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THE EFFECTIVENESS OF JUDICIAL SERVICE COMMISSION IN TANZANIA

By

ERICK PRUDENCE¹, DR. FRANCISCO DAMAS²
ST. AUGUSTINE UNIVERSITY OF TANZANIA



Abstract

This paper will focus on the Effectiveness of The Judicial Service Commission in Tanzania by examining the establishment of the commission, composition and structure of the commission, Power and function of the Commission, Legal framework Governing the Commission, Independence of The Commission, Judicial service commission and the Independence of the Judiciary, Effectiveness of the commission, Challenges behind the Commission, Conclusion and Recommendation.

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Corresponding author
ERICK PRUDENCE

1.1 INTRODUCTION

Judicial Service Commission (JSC) This is a judicial body, established by constitution of the United Republic of Tanzania¹, as the appointment advisory commission for Judges and f magistrates and also providing advice to the government on matters relating to judiciary and the administration of justice system. Judicial Service Commission (JSC) is established under Article 112(1)². With the duty to advice the President. Likewise, the Judicial service commission.

1.2 KEY CONCEPTS

- Judicial Independence³

The JSC is a constitutional body primarily established to safeguard the independence of the judiciary. It ensures that judicial officers are recruited, appointed, promoted, and disciplined in a manner that is free from political or external interference

- Recruitment and Appointment of Judicial Officers⁴

One of the core functions of the JSC is to recommend qualified candidates for appointment to various judicial offices, such as magistrates, judges of the High Court, and Justices of Appeal. The process aims to be merit-based, although concerns about transparency occasionally arise.

- Disciplinary Control and Accountability⁵

The JSC also handles disciplinary matters involving judicial officers. This includes investigating complaints and recommending appropriate actions. However, critics argue that the disciplinary process must be more transparent and accessible to maintain judicial integrity.

¹ 1977

² *The Constitution of The United Republic of Tanzania of 1977*

³ Article 107A, *The Constitution of the United Republic of Tanzania*, 1977

⁴ *Legal and Human Rights Centre (LHRC). (2022). Tanzania Human Rights Report. humanrights.or.tz*

⁵ *Tanzania Judiciary. (2023). Comprehensive Performance Report of the Judicial Functions.tanzilii*



- Security of tenure of Judicial Officers⁶

One of the JSC's functions is to ensure that judicial officers have secure tenure and are not arbitrarily removed from office. Security of tenure is essential to uphold judicial independence, as it allows judges to make decisions without fear of reprisal

- Transparency and Accountability of the JSC Itself⁷

While the JSC holds judicial officers accountable, it also must remain transparent and accountable in how it makes decisions, especially on appointments and disciplinary matters. Calls for publishing selection criteria, interview outcomes, and disciplinary rulings are growing in civil society.

- Public Trust and Access to Justice

Through its work in recruitment, discipline, and oversight, the JSC indirectly influences public trust in the judiciary. A credible and independent JSC promotes fair trials, impartial rulings, and thus increases citizen trust in judicial outcomes.

1.2.1 Judicial Service Commission (JSC)

The Judicial Service Commission is a constitutional body established under Article 112 of the Constitution of the United Republic of Tanzania.⁸ mandated to advise the President on the appointment, discipline, and transfer of judicial officers (excluding judges of the High Court and Court of Appeal). The JSC plays a crucial role in ensuring the professional conduct and competence of judicial personnel.

1.2.2 Judicial independence

Judicial independence refers to the freedom of judges and the judiciary from external pressures, particularly from the executive and legislative branches, allowing them to make impartial decisions based solely on the law. It is essential for upholding the rule of law, ensuring fair trials, protecting individual rights, and maintaining public confidence in the justice system.⁹

1.2 COMPOSITION AND STRUCTURE OF JUDICIAL SERVICE COMMISSION

The process of appointing of members of any Judicial service commission. Should be based on the principle of impartiality, integrity and independence of the persons appointed to ensure the commission is completely made and so as to maintain the public trust and confidence. IN Tanzania Article 112(2)¹⁰ provides the composition and structure of the Judicial Service Commission. The Commission Consist The chairman and five other Members as it is elaborated below;

