



Tanzania

Joint Submission to the UN Universal Periodic Review  
39<sup>th</sup> Session of the UPR Working Group

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**Submission by CIVICUS: World Alliance for Citizen Participation,  
NGO in General Consultative Status with ECOSOC**

**And**

**East and Horn of Africa Human Rights Defenders Project, NGO in  
General Consultative Status with ECOSOC, and Observer Status  
with the African Commission on Human and Peoples' Rights.**

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## 1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the Global South, and have members in more than 190 countries throughout the world.
- 1.2 The East and Horn of Africa Human Rights Defenders Project (DefendDefenders) is a regional CSO registered and based in Uganda. Established in 2005, DefendDefenders seeks to strengthen the work of human rights defenders (HRDs) throughout the East and Horn of Africa sub-region by reducing their vulnerability to the risk of persecution and by enhancing their capacity to defend human rights effectively. DefendDefenders focuses its work on 11 countries, including Tanzania.
- 1.3 In this document, the authors examine the Government of Tanzania's compliance with its international human rights obligations pertaining to civic space, in particular to create and maintain a safe and enabling environment for civil society. Specifically, we analyze Tanzania's fulfilment of the rights to freedom of association, peaceful assembly, and opinion and expression, as well as unwarranted restrictions on the activities of human rights defenders (HRDs) since its previous UPR examination in 2016. To this end, we assess Tanzania's implementation of recommendations received during the 2<sup>nd</sup> UPR cycle relating to these issues and provide a number of specific, action-orientated recommendations.
- 1.4 During the 2<sup>nd</sup> UPR cycle, the Government of Tanzania received fifteen recommendations relating to civic space. Of these recommendations, four were accepted and eleven were noted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the Government of Tanzania has partially implemented three recommendations relating to civil society space and has not implemented the rest. While the government has taken a positive step in addressing freedom of expression and access to information by amending the Statistics Act thereby removing criminal liability for publishing independent statistics, the government has also persistently failed to address unwarranted restrictions on civic space since its last UPR examination. Acute implementation gaps were found with regard to the rights to freedom of expression, media freedom and issues relating to the operating environment for CSOs and HRDs.
- 1.5 We are deeply concerned by Tanzania's persistent onslaught on media freedom, and the freedom of expression in general, which has been evidenced through the enactment and enforcement of stifling laws and regulations to muzzle critical opinions

- 1.6 We are further alarmed by the targeting of CSOs and HRDs through stifling laws and practices, and judicial harassment in the form of spurious cases and flawed court processes
- 1.7 As a result of these restrictions, civic space in Tanzania is currently rated as 'repressed' by the CIVICUS Monitor, indicating the existence of serious civic space restrictions<sup>1</sup>
- Section 2 examines Tanzania's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of association.
  - Section 3 examines Tanzania's implementation of UPR recommendations and compliance with international human rights standards related to the protection of human rights defenders, civil society activists and journalists.
  - Section 4 examines Tanzania's implementation of UPR recommendations and compliance with international human rights standards concerning to freedom of expression, independence of the media and access to information.
  - Section 5 examines Tanzania's implementation of UPR recommendations and compliance with international human rights standards related to freedom of peaceful assembly.
  - Section 6 contains a number of recommendations to address the concerns to address the concerns raised and to advance implementation of recommendations under the 2<sup>nd</sup> cycle.
  - An annex of implementation of 2<sup>nd</sup> cycle UPR recommendations related to civic space can be found in Section 7.

## 2. Freedom of association

2.1 During Tanzania's examination under the 2<sup>nd</sup> UPR cycle, the government received one recommendation on the right to freedom of association and creating an enabling environment for civil society organizations (CSOs), to: "Combat impunity for crimes committed against sexual minorities, ensure that their right to assembly and association is upheld and ensure the right to equal treatment in accessing health services and justice" Tanzania noted the recommendation. However, as evidenced below, the government has failed to take adequate measures to realize this recommendation and has failed to implement it.

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<sup>1</sup> CIVICUS Monitor, Tanzania: <https://monitor.civicus.org/country/tanzania/>: The CIVICUS Monitor is a research collaboration between CIVICUS and our members and partners that provides regularly updated information and analysis on the space for civil society and citizen activism in 196 countries.

- 2.2 Article 20 of the Tanzania Constitution guarantees the right to freedom of association. Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Tanzania is a state party, also guarantees freedom of association. However, despite these commitments, the government has systematically targeted CSOs through stifling laws and even through raids on their events and arrest of their staff members.
- 2.3 Several laws and regulations unduly restrict the work of CSOs. A public notice issued<sup>2</sup> on 9 August 2017 by the Registrar of NGOs, under the Ministry of Health, Community Development, Gender, Elderly and Children, required all registered NGOs operating in Tanzania to undergo a 'verification process' between 21 August 2017 and 20 September 2017. NGOs failing to comply or cooperate faced de-registration.
- 2.4 In 2018, the government introduced the Non-Governmental Organisations Act (Amendments) Regulations 2018 which require<sup>3</sup> contracts and agreements exceeding Tsh 20million (8,600 USD) to be submitted for approval to the treasury and the registrar of organisations not later than ten days after the contract date.
- 2.5 Additionally, in June 2020, the Written Laws Bill (Miscellaneous Amendments Act (No. 3) of 2020) passed through the Tanzanian National Assembly despite heavy criticism. The bill essentially does away<sup>4</sup> with public interest litigation by requiring those wishing to bring cases about enforcement of rights to show that the violation affects them personally. This takes away the ability of CSOs to initiate human rights cases on behalf of victims and communities, where the CSO has not been personally affected.
- 2.6 With regards to the public notice issued in August 2017 to re-register all NGOs, civil society groups raised concerns over the verification process, including the lack of consultations with local CSOs in the planning of the process; the cumbersome amount of documentation required of CSOs, including the proof of payment of annual fees and receipts since registration; and the requirement of a letter of recommendation from a Community Development Officer, which could be problematic, especially for CSOs working on rights and governance and that may have been critical of the government

