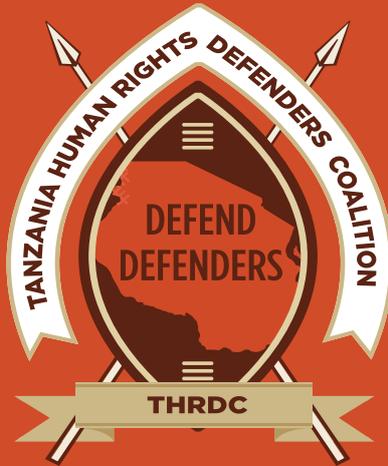




Report on The Situation of Human Rights Defenders in Tanzania 2014



TANZANIA HUMAN RIGHTS
DEFENDERS COALITION

Report on the Situation of Human Rights Defenders in Tanzania 2014



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Abbreviations

ABC	Action Based Community Foundation
AU	African Union
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
EHARDP	Eastern and Horn of Africa Human Rights Defenders
EU	European Union
Etc	Et cetera
HIV/Aids	Human Immuno-deficiency Virus/ Acquired Immune Deficiency Syndrome
HRDs	Human Rights Defenders
HRNGOs	Human Rights Non-Government Organizations
IACHR-Inter	Inter- American Commission on Human Rights
KRAs	Key result areas
LHRC	Legal and Human rights center
NGOs	Non-Government Organizations
OAS	Organization of American States
OSIEA	Open Society Initiates for East Africa
Pg	Page
SAHRINGON	Southern Africa Human Rights NGO-network
SOGI	Sexual orientation and gender identity
TACAIDS	Tanzania commission for Acquired immune deficiency syndrome
TAWLA	Tanzania women lawyers association
TGNP	Tanzania gender network programme Project
THRDC	Tanzania Human Rights Defenders Coalition
UN	United Nations



List of Statutes and International Instrument used

(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 Probate and Administration of Estates Act, 1965, [Cap 352 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]
Prison Act, 1967, Cap 58 [R.E 2002]
National Security Act of 1970, [Cap. 47 [R.E 2002]
The Public Leaders Code of Ethics, Cap 398 [R.E 2002]
The National Defense 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
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 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. No. 24,*

(ii) International Human Rights Instrument

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



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Last but not least we would like to thank managements of all human rights NGOs who furnished us with information in all stages making the writing of this report a success. We also appreciate the growing mutual ties between THRDC some state apparatus such as the Judiciary, the Police and the Commission for Human Rights and Good Governance. Each of the mentioned groups has made a substantial contribution to make this document worthy reading.



Preface

The Tanzania Human Rights Defenders Coalition (THRDC) is a non-partisan, human rights non-governmental organization which is registered under the Non-Governmental Act of 2002. The THRDC is comprised of both individual and organizational memberships. Its membership and representation in terms of operation is spread (through designated zone offices of coordination) all over the United Republic of Tanzania (Mainland and Zanzibar).

The main interest of this coalition is to, inter alia, work towards enhanced security and protection of Human Rights Defenders (HRDs) in the United Republic of Tanzania. It also intends to strengthen regional and international interventions towards protection and promotion of rights and responsibilities of HRDs.

The ultimate result of all these as this coalition visualizes is a contribution to a creation of safer working environment for the HRDs. THRDC has been and still intends to work closely with different stakeholders including local, regional and international HRDs' organizations and coalitions; individual HRDs; development partners; United Nations; duty bearers and other relevant stakeholders.

OUR VISION

THRDC-Coalition envisages a free and secured environment for Human Rights Defenders in Tanzania.

OUR MISSION

The THRDCs-Coalition strives to maximize the protection, respect and recognition of HRDs in Tanzania through, advocacy, capacity building, protection and connecting defenders with relevant regional and international bodies.

OUR VALUES

- a) Promote deep respect and empathy for defenders,
- b) Act in a very responsive, rapid, flexible manner,
- c) Result oriented organization with tangible impact,
- d) Act with independence, creativity, impartiality and integrity,
- e) Perform with dedication, professionalism, transparency and accountability.

THE OVERALL GOAL OF THE THRDC

The overall goal is to ensure that human rights defenders in our country are able to carry out their essential function free from harm and repression, in accordance with the 1998 UN Declaration on Human Rights Defenders. Hence the overall goal for this project is to reduce risks that human rights defenders face through promotion and protection of human rights defenders

To achieve that goal and indicators stated above, the THRDC Coalition adopted the following strategic approaches (outcomes or key result areas – KRAs):

1. The legal and policy frameworks (and practice) addressing the Human Rights Defenders' issues and CSOs networking improved-**ADVOCACY**
2. The media and HRDs capacity to effectively participate in the Human Rights Defenders' protection processes and address the rights of human rights defenders improved-**CAPACITY BUILDING**
3. Protection mechanisms established and accessed by HRDs at risk- **PROTECTION**
4. An improved performance and sustainability of the Tanzania Human Rights Defenders' Coalition- **INSTITUTIONAL BUILDING**



Executive Summary

This is the second situation report to be issued by the Tanzania Human Rights Defenders Coalition (THRDC) after a similar one in 2013. The report attempts to make an evaluation of the situation of human rights defenders (HRDs) in the country for the year 2014. The report key findings indicate that HRDs and CSOs face various challenges in their work and that the legal framework in this country has not been helpful enough to protect them.

The 2014 report has six chapters compared to the five compiled in the 2013 document. This year's report has managed to incorporate a new chapter on the situation of civil society (CSOs) and Human Rights Defenders (HRDs) in Tanzania.

Chapter one sheds light on the broad-spectrum introduction of who human rights defenders are, and the legal protection availed in international, regional and national levels. The report has identified few commendable countries that have taken up HRDs protection initiatives through legislations citing countries like Mexico, Colombia, Guatemala, Brazil, Honduras, DRC (South Kivu), South Sudan, and Indonesia. Other countries are the Philippines and recently, Ivory Coast. The report indicates that there is no legal protection for HRDs in Tanzania. However, THRDC is making efforts to ensure that the Proposed Constitution recognizes them and provides for their general protection.

This chapter exposes various challenges of legal protection for the HRDs like; lack of knowledge of the existence of protections for HRDs by international and regional bodies- to both the authorities and the HRDs themselves, the lack of knowledge of the existence of the UN special Rapporteur and African Rapporteur on HRDs. This chapter also explains about the protection mechanism for HRDs existing in international, regional also at the national level and discusses initiatives taken by THRDC to ensure that HRDs work safely.

The THRDC established the protection desk that assesses risks and threats facing HRDs and gives advice and protection support. This desk also provides training on security management, formulation of protection policy etc. The THRDC concludes the chapter with a call for a higher protection for HRDs in the country as they are essential in any democratic society that advocates for development and good governance.

Chapter two assesses the working environment for HRDs in Tanzania. HRDs work in extremely complex environment within many actors with diverse interests. For instance, Zanzibar does not have a strong non-state actors and free community media to criticize the government ever since the formation of the Government of National Unity (GNU) between the two competing political parties namely, CCM and the CUF.

On political challenges, HRDs have been branded and labeled all sorts of negative names. The situation is likely to worsen with the upcoming 2015 General Elections and the ongoing constitutional reforms where HRDs will be actively sensitizing citizens. In socio-cultural related challenges, HRDs who defend vulnerable groups like women and children against outdated cultural practices have faced a lot of challenges in the communities that they strive to transform, putting most women HRDs at risk.



Chapter three discusses human rights defenders violations that were committed against HRDs in 2014 which are against the declaration of human rights defenders of 1998, the violations manifested in their various forms. However, as the findings of the report in this chapter indicates, the risks that HRDs face in different thematic groups emanates from various settings including political, legal, financial and social cultural challenges. Lack of security consciousness and limited knowledge on information sharing, are setbacks in this line, while restrictions on access to information, and inhibiting media freedom is another setback.

Chapter three in addition elaborates that Human Rights Defenders in Tanzania operate in a very challenging and risky environment. The 2014 focal person's reports and questioners filled by HRDs and Protection desk data base indicate that HRDs have been continuously harassed, detained, interrogated, imprisoned, and tortured. The THRDC's Protection desk data base received and documented 31 HRDs claims including arrest, malicious prosecutions, torture and decriminalization of expression, from different part of Tanzania. All claims were assessed and where necessary technical support was provided, but for the purposes of this report we will elaborate key HRDs violations that took place in 2014.

The sub-chapter briefly discusses on the specific challenges facing journalists as human rights defenders most at risk. Again the report shows that over 11 journalists, media houses faced several security challenges such as arbitrary arrest during the year 2014.

Chapter four assessed the level of security management awareness due to the concept of protection and promotion of the rights of the HRDs being new in Tanzania. The Coalition surveyed the level of security management among HRDs. The Coalition discovered that HRDs in Tanzania lack strategies, policies and plan that protect individuals and groups against violations, especially for those facing particular risks.

Chapter five has a new section which exposes to the reader the situation of civil society and human rights defenders in Tanzania for the year 2014. The chapter tries to elaborate the role and importance of having CSOs for democratic governance system. For instance, most scandals would have remained in the dark had it not been for the pressure from civil societies in Tanzania. Major scams such as the Tegeta escrow saga would have been veiled and thus the European Parliament wouldn't have heard and passed vigorous resolution on Tanzania. So was the case with the issue of land grabbing in Loliondo (2015/2604(RSP)).

Furthermore, the chapter assesses the working environment of CSOs in Tanzania. It shows how Human rights Non-governmental Organizations (HRNGOs) in Tanzania operate in a very challenging, risky environment and the serious threats they face. The chapter goes deeper to shed light over HRDs and HRNGOs being continuously suppressed, banned and even at times deregistered by the judiciary and administratively. Needless to say, the government has tried to justify and legitimize the restrictions behind the shield of good governance, accountability and transparency

Chapter six Chapter six winds up by giving general conclusions and recommendations.





Chapter ONE

1.0 Who is a Human Rights Defender?

This chapter introduces several aspects including, definition, recognition of a Human Rights Defender (HRD), and available protection mechanisms for human rights defenders at International, Regional and National level.

The expression “Human Rights Defender” is used to refer to anybody who, individually or together with others, works towards promoting and protecting human rights¹. Human Rights Defenders are above all recognized by what they do. They work to promote, protect and implement civil and political rights, as well as economic, social and cultural rights.²

The Declaration of Human Rights Defenders³ does not provide direct definition as to who a human rights defender is. However, the above definition has been widely interpreted by several articles of the Declaration. Needless to say, any of the definitions must exclude individuals or groups who commit acts of violence or who support the use of violent means in order to achieve their objectives.

Any person can be a human rights defender without considering the level of education. One does not need to have a degree or diploma to defend human rights but rather a calling from the heart. However there are those who are defenders by virtue of their professional engagement like lawyers, journalists, judges and Police Officers. During the launching of the security needs assessment report for HRDs in Tanzania, the Tanzania Chief Justice Hon Othman Chande defined a human right defender as⁴

“Any individual, groups and organs of society which seek to promote and protect universally recognized human rights and freedoms. Human rights defenders include lawyers, journalists, Academia, students, trade unionists, Women HRD and anyone who genuinely sign-up and is engaged in a peaceful matter in the fight against human rights abuses. Included, are professional and non-professional human rights workers. The ingenuity of human rights defenders is that they do not expect any recompense or reward. It is as if they were working as a duty call. I would doubt if there was a PHD in HRD. The most common categories of Human Rights Defenders are those whose daily work specifically involves the promotion and protection of human rights, for example human rights monitor working with national human rights organizations and many others in our Country who are at the frontline in defense of human rights.”

HRDs 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 circulation and non-discrimination.

“I have been shocked, considering the increase in attacks and threats against HRDs, to see how weak the response of states has been and how dramatically they are falling behind in implementing the observations and recommendations addressed to them by the United Nations and the regional bodies”.⁵ Michael Forts, UN Special Rapporteur on the Situation of HRDs

¹ <http://protectionline.org/files/2013/02/UN-Factsheet-29-Human-Rights-Defenders-Protecting-the-Rights-to-Defend-Human-Rights.pdf>

² Protection International (2011) Legislators and Human Rights defenders at pg 2.

