TANZANIA: A CHANCE TO PRIORITISE HUMAN RIGHTS

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW, 39TH SESSION OF THE UPR WORKING GROUP, NOVEMBER 2021
Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

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INTRODUCTION

Since the country’s last Universal Periodic Review (UPR) on 12 May 2016, the Tanzanian government has intensified repression of the rights to freedom of expression, association, and peaceful assembly. Authorities misuse the country’s criminal justice system to arrest and prosecute critics of government using trumped-up charges to suppress peaceful dissent.

After July 2016, civic space in the country closed rapidly after President John Magufuli announced a blanket ban on political activities until 2020. Individuals critical of the President were subjected to multiple baseless charges and perpetual court appearances that amount to persecution and judicial harassment. The authorities further used overly broad legislation to deny some of these individuals their rights to be released on bail or bond.

With the COVID – 19 pandemic, Amnesty International is further concerned at the government’s denialism of the existence of COVID – 19 and the President’s dismissal of COVID – 19 vaccines saying that they are “useless and dangerous.”1 Tanzania further withheld information relating to COVID-19 and failed to implement measures to protect people from infection. On 29 April 2020, Tanzania stopped publishing information on infection rates and on 5 June, the President announced that the country was free of COVID-19.

On 17 March 2021, President John Magufuli died from heart complications amid speculations that he also suffered from COVID-19. On 19 March, Samia Suluhu Hassan was sworn in as Tanzania’s first female president from the role of vice president. We hope that President Samia Suluhu’s administration will have a greater priority on human rights and that some of the more repressive legislation and practice will change.

FOLLOW UP TO THE PREVIOUS REVIEW

In 2016, Tanzania accepted 133 out of 229 recommendations received.2

NATIONAL HUMAN RIGHTS ACTION PLAN

In its 2016 UPR, Tanzania accepted several recommendations related to strengthening its national human rights institution, implementing the National Human Rights Action Plan (NHRAP) and improving its national laws and regulations for the protection and promotion of human rights. Despite having an existing Human Rights Action Plan (2013-2017)3, frequent and retrogressive amendments to laws have made it hard to keep up with Tanzania’s ever shifting legal landscape. Cumulatively, such changes have significantly eroded the rule of law and undermined respect for human rights.

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1 Unofficial Amnesty International translation from Kiswahili to English.
3 The Tanzania national human rights action plan (NHRAP) vests responsibility for monitoring the implementation of human rights instruments with the Ministry of Foreign Affairs and International Co-operation (MoFAIC), the Attorney General’s Chambers (AGC), the National Assembly and its various Standing Committees, the Commission for Human Rights and Good Governance (CHRAGG) and the United Nations Treaty Reporting Entities.
RIGHTS OF PEOPLE WITH ALBINISM

In the last review, Tanzania accepted 15 recommendations touching on the right of people living with albinism and their protection. In 2017, Tanzania invited the Independent Expert on the enjoyment of human rights by persons with albinism to assess the human rights situation of persons with albinism throughout the country, given the relatively high number of reports of attacks against them. The report by the Independent Expert finds that there has been a reported decrease in the number of attacks against people living with albinism which was achieved in part through measures put in place by state authorities and other actors. Although the United Republic of Tanzania has ratified the Convention on the Rights of Persons with Disabilities (CRPD), it has not yet submitted its initial report on its efforts to implement CRPD to the relevant Committee.

RATIFYING HUMAN RIGHTS INSTRUMENTS

In the last review, Tanzania accepted several recommendations asking the state to consider ratifying the Convention against Torture and the International Convention for the Protection of All Persons from Enforced Disappearance. However, the country is yet to ratify these treaties.

RIGHTS TO FREEDOM OF EXPRESSION, ASSEMBLY AND ASSOCIATION

While Tanzania accepted recommendations to promptly investigate all attacks against journalists and address concerns related to claims of interference with the right to freedom of expression, state-backed violations against journalists and media outlets persist. Tanzania also supported a recommendation to create and maintain a safe and enabling environment where members of all political parties and civil society organizations (CSOs) can freely exercise their rights, including to freedom of expression, peaceful assembly, and association. However, the state has ramped up repression against political opposition parties and interfered with many opposition party assemblies.