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<sup>2</sup> Crackdown on activists, critical media, dissident voices intensifies in Tanzania:

<https://monitor.civicus.org/updates/2017/10/23/crackdown-activists-critical-media-intensifies-tanzania/>

<sup>3</sup> Authorities embark on major crackdown on expression amid covid-19 and ahead of elections:

<https://monitor.civicus.org/updates/2020/09/08/authorities-embark-major-crackdown-expression-amid-covid-19-and-ahead-elections/>

<sup>4</sup> Authorities embark on major crackdown on expression amid covid-19 and ahead of elections:

<https://monitor.civicus.org/updates/2020/09/08/authorities-embark-major-crackdown-expression-amid-covid-19-and-ahead-elections/>

in the past. By October 2019, reports indicated that the NGO Coordination Board had deregistered at least three CSOs for alleged violations of Tanzanian ethics and culture<sup>5</sup>

- 2.7 With regards to the 2018 Non-Governmental Organisations Act (Amendments) Regulations, CSOs raised concerns<sup>6</sup> about their inability to carry out projects due to stifling regulations in the Non-Governmental Organisations Act (Amendments) Regulations 2018. The representatives of several key Tanzanian CSOs stated that the short time frames, and the delays in processes at the Registrar's office, were effectively blocking their ability to carry out projects.
- 2.8 Authorities have also used other tactics to undermine the work of CSOs including raiding the events of CSOs, and in some instances arresting staff members of these organisations. For example, on 12 July 2017, Bibiana Mushi and Nicholas Ngelela Luhende from Actions for Democracy and Local Governance (ADLG) were arrested<sup>7</sup> while conducting a capacity building workshop for local officials serving regions with a high prevalence of extractive industries. Both were charged with Disobedience of Statutory Duty under Section 123 of the Penal Code and were only acquitted on 2 November 2017 by the Kishapu District Court.
- 2.9 Freezing of bank accounts is also another tactic the authorities have used to restrict the work of CSOs. On 17 August 2020, the Tanzanian Human Rights Defenders Coalition (THRDC) had their bank accounts frozen<sup>8</sup> following an order from the Tanzanian Police, who reportedly received instructions to do so from government officials. THRDC's coordinator was then summoned by the police to explain an alleged failure to submit to the State Treasury its contractual agreements with donors<sup>9</sup>. THRDC was subsequently forced to suspend many of its operations and cancel planned events.
- 2.10 In a continuing onslaught against the LGBTIQ+ community, and the organisations that work with them, in November 2016, the government's continuing crackdown on

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<sup>5</sup> "As Long as I am Quiet, I am Safe", Threats to Independent Media and Civil Society in Tanzania; Human Rights Watch October 28, 2019; <https://www.hrw.org/report/2019/10/28/long-i-am-quiet-i-am-safe/threats-independent-media-and-civil-society-tanzania>

<sup>6</sup> 'Authorities embark on major crackdown on expression amid covid-19 and ahead of elections', CIVICUS Monitor, 8 September 2020, <https://monitor.civicus.org/updates/2020/09/08/authorities-embark-major-crackdown-expression-amid-covid-19-and-ahead-elections/>

<sup>7</sup> 'Crackdown on newspapers and tv stations publicising critical views continues', CIVICUS Monitor, 7 February 2018, <https://monitor.civicus.org/updates/2018/02/07/crackdown-newspapers-and-tv-stations-publicising-critical-views-continues/>

<sup>8</sup> 'More restrictions reported ahead of October election' CIVICUS Monitor, 19 October 2020, <https://monitor.civicus.org/updates/2020/10/19/more-restrictions-reported-ahead-october-election/>

<sup>9</sup> DefendDefenders, Tanzania: Respect the right to freedom of association, August 24, 2020: <https://defenddefenders.org/tanzania-respect-the-right-to-freedom-of-association/>.

LGBTIQ+ people and organisations extended<sup>10</sup> to groups tackling HIV and AIDS amongst the LGBTIQ+ community after authorities moved to end HIV programs serving LGBTIQ+ people, claiming that foreign CSOs were 'encouraging' same-gender relationships through safe sex programs. In a speech on 22 June 2017, President Magufuli condemned<sup>11</sup> CSOs working on LGBTIQ+ rights issues, saying that the organisations had "brought [Tanzania] drugs and homosexual practices that even cows disapprove of". At a rally in the capital Dodoma on 25 June 2017, Home Affairs Minister Mgiwgulu Nchemba threatened organisations campaigning for LGBTI rights, vowing to de-register such organisations and imprison activists.