³ Declaration on the right and Responsibility of Individual, Groups and Organ of Society to Promote and protect Universally Recognized Human Rights and Fundamental Freedom 1998 (UN Declaration on Human Rights Defenders)

⁴ Clip available at THRDC custodian

⁵ Focus -2014 at pg 2



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. Human Rights Defenders 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.⁶

A Human Rights defender enjoys the following rights under the declaration, the right to be protected, the right to freedom of assembly, and of association, 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 to make proposals to improve their functioning, the right to provide legal assistance or other advice and assistance in defense of human rights but to mention a few

In Tanzania, Human rights defenders and HRNGOs such as the LHRC, NOLA, PINGOs, TPCF, TAWLA, ZLSC, WLAC, SIKIKA, SAHRINGON, TGNP, HAKIELIMU and Haki-Ardhi; legally defend human rights. These institutions have made tremendous contributions in defending human rights in the country. Therefore it should be noted that human rights defenders conduct a legally recognized work which they have been mandated to by the United Nations and have been ratified by many countries all over the world including Tanzania.

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 and development, policy changes, etc.

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

1.1 Protection Mechanisms for Human Rights Defenders

In some countries, International and Regional level, various policies, instruments, and, legislation have been enacted to recognize and protect HRDs. However, for the purpose of this report we will separate legal protection mechanism from other protection mechanisms initiated by the UN, International and local NGOs.

Legal protection mechanism covers initiatives by the United Nations, States, Judiciary, Administrative, and other organs initiatives in enactment of the laws, regulations, policies or making of judicial precedents, that recognize the role of HRDs in promoting human rights.

Whereas; other protection mechanisms, involve the initiatives by the UN, AU, international NGOs, local NGOs and networks to go further putting in place, special rapporteurs, emergency funds for HRDs at risk, provisional of supports on legal representation, medical support, counseling, evacuation and relocations, etc.

1.1.1 Legal Protection mechanism at International level

The struggle for recognition of HRDs has never been easy, despite the world marking 50 years ever since the Declaration of Human Rights in 1948. In December 1998, HRDs were accorded with recognition and protection after 12 years of negotiations. The UN 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, 1998*.

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.⁷

⁶ *Ibid*.

⁷ THRDC(2013) *Protection and security needs for human rights defenders in Tanzania- needs assessment report at pg 4*.





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. The declaration imposes duty to every State to protect Human Rights Defenders in accordance with the International Law. Civil authorities and law enforcement organs in each country are also primarily responsible to protect HRDs. HRDs rights protected under The Declaration include:

1. To conduct human rights work individually and in association with others;	2. To unhindered access to and communication with non-governmental and intergovernmental organizations ;
3. Formation of associations and non-governmental organizations ;	4. To benefit from an effective remedy;
5. To meet or assemble peacefully;	6. the lawful exercise of the occupation or profession of human rights defender;
7. To seek, obtain, receive and hold information relating to human rights;	8. To effective protection under the national laws in reacting against or opposing, through peaceful means, acts or omissions attributable to the State that result in violations of human rights;
9. To develop and discuss new human rights ideas and principles and to advocate their acceptance;	10. To solicit, receive and utilize resources for the purpose of protecting human rights (including the receipt of funds from abroad);
11. To submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may impede the realization of human rights;	12. To attend public hearings, proceedings and trials in order to assess their compliance with national law and international human rights obligations;
13. To file complaints about official policies and conducts relating to human rights and to have such complaints reviewed;	14. unhindered access to and communication with non-governmental and intergovernmental organisations ;
15. To offer and provide professionally legal assistance or advice and assistance in defense of human rights;	16. To benefit from an effective remedy;
17. To the lawful exercise of the occupation or profession of human rights defender; and	18. Effective protection 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.

Support towards HRDs is now a common concept at the international level. On March 2013, the UN adopted a landmark resolution on protection of human rights defenders. ⁸ The resolution, was led by Norway and adopted by consensus, and it calls on all States to support the work of human rights defenders and to protect them from harassment, threats and attacks. ‘The human rights defenders’ work is essential to uphold democracy and the rule of law.’⁹

On 29/11/2013, the UN adopted a landmark resolution on *Protection of Women Human Rights Defenders*¹⁰. ‘The resolution urges States to put in place gender-specific laws and policies for the protection of women human rights defenders and to ensure that defenders themselves are involved in the design and implementation of these measures,’ Ms Bjerler said, the ‘Effective implementation of such measures by States will be key to enabling women human rights defenders to carry out their important and legitimate work.’¹¹

⁸ defenders - See more at: <http://www.ishr.ch/news/un-adopts-landmark-resolution-protection-human-rights-defenders#sthash.pgdLEqn6.dpuf>

⁹ Ibid.

¹⁰ See more at: <http://www.ishr.ch/news/un-adopts-landmark-resolution-protecting-women-human-rights-defenders#sthash.NJ12LaQH.dpuf>

¹¹ Ibid.





1.1.2 Legal Protection Mechanism at Regional Level

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.

Continent	Legal Mechanism	Brief Explanation
AMERICA	- Human Rights Defenders in America, support individuals, groups, and organizations of civil society working to promote and protect human rights in America (AG/RES.16715), ¹	<p>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 Member States of the Organization of American States (OAS) the adoption of measures necessary for their protection. On this basis, in June 1999 the General Assembly of the OAS adopted a resolution entitled.</p> <p>In the event of imminent danger, the IACHR may issue preventative measures to Human Rights Defenders under threat to avoid any irreparable harm. The IACHR may also request information from States and issue recommendations thereunto. It is also possible to request that the Inter-American Court adopts provisional protection measures.</p>
AFRICA	- The Grand Bay Declaration and Plan of Action of 16 April 1999 call upon African Union Member States to take all appropriate measures to implement the United Nations Declaration on Human Rights Defenders. ²	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.
	<p>- The Kigali Declaration of 8 May 2003</p> <p>- Resolution 273 of the African Commission, which will surely be echoed at the United Nations level, is yet another useful instrument that will help secure a better working environment for HRDs.³</p>	<p>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.”⁴</p> <p>In short, a system of promotion and protection of human rights does exist on a continental level in Africa. It has the potential to respond effectively to the obligation to protect all citizens and particularly HRDs. Coherent public policies for the protection of this target-group, however, remain lacking. It is imperative that States conform to article 2(2) of the UN Declaration on Human Rights Defenders: “Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed”. The actions of States should constitute effective contributions to the efforts made by civil society to try and increase the well-being and the safety of the world’s population.⁵</p>





EUROPE	EU Guidelines on Human Rights Defenders	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 countries. ⁶ 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. This may also provide for interventions by the EU on behalf of human rights defenders at risk, and suggest practical means to support and assist them.
	In 2010, the European Parliament adopted a Resolution on the EU policy in favor of Human Rights Defenders (2009/2199(INI).	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 prior to taking any action on their behalf and to provide them with feedback. These recommendations were reiterated with the adoption, on 16 December 2010. ⁷ Therefore it is only fair to declare EUROPE as a leading continent in laws, guidelines, judicial, administrative and policies that protect HRDs. EU members should play an active role in the enforcement of Guidelines issued as well as a dynamic role to create a successful mechanism to protect human rights defenders in Europe, and thus create precedent to other States in the world.

1.1.3 Legal Protection Mechanism at the National Level

Several countries have set national legal mechanisms to protect Human Rights Defenders. Such initiatives are generally the result of pressure enforced by Human Rights Defenders 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.¹²

The Constitution of the United Republic of Tanzania of 1977 and that of Zanzibar of 1984 including the proposed Constitutions 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. The legal framework at the national level including the Draft Constitutions provide for general protection of human rights but remain silent on the rights of human rights promoters/defenders. In short, lack of specific legal protection makes the HRDs vulnerable and easy prey for perpetrators of human rights violations. The legal challenges affecting HRDs will be discussed at length in chapter three of this report.

The coalition's five years strategic plan focuses on **Outcome One- Advocacy**, among the outputs being to advocate for the availability of specific legal protection for HRDs in Tanzania. Tanzania is yet to formulate a policy or draft bill to recognize and protect HRDs as is the case in other countries such as Mexico and Brazil. Thus Tanzania ought to start initiatives to come up with legal, policies, judicial judgments, quasi judicial, administrative decision on human rights defenders, to increase their legal protection.

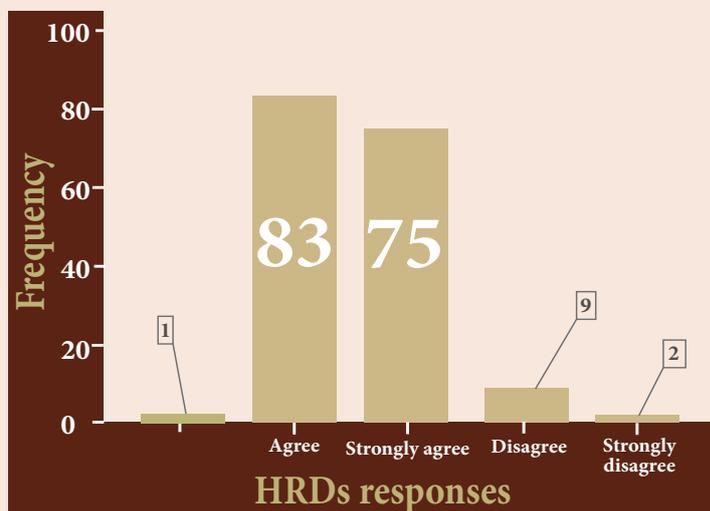
¹² Protection international Op. cit. at pg 9



1.1.4 Challenges with Both International and Regional Protection Mechanisms for HRDS

- 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 widely known and respected by authorities, and the population as a whole. It also has to be known and used by HRDs themselves. Findings of the THRDC indicate that majority of HRDs were yet to be informed about this declaration as of year 2014.
- HRDs in Tanzania know nothing about the available mechanism for their protection let alone on how to use the special UN and the Africa rapporteurs on human rights defenders to protect them.
- Again, the EU Guidelines on HRDs are also not widely known by HRDs in Tanzania despite the EU 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 enhance their security.

International Instruments Protecting HRDs are Poorly Implemented



The table above indicates that HRDs related international instruments are not implemented in Tanzania. About 90% of all HRDs who responded to the question relating to international instruments, agreed that international instruments on the rights of HRDs are not properly implemented in Tanzania.

1.2 Non Legal Protection mechanism

Protection mechanisms for HRDs can simply be defined as defense strategies put in place to ensure that HRDs are safe and operate in a safe environment. Through their active commitment, HRDs are frequently targets of acts of repression perpetrated by States or by private or Para-State groups acting in complicity with States. They are in many countries targeted for attacks such as murders, forced 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 NGOs and Local NGOs were forced to chip and establish protection desks/unit to ensure HRDs mitigate these threats and in worst situation provide emergence assistance.

1.2.1 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 Human Rights Council came up with a resolution 25/18, in a bid to continue the mandate on human rights defenders for a consecutive period of three years.¹³

¹³ <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>



In June 2014, Mr. Michel Forst (France) was appointed by the President of the Human Rights Council as the UN Special Rapporteur on the situation of human rights defenders. Mr. Forst succeeds Ms. Margaret Sekaggya as Special Rapporteur on the situation of human rights defenders (2008-2014) and Ms. Hina Jilani as Special Representative of the Secretary General on the situation of human rights defenders (2000-2008).¹⁴

In the framework of this mandate, the primary duties of the Special Rapporteur are to:

- Seek, obtain and examine information on the situation of human rights defenders
- Establish cooperation and engage in dialogue with governments and other interested actors by promoting and successfully implementing the Declaration
- Recommend effective strategies to protect human rights defenders better and follow up on these recommendations
- Integrate a gender perspective throughout her work.

In performing his duties, the Rapporteur:

- Submits annual reports to the Human Rights Council and the 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

Needless to say, the UN does not provide for other services such as emergence fund and support. Thus International NGOs such as the Frontline Defenders, Protection International, Freedom House, CIVICUS, 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 UN Special Rapporteur. They offer security and risk assessment management such as preventive measures, legal support, counseling, evacuation and reallocation of HRDs at risk and advocacy among other activities.

1.2.2 Non Legal Protection Mechanism at Regional level

Universal and regional protection mechanisms complement each other to improve the protection of Human Rights Defenders. However, for the purpose of this report, Africa will be used as an example.

Non-Governmental stakeholders in Africa adopted the Kampala Declaration on Human Rights Defenders, during the Conference on Human Rights Defenders at the Ugandan capital on 23 April 2009.¹⁵ This 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.

The East and Horn of Africa Human Rights Defenders Project (EHAHRDP) plays a key role to protect HRDs in East and Horn of Africa. 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, and Legal Protection Fund (LPF).

