the information has been filed. The magistrate is also required to read out and interpret what is contained to the accused.<sup>xxvi</sup> This is within the confines of Article 13(6) (a) Constitution of the United Republic of Tanzania, 1977 which provides the right to fair trial to every accused individual including the right to be informed of the charge to be brought against him or her.<sup>xxvii</sup>

Section 262 of the CPA provides that following the explanation of documents, the accused may make any statement or comments he or she desires. But they have no duty to reply, and their silence cannot be taken to their disadvantage.<sup>xxviii</sup> The magistrate records

any statement that has been made as per section 263. This record can subsequently be used in the High Court in the future but it does not replace testimony or plea in the court. Section 264 grants the magistrate the responsibility of certifying that the proceedings have been conducted well.<sup>xxix</sup>

The other phase is the formal committal. Section 265 also grants the lower court the authority to make an order that binds the accused to trial in the High Court after all the procedural processes have been followed. It is at this stage that the suspect is held in custody or on bail depending on the type of the crime but in the case of a capital crime such as murder all bail is usually not possible. Section 267 also mandates the subordinate court to hand over all the original documents, such as the information, the witness statements and exhibits to the Registrar of the High Court.<sup>xxx</sup> Section 268 follows by guaranteeing that the accuser is supplied with certified copies of this committal paperwork so that the accused can be sufficiently prepared to stand trial.<sup>xxxi</sup>

At practical levels in Tanzania, committal proceedings serve two basic purposes. Firstly, procedural regularity is encouraged by giving effect to a system through which serious issues are properly constituted before they get to the High Court. Secondly, they constitute a right to a fair trial safeguard by granting the accused early exposure to evidence to enable preparation for the defence. Professors have noted that although under this step the magistrate would not cross-examine the adequacy of evidence, it entails increased clarity and prevents “trial by ambush.”<sup>xxxii</sup> Committal proceedings have nonetheless been criticized by scholars as having delayed matters especially in capital cases where accused persons will often languish in jail before they appear on trial.<sup>xxxiii</sup>

Thus, committal proceedings in Tanzania by virtue of sections 260 to 268 of the CPA are not substantive but procedural. The magistrate's administrative role is to confirm the statutory conditions before an accused is sent to the High Court. While at times tardy, it is invaluable in striking a balance between judicial speed and the constitutional obligation to safeguard the right to be heard enjoyed by the accused.

## LESSONS FROM OTHER JURISDICTIONS

Comparative experience from other common law jurisdictions offers lessons for Tanzania in determining committal proceeding efficacy and potential. While historically committal proceedings had been defended as protecting accused persons from weakened prosecutions and affording procedural fairness, several countries have eliminated or radically transformed the process as they have faced comparable problems as in Tanzania.

### United Kingdom (England and Wales)

The United Kingdom had traditionally had committal proceedings conducted before magistrates to determine whether or not a case was to be sent to the Crown Court. The system was highly criticised for delay and duplication. Accordingly, the Criminal Justice Act 2003 abolished committal hearings and introduced the system of “sending for trial,” by which indictable offenses are sent directly to the Crown Court after charge documents are filed by the

prosecution.<sup>xxxiv</sup> This reform did away with the unnecessary procedural step without extinguishing the right of the accused to disclosure of evidence. Therefore, Tanzania could consider abolishing committal proceedings and adopt a system of direct transfer so as to reduce delay without prejudicing procedural fairness.

### Kenya

Kenya operated a similar system to Tanzania's, whereby committal proceedings occurred for offenses triable by the High Court. The process was abolished by Statute Law (Miscellaneous Amendments) Act No. 7 of 2007.<sup>xxxv</sup> Under the new process, persons charged with serious offenses such as murder are taken directly before the High Court for the purpose of taking their plea and for trial. The change had been defended on grounds of efficiency as well, as committal proceedings had formed a bottleneck in the criminal process. Due to that, the Kenyan example demonstrates that abolition is possible in East Africa, and that removing committal proceedings from the system is possible without sacrifice of fairness.

