



Situation Report

On Human Rights Defenders
and Civic Space in Tanzania

2023



**SITUATION
REPORT
ON HUMAN
RIGHTS
DEFENDERS
AND CIVIC
SPACE IN
TANZANIA
2023**

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ABBREVIATIONS

AU	African Union
BRELA	Business Registration Licensing Agency
CAP	Chapter
CCM	Chama Cha Mapinduzi
CHADEMA	Chama Cha Demokrasia na Maendeleo
CIVICUS	World Alliance for Citizen Participation
CPJ	Committee for Protection of Journalists
CSOs	Civil Society Organizations
CUF	Civic United Front
CORI	Coalition for the Right to Information
DIT	Dar es Salaam Institute of Technology
EHARDP	Eastern and Horn of Africa Human Rights Defenders
EU	European Union
ETC	Etcetera
HRDs	Human Rights Defenders
HRNGOs	Human Rights Non-Government Organizations
IACHR-Inter	Inter- American Commission on Human Rights
ICCPR	International Covenant for Civil and Political Rights
ITV	Independent Television
KRAs	Key Result Areas
LHRC	Legal and Human Rights Centre
NGOs	Non-Government Organizations
NEC	National Electoral Commission
MSA	Media Services Act
OSIEA	Open Society Initiates for East Africa
SAHRINGON	Southern Africa Human Rights NGO-Network
RITA	Registration, Insolvency and Trusteeship Agency
RBA	Rights Based Approach
TACAIDS	Tanzania Commission for Acquired Immune Deficiency Syndrome
TAWLA	Tanzania Women Lawyers Association
TCRA	Tanzania Communication Regulatory Authority
TGNP	Tanzania Gender Network Programme
THRDC	Tanzania Human Rights Defenders Coalition
UPR	Universal Periodic Review
UN	United Nations

LIST OF STATUTES AND INTERNATIONAL INSTRUMENTS

(i) Statutes

The Constitution of the United Republic of Tanzania, 1977
The Constitution of the Revolutionary Government of Zanzibar, 1984
The Second Draft Constitution of the United Republic of Tanzania 2013
The Penal Code [Cap 16 R.E.2002]
The Marriage Act of 1971 Cap 29 [RE; 2002]
Probate and Administration of Estates Act, [Cap 445 [R.E 2002]
The Newspaper Act of 1976 [Cap. 229, R.E. 2002]
The Media Services Act, 2016
The Cyber Crimes Act, 2015
The Statistics Act, 2015 and its 2019 Amendments
The Prison Act, 1967, Cap 58 [R.E 2002]
The National Security Act of 1970, [Cap. 47 [R.E 2002]
The National Defence Act, Cap 192 [R.E 2002]
The Prevention and Combating of Corruption, Act No. 11 of 2007
The Area Commissioner Act 1962 & Regions and Regional Commissioners Act 1962
The Civil Service Act 1989
The Film and Stage Act No 4 of 1976, and its 2019 amendments
The Newspapers and Books Act (1988)
The Broadcasting Services Cap. 306 of the R. E 2002
The Land Act, 1999 (Act No.4 of 1999)
The Wildlife Conservation Act of 2009 (Cap 5 of 2009)
The Investment Act, 1997 (Act No. 26 of 1997)
The Forest Act, 2002 (Act No. 14 of 2002)
The Political Parties Amendment Act, 2019
The National Park Act, Cap 282 [R.E 2002]
The Ngorongoro Conservation Act, 1959 Cap 284 [R.E 2002]
The Mining Act, 2010 (Act No. 14 of 2010)
The Basic Rights and Duties Enforcement Act No. 33 of 1994
The Police Force and Auxiliary Services Act, 1939 Cap. 322, [R.E. 2002]

The Non- Governmental Organizations Act 2002.

The Written Laws (Miscellaneous Amendment) Act No3 of 2019

The Written Laws (Miscellaneous Amendment) Act No3 of 2020

The Non-Governmental Organizations Act (Amendment) Regulations, 2019

The Electronic and Postal Communications (Online Content) Regulations, 2020

(ii) International and Regional Human Rights Instruments

Declaration on the Right of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms on December 9, 1998 (Declaration for Human Rights Defenders).

United Nations Resolution on Protection of Human Rights Defenders March 2013

UN Resolution on Protection of Women Human Rights Defenders November 2013

The International Covenant on Civil and Political Rights 1966

The Convention on the Elimination of All Forms of Discrimination against Women 1979

The European Convention on Human Rights of 1950

The African Charter on Human and Peoples Rights of 1981

The American Convention on Human Rights 1969

EXECUTIVE SUMMARY

This is the 11th report detailing the situation of Human Rights Defenders (HRDs) and civic space in Tanzania. It has six chapters containing different topics as narrated herein. Chapter one basically highlights the concept of HRDs, legal and non –legal protection mechanisms for HRDs. It also gives an analysis of the laws and policies which provide for the recognition and protection of HRDs at the national, regional, and international level.

Chapter two details the violations committed against HRDs, and the necessary support provided by the Coalition. Most of the HRDs supported were the individual human rights defenders, journalists, and pastoralists land rights defenders. It also covers cases against HRDs, documented incidents of violations committed against HRDs and the strategic cases.

In 2023 a total of 100 human rights defenders were supported with relocation, medical, legal support, and other emergency support. A total of 42 HRDs at risk (6 women, 36 men) received direct legal support from THRDC and 15 HRDs amongst them were released by the court after winning the cases or upon failure by the prosecution to prosecute the HRDs under detention hence were released unconditionally. The case against 1 HRD was lost and the HRD is serving 5 years sentence in prison.

Emergency protection support in terms of relocation was provided to 27 HRDs (3 women, 24 men), medical support to 7 HRDs (1 woman, 6 men), and 6 HRDs' families were provided with humanitarian support. Further, 10 HRDs were provided with emergency referral assistance to external sister organisations promoting and protecting HRDs' rights. Lastly, 8 strategic cases were supported on area of freedom of expression, bilateral agreements, land rights and on the rights of women and children. Only two cases were completed in 2023.

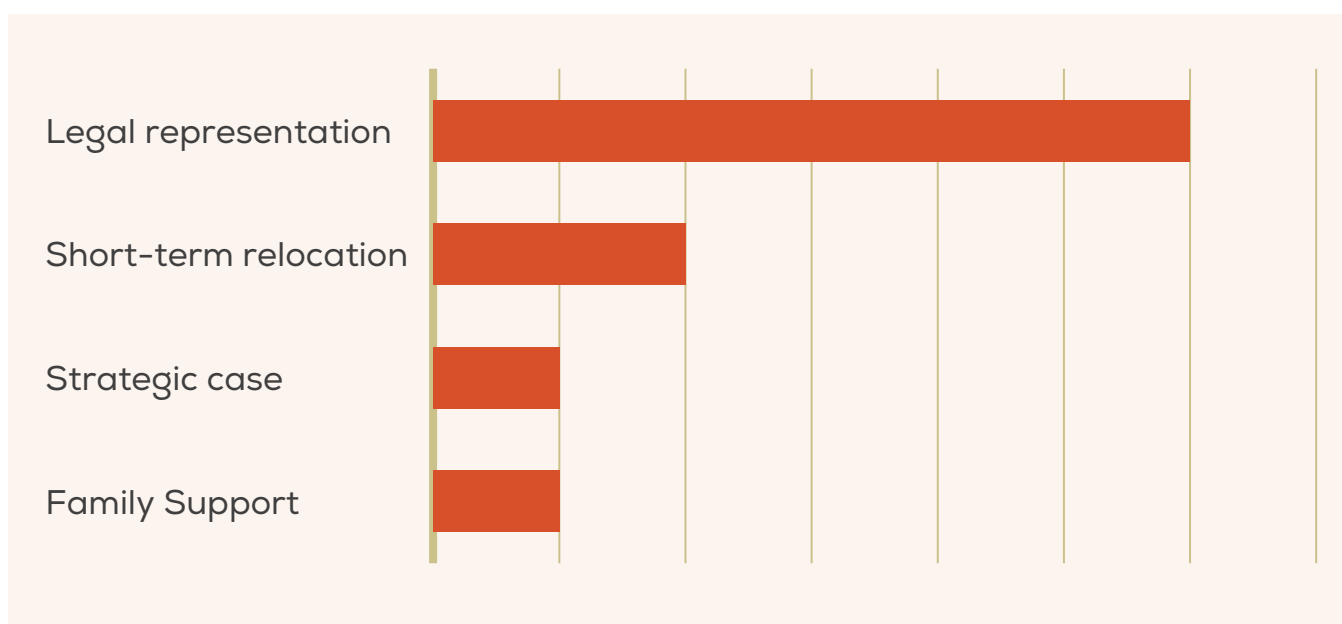
The records show most of the incidents are related to arbitrary arrest, malicious prosecution and threats. Most of the perpetrators in these incidents are the state machineries, and other individuals.

Chapter three provides details of the situation of Journalists as HRDs and the state of media industry. A total of 7 incidents were documented in 2023 totaling 14 journalists. The chapter further illustrates cases against journalist, security challenges encountered by journalists. Such challenges include but not limited to

arrest, malicious prosecution, unlawful detention and other legal and regulatory related challenges.

Chapter four illustrates the situation of women and persons with disabilities as human rights defenders in Tanzania for the year 2023. WHRDs contend with gender discrimination and stereotypes, enduring harassment, intimidation, and violence from actors who perceive them as deviating from traditional female roles. THRDC continues to build capacity of women HRDs and persons with disabilities through workshop meetings and seminars while engaging relevant authorities to push for legal and policy reforms to safeguard HRDs' working environment.

Figure 1: WHRDs reached through litigation, emergency support and rescue.



Chapter five details the civic space situation in Tanzania and engagements by the coalition in ensuring that HRDs/CSOs are protected and using the available regional and international opportunities effectively. Lastly, Chapter six contains the recommendations, conclusions, and annexures.

Chapter 1

GENERAL INTRODUCTION

1.0 Introduction

This chapter explains the concept of a “Human Rights Defender” (HRD), legal and non-legal mechanisms under which HRDs are recognized and protected. The meaning of a HRD and examples of the activities conducted by HRDs. In addition to that, the chapter gives an analysis of the laws and policies which provides for the recognition and protection of HRDs at the national, regional, and international level.

1.1 Who is a Human Rights Defender?

The Declaration on Human Rights Defenders doesn't directly define a human rights defender. However, a Human Rights Defender can be any one with a profile attributed to human rights promotion and protection. Any person qualifies to be called a HRD so long as s/he is engaged in activities related to human rights promotion and protection. This definition may therefore include professional and non-professional human rights workers, volunteers, journalists, lawyers and whoever is doing human rights work in long term or on occasional basis¹.

The above definition has been widely interpreted by several articles of the Declaration but invariably excludes individuals or groups who commit acts of violence or who support the use of violent means to achieve their objectives.

HRDs play a key role to improve the human rights situation and standards in their countries and are defined by what they do. They can include individuals, lawyers, journalists, NGO activists, trade unionists, minority activists, and demonstrators who act to promote or protect human rights. Needless to say, the definition does not include individuals or groups who commit or propagate violence.

Human Rights Defenders champion basic human rights as diverse as the right to life, food and water, the right to better healthcare which may be prevented, the right to adequate housing or accommodation, to a name and nationality, education, freedom of movement circulation and non-discrimination².

1 <https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx>

2 <https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx>

Human Rights Defenders on occasion, also deal with certain specific categories of people such as women, children, indigenous people, refugees, and displaced persons, in addition to national, linguistic, and sexual minority groups. HRDs are active throughout the world and strive to promote and protect human rights in all sorts of difficult contexts relating, notably, to HIV and AIDS, development, migration, structural adjustment policies and political transition.

HRDs are recognized due to their work, as they protect, and enhance human rights, politically, economically, socially, and culturally. They also champion for human rights and enhance constitutional rights such as education, freedom of expression development and policy changes.³

Human rights defenders are the only hope to ordinary citizen towards humanity. However, during the execution of their duties, they have found themselves turning into victims of murder, imprisonment, torture, side-lining, and expulsion from their communities.

The definition of a HRD is a bit blurred when it is applied to HRDs who serve as politicians at the same time. It has been a challenge sometimes to defend politicians such as Members of Parliament who are defenders of human rights. The definition of a HRD has to be clearly defined to include all individuals who defend human rights despite their professional or political backgrounds or affiliations.

1.2 The role of HRDs⁴

- a) Documenting violations of human rights.
- b) Seeking remedies for victims of such violations through the provision of legal, psychological, medical, and other support.
- c) Combating cultures of impunity which serve to cloak systematic and repeated breaches of human rights and fundamental freedoms.
- d) Mainstreaming human rights culture and information on human rights defenders at national, regional, and international level.
- e) Seeking and dissemination of information.
- f) Providing legal support through legal aid
- g) Conducting human rights awareness sessions to the public

1.3 HRDs Rights under the Declaration⁵

- a) To conduct human rights, work individually and in association with others.
- b) To get unhindered access to and communication with non-governmental and intergovernmental organizations, to form associations and non-governmental organizations.
- c) To benefit from an effective remedy.

³ <https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx>

⁴ <https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx>

⁵ <https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders?>

- d) To meet or assemble peacefully, the lawful exercise of the occupation or profession of human rights defender.
- e) To seek, obtain, receive and hold information relating to human rights.
- f) To develop and discuss new human rights ideas and principles and to advocate their acceptance.
- g) To submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals to improve their functioning.
- h) To draw attention to any aspect of their work that may impede the realization of human rights.
- i) To effectively protect under the law in reacting against or opposing, through peaceful means, acts or omissions attributable to the State that result in violations of human rights.

States such as Norway, Switzerland, Ireland and the Netherlands are great example for recognition of HRDs as they have adopted the UN Declaration on Human Rights Defenders. These states have recently between the years of 2018-2021 issued and updated various protection guidelines, advocacy programmes, grants, support and protection to Human Rights defenders globally⁶. They have also published guidelines directing their diplomats and decision-makers to prioritize the protection of human rights defenders and civil society space abroad. They have been consistently singled out for praise by human rights and democracy activists⁷.

1.4 Protection Mechanisms for Human Rights Defenders

HRDs are recognized and protected under international law. In some countries, various policies, guidelines, instruments, and legislations have been enacted to recognize and protect HRDs. Legal protection mechanism for HRDs covers initiatives by the United Nations, States, Judiciary, Administrative, and other organs in enactment of laws, regulations, policies or making of judicial precedents that recognize the role of HRDs in promoting and protecting human rights.

Other protection mechanisms, involve the initiatives by the UN, AU, international NGOs, local NGOs and networks to put in place, Special Rapporteur, emergency funds for HRDs at risk, provisional of supports on legal representation, medical support, counselling, evacuation and reallocations.

1.4.1 Legal Protection Mechanism at International Level

The United Nations adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms on December 9, 1998⁸.

6 <https://www.amnesty.eu/human-rights-defenders/>

7 Ibid

8 <https://www.ohchr.org/en/issues/srhrdefenders/pages/srhrdefendersindex.aspx>

This Declaration is also commonly known as the Declaration on Human Rights Defenders. The adoption of this salient document was marked as a historic achievement in the struggle towards better protection of those at risk for carrying out legitimate human rights activities. This Declaration was the only UN instrument that openly and comprehensively defined and recognized the work and protection of HRDs.

The Declaration is a well-defined international instrument that codifies and puts together standards to protect activities of human rights defenders all over the world. It recognizes the legitimacy of human rights activity and the need for this activity and those who carry it out to be protected.⁹

HRDs work and protection also gains its legitimacy from the following international human rights instruments, The Universal Declaration of Human Rights, The International Covenant on Civil and Political Rights, The Convention on the Elimination of All Forms of Discrimination against Women, The European Convention on Human Rights, The African Charter on Human and Peoples' Rights, and The American Convention on Human Rights. All these mentioned international instruments mandate state to recognize and protect the rights of HRDs.¹⁰

The Declaration outlines specific duties of states regarding rights and protection of HRDs at national levels. Other rights include; the right to develop and discuss new human rights ideas and to advocate for their acceptance, the right to criticize government bodies and agencies and make proposals to improve their functioning, the right to provide legal assistance or advice and assistance in defence of human rights, the right to observe trials, the right to unhindered access to and communication with non-governmental and intergovernmental organizations, the right to access information, the right to access resources for the purpose of protecting human rights, including the receipt of funds from abroad.¹¹

On 30th March 2013 the UN Human Rights Council passed a landmark resolution on Human Rights Defenders to compliment the Declaration on Human Rights Defenders. Inter alia, the major objective of this resolution is to remind states their duty to respect and protect rights of HRDs through law review and amendment. The move is also meant to ensure that laws in place are consistent with international human rights standards. It is also meant to remind states not to unduly hinder or limit the work of human rights defenders.¹²

The Declaration on Human Rights Defenders specifically provides that states are obliged to implement and respect all provisions of the Declaration. In particular, states have a duty to protect human rights defenders against any violence, retaliation and

9 <https://www.google.com/search?q=declaration+of+human+rights+defenders&>

10 <https://www.google.com/search?q=declaration+of+human+rights+defenders&>

11 <https://www.google.com/search?q=declaration+of+human+rights+defenders&>

12 <https://www.google.com/search?q=un+resolution+2013+human+rights+defenders&rlz>

intimidation as a consequence of their human rights work. Nevertheless, protection is not limited to actions by state bodies and officials but rather extends to actions of non-state actors, including corporations, religious groups, and private individuals.¹³

1.4.2 Legal Protection Mechanism at Regional Level

Continent	Legal Mechanism	Year of Adoption	Brief Explanation
AMERICA	Human Rights Defenders in America, support individuals, groups, and organizations	In 1969, the American Convention on Human Rights was adopted. The Convention entered into force in 1978. As of August of 1997, it had been ratified by 25 countries: Argentina, Barbados,	In its 1998 annual report, the Inter-American Commission on Human Rights (IACHR) highlighted the importance of the work carried out by Human Rights Defenders and recommended to Members. In June 1999 the General Assembly of the OAS adopted a resolution entitled:
	of civil society working to promote and protect human rights in America (AG/RES.16715).	Brazil, Bolivia, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela	The IACHR to issue preventative measures to Human Rights Defenders under threat to avoid any irreparable harm, to request information from States, issue recommendations and request the Inter-American Court adopts provisional protection measures.

¹³ <https://www.google.com/search?q=declaration+of+human+rights+defenders&>

Continent	Legal Mechanism	Year of Adoption	Brief Explanation
AFRICA	The Grand Bay Declaration and Plan of Action of 16 April 1999 ¹⁴	Adopted at Grand Bay, Mauritius on 16 April 1999. Member states are: Benin, Cameroon, Chad, Ghana, Kenya, Liberia, Malawi, Mauritania, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Sudan, Togo, Uganda and Zambia.	The African Union (AU) touched on the issue of the protection of Human Rights Defenders in 1999 during its Ministerial Conference on Human Rights in Africa.
	The Kigali Declaration of 8 May 2003	Adopted in 2003 By the following member state, Republic of Zimbabwe, Republic of Zambia, Uganda, Tunisia, Togo, Tanzania, Swaziland, Sudan, South Sudan, South Africa, Somalia, Sierra Leone, Seychelles, Sahrawi Arab Democratic Republic, Rwanda, Nigeria, Republic of Niger,	Recognizes the key role played by civil society organizations and Human Rights Defenders, in particular in promoting Human Rights in Africa” and “calls upon Member States and regional institutions to protect them and to foster their participation in the decision-making process.” ¹⁵
		Namibia, Republic of Mozambique, Morocco, Mauritius, Mauritania, Mali, Republic of Malawi, Madagascar, Malawi, State of Libya, Liberia, Lesotho, Kenya.	

14 www.achpr.org/instruments/grandbay/ Grand Bay Declaration and Plan of Action of 16th April 1999, P. 19.