- a) Chief Justice of the United Republic of Tanzania whose introduced by the Constitution as the chairman of the Commission. Chief Justice is appointed by the President of the united Republic of Tanzania as the head of the judiciary and courts in the United Republic of Tanzania¹¹ But in the Commission has given the power of chairman. To lead the Commission in Performing it's Function.
- b) Attorney General, This is another member of the Commission appointed by the President of the United Republic of Tanzania
- c) A Justice of Appeal of Tanzania who shall be appointed in that behalf by the President after consultation with Chief Justice,
- d) The Principal Judge,
- e) Two members who shall be appointed by the President of the United Republic of Tanzania and that person shall not be qualified as member of the Judicial Service Commission if he or she is the Member of the Commission of hold the office prescribes on that behalf by the law enacted by the parliament.¹²

1.3 POWERS AND FUNCTION OF THE JUDICIAL SERVICE COMMISSION

1. Appointment and Promotion: The Judicial service commission has given the power to Selects and recommends the appointments, including promotions, to judicial offices. Appointments: Selects and recommends suitable candidates. The Judicial Service Commission is very important when it comes to the issue of appointment of judges. However, the appointment power vested to the Judicial service Commission is not absolute since because the Judicial service commission has the power Only to select and recommend on the persons whom they think that can be best on the position and the appointment power remains to the Executive especial the President.¹³ Another limitation is that the Judicial Service Commission is not engaged in the appointment of the Chief Justice and Justices of the Court of Appeal. This function remains to the President. The President need only the consultation of chief justice to appoint either justice of appeal or chief justice. The two processes cast doubt to the general public on the independence of those appointed. It is not clear which criteria are used by the appointing authority to nominate them. In absence of transparency those appointed may likely become supplicants of authority which appointed them. For example, in Kenya, the President involvement is not completely removed but the provisions of the

⁶Article 110 and 113, of The Constitution of the United Republic of Tanzania,

⁷ Human Rights Watch. (2020). Accountability and Transparency in Judicial Appointments: The Case of Tanzania.

⁸ Ibid

⁹ Article 107A(1)(2) of the Constitution of the United Republic Of Tanzania of 1977

¹⁰ The Constitution of The United Republic of Tanzania of 1977

¹¹ Article 118 of the Constitution of The United Republic of Tanzania of 1977

¹² Article 112(3) of the Constitution of The United Republic of Tanzania of 1977

¹³ Article 109 and 118 of The Constitution of the United Republic of Tanzania of 1977



constitution are controlled in such a way that the appointment by the President is not complete.

2. Discipline: The Judicial service Commission has given the power to Investigates complaints lodge in by any person with interest and deals with disciplinary matters concerning judges and magistrates. To ensure that discipline is well maintained disciplinary procedure is well followed for example investigating complaints and misconduct, holding disciplinary hearings, and imposing appropriate sanctions, like the removal from office, reduction in rank or salary, or other sanctions provided by the regulations and service schemes.¹⁴
3. Advisory Role: The Judicial Service Commission has the duty to advice the President on the matter relating to administration of justice especially by providing recommendations for judicial appointments,¹⁵ and providing advice on other matters relating to the discipline of Judges,¹⁶ also advice on other issues concerning with the judiciary and the administration of justice.
4. Regulation, Judicial Service Commissions has the power to make regulations and codes by the way of legislative or administrative rule-making, provided in their enabling legislation, including's establishing procedures for meetings, drafting rules and codes of conduct, and also enacting them with the concurrence of the commission members. These rules and codes often cover the professional ethics, conduct, administration, and discipline of judicial officers. For Example, the Code of Conduct and Ethics for Judicial Officers¹⁷
5. Ensuring Independence: By managing judicial personnel, the JSC helps maintain the independence and impartiality of the judiciary. As they upholding a framework of rules and principles that protect judges from external influence. Thing's maintenance of transparent and merit-based appointment process of judges, controlling the disciplinary procedures and also removal of judicial officers, as well as financial independence and guaranteed tenure for judges.