### Australia

Australia has adopted a mixed approach. Some states, such as Victoria, preserve committal proceedings but overhauled them under the Criminal Procedure Act 2009. Reforms limit full committal hearings to special issues regarding evidence sufficiency by the accused.<sup>xxxvi</sup> The system preserves committal's safety aspect without unnecessary delay. Other states such as New South Wales abolished committal hearings completely and chose to have direct case management procedures by senior courts.<sup>xxxvii</sup> Therefore, if abolition is not practical, Tanzania can overhaul committal proceedings to limit them to situations where issues regarding evidence genuinely take center stage and thus contain delay without sacrificing safety role.

### Lessons for Tanzania

The comparative analysis between the United Kingdom, Kenya, and Australia provides separate lessons that may be learned by Tanzania in revamping committal proceedings. Several salient themes emerge:

i) Abolition is viable option; The United Kingdom and Kenya's experience shows that committal proceedings are not indispensable to dispensing justice. Their abolition was not followed by injustice but by increasing efficiency through avoidance of procedural duplication. For Tanzania, it implies that committal process lawfully and realistically may be abolished if appropriate safeguards such as early evidence disclosure and judicial allocation of cases in the High Court are implemented. Abolishment would also directly correct lengthy pre-trial detention through delay in subordinate courts.

ii) Efficiency must be balanced with fairness; Abolition was criticized as robbing the accused of one essential precaution namely, of being fully informed about the case they are facing before the start of the trial. The UK and Kenya sidestepped this threat by boosting rules about early disclosure of evidence and by

assuring accused individuals they have adequate time and facilities to prepare their defence. Tanzania has something to learn from them that, whatever decision it makes between abolition and reform, efficiency cannot come at the cost of fairness. Both must advocate for each other.

iii) Compromise restructuring: The Australian mixed model proves that abolition is not an alternative. Instead of completely excluding committal proceedings, they may be redistributed to work only when it would be useful e.g. where there is a genuine dispute regarding evidence. For Tanzania, such would entail committal proceedings would retain their protective feature without causing undesirable delay in all murder cases.

iv) Importance of statutory timeframes; All comparative jurisdictions highlight procedural certainty. Lack of definite timeframes in Tanzania has been committal proceedings' largest weakness, allowing for indefinite adjournments. Foreign lessons are instructive such that statutory timeframes are invaluable, both for committal preparation and for referral to the High Court. This would prevent abuses of adjournments and promote the constitutional dimension of trial without undue delay.

v) Strengthening case management in the High Court; The system of transfer directly to the Crown Court in the UK and direct arraignment by the High Court in Kenya reflect how vital it is to ensure effective case management upon transfer. Tanzania must learn that whatever abolition or restructuring reform it adopts will entail strengthening judicial oversight in the High Court. Judges must receive powers to organize time plans for hearings, confirm disclosure requirements, and prevent frivolous delay.

vi) Regional applicability and practicality; The Kenyan example is particularly appropriate to Tanzania given their similar system of law, historical experience, and procedural system. The successful reforms in Kenya serve to confirm that it is regionally feasible and contextually appropriate to make similar reform. Tanzania cannot therefore plead that situations are too different from other jurisdictions to facilitate similar reform.

vii) Adherence to human rights; Finally, all reforms outside are motivated by at least partial compulsion in order to keep domestic criminal procedure abreast of constitutional and human rights standards. For Tanzania by analogy it is plain: it is not merely about overhauling committal hearings in the interests of economies of scale but also about adherence to constitutional entitlement under the Constitution of the United Republic of Tanzania and regional charters such as the African Charter on Human and Peoples' Rights.

### Case Law Analysis

Decisions by regional human rights judiciary bodies give striking illustrations of how issues in committal proceedings get translated into unfairness related to delay. Two such decisions by the African Court on Human and Peoples' Rights (AfCHPR) highlighted system-wide problems in Tanzania's pre-trial process:

In Damian vs United Republic of Tanzania (Application No. 048/2016), African Court on Human and Peoples' Rights<sup>xxxviii</sup>, the



Court was confronted with a scenario where the accused was arrested in August 2007 but not committed to the High Court for purposes of having it try them until June 2009, almost two years later and the trial began in November 2012. The Court was emphasizing that committal hearings must commence “as soon as practicable” under the Criminal Procedure Act but no time frame is provided by law. Omission by statute of such timeframes was significantly to blame for delay by over five years from arrest through to trial.