15 Kigali Declaration of 8th May 2003, paragraph 28 available at www.achpr.org/instruments/kigali/.

Continent	Legal Mechanism	Year of Adoption	Brief Explanation
	Resolution 273 of the African Commission is another useful instrument that will help secure a better working environment for HRDs. ¹⁶	The African Commission on Human and Peoples' Rights (the Commission) at its 55th Ordinary Session in Luanda, Angola, from 28 April to 12 May 2014 recognizes	Its mandate is to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Right. African Union member States under the African Charter and under other regional and international human rights instruments for the protection of human rights. The system has the potential to respond effectively to the obligation to protect all citizens and particularly HRDs. States should conform to article 2 (2) of the UN Declaration on Human Rights Defenders ¹⁷ .
	A Resolution on Measures to Protect and Promote the Work of Women. Human Rights Defenders ¹⁸	Resolution Passed by African Commission in 2016. A landmark resolution adopted at the African Commission on Human and Peoples' Rights calls on African States	Calls on State Parties to: Disseminate and implement the recommendations of the Commission's Report on the Situation of Women Human

16 www.achpr.org/

17 www.achpr.org/

18 www.acdhrs.org/2015/04/tres00542015-resolution-on-women-human-rights-defenders-in-africa-we-the-participants-of-the-forum-on-the-participation-of-ngos-in-the-56th-ordinary-session-of-the-african-commission-on-human-an/

Continent	Legal Mechanism	Year of Adoption	Brief Explanation
		to ensure specific legal recognition and protection of women human rights defenders and end impunity for attacks against them.	Rights Defenders in Africa, end impunity by adopting specific laws and relevant measures, Ensure efforts are designed to prevent and address violations and discrimination against women human rights defenders, Train the judiciary and public security and other relevant authorities on the specific risks and protections for human rights defenders and in particular women human rights defenders.
	Marrakech Declaration 2018.	Adopted on 12 th October 2018 by Global Alliance of National Human Rights Institutions.	The declaration has focused on the role of National Human Rights Institutions. The declaration seeks to involve the Commission for Human Rights and good Governance as the only National Human Rights Institution in Tanzania in implementation of this declaration to; Declare responsibility and obligation to protect, Respect and promote the fulfilment of Human Rights and fundamental freedoms

Continent	Legal Mechanism	Year of Adoption	Brief Explanation
			of all persons, the Rule of Law, eradication of Human rights violations, to adopt the 2030 Agenda for sustainable development regarding Human Rights development and peace and security. ¹⁹
EUROPE	EU Guidelines on Human Rights Defenders. ²⁰	Adopted in 2004	In Europe, the European Union established EU Guidelines on Human Rights Defenders as the best way to support the implementation of the Declaration on Human Rights Defenders in third world countries ²¹ These guidelines provide practical suggestions to enhance EU action in relation to HRDs. Guidelines can be used in contact with third countries at all levels to support and strengthen ongoing EU efforts to protect the rights of HRDs.
	In 2010, the European Parliament adopted a Resolution on the EU policy in favour of Human Rights Defenders (2009/2199(INI).	Adopted in 2010	It calls on the various EU institutions and its missions to reinforce their action for effective implementation of Guidelines, notably by ensuring regular contact with Human Rights Defenders

19 <https://www.google.com/search?q=marrakech+declaration+december+2018> site

20 https://eeas.europa.eu/sites/eeas/files/eu_guidelines_hrd_en.pdf

21 The European Union (EU) Guidelines on Human Rights Defenders (2004)

Continent	Legal Mechanism	Year of Adoption	Brief Explanation
			prior to taking any action on their behalf and to provide them with feedback. These recommendations were reiterated with the adoption, on 16 th December 2010. ²²
	UNGA74 Global agreement on key elements of an effective defender protection policy.	On 20.11.2019 UN General Assembly's human rights committee in New York – the Third Committee –passed by consensus a resolution focusing on implementation of the Declaration on Human Rights defenders and some key elements of protection policy.	On human rights defender protection policy, the resolution states: the need for comprehensive risk analysis, that protection mechanisms should provide an early warning function to enable human rights defenders immediate access to 'competent and adequately resourced authorities to provide effective protective measures and address causes of attacks against defenders and barriers against the defence of rights ²³ .

There are several initiatives taken by continents to protect HRDs through legal protection. These include special guidelines, policies, resolutions, and other judicial and administrative decisions.

Table 1 Summary of Regional Protection Mechanism

²² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:I33601>

²³ www.ishr.ch/news/unga74-global-agreement-key-elements-effective-defender-protection-policy

1.4.3 Legal Protection Mechanism at the National Level

The UNHRDs reports indicate that very few States have incorporated the International Declaration on Human Rights Defenders, 1998 into their national laws despite 22 years of its adoption.²⁴ Worse still, governments in all regions are increasingly enacting laws which restrict and even criminalize the work of human rights defenders and NGOs example in Tanzania several restrictive laws have been enacted such as the Cybercrimes Act of 2015, the Statistic Act of 2015, the Media Services Act of 2016, The Written Laws (Miscellaneous Amendments) Act No 3 of 2020²⁵ which amended the Basic Rights and Duties Enforcement Act by requiring a person to show a personal interest to institute a public interest case, also, the Electronic and Postal Communications (Online Content) Regulations of 2020.²⁶

In response to these gaps and trends, one of the leading international organizations such as the International Service for Human Rights (ISHR) is working in partnership with key regional, sub-regional and national human rights defender groups from around the world to develop a Model national law on human rights defenders and to advocate for its adoption at the international level and its enactment locally.²⁷

The model law will assist States to develop laws, policies and institutions at the national level to support the work of human rights defenders and to protect them from reprisals and attacks. The model law will also serve as a valuable tool for human rights defenders to advocate for stronger legal recognition and protection of their important work.²⁸

Several countries have set national legal mechanisms to protect HRDs. Such initiatives are generally the result of pressure enforced by HRDs themselves and relayed by the international community. In general, they work towards accessing immediate protection measures. There are national legal protection mechanisms currently in place for Human Rights Defenders in Mexico, Colombia, Guatemala and Brazil. Initiatives in this direction have also been taken in Honduras. In the Democratic Republic of Congo a national law and provincial decree (South Kivu) is under discussion. Other countries active in the area are South Sudan, Indonesia, the Philippines and more recently, Ivory Coast.^{29\}

The Constitution of the United Republic of Tanzania of 1977 and the Constitution of Zanzibar of 1984 including the proposed Constitution of the United Republic

24 www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefenders

25 www.parliament.go.tz

26 www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefenders

27 www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders#sthash.fcKqacKj.dpuf

28 www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders#sthash.fcKqacKj.dpuf

29 www.ishr.ch/news/asia-ishr-launches-new-report-legislative-protection-human-rights-defenders-sev-en-countries

of Tanzania of 2014 do not guarantee in any way the rights of HRDs despite the tough work done by THRDC to lobby for its inclusion in the Mother Law. Toward its realization, in 2023 THRDC prepared a Human Rights Defenders Model Policy which was validated by more than 300 Tanzania HRDs before the Minister for Constitutional and Legal Affairs in October 2023. The Modal policy will help the government and the legislature to enact national human rights defenders' policy and laws.

The legal framework at the national level including the Draft Constitution provides for general protection of human rights but remains silent on the rights of human rights defenders. In short, lack of specific legal protection renders HRDs vulnerable and easy prey for perpetrators of human rights violations.

The Commission for Human Rights and Good Governance in Tanzania is the only National Human Rights Institution (NHRI), with full mandate to protect human rights and good governance in general.³⁰

The Tanzania Human Rights Defenders Coalition has made huge efforts to engage and work with the Commission in order to conceptualize and impart knowledge of what defending defenders means and how best human rights defenders can be protected and be considered as a special category of human rights protectors who need support to fulfil their responsibilities under the law.

One of the efforts that THRDC has made in engaging with CHRAGG is in efforts to implement the Marrakech Declaration of 2018. This declaration has focused on the role of National Human Rights Institutions.³¹ The Declaration seeks national human rights institutions to among other things: declare responsibility and obligation to protect, respect and promote the fulfilment of the human rights and fundamental freedoms of all persons, to promote the rule of law, and the eradication of human rights violations and to interact, cooperate and build partnership among civil society organisations, media, business entities , networks, governmental and non-governmental organizations.³²

'Enacting the rights of human rights defenders in national law would be a significant step towards transforming the international promise of the Declaration on Human Rights Defenders into a national-level reality.' – Gustavo Gallon, Director of the Colombian Commission of Jurists³³

30 www.chragg.go.tz

31 www.google.com/search?safe=active&rlz=1C1CHBF_enTZ850TZ850&sxsrf

32 www.google.com/search?safe=active&rlz=1C1CHBF_enTZ850TZ850&sxsrf

33 www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders

1.5 Non-Legal Protection mechanism

Protection mechanisms for HRDs can simply be defined as defence strategies put in place to ensure that HRDs are safe and operate in a safe environment. Through their active commitment, HRDs are frequently a target of acts of repression perpetrated by States or by private or Para-State groups acting in complicity with States. In many countries, HRDs are targets for attacks including murders, kidnapping, arbitrary arrests, imprisonment, torture, improper treatment, retaliation against family or friends, death threats, defamation campaigns, adoption of restrictive legislation in terms of the freedom of association, expression and gathering.

Thus UN, International and Local NGOs were forced to take measures and establish protection desks/units to ensure HRDs mitigate these threats and in worst situations provide emergency assistance.

1.5.1 Non-Legal Protection mechanism at International level

The mandate on the situation of human rights defenders was established in 2000 by the Commission on Human Rights (as a Special Procedure) to support implementation of the 1998 Declaration on Human Rights Defenders. In 2014, the UN Human Rights Council came up with a resolution number 25/18, in a bid to continue the mandate on human rights defenders for a consecutive period of three years.³⁴

In 2000, the UN Secretary General's office under special request from the UN Commission on Human Rights established a mandate on human rights defenders to effectively implement and bring into force the Declaration on Human Rights Defenders. A special rapporteur was appointed to support the implementation of the declaration and the collection of information on the situation of human rights defenders all over the world³⁵.

Since May 1, 2020, Ms. Mary Lawlor has assumed the role of Special Rapporteur on the situation of human rights defenders.³⁶ In June 2014, Mr. Michel Forst (France) was designated by the President of the Human Rights Council as the UN Special Rapporteur on the situation of human rights defenders. He succeeded Ms. Margaret Sekaggya (Uganda), who had previously held this position from 2008 to 2014. Preceding Ms. Sekaggya, Ms. Hina Jilani had served as the Special Representative of the Secretary-General on the situation of human rights defenders from 2000 to 2008.³⁷

The following are the major duties assigned to the UN Special Rapporteur on human rights defenders³⁸

34 www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx

35 www.ohchr.org/en/issues/srhrdefenders/pages/srhrdefendersindex.aspx

36 <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders>

37 www.ohchr.org/en/issues/srhrdefenders/pages/srhrdefendersindex.aspx

38 www.tandfonline.com/doi/full/10.1080/13642987.2011.537463

- i. Seek, receive, examine and respond to information on the situation of human rights defenders;
- ii. Receives complaints on violations against HRDs and then sends letters of allegation and urgent appeals to governments.
- iii. Establish cooperation and conduct dialogue with governments and other interested actors on the promotion and effective implementation of the Declaration.

In performing their duties, Special Rapporteurs³⁹:

- Submits annual reports to the Human Rights Council and the UN General Assembly on particular topics or situations of special importance regarding the promotion and protection of the rights of human rights defenders
- Undertakes country visits
- Takes up individual cases of concern with Governments

However, the UN does not provide for other services such as an emergency fund and support. Therefore, International NGOs and Associations, such as the Frontline Defenders, American Bar Association, Protection International, Freedom House, CIVICUS, Civil Rights Defenders, Irish Human Rights Institute, Peck Trust, CPJ, ICJ, Article 19 and many others have been playing that role. These NGOs work to compliment the work of the UN Special Rapporteur. They offer security and risk assessment management such as preventive measures, legal support, counselling, evacuation and reallocation of HRDs at risk and advocacy among other activities.⁴⁰

1.5.2 Non-Legal Protection Mechanism at Regional level

Universal and Regional protection mechanisms complement each other to improve the protection of Human Rights Defenders.

The Human Rights Defenders Declaration requires states at the regional level to establish regional mechanisms to protect human rights defenders. On 4th June 2004, the African Commission on Human and Peoples' Rights (ACHPR) introduced the post for Special Rapporteur on Human Rights Defenders in Banjul, Gambia. Currently, the position is held by Ms. Reine Alapini-Gansou.⁴¹

ACHPR is the first regional human rights body to create a specific special procedure to deal with HRDs. Reasons for the appointment of a Special Rapporteur on human rights defenders in Africa were: security threats facing defenders in Africa and the need to create a specific instance within the Commission to examine reports and act upon information on the situation of defenders on the continent.

39 www.tandfonline.com/doi/full/10.1080/13642987.2011.537463

40 www.academia.edu/12256645/Human_Rights_Defenders_Situation_Report

41 https://en.wikipedia.org/wiki/Reine_Alapini-Gansou

1.5.2.1 The African Commission on Human and Peoples' Rights assigned the special Rapporteur for HRDs in Africa to perform the following duties ⁴²:

- i. To submit reports at every Ordinary Session of the African Commission on the situation of human rights defenders in Africa;
- ii. To cooperate and engage in dialogue with member states, national human rights Institutions, relevant intergovernmental bodies, international and regional mechanisms of protection of human rights defenders and other stake holders;
- iii. To develop and recommend effective strategies to better protect human rights defenders and to follow up on his/her recommendations;
- iv. To raise awareness and promote the implementation of the UN Declaration on Human Rights Defenders in Africa.
- v. To carry out her mandate, the special rapporteur receives and examines information from a wide range of sources including NGOs, and issues urgent appeals regarding violations against human rights defenders in the region.
- vi. To seek, receive, examine and to act upon information on the situation of human rights defenders in Africa and
- vii. Carrying out country visits to assess the situation of human rights defenders and encourage individuals and NGOs to submit cases concerning human rights defenders to the African Commission.

Africa is clearly a step ahead regarding the enactment of laws protecting human rights defenders. However, one remaining challenge is the inclusion in those texts of a large definition of defenders, as inclusive as the one adopted by the UN through the UN Declaration on defenders" said Michel Forst, UN Special Rapporteur on the situation of human rights defenders⁴³.

On 23rd April 2009, Non-Governmental stakeholders in Africa adopted the Kampala Declaration on Human Rights Defenders, during a Conference on Human Rights Defenders at the Ugandan capital.⁴⁴This initiative was facilitated by the Network of Human Rights Defenders in East and Horn of Africa. The latter bolstered the protection of Human Rights Defenders in Africa through networking.⁴⁵

The East and Horn of Africa Human Rights Defenders Project (EHAHRDP) plays a key role to protect HRDs in the region. Others include the Pan Africa Human Rights Defenders Network, West Africa Human Rights Defenders Network, Central Africa Human Rights Defenders Network, South Africa Human Rights Defenders Network,

42 <https://www.achpr.org/specialmechanisms/detail?id=4>

43 www.ishr.ch/news/achpr-65-protecting-human-rights-defenders-through-protection-laws-africa

44 <http://protectionline.org/2009/05/05/kampala-declaration-of-human-rights-defenders/>

45 <https://www.achpr.org/legalinstruments/detail?id=39>

and recently another establishment for a special fund for legal protection by the name of Legal Protection Fund (LPF).⁴⁶

1.5.3 Non-legal Protection Mechanism at National Level

Promoting the Implementation of the Declaration at national level is still a new agenda to many states in Africa and elsewhere.

However, gradually, African civil societies continue to form networks and coalition for human rights defenders in their respective countries and regions. Coalitions and Networks in Africa include; East and Horn of Africa Human Rights Defenders Network and Pan Africa Human Rights Defenders Network. Others on the list are Kenya, Eritrea, Djibouti, Malawi, Uganda, Tanzania, and Burundi Human Rights Defenders Coalition. The final group in the list is South Sudan, Rwanda, Somali and Senegalese Human Rights Defenders Coalition.

Thus, the Coalition is working in the framework of accepted international mechanisms which have been established and adopted by other human rights conscious nations including Tanzania to ensure good governance. It should be noted however, that the issue of protection of HRDs is quite new in Tanzania. Most people do confuse the work of human rights defenders and other ordinary human rights activities. Therefore, at times ignore security incidents and take it for granted. In fact, a majority of HRDs do not even know that they are human rights defenders who need special protection when performing their day-to-day activities as defenders and promoters of human rights.

Despite the duty imposed on states by the Declaration on Human Rights Defenders to protect HRDs through national legislation, the current legal and institutional frameworks governing human rights issues do not specifically recognize the presence and work of the HRDs in Tanzania. The Declaration requires states to adopt such legislative, administrative, and other steps to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

The Constitution of the United Republic of Tanzania of 1977 and that of Zanzibar of 1984 including the current Draft Constitution do not guarantee in any way the rights of HRDs. The legal framework at the national level, including the Draft Constitution provide for general protection of human rights and remain silent on the rights of

⁴⁶ <https://defenddefenders.org/>

human rights promoters/defenders. In short, lack of specific legal protection makes the HRDs vulnerable and easy prey of perpetrators of human rights violations.

Tanzania lacks a policy and legislation on HRDs in line with the UN Declaration on HRDs of 1998, a fact that pushed for the establishment of THRD-Coalition. To rectify the situation, the Coalition developed a Human Rights Defenders Model Policy which may be used by the government in creating better policies and laws that recognize and govern Human Rights Defenders.

1.6 Challenges for both International and Regional Protection Mechanisms for HRDs ⁴⁷

- i. The mentioned declaration on human rights defenders provides protection and legitimacy to the work of HRDs. But in order to do this, the Declaration has to be known and respected by the authorities, and the population as a whole. It also has to be known and used by HRDs themselves. The findings of this survey indicate that majority of HRDs have never been informed about this declaration. This, therefore, requires some intervention by THRDC to rectify the situation.
- ii. They don't know how to use the special UN and the AU rapporteurs on human rights defenders to protect them.
- iii. The declaration on Human Rights defenders provides protection and legitimacy to the work of HRDs. But in order for that to happen, the Declaration has to be widely known and respected by authorities, and the population as a whole. It also has to be known and used by HRDs themselves.
- iv. Again, the EU Guidelines on HRDs are also not widely known by HRDs in Tanzania despite the fact that EU has been taking some action to defend them. A lot more has to be done to raise HRD awareness about and the usefulness of the guidelines as a form of capacity building to enable them to enhance their security.

47 www.escr-net.org/news/2018/promoting-protection-human-rights-defenders-global-summit

Chapter 2

VIOLATIONS COMMITTED AGAINST HUMAN RIGHTS DEFENDERS

2.1 Overview

This chapter narrates the human right violations committed to human rights defenders (HRDs), cases against human rights defenders, incidents faced human rights defenders and strategic or public interest cases instituted by human rights defenders in 2023. Incidents of HRDs rights' violation were perpetrated by individuals and state organs affecting the scope of HRDs operation in Tanzania.

The cases against human rights defenders, incidents faced human rights defenders and strategic or public interest cases are compounded by disrespect of the rule of law and undemocratic practices. Continuously, the state organs have been using the existing restrictive laws to curb the work of human rights defenders such as the Media Services Act of 2016, the Electronic and Postal Communications (Online Content) Regulations of 2020 as amended in 2022, the Cybercrimes Act of 2015, Police Force and Auxiliary Services Act, the Non-Governmental Organizations (Amendments) Regulations of 2018, the Written Laws (Miscellaneous Amendments) (No. 3) Act of 2019 and the Written Laws (Miscellaneous Amendments) (No.3) Act of 2020.

Compared to the last year, in the year 2023 incidents of violation of human rights defenders' rights decreased because of some improvement of the Tanzania's political context. A total of 100 HRDs were supported with legal assistance, relocation, medical, family support and other emergency support in 2023 compared to 278 in the year 2022. The HRDs were supported as follows.

2.2 Enhancing Protection of HRDs through Emergency Support

Emergency protection support in terms of relocation was provided to 27 HRDs (3 women, 24 men), medical support to 7 HRDs (1 woman, 6 men), and 6 HRDs' families were provided with humanitarian support. Further, 10 HRDs were provided with emergency referral assistance to external sister organisations promoting and protecting HRDs' rights.

Most of the HRDs relocated were the victims of the land grabbing process in Loliondo, Sale and Ngorongoro divisions in Arusha region, pastoralists HRDs.

2.3 Enhancing Protection of HRDs through Legal Support

A total of 42 HRDs at risk (6 women, 36 men) received direct legal support from THRDC and 16 HRDs amongst them were released by the court after winning the cases or upon failure by the prosecution to prosecute the HRDs under detention hence were released unconditionally.

THRDC was highly concerned with the arrest, detention, and interrogation of Mr. Odera Charles Odera, the Executive Director of Civic and Legal Aid Organisation (CILAO). Mr. Odera was arrested on 20th October, during the inauguration of the 77th sessions of the African Commission on Human and Peoples' Rights at Arusha International Conference Centre. While under detention Mr. Odera was accused of not being a citizen of Tanzania. He was interrogated later released on bail. Like many other HRDs, his arrest came after his bold statements about ongoing violations of human rights among indigenous and pastoralist communities in Ngorongoro and other parts of the country.

THRDC also issued a joint statement with other human rights NGOs on the arrest of the former ambassador Dr. Wilbrod Peter Slaa, advocate Boniface Mwabukusi, and human right activist Mpaluka Said Nyagali who were arrested and detained for their bold statements against the intergovernmental agreement between Tanzania and Emirates of Dubai on the ports' investment for life. Also, Dr. Rugemeleza Nshala the former present of the Tanganyika Law Society was threatened because of his firm statements against the lifetime ports investment in Tanzania.

Moreover, THRDC was highly saddened with the suspension and mistreatment of Senior Advocate Mpale Kaba Mpoki by the Advocates Committee during the proceedings involved Advocate Boniface Mwabukusi. During the hearing, Advocate Mpale raised legitimate points of preliminary objections which were overruled by the committee. In response to the committee ruling, Advocate Mpoki expressed his client's intention to appeal against the said ruling to the High Court of Tanzania.