2.11 Separately, opposition parties bore much of the brunt of restrictions on association as the October 2020 general elections approached. On 13 August 2020, the northern headquarters of leading opposition party CHADEMA, in Arusha, was attacked<sup>12</sup> with firebombs and badly damaged. On the same day, the leader of CHADEMA, Tundu Lissu, reported that his convoy had been attacked by people throwing stones.

### **3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists**

3.1 Under Tanzania's previous UPR review, the government received three recommendations on the protection of HRDs, journalists, and civil society representatives. The government supported one recommendation, concerning investigations and justice for attacks on journalists, and noted the other two. One noted recommendation was partially implemented while the other two recommendations were not implemented.

3.2 Article 12 of the UN Declaration on Human Rights Defenders indicates that states shall take necessary measures to ensure the protection of HRDs.<sup>13</sup> Article 19 of the ICCPR guarantees the freedoms of opinion and expression, association and peaceful assembly. However, despite these protections, Tanzanian HRDs, activists, and journalists continue to face attacks, enforced disappearance, and threats to their physical integrity because of their work. Thorough investigations are rarely carried out, despite the commitment made in the previous UPR cycle. For example, journalist

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<sup>10</sup> 'People arrested for insulting tanzania's president' CIVICUS Monitor, 9 December 2016,

<https://monitor.civicus.org/updates/2016/12/09/people-arrested-insulting-tanzanias-president/>

<sup>11</sup> 'Tanzanian authorities threaten HRDs, LGBTI activists and journalists' CIVICUS Monitor, 18 July 2017,

<https://monitor.civicus.org/updates/2017/07/18/tanzania-authorities-threaten-HRDs-LGBTIactivists-journalists/>

<sup>12</sup> More restrictions reported ahead of October election: CIVICUS Monitor, 19 October 2020,

<https://monitor.civicus.org/updates/2020/10/19/more-restrictions-reported-ahead-october-election/>

<sup>13</sup> 'Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms', A/RES/53/144, 8 March 1999,

<https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>

Azory Gwanda has been missing since November 2017, after being abducted, and there has since been no credible investigation.<sup>14</sup>

- 3.3 HRDs, activists and CSOs are working in increasingly restrictive conditions. The authorities continue to harass HRDs despite statements the government made during its second UPR that there is already a conducive environment for CSOs, HRDs and the media to operate freely in Tanzania.<sup>15</sup>
- 3.4 The Tanzanian justice system is used as a tool to target HRDs. In several instances, HRDs, activists and journalists have been charged with economic crimes, including money laundering, which is a non-bailable offense. They include Tito Magoti, a lawyer and activist working for the Legal and Human Rights Centre (LHRC), and his friend, an IT expert from a private company, Theodory Giyani, who were arrested in December 2019 and charged with economic crimes.<sup>16</sup> The case was postponed more than 20 times before both were released after agreeing to pay a fine.<sup>17</sup> The case is strikingly similar to that of journalist Erick Kabendera, who in 2019 was charged with money laundering, tax evasion and leading organised crime – all non-bailable under Tanzanian law.<sup>18</sup>
- 3.5 In a positive development, on 18 May 2020, the High Court of Tanzania declared section 148(5) of the Criminal Procedure Act (2002) unconstitutional. This section allows a police officer receiving an accused person not to grant bail if the person is accused of certain crimes, including economic offenses. The Court granted 18 months to the government to amend the law; however, the law continues to be used to target HRDs, activists, and journalists.
- 3.6 Those working with, or who belong to, the LGBTIQ+ community are particular targets for harassment and physical abuse. In June 2020, the home of Clara Devisis, a trans woman HRD (WHRD) working to protect the rights of sex-workers, was broken into

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<sup>14</sup> 'Where is Azory?', Committee to Protect Journalists, <https://cpj.org/whereisazory/>

<sup>15</sup> 'Report of the Working Group on the Universal Periodic Review, Tanzania: Addendum', UNHRC, 22 September 2016, A/HRC/33/12, pg. 4.

<sup>16</sup> 'Tanzania: Preliminary Analysis of the Criminal Case Against Tito Magoti and Theodory Giyani', American Bar Association, 28 July 2020, [https://www.americanbar.org/groups/human\\_rights/reports/tanzania--preliminary-analysis-of-the-criminal-case-against-tito/](https://www.americanbar.org/groups/human_rights/reports/tanzania--preliminary-analysis-of-the-criminal-case-against-tito/)

<sup>17</sup> 'Release of human rights defender Tito Magoti', fidh, 11 January 2021, <https://www.fidh.org/en/issues/human-rights-defenders/tanzania-release-of-human-rights-defender-tito-magoti>