1.2.3 Protection Mechanism at National Level

Protection of HRDs 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: Kenya, Eritrea, Djibouti, 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.

Tanzania is yet to enact any legislation or policy to recognize HRDs. Nevertheless, THRD has been working to ensure

¹⁴ *ibid*

¹⁵ <http://protectionline.org/2009/05/05/kampala-declaration-of-human-rights-defenders/>





HRDs operate under safe environment by immediately intervening whenever there is a looming risk. The THRDC operates in the framework of accepted international mechanisms established and adopted by other human rights conscious nations including Tanzania, to ensure good governance.

It should be noted however, that the protection of HRDs is quite a new concept in Tanzania. Most people fail to differentiate between human rights defenders' work and other ordinary human rights promoters. More often, they tend to ignore and take it for granted when their rights are violated. In fact, majority of them (HRDs) do not know that they are human rights defenders who need some level of sensitivity and special protection in the course of performing their day-to-day activities as defenders and promoters of human rights.

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

THRDC established self-protection mechanisms such as the Protection Desk as well as security and risk assessment trainings. The is meant to act as a preventive measure for HRDs and to ensure that human rights defenders at risk receive the necessary support to mitigate the risk they face and thus continue with their work

Major Role of Protection Programme

- Provide emergency assistance and protection for HRDs at risk;
- Encourage and provide an opportunity for HRDs at risk to continue with their work in a safe and secure way;
- Ensure that HRDs get security management and risk assessment trainings as preventive measures for HRDs. This helps them to improve their personal and professional safety;
- THRDC in collaboration with other International protections organs provide support and assistance with the immigration formalities and other legal procedures aimed at regularizing HRDs stay in the country where they have sought refuge;
- Seek effective collaboration with other service providers in the protection of HRDs;
- Conduct research and fact finding on HRDs issues in Tanzania

Some of the key activities undertaken under this protection programme include security needs assessment to ascertain prevailing situations; formulation of protection policy to establish protection strategies; mapping and clustering of HRDs as well as to develop security and responsive system. Other duties include creating a link between national HRDs, international, regional and national protection mechanisms; support for reallocation and evacuation, legal representation and medical support. The Desk is further charged to oversee social counseling, emergence housing, emergence social support if necessary and establishment and coordination of a protection referral system at the disposal of HRDs to provide responses and protection support.

Human Rights Defenders work in favour of democratic development to increase participation of citizens in decision making for their existence and consolidation of good governance. Thus, they are agents of development, whom the State ought to create secure environment and protection for their work. The State through the parliament can contribute towards promotion and declaration of HRDs and ensure that the government implements recommendations issued by several UN mechanism agencies, resolutions, and special rapporteurs' comments.



Chapter TWO

2.0. HRDs Working Environment in Tanzania

Human Rights Defenders usually work in a complex environment, in which they are not only many different actors influenced by deeply political decision-making processes, but also volatile individuals who do not want their Human Rights Violations revealed. Therefore, HRDs need information, not only about issues directly related to their work, but also about the positions of key actors and stakeholders.

As used in this context, working environment means area of work place and its surroundings such as inside or outside the office, desk, in a cubicle, etc. Working environment affects a broad range of activities in Civil Society Organizations.

Generally, the working environment differs from one place to another due to the nature of the social, political and economic environment of a particular area. International laws require that HRDs work under the universally recognized human rights and fundamental freedoms. The Human Rights Defenders Declaration of 1998 is the first UN obligation to all nations to respect the rights of human rights defenders at the national and international levels.¹⁶ It is therefore crucial to conceptualize and analyze working environment in the context of HRDs security. This will in many ways consequently benefit human rights organizations and HRDs.

2.1 Political Environment

Some political leaders and parties in the society have been preaching against CSOs with the aim of frustrating, undermining or prohibiting activities of democratic, civil society groups and individual activists.

On the other hand, some top state officials have openly been issuing hate and ambiguous statements against CSOs in the country. Such practice rings a bell to HRDs in Tanzania to take precautionary measures especially at this juncture where the country is heading towards the 2015 general elections and the ongoing Constitutional reform process.

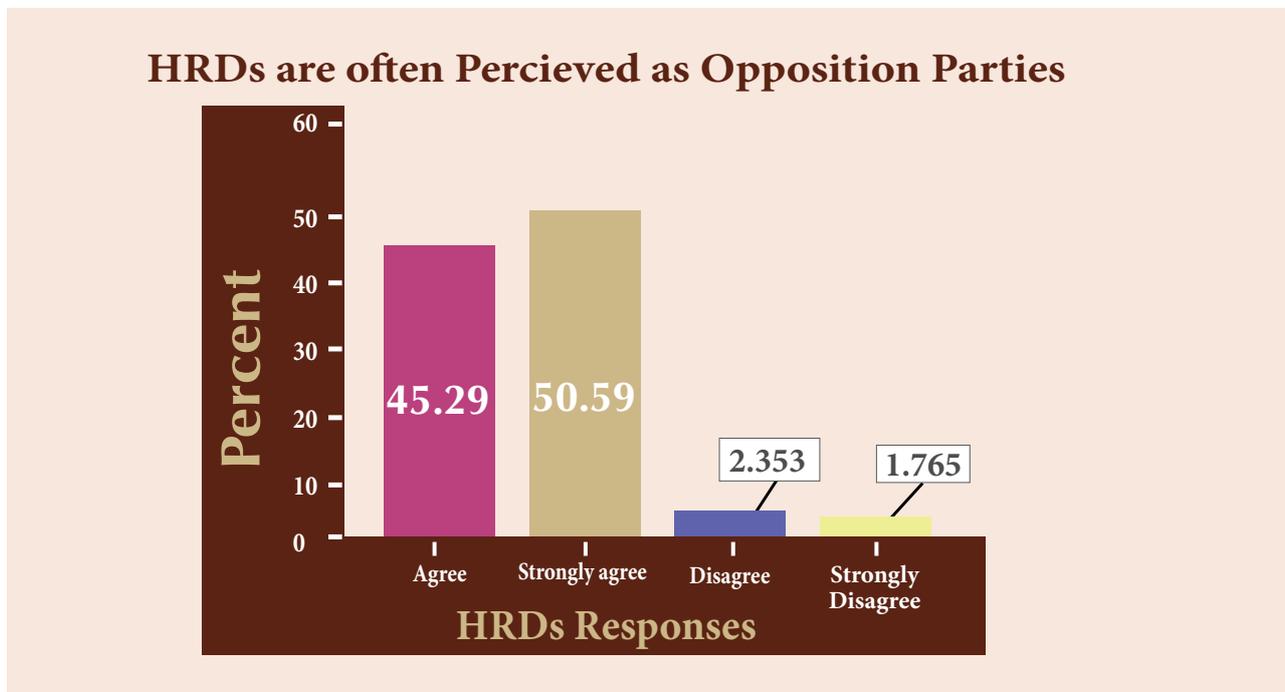
In the year 2014 The Coalition observed that the work of HRDs, including journalists in Tanzania, poses a huge threat to state organs and politicians especially at this time when elections are nearing.

Major political related challenges facing HRDs in Tanzania;

- (i) Being stigmatized as anti-state, agents of Western powers, supporters of opposition parties, money mongers, trouble mongers, etc*
- (ii) Being targeted for administrative measures – such as orders to provide extensive financial information, activity reports, list of donors and contracts.*
- (iii) Interference and harassment by security forces*
- (iv) Human rights NGOs in most cases being called or perceived as political opponents because of playing the role of watchdogs and following up for social accountability. For instance, during elections, HRNGOs play a significant role to ensure the electoral processes are free and fair.*
- (v) The monitoring of elections is seen by incumbent political leaders as a threat to status quo. Furthermore, the art of being vocal by many HRDs on human rights issues that the government would like to hide makes those in power perceive them as political opponents.*

¹⁶www.humanrightsfirst.org

One of a good example is that of David Kafulila a whistle blower and a HRD who is also an MP. He unveiled a scandal on corruption and money laundering conducted by top government officials under the Tegeta ESCROW scandal. The latter was threatened and the Coalition had to provide legal support to rescue him.



In 2014 THRDC distributed 170 questionnaires through its focal persons across THRDC 10 working Zones. Responding to the question about the perception of state officials towards HRDs, 96% of all HRDs (170) who filled the questionnaires agreed that HRDs are often perceived as opposition parties.

2.2. Social Cultural Settings

In conservative societies HRDs who defend vulnerable groups such as women, children, people living with disabilities and other minority groups have been experiencing threats from members of their communities one good example is that of on 21st May 2014, where an activist Angel Benedicto received death threats while attending a seminar on social welfare protection in Morogoro. She reported the incident to the THRDC that threats had been leveled against her due to her involvement in advocating for the rights of two children who were suspected to have been trafficked.

2.3 Financial Challenges

According to the THRDC security needs assessment report, 75% of all the visited NGOS mentioned inability to solicit funds, and poor proposal writing as factors affecting their ability to secure funds from donors. Financial management is another serious challenge for those with such abilities as at times they fail to sustain funds, due to lack of skills in project implementation and monitoring. The report also highlighted that human rights NGOs in local areas lack negotiations and project initiation skills.



Chapter THREE

3.0 Human Rights Violations Committed Against HRDs in 2014

Human Rights Defenders in Tanzania operate in a very challenging and risky environment. Focal person's reports, questionnaires filled by HRDs and Protection desk data base in 2014 indicate that HRDs have been continuously harassed, detained, interrogated, imprisoned, and tortured. This report highlights the situation of HRDs in Tanzania for the year 2014. The THRDC Protection desk data base received and documented 31 HRDs claims including arrest, malicious prosecutions, torture and decriminalization of expression from different parts of Tanzania. All claims were assessed and where necessary technical support was provided. However for the purpose of this report, we will only elaborate key HRDs violations that took place in 2014.

Violations against HRDs are always structured towards active HRDs, defender's families or organizations as a means to muzzle their work. However, the risks they face differ according to the nature and capacity of the rights they seek to protect. For instance, Women Human Rights Defenders, journalists, pastoralists HRDs at times confront risks that require particular attention.

"In most cases, acts committed against human rights defenders are in violation of both international and national law. In some countries, however, domestic legislation which contravenes international human rights law is used against defenders."¹⁷

The THDC protection desk data base, questionnaires filled by HRDs and reports from focal person in 2014 indicated that HRDs in Tanzania face a number of challenges including: political, legal, financial and social challenges they also have limited security knowledge on information sharing and restrictions on access to information.

3.1 Arbitrary Arrest, Baseless Charges and Criminalization of HRDs

Like other parts of the world, HRDs in Tanzania are at times falsely criminalized. *In criminology, the term refers to the process by which behaviors and individuals are transformed into crime and criminals.*¹⁸ In this context, criminalization is often used to discredit, sabotage and impede the work through the misuse of the Legal system.

Most of the received, documented and represented cases by THRDC were from rural HRDs with most of them being fabricated in order to silence them with their activism. The Protection desk highlights some of the cases received in 2014 as follows;

Damian Peter was charged on May 2014 and thereafter imprisoned at Isanga Prison in Dodoma after he allegedly attempted to prevent an investor who had invaded the 6,000 acres land belonging to Chilendeli Village in Bahi District, Dodoma. THRDC extended its legal protection by filing an appeal against the decision by the Primary Court and as we compile this report, he is out of the prison with bail pending appeal. He now proceeds with his work to promote and protect Human rights.

- i) On November 2014, THRDC in collaboration with LHRC engaged lawyers to file an ongoing judicial review in the High Court of Dodoma against the decision by the Kondo Council Authority to ban SIKIKA, an NGO which advocates for better health services in Tanzania. The authority on March 2014 banned the NGO from conducting its duties within the district contrary to the procedures and laws of the country.

¹⁷ <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Challenges.aspx>. Visited - January 2014

¹⁸ Peace Brigades International (2010) "Criminalization of Human Rights Defenders" page 2.

- ii) On September 2014, THRDC provided Legal protection for a rural HRDs Georgina Angelo who was arrested and arraigned in the Court for the following offences; organizing unlawfully assembly, breaking and destroying public property. Georgina was incriminated simply because she had organized fellow villagers to boycott the burial of a body of a girl who was allegedly tortured to death by her employer. Georgina and her village mates wanted the post mortal report made public before the burial.
- iii) In October 2014, THRDC extended Legal Protection support to a whistle blower and HRDs who is also an **MP, David Kafulila** who had been arraigned before the High Court for Defamation. David Kafulila raised the Corruption and money laundering scandal famously known as the TEGETA ESCROW reported. The scam was reported to have been perpetrated by top governmental officials.