Instead of respecting the right of appeal, the Chairperson of the Committee summarily suspended Advocate Mpoki's practicing certificate for a period of six months from 20th November 2023. Such a summary action raised serious concerns about due process, fairness, and the right to seek legal redress. The suspension was an infringement on the principle of the right to a fair hearing, violation of the right to work. It also undermines the integrity of the legal profession and sets a dangerous precedent. It is fundamental to justice that advocates be allowed to perform their duties without fear of reprisal for the lawful exercise of their professional rights.

Lastly, 8 strategic cases were supported on area of freedom of expression, bilateral agreements, land rights and on the rights of women and children. Only two cases were completed in 2023.

Diagram one: Human rights defenders supported in 2023.

A total of 278 HRDs Supported in 2022

- Legal Support
- Referral
- Relocation
- Strategic Cases
- Medical & Psychosocial
- Family Support

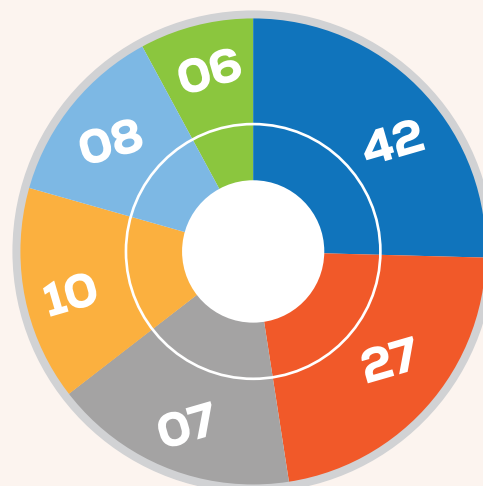


Table one: HRDs Received Emergency Support from THRDC between 2018 and 2023

Services Offered	2018	2019	2020	2021	2022	2023	Total
Legal representation	32	41	48	55	157	42	375
Short-term relocation	11	6	5	24	46	27	119
Medical support and psychological support	1	2	3	4	31	7	48
Strategic cases	5	9	20	9	16	8	67
Family Support	-	3	3	17	8	6	37
School Support	1	2	2	-	-	-	5
Office Relocation	-	-	-	1	1	-	2
Referral assistance	1	2	6	3	19	10	41
Total per annum	51	65	87	113	278	100	694

2.4 Cases Against Human Rights Defenders (CHRDs)

- i. Director of Public Prosecutions versus Oloomu Kursas, Sinjore Maitika and Ndagusa Koros [Criminal Application No 10 of 2023]

On 26th October 2023 about 806 heads of cattle, 420 sheep and 100 goats of Mr. Oloomu Kursas, Sinjore Maitika and Ndagusa Koros were seized by game rangers

in Serengeti National Park. Both heads of cattle, sheep and the goats were alleged to be found at Long'osa area within the Serengeti District, Mara region. After the seizure of such livestock, they were kept at Lobo Rangers Post within the Serengeti National Park. On 30th October 2023 the Republic instituted a case at the Resident Magistrates' Court in Musoma seeking for an order of forfeiture and sale by way of public auction (ex-parte application No 10 of 2023). The Republic stated in court that the heads of cattle, sheep and the goats were unclaimed properties. On 31st October 2023 the court issued an order of forfeiture and sale by way of public auction. A court broker was appointed to conduct the public auction but conditioned to adhere to all the public auction procedures.

Immediately after the order of the court, Mr. Oloomu Kursas, Sinjore Maitika and Ndagusa Koros filed an application before the High Court of Tanzania Musoma registry seeking the High Court to revise the Resident's Magistrates' court order stating that the heads of cattle, sheep and the goats were their own properties disputing the assertion by the Republic that such properties were unclaimed (Application for revision No 08 of 2023). They further stated that, even if the properties could be unclaimed, still the legal procedures were not followed which demands that unclaimed property must be announced publicly so that owners can show up under Section 25 of the National Parks Act and Section 47 of the Police Force and Auxiliary Services Act. On 10th November 2023 the High Court revised the order of the Resident Magistrates' Court ordering for a rehearing of the case.

In the midst of these circumstances, Mr. Oloomu, Maitika and Ndagusa filed an application for injunction seeking the order of the High Court to stop the sale (Application No 35 of 2023). On 1st November 2023 the High Court issued an order stating that the sale be stopped because Mr. Oloomu, Maitika and Ndagusa were denied their right to be heard at the Resident Magistrates' Court of Musoma. However, the court broker announced the sale of the heads of cattle, sheep, and the goats on 1st November 2023 and sold them accordingly on the same day.

However, rehearing of the case at the Resident Magistrates' Court was conducted between 10th November 2023 and 13th February 2024. On 13th February 2024 the Resident Magistrates' Court of Musoma delivered a ruling stating that the public auction conducted on 1st November 2023 did not follow the stipulated legal procedures under the law and it was conducted without any justifiable reason hence the sale of 806 heads of cattle, 420 sheep and 100 goats was not lawful and therefore unjustifiable in the law. With this ruling, the court ordered the Republic to reimburse the amount Tanzanian shillings 169, 264,200/= to Mr. Oloomu, Maitika and Ndagusa. In these cases, Mr. Oloomu, Maitika and Ndagusa have been under the legal support of human rights Advocates from Tanzania Human Rights Defenders Coalition (THRDC) and Pastoralists Indigenous Non-Governmental Organisation Forum (PINGOs Forum).

ii. Peter Michael Madeleka versus Republic [Criminal Application No 53 of 2022]

On 20th April 2022, Advocate Peter Michael Madeleka was arrested and detained incommunicado for five days on undisclosed allegations. Also, the place where he was detained was undisclosed. Advocate Paul Kisabo from THRDC jointly with other human rights lawyers instituted a case before the court for bail consideration to Mr. Madeleka.

However, on the date of hearing the bail case, Mr. Madeleka was released on Police bail, that is 25th April 2022 and conditioned to report on different scheduled dates. On 5th May 2022 he was charged for publication of false information contrary to section 16 of the Cybercrimes Act of 2015. On the charge, it is stated that Mr. Madeleka posted on Twitter concerning about a certain immigration officer alleged to have threatened to kill him. The alleged information is literally translated as follows that "this ...(name)...is planning to kill me, and he has been planning in a WhatsApp group with other immigration officers, he will not be successful..."

Mr. Madeleka lodged an application for revision before the High Court of Tanzania because of the defects that the charge had, the application was dismissed. He further took legal steps appealing to the Court of Appeal of Tanzania. The appeal is pending in the Court of Appeal of Tanzania at Dar es Salaam.

iii. Livinus Kidamambi@Tengwa Versus Republic [Criminal Appeal No 96 of 2022]

In September 2022 a human rights defender Mr. Livinus was arrested and detained at the Central Police Station in Simiyu, Tanzania. while under detention, he was accused of publication of false information. He was arraigned in court and charged with publication of false information and failure to register a sim card in his own name.

The false information charged against him related to the President of the United Republic of Tanzania. He published information challenging the acts of the President and stated that once the country is under the leadership of the woman, all people can be considered as breasting. He was convicted and sentenced to seven years of imprisonment with a fine of One Million Five Hundred Thousand. Human rights advocates lodged an appeal against such a decision in the High Court of Tanzania at Shinyanga. On 23rd August 2023 the High Court did uphold the decision of the district court. being dissatisfied, Mr. Livinus appealed to the Court of Appeal of Tanzania. The appeal is pending before the Court of Appeal of Tanzania.

iv. Attorney General versus Boniface Mwabukusi [Application No 10 of 2023]

Advocate Boniface Mwabukusi was charged for alleged professional misconduct before the advocates committee in 2023. The alleged professional misconduct arose from his articulations in the public interest case of that was challenging the intergovernmental agreement between Tanzania and Dubai (Alphonse Lusako, Emmanuel Chengula, Raphael Ngode and Frank Nyalusi Versus Attorney General [Civil Cause No 05 of 2023]). Hearing was conducted between 20th and 21st November 2023. The ruling of the committee is pending until further notice. THRDC provided legal support by engaging advocate Mpale Kaba Mpoki to represent advocate Mwabukusi.

v. The case of Senior Counsel Mpale Kaba Mpoki Roll No 506

Advocate Mpoki was suspended by the advocates committee in the course of representing his client advocate Boniface Mwabukusi before the same committee. The Tanzania Human Rights Defenders Coalition (THRDC) in collaboration with Pan African Lawyers Union (PALU), Legal and Human Rights Centre (LHRC) issued a statement expressing our profound concern and condemnation regarding the suspension and mistreatment of Senior Advocate Mpale Kaba Mpoki by the Advocates Committee during the proceedings involving Advocate Boniface Mwabukusi. Advocate Mpoki was enrolled into the Roll of Advocates on 15th December 1989 with Roll No 506. He is experienced for more than 34 years on public interest litigation and human rights. Advocate Mpoki served as the Vice President of the Tanganyika Law Society (TLS) for two terms. His first term was 2011-2012 under TLS President Advocate Francis Stola and in 2019-2021 under TLS President Advocate Rugemeleza Nshala.

During the hearing before the Advocates Committee, Advocate Mpale, upon instructions from his client, raised legitimate points of preliminary objections on the jurisdiction of the Committee. Unfortunately, three points of preliminary objection were overruled by the committee and the rest was partly upheld. In response to the ruling, Advocate Mpoki, again upon instructions from his client expressed his client's intention to appeal against the said ruling to the High Court under section 24A of the Advocates Act.

Regrettably, instead of respecting the right of appeal of Advocate Mwabukusi to appeal against the decision of the Advocate Committee, its Chairperson of the Committee summarily suspended Advocate Mpoki's practicing certificate for a period of six months from 20th November 2023. This summary action, taken in response to the expression of an intention to appeal, raises serious concerns about due process, fairness, and the right to seek legal redress.

THRDC considers that the suspension of Advocate Mpoki's practising certificate was a violation of his rights as an advocate, an infringement on the principle of the right to a fair hearing. The act of summarily suspending an advocate for expressing his client's intention to appeal undermines the integrity of the legal profession and sets a dangerous precedent. The suspension was further a violation of the right to work of Advocate Mpoki.

Through the statement, THRDC strongly condemned the mistreatment of Senior Advocate Mpoki by the Advocates Committee. It is fundamental to justice that advocates be allowed to perform their duties without fear of reprisal for the lawful exercise of their professional rights.

vi. Deregistration of 4,898 Non-Governmental Organisations

On January 24, 2023, the Ministry of Community Development, Gender, Women and Special Groups issued a list of 4898 Non-Governmental Organisations (NGOs) and explained that those NGOs have been deregistered. The Ministry's statement explained that the NGOs have been deregistered by the Non-Governmental Organisations Coordination Board in accordance with section 7(1)(e) of the Non-Governmental Organisations Act.

According to the open letter from the Registrar of NGOs Office dated 24/01/2023, out of those 4879 NGOs were deregistered due to the violation of the law, regulations and guidelines governing NGOs activities. 19 NGOs were deregistered after they had requested to voluntarily suspend their operations. A total of remaining registered Non-Governmental Organisations after the deregistration of 4898 is approximately 8184 NGOs.

The Registrar of NGO also issued a notice on 23/02/2023 to 2915 NGOs which were on the verge of being deregistered after they had failed to submit their financial reports for more than two years as well as failure to pay their annual fees. This list has the potential to make a total of 7794 NGOs to be deregistered. This risk is indeed looming large because even the NGO's Information System survey (NIS-Jamii) revealed that out of 8184 it is only 5192 NGOs use the Information and Management of NGOs system in the country.

It can be noted that according to the statistics collected during the opinion survey on the use of NGOs Information System (NIS Jamii) there were more than 12,000 registered NGOs. Therefore, if a total of deregistered NGOs reaches 7794, Tanzania will remain with only 4206 registered NGOs registered in the NGOs Management Information System.

- vii. Republic versus George Sanga, Goodlucky Oygen and Optatus Elias [Criminal Case Session No 27 of 2020]

Mr. Sanga and two others were arrested in 2020 and charged for murder in the High Court of Tanzania at Njombe. On 12th February 2024 the Director of Public Prosecutions withdrew the case. However, they were arrested again and charged for the same offence. Their case is still pending in the court to date.

- viii. Leng'idu Ndirio Lekala and Michael Leng'idu [Criminal Case No 41 of 2023]

In April 2023 about 355 head of cattle of Mr. Leng'idu Ndirio Lekala and Michael Leng'idu were seized at Nzasa area within the Nyerere National Park. Mr. Leng'idu Ndirio Lekala and Michael Leng'idu were charged for unlawful introduction of domestic animals in the national park. THRDC provided legal support and the District Court of Kisarawe ordered that the head of cattle be returned to Mr. Leng'idu Ndirio Lekala and Michael Leng'idu.

- ix. Sifa Bonivenchure Bujune and Hezekia Geogle Milyashi [Criminal Application No 82 of 2023]

On 13th September 2023 Police officers in Mbeya, Tanzania arrested the Gospel artist Sifa Boniventure Bujune for allegedly composing a song with incitement connotations. The arrest was occasioned by her popular song that has since gone viral, "Tanzania inaeleka wapi?" (Where is Tanzania heading?). According to Mbeya Police Commander, Benjamin Kuzaga, the song allegedly contains provocative content leveled against the Government of the United Republic of Tanzania and was widely shared through social media platforms such as YouTube and Facebook.

The song has since received overwhelming mixed reactions within and outside Tanzania. Bujune's Lyrics talks on matters that were currently bedeviling the country such as high cost of living, the contentious contract between Tanzania Ports and The DP World Of Dubai, the conflict between the authorities of Ngorongoro Conservancy and the locals, mainly the Maasai Communities among other pressing issues. The song also had catchy phrases like 'mnatuona nyani' (you perceive us to be monkeys) which is a lyric questioning why Tanzanians are arrested when they demand answers from the government. Both Ms. Sifa and Hezekia, the producer were arrested and detained. THRDC engaged a human rights advocate to provide legal representation and they won their case.

2.5 Strategic Cases Conducted

In the year 2023 a total of 8 strategic cases were supported and others documented on area of freedom of expression, bilateral agreements, land rights and on the rights of women and children. Only three cases were completed. The first case was challenging the intergovernmental ports agreement, and the second case was

about the attempt of the attorney general on collecting public opinion on the age of marriage in Tanzania while the court ruled out that the age of marriage is 18 years for both female and male. Below is the brief illustration of the strategic cases

- i. Alphonse Lusako, Emmanuel Chengula, Raphael Ngode and Frank Nyalusi Versus Attorney General [Civil Cause No 05 of 2023].

Mr. Lusako and three others instituted a public interest case before the High Court of Tanzania at Mbeya challenging the intergovernmental agreement between Tanzania and Dubai that it contravened the domestic law on natural resources. On 10th August 2023 the High Court of Tanzania dismissed the petition, challenging the Inter-governmental Agreement executed between United Republic of Tanzania and Emirate of Dubai over economic and social partnership for performance development and improvement of sea and lake ports in Tanzania.

The High Court ruled in favour of the Attorney General after holding that the case lacked legal merits, "... we find this, petition barren of fruits. Accordingly, the same is hereby dismissed. Since this is a public interest matter, we do not find any justification for granting of costs. We, therefore, make no order as to costs. Order accordingly," they declared.

During hearing of the petition, the petitioners showed deep holes in the entire chain of the process that birthed the IGA and its eventual ratification. They contended, among others, that the signing of IGA and tabling the same before the Parliament for ratification without a dully notice to the public was in contravention of section 11 (1) and (2) of the Natural Wealth and Resources (Permanent Sovereignty) Act. The petitioners also alleged that IGA contravene the laws and the Constitution of the United Republic of Tanzania.

In the judgment, the judges pointed out that the IGA is a framework agreement that sets standards of the areas agreed for cooperation. "It follows that an agreement whose sole purpose is to provide a set up for cooperation between or among its parties cannot be expected to embody features that are enshrined in the Law of Contract Act, a legal regime whose sole purpose is to regulate contracts,"

The petitioners had also put forward an argument that the Emirate of Dubai did not have capacity to contract, the ground being that it was not authorized by the United Arab Emirates to enter into an agreement with the United Republic of Tanzania.

In the judgement, the judges had this to say, "Needless to say, in our view, this required a factual account which would prove lack of capacity of the Emirate of Dubai to contract. The petitioners have not treated us to anything that suggests that such permission was withheld."

They were settled in their view that, since the parties were competent and with capacity to enter into trade and investment cooperation agreement, the signing of the IGA was not shrouded in any irregularity which would render it invalid or illegal.

The judges were also settled in their minds that IGA is an international agreement whose oversight framework is not the LCA. They concluded that, to the extent this is not a normal contract, section 25 of the LCA is, in the circumstances of this case, immaterial.

There was another area of consternation which related to compliance with the provisions of the Public Procurement Act, a contention which the petitioners claimed that section 64 was infringed. However, the respondents valiantly opposed to this argument, terming it as baseless and misplaced.

In their judgment, however, the judges hastened to state and take the view that the petitioners and held that, "In our considered view, it is a folly, to say the least, to contend that this is an Agreement which would be governed by any or all of the provisions of the Public Procurement Act while the petitioners are aware or ought to be aware that no procurement had actually been done by any of the State Parties, this is not the kind of an agreement which would factor in low levels issues of procurement whose 'place of domicile' is in the Host Government Agreement and/or project agreements that await further negotiations between TPA and DP World..."

On the contention that the public was not given adequate time by the Parliament to air their views on the IGA, the judges pointed out that the public participation was not meant to be a public relations exercise.

They said that it was meant to create an engagement that the Parliament itself considered to be an integral part of the process. "Need would not arise for such solicitation if the Parliament considered its members as sufficiently representing people in that respect," the judges said.

They concluded in such issue that while there were obviously inadequacies surrounding the issuance of the notice and the duration thereof, we are inclined to hold that the net effect of the inadequacies would not have the consequence of vitiating the ratification process or render the IGA invalid. "This Court would not be tempted to cross the judicial line and poke our fingers or meddle in the affairs of the Legislature," the judges said.

During hearing of the petition, Advocates Mpale Mpoki, Boniphace Mwabukusi, Phillip Mwakilima and Levino Ngalimitumba appeared for the petitioners, whereas Principal State Attorneys Mark Mulwambo, Edson Mweyunge and Hangi Chang'a, as well as Senior State Attorney Alice Mtulo along with State Attorneys Stanley Kalokola and Edwin Webiro represented the respondents. Mr. Lusako and his co-petitioners lodged an appeal before the Court of Appeal of Tanzania. The appeal is pending in the Court of Appeal of Tanzania.

- ii. Mary Barnaba Mushi Versus the Attorney General [Miscellaneous Civil Cause No 03 of 2023]

The case was challenging Section 130(2) (e) of the Penal Code on the age of marriage alongside the government's consultations soliciting for people's opinion on the minimum age of marriage contrary to the directives of the Court of Appeal of Tanzania in the case of Attorney General versus Rebecca Gyumi [2019] TZCA 348. The case was struck out for jurisdictional issues.

- iii. Paul Emmanuel Kilasa Kisabo Versus Attorney General [Civil Appeal No 330 of 2023]

Mr. Kisabo was challenging the powers vested in the President of the United Republic of Tanzania, under Article 118 (2) (c) of the Constitution of the United Republic of Tanzania, 1977, to remove the Chief Justice from his position. The case was held in favour of the Attorney General. Mr. Kisabo lodged an appeal before the Court of Appeal of Tanzania in 2023. The appeal is pending in the Court of Appeal of Tanzania.

- iv. Peter Michael Madeleka Vs Attorney General of the United Republic of Tanzania [Reference No 31 of 2022]

Mr. Madeleka is challenging the practicability of section 16 of the Cybercrimes Act which prohibits publication of false information. Such a prohibition limits freedom of expression but also does not meet threshold of the limitation test under international human rights law which are legality, legitimacy, and proportionality test. The case is pending for a scheduling conference before the East African Court of Justice.

- v. Grace Naimadu Ngorisha Versus Minister of Natural Resources and the Attorney General of Tanzania.

Ms. Grace is challenging the illegal and unprocedural promulgation of Government Notice No.421 of 2022 titled the Wildlife Conservation (Pololeti Game Controlled Area) (Declaration) Order, published on 17th day of June 2022. The case is pending for a scheduling conference before the East African Court of Justice.

- vi. Onesmo Olengurumwa Versus the Attorney General of Tanzania [Civil Appeal No 134 of 2022, originating from Miscellaneous Civil Cause no 15 of 2020 and no 9 of 2021]

Mr. Onesmo is challenging Section 4 (2) (3) (4) (5) of the Basic Rights and Duties Enforcement Act, Cap 3 R.E 2019 which abolished public interest litigation in Tanzania. The sections require one to prove how an action complained of "has affected that person personally for his case to be admitted by the High Court". On the other hand, the provisions confer sovereign immunity on heads of the Executive, Legislature, and

the Judiciary from being sued in their own capacity instead the Attorney General to be sued on behalf. These amendments technically barred NGOs and HRDs from instituting strategic cases before courts.

