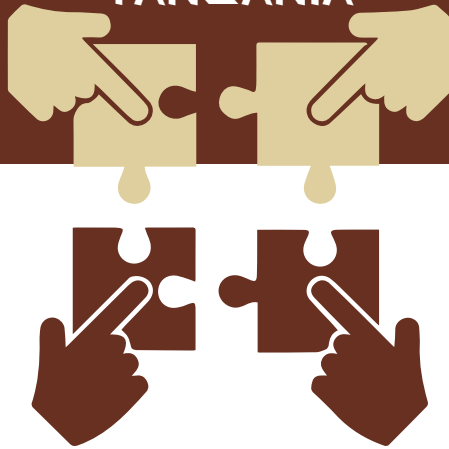




**KANUNI ZA UTENDAJI WA
WATETEZI WA HAKI ZA
BINADAMU WAKATI WA
UCHAGUZI NA MICHAKATO YA
KIDEMOKRASIA NCHINI
TANZANIA**



(Zimetungwa chini ya Ibara ya 6
na 37 ya Katiba ya Mtandao na
aya ya 7.1 ya Sera ya Wanachama
wa Mtandao)

OKTOBA 2019

MHARIRI

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WAANDISHI

👉 Wakili Joyce Eliezer
👉 Wakili Leopold Masha
👉 Wakili Deogratias Bwire
👉 Paul Kisabo

MSANIFU

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VIFUPISHO

AZAKI	Asasi Za Kiraia
HRC	Kamati ya Haki za Binadamu
HRDs	Wtetezi wa Haki za Binadamu
ICCPR	Mkataba wa Kimataifa wa Haki za Kiraia na Kisiasa
NEC	Tume ya Taifa ya Uchaguzi
NGOs	Mashirika Yasiyo ya Kiserikali
OHCHR	Ofisi ya Kamishna Mkuu wa Haki za Binadamu
THRDC	Mtandao wa Watetezi wa Haki za Binadamu Tanzania
ZCU	Kiongozi wa Kanda
ZEC	Tume ya Uchaguzi Zanzibar

UTANGULIZI

Sisi Wanachama wa Mtandao wa Watetezi wa Haki za Binadamu Tanzania (THRDC)/Watetezi wa Haki za Binadamu (HRDs);

Kwa Kuhamasishwa na misingi ya Katiba ya Jamhuri ya Muungano wa Tanzania (1977), hasa Ibara ya 8 (1), ambayo inasisitiza kwamba Jamhuri ya Muungano wa Tanzania ni Nchi ambayo inafuata Kanuni za kidemokrasia na haki za kijamii. Na wananchi ndio msingi wa mamlaka yote, na Serikali hupata madaraka na mamlaka yake kutoka kwa wananchi.

Kwa Msisitizo, Ibara ya 8 (1) (d) ya katiba, inaeleza kwamba wananchi watahiriki katika shughuli za Serikali yao kwa mujibu wa masharti ya Katiba

Kwa Kuzingatia, Mkataba wa Afrika juu ya Demokrasia, Uchaguzi na Utawala 2007, unalenga katika kuendeleza, uzingatiaji, wa kila taifa kwa maadili na kanuni za demokrasia na kuheshimu haki za binadamu katika uchaguzi na michakato mingine ya kidemokrasia.

Kuthibitisha Umoja wetu kwa kufanya kazi kwa pamoja bila kuchoka, kupanua na kuimarisha utawala wa sheria, amani, usalama na maendeleo katika nchi yetu kwa kushiriki kikamilifu katika uchaguzi na michakato ya Kidemokrasia;

Kuongozwa na dhamira yetu ya kuimarisha taasisi kwa uongozi bora, umoja na mshikamano katika nchi yetu wakati wa uchaguzi na michakato wa kidemokrasia;

kujidhatiti kukuza maadili na kanuni zote za kidemokrasia, utawala bora, haki za binadamu na maendeleo;

kukumbuka kazi ya watetezi wa haki za binadamu wakati wa uchaguzi na kusesitiza masuala ya kutopendelea upande wowote, uwajibikaji, kutokushiriki moja kwa moja kwenye siasa, uadilifu na kutokuegemea upande wowote wakati wa uchaguzi;

kuhusu changamoto za ndani na nje zinazowakabili watetezi wa haki za binadamu (HRDs) Tanzania, ambazo zinazuia utekelezaji wa kazi zao wakati wa uchaguzi na michakato ya kidemokrasia kwa kiwango cha juu:

kuzingatia ukweli kwamba watetezi wa haki za binadamu wamekuwa na majukumu makubwa katika kipindi cha uchaguzi, kuanzia utoaji wa elimu ya uraia, wapiga kura, uangalizi wa uchaguzi, na shughuli nyingine kabla ya uchaguzi, wakati wa uchaguzi na baada ya uchaguzi.