Kafulila blew the whistle in Parliament on the controversial withdrawal of more than \$120 Billion from the Bank of Tanzania (BOT) to facilitate the questionable IPTL sale to Pan Africa Power Solutions Ltd (PAP). IPTL decided to file a suit at the High Court as part of its strategy to silence him. Apart from legal support THRDC also plans to extend physical security support.

It should be noted that during the THRDC security needs assessment carried in 2013, majority of HRDs interviewed mentioned baseless charges and case fabrication among the other major threats that undermine their works. About 70% of all respondents agreed that HRDs always face illegal charges when dealing with issues of public interest.¹⁹

3.2 Physical violence, Attacks, Arrest and Torture

Violence against HRDs is always systematic, pre-arranged and well organized to silence their work. Globally, thousands of HRDs are attacked and tortured annually for denouncing human rights violations. Physical violence and attacks of HRDs continue to increase in Tanzania.



A Journalist Shaban Ndyamukama (seated in a police van) was beaten and thereafter arrested by the police officers in the cause of conducting his duties. The police are reported to have also deleted from his camera all the pics taken.

During the Year 2014, THRDC recorded about 31 incidents of serious assaults, arrest, torture and general threats to HRDs.

¹⁹ THRDC (2013) *Protection and Security Needs for Human Rights Defenders in Tanzania-Needs Assessment Report*, page 21.



Physical violence, attacks, arrest, security incidents and threats against HRDs in 2014 are depicted in the table below:

NO	HRDs	Org/Institution	Attack, arrest, security incident/threat and dates
1.	Kiteto HRDs	Several CSOs and HRDs	<p>According to a focal Person's report⁸, several HRDs were arrested after the Kiteto Land clash. Paulo Tunyoni one of the prominent Human rights defender and a leader of an NGO known as MWEDO was arrested and joined in a Murder case</p> <p>Another Human rights defender and a Coordinator of KINAPA namely Alalice Nangoro was arrested and held for several days without formally being charged.</p> <p>The Director of CORDS Shukumo Tuke was also arrested by the police. He was accused of being an instigator.</p> <p>The Media and Information officer of the Kiteto Municipal council Michael William was in several times arrested but managed to get out with bail.</p>
2.	Marcus Albanie	HRDs Director of CPW	On 22 nd February 2014, Marcus went home only to find his house doors written with blood paintings. The bloody marks were painted X while as others were signed with words "Blood dead".
3.	Tanzania Sisi Sisi Foundation (TSSF)	Human Right Defenders	On 28 th February 2014, an Organization working on Health issues in Tanzania known as Tanzania Sisi kwa Sisi (TSSF) received a default note from the Permanent Secretary of the Ministry of Community Development Gender and Children (MoCDGC) showing the intention to deregister it on grounds that it was working on SOGI issues. On 4 th April 2014 the organization received a formal letter of deregistration from the same Permanent secretary.
4.	Women HRD in Rural areas	Rural HRDs	On 19 th March 2014, several women human rights defenders under the umbrella of TGNP Mtandao organized a demonstration at Kishapu Shinyanga demanding for their right to clean water. At that particular time, the Minister of Water was to visit the area and a woman carrying a placard written "Mbunge huji mpaka waziri afike" literally meaning 'the legislator never comes unless the Minister does' received serious threats from an unknown sources and thereafter was summoned to appear at Maganzo police station.
5.	Angel Benedicto	Women HRD	On 21 st May 2014, Angel received a death threat while in Morogoro attending a seminar for Social welfare Protection. The threats were allegedly leveled against her due to her involvement in defending rights of two children who were suspected to have been trafficked.
6.	Damian Peter	A natural Resources HRDs	On 3 rd April 2014 Damian Peter was arrested and charged for trying to stop/prevent an investor who had invaded a 6000 acres of land belonging to Chilendeli Village in Bahi District in Dodoma. The investor was reported to have done so without consulting villagers or village leaders. Mr. Damian stood firm against illegal invasion of the investor an act which angered government leaders in the area in particularly the Division Executive Officer and the DC. The accused was arrested and remanded on 3 rd of April 2014 and later on sentenced to six (6) months imprisonment.





7.	David Kafulila (MP)	Human rights defender and whistle blower	A whistle blower and a HRD who is also an MP, David Kafulila unveiled a Corruption and money laundering scandal famously known as The Tegeta Escrow. The scam involved some top government officials. Kafulila blew the whistle in Parliament on the controversial withdrawal of more than \$120 Billion from the Bank of Tanzania (BOT) to facilitate the questionable IPTL sale to Pan Africa Power Solutions Ltd (PAP). IPTL filed a suit for defamation against him as part of its strategy to silence the MP. Apart from legal support THRDC also plans to extend physical security support.
8.	Janeth Mawinza	Woman HRDs	A Vibrant Woman HRDs who is a chairperson of WAJIKI; an NGO working to promote and protect Children's Rights reported to the THRDC over receiving several threats and intimidations.
	Deus Kibamba	HRDs Chair of JUKWA LA KATIBA TANZANIA	On 23 rd July 2014, the THRDC protection Desk received an emergence call from JUKWA LA KATIBA, informing the desk that their Chairperson Deus Kibamba was at risk. Kibamba a vocal activist received threat messages and calls from a phone number 0687772475. Some of the messages read as "NITAKUUA WEWE" "UTAONA KESHO AUFIKI UMEKUFA" literally means "I will kill you, you won't see another day. Several other messages were also sent.
9.	SIKIKI	A health advocacy local NGO	On March 2014, SIKIKA, a local NGO registered in Tanzania with a national wide mandate to oversee health services, received an indefinite ban from the Kondoa District Council contrary to the procedures and laws.
10.	LHRC	Human Rights NGO	On August 25 th , 2015, the LHRC's team in Kilimanjaro received a warning letter from the Kilimanjaro Regional Commissioner warning them to stop from distributing the Second Draft Constitution in his region claiming that the Draft was UKAWA's, a coalition of opposition parties. Similar threats were leveled against the LHRC's team in Rukwa where the Regional Commissioner was reported to have ordered them to leave or else they would live to regret. The latter is said to have been unhappy with a booklet which had ironed out the 7 things which had gone missing in the Proposed Draft. Prior to that, security officers are reported to have drove to the meeting and ordered them under a gun point to vacate the area. The team was forced to leave the area owing to their hotel being under constant surveillance by security officers and took shelter in Katavi before they left for Dar es Salaam.
11.	Georgina Angelo	A rural Woman HRD	On September 2014, the HRD was arrested and arraigned in the Court for organizing unlawfully assembly, breaking and destroying public property. Georgina was incriminated simply because she organized villagers to boycott the burial of a dead girl owing to the controversy surrounding her death. The duos wanted the postmortem report made public before they could so. There were reports that the deceased girl had been tortured to death.
12.	Salma Said and Adil Mohamed	Former Members of Constituent Assembly	On November 3 rd , 2014, the duo reported to the THRDC's protection desk that they were under constant surveillance by unknown people. The latter are alleged to have been tracked due to voting against the Proposed Constitution.
13.	Samweli Nangiria	A HRDs from Loliondo	On November 2014, Samwel Nangiria reported to the Coalition protection desk that threats and intimidation were leveled against him due to his stance against the Loliondo land grabbing. Representatives of NGOs in Loliondo have been under siege where Nangiria and his colleagues were once arrested due to advocating for the natives' land rights.





Maaanda Ngoitick	Director Pastoralist Women Council in Loliondo	She has been harassed by police officers, District officers and OBC because of the role she plays in protecting pastoralists rights in Ngorongoro. She has been also named as Kenyan who gets fund from Kenya to run an organization. She has been receiving death threats from unknown people. There has been constant media campaign using two journalists to destroy her reputation and that of the NGOs she manages.
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3.3 Legal challenges

According to Article 2 (2) of the Defenders Declaration²⁰, every country is obliged to take legal action, administratively, and any other measures that it deems fit in ensuring that rights and freedoms of defenders are appropriately maintained. The Declaration wants all countries of the world to formulate laws or enact good environment towards recognition and protection of human rights defenders.

The proposed Statistical Bill of 2014 by the government of Tanzania is yet another catastrophe piece as it infringes the freedom of expression and access to information. It is strongly believed that the Bill was not availed to stakeholders because it was against the freedom of information.

Criminalization of press activities is increasingly gaining a momentum in most African Countries. Section 37 (4-6) of this proposed but aborted statistical law was intended to hamper media and human rights defenders from informing the public on issues which those in power don't want to go public. Offences created under this act are unjustifiable and not stated clearly on who will decide on what amounts to false or misleading statistical information. It is obvious that, if passed, the law would ensure that whatever is seen as unpleasant to the eyes of those in power is tantamount to the so called false or misleading statistics.

There are draconian forms of legislations in Tanzania that need to be amended or repealed such as the *Newspaper Act of 1976, and the Security Act of 1970* etc. These pieces of legislations or provisions do not only violate the rights of people but also impede work of HRDs. Responding to a question that required HRDs to mention laws that impede the smooth operations of their work; respondents to the 2013 Needs assessment report listed laws in **annexure two** as hostile and restrictive to their work.

The Coalition calls all HRDs and Journalists to launch a countrywide campaign against laws that are not in support of HRDs activities. HRDs may also push for creation of a fair and more independent oversight body to investigate and prosecute all cases involving HRDs. Tanzania is also required to ensure that its domestic laws facilitate the work of HRDs by avoiding any legal impediments thereof.

3.4 State of Impunity

So far, the State has made no significant efforts to investigate and prosecute cases involving the violations of HRDs rights. The justice system in Tanzania is composed of various entities such as the Police and the Judiciary.

The Judiciary has a role to dispense justice while as the Police Force maintains peace and ensures the security of people and their properties. The Police have got the mandate to arrest, suppress, investigate and finally prosecute alleged offenders. The criminal justice system in place is too weak to dispense justice when it comes to incidents where perpetrators of the alleged violations are state actors, who essentially are law enforcers such as the police and other security officers. Among other things, the weak criminal justice system remains the main reason behind the growing state of impunity in Tanzania.

²⁰ *Op cit.*





Until late 2014, several perpetrators in cases that involve HRDs were yet to be held accountable for their actions. This include the killing of a Channel 10 reporter Daudi Mwangosi, the Director of ABC foundation in Mara region Mr. Eustace Nyarugenda and Other incidents involving the abduction and torture of Dr. Steven Ulimboka, former Chairperson Medical Doctor's Association and Mr. Absalom Kibanda the Chairman of the Editors Forum.

A reporter with a local television station Channel Ten, Daudi Mwangosi was killed while executing his duties at a launching ceremony of an office by the opposition party CHADEMA in Nyororo, Iringa. A police officer fired a tear gas canister at a close range leading him to die in one of the most gruesome way. Authorities filed a murder case against Pacifus Cleophase Simon, a police officer who allegedly killed Mwangosi and the case has been prosecuted with delay. Ironically, to-date, none of the eyewitnesses including a journalist who took all the photos have ever been called for questioning by the police involved in the investigation.

Sadly, the State has never filed any charges let alone take disciplinary measures against the six police officers that were involved into the brutal attack. Shockingly as it may be, the then Iringa Regional Police Commander Michael Kamuhanda was promoted to a Deputy Commissioner of police leaving a little to be desired for as if anything, accountability should have begun with him. The killing of Mwangosi was one of the worst in the media fraternity for a country like Tanzania once considered 'heaven of peace.'

Dr. Stephen Ulimboka a leader in the 2012 doctors' strike was kidnapped and dragged into an indentified vehicle by a group of armed men who brutally beat and tortured him before they deserted him in the midst of a heavy forest in Mabwepande.

As we compile this report in 2014, there has been no serious person who has been arraigned in court to answer the said charges, save for one 'fake' suspect who at the end of the day was acquitted in July 2013 on account that he had no case to answer. There have been no serious efforts by the State to investigate the case to bring to justice Dr.Ulimbokas' assailants.

Ironically, some media outlets such as *Mwanahalisi* have suffered an indefinite ban from the infamous *Newspaper Act* of 1976 due to publishing investigations over his abduction and subsequently publicizing the story in series. One would have expected the government to interrogate those mentioned by *Mwanahalisi*. However, that has never been the case.

