

Tanzania: An 8-point Human Rights Agenda for Change

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WHO WE ARE

Amnesty International is a movement of more than 10 million people which mobilizes the humanity in everyone and campaigns for change so that we can all enjoy our human rights. Out of the 10 million, Tanzania has a strong base of 25,955 members and supporters. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest, or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.

BACKGROUND

On 17 March 2021, President John Magufuli died from heart complications and on 19 March, Samia Suluhu Hassan was sworn in as Tanzania's first female president from the role of vice president. John Pombe Magufuli was the fifth president of Tanzania, serving from 2015 until his death in 2021.

The Late President began his second term in office in November 2020 following a controversial election on 28 October, the same year. This was Tanzania's sixth general election since the reintroduction of the multi-party system in 1992. Members of civil society and opposition groups accused security forces of using excessive force, including live ammunition, and allegedly killing at least 22 people in the electioneering period. According to lawyers acting for opposition parties, at least 77 opposition leaders and supporters were also arbitrarily detained and released days after the National Electoral Commission announced the elections' results. See our 2020 report, "Lawfare: Repression by law ahead of Tanzania's General Elections."

After 2015, civic space in Tanzania closed rapidly after the late President 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. Human rights defenders (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 authorities. The authorities further used overly broad legislation and disregarded constitutional and international safeguards for human rights to deny real or perceived critics of the state their rights to be released on bail or bond when arrested. Tanzania authorities also used, passed, and amended a raft of legislation targeting peaceful political activities and hindering the rights to freedom of expression, association, and peaceful assembly. Heavy court fines, bail, and bond terms under many of these regressive laws disproportionately affect poor and marginalized people. See our 2019 report, "The Price We Pay – Targeted for Dissent by the Tanzanian State."

On 10 June 2020, Tanzania's National Assembly passed a restrictive law, the Written Laws (Miscellaneous Amendments Act (No. 3) of 2020), which amended 13 laws. The law gravely undermines solidarity lawsuits and government accountability for human rights violations. The law requires any individual making a claim under the Basic Rights and Duties Enforcement Act ("the Enforcement Act") to submit an affidavit showing that the violation of the Enforcement Act has affected the claimant personally. This overly broad provision limits civil society organizations' (CSO's) and HRD's ability to pursue legal aid and law-based activities where they have not been personally harmed.

Under President John Magufuli's administration, patriarchal power structures as well as gender inequality were further entrenched through practices and attitudes, including by the late President in several public utterances,

that undermined the protection and promotion of the rights of women and girls. State ban on the airing of all family planning advertisements on radio and television in 2018, for example, negatively affected the right of women and girls to access sexual and reproductive health services and information. Further, the June 2017 declaration by the late President, that pregnant girls and young mothers should not be allowed to return to school, a position that government officials supported using the Education Regulations Act (Expulsion and Exclusion of pupils from schools No. 295) of 2002 which states that students can be expelled if they are married or commit a criminal offense, including an offense against morality¹ as well as a failure to acknowledge that the discriminatory nature of the Law of Marriage Act which places the age of marriage for girls at 14 years, with consent of the Court, and 15 years, with consent of parents, and 18 years for boys, continues to be a key barrier to girls to fully realising their right to an education². Combined with measures to curb civic space in Tanzania, including through threats of deregistration, CSOs including those focusing on women's rights, human rights violations against women and girls remained unchallenged in the country. State directives to prosecute or deport anyone working to protect the rights of lesbians, gay, bisexual, transgender and intersex (LGBTI) people further created a chilling effect for LGBTI groups.

In January 2017, Tanzania ended *prima facie* recognition of refugees from Burundi, meaning that all asylum seekers from Burundi were from then on individually assessed. State actors also arrested, forcibly disappeared, tortured, and arbitrarily detained several Burundian refugees, some of whom were later forcibly returned to Burundi. By July 2018, Tanzania had closed all reception centres at border entry points from Burundi, restricting both access to the country and the possibility of claiming asylum. It 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. In 2019 and 2020, the state forcibly repatriated some Burundi refugees.