Kiu ya kuondoa dhana potofu kuwa watetezi wa haki za binadamu wamekuwa wakijihusisha na shughuli za kisiasa moja kwa moja hasa kipindi cha uchaguzi

Hivyo basi, Sisi Wanachama wa Mtandao wa Watetezi wa Haki za Binadamu Tanzania / HRD, tumekubaliana kama ifuatavyo:

**Zimepitishwa na Bodi ya Wakurugenzi (THRDC) Oktoba 2019
na kuidhinishwa na Wanachama wa Mtandao Novemba 16,
2019**

SHUKRANI

Utayarishaji wa kanuni hizi umefanikiwa kwa sababu ya juhudi na ushirikiano wa Mtandao wa Watetezi wa Haki za Binadamu Tanzania, wanachama wa THRDC, watetezi wa Haki za Binadamu na wadau wa maendeleo. Tunapenda kutambua michango yao mikubwa katika kipindi chote cha uandishi wa kanuni hizi.

Maneno ya shukrani zaidi yawafikie wadau wa maendeleo. Pongezi za dhati zielekezwe kwa Mratibu wa Kitaifa wa Mtandao wa Watetezi wa Haki za Binadamu Tanzania, Bwana Onesmo Paul Olengurumwa kwa mwongozo wake kuanzia hatua ya awali hadi kufikia tamati.

Mwongozo wake wa kitaaluma, maoni na ukosoaji wake umewezesha kukamilika uandishi wa kanuni hizi. Pongezi za dhati zielekezwe kwa Sekretarieti ya THRDC, wakili Joyce Eliezer, Bwana Paul Kisabo, Wakili Leopold Masha na Wakili Deogratias Bwire kwa ustadi wao na juhudi zao bila kuchoka katika kuandika kanuni hizi.

Shukurani za kipekee ziende kwa wahariri kwa msaada wao katika kusoma, kuhariri na kutoa maoni yao juu ya yaliyomo hadi kuwa na rasimu ya kanuni hizi

TAFSIRI

Shughuli za kisiasa- itajumuisha shughuli za vyama vya siasa au shughuli zinazohusiana na vyama vya siasa kama vile kugombea nafasi za kisiasa, kampeni za kisiasa, kujihusisha na shughuli za kutafuta fedha kwa ajili ya siasa za vyama, kutumika kama mdhamini wa chama cha siasa, kuwa na uongozi ndani ya ofisi ya chama cha siasa, kuvaa nguo kichama, beji au itikadi, kukubali upendeleo kutoka kwa vyama vya siasa au wagombea, kuwa mwakilishi wa chama cha siasa.

Elimu ya Uraia – maana yake ni kutoa elimu, uzoefu wa kuji-funza ili kuwezesha na kuwawezesha wananchi kushiriki katika michakato ya kidemokrasia.

Kanuni za Utendaji wa HRDs- maana yake ni mjumuiko wa kanuni, maadili, mwongozo, sheria, makatazo na majukumu au vitendo sahihi vya, HRDs au mwanachama wa Mtandao nyakati za uchaguzi na michakato ya kidemokrasia.

Shughuli za Kawaida za Uchaguzi -hizi ni pamoja na shughuli zote zinazokubalika kiulimwengu na kufanywa na watetezi wa haki za binadamu nyakati za uchaguzi: nazo ni pamoja na utoaji wa elimu ya uraia, mpiga kura, ufuatiliaji na uan-galizi wa uchaguzi, kutoa ilani za uchaguzi kwa umma, ku-tetea mabadiliko ya sheria za uchaguzi, kutetea uchaguzi huru na wa haki, kukosoa dosari zilizojitokeza katika ucha-

guzi, kuhimiza amani na usalama wakati wa uchaguzi.

Nyakati za Uchaguzi-inajumuisha nyakati tatu za uchaguzi: kabla ya uchaguzi, wakati wa uchaguzi na baada ya uchaguzi.