According to 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 should put to end impunity for violations against defenders by ensuring that investigations are promptly and impartially conducted. Perpetrators should be held accountable; while as victims should obtain appropriate remedy²¹.

THRDC expects a bright future to help fight impunity in Tanzania owing to the introduction of criminal Jurisdiction, International crimes against humanity and war crimes to the African Court under Malabo Protocol on statute of the African Court of Justice and Human Rights,

3.5 Specific Challenges Facing Journalists

Journalists like other people, have a personal interest in the rights that allow them to live in freedom, and to be free from fear or oppression. Journalists have families and belong to communities, and so have a direct personal interest in safety, freedom from fear and freedom from repression.

They are vital to the development of democratic processes and institutions, ending impunity and the promotion and protection of human rights. We need to protect journalist because in a climate where journalists are safe, citizens find it easier to access quality information for accountability. Regardless of the nature of journalists in Tanzania, it is evident that they work under a dangerous environment.

²¹ 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.*





According to various international reports, on average, more than 70 journalists are murdered every year²², yet murderers go unpunished. Hundreds of journalists each year are attacked, threatened, or harassed. Many are tracked or have their phone calls and Internet communications intercepted.

Journalists as Human Rights Defenders often face harassment, detention, torture, defamation, suspension from their employment, denial of freedom of movement and other difficulties in obtaining legal recognition for their associations. In some countries they are killed or just “disappear”.²³

During the year 2014, the THRDC protection desk documented over 20 different cases on intimidation and threats from journalists. Some of such incidents are narrated and others listed in a table hereunder;

- i) THRDC reallocated a prominent journalist Christopher Kidanka who doubles as a managing editor for a monthly magazine, *Africa Tomorrow*. The THRDC took the measures after an assessment and discovery that the situation at his residence was unfriendly. The Coalition relocated him together with his entire family. Kidanka was frequently intruded at his residence by a group of unknown people, his house keys stolen and occasionally stalked. Kidanka suspected that the situation was due to his work which involved an investigative story that he had planned to accomplish for the publication of the third issue of the *Africa Tomorrow* magazine.
- ii) THRDC received another case from Mr Shaban Ndyamukama a reporter with a Kiswahili daily, *Mwananchi*, a newspaper owned by Mwananchi Communications Ltd (MCL). On 16th June 17, 2014 the latter was beaten by Police officials as he took pictures of law enforcers dispersing an angry mob.

The journalist was annoyed by the excessive force applied and decided to take photographs. The District Commissioner ordered for his arrest while also snatching his camera deleting all the pictures taken. The journalist remained inside the Police’s car under a tight security as the DC addressed the beleaguered relatives. The journalist suffered injuries in several parts of his body including his right leg and anchor, his left hand and the chest.

- iii) On 18th September 2014, journalists Josephat Isango, Shamimu Ausi and a Photojournalist Yusuf Badi suffered injuries while on duty at the police headquarters in Dar es Salaam. The police used excessive force as they barred journalists from covering the summoning of the chairman of the main opposition party at the police headquarters. The latter was there for an interrogation, a move which was perceived negatively by rights activists and journalist associations.



Female journalists flee to safety following an assault by the police force at the High Court Premises in Dar es Salaam on September 2014.

²² www.CPJ.org visited 2014 December

²³ *Ibid.*





The several police brutality incidents to journalists have reached an alarming stage in disrespect of rights of journalists and freedom of information. These kinds of incidences invoked similar memories including the killing of a TV journalist Daudi Mwangosi.

The working environment for members of the press in Tanzania is no better from the rest as it was established by the Coalition in its Needs assessment report 2013 during its tour to the 16 Press Clubs across the country. Findings of this report indicate that journalists in Tanzania face harassments, threats, detention, death, torture, defamation, suspension from their employment, denial of freedom of movement and the ban of news papers. This is, despite the government's repeated statements over its support towards the freedom and access to information. This has affected their work as intermediaries to the public.



Armed police officers attack a journalist Josephat Isango while on duty in Dar es Salaam in 2014.

During the year 2014, THRDC recorded more than 11 incidents of harassment, threats, intimidations, arrests, baseless charges, attacks and threats involving journalists across the country. Recorded incidents are summarized and presented in this sub chapter.



Recorded Security Incidents, threats & attacks to Journalists in 2014.

No	Name	Media/Region	Incidents/Risk Faced
1	Mohamed Hamadi	A freelance Journalist from Manyara Kiteto	On March 2014, a journalist reported to the THRDC focal person to have received threats and intimidations while reporting on the Kiteto Land saga.
2.	Mustapha Kapalata	A freelance Journalist from Tabora	On the 1 st of February 2014 Mustapha received an intimidating message from 0766 087199 saying “wewe unajidai mjanja kwa kuchafua kwenye vyombo vya habari utaona, unaandika taarifa zisizokuwa za kweli tunahakikisha kibarua chako kinaota nyasi na kama unabisha utaona, mwandishi gani wewe taaruma yako huitendei haki mbona mwenzako hakua hivyo,” meaning “So you think you are smart to taint us in the media ha, you are so unprofessional and we will make sure you lose your job.” The intimidations were leveled against him after he had published a news story in Mwananchi newspaper entitled “utekaji wa malori wasababisha maelfu kukwama Nzega”, literally meaning ‘thousands stuck due to car hijack in Nzega.’ Mustapha is of the view that the threats were leveled by police officers
3.	Christopher Maregesi Bunda	A photo journalist	On May 2014, Christopher was beaten and harassed by CCM members as he tried to capture a human rights incident violation. He had been invited to attend a press conference at the CCM offices and while there saw the latter mistreat a member from the opposition party CHADEMA. The latter are reported to have beaten and unlawfully detained Christopher. He had to be admitted for two days to undergo treatment.
4.	Christopher Kidanka	A journalist and an editor for the East Africa Magazine in Dar es Salaam	Reported to the Protection desk, on 24 th of February 2014 that he had been trailed by unknown people. The assailants are reported to have tried to unlock his door while at the same time stealing keys of the barbed wire fence tool at his home. He suspected that the situation was due to his work including an investigative story that he had planned to accomplish for the publication of the third issue of the Africa Tomorrow Magazine.
5.	Musa Mkama	A journalist and an editor with Dira ya Mtanzania from Dar es Salaam	Musa Mkama, an editor of Dira Mtanzania, was attacked by three unknown people who were in a Land Cruiser. The attack according to Mkama was due to a story he had written about the owner of the Lake Oil Company as well as human rights violations committed by the owner of the said company. Previously, threats had been leveled against him over the phone but the latter had taken it lightly. The attackers stole his wallet and a mobile phone.
6	Simoni Kapinga	A journalist working with Info Radio from Mtwara	On 22 nd May 2014, an Info Radio Editor in Mtwara Region was arrested while conducting a radio program at the studio. Simoni was quoted during the program to as telling citizens to use the day to recall what incidents of the 2013 oil and gas saga. He was arrested and was denied bail until THRDC and MTPC came to his aid.



7	Shaabani Ndyamukama	A free lancer Journalist with Mwananchi Newspaper, from Kagera	On June 2014, Shaabani was arrested and beaten by Police officers in Kagera following an attempt to investigate the death of a girl who had died in Arusha due to gender based violence and allegedly torture by her employer. Police officers are reported to have deleted all pictures from his camera.
8.	Typhone Mweji	A photojournalist for the Guardian in Dar es Salaam	A photographer for the Guardian was arrested on 22 nd July 2014 at Mbezi kwa Msuguli while probing on the demolition exercise for a brick making factory through an order issued by Amos Makala, a minister in charge of the water sector. Owners of the said factories were reported to have connected water services illegally. Police arrested the said journalist on account that the said operation was not to be reported in the media.
9	Josephat Isango, Shamimu Ausi Yusuf Badi	Josephat Isango, Shamimu Ausi and Photojournalist Yusuf Badi were Injured while on duty at the police headquarters.	On 18 th September 2014, police used excessive force against journalists who had gone to the police headquarters with the intention to seek information as to why the chairperson of the main opposition wing Freeman Mbowe had been called for interrogation. The three were beaten forcing them to flee to safety.
10	Abdallah Nsabi	A freelance Journalist from Simiyu	On 23 rd September 2014, Police arrested Abdallah a journalist for allegedly reporting on CHADEMA's peacefully demonstration.
11	Nicholus Ngaiza Mathias Byabato	Nicholus Ngaiza (Kasibante Fm Radio) and Mathias Byabato (Chanel ten) were arrested by police officer at Bukoba and interrogated	On 7 th 2014, Police detained the two journalists on allegation that they reported on CHADEMA protests aimed at opposing the whole Constitution making process. Police alleged that published pictures and stories were a mere fabrication while as it was true that some people had protested on the other side of the region.

3.6 Security Challenges Facing SOGI HRDs

The Coalition observed that, SOGI defenders²⁴ in Tanzania are also at a greater risk due to the controversial role they play in the society.

Some SOGI rights defenders have fueled mistreatment given the fact that gays are not expected to be seen behaving in certain ways as it is considered immoral by the majority in a conservative society like Tanzania.

Security gaps, challenges and resulting needs identified in 2014 report from SOGI HRDs were:

- Limitations in the management of information, i.e. sensitive information stored physically is easy to access areas, low level of IT security to protect access to computers, email, sensitive information,
- Limited consideration given to security and protection during field work outreach,
- Absence of regular and comprehensive evaluation of security incidents as indicators of risks,

²⁴ For the purpose of this report Defenders of SOGI refers to defenders of sexual minority groups and Gender Identity such as msm, bisexual and transgender.



- 
- Limited capacity and practice of assessing working environment, stakeholders and potential risks associated with their work to develop and implement relevant security measures,
 - Minimal understanding of how to react to threats and risks associated with their work,
 - Minimal understanding of how to defend the rights of their members in the legally and socially challenging environment.

During the year 2014, the THRDC has seen SOGI defenders; especially CSOs face challenges and intimidation. For instance on 28th February 28, 2014, an Organization (NGO) working on Health issues in Tanzania known as Tanzania Sisi kwa Sisi (TSSF) received a default note, from the Permanent Secretary for the Ministry of Community Development Gender and Children (MoCDGC) showing the intention to deregister it due to working on SOGI issues. On 4th April 2014 the same organization received a formal letter to deregister it.

The 2013 needs assessment indicates that the key population complained not only of abusive language against them from community members, but also hardships with land lords and house hunting problems where they were denied access to rent and as a result lived a nomadic kind of life.

The government does not legally allow such kind of sexual relationship. However, it is evident that the government through the Tanzania Commission for HIV/Aids (TACAIDS) supports some of their health initiatives aimed at avoiding new HIV infections.

Generally the year 2014 saw SOGI HRDs in Tanzania fail to highly involve in defending other human rights apart from SOGI rights. They have as well not been interacting with other NGOs hence end up facing a number of challenges. For further information on the current situation facing sexual minority population in Tanzania please read a comprehensive report by Human Rights Watch of 2013.²⁵

²⁵ Human Rights Watch (2013) "Treat us Like Human Beings" "Discrimination against Sex Workers, Sexual and Gender Minorities and People who use Drugs in Tanzania at <http://www.hrw.org> .



Chapter FOUR

4.0 Level of Security Management and Protection Measures

Human rights defenders are engaged in a wide variety of activities, hold very different types of jobs, and come from very different backgrounds. Their work attracts numerous risks. Some of them are aware of the risks facing defenders because of recurring incidences of abduction and torture. Efforts to mitigate the risks still persist comprehensively as a challenge.

This challenge requires human rights defenders to implement a comprehensive and dynamic security strategy in their day to day work. Thus, better Security management is vital as it includes how people, properties and activities can be protected. However this involves planning, focusing and coordinating security issues.

Security management for HRDs is generally identification and organization of capacities available, vulnerabilities and threat for the purpose of preventing and mitigating risks.

It can be broadly defined as knowing enough properly about working environment, understanding the local politics, reflections on basic concepts like risk, vulnerability and threat, risk assessment and planning.

Protection and promotion of the rights of HRDs is a new concept in Tanzania. The Coalition surveyed the level of security management among HRDs and discovered that HRDs in Tanzania lack strategies and plan to protect individuals and groups against violations.