<sup>18</sup> 'No justice as journalist Kabendera slapped with heavy fines after months in jail', Amnesty International, 24 February 2020, <https://www.amnesty.org/en/latest/news/2020/02/tanzania-no-justice-as-journalist-kabendera-slapped-with-heavy-fines-after-months-in-jail/>

by two men who asked about her work.<sup>19</sup> The men brutally attacked and raped two members of the LGBTIQ+ community who were staying at her home, and threatened to repeat the attack if Clara did not stop her work. In January 2021, Paschal Raymond, an LGBTIQ+ rights defender, was killed for what appears to be related to his work.<sup>20</sup>

- 3.7 Accounts of harassment, verbal threats, and physical attacks against members of opposition parties increased in the lead-up to, and during, the 28 October 2020 General Elections. United Nations High Commissioner for Human Rights Michelle Bachelet stated on 10 November 2020 that following the election, at least 150 opposition leaders and members had been arrested in mainland Tanzania and Zanzibar.<sup>21</sup>
- 3.8 Presidential candidate Tundu Lissu, who has also been a leading voice for human rights in Tanzania and on the African continent, was attacked and detained by police on several occasions following his return to Tanzania in 2020. It is also of concern that no one has yet been held accountable for the attack and shooting of Lissu in 2017. Opposition leader Freeman Mbowe was attacked and seriously injured on 9 June 2021, with no arrests made in connection to the attack.<sup>22</sup>

#### **4. Freedom of opinion and expression, independence of the media, and access to information**

- 4.1 Under the second UPR cycle, the government received nine recommendations relating to freedom of opinion and expression, including access to information. It accepted one and noted eight. Regarding the supported recommendation, the government pledged to “address concerns related to claims of interference with freedom of expression”. Out of all the nine recommendations, two noted recommendations were partially implemented, while the other seven recommendations were not implemented. However, the government has not taken effective measures to implement this recommendation.
- 4.2 Article 19 of the ICCPR guarantees the right to freedom of opinion and expression. Article 18 of the Constitution of Tanzania also guarantees the right to freedom of

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<sup>19</sup> ‘Final warning: death threats and killings of human rights defenders. Report of the Special Rapporteur on the situation of human rights defenders’, 24 December 2020, A/HRC/46/35, [https://reliefweb.int/sites/reliefweb.int/files/resources/A\\_HRC\\_46\\_35\\_E.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_46_35_E.pdf)

<sup>20</sup> ‘Killing of human rights defender Paschal Raymond’, Protect Defenders EU, 10 February 2021, <https://protectdefenders.eu/en/newsfeed.html#newsletter-article-394>

<sup>21</sup> ‘UN rights chief disturbed by harassment of opposition following Tanzania elections’, UN Human Rights Office of the High Commissioner, 10 November 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26489&LangID=E>

<sup>22</sup> ‘Tanzanian opposition leader attacked by unidentified people’, Reuters, 9 June 2020, <https://www.reuters.com/article/us-tanzania-politics-idUSKBN23G0WE>

expression, including the right to seek, receive and impart information, but does not explicitly provide for freedom of the media.

- 4.3 Various laws, enacted since 2015, have had a negative impact on the enjoyment of the right to free expression in Tanzania. This includes the Cybercrimes Act (2015); Statistics Act (2015); Media Services Act (2016); Access to Information Act (2016); Electronic and Postal Communications (Online Content) Regulations (2018), and amendments to a range of laws regulating the activities and registration of political parties and CSOs, adopted in 2019. Despite the acceptance of one recommendation to address concerns in the previous UPR cycle, some of these laws have in fact since been strengthened, deepening the concerns. Since the beginning of the COVID-19 pandemic, authorities have increasingly used these laws to censor journalists and citizens providing information that is not in line with official statistics and statements.
- 4.4 The Cybercrimes Act has been used to prosecute and judicially harass journalists and activists for posts on social media. In April 2020, journalists Micke William and Maxence Melo Mubyazi, whose organisation hosted Tanzania's leading whistle-blowing website and discussion forum, JamiiForums.com, were convicted with "obstruction of a police investigation", under the Cybercrimes Act.<sup>23</sup> The law has also been used to silence those who want to challenge the government, or simply make jokes, online. In May 2019, comedian Idris Sultan was arrested after posting a video laughing at the President's clothing. He was questioned in connection to an alleged violation of the Cybercrimes Act, then later charged with failure to register a SIM card under the Electronic and Postal Regulations.<sup>24</sup> In August 2020, Fadhili Silwimba was sentenced to three years in jail, or a fine of Tsh 5 million (2,150 USD), for allegedly insulting President Magufuli on Facebook.
- 4.5 The Electronic and Postal Regulations regulate all online content providers by forcing them to register with the Tanzania Communication Regulatory Authority (TCRA), and prohibiting certain content. In January 2020, a challenge to the regulations, brought before the High Court in Mtwara by CSOs, was dismissed. In July 2020, the Electronic and Postal Regulations was amended to add new restrictions, including criminalising posting "rumours" or messages that "ridicule, abuse or harm the reputation, prestige or status of the United Republic of Tanzania" on social media platforms.<sup>25</sup> In addition,

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<sup>23</sup> 'Conviction of Mr. Maxence Melo from JamiiForums', fidh, 14 April 2020,

<https://www.fidh.org/en/issues/human-rights-defenders/tanzania-conviction-of-mr-maxence-melo-from-jamiiforums>