3.3 The legal framework for the Judicial Service Commission (JSC) in Tanzania

The Constitution of the United Republic of Tanzania¹⁸

The Constitution act as the key of Judicial service commission since everything is established on its basis. For example, Article 112(1) establish the commission as the Advisory commission for

judges and magistrates in mainland Tanzania also 112(2) provides for the composition of the commission, which also provides key functions and powers of the Judicial service Commission. Also encourage its independence and then This constitutional status makes it more difficult to abolish or dismantle the JSC compared to if it were merely created by an ordinary statute.

Judiciary Administration Act¹⁹

The Judicial Administration Act in Tanzania influences the Judiciary Service Commission (JSC) by establishing roles to control the Judiciary's service and administration, as well as the appointment of a Chief Court Administrator, creating Divisions and Units, formulating the Judiciary Scheme of Service, and establishing mechanisms for employee appointments, promotions, and disciplinary matters. The Act provides a framework for the Judicial service Commission to fulfill its mandate of maintaining an efficient judicial service, consolidating administrative functions previously under different legislation.

3.3.1 Independence of the Commission

Independence of any institution is created by the law, either the constitution or any other law which sets powers, functions, jurisdiction and immunity. For Example, the law is the one which direct the institution on what to do and what should not be done. If institutions Operate its function without the law there Is no independent since because the operation cannot proceed without the law. Independence of any entity can be looked at from two perspectives. The first one is on the institution itself that the institution has ability to perform their function without independent and also member of the Institution that member are free and confident to perform their function without fear of any person.

In Tanzania, Judicial service Commission Since all members of the Judicial Service commission are the appointees of the President. Including's Chief Justice, Attorney General, Justice of Appeal, Principal judge and those two appointed persons. It's establishment also introduce the commission as the advisor commission of the President as well as the way powers and function sets are directed to be done for the seek of the President of the United Republic of Tanzania. An issue intended to test is that on performing their function directed by the laws is it independence? In performing Advisory powers and functions the commission is independent? With regard to the question. However, being the appointees of the President alone does not mean the Commission cannot be independent. What is intended to with regard to independence is to give the Judicial Service Commission exclusive power on the appointment and discipline of the judges and registrars to remove the hands of the politicians in the administration of the Judiciary.

The process of removal of the Judicial officers and non-judicial officers whether of the High Court or Court of Appeal should be initiated by the Judicial Service commission The President therefore should initiate the constitutional process after the recommendations from the Judicial Service commission.

¹⁴ 113(1)(b) of the Constitution of the United Republic of Tanzania of 1977

¹⁵ 113(1)(a) of the Constitution of the United Republic of Tanzania of 1977

¹⁶ 113(1)(b) of the Constitution of the United Republic of Tanzania of 1977

¹⁷ 2020

¹⁸ 1977

¹⁹ 2011



3.3.2 The Judicial Service Commission and Independence of the Judiciary:

There is no doubt that the independence of the judiciary depends on the effectiveness and efficiency of the Judicial Service Commission. Since the commission by acting as a self-regulating body for the judiciary, shielding it from external interference, particularly from the executive and legislative branches of government. The JSC achieves this through a transparent, merit-based process for judicial appointments and promotions, and through oversight of judicial conduct and discipline. Not only the Judicial Service Commission should cooperate with other organ of the state to ensure that the independence of the Judiciary is observed. For example, looking at section 165 (4)²⁰ provides that “organs of the State, through legislative and other measures, must assist and protect the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts.” So, in order to create independence of the judiciary cannot be a one man show. It should involve all stakeholders in the legal fraternity and even those outside it because every living creature needs justice.

The effectiveness of a Judicial Service Commission (JSC) The ability to ensure the protection of the independence of the judiciary, accountability of judicial officers, and promotion of fair and efficient administration of justice through self-regulation and also the establishment of ethical standards. Even though the effectiveness differs from one jurisdiction to another this is because depends on factors like the commission's structure, powers and the political environment.

Independence of the Judiciary: the commission act as the influence of the Judicial independence since perform its function to ensure that the judiciary is upgraded. The commission acting as a self-regulating body for the judiciary, shielding it from external interference, particularly from the executive and legislative branches of government. The JSC achieves this through a transparent, merit-based process for judicial appointments and promotions, and through oversight of judicial conduct act as a vital shield for the judiciary, protecting judges and judicial officers from political interference, especially in the appointment and dismissal processes.