The Coalition conducted a security needs assessment to ascertain the level of HRDs security management in Tanzania by looking at the following;

- | | |
|-------|--|
| (i) | Security policies and plans; |
| (ii) | Provision of security management trainings; |
| (iii) | Staff security awareness compliance and inclusion of security measures in programs; |
| (iv) | Available resources for security, protection and Office security. |

The Coalition insists on provision of security management training to create a more secured working environment for HRDs and ensure they are good in security management. Security management trainings are designed to cover matters on how to analyze working environment, risk assessment, threat analysis, reaction to security incidents, digital security, and to produce organizational security plans. Generally, security training provides general knowledge and tools to understand and improve HRDs security and protection.

4.1 Office Security

Office Security is a crucial part of security management measures. Capacity of office in terms of security management depends much on the following: office location, availability of security gears such as CCCTV, office set up including work order of external gates / fences, doors to the building, windows, walls and roof, metal detector, security guards, visitor admission procedures, information security, etc.

The Coalition findings indicate that almost all Human Rights Organizations (HRONGs) have poor office security facilities as it was in 2013. During the 2013 Needs Assessment, the Coalition visited some HRDs offices and found others to be located far away from populated areas surrounded by bushes and trees. The findings of focal persons collected from each zone last year have revealed the same position. Focal persons visited all offices in their respective zones and validated the position of the Needs Assessment for 2013 that all offices are still situated in the same areas.



Based from the findings of the Needs Assessment of 2013, about 95% of all visited and assessed offices are at risk because they lack key items in the checklist for office security. Up to the end of 2014 there has been no substantive change as far as the improvement of office security is concerned. The majority of them lack security gears such as CCTV and security alarm, security guards, metal detector, lack reception procedures for visitors to the office, lack of fire alarms, fire extinguishers and first aid kit. They still lack emergency exit while others are located in vulnerable physical location.²⁶

The table below indicates that only four out of the 200 visited offices had security gears such as security alarm and CCTV. On presence of security guards in HRNGOs, only 31 offices had professional ones available for 24 hours while as 29 offices (14.5%) had only security guards who work only at night with 130 offices (65%) having none.

	Poor	Fragile	Basic	Advanced	Professional	Total
Security Fund	190	7	3	0	0	200
	95.0%	3.5%	1.5%	0.0%	0.0%	100.0%
Security gears such as CCTV	196	3	1	0	0	200
	98.0%	1.5%	0.5%	0.0%	0.0%	100.0%
Security Guards	130	18	29	17	6	200
	65.0%	9.0%	14.5%	8.5%	3.0%	100.0%

Source: THRD 2013 Security Needs Assessment Report ²⁷

Insufficient resource is one of the factors that contribute to lack of security guards and security gears. During the survey, interviewed HRDs pointed out that buying security gears such as CCTV cameras or hiring security guards require a lot of money, which majority of HRNGOs don't have. Responding to the question on the status of security funds, almost 190 (95%) of all HRDs interviewed pointed to have had insufficient funds raised or allocated for security management.

It is the concern of the Coalition that insufficient resources located for security and protection measures, increases the vulnerability of HRDs in their offices. Only well established international HRNGOs based in Tanzania have funds set aside for security and protection measures. Such HRNGOs include OXFAM Pastoralist Program Office (a British Organization based in Arusha) and Under the Same Sun.

The THRD-Coalition advises HRNGOs and their financial supporters to budget and allocate funds for security and protection measures. Allocating money for security ensures sound implementation of security plans, implementation of specific actions such as installation of security cameras and security protocols.

By the exemplary of THRD's office other HRNGOs should strive to do even better. The THRD office is well furnished with security gears such as security alarms, wireless security and electricity fence all offered by one of the reputable private Security Companies in Tanzania.

4.2 Security Policy

A security policy is a comprehensive description of an organizational mandate in relation to insecurity, organizational security principles, security management and protection by defining the main security responsibility/authority division within an organization. The main advantage of a security policy or plan is to reduce the risks faced by HRDs. A security policy has three objectives, based on risk assessment. These include reducing the level of threat, reducing your vulnerabilities and enhancing the people's capacity.²⁸

²⁶ *Ibid.*

²⁷ THRD (2013) *Protection and Security Needs for Human Rights Defenders in Tanzania-Needs Assessment Report.*

²⁸ *Frontline Defenders (2005) Protection Manual for Human Rights Defenders at page 55.*





A security policy identifies general rules and guidelines to be adhered to across the organization in order to maintain security while security plans provide detailed instruction on how rules can effectively be implemented. The Coalition assessed whether HRNGOs have well identified rules and guidelines for staff members to maintain security in 2013.

The situation encountered by THRDC in 2014 is the more likely to be the same with the situation in 2013. For instance, the 2013 Needs Assessment indicated that only four NGOs had security policies at the basic level: such Organizations were Action Aid Zanzibar, Care International Mwanza, OXFAM –Arusha and DONET in Dodoma. The observation by the Coalition indicates that almost all HRNGOs with international status have security policies and plans for the security of their staff and properties. Knowledge on security management and sufficient resources were among reasons given as to why only international HRNGOs have security policies and plans.

THRDC has, unlikely before improved its security management ever since it began its operation as a HRNGOs. The Coalition has sensitized HRNGOs and three organizations had security policy in place as of end of year 2014. Such Organizations are WLAC, TGNP and ENVIROCARE. During the drafting of their policies THRDC was consulted and provided its expertise in the policy making process. Further the Coalition advises and encourages its members to come up with their own security policies and plans to form part of security management strategies.

4.3 Awareness and Compliance of Staff Security

Majority of HRDs in Tanzania lack security knowledge whereby one of the major challenges to most HRDs is the art of taking everything for granted with no priorities on security issues. THRDC observations and desk review indicated that inadequate security knowledge is another reason for low security compliance. Security in most offices is not an issue to every staff and is considered only in the event of serious incidents. Most security incidents go unreported and the existing state of affairs in the year 2014 indicate that most HRNGOs do not have security briefing sessions. The vice is due to lack of knowledge and seriousness with security tips. The majority of HRDs ignore to register, analyze, and share and to promptly react after security incidents which may put HRDs at risk.

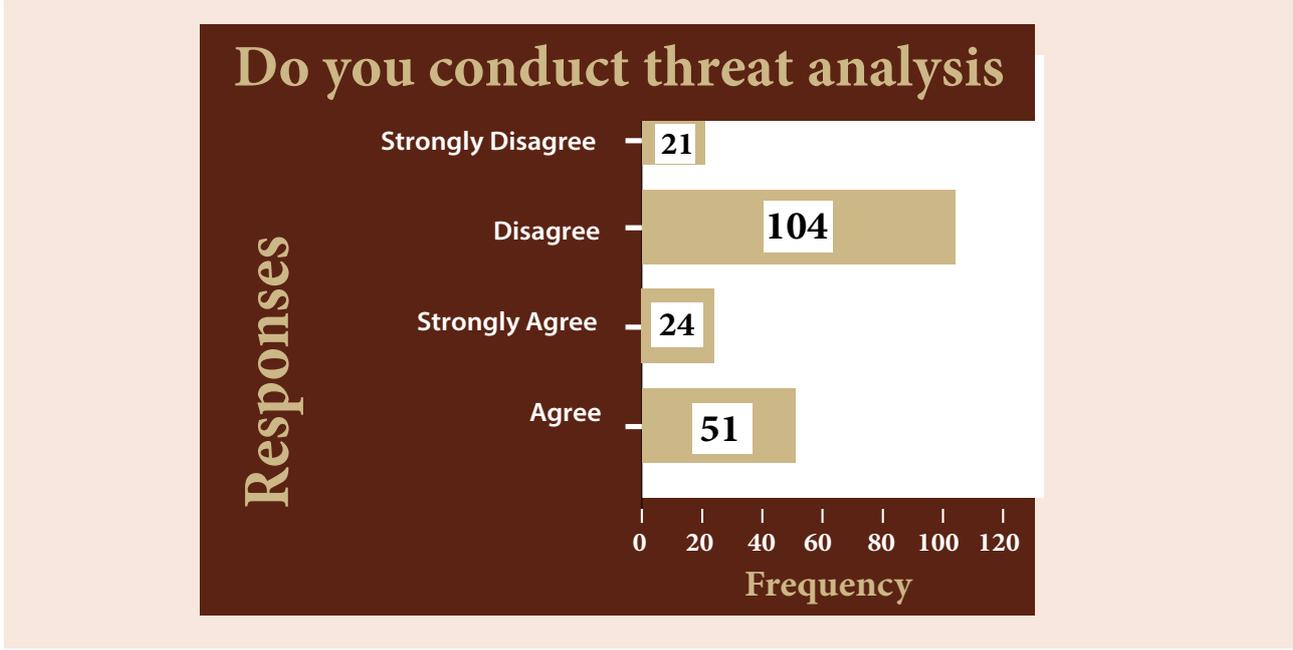
General observations indicate that the majority of HRDs embark on human rights campaigns and carry out human rights interventions without bringing on board security strategies in their plans. Failure to include such strategies is directly linked with the lack of awareness and training on security.

4.4 Security Management Training

The THRDC uses preventive measures such as security management training to create a more secure working environment for HRDs. Security management training sessions are designed to cover matters on how to analyze working environment, risk assessment, threat analysis, reaction to security incidents, digital security and how to make organizational security plans. Generally, security training provides general knowledge and tools to enhance understanding and improvement in HRDs security and protection. Statistics from our data base indicate that 400 individual HRDs in human rights organizations and the media have attended security management training offered by the THRDC and its regional partners since 2010. The number is still low compared to the actual number of HRDs in Tanzania. The number of active individual HRDs in the country projected by the Coalition may be around 2000 HRDs from all thematic areas in eight zones.

The THRDC requests its members and other HRNGOs in the country to share the security knowledge with its staff in order to ensure that the knowledge obtained from the Coalition is shared to a larger extent. The findings collected by THRDC through training assessment forms identified that HRDs prioritize on security management training.





Source: *THRDC Security Needs Assessment Report*

All HRDs should include security strategies when carrying out human rights campaigns and interventions. Failure to include such strategies in their work can be directly linked to insufficient knowledge on how to practically implement security practices. It is therefore a role of the THRDC and its members to ensure HRDs have sufficient knowledge on security management. The Coalition will guide HRDs to include security measures in their programs.





Chapter FIVE

THE CIVIL SOCIETY SPACE IN TANZANIA

5.0 Overview of the Chapter

The chapter will expose the reader to the situation of CSOs in Tanzania for the year 2014. CSOs drive an important role in any state as far as development is concerned and promotion of human rights generally.

Civil society is at the center of human rights. NGOs frontline issues on the agenda, provide vital information about human rights on the ground, and give a voice and face to human rights in national human rights enforcement mechanism and international bodies including treaty bodies, Human Rights Council, UPR etc.²⁹ NGOs assist to implement and monitor the implementation of the UPR accepted recommendations, decisions and resolutions of the Council, international human rights bodies at the national level. NGOs are thereby often bridging the gap between the state role and needs of the citizens, by helping to translate the responsibility of the state, by triggering change, and by reminding the state to strive for accountability.

For instance, without the pressure of civil society in Tanzania many scandals wouldn't have been unveiled. For instance the Tegeta Escrow saga would be veiled and the European Parliament wouldn't have heard and passed robust resolution on Tanzania. So is the case with the issue of land grabbing in Loliondo (2015/2604(RSP).

Having seen how important CSOs are then, this chapter will further shed light on the general process of registration of NGOs in Tanzania and definitely articulate judiciary actions which limit the space of CSOs. It will further highlight administrative actions which in return, limit the work of Civil Society space in Tanzania. Lack of solidarity and coordination among CSOs contribute to the limitation of CSOs position.

5.1 Introduction

Human Rights Non-governmental Organizations (HRNGOs) in Tanzania operate in a very challenging and risky environment hence face serious threats. In the year 2014 HRDs and HRNGOs have continuously been judicially and administratively suppressed, banned and even at times deregistered. However the government has tried to justify and legitimize the restrictions behind the shield of good governance, accountability and transparency.

Regrettably, the work, space of NGOs and human rights defenders is often marked by major risks. The Special Rapporteur on Human Rights Defenders, a special procedure mandate established in 2000, has shared with the general public on thousands of cases. The current mandate holder, Michael Forst, has rightly underlined that many human rights defenders face smear campaigns, intimidation, stigmatization, threats to their families, defamation, accusations, ridicule or red tape, and in some cases disappearances and even deaths, for and because of their cooperation with the United Nations.³⁰

In 2014, the Coalition's Protection desk received and documented about 10 CSOs claims of being suppressed or rather banned by state actors. All claims received were assessed and technical support was provided where necessary. Such treatments to CSOs are unacceptable. Cases received on mistreatment of CSOs do not only contradict the principles of human rights but pose direct effects to the functioning spirit.