Tanzania further accepted a recommendation to provide financial and structural support to CSOs. Instead, state authorities have threatened NGOs perceived to be critical of the government with suspension, suspended or denied them clearance to conduct election-related activities. NGOs face the dilemma of disclosing extensive details about their activities and funding, potentially compromising human rights work and staff security, or risking deregistration. Some have scaled back work and are self-censoring.

DISCRIMINATION AGAINST WOMEN AND GIRLS

In the 2016 review, Tanzania accepted recommendations to improve children’s access to education and to effectively safeguard the rights of women and girls. Tanzania also accepted a recommendation to eliminate all forms of discrimination and violence against women and children. Nevertheless, pregnant girls and young mothers were discriminated against in the education sector after a June 2017 warning by President John Magufuli that schoolgirls would not be allowed to return to school after getting pregnant. The government continued to ban them from schools and used a World Bank loan, intended for the improvement of girls’ secondary school education, to maintain their segregation in alternative learning centres where the four-year lower secondary school curriculum was compressed into two years.

6 This measure included the prioritization of investigation and prosecution of attacks against persons with albinism, the use of standing task forces with specialized law enforcement training at the peak of the attacks and major awareness raising programmes.
ACCESS TO JUSTICE

Despite Tanzania considering recommendations to take necessary measures to improve the functioning of justice as a whole, especially regarding access to justice and right to fair trial, in November 2019, Tanzania withdrew the right of individuals and NGOs to directly file cases against it at the African Court on Human and Peoples’ Rights. On 10 June 2020, Parliament passed the Written Laws (Miscellaneous Amendments Act (No. 3) 2020 which, among other things, amended the Basic Rights and Duties Enforcement Act, requiring claimants to submit an affidavit showing that violations have personally affected them. This undermined public interest lawsuits and government accountability for human rights violations and abuses.

THE NATIONAL HUMAN RIGHTS FRAMEWORK


HUMAN RIGHTS SITUATION ON THE GROUND

In October 2020, the Late President John Magufuli began his second term in office following a controversial election on 28 October. This was Tanzania’s sixth general election since the reintroduction of the multi-party system in 1992.
EXCESSIVE USE OF FORCE BY SECURITY FORCES

On 7 September 2017, Tanzanian parliamentarian Tundu Lissu was shot and wounded by unidentified attackers in the capital Dodoma.

In the run-up to the 2020 election, opposition politicians were abducted and beaten by unknown people. Security forces used excessive force to disperse peaceful assemblies. After the 28 October 2020 elections, members of civil society and opposition groups accused security forces of using excessive force, including live ammunition, and allegedly killing at least 22 people.

RIGHT TO HEALTH

Between March and May 2020, authorities passed and used laws prohibiting and criminalizing “false news” to restrict media coverage of the government’s handling of the COVID-19 pandemic. This suppression of information by the authorities was implemented instead of disseminating reliable, accessible, and evidence-based information to the public, including on government measures to protect public health, which is crucial to countering inaccurate information and to fostering trust.

In April 2020, the President pardoned 3,717 prisoners in line with World Health Organization (WHO) recommendations to decongest prisons to limit the spread of COVID-19. However, despite this action prisons remained overcrowded which continued to put the remaining prisoners’ health at risk. By close of 2020, there were 32,438 prisoners in Tanzanian prisons, of which 17,974 were on remand. The population was 9% above prison capacity.

DISCRIMINATION OF WOMEN AND GIRLS

On 25 June 2019, the Home Affairs Minister threatened to deregister organizations that challenged the president’s ban on schooling for pregnant girls and teen mothers, and to prosecute or deport anyone working to protect the rights of lesbians, gay, bisexual, transgender and intersex (LGBTI) people.

REPRESSION OF DISSENT

There continues to be rising repression of real or perceived government critics in Tanzania. Several investigative journalists including Erick Kabendera and Joseph Gandye were arrested in 2019 in relation to their work.