<sup>24</sup> 'Comedian Idris Sultan charged with failure to register Sim Card, released on bail', The Citizen, 27 May 2020, <https://www.thecitizen.co.tz/news/Comedian-Idris-Sultan-arraigned-at-Kisutu-Resident-Magistrate/1840340-5565310-13veyhmz/index.html>

<sup>25</sup> 'Posting 'rumours' on social media could land you in Tanzania jail', The East African, 10 August 2020, <https://www.theeastafrican.co.ke/tea/news/east-africa/posting-rumours-on-social-media-could-land-you-in-tanzania-jail-1915620>

the regulations also ban content on “the outbreak of deadly or contagious diseases . . . without the approval of the respective authorities,” which would include COVID-19. These restrictions go beyond permissible restrictions to free expression in international human rights law, including the three-part test of Article 19(3) of the ICCPR.

- 4.6 Positively, part of the Statistics Act, was amended in 2019. The Act criminalised the publication of statistics without the approval of the National Bureau of Statistics, thus virtually blocking independent research on any public-interest topic. Criminal liability was removed for publishing independent statistics. In practice, however, issues remain. In May 2020, the Head of the National Medical Laboratory was suspended, following the publication of COVID-19 statistics that contradicted a previous government statement.<sup>26</sup>
- 4.7 The Media Services Act creates strict rules for journalist accreditation and gives broad oversight powers to government agencies, enabling them to limit the independent media and effectively censor them. This includes banning, suspension, and fining of newspapers. Four newspapers were banned in 2017, four others heavily fined in 2018, and least three banned in 2019. In 2020, at least six news outlets and journalists had their license temporarily or permanently suspended, and three news outlets were fined. This included Kwanza TV, who were suspended for an Instagram post related to a COVID-19 health warning.<sup>27</sup>
- 4.8 In March 2019, the East African Court of Justice (EACJ), ruled that multiple sections of the Media Services Act unduly restrict press freedom and freedom of expression, and called on the government to repeal the act.<sup>28</sup> However, no action has yet been taken to amend the provisions in question.
- 4.9 Access to information was particularly challenged in the lead up to, and during, the 2020 presidential elections. Social media, including Twitter and WhatsApp, was largely restricted across Tanzania in October 2020. The difficulties continued throughout and immediately after the election, with WhatsApp users complaining that they were unable to download photos or videos.<sup>29</sup> Twitter was also only available

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<sup>26</sup> ‘Tanzania Suspends Medical Chief After Leader Queries Virus Data’ Bloomberg, 3 May 2020, <https://www.bloomberg.com/news/articles/2020-05-03/angered-by-virus-data-tanzanian-president-orders-probe>

<sup>27</sup> ‘Tanzania bans Kwanza Online TV for 11 months citing ‘misleading’ Instagram post on COVID-19’, Committee to Protect Journalists, 9 July 2020, <https://cpj.org/2020/07/tanzania-bans-kwanza-online-tv-for-11-months-citing-misleading-instagram-post-on-covid-19/>

<sup>28</sup> ‘East African court rules that Tanzania’s Media Services Act violates press freedom’, Committee to Protect Journalists, 28 March 2019, <https://cpj.org/2019/03/east-african-court-rules-that-tanzanias-media-serv/>

<sup>29</sup> ‘Social media ‘restricted’ in Tanzania ahead of poll’, BBC News, 27 October 2020, <https://www.bbc.com/news/live/world-africa-47639452>

when using a Virtual Private Network (VPN). In addition, from 24 October to 11 November 2020, Tanzanian authorities ordered TCRA to suspend bulk SMS and voice calls, in order to stop mass messaging or calling during the election.<sup>30</sup>

## 5. Freedom of peaceful assembly

- 5.1 During Tanzania's examination under the 2<sup>nd</sup> UPR cycle, the government received two recommendations on the right to freedom of peaceful assembly. Among other recommendations, the government committed to "Guarantee fully the rights to freedom of assembly and association and ensure that the alleged perpetrators of human rights violations in this context are brought to justice" and "Create and maintain a safe and enabling environment where members of all political parties and civil society organizations can exercise their rights, including to freedom of assembly, in a manner which allows legitimate and peaceful dissent". Of the two recommendations received, Tanzania accepted both. However, as evidenced below, the government has failed to realize or implement either of these recommendations.
- 5.2 Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 20 of the Tanzania Constitution also guarantees the right to freedom of assembly. However, in practice and policy law enforcement officers often prohibit lawful assemblies. The Police Force and Auxiliary Services Act (1969) has been a major hindrance to freedom of peaceful assembly in Tanzania as the police use disputed provisions of the law, in particular, Sections 41, 43, 45 and 46 to unjustifiably ban public meetings, especially political meetings.
- 5.3 A ban on political gatherings announced<sup>31</sup> by President Magufuli in June 2016 until 2020 – remained in force as the October 2020 approached. In practice, the ban affected opposition parties wishing to hold rallies, as opposition leaders and members were targeted using this law to restrict their right to peaceful assembly.
- 5.4 On 27 March 2018, a court in Dar es Salaam charged<sup>32</sup> Freeman Mbowe, chairman of the opposition CHADEMA political party, along with five other senior party officials, on allegations of sedition, incitement to violence and organising an illegal assembly, among other charges after they held protests on 16 February 2018. Although they