²⁹ *Importance and impact of NGOs at the Human Rights Council delivered on 12.03.2015 by Mr Joachim Rucker, President of the Human Rights Council, available at <http://www.ishr.ch/news/importance-and-impact-ngos-human-rights-council#sthash.t9gLXSqz.dpuf>*

³⁰ *Importance and impact of NGOs at the Human Rights Council delivered on 12.03.2015 by Mr Joachim Rucker, President of the Human Rights Council, available at <http://www.ishr.ch/news/importance-and-impact-ngos-human-rights-council#sthash.t9gLXSqz.dpuf>*



There are problems associated with CSOs themselves which multiply the limitation of CSOs situation. Such problems include lack of cooperation and solidarity among CSOs. Sometimes CSOs fail to come together for common issues when holding the government accountable etc. There is a need for joint efforts during the implementation of their strategic plans despite every organization having its own.

5.2 Legal Constraints

The registration, operation and monitoring of NGOs in Tanzania are regulated by the Non-Governmental Organization Act, of 2002 as amended by Act 11/2005. The Act was preceded by the NGO policy in 2001 that aimed at providing a clear justification that the government encourages partnership with private sector to complement its efforts.³¹ It is a fair comment to say that the new Act is merely a state attempt to control NGOs, especially the coordination body that was set up to control the registration of NGOs. It is very challenging and makes the procedure so cumbersome that the objectives of any Organization which needs to be registered as an NGO should match with the ones provided in the Act. If the objectives of the NGO fall in the ambit of the government state organ then the Registrar of NGOs will not register your Organization until a permit is provided by the Minister in charge. The registration of NGOs is not full independently from political pressure and political leader's control. Registration, on the other hand, is expensive and time consuming. It can take a year to get a small CSO registered.

Another issue with the NGO Act is that it does not cover other CSOs such as trade unions, religious organizations or community based organizations. The largest portion of Tanzanian CSOs is still regulated under the Societies Ordinance, which the country has inherited from the colonial era.

The Societies Ordinance has been heavily criticized and challenged for not allowing the freedom of association and assembly guaranteed by Tanzania's Constitution, because it gives much authoritarian power to the registrar. The Registrar of Societies has a broad mandate to decide whether to register or de-register any association under the ordinance.

The entire registration process for an NGO is very bureaucratic and cumbersome due to multiplicity of laws and authorities that register Civil Society Organization in Tanzania.³² Practically the office devoted to register NGOs is overly concerned with procedures at the expense logical reasoning and efficiency.

5.3 Judicial Suppression to CSOs

The terms can be used to describe the decisions or orders made by the court of law against the CSOs which approach the Court to determine a matter of a public interest but ending up with court order. The courts of law in Tanzania have emerged with a jurisprudence of awarding costs in public interest litigation against the adverse party. Such Orders and precedents have the effect of muzzling the work of human rights defenders.

Human rights defenders Organizations deserve judicial protection and not judicial harassment. HRDs and HRNGOs have legal rights to be protected by laws and the judiciary when reacting or challenging human rights violation or any act that may significantly damage the community.

Court Cost Order to LHRC

The Court Ordered LHRC to pay 2.8 Billion as Costs incurred by the Respondents (In Misc. Commercial Cause No. 8 of 2011) where LHRC and others challenged the Registration of the ICC Tribunal's Decision Awarding Dowans Holdings SA (Costa Rica) and Dowans Tanzania Ltd.

³¹ https://www.bot-tz.org/MFI/Library/NGO_Policy_2002_English.pdf visited on the 24th January 2015

³² http://tanzaniaembassy-us.org/wp-content/uploads/2012/06/NGO_Roundtable_Presentation_Registrar_of_NGOs_May2012.pdf visited on the 24th January 2015





LHRC and others decided to intervene in this matter in order to protect the interests of Tanzanians. This public interest case was filed because the background of the matter is tainted with a lot of dubious actions at the detriment of the public. According to the parliamentary special committee report Richmond was a dubious company and thus caused the agreement with TANESCO to be null and void hence the petitioners were challenging the awarded sum.

The petitioners lost the case at the preliminary level and finally the case was struck out with cost. After *ex-parte* decision of the Taxing Master, the LHRC was served with a notice from Mr. Kennedy Fungamtama's³³ law firm in 14th /March/ 2014, asking it to pay Tshs. 2,823,455,040 to his firm, the same being costs incurred by the 1st and 2nd Respondents.

Considering the tremendous efforts by LHRC in advocating for the rule of law and adherence to human rights in the country, but bearing in mind that all activities geared towards achieving the foregoing are donor funded, one would agree that the Tshs. 2,823,455,040.00 bill of cost, if left to stand, will indeed paralyze LHRC in its advocacy. If so, it goes without saying that the Tanzanian citizenry will in one way or another lose a key player in the arena of advocacy for rule of law and human rights promotion and protection.

The problem to award costs in public interest litigation has to a larger part been contributed by the non-existence of policies and laws. To set aside the order, to reverse the precedent and champion for the public interest litigation policy is the proposed solution which THRDC and its members must have a strategized focus.

5.4 Administrative Suppression to CSOs

During the year 2014, THRDC has recorded administrative threats and intimidation to CSOs in Tanzania. THRDC documentation indicates that HRNGOs and HRDs have never been free from tough administrative measures that affect their freedom of operation. It has been noted that some of the local government officials use their administrative power to infringe the rights of HRNGOs and HRDs.

5.4.1 Sisi Kwa Sisi

On the 28th February 2014, an Organization working on SOGI issues in Tanzania Sisi Kwa Sisi (TSSF) received a default Notice from the Permanent Secretary of the Ministry of Community Development Gender and Children (MoCDGC) articulating the intention to deregister it.

The Organization was alleged working on Lesbians Gays Bisexual Transgender and Intersexual (LGBTI), an issue which is contrary to the laws, policies, culture and practice of Tanzania. Subsequently on 4th April 2014 the same Organization was officially notified on its deregistration based on the aforementioned reason. Most of the staff members who used to work for the organization have been receiving intimidations from various sources because of their exposure by the media.

5.4.2 Banning of Civic Education Awareness Campaign

As we move towards 2015 polls and during the ongoing constitution making process, threats to HRNGOs, Media and HRDs continue to mount. For instance, on 4th August, 2014, Dodoma Regional Commissioner suspended all CSOs, Citizen Activities and open meetings on the current constitutional making process. The **Regional Commissioner** justified her administrative decision on the bases that these activities and meetings will paralyze the ongoing Constituent Assembly activities in Dodoma. On August 5th, 2014, the Chairman of the Constituent Assembly, **Hon. Samuel Sitta** issued some verbal attacks against media outlets which air live constitution dialogues.

Just last August 2014, LHRC received a letter of suspension for its Big Bang campaign in Kilimanjaro. The ban was in a form of a letter written by the Regional Commissioner (RC) Leonidas T. Gama and copied to the

³³ Mr. Kennedy Fungamtama is an advocate of the High Court of Tanzania. He is the one who offered legal representation to DOWANS in defending Misc. Commercial Cause No. 4 of 2010





Regional Police commander, and all district commissioners of Kilimanjaro region. The RC suspended the LHRC meetings on the ground that it is not the right time for LHRC to conduct this type of campaigns saying the latter ought to wait until the Constituent Assembly completes its work. The Big Bang Campaign aimed at educating and raising awareness to the public on the Second Constitution Draft by the Commission for Constitutional Review.

5.4.3 SIKIKA in Dodoma

On July 2014 a Famous NGO in Tanzania SIKIKA was suspended from conducting its advocacy activities in Kondoa District. SIKIKA is a health advocacy local NGO registered in Tanzania with national wide mandate in health governance.

The indefinite ban for SIKIKA's operations in Kondoa was discussed by the Kondoa District Council and finally endorsed by the Kondoa District Executive Director. This inconsiderate and impartial administrative decision was concluded by the Council at the middle of SIKIKA's operation on Social Accountability Monitoring (SAM) programs in Kondoa. SAM is a social accountability project that insists on transparency, accountability and good governance in Health care Governance and Financing, Human Resources for Health, Medicines and Supplies as well as HIV & AIDS.

In addressing the issue of legality of the decision, the Coalition found that Kondoa District Council had no legal powers to deliver such decision to SIKIKA. The NGOs Act No. 24 of 2002 (Cap 56) under section 7(e) has vested the mandate to direct suspend or cancellation of any NGO operations to the Non-Governmental Organizations Coordination Board. In that regard, the Kondoa District Council has assumed the power which lawfully did not have. The Council being the offended part had to channel their grievances to the National NGOs Councils Ethics Committee established under the Non-Governmental Code of Conduct. These Ethics Committee have their offices in every District.

5.4.4 Loliondo Land Grabbing

Loliondo and many other parts of the country with pastoralists' occupation such as Kiteto, Hanang, Kilosa, Morogoro, Mbeya, Mara and Rukwa have not been safe place for Pastoralists Human Rights Defenders (PRDs) and journalists working on pastoralists right due to among other things the presence of investors.

Almost every NGO operating in Ngorongoro area has tested some level of police harassment and other forms of intimidations. All 17 active operating NGOs in Loliondo and their leaders have been frequently condemned and threatened with some arrested by the government officials for allegations of inciting land conflict in Ngorongoro.

The threatened NGOs include; Ngorongoro NGOs Network(NGONET), coordinated by Samweli Nangiria, UJAMAA Community Resources Trust(U-CRT) coordinated by Makko Kondei, PWC Coordinated by Maanda Ngoitiko, ACORD coordinated by Lokola Ndibalema, PALISEP coordinated by Robert Kamakia, LASHEHABINGO coordinated by Charles ole Ndongoya.

Other NGOs which have been under fire for inciting land conflicts in Loliondo include RAMAT coordinated by Yanic Ndoinyo, TPCF coordinated by Joseph Parsambei and Ngorongoro positive Support coordinated by Alfred Mabula.

It is an undisputable fact that vocal HRNGOs which reveal violations of human rights in Loliondo are highly persecuted, intimidated, threatened. It has reached a point where they are accused of being aliens.

The background of the 2014 Loliondo scandal dates back to when Pastoralist HRNGOs in Loliondo found that the local government had decided to turn a deaf ear towards Hon. Prime Minister Mizengo Pinda's order that residents of Loliondo should reside and practice their traditional animal husbandry in the area. The Ministry of Tourism and Natural Resources came up with new initiatives to acquire the same land from villagers. The Prime minister nullified the eviction on the 23th of September 2013 to protect the more than eight thousand Tanzanians who reside in at least eight villages surrounding the Loliondo forest reserve.



5.5 CSOs Internal Challenges

- These constraints mainly relate to problems with poor networking and cooperation, disunity in criticizing the government and policy formulation, geographical coverage, ownership, funding, lack of capacity building programs and trained personnel.
- It is an undeniable fact that the degree of networking among CSOs is considerably improving, compared to the past years. However there are several setbacks which hinder the degree of networking including but not limited to competing over foreign fund. Better networking and cooperation would diminish overlapping activities and ensure that CSOs programmes are well located in the larger contexts, both physically and conceptually.
- Thematically, there are good examples of bigger CSO networks, such as Tanzania Gender Networking Programme (TGNP), Farmers' Groups Network in Tanzania (MVIWATA), Tanzania Education Network (TENMET), and Tanzania Human Rights Defenders Coalition (THRDC).
- Most CSOs' have effectively and efficiently played a government watchdog role although some have failed to become objective. This has been observed during the period of the ongoing constitution reform whereby CSOs have proved to have had no common stand resulting to creating a room for the government to utilize the gap knowingly or unknowingly for their benefit.
- An urgent strategy for addressing the above challenges needs to be developed and implemented. There is a need for a better and up-to-date Strategic Plan to resolve the above mentioned challenges at the organization level through their action plans. The Coalition as an umbrella body will coordinate the strategy to address problems associated with CSOs for the betterment of the public.





Chapter SIX

5.1 Conclusion

Given the similarity of horrid occurrences one can conclude that all HRDs should consider themselves at risk because in many cases their activities are directly interrelated to reducing powers of the mighty to improve governance. It is in records that in most African countries, Tanzania inclusive, ignorance is used as a weapon of manipulation to negatively portray HRNGOs dealing with governance issues.