Also, in Augustino and Another vs United Republic of Tanzania (Application No. 015/2016), African Court on Human and Peoples’ Rights<sup>xxxix</sup>, it was noted by the Court once more that committal proceedings had not been held in time owing to negligence on the magistrate’s part. The accused had already been arrested in May 1999 itself, but committal proceedings had not been held until March 2006, more than six years later. The committal was concluded by the subordinate court only after repeated reminders by the High Court and then the proceedings started.

Such rulings reflect essential imbalance between committal requirement by law and experiential delay. Remand and committal adjournments are permitted by Criminal Procedure Act without defined limits, with room for systematic delay. Decisions by AfCHPR are useful in pointing out procedural time-line compliance weaknesses by Tanzania. They refine jurisprudential precedents that delay in committal contravenes rights to fair trial by constitutional and regional human rights benchmarks.

## CHALLENGES OF COMMITTAL PROCEEDINGS IN MAINLAND TANZANIA.

### (a) the absence of Statutory Timeframe

Criminal Procedure Act provides for committal hearings but does not specify the maximum time period by which committal hearings are to be concluded.<sup>xl</sup> That omission has caused a lacuna in law whereby accused persons could spend years in subordinate courts without any/send cases before them to the High Court. Committal hearings are often delayed by the magistrate repeatedly in practice to provide more time to the prosecution to prepare the summary of evidence. Such exceptions have been allowed without any statute mandating it, thus causing delay without any specific time. Non-definition of timeframes destroys constitutional doctrine of promptness in administering justice as contemplated under Article 107A(2)(b) in the Constitution.

### (b) prolonged Pre-Trial Detention

Murder is defined as a non-bailable offence by section 151(5)(a)(i) of the Criminal Procedure Act.<sup>xli</sup> This act dictates that an accused charged with murder must be remanded in custody from first appearance till the conclusion of the trial. In situations where committal proceedings take long, the accused remains remanded longer than normal without going for trial. Some arrestees have had years elapse between remand and committal or determination not to charge them or charge them with less serious crimes than murder. This situation not only deprives them right to liberty but also deprives them presumption of innocence by Article 13(6)(b)

of the Constitution. International law, including African Court on Human and Peoples’ Rights cases, has characterized such prolonged-detentions as violating the right to be tried within a reasonable time.<sup>xlii</sup>

### (c) Formalistic and Administrative Nature of Committal Proceedings

Compared to committal hearings that had taken place before 1985, committal proceedings do not involve establishing whether or not the charge contains sufficient evidence to warrant it. The magistrate, therefore, simply recites charge and substance of evidence to suspect and commits them to the High Court.<sup>xliii</sup> This makes it administrative and formalistic to a very large extent. While it ensures that the suspect knows what they are charged with, it provides no opportunity for the court to verify proof of evidence from the prosecution. The process remains therefore to detain without giving any real protection to the suspect.

### (d) Backlog of Capital Cases in the High Court

Inefficiencies in committal proceedings directly lead to capital cases stacking up in the High Court. Murder cases constitute the majority of delayed criminal cases.<sup>xliv</sup> Committal proceedings delay in subordinate courts lead to cases getting to the High Court after such a long-time elapse without them having been dealt with, effectively exacerbating accumulation and overstretched judicial resources.

### (e) Resource and Capacity Constraints

Another area of concern is inadequate allocation of resources to subordinate courts and the prosecuting authority. Preparing summaries of evidence is highly intense and requires close coordination between police detectives, state prosecutors, and magistrates. In practical terms, prosecutors will not prepare summaries on time due to deficits in staff, workload issues, and logistical limitations. Frequent adjournments unnecessarily delay the committal process.

### (f) Human Rights Concerns

Cumulative effect of committal proceeding delay, lengthy jail terms, and committal proceeding’s administrative nature has grave human rights implications. In Damian vs United Republic of Tanzania (Application No. 048/2016), African Court held that by keeping the arrest-trial period for five years, it constituted a basis for breaching the right to time to be tried.<sup>xlv</sup> Furthermore, in Augustino and Another vs United Republic of Tanzania (Application No. 015/2016), it was held by African Court that committal delay exceeding six years was not compatible with fair trial guarantees.<sup>xlvi</sup> Both these cases are exemplary in that they demonstrate committal practice in Tanzania cannot effectively safeguard constitutional and international rights.