Accountability of Judicial Officers, this is to say that the commission are the to ensure that ever Judicial officers is Responsible for duty imposed to him or her. And also, to ensure Judges and Magistrate to be accountable for the act done by them also accountable for their conduct and performance, fostering a sense of self-regulation within the judiciary. Selection and vetting of judges, investigation of complain and misconduct, enforcing code of conduct, Promoting Transparent and accountability, and integrity is the act of performing and enhancing accountability. A Judicial Service Commission (JSC) enhances accountability by selecting and vetting judges, investigating complaints, and

upholding judicial ethics and discipline through its functions, ensuring judges are fit for office and answerable to the law and the public for their actions and decisions. Through mechanisms like annual reports to parliament and publishing a code of conduct for judicial officers, it promotes transparency and reinforces public trust in the justice system²¹

Judicial Appointments, As the requirement of the law Judicial service Commission has the duty to initiate or select and appointment of judges and magistrates as well as other judicial staff, The commissions act is well and good because is crucial for public trust and confidence. Advertising vacant posts, receiving applications and nominations, shortlisting candidates, and interviewing them to assess their suitability for judicial office through these functions facilitate judicial appointment. Through the process of secret voting and recommends of candidates appointing authority (the President), who makes the final appointment based on these recommendations. For example JSC succeed to increase number of Justices of Appeal increased from 15 to 26, and High Court judges from 78 to 100 in 2022²²

Discipline and Ethics, As the Requirement of the law Judicial Service Commission play a critical role in establishing and enforcing codes of judicial conduct and discipline for judges and magistrates, upholding ethical standards and preventing misconduct. For Example, Through the establishment of the Code of Conduct and Ethics for Judicial Officers²³ Also the JSC has actively investigated misconduct by judicial officers. Between 2015 and 2022, it acted on 99 complaints, leading to the dismissal of 32 magistrates for disciplinary breaches²⁴

Self-Regulation, the very existence of a JSC allows the judiciary to govern its own operations, promoting autonomy and reinforcing the separation of powers between the judicial, executive, and legislative branches. The "JSC" in your query is ambiguous; however, if you are asking how self-regulation is enhanced in general, it's achieved through a holistic approach involving direct instruction of skills, creating supportive environments, teaching emotional and self-awareness, building coping strategies and resilience, and employing mindfulness and predictable routines. A positive, calm, and supportive adult role model is crucial for facilitating a child's journey from co-regulation to self-regulation. Through Model self-regulation, Where Adults serve as role models by managing their own stress and demonstrating self-calming techniques. Also Teach coping skills, also Build emotional awareness and Develop self-awareness.²⁵

²¹ <https://www.judgesmatter.co> 29thsept 2025 at13:03HRS

²² *Comprehensive Performance Report of the Judicial Functions 2022, Judiciary of Tanzania*. Retrieved from: <https://tanzlii.org> 2020

²⁴ *Xinhua News Agency (2023). "Tanzania judiciary sacks 32 magistrates over gross misconduct."* Retrieved from: <https://english.news.cn>

²⁵ <https://www.judgesmatter.co> 29thsept 2025 at13:03HRS

²⁰ *The Constitution of the Republic of South Africa of 1996*



Technological Modernisation: Through the JSC's support, the judiciary has implemented e-filing systems, virtual courts, and mobile applications to improve efficiency and access²⁶

Infrastructure Development: The JSC supports efforts to expand physical access to justice, most of infrastructures where constructed such as constructing new court buildings and Integrated Justice Centres (IJC)s²⁷ for Example consider Mwanza integrated Justice Center. Which is the center for Justice dispensation.

4.0 Challenges and Areas for Improvement

4.1 Executive Influence,

It is undisputed Fact that executive interference Judicial service Commission either directly or indirect. Despite that the JSC's drives its power from the Constitution and other laws of the land but the same constitution has given an ambiguous power of interference. Executive interference starts undermining the independence and impartiality of the judiciary for instance there is some of decision made by the commission while the executive interferes. The situation occurs in the areas like in the Appointment and Removal process, discipline and sanction imposed.