In most cases they are branded as agents of foreign interests, or instigators of conflicts and civil strife. Some of these mudslinging labeling do catch some segments of the general population who perceive HRDs as enemies of the people. HRDs face a diverse of challenges depending on one's geographical location. In cosmopolitan cities with a high population of sympathizers to the opposition as is in Dar es Salaam, Arusha, Mwanza and Mbeya, the ruling clique do not attribute this developments to their weaknesses, but rather to a perception that NGOs work hard to influence the voting behaviors.

There are several causes of conflicts between HRDs and state actors; such as unjustifiable demolitions of residents of some people to pave way for investors. In such circumstance rarely do perpetrators of human rights violations receive well HRDs like employees of HRNGOs or journalists. With the current trend of unpredictable attacks to HRDs in Tanzania, no one can foresee the predicament of a HRDs today, tomorrow or next week, and this is for their spouses as well as their close relatives and even friends.

This tells that security consciousness and protection are a matter of necessity to the HRDs and their families. It should be noted that any person who advocates for rights of the downtrodden in some cases like land rights, automatically becomes a HRD. Those championing for their colleagues' rights as was the case with Dr. Stephen Ulimboka automatically fall in this category. Therefore the issue here is not whether to work for those who have identified themselves as HRDs but rather those who are yet to be identified so, yet their activities are human rights related.

In the year 2014 THRDC planned to include whistle blowers in its area of operation, create more interactions with government functionaries and convene more sessions with police officers, members of parliament, district and regional commissioners. This has to a greater extent been achieved and plans are underway to do even much more on the same in order to ensure awareness and legal recognition of HRDs in the country is made possible.

5.2 Way forward

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

- Engage more lawyers who will be readily available to provide legal aid and protection to HRDs.
- Increase protection and emergency funds in order to avoid delays in the provision of services to afflicted HRDs.
- Conduct thorough media campaigns and change of behavior trainings in areas where HRDs are threatened due to some social cultural issues.
- Utilize the current country's major legal reform to fight for inclusion of HRDs rights and protection in the coming Constitution.

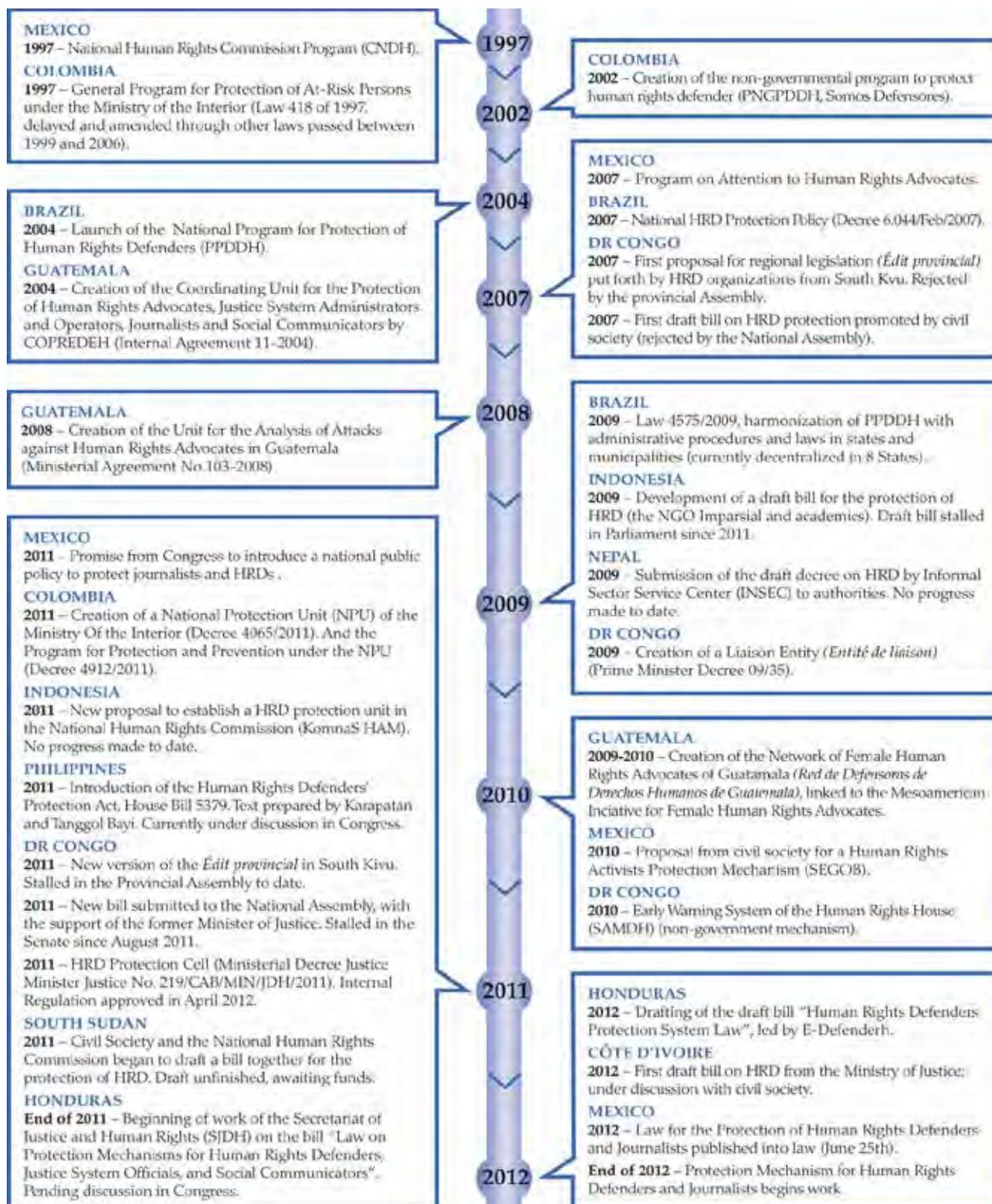


5.3 Recommendations:

- HRDs need to work honestly and ethically because it has been realized that at times they become subjects of targets due to their unethical conducts.
- The government should be more transparent in its operations because it has always been a source of commotion between CSOs and the central establishment whenever there are discovery of leakage of “secrets” which to large extent are of public interest.
- Media stakeholders should utilize the ongoing Constitution Review Process to ensure draconian media pieces are scraped away from the country books.
- For safety and security of journalists, good professional and financial status is vital. Journalists who work professionally and are financially well facilitated face less risk than those who work unprofessionally and without ample resources. We therefore, advice media owners to consider this reality and get a solution to it.



Annexure One: The List Of Countries With Legal Protection Of HRDs



Annex Two- The List of Oppressive Laws & Proposed Bills

No	Thematic Areas Affected	Laws	How
1.	Women HRDs	1. Marriage Act of 1971	<p>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.</p>
		2. Inheritance Laws such as the Probate and Administration of Estates Act, Cap 445 [R.E 2002]	
		3. Religious laws	
		4. Customary laws including inheritance laws	
2.	Journalists	5. The Newspaper Act of 1976 Cap. 229, R.E. 2002 Section 25.-(1) of the Newspaper Act of 1976 Cap. 229, R.E. 2002: "Where the Minister is of the opinion that it is in the public interest or in the interest of peace and good order so to do, he may, by order in the Gazette, direct that the newspaper named in the order shall cease publication as from the date (hereinafter referred to as "the effective date") specified in the order.	<p>The law allows the minister to ban a newspaper at his/own discretion. This law violates the rule of natural justice such as the right to be heard and the right to appeal. For instance, a ban on Mwanahalisi was disclosed to Saed Kubenea the managing editor of Mwanahalisi without even giving him the right to defend himself. The indefinite ban of Mwananchi and Mtanzania is vivid evidence that the press freedom in Tanzania can be violated at any given time, when few individuals at the government feel displeased by some released information. Press terror is possible because the law permits the Minister responsible for information to act as an 'Editor in Chief' and at the same time act as the complainant, prosecutor and the judge.</p> <p>Section 22 of this law also permits any police officer "to seize any newspaper, wherever found, which has been printed or published, or which he reasonably suspects to have been printed or published" in violation of the Law</p>
		6. Prison Act, 1967, Cap 58 [R.E 2002]	<p>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.</p>

	7. 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 in Songea 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.⁹</p>
	8. 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
	9. The National Defense Act, Cap 192 [R.E 2002]	<p>This law prohibits journalists or any HRDs to publish any information relating to the National Defense 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.</p> <p>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 defense forces without higher authorities.</p>
	10. 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.
	11. 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
	12. 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.



		13. 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. ¹⁰
		14. Registration of News Agents, 15. 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.
		16. 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.
3.	Pastoralist and farmers HRDs	17. The Wildlife Conservation Act of 2009 (Cap 5 of 2009) 18. Land Laws The Land Act, 1999 (Act No.4 of 1999) 19. The Investment Act, 1997 (Act No. 26 of 1997) 20. The Forest Act, 2002 (Act No. 14 of 2002) 21. The National Park Act, Cap 282 [R.E 2002] 22. The Ngorongoro Conservation Act, 1959 Cap 284 [R.E 2002] 23. The Mining Act, 2010 (Act No. 14 of 2010) 24. District by laws	<p>These laws have been used by state agents to challenge the rights of people living in areas with abundant resources to enjoy the rights to use natural resources. These laws overlap and are in contradictory to each other. Thus, HRDs operating in areas regulated by these laws face difficulties in championing the rights of the mentioned groups.</p> <p>The land conflict in Loliondo Game Controlled Area under the Wildlife Act can be cited as an example. HRDs in Loliondo use Land laws to defend the rights of pastoralists while the government uses the Wildlife laws to defend the interest of an Arab hunting company in Loliondo.</p> <p>Overlapping of laws in areas with resources was observed as one of the major legal impediments to the work of HRDs in those areas.</p>
4.	Minority HRDs	25. Penal Code	<p>The provisions of penal code relating to homosexuality are wrongly used by service providers to deny key population the right to access social services such as the right to health.</p> <p>Homosexuality is treated as an act which constitutes a criminal offence. Nevertheless, Tanzanians falling under this group should not be isolated or denied other basic rights accorded to other citizens.</p>



5.	Whistle blowers/ Social Accountability HRDs	26. PCCB Act Article 54	The Act protects those who uncover corruption. However, the situation on ground is different, because it is not practical. Whistle- blowers often face negative consequences. ¹¹ The THRD-Coalition recommends that protection of whistle blowers should not be taken lightly in the new Constitution owing to their importance.
6.	NGOs and Civil Society	27. NGOs Act	<p>The law contains penal provisions for even minor breaches of the Act (e.g. use of an inappropriate registration form is punishable by imprisonment). More disturbingly, the Act places the burden of proof in a criminal trial against office bearers of an NGO not on the prosecution, but on the accused.</p> <p>The law established a National Council of NGOs as the sole umbrella group for NGOs, compelling all NGOs to belong to the Council, and prohibiting any person or organizations from performing “anything which the Council is empowered or required to do” under the Act. Thus, no other NGO umbrella group can operate lawfully.</p>
		28. Police Force and Auxiliary Services Act, 1939 Cap. 322, R.E. 2002	This law is wrongly interpreted and used by state officials such as police officers, regional and district commissioners to curtail the right of HRDs to protest.
		29. Basic Rights and Duties Enforcement Act No. 33 of 1994.	Section 10 requires a panel of three judges to preside and determine every petition for enforcement of basic rights under the Constitution. The requirement inhibits HRDs accessibility to courts of law.
		30. The Statistics Bill of 2013	<p>This Bill is another catastrophic piece recently enacted against freedom of expression and access to information. It is a salt that was about to be added on an open wound. It is strongly believed that the Bill was not availed to stakeholders because it was against the freedom to information.</p> <p>It establishes the National Statistics Office and Statistics Regulatory Board, putting in place restrictions on coordination of National Statistics System and vesting titanic powers to the National Statistics Office among other restrictions</p> <p>Generally, this Act has come to quench or put off all research or investigation activities conducted by private institutions, Universities and the media. For example all research studies done by Universities, Research Institutions such as REPOA, ESRF, REDET, NIMR; Non-Governmental Organizations such as LHRC, TWaweza, HAKIELIMU, SIKIKA, HAKIARDHI, TGNP Mtandao and many others will have to undergo regulation by the Statistics Office.</p>



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