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<sup>30</sup> Twitter, @observerug, 26 October 2020, <https://twitter.com/observerug/status/1320606193413431297>

<sup>31</sup> 'Tanzania: dissidents and critics bear heavy brunt of increasing restrictions on expression', CIVICUS Monitor, 22 April 2020, <https://monitor.civicus.org/updates/2020/04/22/tanzania-dissidents-and-critics-bear-heavy-brunt-increasing-restrictions-expression/>

<sup>32</sup> 'Human rights advocates challenge new law restricting online content' CIVICUS Monitor, 21 May 2018, <https://monitor.civicus.org/updates/2018/05/21/human-rights-advocates-challenge-new-law-restricting-online-content/>

were released on bail on 3 April 2018, they were eventually sentenced<sup>33</sup> in March 2020, to five months imprisonment, or fines totalling 350 million Tanzanian shillings (USD 152,000) on charges including sedition and unlawful assembly. As of December 2018, 17 Tanzanian opposition legislators had faced various politically motivated offenses in courts.

- 5.5 Similarly, citizens and activists who tried to organise peaceful protests faced restrictions from authorities. A protest against Tanzania's growing number of restrictions on freedom of expression and the media, which had been organised on social media for Union Day on 26 April 2018, was prevented<sup>34</sup> by threats, intimidation and the deployment of security forces. Police Chief Gilles Muroto warned those planning to protest, threatening that they "will seriously suffer ... they will be beaten like stray dogs". At least nine protesters were arrested in Dar es Salaam, while at least seven people accused of mobilising the protest were arrested on 24 April 2018. Authorities also detained opposition member Elizabeth Mambosho for inciting demonstrations on social media on 2 April 2018. Previously, on 21 March 2018, two citizens were arrested for calling on people to protest.
- 5.6 On 23rd June 2020, opposition leader Zitto Kabwe and several members of his Alliance for Change and Transparency (ACT) Wazalendo party were arrested<sup>35</sup> for "holding an unlawful assembly" after they held an internal meeting in Kilwa district. They were released on bail the following day.
- 5.7 Similarly, ahead of the October 2020 general elections, reports were made about the killing of protesters during elections related demonstrations. On the eve of the election day, opposition leaders accused police of shooting nine people dead during protests against alleged rigging in Zanzibar.

## **6. Recommendations to the Government of Tanzania**

CIVICUS and the East and Horn of Africa Human Rights Defenders Project (DefendDefenders) call on the Government of Tanzania to create and maintain, in law and in practice, an enabling environment for civil society, in accordance

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<sup>33</sup> 'Tanzania: dissidents and critics bear heavy brunt of increasing restrictions on expression' CIVICUS Monitor, 22 April 2020, <https://monitor.civicus.org/updates/2020/04/22/tanzania-dissidents-and-critics-bear-heavy-brunt-increasing-restrictions-expression/>

<sup>34</sup> 'Human rights advocates challenge new law restricting online content' CIVICUS Monitor, 21 May 2018, <https://monitor.civicus.org/updates/2018/05/21/human-rights-advocates-challenge-new-law-restricting-online-content/>

<sup>35</sup> 'Authorities embark on major crackdown on expression amid covid-19 and ahead of elections' CIVICUS Monitor, 8 September 2020, <https://monitor.civicus.org/updates/2020/09/08/authorities-embark-major-crackdown-expression-amid-covid-19-and-ahead-elections/>

with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, freedom of peaceful assembly, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made:

### **6.1 Regarding freedom of association**

- Take measures to foster a safe, respectful, enabling environment for civil society, including through removing legal and policy measures, which unwarrantedly limit the right to association.
- The Non-Governmental Organisations Act (Amendments) Regulations 2018 should be reviewed to ensure that its requirements and processes do not unduly delay the work of CSOs or restrict the freedom of association and assembly, and bring its provisions into compliance with article 21 and 22 of ICCPR.
- Review the Written Laws Bill (Miscellaneous Amendments Act (No. 3) of 2020) to enable CSOs bring human rights public interest cases to court on behalf of victims and communities.
- Remove all undue restrictions on the ability of civil society organizations to receive international and national funding in line with best practices articulated by the UN Special Rapporteur on the rights to peaceful assembly and of association.
- Abolish criminal responsibility for organization and participation in the activities of non-registered organizations and lift the ban on the activities of non-registered organizations.
- All civil society organizations which have been arbitrarily and unduly sanctioned or deregistered should be immediately reinstated.
- Unwarranted raids on civil society groups and unjustifiable disruptions to legitimate, conferences, seminars and other activities organized by CSOs should be stopped.
- Refrain from acts leading to the closure of CSOs or the suspension of their peaceful activities, and instead promote a meaningful political dialogue that

allows and embraces diverging views, including those of human rights defenders, CSOs, journalists, political activists and others.

- Combat impunity for crimes committed against sexual minorities, ensure that their right to assembly and association is upheld and ensure the right to equal treatment in accessing health services and justice.