The provisions were firstly challenged in Misc. civil case no 15 of 2020 in August 2020. On 17th December 2020, the case was struck out with costs. This increased fear among HRDs worrying instituting strategic cases because costs are not awardable in public interest cases. The case was refiled as Misc. civil cause no 09 of 2021 in March 2021. It was heard on merit and on 15th February 2022 the High Court held that Section 4 (2) (3) (4) (5) of the Basic Rights and Duties Enforcement Act, Cap 3 R.E 2019 is proper and in line with article 26(2) and 30(3) of the Constitution of United Republic of Tanzania, 1977.

Tirelessly, human rights attorneys prepared the pleadings and lodged the appeal in the Court of Appeal of Tanzania against the judgment of the High Court. To date the case is pending for hearing in the Court of Appeal of Tanzania.

- vii. Onesmo OlengurumwaVs the Attorney General [Civil Appeal No 165 of 2021 originating from Miscellaneous Civil Cause No. 36 of 2019]

Mr. Onesmo is challenging the conduct of committal proceedings. Committal proceedings is a situation where a suspect is arrested, detained, and charged with unbailable offence before the committal court, a court without jurisdiction of hearing such a case on merit. Negatively, the investigation of such cases normally takes too long unlimitedly. Cases are usually adjourned on the reason of incomplete investigation.

To curb the committal process, Mr. Olengurumwa petitioned on 16th December 2019 before the High Court of Tanzania at Dar es Salaam challenging the committal proceedings because it subjects the accused person to a punishment before sentence, negates the right to fair trial and it amounts to the delay of justice.

The case is challenging sections 178, 243, 244, 245, 246, 247, 248, 249, 250, 256, 257, 258 and 259 of the Criminal Procedure Act which permits committal proceedings to be conducted. Such sections contravene the Constitution, violates the fundamental rights and freedoms of people, suppresses the rule of law and the due process of the law, and encourages abuse of power by the authority.

On 21st October 2020, the High Court of Tanzania dismissed the case on the ground of being res- judicata with the case of Zephryne Galeba v. Honorable Attorney General [Miscellaneous Civil Application No 21 of 2013]. Being aggrieved, Mr. Onesmo lodged an appeal before the Court of Appeal of Tanzania in April 2021. The case was scheduled for hearing on 12th February 2024 but adjourned on notice to another date.

- viii. Tanzania Human Rights Defenders Coalition (THRDC), Legal and Human Rights Centre (LHRC) versus the United Republic of Tanzania [Application No 039 of 2020]

On 13th June 2023 the African Court delivered judgment on Application No. 039 of 2020 - Legal and Human Rights Centre (LHRC) and the Tanzania Human Rights Defenders Coalition (THRDC) versus the United Republic of Tanzania. In the case, Applicants were challenging the provision of Section 148(5) of the Criminal Procedure Act. The complaint contains a list of non-bailable offences such as murder, treason, terrorism, money laundering, etc.

The African Court ruled that Section 148(5) of the CPA violates Article 2 of the Charter by virtue of the operation of Sub-Sections 148(5)(b) and (e) of the CPA, the violation of Article 7(1) and 7(1)(b) of the Charter by virtue of the operation of Sub-section 148(5)(b) and (c) of the CPA and violation of Article 1 by virtue of the operation of Sub-sections 148(5)(b), (c) and (e) of the CPA.

The complained provision is discriminatory, violates the right to be heard, the right to a fair hearing, the right to presumption of innocence and does not afford accused persons the enjoyment of fundamental rights and the right to equal protection under the laws of Tanzania as guaranteed under the African Charter on Human and Peoples' Rights, the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights. Notably, the case was filed after the Court of Appeal of Tanzania had declared that section 148(5) of the Criminal Procedure Act does not violate the Constitution of the United Republic of Tanzania, in the case of Attorney General versus Dickson Sanga Civil Appeal No 175 of 2020.

The government of Tanzania was ordered by the court to submit within twelve (12) months from the date of notification of the judgment, a report on the status of implementation of the decision set forth herein and after that, every six (6) months until the Court considers that there has been full implementation thereof.

- ix. Bob Chacha Wangwe and Legal and Human Rights Centre Versus the United Republic of Tanzania [Application No. 011/2020]

On 13th June 2023 the African Court on Human and Peoples' Rights delivered a judgement on Application No. 011/2020 - Bob Chacha Wangwe and Legal and Human Rights Centre Versus the United Republic of Tanzania. The case was challenging Sections 6(1), 7(1), 7(2) and 7(3) of the National Elections Act (NEA) which permits the District Executive Directors to act as the returning officers of the general elections in Tanzania. The African Court held that the National Elections Act violates Article 13(1) of the Charter in so far as Section 6(1) of the NEA does not prescribe qualification criteria for persons to be appointed as Director of Elections, violates also Article 13(1)

of the Charter to the extent that sections 7(2) and 7(3) of the NEA do not contain any indication of the positions in the public service that public servants must occupy to be appointed as returning officers or even an indication as to the qualifications that they must possess before they can be appointed as returning officers and lastly the court has found that the Respondent State (Tanzania) has violated Article 1 of the African Charter.

The government of Tanzania was ordered by the court to submit within twelve (12) months from the date of notification of the judgment, a report on the status of implementation of the decision set forth herein and after that, every six (6) months until the Court considers that there has been full implementation thereof.

- x. Tanzania Human Rights Defenders Coalition (THRDC), Media Council of Tanzania (MCT), Legal and Human Rights Centre (LHRC) versus the Attorney General

In August 2020 the organisations named above instituted a case challenging the Electronic and Postal Communications (Online Contents) Regulations of 2020. The Regulations bars publication of prohibited contents listed under its Third Schedule, also requires for registration and subscription fees for online media. It indeed curtails freedom of expression by imposing restrictions to online platforms among other things. The case is pending for a scheduling conference at EACJ.

- xi. Tanzania Human Rights Defenders Coalition (THRDC), Pan African Lawyers Union (PALU), Tanganyika Law Society (TLS), Legal and Human Rights Centre (LHRC), and Centre for Strategic Litigation (CSL) versus the Attorney General of the United Republic of Tanzania [Reference No 25 of 2020],

On 14th August 2020 the organisations named above jointly instituted a case challenging Section 4 (2) (3) (4) (5) of the Basic Rights and Duties Enforcement Act, Cap 3 R.E 2019 which abolished public interest litigation in Tanzania. The sections require one to prove how an action complained of "has affected that person personally for his case to be admitted by the High Court". The provisions technically bars NGOs and HRDs from instituting strategic cases before national courts.

Section 4 of the Basic Rights and Duties Enforcement Act contain a blatant violation of Articles 6(d), 7(2) and 8(1) (c) of the Treaty for establishment of the East African Community; Articles 2, 3(1) and 7 of the African Charter on Human and Peoples' Rights and all other international agreements to which the United Republic of Tanzania is a party to. The case is pending for a scheduling conference at EACJ

- xii. Tanzania Human Rights Defenders Coalition (THRDC), Pan African Lawyers Union (PALU), Tanganyika Law Society (TLS), Legal and Human Rights Centre (LHRC), and Centre for Strategic Litigation (CSL) versus the Attorney General of the United Republic of Tanzania [Reference No 27 of 2020]

On 17th August 2020 the organisations named above instituted a case challenging the Written Laws (Miscellaneous Amendments) (No. 3) Act of 2020. The Act amended thirteen (13) laws. Among the amendments is, an amendment to Section 4 of the Basic Rights and Duties Enforcement Act which abolished Public Interest Litigation unless a person shows how he has been personally affected.

Moreover, the amendments within the Act conferred sovereign immunity on heads of the Executive, Legislature, and the Judiciary from being sued in their own capacity instead the Attorney General to be sued on behalf. Therefore, the Act violates Articles 6(d), 7(2) and 8(1)(c) of the Treaty. Specifically, Sections 33, 35, 37, 39, 40, 41, 43, 45, 46, 48 and 49 of the Act violate the fundamental and operational principles codified in Articles 6(d) and 7(2) of the Treaty and Articles 3(1) and 7 of the African Charter.

The Reference is premised on the failure by the United Republic of Tanzania through the acts of its agents to abide by its commitments under the EAC Treaty, the fundamental and operational principles of the EAC Treaty, specifically the principles of the rule of law, good governance, equality before the law and protection of the human rights. The case is pending for a scheduling conference at EACJ.

- xiii. Francis Muhingira Garatwa, Baraka Mwago and Allan Bujo Mwakatumbula Versus the Attorney General (Consolidated Miscellaneous Civil Cause No. 4 of 2018 and Miscellaneous Civil Cause No. 8 of 2018)

Mr. Garatwa and his colleagues in 2018 instituted a public interest case in the High Court of Tanzania seeking the court to declare the constitutionality of Sections 43, 44, 45 and 46 of the Police Force and Auxiliary Services Act (Cap 322 R.E 2002) and Section 11 (2), (4), (6) and (7) of the Political Parties Act (Cap 258 R.E 2002) for offending Articles; 13(6) (a), 18, 20(1), 21 and 29 of the Constitution of the United Republic of Tanzania.

The stated provisions under the Police Force Auxiliary Services Act requires that for any person wishing to conduct a public rally or procession must give notice of not less than 48 hours to the Officer Commanding District (OCD) of that respective area where the public rally or procession is scheduled to take place, for purposes of providing security.

The spirit of the law might be very good, but its practice has never been realistic. Those provisions have been highly misused by the Police, including denying people to conduct their public rallies or procession especially the opposition political parties. Meanwhile the provision of the Political Parties Act requires all Political Parties to notify the Police before they hold public meetings.

On 18th March 2020, the High Court of Tanzania delivered its judgment by declaring that such provisions are constitutional and hence they cannot be expunged from the statute book. Mr. Garatwa and his colleague being aggrieved filed an appeal before the Court of Appeal of Tanzania. To date, the appeal is pending before the Court of Appeal of Tanzania at Dar es Salaam.

xiv. **Ololosokwan Village Council & Three Others Versus Attorney General of Tanzania [Reference No 10 of 2017]**

The case was instituted on 21st September 2017 after several disputes regarding the ownership and usage of a portion of the Applicants' land that borders the Serengeti National Park (SNP) to the west. In mid-August 2017, officials, and officers from the Government of Tanzania, accompanied by staff of Otterlo Business Corporation (OBC) began violently evicting Maasai communities from 1,500 km² of their own land in Loliondo, after issuing diversionary formal letters to the Applicants ordering them to remove their cattle and bomas "from the Serengeti National Park."

Due to the above actions and inactions by the Respondent, the Applicants held a series of community meetings and resolved to take legal action against the Respondent at the East African Court of Justice (EACJ) under the legal guidance of Pan African Lawyers Union (PALU). The filing of the case was one of the first steps of many initiatives later leading to the filing of a request for Provisional Measures (Interim Orders) which successfully led to the Court ordering the Tanzanian government to stop all their activities, until the final judgement.

On its part, actions by the Tanzanian government included intimidation and physical harm to community members and their livestock which rendered others with serious bodily injuries, and some even resulted in death. The continuous intimidation by the government on evictions from Loliondo led the community after advice from the advocates to file an Application for Contempt of Court at the EACJ on the failure by the government to adhere to the Provisional Measures (Interim Orders) that had been issued by the Court. Regrettably, the Court has not yet scheduled for Hearing this Application to cite the Government and several of its officers for being in Contempt of Court.

The case was scheduled for judgment delivery on 22nd June 2022 at the East African Court of Justice, however, it was adjourned to 30th September 2022 which was unusual practice. On the judgment day, 30th September 2022 journalists were barred from live streaming the judgment delivery, it was unusual thing and shocked both lawyers, individuals, HRDs, regional and the international community.

The judgment was delivered in favour of the attorney general where the Court held that the witnesses' testimony contradicted each other and was generally insufficient. The Court knocked out the detailed Report of the Expert Witness who testified on behalf of the Applicants. The Maasai communities were dissatisfied and disappointed by the Judgment. They felt that the Court disregarded the compelling multitude of oral and Affidavit evidence tendered by the villagers. The Court also side-stepped the incontrovertible evidence of their Expert Witness, a respected and accomplished Geo-Spatial Expert, on the mere basis that he was a Kenyan and had not sought a work permit to undertake surveys in Tanzania, which is not true. As such, the Maasai communities instructed PALU to immediately lodge an Appeal at the Appellate Division of the Court, which was done accordingly. To date the appeal is pending in court.

2.6 Strengthening intervention through documentation of incidents and conducting fact finding missions.

Tanzania Human Rights Defenders Coalition (THRDC) supported 9 fact finding missions in 2023. The first fact finding mission was conducted in Msomera village, Handeni District Tanga region, the second mission in Ngorongoro, Loliondo and Sale divisions for the purpose of documenting incidents of human rights violations and recommendations to both citizens, CSOs, development partners, human rights defenders and the government.

The HRDs situation in Ngorongoro showed that there is a total denial of social services for people living in Ngorongoro including Flying medical Service, which is banned, seizure and imposition of hefty fines to owners of livestock in Ngorongoro district, denial for enjoyment of the right to peaceful assembly and association. In Msomera, the findings were that 48 households from Ngorongoro were not given houses to live at Msomera village, the Ngorongoro residents were given one house irrespective of household size or number of family members, the available drinking water in Msomera is salty, people relocated from Ngorongoro were not meaningfully consulted no free consent given and lastly, eviction of the Maasai in Loliondo and part of Sale division violated human rights such as right to own land, etc. Reports on fact finding missions conducted in Msomera and Ngorongoro district were published through THRDC's official website (www.thrdc.or.tz).

2.7 State of Impunity

Tanzania like many other countries is faced with the problem of state impunity. However, since the swearing in of the 6th President Hon. Samia Suluhu Hassan the situation has improved as there has been less state impunity practices against HRDs. Contrary to the 5th phase government regime where we witnessed unprecedented state of impunity where government officials especially the Police officers, head of government departments, Regional and District Commissioners, and Ministers used their powers arbitrarily, unreasonably and without being held accountable.

According to Hon. Margaret Sekaggya, a Special Rapporteur on the situation of human rights defenders, States have the primary responsibility to ensure that defenders work in a safe and enabling environment. Under this call, States have an obligation to end impunity for violations against defenders by ensuring that investigations are promptly and impartially conducted. Perpetrators should be held accountable; while victims should obtain appropriate remedies.⁴⁸

There are only few countries which have adopted legislation or taken effective measures to end the numerous and violent attacks against defenders. Impunity continues to prevail and no specific compensation mechanisms for human rights violations committed against human rights defenders have been created.⁴⁹

THRDC believes that the degree of security enjoyed by human rights defenders will determine their capacity to expose human rights violations and to seek redress for victims of such violations. Tanzania as a State has made no significant efforts of legislation let alone take effective measures to end the numerous and violent attacks against defenders. So far, many cases involving violation of human rights defenders' rights have not been investigated and perpetrators been held accountable.

According to the Constitution, penal and criminal procedural laws of Tanzania, the Police Force is primarily responsible for investigation of criminal suspects. It has the power to arrest, detain, interrogate, and collect evidence for prosecuting criminal cases. The office of the Director of Public Prosecutions established under article 59B of the Constitution is responsible for prosecuting criminal offenders and arraigning them in court to meet justice. The judiciary is the final authority in dispensation of justice in the United Republic of Tanzania. Despite these legal mandates, still perpetrators of some HRDs' incidents and attacks have never been investigated.

48 Margaret Sekaggya (2013) Recommendations made in a Report of the Special Rapporteur on the Situation of Human Rights Defenders- December 23, 2013, available at www.ohchr.org.

49 Commentaries to declaration on human rights defenders, P.18

2.8 Un investigated HRD's incidents.

The perpetrator of the following incidents has never been investigated and prosecuted for their deeds.

- i. Death of a Police Officer in Mtwara who was alleged to have committed suicide in Police custody has never been investigated. A commission of inquiry was formed by the President and the report was submitted to the Prime Minister but not to the public and no legal action were taken against the perpetrators.
- ii. Abductors of Mr. Allan Kiluvya – Assistant of the Former Foreign Minister and CCM member Mr. Bernard Membe have never been brought to justice and no investigative report has been issued. He was abducted and later found at Segerea in the suburbs of Dar es Salaam.
- iii. Abduction and torture of the artist Ibrahim Musa alias R.O.M.A Mkatoliki and other three artists in May 2017, no investigative report has been issued to date neither has the police issued any statement on the progress of the investigation.
- iv. Abductors of Mr. Absalom Kibanda (journalist HRD) have never been arrested and no investigative report has been issued.
- v. Abductors of Dr. Steven Ulimboka have never been arrested and no any investigative report has been issued.
- vi. Abductors of Mr. Raphael Ongangi, a Kenyan National and former Assistant of the ACT- Wazalendo's Opposition party leader Mr. Zitto Zuberi Kabwe (MP) have never been arrested. He was abducted by unknown people at around 9.30 pm on Monday, June 24, 2019 and later on found in Mombasa, Kenya on Wednesday, July 3, 2019.
- vii. Abductors of Mr. Saed Kubenea (journalist HRD and previously MP for Ubungo Constituency) who was abducted and sprayed with a poisonous substance on his face, have never been acted upon and no investigation report has been issued.
- viii. Attackers of a journalist in Geita who were covering the story of students' demonstration have not been arrested and prosecuted by responsible authorities. According to the report, the attackers were police officers who are supposedly entrusted to investigate and thus under normal circumstances the investigation could not be conducted.
- ix. Attackers of Mdude Mpaluka Nyagali have never been arrested and investigation report has not been issued.
- x. Attackers of Mr. Sirili John also known as Rasta, businessman, resident of Arusha and previously a CHADEMA candidate at Unga limited Council Local

- Government Elections of 2019, who was allegedly brutally slaughtered on election day by unknown assailants who have never been brought to justice.
- xi. Attackers of the office of IMMMA Advocates have never been found neither have there be efforts from the government/police to investigate the matter.
 - xii. Attackers who gunned down the Member of Parliament from the opposition CHADEMA party Hon. Tundu Antiphas Mugwayi Lissu have never been investigated and no report has ever been issued from the police regarding the incident.
 - xiii. The Kidnapping incident of student leader Abdul Omari Nondo, who was abducted in March 2018 have never been investigated and no report was ever issued with regard to his case except the decision of the court which shifted the burden of proving whether Nondo kidnapped himself or not.
 - xiv. Kidnappers of Azory Gwanda, who is a journalist HRD from Kibiti have never been found and no report has ever been issued officially by police regarding his mysterious disappearance.
 - xv. Killers of Daniel John, CHADEMA ward leader for Kinondoni have never been investigated and no report was ever issued with that regard.
 - xvi. Killers of Godfrey Luena, the then Namawalla Ward Councilor in Kilosa, Morogoro region have never been apprehended and taken to court to face the charges against them.
 - xvii. Measures against the police officer who shot dead Sheikh Mohammed Bin Almas have never been taken. Sheikh Almas was crossing the area going to the ATM while there was a notice preventing people to cross the area, money was being deposited at the ATM machine.
 - xviii. The 2017 incident of invasion of the Clouds Media Group by former Dar es Salaam Regional Commissioner Paul Makonda has never been investigated by police to arraign and prosecute the perpetrator despite the video clip which showed clearly the raid. Only individual attempts were made in 2022 by instituting a case at Kinondoni District Court
 - xix. The abduction and torture of a JKT movement leader George Mgoba in 2015 has never been investigated.
 - xx. The attackers of the journalists and other participants during the CUF meeting at Vina Hotel Dar es Salaam have never been arraigned and prosecuted for the horrific crime they committed on 21st April 2017 seriously beating up journalists and members and leaders of the opposition party - CUF.
 - xxi. The uninvestigated incident of Israel Michael Manyulane who was arrested and detained by the Police officers on 6th July 2020. He was arrested at Police check point in Kakonko district while on the way from Kasulu, Kigoma to Kahama.

- xxii. The findings of the Report of the then Minister for Information, Nape Nnauye regarding the invasion of the Clouds Media Group by the RC of Dar es Salaam have never been acted upon. The security officer who threatened Mr Nnauye with a pistol has never been taken to court.
- xxiii. The incident involving the former Arusha Regional Commissioner, Mrisho Gambo directing police to arrest journalists, some political and religious leaders who went to handover condolences money to the Lucky Vincent Primary School tragedy victims has never been investigated.
- xxiv. The kidnappers of Salma Said, a journalist from Zanzibar have never been found and charged for their deeds. She was abducted and tortured by unknown people in 2016 as she landed at Julius Nyerere International Airport in Dar es Salaam.
- xxv. Whereabouts of Oriaisii Pasilange Ng'iyoyo is unknown. Sometimes on 9th June 2022 the Police officers while conducting an operation of installing beacons in Loliondo and re-allocating Loliondo inhabitants to another place, there arose a resistance from the inhabitants which led to violence between the Police Officers and the Ololosokwani village inhabitants. On the same date the Police Officers arrested 19 people, Oriaisii Pasilange Ng'iyoyo inclusive. Oriaisii was among the arrested people who left with the Police Officers to an unknown place and to date his whereabouts are unknown despite meticulous and necessary searches for him.
- xxvi. The whereabouts of enforced disappearance of Juma Iddi Mwiru and Haruna Iddi Mwiru reported to take place on 28th December 2023 in Singida
- xxvii. The whereabouts of enforced disappearance of Mr Charles Chacha Waitinyi reported to take place on 12th October 2023 at Mugumu Serengeti
- xxviii. The whereabouts of enforced disappearance of Mr. Julius Mwita Omary reported to take place on 11th August 2023 at Kenyamosabi Goronga Tarime

THRDC is highly disturbed with the state of impunity of the highest order and hereby recommends investigations with the view to bringing perpetrators to justice. Investigation should be conducted to all HRDs' cases who in one way or another found themselves in trouble because their human rights work. THRDC also calls upon the government to provide legitimacy to the work of HRDs, and to create an enabling environment for their operations. THRDC calls upon all CSOs to cooperate with the government in ensuring that all sorts of impunity are properly and timely dealt with for the betterment of HRDs and the public.