Mtetezi wa Haki za Binadamu – maana yake ni mtu yeyote au shirika linalotetea haki za binadamu kutoka makundi mbalimbali ya haki za binadamu kama ilivyoainishwa katika kanuni hizi.

Kutofungamana na Chama- maana yake ni kutopendelea itikadi za kisiasa, haswa kuelekea kundi fulani la kisiasa au mgombea.

Kutoegemea Upande wa Kisiasa – Maana yake ni kutoegemea upande wowote, kufanya kazi kwa uhuru, usawa, kuzingatia haki, uwiano na uwazi wa mawazo.

Kiongozi wa Kanda- maana yake ni Shirika lililoteuliwa na Mratibu wa Kitaifa wa THRDC kwa mujibu wa Miongozo ya Utendaji Kazi za viongozi wa Kanda (ZCUs)

MUHTASARI

Mtandao wa Watetezi wa Haki za Binadamu Tanzania ni shirika lisilo la kiserikali lenye wanachama binafsi na mashirika yasiyo ya kiserikali 200, Tanzania Bara na Zanzibar. Wanachama wake wote ni watetezi wa haki za binadamu. Wanachama wa THRDC na HRDs kwa muda mrefu wamekuwa wakijihusisha na shughuli mbalimbali nyakati za uchaguzi na michakato ya kidemokrasia bila kuwa na sera, sheria au kanuni za utendaji kazi za kuwaongoza. Hii imesababisha uwepo wa malalamiko dhidi ya HRDs kuwa wanajihusisha moja kwa moja kwenye shughuli za kisiasa.

Ili kutibu kasoro hiyo, THRDC imeandaa kanuni hizi ili kuwaongoza wanachama na HRDs wanaofanya shughuli mbalimbali nyakati za uchaguzi na michakato ya kidemokrasia. Kanuni hizi zimetoa miongozo ambazo HRDs lazima wazingatie ili kuhakikisha ushiriki na ufanisi wa utendaji kazi katika nyakati za uchaguzi na michakato ya Kidemokrasia nchini. Kanuni hizi zina sehemu tatu.

Sehemu ya Kwanza inaelezea utangulizi, maana ya demokrasia, nguzo kuu za demokrasia, uchaguzi, maana ya Watetezi wa Haki za Binadamu na haki zao, maadili na kanuni za msingi ambazo HRDs wanapaswa kuzingatia.

Sehemu ya Pili ni ya msingi zaidi, sababu inajumuisha kanuni ambazo wanachama wa THRDC na watetezi wa haki za binadamu lazima kuzingatia nyakati za uchaguzi na michakato ya kidemokrasia nchini Tanzania.

Sehemu ya Tatu kimsingi inaelezea mfumo wa utekelezaji wa kanuni za utendaji za HRDs. inasema kwamba, utekelezaji wa kanuni hizi utasimamiwa kwa mujibu wa Katiba ya THRDC.

DIBAJI

1.0 Utangulizi

Mtandao wa Watetezi wa Haki za Binadamu Tanzania ni shirika lisilo la kiserikali lenye wanachama binafsi na mashirika yasiyokuwa ya kiserikali 200. Wanachama wake wote ni watetezi wa haki za binadamu. Dhumuni kuu la Mtandao ni kuhakikisha kwamba kuna mazingira salama, mazuri na endelevu kwa watetezi wa haki za Binadamu nchini Tanzania. Pia kuwatetea na kuwalinda watetezi wa haki za binadamu nchini ikiwemo kuhakikisha kwamba watetezi wa haki za binadamu wanaendelea kuwa katika mazingira salama.

Wanachama wa Mtandao wapo katika kila Mkoa Tanzania bara na Zanzibar, kwa ujumla wamegawanyika katika Kanda 11. Kila Kanda huongozwa na Mratibu wa Kanda (ZCU). Lengo ni kukuza ushiriki wa wanachama kuanzia ngazi ya chini.