## **6.2 Regarding the protection of human rights defenders**

- Authorities should conduct impartial, swift, thorough, transparent, and effective investigations into all outstanding and future cases of attacks, killings, and disappearances of HRDs, journalists and CSO activists, and bring perpetrators of such offenses to justice.
- Review the freezing of bank accounts and subsequent closure of the Tanzania Human Rights Defenders Coalition.
- The Government should comply with the order from the High Court, to amend section 148(5) of the Criminal Procedure Act (2002).
- All human rights defenders, including journalists, detained for exercising their right to fundamental rights to freedom of expression, association, assembly should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.

## **6.3 Regarding freedom of expression, independence of the media and access to information**

- Review the Cybercrimes Act (2015) so as to ensure that freedom of expression and opinion is protected online, and allow national bloggers, journalists, other Internet users to play a full and active role in promoting and protecting human rights.
- Repeal the Media Services Act (2016), as called upon in the March 2019 decision of the East African Court of Justice.
- Review the Electronic and Postal Communications (Online Content) Regulations (2018) to bring it in line with international human rights obligations and to ensure that that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the Government may find sensitive.

- All media outlets unwarrantedly suspended or closed, under the Media Services Act, which unduly restricts press freedom, should be reinstated.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics.
- Ensure that the rights of journalists and representatives of the media, and access to information are protected during periods of elections and emergencies, in accordance with international, regional, and national law.
- Ensure that all the journalists still in detention are immediately and unconditionally released.
- Organize inclusive consultations with journalists and media in order to resolve disputes that exist concerning existing media laws, and to address concerns related to freedom of expression.

#### **6.4 Regarding freedom of assembly**

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which calls for simple notification rather than explicit permission to assemble.
- The Police Force and Auxiliary Services Act (1969) should be amended in order to fully guarantee the right to freedom of assembly.
- All demonstrators, journalists and human rights defenders detained for exercising their right to freedom of peaceful assembly should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.
- Review and if necessary update existing human rights training for police and security forces with the assistance of independent nongovernmental organizations to foster more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Senior government officials should publicly condemn the use of excessive and brutal force by security forces in the dispersal of protests. A formal investigation into such instances should be launched, and perpetrators should be brought to justice.

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which calls for simple notification rather than explicit permission to assemble.
- Recourse for judicial review and effective remedy should be provided including compensation in cases of unlawful denial of the right to freedom of assembly by state authorities.

### **6.5 Regarding access to UN Special Procedures mandate holders**

- The Government should extend a standing invitation to all UN Special Procedure mandate holders and prioritize official visits with the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 3) Special Rapporteur on Freedom of Special Rapporteur on the rights to freedom of peaceful assembly and of association; 4) Special Rapporteur on the Independence of Judges and Lawyers; 7) Working Group on Arbitrary Detention.

### **6.6 Regarding State engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with civil society organizations on all issues mentioned above and enable more effective involvement of civil society in the preparation of law and policy.
- Include civil society organizations in the UPR process before finalizing and submitting the national report.
- Systematically consult with civil society and NGOs on the implementation of UPR including by holding periodical comprehensive consultations with a diverse range of civil society sectors.
- Incorporate the results of this UPR into its action plans for the promotion and protection of all human rights, taking into account the proposals of civil society and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

**7. (E) Annex: Assessment of implementation of civic space recommendations under the 2<sup>nd</sup> cycle**

<b>Recommendation</b>	<b>Position</b>	<b>Theme</b>	<b>Evaluation /comments on the level of implementation</b>
134.95: Investigate promptly all attacks against journalists and ensure justice and adequate redress for the victims	supported	HRDS  Attacks on journalists	<u>Not implemented</u>  Attacks have continued, with no investigation. No investigation yet for high profile cases.  Source: 3.2
134.96 Address concerns related to claims of interference with freedom of expression	supported	Freedom of opinion and Expression	<u>Not implemented</u>  Legislation has been enacted, or strengthened, which directly interferes with freedom of expression. The government increased the use of such laws and policies.  Source: 4.3, 4.5, 4.7
134.97 Guarantee fully the rights to freedom of assembly and association and ensure that the alleged perpetrators of human rights violations in this context are brought to justice	supported	Peaceful Assembly, Association	<u>Not implemented</u>  Police forces continue to unduly restrict gatherings, especially political gatherings, while CSOs continue to be targeted because of their work. Perpetrators are yet to be brought to justice  Source: 2.7, 2.9, 2.10, 2.11, 5.2, 5.4, 5.5, 5.6