In April 2020, the Tanzania Communication Regulatory Authority (TCRA) fined Star Media Tanzania Limited; Multichoice Tanzania Limited; and Azam Digital Broadcast Limited TZS5,000,000 (USD2,150), and ordered them to apologize for airing misleading information on the government’s handling of the COVID – 19 pandemic contrary to provisions of Tanzania Communications Regulatory Act. Later that month, the TCRA suspended Mwananchi, an online newspaper, for six months and fined it TZS5,000,000 (USD2,150) for publishing a photo of the president in which he appeared to breach COVID – 19 physical distancing guidelines.

The government also penalized newspapers and broadcasting stations, particularly between June and October 2020, for reporting on political events. The Tanzania Daima newspaper was given an indefinite ban on all print runs and distribution; the online television network, Kwanza TV, was suspended for 11 months while Clouds TV and Clouds FM Radio were suspended for seven days each.
HARASSMENT OF HUMAN RIGHTS DEFENDERS

The authorities subjected human rights defenders (HRDs) to arbitrary arrest and detention, prosecution, intimidation, harassment, and threats. Human rights lawyer, Tito Elia Magoti, and his co-accused, Theodyrey Giyani, were arrested in December 2019 in connection with social media activities and charged under various laws, including the Cybercrimes Act.17 Their cases were adjourned more than 10 times by a court in Dar es Salaam before they were released in January 2021 after entering into a plea-bargain agreement with the state.

In July 2020, police arrested Sheikh Issa Pondoa, an Islamic cleric, in Dar es Salaam. They held him for 10 days for circulating an article which they alleged amounted to incitement and a breach of the peace. In his article, he had addressed the need for an independent electoral body and had claimed that Muslims faced discrimination, especially in recruitment into government jobs.18

FREEDOM OF ASSOCIATION

The government increasingly implemented official guidelines to allow it to control and prevent the work of NGOs and to severely restrict the right to freedom of association. On 24 June 2020, the Registrar of NGOs suspended the activities of Inclusive Development for Citizens – Tanzania (IDC – Tanzania), an organization promoting good governance.19

On 18 August 2020, the Tanzania Human Rights Defenders Coalition (THRDC), comprised of more than 160 individuals and organizations, announced the temporary suspension of its operations after police ordered the CRDB Bank to freeze its accounts for not complying with the NGO Act. THRDC was accused of entering agreements with donors without consulting the Office of the Treasury Registrar and the Office of the Registrar of NGOs.

ARBITRARY ARRESTS AND DETENTION AND UNFAIR TRIALS

HRDs, journalists and other government critics have been arrested without due process of law and subjected to lengthy trial processes that have forced them to enter plea bargain agreements with the state. Examples include Erick Kabendera20 and Tito Magoti.21 In December 2016, the police arrested Maxence Melo, the founder of the popular online discussion portal JamiiForums that discussed topics such as issues of corruption and misuse of public office. Maxence Melo made more than 145 court appearances since 2016 to April 2020 when he was convicted.22

Heavy court fines, bail and bond terms for individuals arrested under many of these laws disproportionately affect poor and marginalized people. The Media Services Act, for example, criminalizes “false news” and “rumours” under sections 50 and 54 by creating the offence of “publication likely to cause fear and alarm” punishable with a fine of 10,000,000 to 20,000,000 Tanzania shillings (between 4,350 to 8,700 USD). The minimum fine is four times Tanzania’s 2018 per capita income. In May 2020, police arrested comedian, Idris Sultan, and released him 10 days later on bail of TZS15,000,000 (USD6,550). He was held in connection with a video he distributed on social media in which he mocked the President.23

Between June and September 2020, police arrested politicians Zitto Kabwe, leader of the opposition party ACT-Wazalendo, and 17 other opposition party members including parliamentary aspirants while conducting peaceful political gatherings. The police released them without charge after spending between a day and months in police detention.