1.1 Kanda za Uratibu za Mtandao

NA	KANDA	MIKOA
01	Kanda ya Mashariki na Pwani	Dar es Salaam Pwani
02	Kanda ya Kati	Dodoma, Morogoro na Singida
03	Kanda ya Ziwa	Mwanza, Mara na Simiyu
04	Kanda ya Kaskazini	Kilimanjaro, Arusha, Tanga na Manyara
05	Kanda ya Kusini	Iringa na Njombe
06	Kanda ya Nyanda za juu Kusini	Mbeya, Songwe na Rukwa
07	Kanda ya Kusini Mashariki	Ruvuma, Mtwara na Lindi
08	Kanda ya Magharibi	Tabora, Kigoma na Katavi
09	Kanda ya Ziwa Magharibi	Kagera, Geita na Shinyanga
10	Kanda ya Pemba	Mkoa wa Kusini na Kaskazini Pemba
11	Kanda ya Unguja	Mkoa wa Kusini, Kaskazini na Mjini Magharibi

Kwa sasa katika hizo kanda 11, Mtandao una mashirika wanachama 183 na wanachama binafsi 17. Wanachama wote hawa hujihusisha katika shughuli mbalimbali kwenye jamii. Na wamejikita zaidi katika kukuza na kulinda haki za binadamu nchini Tanzania.

1.2 Makundi 9 ya Haki za Binadamu

Wanachama wa Mtandao wamegawanyika katika makundi 9 ya haki za Binadamu, kama ifuatavyo:



Wakati wa utekelezaji wa mpango mkakati wa kwanza wa Mtandao mwaka (2012 – 2018). Mtandao kupitia mpango mkakati huo ulilenga zaidi katika kuimarisha taasisi, kujijengea uwezo wa kulinda na kutetea watetezi wa haki za binadamu.

1.3 Umuhimu wa Kanuni za Utendaji wa Watetezi

Kwa kipindi kirefu, wanachama wa Mtandao pamoja na watetezi wa haki za binadamu wamekuwa wakishiriki

kwenye nyakati za uchaguzi na michakato ya kidemokrasia bila kuwa na sera, sheria au kanuni za kuzingatia wakati wa utendaji wa kazi hizo. Hii imepelekea kuwepo kwa malalamiko dhidi ya wanachama na watetezi wa haki za binadamu kuwa wamekuwa wakijihusisha na siasa moja kwa moja.

Lakini pia, wakati wa chaguzi zilizopita, watetezi wa haki za binadamu wamekuwa wakikumbana na vitisho mbalimbali vya kiusalama kama vile, kutekwa, kukamatwa na vitisho mbalimbali vya namna hiyo.

Ili kutatua changamoto hizo, Mtandao umeona umuhimu wa kutengeneza kanuni za utendaji kazi wa watetezi wa haki za binadamu kwenye nyakati za uchaguzi na michakato ya kidemokrasia. Kanuni hizi zitakuwa ni mwongozo rasmi kwa wanachama na watetezi wa Haki za Binadamu kwenye nyakati za uchaguzi na michakato yote ya kidemokrasia watakatayoshiriki.

1.4 Demokrasia

Kwa mujibu wa Rais wa 16 wa Marekani, Ndg. Abraham Lincoln, demokrasia ni serikali ya watu, iliyochaguliwa na watu, na hufanya kazi kwa ajili ya watu. Demokrasia ni mfumo wa Serikali ambayo raia wote wako sawa mbele ya sheria na wanahusika katika kufanya maamuzi moja kwa moja au kupitia kwa viongozi waliochaguliwa. Ni utawala wa watu, na watawala hutawala kwa ridhaa ya watu.

Kwa mujibu wa katiba ya Jamhuri ya Muungano wa Tanzania 1977, Tanzania ni Nchi ya kidemokrasia yenye mamlaka yanayotokana na watu. Kifungu cha (8) cha katiba kinasema, “Jamhuri ya Muungano wa Tanzania ni Nchi ambayo inafuata Kanuni za kidemokrasia na haki za kijamii,” kwasababu hiyo watu ndio wenye mamlaka yote, na serikali itakuwa na nguvu pamoja na mamlaka kutoka kwa watu kwa mujibu wa katiba. Serikali itawajibika kwa watu.

Ibara ya 4 ya Mkataba wa Afrika juu ya Haki za Demokrasia, Uchaguzi na Utawala inahimiza nchi wanachama kujitolea katika kukuza demokrasia, utawala wa sheria na kuzingatia haki za binadamu. Inasisitiza zaidi kwamba, nchi wanachama lazima zitambue ushiriki wa wananchi kwa wigo mpana katika masuala yote ya haki za binadamu.

1.5 Nguzo Kuu za Demokrasia

Dhana ya demokrasia ina nguzo kuu tano, ambazo ni; Ukweli na uwazi, uchaguzi huru na wa haki, utawala bora, mgawanyo wa mamlaka na usawa mbele ya sheria. Nguzo hizi za demokrasia zinahakikisha haki na uhuru wa watu na ni muhimu kwa jamii yenye ufanisi wa kidemokrasia ambapo raia wote ni sawa. Ni ndoto ya Watetezi wa Haki za Binadamu kuiona Tanzania inazingatia kanuni za kidemokrasia.