Chapter 3

MEDIA SECURITY AND JOURNALISTS' SAFETY

3.1 Overview

Chapter three details about journalists who are by virtue of their operations are rightly considered to be human rights defenders (HRDs) and the state of media outlets in Tanzania. Generally, the operating context of media outlets and the right to freedom of expression and association has been friendly to HRDs, the context of freedom of expression and freedom of assembly improved in 2023. A total of 20 journalists (7 women and 13 men) were supported by the coalition in 2023. Amongst them 15 journalists won their case under the legal support of THRDC, 4 journalists have pending cases in courts and 1 journalist lost the case. THRDC responded to all the incidents through press statements, emergency, and legal support.

3.2 Specific Challenges Facing Journalists

This party explains about the concept of freedom of expression as a cornerstone for all rights visa viz the specific challenges facing journalists and media houses in Tanzania especially for the year 2023. Freedom of expression is constitutionally guaranteed under Article 18 of the Constitution of United Republic of Tanzania.⁵⁰ The Constitution provides for the respect of freedom of expression and opinions of Tanzanians. On the other hand, Article 19 of the International Covenant on Civil and Political Rights⁵¹ states, "everyone shall have the right to freedom of expression". This right shall include freedom to seek, receive, and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice. These right carries certain duties and responsibilities and may be subject to certain restrictions only as provided by the law.

However, the media laws in Tanzania are still challenging such as the Media Services Act, the Electronic and Postal Communications (Online content) Regulations of 2020 as amended in 2022 and the Cybercrimes Act of 2015. The implementation of these laws has led to arrest and detention of journalists and media practitioners, prosecution of social media users and activists, and imposition of hefty fines to media houses.

50 The Constitution of United Republic of Tanzania, 1977 [Cap 2 R:2002]

51 The International Covenant on Civil and Political Rights, 1966

3.2.1 Arbitrary arrests and malicious prosecutions, threat to journalists, and suspension of media outlets

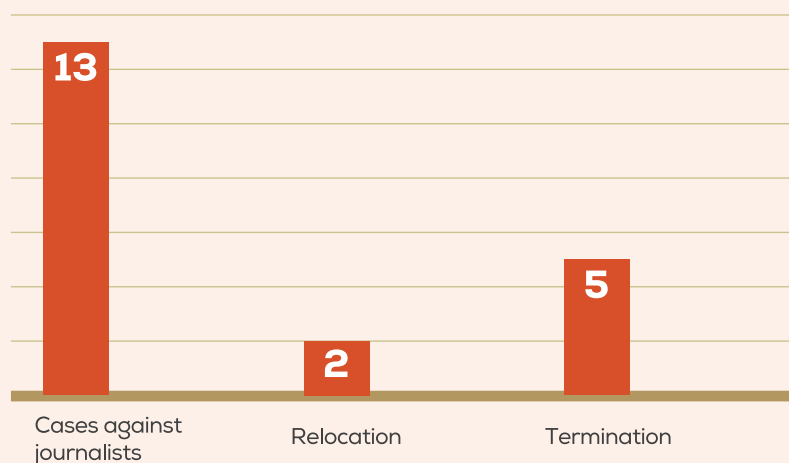
In the year 2023, THRDC Protection Desk documented a total of 7 incidents of violation of journalists'/media outlets' rights totaling forty (14) journalists/media whose rights were violated. Most of these involve arbitrary arrest, malicious prosecution, threats as well as confiscation of journalist's working tools. The following details depict the situation of journalists and media outlets in Tanzania for the year 2023.

3.2.2 Cases of Arbitrary Arrest

- i. Republic Vs Tarzan Alfian Mwambengo [criminal case no 138 of 2022]
On 16th August 2022 Mr. Tarzan Alfian Mwambengo who is the owner of MBENGO ONLINE TELEVISION was arrested by the Police, detained until 25th August when he was released on Police bail. He was conditioned to report on several dates until on 16th September 2022 when he was re-arrested by the Police and detained incommunicado until, 26th September 2022 when he was arraigned in the Resident Magistrates' Court of Dar es Salaam at Kisutu with five counts of publication of false information and publishing online content without having a valid license from the Tanzania Communications Regulatory Authority. Advocate Paul Kisabo provided legal support to the HRD and won the case in August 2023.
- ii. Republic Vs Maria Victor Mahundi and 2 others [Criminal Case No 407 of 2022]
In September 2022 a journalist working with Raia Mwema and Mwanahalisi Newspapers in Dar es Salaam, Ms. Mary Victor was arrested and detained at Central Police Station. She was arrested in Dar es Salaam, on the allegation of publishing false information. The information charged with relates to victims of Covid-19 who run away from hospital in April 2020 because of lack of medical care from government hospitals in Tanzania. She was arraigned in court and charged with publication of false information and failure to register a sim card in her own name, such a sim card (chip) was previously used by another person. On 29th December 2023 Ms. Mary Victor was found with no case to answer hence the charge was dismissed and the accused persons were acquitted.
- iii. Japhet Ibrahim Mattara versus Republic, [Criminal Appeal No 51 of 2023]
In October 2021, Mr. Mattara through his twitter account published that the wealth of former President John Magufuli is estimated to be Tshs 11.2 B, for Jakaya Kikwete is 352B, for B.W.Mkapa is 461B, for Ally Hassan Mwinyi is 18.4B and for President Samia Suluhu is 34.5B". He was arrested and arraigned at the District Court of Moshi in Kilimanjaro on 20th December 2021 and charged for publication of false information contrary to section 16 of the Cybercrimes Act, 2015. He was convicted to pay seven million or five years of imprisonment. On 22nd January 2024 the High Court of Tanzania at Moshi dismissed the appeal.

- iv. Republic Versus Baraka Magoti and Heri Magoti [Criminal Case No 01 of 2023]
On 11th December 2022 Baraka Magoti and Heri Magoti were arbitrarily arrested by the Police in Musoma, Mara region. On 4th January 2023 they were arraigned before the Resident Magistrates' Court of Dar es Salaam at Kisutu. They were charged for for publication of false information and owning a YouTube account without license from the Tanzania Communications Regulatory Authority. Their case is pending in court under the legal representation of THRDC.
- v. Republic Versus Alex Emmanuel Magoti [Criminal Case No 205 of 2023]
On 30th November 2022 Alex Emmanuel Magoti was arbitrarily arrested by the Police in Tabora. He was transported to Dar es Salaam and charged for publication of false information and owning a YouTube account without license from the Tanzania Communications Regulatory Authority. Their case is pending in court under the legal representation of THRDC.
- vi. Republic Versus Mussa Mwangoka and 2 Others [Economic Case No 32 of 2022]
Journalist Mwangoka and his two colleagues were leaders of the press club in Sumbawanga, Rukwa region. Also, they had been reporting incidents of human rights violations in Sumbawanga, Rukwa region. in 2022 they were accused of corruption transactions relating with the monies of the press club. They were arrested and detained, later arraigned in court charged with corruption. In August 2023 Mr. Mwangoka and his colleagues won the case and they were discharged by the court.
- vii. The case of five journalists in Mwanza region
In April 2023 journalists Debora Mpagama, Felister Kulwijira, Lavert Heguy, Maryciana Gabriel and Vaileth Shinji were issued with notice of termination from employment without justifiable course. They were issued with notice of termination from employment. They sought for legal support from THRDC for challenging the notice of termination from employment. Amongst them, only one is pending with the case, the rest have continued with their employment as well as their professional journalist job.

Trend of Journalists and Media Incidents in 2023



3.3 Legal challenges affecting the security of Media and Journalists

The Constitution of the United Republic of Tanzania⁵² guarantees for the freedom of expression. Article 18 of the Constitution provides that every person has the right to enjoy the freedom of opinion and expression of his ideas. It provides further that everyone has the freedom to communicate and enjoy protection from interference in his communication. Article 19 of the Universal Declaration of Human Rights, 1948 and the International Covenant on Civil and Political Rights, 1966 guarantees everyone with the right to freedom of opinion and expression. This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

Despite these guarantees, the media environment in Tanzania is restricted by the selective implementation and application of laws with restrictive provisions. Such laws have been used to suspend independent newspapers and prosecute as elaborated below.

i) The Media Services Act, 2016

On 5th of November 2016, the Parliament of United Republic of Tanzania enacted the Media Services Act and the same has been assented to by the President on 16th day of November 2016. This Act provides for promotion of professionalism in the media industry, establishment of the Journalists Accreditation Board, Independent Media Council, and framework for regulation of the media services and for other related matters.⁵³

Structurally, this Act has eight parts, 67 sections, and one schedule. Application of the Act is confined only to mainland Tanzania. It is worth noting that, the current Media Services Act, 2016 introduced new provisions which were not featured in the Media Service Bill of 2015, for instance section 7 which provides for rights and obligations of the media houses and journalists, sections 22 which establish Media training fund, section 58 which provides for power of the Minister to prohibit importations of publications and section 59 which provides for powers of the Minister to prohibit or sanction publication of any content which in his opinion jeopardizes national security or public safety.⁵⁴ Section 59 of the MSA, 2016 has been used as a backup provision in almost every ban of the newspapers.

Again, the Act contains a number of weaknesses such as the retention of accreditation of the journalists, licensing of the printing media, criminalization of the defamation, seditious offences, establishments of non-independent

52 Constitution of United Republic of Tanzania 1977 as revised

53 See preamble to the Act.

54 Ibid.

regulatory bodies and replication of some of the draconian provisions from the Newspaper Act, 1976, for instance section 58 and 59 which gives power to Minister to prohibit importation or sanctioning of any publication in his absolute discretion if in his own opinion such publication is against public interest or jeopardizes national security.⁵⁵ In 2021 the government used the Media Services Act, 2016 to suspend from operation Raia Mwema and Uhuru newspapers.

In March 2023, the Ministry issued the Bill proposing amendments to the Media Services Act. However, the amendments do not reflect much of the long-time complaints of the people and media stakeholders such as repealing of provisions that gives power to the Minister and Director of Information department to suspend a media house or order removal of certain content alleged to be against the public interest. Provisions relating to fines have been amended reducing fines to a media house found with an offence against the Act.

ii) The Access to Information Act 2016

This Act was passed by the National Assembly on the 7th day of September 2016 and assented by the President on 23rd day of September 2016. According to section 2(1), this Act applies only to Mainland Tanzania. This is an Act to provide for access to information, define the scope of the information which the public can access, promote transparency and accountability of the information holders and to provide for other matters pertinent thereto.⁵⁶

Most of the provisions of this Act are generally fair and conform to the acceptable standards. However, there are some provisions which do not meet the prescribed standards and therefore they are restricting the right to access information as provided under the Constitution of the United Republic of Tanzania and other human rights instruments to which Tanzania is a signatory party. These provisions must be amended in order to ensure unhindered access to information.⁵⁷

Moreover, the Act fails to carry out to the maximum the spirit of the Information and Broadcasting Policy of 2003 of ensuring unhindered access to information. This is because; the Act contains a provision, which restricts the right to access information only to citizens, broad exceptions, and access fees, which are nothing but barriers. Nevertheless, the Act conforms to the objectives set out in the Open Government Action Plan of Tanzania for 2014-2016. There are very few provisions, which do not reflect the objectives as it can be seen in the analysis below.⁵⁸

55 Ibid.

56 MCT Analysis of the Access to Information's Act 2016

57 Ibid

58 Ibid

- iii) **The Statistics Act, 2015**
The Statistics Act imposes harsh penalties on those found guilty of publishing misleading and inaccurate statistics or statistics not approved by the National Bureau of Statistics. Those found guilty of providing false or misleading statistics without authorization from the National Bureau of Statistics are liable to a one-year jail term and a fine of 10 million Shillings (approximately US \$ 4500). The new amendments to the Statistics Act, also criminalizes any person who questions/criticizes official statistics given by the government. The Statistics Act do not recognize any other statistics other than the official statistics. Any person wishing to produce official statistics should seek approval from the National Bureau of Statistics.
- iv) **The Electronic and Postal Communications (Online Content) Regulations, 2020**
On 17th July 2020, the Tanzanian Minister for Information, Culture, Arts and Sports published the Electronic and Postal Communications (Online Content) Regulations, 2020 (2020 Online Content Regulations). The Regulation provides a list of prohibited contents under the Third Schedule, it covers, among other things, content that motivates or promotes phone tapping, espionage, data theft, tracking, recording or intercepting communications or conversation without right.
- v) **The Cybercrimes Act, 2015**
On April 1st, 2015, the Parliament of Tanzania passed the Cybercrimes Act which criminalizes information deemed false, misleading, inaccurate, or deceptive. The Act prohibits citizens or agencies from obtaining computer data protected against unauthorized access without permission. It empowers police or law enforcement officers to storm the premises of a news agency and confiscate a computer system or device and computer data if law enforcement officials believe that such information can be used as evidence to prove an offence has been committed. The Police are equally given the right to search devices like cell phones, laptops, or computers if they believe they contain information that can be used as evidence to prove a crime that has been committed if any.

3.4 The Right to Privacy in Tanzania and the Protection of Whistle Blowers

Privacy is a fundamental human right, enshrined in numerous international human rights instruments.⁵⁹ It is central to the protection of human dignity and forms the basis of any democratic society. It also supports and reinforces other rights, such as

⁵⁹ Universal Declaration of Human Rights Article 12, United Nations Convention on Migrant Workers Article 14, UN Convention of the Protection of the Child Article 16, International Covenant on Civil and Political Rights, International Covenant on Civil and Political Rights Article 17; regional conventions including Article 10 of the African Charter on the Rights and Welfare of the Child, Article 11 of the American Convention on Human Rights, Article 4 of the African Union Principles on Freedom of Expression, Article 5 of the American Declaration of the Rights and Duties of Man, Article 21 of the Arab Charter on Human Rights, and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; Johannesburg Principles on National Security, Free Expression and Access to Information, Camden Principles on Freedom of Expression and Equality.

freedom of expression, information, and association. Activities that restrict the right to privacy, such as surveillance and censorship, can only be justified when law, necessary to achieve a legitimate aim, prescribes them and proportionate to the aim pursued.⁶⁰

The Constitution of the United Republic of Tanzania⁶¹ guarantees the right to privacy under Article 16 which provides that “every person is entitled to respect and protection of his person, the privacy of his own person, his family and of his matrimonial life, and respect and protection of his residence and private communications.” Article 18(c) of the Constitution further guarantees the freedom to communicate and protection from interference and reads that “everyone has the freedom to communicate and a freedom with protection from interference from his communication.”

In 2022, the Tanzanian Parliament enacted the Whistle-blower and Witness Protection Act and the Personal Data Protection Act, catapulting the country into the ranks of its East Africa Community (EAC) peers Kenya, Uganda, and Rwanda, that have Data Protection Acts in place. The Act guarantees the right to privacy and personal safety of individuals, as enshrined in the 1977 constitution. Though the Act did not include much of the stakeholders’ recommendations, but it is a commendable step and THRDC with other stakeholders worked to ensure that the government enacts the Data Protection Act.

The laws provide protection for whistle blowers and witnesses. It defines a “whistle-blower” to mean any person who makes the disclosure of wrongdoing, it further defines “public interest disclosure” to mean a disclosure of information by a whistle-blower in respect of organised crime, corruption offences, abuse of office, unethical conduct, illegal and dangerous activities and lastly a “witness” is defined as a person who gives or agrees to give evidence before a court or quasi-judicial body or makes a statement to a law enforcement agency. All these persons are protected under the Act.

60 Universal Declaration of Human Rights Article 29; General Comment No. 27, Adopted by The Human Rights Committee Under Article 40, Paragraph 4, of the International Covenant on Civil and Political Rights, CCPR/C/21/Rev.1/Add.9, November 2, 1999; see also Martin Scheinin, “Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,” 2009, A/HRC/17/34.

61 The Constitution of the United Republic of Tanzania, 1977.

Chapter 4

WOMEN AND PERSONS WITH DISABILITIES

4.1 Overview

In Tanzania, the pursuit of human rights is intricately woven into commitment to various international treaties, regional frameworks, and a constitutional foundation that seeks to safeguard the rights and dignity of all its citizens. This chapter delves into the legal frameworks, government efforts, ongoing challenges, and potential solutions surrounding two crucial groups—Women Human Rights Defenders (WHRDs) and Human Rights Defenders with Disabilities (HRDDs). By examining Tanzania’s engagement with international treaties such as CEDAW and the CRPD, regional frameworks like the ACHPR and the Africa Disability Protocol, and national legislation, we gain insights into the layered landscape within which these defenders operate.

The analysis extends to the government’s initiatives, acknowledging both successes and challenges faced by WHRDs and HRDDs. Within this context, the intersectionality of their identities, the persistent challenges, and the resilience of these defenders emerge as central themes. The narrative further explores collaborative approaches involving governments, civil society, and international organizations, emphasizing the pivotal role of cross-movement collaboration. As we navigate through stories of challenges and resilience, this comprehensive overview strives to provide a nuanced understanding of the complex realities faced by WHRDs and HRDDs in Tanzania and offers recommendations to bolster their support and protection.

4.2 Legal Framework

4.2.1 International Framework

Tanzania is actively engaged in promoting and safeguarding human rights through its commitment to various international treaties. One significant accord to which Tanzania is a party is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This international treaty, designed to address women’s rights comprehensively, urges the eradication of discrimination against women across all facets of life. Recognizing the pivotal role of Women Human Rights Defenders (WHRDs) in advancing gender equality, CEDAW underscores the importance of their contributions.

Moreover, Tanzania aligns itself with the principles outlined in the Beijing Declaration and Platform for Action, adopted in 1995 during the Fourth World Conference on Women. This declaration emphasizes the significance of women's rights and underscores the crucial role played by WHRDs in the pursuit of gender equality and broader human rights objectives.

Additionally, Tanzania ratified the Convention on the Rights of Persons with Disabilities (CRPD) in 2009, reflecting its commitment to addressing the unique challenges faced by individuals with disabilities. Adopted in 2006, the CRPD stands as the primary international treaty specifically dedicated to upholding the rights of persons with disabilities. The convention emphasizes their right to participate fully in all aspects of life, including advocacy for human rights. By endorsing the CRPD, Tanzania acknowledges and seeks to address the barriers confronted by persons with disabilities in their pursuit of a more inclusive and equitable society.

4.2.2 Regional Framework

Tanzania actively participates in regional human rights frameworks, including the African Charter on Human and Peoples' Rights (ACHPR), which establishes a foundational framework for human rights protection across Africa. While not specifically tailored to Women Human Rights Defenders (WHRDs) or defenders with disabilities, the ACHPR plays a pivotal role in promoting and safeguarding human rights within the African context. Its broad scope contributes to creating an enabling environment for all defenders, irrespective of gender or ability.

In addition to the ACHPR, Tanzania's commitment to women's rights is underscored by its ratification of the Maputo Protocol, an extension of the African Charter. This protocol addresses issues such as violence against women and explicitly recognizes the vital role played by WHRDs in advancing and protecting women's rights.

Furthermore, there is also the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa. Although Tanzania is not a party to this protocol, it provides comprehensive safeguards for human rights defenders with disabilities, emphasizing their inherent dignity and equal rights. Notably, the protocol addresses non-discrimination, ensuring that defenders with disabilities can fully participate in public life. It upholds freedom of expression and association, mandates protection from violence, and underscores the importance of reasonable accommodations. The protocol also emphasizes consultation and inclusion, highlighting the significance of incorporating defenders' perspectives in decision-making. Through monitoring and reporting mechanisms, states parties are accountable for progress in safeguarding the rights and inclusion of defenders with disabilities. In essence, the Africa Disability Protocol establishes a robust framework championing the integral role of these defenders, reinforcing the principle of leaving no one behind in the pursuit of human rights and justice.

4.2.3 National Framework

The 1977 Constitution of the United Republic of Tanzania provides foundational protections for both women human rights defenders and human rights defenders with disabilities. The constitution emphasizes equality and non-discrimination, ensuring that individuals, irrespective of gender or disability, are treated fairly before the law. Protections extend to the right to life and personal freedom, guarding against arbitrary deprivation and unlawful detention. Privacy and security rights are safeguarded for both groups, covering personal lives and activities.