17 They were charged with the offense of “publishing a computer programme designed for the purpose of committing an offence”, as well as with, “leading organized crime, continuing it . . . Economic and Organized Crimes Control Act . . ." 18 After the release of Sheikh Issa Pondoa, unknown people identified themselves as police officers, telephoned him and threatened to re-arrest him and in August he went into hiding until the time of this reporting. 19 It was accused of failing to provide details of its 2018 activities, a list of its members and agreements with donors, among other things, in violation of the NGO Act and NGO regulations. 20 On 14 February 2020, a Dar es Salaam court released investigative journalist Erick Kabendera from prison after he entered a plea bargain agreement with the prosecution. He had been sentenced by an unidentified court in July 2019. Twenty-four hours later, the police confined him in their custody. He was later charged with money laundering and involvement in organised crime. Erick Kabendera was subject to a prolonged trial before the Court of Resident Magistrate at Kikuyu in Dar es Salaam which was adjourned 16 times. He said he was tortured in Segoma Prison in Dar es Salaam where he suffered repeated bouts of illness and was released on bail to visit his sick mother who died while he was in prison. The court ordered him to pay the Director of Public Prosecutions TZS1,292,247 (USD534,211) to cover, among other things, alleged tax evasion debts and a fine. He was required to pay within six months or he be remanded. 21 On 6 January 2021, the Dar es Salaam Resident Magistrate’s Court at Kibaha ordered the release of Tito Magoti after he pleaded guilty to one count of “leading organized crime with intent to earn illegal income” and paid a TZS17,300,000 (USD7,450) fine as part of a plea-bargain agreement. 22 Maxence Melo was accused of managing a web domain not registered in Tanzania, obstructing investigations, and failure to comply with an order to disclose data in his possession. On 8 April 2020, a Tanzanian court sentenced Maxence Melo to pay a fine of three million Tanzanian shillings (USD 1,300) or face one year in prison. 23 Idris Sultan was charged with offences of “failure to register a sim card previously owned by another person” and “false or incorrect entry of ownership of a sim card” under the Electronic and Postal Communications (SIM Card Registration) Regulations, 2020 and the Electronic and Postal Communications of 2010. His case was adjourned by the Court of Resident Magistrate at Kibaha at least four times and remained pending at the end of the year.

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Amnesty International
RIGHTS OF LESBIAN, GAY, BisexuAL, TRANSGENDER, AND INTERSEX PEOPLE

On 17 October 2017, police raided a legal consultation meeting convened by the Initiative for Strategic Litigation in Africa (ISLA) and the Community Health Services and Advocacy (CHESA) arresting 13 health and human rights activists and publicly accused them of “promoting homosexuality.”

On 3 November 2018 police in Zanzibar arrested 10 men on suspicion of being gay, after they received a “tip-off” from members of the public about a same-sex marriage taking place. This came after the then Dar es Salaam’s Regional Commissioner called on the public to report the names of suspected gay men to the police.

In April 2019, the Registrar of NGOs announced that the government had cancelled the registration of six health organizations which worked on the rights of LGBTI people, including CHESA, accusing them of “promoting unethical acts.” Later, in September 2019, the Deputy Home Affairs Minister called for the arrest of anyone “promoting homosexuality.”

REFUGEES AND ASYLUM SEEKERS

Tanzanian authorities arrested, forcibly disappeared, tortured, and arbitrarily detained several Burundian refugees, some of whom were later forcibly returned to Burundi. In January 2017, the Tanzania ended prima facie recognition of refugees from Burundi, meaning that all asylum seekers coming from Burundi were from then on individually assessed. By July 2018, Tanzania had closed all reception centres at border entry points from Burundi, both restricting access to the country and the possibility of claiming asylum.

In 2019 and 2020, authorities in Tanzania forcibly repatriated some Burundi refugees. The government further temporarily closed the refugees’ common markets and some refugee-run businesses in the camps putting great pressure on the Burundian refugee community to leave the country.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the Government of the United Republic of Tanzania to:

NATIONAL HUMAN RIGHTS FRAMEWORK

- reinstate Tanzania’s declaration under Article 34(6) of the Protocol to the African Charter establishing the African Court on Human and Peoples’ Rights to allow individuals and NGOs direct access to the African Court.

24 The 13 were detained overnight and released in bail without being charged before being re-arrested on 20 October after their bail was revoked by the police who claimed that they wanted to conduct fresh investigations. The police threatened the 13 with forced anal examinations. They were all later released without charge on 27 October 2017.