From the challenges discussed, several findings emerge; Structural Defects in the Law; Lack of time limits for committal proceedings is one example of such structural defects in Tanzanian criminal procedure. This allows cases to become stranded in lower courts without any progress and hence violates the right to a fair trial as provided by the constitution.

Denial of Liberty Without Trial; Given that murder is not bailable, committal proceeding delay would necessarily mean lengthy pre-trial detention. The practice is contrary to the presumption of innocence and makes pre-trial detention a punishment without conviction.

Committal as Procedural Formality; The hearings amount to little substantive input, for they involve no scrutiny of evidence. They are a procedural formality which prolongs the process instead of securing justice.

Institutional Inefficiency; Resource and capacity constraints in prosecutors' offices and lower-level courts expand delay windows, which demonstrates that institutional problems are not solely legal.

Breach of Human Rights Obligations; The Tanzanian committal proceeding experience has drawn criticism from the regional human rights institutions. The African Court's law holds that committal proceeding delay is both domestic and international law violations of rights to a fair trial.

Impact upon the Criminal Justice System; By causing delay and long pre-trial detention in the High Court, committal proceedings reduce public confidence in the adjudicative system and hinder its ability to deliver effective justice.

## REFORMS

### 1. Legislative Reform

Amend Criminal Procedure Act, to ensure committal proceedings have specific statutory timeframes for completion. Also consider abolishing committal proceedings and introducing direct referral of capital cases to the High Court along the lines followed by Kenya and the UK.

### 2. Alternative Procedural Models

If abolition is not possible, reform committed proceedings to authorize them only in cases where serious issues about evidence are involved, as in the Australian model. That would save their protective purpose without unnecessary delay.

### 3. Judicial and Prosecutorial Efficiency

Strengthen institutional ability through early preparation by the Director of Public Prosecutions of charge summaries. Install case management systems in subordinate and High Courts to track and speed up disposal of capital cases.

### 4. Constitutional Safeguards

Comply with Articles 13(6)(a) and 107A(2)(b) of the Constitution of the United Republic of Tanzania, 1977, by guaranteeing the right to be tried within a reasonable time.<sup>xvii</sup> Provide judicial oversight to prevent indefinite committal proceeding adjournments.

### 5. Human Rights Compliance

Align domestic practice with regional and global human rights norms, particularly those fashioned by the African Court on Human and Peoples' Rights, to forestall frequent judicial critique and protect rights of accused persons.

## Conclusion

Tanzanian committal hearings started in 1985 as a procedural reform designed to streamline the more cumbersome preliminary hearings system. They had been thought of as streamlining the prosecution process in capital cases by introducing a formal system for committing cases from subordinate to the High Court. Nonetheless, despite having been written with purpose to serve fairness by informing the accused about charges and evidence, practical experience has highlighted noticeable flaws.

Statutory time-limits absent in Criminal Procedure Act have facilitated excessive delay in committal hearings. Due to murder not being bail-able offence, such delay translates directly to excessive pre-trial confinement. There are grave constitutional and human rights considerations. Decisions by African Court on Human and Peoples' Rights and other judicial organs have signaled incompatibility between excessive committal delay and right to fair trial in reasonable time.

Comparative insights from other countries such as the United Kingdom, Kenya, and Australia reveal that committal proceedings are not indispensable. Others have abolished them or rearranged the process to fix flaws. Therefore, this piece therefore contributes to the broader criminal justice reform discourse in Tanzania by depicting committal proceedings' procedural flaws, lifting the veil on their constitutional and human rights consequences, and drawing comparative lessons to guide statutory and institutional reform.

<sup>i</sup> Section 260 to 268 of the Criminal Procedure Act, [Cap. 20 R.E. 2023]

<sup>ii</sup> Section 196 to 197 of the Penal Code, [Cap. 16 R.E. 2023]

<sup>iii</sup> Section 260 of the Criminal Procedure Act, Cap. 20 R.E. 2023

<sup>iv</sup> Section 151 (5)(a)(i) of the Criminal Procedure Act, [Cap. 20 R.E. 2023]

<sup>v</sup> United Republic of Tanzania, Judiciary of Tanzania Annual Report 2021/2022(Dar es Salaam: Judiciary of Tanzania, p. 43.

<sup>vi</sup> Article 13(6)(a) of the Constitution of the United Republic of Tanzania, 1977

<sup>vii</sup> Criminal Procedure Ordinance, 1930 (Tanganyika).