Hivyo basi, demokrasia ni mfumo wa Serikali ambayo mamlaka na uwajibikaji wake husimamiwa na raia wote moja

kwa moja, au kupitia wawakilishi wao waliowachaguliwa kwa uhuru. Demokrasia hutegemea kanuni za utawala wa wengi na uzingatiwaji wa haki za raia

1.6 Uchaguzi

Uchaguzi ni mchakato rasmi unaofanywa na kundi la watu ambao huchagua mtu wa kuwaongoza. Kupitia mchakato huu; raia wanahusika katika kuchagua watu ambao watakuwa ni viongozi wa nchi yao. Ili kuhakikisha ushiriki wa umma katika uchaguzi, HRDs na makundi mengine ndani ya jamii yatafanya kampeni za kutoa hamasa, elimu ya uraia na kupiga kura na mambo mengine muhimu yanayo shabihiana.

Ibara ya 2 (13) ya Mkataba wa Afrika juu ya Demokrasia, Uchaguzi na Utawala inahimiza kuendeleza shughuli bora katika mchakato mzima wa usimamizi wa uchaguzi kwa madhumuni ya utulivu wa kisiasa.

1.7 Kazi za Watetezi wa Haki za Binadamu Kipindi cha Uchaguzi

Kabla ya uchaguzi	Siku ya uchaguzi	Baada ya uchaguzi
i) Uangalizi wa usajili wa wapiga kura ii) Kutoa elimu ya uraia na ya mpiga kura iii) Kushiriki kwenye mchakato wa mabadiliko ya kikatiba na kisheria iv) Uangalizi wa uteuzi wa wagombea wa vyama vya siasa v) Uangalizi wa kampeni za uchaguzi vi) Kuandaa ilani za uchaguzi	i) Kufanya ukaguzi kwenye vituo vya kupigia kura ii) Kufanya uangalizi wa upigaji kura na zoezi zima la kuhesabu kura iii) Kufanya uangalizi wa utangazaji wa matokeo ya uchaguzi	i) Kutatua migogoro Vikao vya kufanya tathmini ya uchaguzi ii) Kutoa ripoti za uangalizi wa uchaguzi

1.8 Watetezi wa Haki za Binadamu

Watetezi wa Haki za Binadamu ni watu ambao, kibinafsi au kwa pamoja, wanakuza na kulinda haki za Binadamu. Watetezi wa Haki za Binadamu wana tambulika popote kwa matendo yao, kwa mantiki hiyo wanaelezeka kwa matendo yao sambamba na shughuli wanazo zifanya.

Kazi za Watetezi wa Haki za Binadamu zinatambulika kisheria na zinakubalika kwenye jamii wanazoziwakilisha.

Kila siku, Duniani mamia ya Watetezi wa Haki za Binadamu hukumbana na changamoto za kisiasa kutokana na shughuli

zao za utetezi wa haki za watu wengine. Hii imepelekea kuhatarisha usalama wa maisha yao, wakati wakiiitahidi kuto-komeza ukiukwaji wa haki za binadamu na kuendeleza haki za kijamii na kudumisha amani.

Mwaka 1998 Baraza Kuu la umoja wa Mataifa, lilipitisha “Azimio la Haki na Wajibu wa Watu Binafsi, Makundi na Vyombo vya Jamii Kuendeleza na Kulinda Haki za Binadamu zinazotambulika katika misingi ya uhuru.

Kwa lugha nyingine, miaka hamsini baada ya Azimio la Ulimwengu juu Haki za Binadamu, na baada ya miaka ishirini ya mazungumzo ya tamko la rasimu juu ya watetezi wa haki za binadamu, Umoja wa Mataifa hatimae ulitambua yaliyo ya kweli: kwamba maelfu ya watu wamekuza na kuchangia ulindwaji wa haki za binadamu duniani kote. Hili ni Azimio ambalo limeheshimu kwa kiasi watu wanaohusika katika kuendeleza na kulinda haki za binadamu.