The constitution also upholds freedom of expression and association, allowing defenders to advocate without fear of reprisals, and recognizes the right to work and property ownership for economic independence. Emphasizing societal duties and adherence to laws, the constitution outlines limitations on rights while enforcing and preserving them. Though human rights defenders are not explicitly mentioned, the constitution's fundamental principles serve as a robust foundation for justice, equality, and social well-being for all individuals in Tanzania, including those actively advocating for human rights.

1. Top of Form

The Legal Aid Act of 2017 provides for legal aid services to indigent and vulnerable groups, potentially offering support to WHRDs and HRDs with disabilities who may face legal challenges. Moreover, the Persons with Disabilities Act of 2010 plays a pivotal role in safeguarding the rights of individuals with disabilities, extending specific protections to human rights defenders with disabilities.

The legislation encompasses various provisions designed to enhance the overall well-being and inclusion of persons with disabilities, indirectly benefiting defenders advocating for their rights. Among its key aspects, the Act ensures access to healthcare services and social support, thereby promoting the overall welfare of human rights defenders with disabilities. Emphasizing the principles of accessibility and rehabilitation, public spaces, services, and communication are made more inclusive, facilitating improved access for defenders to information and facilities.

Furthermore, the Act underscores the importance of education and vocational training for persons with disabilities. This provision enables human rights defenders to access educational opportunities and acquire skills that can enhance their advocacy work. Effective communication is deemed crucial, particularly for defenders with disabilities, and the Act encourages accessible communication methods such as sign language and alternative formats.

In the realm of employment, the legislation safeguards human rights defenders with disabilities in the workplace by prohibiting discrimination based on disability and promoting equal employment opportunities. Additionally, the Act recognizes the fundamental rights of persons with disabilities, indirectly supporting defenders engaged in advocating for disability rights by ensuring the protection and promotion of these basic rights. In summary, the Tanzania Persons with Disabilities Act of 2010 strives to foster an inclusive environment where human rights defenders with disabilities can thrive, participate meaningfully, and contribute to positive societal change.

4.3 Government Efforts to Protect WHRDs and HRDDs

The Tanzanian government has to some extent addressed the challenges faced by women human rights defenders through various initiatives. One notable effort involves programmes such as National Plan of Action on Violence against Women and Children, and allowing registration of support networks and platforms, allowing spaces where women human rights defenders can share experiences, collaborate, and collectively advocate. These networks play a crucial role in offering emotional support and amplifying the voices of women advocates. Additionally, the government has also promoted improving women's access to justice by facilitating legal aid clinics to address legal challenges faced by women.

Similarly, regarding human rights defenders with disabilities, the government has been promoting physical accessibility in public places including workplaces, offices, and meeting venues by implementing and requiring construction of buildings to ensure features such as ramps, elevators, wider doorways, and accessible restrooms. Moreover, the government has imposed tax exemptions on imported assistive devices like screen readers, hearing aids, mobility aids, and ergonomic tools which facilitate the work of human rights defenders with disabilities. Overall, despite the efforts set out above, a lot of challenges are yet to be addressed.

4.4 Challenges facing WHRDs and HRDDs

4.4.1 Women Human Rights Defenders

Women Human Rights Defenders (WHRDs) in Tanzania, like their counterparts worldwide, confront a spectrum of challenges hindering their efforts to champion and safeguard human rights. These challenges are multifaceted and vary based on individual experiences and specific operational contexts. WHRDs contend with gender discrimination and stereotypes, enduring harassment, intimidation, and violence from actors who perceive them as deviating from traditional female roles. Notably, in some cases, they are inadequately supported by the government.

F.U (WHRD)- Advocates for persons with epilepsy

F.U, based in Dar es salaam, and a mother of a child with epilepsy works on advocating for the rights and welfare of persons with epilepsy in Tanzania. She recounts facing challenges including social stereotypes regarding her work as a HRD and it not fitting into prevalent expectations that a woman should not be vocal and opinionated. She also recounts facing incidents of sexual harassment where she sought for assistance for male counterparts. She addresses these challenges through opting for engaging in dialogue and taking time before reacting. She also sometimes puts men at the forefront in some agendas she needs to push forward.

Z.S (WHRD) – Advocates for young women

Z.S, based in Dar es Salaam, works on advocating for the rights of young women to participate in development activities, receive education, and experience gender equality. She faces challenges in securing resources for her activities and encounters negative attitudes towards women activists. Her solution involves developing effective communication skills to influence change and promoting unity.

S.K (WHRD) – Advocates for persons with cognitive disabilities

S.K, residing in Dar es Salaam, provides education on various issues concerning the rights of women and the care of children with cognitive disabilities. Despite her efforts, she struggles to receive support from local communities and municipal governments. Her solution includes seeking private partnerships, maintaining faith in her work, collaborating with similar organizations, and leveraging the support of larger coalitions to achieve her goals.

WHRDs also face misogynistic attacks, including hate speech, threats, sexual assault, and even grave harm due to their identity and advocacy. The absence of effective protection and justice exacerbates their vulnerability, often accompanied by stigma and victim-blaming. WHRDs also grapple with insufficient recognition and support, encountering difficulties in accessing funding, capacity building, and networking opportunities, while juggling work with domestic responsibilities. In an environment marked by shrinking civic space, WHRDs confront legal barriers compounded by opposition from religious, political, and economic forces. A study by the Coalition for Women Human Rights Defenders Tanzania highlights these obstacles, showing challenges in securing funds, insufficient advocacy knowledge, communication skills gaps, limited access to tools, and a partial understanding of their roles. The study underscores prevalent threats, verbal and digital harassment, physical harm, and the urgent need for community awareness to mitigate risks and encourage the crucial work of WHRDs in promoting human rights⁶².

62 Coalition for Women Human Rights Defenders Tanzania, Report for Mapping of Women Human Rights Defenders in Tanzania, <https://www.cwhrds.or.tz/documents/CWHRDs%20MAPPING%20REPORT-FINAL.pdf>

4.4.2 Human Rights Defenders with Disabilities

Human rights defenders with disabilities face formidable challenges. The environment for these defenders remains difficult, marked by severe retaliation for their advocacy work, marginalization, and discrimination⁶³.

A.A.M (HRD with spinal cord injury)-Advocates for persons with disabilities in sports

A.A.M, based in Dar es Salaam, faces the significant challenge of societal prejudice towards persons with disabilities. He notes that judgment often precedes understanding, and people tend to stereotype him based on his disability. He believes that patience, discipline, and a calm demeanor are key solutions to combat such biases.

T.D (HRD with physical disability)- Journalist and disability rights advocate

Based in Dar es Salaam, T.D collects, writes, and reports news related to people with disabilities. However, he faces challenges due to the difficult environments and high transportation costs when reaching those in need. His solution is selfless dedication to the cause, an essential step towards achieving their goals.

H.A.K (HRD with physical disability)- Disability rights advocate

H.A.K is a dedicated disability rights advocate at an organization for persons with physical disabilities in Dar es Salaam. His primary role involves advocating against discrimination, ensuring justice, and fighting stigma against people with disabilities. However, he faces accessibility challenges due to the lack of transportation and insufficient budget to address the issues affecting the disability community.

Their efforts are often overlooked or considered separate from broader human rights issues. Advocating for rights in ableist spaces and processes, defenders with disabilities encounter obstacles in securing resources for “reasonable accommodation.” A project titled “Breaking barriers: Stories from Human Rights Defenders with Disabilities” sheds light on their experiences, emphasizing that they engage in a diverse range of human rights issues⁶⁴.

Despite their valuable contributions, defenders with disabilities also face various risks, including attacks, incarceration, and discrimination. Challenges persist in the implementation of the UNCRPD, with gaps in protection and insufficient recognition of

63 2022 Joint statement by UN Special Rapporteur on the situation of human rights defenders & UN Special Rapporteur on the rights of persons with disabilities. <https://srdefenders.org/human-rights-defenders-with-disabilities-targeted--excluded-globally-warn-un-experts/>

64 Ibid

human rights for persons with disabilities. Those in places of detention face additional risks and discriminatory practices. Lack of consultation, inadequate technological accessibility, and challenges in access to justice further impede the work of defenders with disabilities. Despite these adversities, they persist in contributing to just and inclusive societies, emphasizing the need for a supportive and inclusive environment for all human rights defenders⁶⁵.

A.K.T (HRD with albinism) – Advocate for persons with albinism

A.K.T from Mwanza advocates for the rights and protection of people with albinism in Tanzania. His challenges include risk due to public ignorance about albinism as well as difficulties in monitoring legal cases related to albinism-related crimes. His solution involves full commitment and the development of strategies to address these issues effectively.

A 2023 survey on Tanzanian HRDDs revealed varying capacities among organizations of persons with disabilities (OPDs)⁶⁶. Larger organizations exhibited more substantial institutional structures, while smaller ones showed challenges in operating effectively due to financial constraints. Outdated or poorly implemented structures and policies, political affiliations, unclear roles, and insufficient leadership training were noted as common challenges. Their external operating environment was perceived as “moderate,” with concerns about rights violations, particularly in accessing justice, social services, and information. The report noted the need of safety measures improvements, including essential security infrastructure, and capacity building especially in security and protection for HRDDs, and emphasized the need for a dedicated HRDDs coalition or network.

4.5 Intersectionality

The challenges faced by Women Human Rights Defenders (WHRDs) and Human Rights Defenders (HRDs) with disabilities are compounded due to the intersectionality of their identities and the contexts in which they operate. Intersectionality, a concept recognizing multiple and overlapping forms of oppression and discrimination based on various identities, such as gender, disability, race, and class, plays a crucial role in understanding the experiences of individuals engaged in human rights advocacy. For instance, WHRDs with disabilities may encounter compounded forms of violence and discrimination rooted in their gender, disability, and role as human rights defenders. The intersection of gender and disability introduces complex dynamics, resulting in a unique set of challenges and discrimination that profoundly shape the lives of these advocates in Tanzanian society.

⁶⁵ Ibid.

⁶⁶ Needs Assessment and Situation of Human Rights Defenders with Disability in Tanzania, THRDC, 2023, <https://thrdc.or.tz/otherpublicationsfiles/Report%20on%20the%20Situation%20and%20the%20Needs%20of%20HRDs%20with%20Disability%20.pdf>

This convergence of identities creates a scenario of double marginalization for those identifying as both women and HRDs with disabilities, amplifying the obstacles they face in their advocacy work and daily lives.

D.M.M (WHRD with physical disability)- Disability rights educator

D.M.M, is a retiree in Mara dedicated to educating communities about the rights of persons with disabilities. She recounts facing discrimination in leadership, education, gender, and social spheres. Her solution lies in dispelling misconceptions within the community, including the elimination of stereotypes and prejudices.

M.N.T (WHRD with Psychosocial Disability)- Psychosocial disability advocate

In Dar es Salaam, M.N.T focuses on building community awareness about persons with disabilities, particularly those with mental health challenges. Despite her efforts, she encounters challenges as the community remains largely unaware of this condition. To overcome this, she suggests that education initiatives should reach grassroot level to bridge the knowledge gap.

Limited access to resources, including education and employment opportunities, exacerbates their vulnerability and hampers their ability to actively engage in human rights advocacy. The intersectionality of gender and disability also heightens the risk of various forms of violence and discrimination, making it imperative to address systemic issues for the safety and well-being of these defenders.

Women with disabilities often grapple with physical and social obstacles that hinder their full participation in societal activities, extending to their involvement in human rights activism. Legal and policy challenges arise from the lack of comprehensive frameworks addressing the rights of individuals at the intersection of gender and disability, hindering the efficacy of women with disabilities as human rights defenders. Exclusionary environments within human rights organizations further marginalize these women, necessitating the creation of inclusive spaces for active participation. Recognizing the interconnected nature of discrimination is essential for human rights defenders at the intersection of gender and disability to adopt an intersectional approach in their advocacy work. Overcoming deep-seated cultural perceptions and stereotypes requires targeted efforts to shift societal norms and foster a more inclusive and equitable environment. In essence, addressing the intricate needs and challenges of these defenders in Tanzanian society demands a multifaceted and inclusive strategy, actively working towards creating an environment accessible and equitable for all individuals, regardless of their gender or disability status. A holistic and intersectional approach is crucial to protecting and supporting both WHRDs and HRDs with disabilities, recognizing and valuing their contributions to the promotion and protection of human rights for all.

4.6 Collaboration and Support

The synergy between government, civil society, and international organizations is pivotal in championing the cause of human rights defenders with disabilities (HRDDs) and women human rights defenders (WHRDs). This collaborative approach enhances the efficacy of initiatives aimed at supporting and safeguarding the rights of these vulnerable groups in various key aspects. It facilitates the development of comprehensive policies that account for the unique challenges posed by the intersectionality of gender, disability, and other factors. Governments, civil society entities, and international bodies can collectively contribute to the enactment and enforcement of laws specifically tailored to protect HRDs with disabilities and WHRDs. Moreover, resource mobilization is streamlined through joint efforts, combining governmental funding, civil society networks, and international support.

Capacity-building initiatives, training programs, and awareness campaigns also benefit from the diverse expertise brought in by these stakeholders. Furthermore, collaborative advocacy on the international stage ensures that the specific challenges faced by HRDs with disabilities and WHRDs gain global attention and diplomatic traction. This collective approach fosters a more informed society, robust accountability mechanisms, and adaptable strategies that resonate with the evolving needs of HRDs with disabilities and WHRDs.

Likewise, cross-movement collaboration can also play a pivotal role in advancing the protection of human rights defenders (HRDs) with disabilities and women human rights defenders (WHRDs). By engaging in cross-movement collaboration, these defenders can create a more comprehensive understanding of the complexities they encounter, enabling the development of strategies that address the intersectionality of their identities. Additionally, collaboration allows for the amplification of their voices, ensuring that the concerns of HRDs with disabilities and WHRDs are heard within a broader human rights framework. Sharing resources, expertise, and knowledge across different movements is essential in developing effective advocacy campaigns, legal strategies, and support networks. The collective strength generated through collaboration is particularly impactful in challenging discriminatory policies and practices. Moreover, building solidarity among various human rights movements fosters a supportive environment for collective action.

Collaborative efforts contribute to policy influence at local, national, and international levels, advocating for legal changes that protect the rights of HRDs with disabilities and WHRDs. Learning from the successes and challenges of other movements, cross-movement collaboration provides valuable insights and strategies for HRDs with disabilities and WHRDs to adapt into their own advocacy work. By raising awareness through joint initiatives, these movements reach a broader audience, educating the public and challenging stereotypes and misconceptions. In essence, cross-movement

collaboration is indispensable for promoting the protection of HRDs with disabilities and WHRDs, offering a holistic and inclusive approach to human rights advocacy.

4.7 Recommendations

Addressing the challenges faced by Women Human Rights Defenders (WHRDs) and Human Rights Defenders with Disabilities (HRDDs) requires a comprehensive and collaborative approach. Here are some possible solutions to enhance their support and protection:

4.7.1 Women Human Rights Defenders (WHRDs):

- i. Increase government support for WHRDs and recognition of their crucial role in advancing human rights and promote awareness campaigns to challenge stereotypes and negative perceptions surrounding WHRDs.
- ii. Develop and implement gender-sensitive laws and policies that protect WHRDs ensuring they have adequate safeguards against harassment, violence, and discrimination.
- iii. Establish programs for capacity building, providing training on advocacy, communication, and fundraising skills, and encourage the creation of funds dedicated to supporting WHRDs, ensuring they have financial resources for their initiatives.
- iv. Reinforce networks and platforms for WHRDs to share experiences, collaborate, and advocate collectively, and foster partnerships between WHRDs and national, regional, and international organizations to amplify their voices.

4.7.2 Human Rights Defenders with Disabilities (HRDDs):

- i. Create and enforce accessibility standards, ensuring that workplaces, public spaces, and events are accessible for HRDs with disabilities, and ensure availability of assistive technologies and ensure their availability to HRDDs.
- ii. Ensure that HRDDs are actively consulted in the formulation of policies and initiatives that affect them and ensure their meaningful participation in decision-making processes at all levels.
- iii. Reinforce the implementation of the UNCRPD and ratify the Optional Protocol to the ACHPR on the rights of persons with disabilities in Africa to ensure full recognition and protection of HRDs with disabilities.
- iv. Provide capacity-building programs tailored to the needs of HRDDs, focusing on security, advocacy, and effective communication, and establish dedicated networks or coalitions for HRDDs, fostering collaboration and mutual support.

By implementing these solutions, the government, civil society organizations, and the international community can contribute to creating a more supportive and inclusive environment for both WHRDs and HRDDs, fostering a society where human rights are protected and promoted for all.

4.8 Conclusion

In summary, Tanzania's commitment to human rights, evident through its participation in international treaties and regional frameworks, reflects a legal foundation for safeguarding the rights of all HRDs. The challenges faced by Women Human Rights Defenders (WHRDs) and Human Rights Defenders with Disabilities (HRDDs) underscore the need for comprehensive solutions. While government initiatives show strides towards inclusivity, persistent challenges include societal stereotypes, discrimination, and limited legal protections. Resilience and success stories highlight the remarkable contributions of these defenders, emphasizing their indomitable spirit. The collaborative approach involving governments, civil society, and international organizations emerges as a crucial strategy. Cross-movement collaboration, capacity-building, and legal reforms are essential for fostering a supportive environment. The recommendations provide a roadmap for addressing the intricate needs of WHRDs and HRDDs, emphasizing the ongoing dedication required for a fully inclusive and equitable society.

Chapter 5

THE SITUATION OF CIVIC SPACE IN TANZANIA

5.0 Introduction

This chapter delves into the analysis of the Civic Space situation in Tanzania for the year 2023. Over the past decade, there has been a growing global acknowledgment of the significance of civic space in fostering functioning democracies, coupled with endeavors aimed at its promotion and safeguarding. Nations that nurture civic space stand to benefit from heightened levels of citizen engagement, enhanced transparency and accountability, and the empowerment of citizens and civil society. In the long run, a dynamic civic space can contribute to enhancing government effectiveness and responsiveness, facilitating the formulation of citizen-centric policies, and bolstering social cohesion. Therefore, this chapter offers a contextual backdrop of civic space and proceeds to scrutinize the 2023 Civic Space landscape based on various indicators, alongside providing specific recommendations geared towards enhancing the operational environment of Civil Society Organizations in Tanzania.

5.1 Contextual Background of Civic Space

Protected civic space as defined by Open Government is the set of legal, policy, institutional and practical conditions necessary for non-governmental actors to access information, express themselves, associate, organize and participate in public life. It enables collaboration between civil society, citizens, and governments. When the fundamental civic freedoms of expression, peaceful assembly, association, and the right to privacy are protected, citizens can engage meaningfully in decision-making processes, evaluate outcomes, and hold their governments to account. Protecting civic space is thus about fostering and promoting the necessary environment in which citizens and non-governmental actors can exercise their right to participate in public affairs.

The protection of civic space manifests through various means, ranging from constitutional guarantees to specific policies and practices governing public life. A thriving civic space necessitates concerted efforts across governmental institutions to safeguard civic freedoms and foster substantive opportunities for civic engagement. However, the landscape of these rights constantly evolves, influenced by societal changes and technological advancements, which introduce both opportunities and challenges.

The digital transformation accelerated by the pandemic, for instance, offers new avenues for virtual citizen participation, yet it also poses challenges to freedom of expression in countering online threats. Additionally, traditional notions of freedom of assembly and association are redefined in the era of global online activism and informal social movements. Similarly, the right to privacy faces a delicate balance against security imperatives and the pervasive influence of technology.

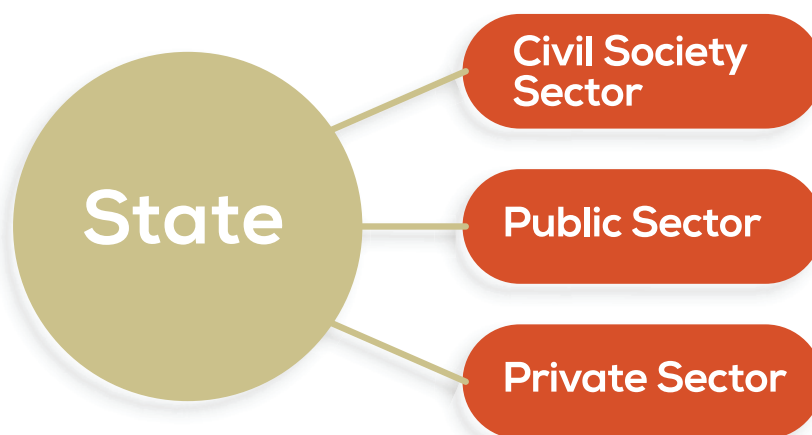
The context of each country matters significantly; those with a strong commitment to democracy and established institutions are better equipped to nurture an enabling environment for civic space and civil society. By safeguarding civic freedoms and fostering collaboration with citizens and civil society, governments can better align policies and laws with societal needs, promoting inclusive governance and democratic participation.

Countries that prioritize fostering civic space at both national and local levels reap numerous benefits, including heightened citizen engagement, enhanced transparency and accountability, and empowered civil society. A vibrant civic space contributes to improved government effectiveness, citizen-centered policies, social cohesion, and increased trust in government.