4.2. Resource Constraints,

Issues like Insufficient Training Funds, and limited technology adoption also lack of insufficient infrastructure creating inadequate capacity for the judiciary's functions which makes hard to the Judicial service commission to perform its function confidently and impartial.

4.3 Stakeholder Engagement

Stakeholders like legislative, executive institution, NGOs, Private institutions and other stakeholders who is depended to be engage on it so that to pressurize the growth of the Judicial Service Commission does not provide what is expected. Also lead to ineffective performance of the commission.

4.4. Technological Inequality

While the Tanzanian judiciary has made significant strides in digital transformation—such as implementing e-filing systems, virtual court sessions, and the Judiciary Mobile App (Judiciary Mobile TZ)—not all regions have benefited equally. This technological inequality poses a major challenge to the full and fair adoption of e-justice systems across the country.²⁸ For example consider Limited Internet Connectivity in Rural Areas, Insufficient ICT Infrastructure in Some Courts, Inadequate Technical Skills Among Staff, Power Supply Instability and Unbalanced Development which lead to Delays in Case Resolution, Access to Justice Becomes Unequal and Undermines Public Trust.

5.0 CONCLUSION AND RECOMMENDATION

5.0.1 CONCLUSION

The Judicial Service Commission (JSC) of Tanzania plays a critical role in promoting judicial integrity, professionalism, and accountability. Over the years, it has contributed meaningfully to enhancing the justice system through the recruitment and discipline of judicial officers, implementation of performance management systems, and support for the judiciary's digital transformation. These efforts have led to measurable improvements, including increased public satisfaction, reduction in case backlogs, and enhanced access to justice in many areas.

However, the Commission's overall effectiveness is hindered by persistent structural challenges. These include limited autonomy from the executive, inconsistent recruitment processes, and uneven access to digital infrastructure across regions. In particular, technological inequality remains a pressing issue, as rural and underserved areas continue to face barriers to fully benefiting from e-justice systems. This disparity undermines the principle of equal access to justice and risks widening the gap between urban and rural court users.

For the JSC to reach its full potential, continued reforms are essential. These should include strengthening institutional independence, improving transparency in appointments, and investing in equitable ICT infrastructure and training across all judicial zones. Only then can the JSC ensure a truly independent, efficient, and accessible judiciary that upholds the rule of law and serves all Tanzanians without discrimination

5.0.2 RECOMMENDATION

Once is observed that there is a lot of challenges which is an obstacle to the independence of the Judiciary in Tanzania. The following measures are recommended to be solved in order to ensure that the fair, impartial and independent judiciary are made. As follows First, The Commission should be independent, there is two ways of having an independent commission first the appointment if members of the commission process should pass into all organ of the state, this means that the judiciary select and propose members, the executive recommend and pass the proposed names and also the legislative approve those names, and not to be the responsibility of one organ of the state. And the other to remain as an advisory. The second way is the process to be done in only on organ especially the judiciary, which is easily to observe the professional conduct.

Second, Resource Constraints in order to maintain resources constraint the commission should conduct a detail resources inventor, this means that to combine all available human , financial and material resources within the JSC, ALSO Assess skills and capacity this also means to evaluate the skills and experience of staff to identify area needing additional training or external support to meet project demands Third, engage stakeholders, this should be done faster by engaging different stakeholders especially where is seen to be required, for example the engagement of the public,

²⁶ Judiciary of Tanzania. "Judiciary Mobile TZ App and E-Filing System Implementation." See: <https://tanzlii.org>

²⁷ Daily News (2023). "Judiciary marks 63 years of independence with major reforms." see <https://dailynews.co.tz>

²⁸ Uongozi Journal (2023). "Digital Transformation in Tanzania's Judiciary." Available at: <https://www.ajol.info>

NGOs, public institution, private institution as well as another stakeholder as is needed. The engagement is very important because provide awareness to the society, trust and confidence. For example, engagement may be done through meeting, debates and seminars.

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