25 They were arrested in a meeting convened to deliberate on a case the two organizations had planned to file before a court to challenge the Tanzanian government’s decision to limit the provision of certain health services that it had previously provided. The police had been informed beforehand about the meeting and the agenda for the meeting had been shared with them.

26 The United Republic of Tanzania comprises Tanzania Mainland (formerly known as Tanganyika) and Zanzibar. Zanzibar, an archipelago, is part of the Republic with semi-autonomous status, having its own constitution, legislative, executive, and judicial institutions to regulate non-union matters concerning the entire country.

27 On 29 October 2018, Paul Makonda announced plans to form a government taskforce to hunt down people believed to be lesbian, gay, bisexual, transgender or intersex (LGBTI), due to begin its “work” on 5 November. Though on 4 November 2018 the government of Tanzania, through its Ministry of Foreign Affairs, distanced itself from Makonda’s remarks mentioning them “personal opinion” on 5 November. Though on 4 November 2018 the government of Tanzania, through its Ministry of Foreign Affairs, distanced itself from Makonda’s remarks mentioning them “personal opinion” on 5 November.

• repeal or amend all laws that undermine respect for human rights, including, but not limited to the Political Parties Act, NGO Act, the Statistics Act, the Cyber Crime Act, the Media Services Act, Economic and Organised Crime Control Act, Political Parties Act.

**EXCESSIVE USE OF FORCE BY SECURITY FORCES**

• launch a prompt, thorough, independent, and transparent investigations into allegations of unlawful killings and torture of opposition members and supporters following the 2020 election.

• ensure that the exercise of the right to freedom of assembly does not require prior authorisation from the state.

**RIGHT TO HEALTH**

• ensure that people have access to vital information about the prevalence and spread of the COVID-19, as well as how to protect themselves.

• communicate the threat COVID-19 poses to people's health, the measures to mitigate risks, and information about ongoing response efforts.

**DISCRIMINATION OF WOMEN AND GIRLS**

• take steps to allow pregnant girls access to education without discrimination in line with Tanzania's own national and international human rights obligations.

**REPRESSION OF DISSENT**

• ensure that media outlets can operate freely and independently, enjoy freedom of expression, and do their work without fear of reprisals, including through removing all obstacles to the right to freedom of expression and media freedom.

• repeal or amend the Media Services Act, Cybercrimes Act, Electronic and Postal Communications (Online Content) Regulations to ensure respect for human rights, including the rights to freedom of expression, information, and media freedom.

**HARASSMENT OF HUMAN RIGHTS DEFENDERS**

• Publicly commit to ensure that the authorities will allow HRDs and other real or perceived government opponents and critics to freely exercise their human rights including the rights to freedom of expression, association, and peaceful assembly without fear of reprisals.

**FREEDOM OF ASSOCIATION**

• ensure that the right to defend human rights, including crucially the right to association, is enjoyed by everyone without discrimination, by repealing or amending the NGO Act and the Political Parties Act.

**ARBITRARY ARRESTS AND DETECTIONS AND UNFAIR TRIALS**

• end arbitrary arrests and launch prompt, thorough, independent and transparent investigations into the conduct of the security forces to ensure that all persons detained solely for political reasons and peacefully exercising their human rights are immediately and unconditionally released.
• repeal or amend the Economic and Organised Crime Control Act and the Criminal Procedure Act and any laws that contravene Tanzania’s constitutional guarantees and internationally recognized right to fair trial.

RIGHTS OF LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND INTERSEX PEOPLE

• protect everyone in Tanzania and uphold their human rights without discrimination, including by not initiating programmes or using government agencies to deny LGBTI people of their rights.

REFUGEES AND ASYLUM SEEKERS

• Refrain from returning anyone, in any manner whatsoever, to a place where they would be at real risk of persecution or other serious human rights violations.

• Ensure that any returns of refugees undertaken are genuinely voluntary and conducted in safety and with dignity in line with international standards.
ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE


AMNESTY INTERNATIONAL IS A GLOBAL MOVEMENT FOR HUMAN RIGHTS. WHEN INJUSTICE HAPPENS TO ONE PERSON, IT MATTERS TO US ALL.