However, realizing these benefits requires sustained efforts and ongoing monitoring to detect and address constraints, given the pivotal role of civic space in democratic governance. Hence, this situational report serves as a crucial tool to gauge Tanzania's commitment to protecting its civic space, democratic principles and protection of human rights defenders.

It is worth noting that, in the modern society the main common sectors legally recognized to form part of the main state sectors include Public Sector, which is the government and its branches; a Civil society or Civil Sector which is comprised of groups or organizations working not for profit, in the interest of the citizens but operating outside of the government; and the Private sector, which includes businesses and corporations.

**Figure 5.1.1:
Three Common
Sectors in a
Modern Society**



5.2 Indicators of the Space of Civil Society

In measuring the space of Civil Society involves the utilization of various metrics aimed at gauging its progression or regressions. These indicators include:

- i. Freedom of Information and Expression: This encompasses factors such as access to information, freedom of expression, media liberties, and internet freedoms.
- ii. Rights of Assembly and Association: Encompassing rights related to assembly and association, as well as considerations of Civil Society Organization (CSO) autonomy, rights, and funding.
- iii. Citizen Participation: This category evaluates the presence of free and fair electoral processes, citizen engagement, and advocacy initiatives.
- iv. Non-Discrimination and Inclusion: Focusing on the protection and promotion of women's rights, minority rights, and the rights of marginalized groups.
- v. Human Rights and Rule of Law: This dimension encompasses the adherence to human rights principles and the rule of law within the framework of Civil Society operations.

Figure 5.2.1. An illustration of indicators for Civil Society space



5.3 Critical analysis of the Civic Space in Tanzania

In 2023, the Government of Tanzania shown a remarkable commitment in collaborating with civil society organizations to promote human rights and has taken deliberate steps to enhance democratic governance. Their dedication is evident through initiatives, among others, Criminal justice system reforms, the ongoing Mama Samia Legal Aid Campaign aiming to enhance access to justice, and President Samia's expression of interest in rejoining the Open Government Partnership, increasing women's participation in decision-making bodies and historically, hosting the ACHPR Sessions in Tanzania.

Despite these positives, civic space in Tanzania has been subject to various challenges and constraints, impacting freedom of expression, association, and assembly. A critical analysis of the civic space in Tanzania in 2023 reveals a landscape characterized by both progress and setbacks, influenced by the legal framework, political environment, and socio-economic factors.

5.3.1 Legal Framework of Civic Space in Tanzania

Tanzania's legal framework theoretically guarantees freedom of expression, association, and assembly. The Tanzanian Constitution provides for fundamental rights and freedoms, including freedom of expression, assembly, and association. Articles 18, 19, and 20 guarantee these rights, subject to limitations prescribed by law. However, in practice, laws such as the Cybercrimes Act, the Media Services Act, and the Statistics Act have been criticized for their restrictive nature. These laws empower authorities to stifle dissent and limit citizens' ability to freely express themselves, associate with others, and assemble peacefully.

The Media Services Act, continues to be a restrictive law despite Tanzania's commitment to amend these laws from the UPR recommendations 2021/22 circle. The Act provides the relevant Minister arbitrary powers to punish media houses and journalists without due consultation with those affected. The Act gives the government a direct say on private media content, on issues that the government deems to be of national importance, then wields this section to punish such media houses. It also prohibits the publication of Cabinet issues regardless of whether the information is rightfully obtained. The Act restricts social media platforms through licensing processes and forces freelance contributors and correspondents to be nationally accredited.

Tanzania accepted 16 recommendations on Media Freedom in its final report of the UPR but up to date, we are still using the same repressive law. While the objective of the Act is to promote media freedom and independence, the act continues restrict press freedom.

Cybercrimes Act governs cyber-related offenses in Tanzania. While it includes

provisions to address cybercrimes such as hacking and online fraud, it has been criticized for its potential to curtail online freedoms. Section 16 of the Act criminalizes the publication of false information, which has been used to target online activists and critics of the government.

Public Order Act regulates public gatherings and assemblies in Tanzania. While it provides for the right to peaceful assembly, it also imposes restrictions and requires organizers to obtain permits from authorities. The requirement for permits has been used to suppress legitimate gathering in Tanzania.

Penal Code includes provisions that criminalize defamation, sedition, and publication of false information. These provisions have been used to target journalists, activists, and political opponents critical of the government, stifling dissent, and free speech.

Prevention of Terrorism Act The Prevention of Terrorism Act criminalizes acts of terrorism and provides for measures to combat terrorism in Tanzania. While the Act aims to enhance national security, it has been criticized for its potential to be used against political dissenters and activists.

The scrutiny of Tanzanian legal framework indicates that, Tanzanian laws nominally guarantee freedoms of expression, association, and assembly whilst restricting these fundamental freedoms in Tanzania to

5.3.2 Freedoms of Information and Expression

As elaborated in the legal framework, freedoms of information and expression are constitutionally safeguarded and regulated by key legislations such as the Media Services Act and the Access to Information Act. Assuming office as the highest leader in the country on March 19, 2021, Hon. President Samia Suluhu Hassan championed an agenda of promoting the free flow of information and press freedom.

Despite legal hurdles outlined in chapter three of this report, the environment for freedom of expression and access to information in Tanzania has generally shown signs of improvement. Notably, bans on newspapers like Mseto, Mawio, MwanaHalisi, and Tanzania Daima have been lifted.

During the World Press Freedom Day commemoration in 2022, Hon. Samia Suluhu Hassan pledged to review media laws to enhance press freedom. She also committed to ongoing dialogue with media stakeholders, acknowledging concerns that existing laws stifle media growth. Subsequently, the Ministry of Information, Communication, and Technology has engaged in discussions with media stakeholders to address challenges facing press freedom. These challenges include restrictive laws such as the 2016 Media Services Act and the 2020 Online Content Regulations.

Tanzania also accepted 16 recommendations from the 2021/22 Universal Periodic Review (UPR) focusing on Legal framework for free expression; Media freedom;

Safety of journalists; and Civic space. However, the same legal challenges persist with the same laws.

Efforts to amend laws have been initiated, with the Minister introducing a bill to the National Assembly. However, proposed amendments fall short of addressing significant issues, such as those highlighted in the East African Court of Justice ruling (reference number 10 of 2017) urging amendments to 14 provisions. Consequently, the primary challenges to freedom of expression in Tanzania persist: the existence of restrictive laws and a lack of government commitment to implementing court decisions in alignment with international standards on freedom of expression.

To address the persisting challenges to freedom of expression in Tanzania, it is imperative for the government to take decisive action towards aligning national legislation with international standards and court rulings. The current efforts to amend laws, although commendable, must be bolstered to ensure substantive progress in safeguarding freedom of expression and press freedom and therefore recommend the following:

1. Firstly, it is crucial for the proposed amendments to comprehensively address the deficiencies highlighted in the East African Court of Justice ruling of 2017. The government should prioritize incorporating all necessary revisions outlined by the court to ensure compliance with regional legal standards.
2. The process of amending laws should involve meaningful consultation with relevant stakeholders, including civil society organizations, media professionals, and legal experts. This inclusive approach will not only enhance the quality of the legislative amendments but also foster greater transparency and accountability in governance.
3. The government must demonstrate a genuine commitment to upholding freedom of expression by implementing court decisions promptly and effectively. Failure to do so undermines the rule of law and erodes public trust in the judicial system. Therefore, it is imperative for the government to allocate adequate resources and institutional support to ensure the timely implementation of court rulings related to freedom of expression.
4. Concerted efforts should be made to create an enabling environment for media freedom and journalistic independence. This includes fostering a culture of open dialogue and tolerance for diverse viewpoints, as well as safeguarding journalists' rights to investigate and report without fear of reprisal.

In conclusion, addressing the challenges to freedom of expression in Tanzania requires a multi-faceted approach that encompasses legislative reforms, judicial compliance, and the promotion of a vibrant and free press. By taking proactive measures in these areas, the government can uphold its constitutional obligations and strengthen democratic principles in the country.

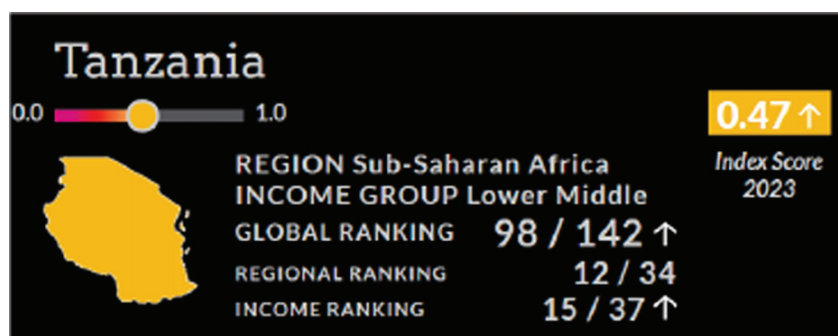
5.3.3 Human rights and Rule of Law

Human rights, fundamental to every individual by virtue of their humanity, are enshrined in Article One, Part Three (Articles 12–29) of the Constitution of the United Republic of Tanzania of 1977. These rights include the right to equality (Article 12), equality before the law (Article 13), life and existence (Article 14), personal freedom (Article 15), privacy and personal security (Article 16), work (Article 22), fair wage (Article 23), and property ownership (Article 24). Additionally, Part Three of Chapter One of the Constitution safeguards freedoms such as movement (Article 17), expression (Article 18), religion (Article 19), interaction (Article 20), and participation in public affairs (Article 21). Alongside these freedoms are corresponding responsibilities, including the duty to work (Article 25), obey laws (Article 26), protect public property (Article 27), and national defense (Article 28).

Per Article 33(2) of the Constitution, the President holds the positions of Head of State, Head of Government, and Commander in-Chief of the Armed Forces. Furthermore, Article 34(3) grants the President the authority over matters concerning the Union and Mainland Tanzania. Given that human rights are integral to the Constitution, it falls upon the Government to ensure their implementation and protection, with the President bearing the highest responsibility.

President Samia has demonstrated a commitment to fulfilling these responsibilities, albeit being challenged by the need for sustainability. Within three years of her presidency, Tanzania has made strides in human rights protection and governance due to her positive stance. Therefore, effective leadership, characterized by experience, understanding, and dedication to human rights, is essential for fostering a culture of respect for rights and the rule of law.

Despite the positive political will, Tanzania continues to face challenges related to the rule of law, including issues such as political repression, limitations on freedom of expression, and concerns about the independence of the judiciary. Tanzania experiences a widespread concern about the erosion of democratic principles and the rule of law; cracking down on political opposition, restricting freedom of speech, and weakening democratic institutions. There were reports of journalists, activists, and opposition figures being harassed, arrested, or subjected to other forms of intimidation.



According to the 2023 World Rule of Law Index, Tanzania ranks 98th out of 142 countries worldwide with an improvement of 0.47%. Regionally, Tanzania ranks 12th out of 34 countries in Sub-Saharan Africa.

In 2023 a total of 100 human rights defenders were supported with relocation, medical, legal support, and other emergency support. A total of 157 HRDs at risk (20 women, 137 men) received direct legal support from THRDC and 89 HRDs amongst them were released by the court after the prosecution withdrawing the case against them. Emergency protection support in terms of relocation was provided to 46 HRDs (8 women, 38 men), medical support to 7 HRDs (2 women, 5 men), psychosocial support to 25 (3 female, 22 men) office relocation for 1 human rights organisation, and 8 HRDs' families were provided with humanitarian support. Further, 19 HRDs were provided with emergency referral assistance to external sister organizations promoting and protecting HRDs' rights.

The records show most of the incidents are related to arbitrary arrest, malicious prosecution and threats. Most of the perpetrators in these incidents are the state machineries, and other individuals. Concerns persist about the independence of the judiciary, particularly regarding its ability to operate free from political interference. Additionally, there are ongoing debates about the balance between national security and civil liberties, particularly in the context of counterterrorism efforts.

Overall, while there may have been some positive developments in recent years, Tanzania continues to grapple with issues related to the rule of law, and the situation may continue to evolve under President Hassan's leadership.

5.3.4 Freedom of Association and Assembly

The constitution of the United Republic of Tanzania guarantees freedom of association and assembly. This right is to be enjoyed by everyone intending to associate with others for a common goal. NGOs, political parties, and individuals have the right to freedom of association without any interference. For political parties this right is still limited under the Police Force and Auxiliary Services Act which requires for 48 hours' notice to the Officer Commanding District. The Police have broad discretion to prohibit gatherings that could threaten public safety or public order.

Political rallies were banned in 2016 by the 5th President John Maguli with the view of eliminating opposition political parties in Tanzania before the 2020 general election. After the 2020 general election President Magufuli passed away in early 2021 hence President Samia Suluhu Hassan took over the position of presidency in the country.

On 03rd January 2023, President Samia Suluhu Hassan speaking at a meeting with political party leaders lifted the longstanding ban on political rallies, which the opposition has been demanding, seeking a level playing field ahead of civic elections next year and the 2025 general election. The President directed the police and other security forces to allow parties to hold rallies without undue hassle.

“The government’s responsibility is to provide sufficient space for such rallies to be held peacefully regardless of the party’s political affiliation and not to try and obstruct them as political rallies are constitutionally legal,” **said President Samia**

There have been instances of political rights violations, Tundu Antipas Lissu, a prominent opposition figure and lawyer, was arrested after conducting political rallies in Ngorongoro. Lissu defied warnings not to hold a meeting in Ngorongoro and openly criticized the government for evicting Maasai from Ngorongoro and a controversial Dubai Port Deal. Although released with reporting conditions, his detention and charges raise concerns.

The arrest of former ambassador to Tanzania Dk. Wilbrod Peter Slaa, advocate Boniface Mwabukusi, and activist Mpaluka Said Nyagali who were arrested in August 2023 and detained facing treason charges after calling for non-stop nationwide rallies to oppose the Tanzania-Dubai port deal also rises concerns.

Overall, while Tanzania’s constitution provides for freedom of assembly and presidential pronouncements promises fundamental freedoms, the reality on the ground has often been characterized by restrictions, intimidation, and harassment of those seeking to exercise this right,

5.3.5 Enabling Environment for Civil Society Organisations

The enabling environment for CSOs is essential for promoting human rights and development by facilitating advocacy, service provision, capacity building, policy influence, social empowerment, and international cooperation. Despite of its pivotal role and contributions in development, the CSO sector continues to encounter various challenges, particularly those stemming from the enactment and enforcement of laws that impede their effectiveness or create a chilling effect on their performance. Recently, the Government of Tanzania has demonstrated responsiveness to the concerns raised by CSOs. It has extended invitations for CSOs to submit their recommendations regarding the necessary reforms and the extent to which they are needed to enhance the sector’s contribution to national development however, the operating environment of CSOs in Tanzania continues to be unfriendly as follows:

5.3.6 Legal and Policy Environment

The NGO Act of 2002, as amended in 2005 and 2019, regulates the registration, operation, and funding of NGOs and CSOs. While the law provides a legal framework for CSOs, there have been concerns about provisions that give the government broad discretion to deny registration or impose restrictions on CSOs. Sustainability of NGOs will effectively be guaranteed if the spirit of the NGOs Act which established perpetual entities will be respected.

The NGOs Act section 12 read together with section 22 and 23 - does not allow or envisage a citizen to register an NGOs that will operate above national confinements. The Levels of registration provided by the law are district, regional and national levels. This hinder Tanzanians who wish to operate beyond Tanzania. For instance, for now for an NGO to operate in outside Tanzania it needs to have a fresh registration to that other country rather than just compliance.

Tanzania possesses a distinguished record in advancing the rights, independence, and liberty of numerous African nations throughout its history. This esteemed legacy stands to be further reinforced through the facilitation of Tanzanian non-governmental organizations (NGOs) operating in diverse nations, aimed at fostering cultural, linguistic, and ethical values. Such initiatives hold the potential to enrich economic diplomacy and fortify our foreign policy objectives.

On protection, Tanzania lacks legislation specifically targeting the safeguarding of human rights defenders (HRDs). Although the Defenders Coalition (THRDC) has exerted efforts, no advancements have been achieved at the national legislative level.

THRDC has been working hard to create a National Policy for HRDs. In a significant occasion to the 77th sessions of the African Commission on Human and Peoples' Rights (ACHPR), dated to commence from October 20th to November 9th, 2023, THRDC organized a side event on October 19, 2023 in Arusha to reflect on the progress made in 25 years of UN Declaration on Human Rights Defenders and validation of the proposed HRDs Policy which signify a firm commitment to fortify human rights protections at the national level.



The event witnessed the distinguished presence of Ambassador Dr. Pindi Chana, the Minister for Constitution and Legal Affairs, Hon Prof. Remmy Lumbu, Chairman of the African Commission on Human and Peoples' Rights. Washington Katema, the Executive Director of the Southern African Defenders, representatives from OCHR- East Africa Regional Office, THRDC members and human rights defenders from across Africa. Through this event, the government has made commitment to work on human rights defenders' protection mechanism by reviewing the proposed HRDs Policy for adoption.

5.3.7 CSOs Engagement and Participatory rights

In 2023, CSOs engagement and participation in various government intervention contributing to National Development plans continued. We have witnessed an increase of human rights organisations in Tanzania both Mainland and Zanzibar engaging.

CSOs sustains its engagement with government apparatus to strengthen policy influence and advocacy engagements at all levels for HRDs' safety. Three top government officials such as the President of United Republic of Tanzania; President of Zanzibar and The Prime were engaged to reinforce dialogue aimed at identifying avenues recognition and protection of HRDs in the country; collaboration in implementation of national development plans to influence positive changes; and Human Rights promotion and Protection Generally.

Our Presidents have shown a remarkable commitment to collaborating with civil society organizations to promote human rights and has taken deliberate steps to enhance democratic governance. Their dedication is evident through initiatives, among others, Criminal justice system reforms, the ongoing Mama Samia Legal Aid Campaign aiming to enhance access to justice, and President Samia's expression of interest in rejoining the Open Government Partnership, increasing women's participation in decision-making bodies and historically, hosting the ACHPR Sessions in Tanzania. Of equal importance is her steadfast support, in conjunction with President Dr. Hussein Mwinyi of Zanzibar, for the essential work undertaken by human rights defenders and Civil Society Organizations in Tanzania.

The Coalition has secured government willingness to foster meaningful collaborations with the CSOs in future to develop a strong public/ CSOS partnership policy and legal reforms that will eventually contribute to the national development. This has been evidenced by the currently increased working relation with the Government for instance collaboration in 2022 NGO forum, the launching of Judicial Needs Assessment, 9 Memorandum of Understandings signed to collaborate in protection of human rights in the country, collaborating in Mama Samia Legal Campaign and Voluntary National Review on the Implementation of SDG Agenda 2030.

The government both Tanzania mainland and Zanzibar has committed to reforms laws and regulation in line with CSOs needs to foster an enabling environment for the CSOs sector to operate and contribute to national development.

5.3.8 The Space of Civil Society Organizations at Regional and International Level

International, Regional civil society and Sub regional Coalitions have an important role to play as a complement and a backup to national groups. They are less exposed to risks compared to national CSOs and in many cases they can really contribute, influence and pressurize member states through the regional and continental bodies on regional policy issues. For many International CSOs cooperate with UN without any commotion. UN, EU and AU have taken a number of efforts to protect and expand the Space of CSOs. There are a lot of international and regional instruments and initiatives for creation and protection of Civil Society Space. At these levels Civil Society Organizations are given space to present their issues of concerns and they are taken into consideration in the deliberations made. At this level there are also avenues which CSOs space can be protected.

In 2023, THRDC with affiliate organizations sustained its engagement at regional and international levels to influence the global agenda for HRDs, primarily at the UN Human Rights Council (UNHRC) and the African Commission on Human and Peoples' Rights (ACHPR). The major objective for these interventions is to strengthen policy influence and advocacy engagements at the global, African, sub regional, and national levels for HRDs' safety.

5.3.9 African Commission on Human and Peoples' Rights (ACHPR)

According to articles 75 and 76 of the African Commission on Human and Peoples rights rules (Commission's rules of procedure), non-governmental organizations (NGOs) are granted observer status with the Commission. This status authorizes them, to participate in the public sessions of the Commission and its subsidiary bodies. Furthermore, the Commission may consult such NGOs on various issues.

NGOs with observer status are also given an opportunity to prepare "shadow" reports on the human rights situation in their countries. These "shadow" reports enable the Commission to have a constructive dialogue with a state representative when that country's periodic report is being considered.

Tanzania Human Rights Defenders Coalition (THRDC) participated in the NGOs Forum and sessions of the 73rd Ordinary Session of African Commission on Human and Peoples Rights (ACHPRs) held on 17th and 25th October 2022 in Banjul, The Gambia.

THRDC delivered 1 statement on HRDs situation in Tanzania; 1 Press release on Situation of Human Rights in Tanzania and ongoing violations of HR in Loliondo and Ngorongoro; Submitted 11 recommendations to the African commission in which 9 recommendations were adopted. Moreover, THRDC in collaboration with American Bar of Association convened a side event on Freedom of Expression and Civic Space in East Africa: (Emerging Trends and Patterns in Uganda and Tanzania").