<p>134.98 Create and maintain a safe and enabling environment where members of all political parties and civil society organizations can exercise their rights, including to freedom of assembly, in a manner which allows legitimate and peaceful dissent</p>	<p>supported</p>	<p>Peaceful Assembly</p>	<p><u>Not implemented</u></p> <p>Ahead of the October 2020 general elections, opposition parties and leaders were particularly targeted with a ban on gatherings, arbitrary arrests, attacks on their offices. CSOs continue to face hurdles such as freezing of bank accounts</p> <p>Source: 2.7, 2.9, 2.10, 2.11, 5.2, 5.3, 5.4, 5.5, 5.6</p>
<p>136.1. Ensure the full compliance of the Media Service Bill of 2015 with the right to freedom of expression as guaranteed under the ICCPR and that its provisions facilitate the work of independent and pluralistic media, including citizen journalists</p>	<p>Noted</p>	<p>Freedom of opinion and Expression  Media</p>	<p><u>Not implemented</u></p> <p>The Media Services Bill was strengthened in the Media Services Act, restrictive provisions concerning freedom of expression remain.</p> <p>Source: 4.7, 4.8</p>
<p>136.2. Adopt and implement, through an inclusive process, a revised Access to Information Act and Media Services Bill in line with international human rights law and</p>	<p>Noted</p>	<p>Freedom of opinion and Expression  Expression</p>	<p><u>Not implemented</u></p> <p>Neither have been revised, despite EACJ ruling to do so.</p> <p>Source: 4.7, 4.8</p>

standards			
136.4. Ensure compliance of legislation with its international human rights obligations, by inter alia reviewing the Cybercrime Act and the Statistics Act.	Noted	Freedom of opinion and Expression	<u>Partially implemented</u> The Statistics Act has been amended to be more in line with international obligations. No review of the Cybercrime Act.  Source: 4.4, 4.6
136.5. Amend all laws infringing on press freedom, in particular the Statistics Act and the Cyber Crimes Act.	Noted	Freedom of opinion and Expression  Media	<u>Partially implemented</u> The Statistics Act has been amended to decriminalise the publication of statistics without the approval of the National Bureau of Statistics. No amendment of the Cybercrime Act.  Source: 4.4, 4.6

<p>136.6. Amend the recently adopted Cybercrime legislation to make sure it does not infringe human rights and redraft the Access to Information Bill and the Media Service Bill of 2015 in line with international human rights law and highest human rights standards</p>	<p>Noted</p>	<p>Freedom of opinion and  Media  Expression, Access to information</p>	<p><u>Not implemented</u>  None of the laws were amended.  Source: 4.4, 4.7, 4.8</p>
<p>136.7. Ensure that the legal framework and enforcement of laws, including the Cybercrimes Act and other laws affecting members of the media, are fully consistent with the human rights and fundamental freedoms in Tanzania's Constitution and the Universal Declaration of Human Rights</p>	<p>Noted</p>	<p>Freedom of opinion and Expression  Media</p>	<p><u>Not implemented</u>  The Cybercrimes Act continues to be used to prosecute and harass organisations and individuals for online posts.  Source: 4.4</p>

<p>136.8. Undertakes a thorough review with key stakeholders and civil society of its existing Cyber Crime and Statistic Acts and proposed Media Services and Access to Information bills, to meet human rights obligations</p>	<p>Noted</p>	<p>Freedom of opinion and Expression,  Media  Access to information</p>	<p><u>Not implemented</u>  No such review has taken place and all laws remain in place, or have been passed. The Statistics Act was amended but without civil society involvement.  Source: 4.4, 4.6, 4.7</p>
<p>137.67 Duly safeguard freedom of speech and the right to information in the fight against an emerging brand of criminality in the context of cybercrime through the adoption and implementation of suitable regulations</p>	<p>Noted</p>	<p>Freedom of opinion and Expression,  Access to information</p>	<p><u>Not implemented</u>  No regulations concerning cybercrime, which safeguard freedom of speech and information have been adopted. Existing cybercrime laws are used to target journalists and activists.  Source: 4.3, 4.4</p>
<p>137.66 Combat impunity for crimes committed against sexual minorities, ensure that their right to assembly and association is upheld and ensure the right to equal treatment in accessing health services and justice</p>	<p>Noted</p>	<p>Association</p>	<p><u>Not implemented</u>  Those working with, or who belong to, the LGBTIQ+ community are particular targets for harassment and physical abuse.  Source: 2.10, 3.6</p>

<p>136.24. Guarantee of freedom of expression and association through amending the media laws (that is the Cybercrime Act, Statistics Act, both of 2015 and Newspaper Act of 1976) and to ensure a conducive environment for civil society organizations, human rights defenders and media to operate freely in accordance with the Constitution of the United Republic of Tanzania and the United Nations Declaration on Human Rights Defenders</p>	<p>Noted</p>	<p>Expression, Association, HRDs</p>	<p><u>Partially Implemented</u></p> <p>While the Statistics Act has been amended, restrictive media laws are still in place, with the Media Services Act being passed and strengthened, acting to silence CSOs, HRDs, and the media.. The Newspaper Act was repealed, but was replaced by the Media Services Act.</p> <p>Source: 3.3, 3.4, 3.5</p>
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<p>137.68 Take appropriate measures to ensure that civil society, especially human rights defenders, may operate in a safe and enabling environment free from reprisals and to remove restrictions impeding their work, both in law and in practice, including by guaranteeing the rights to freedom of expression, association and assembly in accordance with international human rights standards</p>	<p>Noted</p>	<p>Expression, Association, Peaceful Assembly, HRDs</p>	<p><u>Not implemented</u>  Reprisals against HRDs have continued and worsened during the election period, civic space has generally deteriorated, with HRDs and activists being arrested and held without bail.</p> <p>Source: 3.3, 3.4, 3.6</p>
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