The previous administration of the late President failed to implement practical measures to protect the public from the COVID-19 pandemic by downplaying the existence of the disease in Tanzania. Before his death, President John Magufuli also publicly dismissed COVID-19 vaccines saying that they are "useless and dangerous." Amnesty International reported in October 2020 that 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-19.³ Despite the official figures remaining at 509 cases and 21 deaths from the last published data over a year ago. This is a vast underestimate of the actual situation as reported by the WHO in February 2021 noting that "a number of Tanzanians travelling to neighbouring countries and beyond have tested positive for COVID-19."⁴

Amnesty International urges President Samia Suluhu's administration to give greater priority to human rights, repeal repressive legislation, and reverse the practice of state sponsored human rights violations.

WE ARE CALLING ON THE NEW ADMINISTRATION TO IMPLEMENT A CLEAR AGENDA FOR HUMAN RIGHTS WHICH INCLUDES THE FOLLOWING:

1. ENHANCE RIGHT TO HEALTH

Amnesty International urges Tanzanian authorities to:

- Ensure the right to the highest attainable standard of physical and mental health is guaranteed for all in Tanzania not just in law but in practice and that international human rights law and standards are at the

¹ The World Bank, "Gender Equity and Fee-Free Basic Education in Tanzania Summary" pg. 10, available at <http://documents1.worldbank.org/curated/en/356111553606355438/pdf/Gender-Equity-and-Fee-Free-Basic-Education-in-Tanzania.pdf>

² Center for Reproductive Rights, "Forced out: Mandatory pregnancy testing and the expulsion of pregnant students in Tanzanian schools," 2015, pg. 38, available at https://reproductiverights.org/sites/default/files/documents/crr_Tanzania_Report_Part1.pdf

³ WHO Website COVID-19 Global Data, available at <https://covid19.who.int/region/afro/country/tz>

⁴ WHO Website COVID-19 "WHO Director-General's statement on Tanzania and COVID-19", available at www.who.int/news/item/20-02-2021-who-director-general-s-statement-on-tanzania-and-covid-19

centre of all responses to COVID-19. This is critical in ensuring the optimum protection of public health including the health of those groups most at risk of adverse impacts of the virus.

- As part of its response the government, in the interests of transparency and essential public health information, make available as soon as possible all relevant data on the COVID-19 pandemic including accurate statistics on the number of cases and death disaggregated by demography and geography and ensure that this data is kept up to date.
- In line with its new approach remediate the consequences of misinformation caused by the previous government by implementing accessible public awareness campaigns aimed at providing accurate and scientific information on the pandemic and vaccines.
- Ensure that current budgets sufficiently prioritise the adequacy of resources to provide appropriate care and treatment for pandemic victims, purchase vaccines and provide sufficient testing facilities.
- Ensure that the country benefits from any freely or affordably available COVID-19 vaccine allocations in the future the government should take urgent steps to join the COVAX Initiative and engage with the African Vaccine Acquisition Task Team
- Prioritise, as part of its COVID-19 prevention strategy, a vaccination roll-out plan, and one that follows the principles of transparency, participation, accountability, equality and non-discrimination. This should include appropriate prioritisation criteria based on both clinical and occupational need.
- Reverse all repressive laws that were used to restrict various forms of communication, including media coverage of the government's handling of the COVID-19 pandemic. The state should instead facilitate universal access to information, preventive care, medication, treatment, and vaccines.

2. REINSTATE CONSTITUTIONAL AND INTERNATIONAL SAFEGUARDS FOR HUMAN RIGHTS

Amnesty International urges Tanzanian authorities to:

- Urgently ensure that the following laws are amended and brought into conformity with the Constitution of the United Republic of Tanzania and international safeguards for human rights: the 1971 National Flag and Coat of Arms Act, 2010 Election Expenses Act, 1984 Economic and Organized Crime Control Act, 1994 The Proceeds of Crime Act, 2015 Cybercrimes Act, 2018 Political Parties (Amendment) Act, 2016 Media Services Act, Electronic and Postal Communications (Online Content) Regulations, NGO Act, Regulation No 4 of the Education Regulations, (Expulsion and Exclusion of pupils from schools) G.N. No.295 of 2002, Written Laws (Miscellaneous Amendments) Act of June 2018 and of 2020.
- Reinstate Tanzania's declaration under Article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights establishing the African Court on Human and Peoples' Rights to allow individuals and NGOs direct access to the African Court.
- Repeal sections of the Written Laws (Miscellaneous Amendments Act (No. 3) of 2020) which amended 13 laws and now prevents Tanzanians from petitioning the High Court on human rights issues, undermine solidarity lawsuits and government accountability for human rights violations.