<sup>viii</sup> ELTOE, G (1975) A Guide to Criminal Procedure in Tanzania (Dar es Salaam: Tanzania Publishing House, p. 87.

<sup>ix</sup> TENGA, B (1982), The Administration of Criminal Justice in Tanzania (Dar es Salaam: Faculty of Law, University of Dar es Salaam, 1982), p. 142.

<sup>x</sup> Criminal Procedure Act, [Cap. 20 R.E. 1985]

<sup>xi</sup> Ibid

<sup>xii</sup> Section 260 to 268 of the Criminal Procedure Act, [Cap. 20 R.E. 2023]

<sup>xiii</sup> Section 2 of the Criminal Procedure Act, [Cap. 20 R.E. 2023]

<sup>xiv</sup> Section 260 to 268 of the Criminal Procedure Act, [Cap. 20 R.E. 2023]

<sup>xv</sup> Magistrates' Courts Act, [Cap. 11 R.E. 2023].

- <sup>xvi</sup> Article 13 of the Constitution of the United Republic of Tanzania, 1977
- <sup>xvii</sup> Article 13(6)(a) of the Constitution of the United Republic of Tanzania,
- <sup>xviii</sup> Ibid
- <sup>xix</sup> Section 260 to 268 of the Criminal Procedure Act, [Cap. 20 R.E. 2023]
- <sup>xx</sup> Ibid
- <sup>xxi</sup> Ibid
- <sup>xxii</sup> Section 196 to 197 of the Penal Code, [Cap. 16 R.E. 2023]
- <sup>xxiii</sup> Ibid
- <sup>xxiv</sup> Ibid
- <sup>xxv</sup> Ibid
- <sup>xxvi</sup> Ibid
- <sup>xxvii</sup> Article 13(6)(a) Constitution of the United Republic of Tanzania, 1977
- <sup>xxviii</sup> Section 262 of the Criminal Procedure Act, [Cap. 20 R.E. 2023]
- <sup>xxix</sup> Ibid
- <sup>xxx</sup> Section 265 to 267 of the Criminal Procedure Act, [Cap. 20 R.E. 2023].
- <sup>xxxi</sup> Section 268 of the Criminal Procedure Act, [Cap. 20 R.E. 2023]
- <sup>xxxii</sup> CHIPETA, Buxton David, (2009), A Hand book for Public Prosecutors, 3rd ed, Dar es Salaam, Mkuki na Nyota Publishers, p. 77-80.
- <sup>xxxiii</sup> UTAMWA, J.H.K., (2018), Investigation for Promoting Fair Criminal Trials in Tanzania: The Case of Conducting Committal Proceedings and Preliminary Hearing Sequential, PhD Thesis, University of Dar es Salaam.
- <sup>xxxiv</sup> Section 41 of the Criminal Justice Act 2003 (UK)
- <sup>xxxv</sup> Statute Law (Miscellaneous Amendments) Act No. 7 of 2007.
- <sup>xxxvi</sup> Section 95 to 101 of the Criminal Procedure Act 2009 (Victoria, Australia)
- <sup>xxxvii</sup> FINLAY, L (2017) Principles of Australian Criminal Procedure: Federation Press, p. 133.
- <sup>xxxviii</sup> Damian v United Republic of Tanzania (Application No. 048/2016) (African Court on Human and Peoples' Rights, 4 June 2024).
- <sup>xxxix</sup> Augustino and Another vs United Republic of Tanzania (Application No. 015/2016) (African Court on Human and Peoples' Rights, 3 September 2024).
- <sup>xl</sup> Section 260-268 of the Criminal Procedure Act, [Cap. 20 R.E. 2023].
- <sup>xli</sup> Ibid
- <sup>xlii</sup> Article 13(6)(b) of the Constitution of the United Republic of Tanzania,
- <sup>xliii</sup> Ibid
- <sup>xliv</sup> Judiciary of Tanzania, Annual Report 2021/2022 (Dar es Salaam: Judiciary of Tanzania, 2022), p. 43.
- <sup>xlvi</sup> Ibid
- <sup>xlvi</sup> Ibid
- <sup>xlvi</sup> Article 13(6)(a) and 107A(2)(b) of the Constitution of the

United Republic of Tanzania, 1977