5.3.10 Civil society space at International (UN) Level

International human rights law provides a unique international platform, to which CSOs can turn for support and guidance. This platform includes the Office of the United Nations High Commissioner for Human Rights (OHCHR), human rights treaty bodies, and the Human Rights Council and its mechanisms.

The first venue by which non-governmental organizations took a role in formal UN deliberations was through the Economic and Social Council (ECOSOC). In 1945, 41 NGOs were granted consultative status by the council; by 1992 more than 700 NGOs had attained consultative status, and the number has been steadily increasing ever since with more than 4,000 organizations today.

Article 71 of the UN Charter opened the door by providing suitable arrangements for consultations with non-governmental organizations. The consultative relationship with ECOSOC is governed by ECOSOC resolution 1996/31, which outlines the eligibility requirements for consultative status, rights and obligations of NGOs in consultative status, procedures for withdrawal or suspension of consultative status, the role and functions of the ECOSOC Committee on NGOs, and the responsibilities of the United Nations Secretariat in supporting the consultative relationship.

Consultative status provides NGOs with access to not only ECOSOC, but also to its many subsidiary bodies, to the various human rights mechanisms of the United Nations, ad-hoc processes on small arms, as well as special events organized by the President of the General Assembly.

In addition to the ECOSOC, there are avenues which the UN human rights mechanisms can protect civil society space, that is documentation about obstacles, threats to civil society space, and good practices. Documentation about human rights situations forms the basis for interventions by UN human rights mechanisms. Well-documented and verified information by CSOs makes a strong case for action, is more credible and persuasive, difficult to refute, and an effective way to promote and protect human rights. Through this avenue CSOs are invited to share documentation that is accurate, information, careful analyses, and concrete recommendations about obstacles, and threats they face.

5.3.11 Sustaining Universal Periodic Review Monitoring and Implementation

THRDC sustained its engagement with the United Nation Human Rights Council (UNHRC) through Universal Periodical Review (UPR). This is a State-driven process which involves a review of the human rights records of all UN Member States to address human rights violations. In 2022, THRDC continued to monitor the outcome of the 3rd Circle of UPR implementation progress of recommendations as illustrated in the figure below.

Chapter 6

CONCLUSION AND RECOMMENDATIONS

6.0 Conclusion

The 2023 Tanzania Human Rights Defenders situation report indicates that HRDs in the country still operate under unsafe legal environment and therefore making their work to a certain level difficult. The report indicates that HRDs are continuously detained, maliciously prosecuted, convicted, harassed because of their work as human rights defenders. It further shows the state of civic space in Tanzania with improvement since the swearing in of the 6th phase government, there are improvements on political rallies and other relevant gatherings by civil society organisations. There are challenges on non-respect of the rule of law, non-independence of the judiciary.

On issues of civic space, a general trend has shown that the enabling environment for civil society operation keeps changing or depend on the will of the head of the state. Governments in many countries are attempting to crack down the space of civil society organisations. There are variations between one regime and another, but THRDC believes that a successive government must engage and guarantee civic space to CSOs and private sector in general.

However, the Coalition and other SCO's have engaged with the Government of the United Republic of Tanzania and the Revolutionary Government of Zanzibar, government apparatus in various trainings, meetings, plannings with a common goal of protecting Human Rights Defenders at different levels and themes. Therefore, to have assurance of protection of human rights and human rights defenders in future such engagements must be strengthened. It is not easy to attain the highest level of protection without working in unison and trust amongst CSO's, the government and other stakeholders.

The Coalition through this report comes with way forward and recommendations for different stakeholders specifically the government, CSOs themselves, regional and international partners to work towards improving the situation and security of human rights defenders as outlined below:

6.1 Way Forward

Based on the findings of this report, THRDC intends to:

- i. Encourage the law reform to enable HRDs gain legal recognition such as the Human Rights Defenders Policy /law and thus become part and parcel of the governing structure. This will help in bridging the gap between them with the government functionaries a good of who perceive defenders negatively.
- ii. Strengthen the Human rights lawyers working group by building more capacity through training on human rights and strategic litigation, to provide legal aid and protection to HRDs.
- iii. Increase protection and emergency funds to avoid delays in the provision of services to affected HRDs.
- iv. Continue to advocate for the amendment of the restrictive laws as evaluated in chapters 3 and 4 of this report that have been identified as a stumbling block towards the work of HRDs in Tanzania.
- v. Conduct thorough media campaigns and change of behaviour trainings in areas where HRDs are threatened due to some social cultural issues.
- vi. Utilize the current country's major legal reform to fight for inclusion of HRDs rights and protection in the coming Constitution.
- vii. Increase engagement with the National Human Rights Institution (CHRAGG)

6.2 Recommendations

The following are the recommendations which are proposed to human rights defenders, the government, and other stakeholders to take keen consideration on promoting favourable working environment for HRDs in the country.

6.2.1 Recommendations to Human Rights Defenders

- i. CSOs should continue to engage the executive arm of the government, Parliament, Judiciary, and other sub departments to influence amendment of the restrictive laws and other matters concerning the society.
- ii. HRDs need to work sincerely and morally to avoid unethical conducts due to them being targeted by both state and non-state actors.
- iii. Good professional and financial status are vital for the safety and security of journalists. Journalists who work professionally and are financially well facilitated face less risk than those who operate unprofessionally and without sufficient resources.
- iv. HRD's to increase campaigns which are aimed at building awareness about the concept of HRDs and civic space.
- v. CSOs should re-strategize and reorganize to push for reform of the oppressive and out-dated legislation affecting CSOs, also should remove internal CSOs challenges which are in fact more dangerous than the external challenges.

- vi. Improved solidarity among CSOs/HRDs from across the country, partners, and other Human Rights Defenders at national, regional, and international level in the protection of civic space and human rights in general.
- vii. More strategic cases should be filed in the courts of law in different parts of the country as one of the mechanisms of influencing change using personally affected individuals.
- viii. Increase engagement of the CSOs at the Regional and international Human Rights arena. Through its programs on building solidarity among CSO's.
- ix. CSOs should continue to engage the executive arm of the government, Parliament, Judiciary, and other sub departments to influence amendment of the restrictive laws and other matters concerning the society.

6.2.2 Recommendations to the government:

- i. The government should take a consultation approach in handling matters of pastoralists human rights defenders to avoid creating more problems to the people especially during the implementation of the relocation and resettlement of the people.
- ii. Repressive laws that restrict freedom of the press in the country should be amended. For instance: The Media Services Act of 2016, the Cybercrimes Act of 2015, The Electronic and Postal Communications Act of 2010, and Online Contents Regulations of 2020.
- iii. To create better working environment for the Press and journalists we request the government to implement the decisions made by several local and international courts of law.
- iv. The decision of the East African court of Justice in the case filed by the Tanzania Human Rights Defenders Coalition, Legal and Human Rights Centre and Media Council of Tanzania versus the Attorney General of the United Republic of Tanzania [Case number 02 of 2017] where the court ruled that sections number 7 (3) (a), (b), (c), (f), (g), (h), (i) and (j), 13,14,19,20, 21, 35, 36, 37, 38, 39, 40, 50, 52, 53, 54,58 and 59 of the Media Services Act of 2016 violate the Treaty of the East African Community, therefore the government of Tanzania is supposed to remove those sections from the Media Services Act of 2016.
- v. We call upon the president to form a special commission which will examine media laws in Tanzania and thereafter recommend to the government for amendment of such laws.
- vi. To ease the challenges facing the media sector, we ask the government to remove a legal requirement for compulsory registration of YouTube Channels even if those platforms are not used as official media outlets. The need to register such online platforms should remain with those who use such platforms as an official Online Media and minimize license and registration fees as many of them operate without profit.

- vii. THRDC also calls upon the government to provide legitimacy to the work of HRDs, and to create enabling environment for their operation. The State should refrain from intimidating human rights defenders in any way because what they are doing is legally recognized under our laws.
- viii. The government should ensure that the police force observes, respects, and protects the rights of HRDs when undertaking their daily duties in the country.
- ix. The government and international development partners should support the implementation of the National Human Rights Action Plan by allocating sufficient resources to CHRAGG through an independent funding mechanism directly from the Treasury and not through the Ministry.
- x. The government may see the need to form an independent special commission to investigate all cases involving HRDs who were killed or assaulted while detained under Police stations.
- xi. The government should end the culture of impunity for violations against innocent people, journalists, and human rights defenders by ensuring that investigations are promptly and impartially conducted, perpetrators are held accountable, and victims obtain appropriate remedies. Government leaders should take CSOs sector as a vital link to the community development especially in terms of job creation, economy, welfare and social services, development, human rights, and welfare of a democratic country. The NGOs sector should be given respect, protection, recognition, and cooperation rather than scorn and isolation even in matters relating to coordination with their registration.
- xii. THRDC recommends the government to conduct investigations with the view to bringing perpetrators to justice. Investigation should be conducted to all HRDs cases who in one way or another found themselves in trouble because of their activities or human rights activities.
- xiii. The government should amend all laws that restrict and affect the work of CSOs and human rights defenders in Tanzania.
- xiv. The government should create an environment for civil society and the media to operate in accordance with the rights enshrined in the Constitution of United Republic of Tanzania, International Covenant on Civil and Political Rights (ICCPR) and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association; freedom of expression; the right to operate free from unwarranted state interference; the right to seek and secure funding; and the State's duty to protect.
- xv. The government should amend all restrictive laws such as (Cybercrimes Act, Media Services Act, 2016), Media Services Rules, 2018, The Online Content Regulations to expand civic space in the country.
- xvi. The government should develop a national policy and law that recognizes and protects human rights NGOs and human rights defenders in Tanzania.
- xvii. An inclusive environment to the public and other key stakeholders when developing laws regarding media services, access to information and freedom of expression should be provided.

Annexure i: List of Countries with HRDs Legal Protection Mechanism

MEXICO

1997 -National Human Rights Commission Program(CNDH)

COLOMBIA

1997 -General Program for Protection of At-Risk Persons under the Ministry of Interior(Law 418 of 1997, delayed and amended through other laws passed between 1999 and 2006)

BRAZIL

2004 -Launch of the National Program for Protection of Human Rights Defenders(PPDDH)

GUATEMALA

2004 -Creation of the Coordinating Unit of the Protection of Human Rights Advocates, Justice System Administrators and Operators, Journalists and Social Communicator by COPREDEH(Interan Agreement 11-2004)

GUATEMALA

2008 -Creation of the Unit for the Analysis of Attacks against Human Advocates in Guatemala(Ministerial Agreement No.103-2008)

MEXICO

2011 -Promise from Congress to introduce a national public policy to protect journalists and HRDs.

COLOMBIA

2011 -Creation of a National Protection Unit(NPU) of the Ministry Of the Interior(Decree 4065/2011).And the Program for Protection and prevention under the NPU(Devree 4912/2011)

INDONESIA

2011 -New proposal to establish a HRD protection unit in the National Human Rights Commission(Komnas HAM).No progress made to date.

PHILIPPINES

2011 -Introduction of the Human Rights Defenders' Protection Act,House Bill 5379.Text prepared by Karapatan and Tanggol Bayi.Currently under discussion in Congress.

DRC CONGO

2011 -New version of the *Edit provincial* in South Kivu.Stalled in the Provincial Assembly to date.

2011 -New bill submitted to the National Assembly,with the support of the former Minister of Justice.Stalled in the Senate since August 2011.

2011 -HRD Protection Cell(Ministerial Decree Justice Minister Justice No.219/CAB/MIN/JDH/2011).Internal Regulation approved in April 2012.

SOUTH SUDAN

2011 -Civil Society and the National Human Rights Commission began to draft a bill together for the protection of HRD.Draft unfinished,awaiting funds.

HONDURAS

End of 2011 -Beginning of work the Secretariat of Justice and Human Rights (SJDH) on the bill "Law on Protection Mechanisms for Human Rights Defenders, Justice System Officials, and Social Communicators". Pending discussion in Congress.

GREECE

2014-2016 -Introduce policy on the protection of HRD.

COSTA RICA

2018-2019 -The official signing of Shelter City Costa Rica took place on 5 February 2018. The signing marked an incredibly important step toward the protection of human rights defenders in Central America, a region particularly dangerous for those defending human rights and the environment in recent years.

1997

2002

2004

2007

2008

2009

2010

2011

2012

2014

2017

2018

COLOMBIA

2002 -Creation of the non-governmental program to protect Human Rights Defender (PNGPDDH,Somos Defensores).

MEXICO

2007 -Program on Attention to Human Rights Advocates.

BRAZIL

2007 -National HRD Protection Policy (Decree 6.044/Feb/2007).

DR CONGO

2007 -First proposal for regional legislation (*Edit Provincial*) put forth by HRD Organizations from South Kvu. Rejected by provincial Assembly.

2007 -First draft bill on HRD protection promoted by civil society (Rejected by National Assembly).

BRAZIL

2009 -Law 4575/2009, harmonization of PPDDH with administrative procedures and laws in state and municipalities (Currently decentralized in 8 States).

INDONESIA

2009 -Development of draft bill for the protection of HRD (The NGO Imparsial and academics). Draft bill stalled in Parliament since 2011.

NEPAL

2009 -Submission of the draft decree on HRD by Informal Sector Service Center (INSEC) to authorities no progress made to date.

DR CONGO

2009 -Creation of Liaison Entity (Entite de liaison) (Prime Minister decree 09/35).

GUATEMALA

2009-2010 -Creation of the Network of Female Human Rights Advocates of Guatemala (Red de Defensoras de Derechos Humanos de Guatemala), linked to the Mesoamerican Initiative for Female Human Rights Advocates.

MEXICO

2010 -Proposals from civil society for a Human Rights Activists Protection Mechanism (SEGOB).

DR CONGO

2010 -Early Warning System of the Human Rights House (SAMDH) (non-government mechanism).

HONDURAS

2012 -Drafting of the draft bill "Human Rights Defenders Protection System Law", led by E-Defenderh.

COTE D'IVOIRE

2012 -First draft bill on HRD from the Ministry of Justice; under discussion with civil society.

MEXICO

2012 -Law for the Protection of Human Rights Defenders and Journalists published into law (June 25th).

End of 2012 -Protection Mechanism for Human Rights Defenders and Journalists begins work.

DR CONGO

2017 -Passed a bill for the protection of human rights defenders in DRC, in efforts to finalize initiatives made in 2011.

KENYA

2017 -Developed a Human Rights Defenders model policy and plan of action in pursuit to defend and protect human rights defenders in Kenya.

S/N	Thematic Areas Affected	Laws	How
1.	Women HRDs		
		1. Inheritance Laws such as the Probate and Administration of Estates Act, Cap 445 [R.E 2002]	These laws and policies have gaps with its provision contributing to the persistence of gender inequality, discrimination and gender-based violence. The conclusion can therefore be derived that the work of WHRDs is not fully supported by these laws but rather the said legislations create hardship and risky environment for their work. For instance, customary laws treat them as minors who have to depend on others to inherit, instead of recognizing widows' right to inherit matrimonial property. With this kind of legal framework; it was observed that WHRDs conducted their activities in a very challenging environment which seems to be supported by the existing laws.
		2. Religious laws	
		3. Customary laws including inheritance laws	
		4. Prison Act, 1967, Cap 58 [R.E 2002]	This affects the rights of HRDs and journalists when it comes to advocating for the rights of prisoners and prison officials. The law requires anyone including Journalists who want to communicate with any prisoner or take any photo from the prison or outside the prison to write a letter to the Commissioner of Prisons requesting the permission to do so. The process has been so bureaucratic, that it has made the media fail to advocate for the improvement of the prison services in the country as little is known to the outside world.

		5. National Security Act of 1970, Cap. 47 [R.E 2002]	<p>This law makes it a punishable offence in any way to investigate, obtain, possess, comment on, pass on or publish any document or information which the government considers to be classified. This includes documents or information relating to any public authority, company, organization or entity which is in any way connected with the government.</p> <p>The reference can be traced to incidents involving active journalists such as Adam Mwaibabile. The police in Songea were instructed by the regional commissioner to charge him with possession of classified documents. The magistrate wrongly convicted Adam on the ground that he had committed offences under this law. The High Court observed this error in law and ruled out that the resident magistrate had misconstrued the provisions of the Act and hence quashed the decision and acquitted Mr. Mwaibabile.⁶⁷</p>
		6. The Public Leaders Code of Ethics Cap 398 [R.E 2002]	Restricts the investigative role of media and does not allow it to investigate and report on the property holdings of public leaders
		7. The National Defence Act, Cap 192 [R.E 2002]	This law prohibits journalists or any HRDs to publish any information relating to the National Defence Force. Sometimes members of this force commit offences like other citizens in public places but when journalists report the incident, soldiers follow them and start all sorts of harassments.

67 <http://www.article19.org/data/files/pdfs/publications/tanzania-media-law-and-practice-in-southern-africa.pdf>.


			This law played a role in Mtwara during the gas saga where the public turned against members of the press and attacked them on account that they had failed to report on their grievances little did they know that there was no way they could report any misconduct by defence forces without higher authorities.
		8. The Prevention and Combating of Corruption, Act No. 11 of 2007	The law prohibits journalists from making follow ups of any corruption case under the PCCB investigation.
		9. The Area Commissioner Act 1962 & Regions and Regional Commissioners Act 1962	These two have been used against journalists who expose malpractice and maladministration in public offices
		10. Civil Service Act 1989	The law curtails access to information and prevents any commissioner or civil servant from disclosing information obtained in the course of his/her employment in government without the express consent of the permanent secretary of the relevant ministry or department.
		11. Film and Stage Act No 4 of 1976	Curtails the independence and creativity of individuals as it prohibits taking part or assisting in making a film unless the Minister has granted permission and prohibits the making of "home movies" by individuals. ⁶⁸
		12. Registration of News Agents, 13. Newspapers and Books Act (1988)	This operates in Zanzibar. It also has restrictive provisions. For instance it provides for the licensing of journalists and the establishment of a government-controlled "advisory board" to oversee the private print media.

68 ARTICLE 19's Submission to the UN Universal Periodic Review For consideration at the twelfth session of the UPR Working Group, October 2011 at <http://www.article19.org/data/files/pdfs/submissions/tanzania-upr-submission.pdf>.

		14. Broadcasting Services Cap. 306 of the R. E 2002	The Act allows the government to regulate and place restrictions on the use of electronic media. The Act does not guarantee the independence of electronic media and other governing bodies. The editorial policy and decision-making are not free from interference by the government. Like the News Paper Act, this law doesn't give room for one to appeal to the Courts of laws if aggrieved by the decision of the regulatory authorities and the minister.
		Cybercrimes Act 2015	Cybercrimes Act which criminalizes information deemed false, misleading, inaccurate or deceptive. The Act prohibits citizens or agencies from obtaining computer data protected against unauthorized access without permission.
			It empowers police or law enforcement officers to storm the premises of a news agency and confiscate a computer system or device and computer data if law enforcement officials believe that such information can be used as evidence to prove an offence has been committed. The police are equally given the right to search devices like cell phones, laptops or computers if they believe they contain information that can be used as evidence to prove a crime has been committed.
		Statistics Act 2015	The Statistics Act imposes harsh penalties on those found guilty of publishing misleading and inaccurate statistics or statistics not approved by the National Statistics Bureau. Those found guilty of providing false or misleading statistics without authorization from the National Bureau of Statistics are liable for a one year jail term and a fine of 10 million Shillings (approximately US \$ 4500)

		Media Services Act, 2016	Various provisions of the Media Services Act, 2016 contravene Article 18 of the Constitution of the United Republic of Tanzania. These sections are sections 7 (2) (B) (III), (IV), (V), 7 (3) (A), (B), (C), (F), (G), (H), (I), (J), 8, 9(B), 10(2), 11(4), 13, 14, 19, 20, 21, 24, 25, 26, 35, 36, 37, 38, 39, 40, 50, 52, 53, 54 58 AND 59 of the Media Services Act No 12 of 2016. It is therefore proposed that these provisions be amended to allow freedom of expression as provided for in the Constitution.
		Access to Information Act, 2016	This Act has several provisions which infringe the freedom of expression in Tanzania. It restricts free flow of information. It therefore contravenes the Constitution of the United Republic of Tanzania specifically on the right to information guaranteed under Article 18 of the Constitution, 1977.
		Online Content Regulations, 2020	These Regulations needs to be wholly amended for the Minister acted in excess of her powers while promulgating the same. The Regulations imposes unnecessary restrictions and burden to online users which in essence curtail their freedom of expression.
		Media Services Rules, 2018	The rules need to be amended for they are against the right to information enshrined in our Constitution under Article 18.
		Miscellaneous amendment No 3 of 2018 amending the NGOs Act.	These amendments are burdensome to the CSOs example is excessive and unrestricted powers to the minister such as to investigate, de registration, re registration after 10 years which has financial and administrative effect, no more companies limited by guarantee, submission of annual report and audit to the registrar and make their contracts public etc

 Mikocheni B, Eyasi Road, P.o.box 105926,
Dar Es Salaam, Tanzania

 +255 769 642208

 info@thrdc.or.tz

 www.thrdc.or.tz

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