3. INVESTIGATE AND STOP USE OF EXCESSIVE FORCE BY STATE AUTHORITIES

Amnesty International urges Tanzanian authorities to:

- Launch a prompt, thorough, independent, transparent and effective investigation into allegations of unlawful killings and torture of opposition members and supporters following the 2020 election, and to ensure that suspected perpetrators are brought to justice in fair trials.
- Respect, protect, and promote human rights and ensure that the exercise of the right to freedom of peaceful assembly does not require prior authorization from the authorities.

4. END ARBITRARY ARRESTS AND DETENTION AND UNFAIR TRIALS

Amnesty International urges Tanzanian authorities to:

- Respect the right to liberty and ensure that the criminal justice system is not used as a tool to persecute people solely for peacefully exercising their human rights.

- Immediately and unconditionally release those detained or imprisoned solely for peacefully exercising their human rights.
- End arbitrary arrests and detention, and launch prompt, thorough, independent, transparent and effective investigations into the conduct of the security forces and ensure that anyone suspected to be responsible is brought to justice in fair trials.
- Repeal or amend the Economic and Organized Crime Control Act and the Criminal Procedure Act and any laws that contravene Tanzania's constitutional guarantees and internationally recognized right to fair trial.

5. RESPECT, PROTECT AND PROMOTE THE RIGHT TO FREEDOM OF EXPRESSION, PEACEFUL ASSEMBLY AND ASSOCIATION

Amnesty International urges Tanzanian authorities to:

- Ensure that the right to defend human rights, including crucially the right to freedom of association, is enjoyed by everyone without discrimination, by repealing or amending the NGO Act and the Political Parties Act.
- Ensure that media outlets can operate freely and independently, enjoy the right to freedom of expression, and do their work without fear of reprisals. 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.
- Publicly commit to that HRDs and other real or perceived government opponents and critics are able to freely exercise their human rights including the rights to freedom of expression, association, and peaceful assembly without fear of reprisals.
- Lift the ban on political activities and ensure that members of the political opposition along with everyone else in Tanzania are treated equally and without discrimination including by allowing them to freely exercise their rights to freedom of association and peaceful assembly.

6. RESPECT AND PROTECT THE RIGHTS OF LGBTI PEOPLE

Amnesty International urges Tanzanian authorities to:

- 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.

7. PROTECT REFUGEES AND ASYLUM SEEKERS

Amnesty International urges Tanzanian authorities to:

- Ensure that it refrains 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 human rights standards.

8. PROTECT THE RIGHTS OF WOMEN AND GIRLS

Amnesty International urges Tanzanian authorities to:

- Ensure that protecting the rights of women and girls' rights is at the centre of Tanzania's human rights agenda and in line with its human rights obligations.

- Take steps to amend the Law of Marriage Act and set the minimum age of marriage at 18 for both boys and girls in line with the High Court decision of 2016⁵ (further upheld in 2019), the Constitution of Tanzania as well as international and regional human rights standards.
- Take steps to review the Education Regulations Act (Expulsion and Exclusion of pupils from schools No. 295) of 2002 in line with the Constitution of Tanzania as well as international and regional human rights standards.
- Take all necessary legal, policy and administrative steps to ensure that all pregnant girls and young mothers access education without discrimination including through ensuring continued enrolment of girls who become pregnant, and to support girls in their re-enrolment and continuation of education in line with Tanzania's own national and international human rights obligations.

⁵ Civil Appeal No. 204 of 2017, (The Attorney General versus Rebeca z. Gyumi), Appeal from the Judgement of the High Court of Tanzania at Dar es Salaam – Main Registry) at the Court of Appeal of Tanzania, 15 October 2019. On file with Amnesty International.