1.9 Haki za Watetezi wa Haki za Binadamu Nyakati za Uchaguzi

i) Haki ya kupiga au kupigiwa kura

Ibara ya 21(1) ya Katiba ya Jamhuri ya Muungano wa Tanzania, 1977 ina eleza kwamba,

“...kila raia wa Jamhuri ya Muungano anayo haki ya kushiriki katika shughuli za utawala wa nchi, ama moja kwa moja au

kwa kupitia wawakilishi waliochaguliwa na wananchi kwa hiari yao, kwa kuzingatia utaratibu uliowekwa na sheria au kwa mujibu wa sheria".

Ibara ndogo ya (2) ya Ibara hiyo ya Katiba inaeleza kuwa, kila raia (HRDs pamoja) ana haki na uhuru wa kushiriki kwa ukamilifu katika mchakato wa kufanya maamuzi juu ya masuala yanayoathiri wananchi na ustawi wa taifa.

Kwa hiyo, haki ya kupiga kura na / au kwa kupigiwa kura ni msingi katika taifa lolote la kidemokrasia na kama hii haki ya msingi ikikiukwa au kubatilishwa, demokrasia katika maana yake ya msingi itaondoshwa.

ii) Haki ya kushiriki katika masuala ya umma na uchaguzi

Hii inamaana ya kwamba wananchi wanayo haki ya kushiriki au kugombea nafasi kwenye ofisi za umma, kupiga kura wakati wa uchaguzi na kupata kwenye ofisi za umma. Kikanuni uchaguzi unapaswa kuwa wa huru na wa haki kwenye nchi ya kidemokrasia. Watetezi wa Haki za Binadamu wana haki ya kutetea usawa wa watu wote kupata nafasi kwenye ofisi za umma kwenye shughuli za uchaguzi.

Watetezi wa Haki za Binadamu wanatakiwa kuhakikisha kuwa makundi yote ya watu katika nchi yana fursa sawa katika kupata huduma za umma na maslahi yao yanapaswa

kuzingatiwa. Mfano mzuri ni kwamba, kila mara uchaguzi ufikapo, Asasi Za Kiraia huandaa ilani ya uchaguzi wa serikali za mitaa na uchaguzi mkuu. AZAKI hupendekeza mambo ya kuzingatiwa na wagombea wa kisiasa na serikali ikiwa ni mahitaji ya watu kwa wakati husika.

Mfano, kwa mwaka wa uchaguzi wa 2019/2020, AZAKI zimeainisha vipaumbele kumi (10) ikiwa ni pamoja na kuzingatia usawa wa kijinsia na kuheshimu haki za makundi maalum.

Katika nyakati za kushiriki kwenye shughuli za umma na kwenye uchaguzi wanachama wa (THRDC) na HRDs wana haki ya kutoa elimu ya uraia na kupiga kura baada ya kupata vibali kutoka kwenye mamlaka zinazohusika na uchaguzi. Watetezi wa Haki za Binadamu wanapaswa kuitumia haki hii kwa ufanisi kwenye nyakati zote za uchaguzi.

iii) Haki ya kulindwa

Utambuzi wa kisheria na ulinzi wa watetezi wa haki za binadamu ni muhimu ili kuhakikisha kuwa wanaweza kufanya kazi katika mikono salama, kudumisha mazingira, bila ya mashambulizi, ghasia na vikwazo vya kisheria visivyo vya ulazima. Azimio la Umoja wa Mataifa juu ya watetezi wa Haki za Binadamu, linatoa wajibu wa kulindwa kwa Watetezi wa Haki za Binadamu katika Nchi wanachama. Ibara ya 2, 9 and 12 ya Azimio la Umoja wa Mataifa, zinaeleza kwamba,

Nchi wanachama zinajukumu la kuwalinda HRDs, chini ya mamlaka yao, bila kujali hali zao au misimamo yao ya kiitikadi.

Zaidi ya hayo, Mkataba wa Kimataifa wa Haki za Kiraia na Kisiasa ambao una nguvu kisheria, chini ya ibara ya 2 unatoa wajibu kwa mataifa kuhakikisha haki sawa kwa watu wote bila kuwabagua.

iv) Haki ya kushiriki katika kufanya maamuzi

Hii ni haki ya msingi katika taifa lolote la kidemokrasia, Watetezi wa Haki za Binadamu wana haki ya kushiriki katika kufanya maamuzi na kutoa maoni yao au maoni kwa maslahi ya watu katika Taifa bila vikwazo vyovyote vya manyanyaso au kiubaguzi. Umma unapaswa kushiriki katika maamuzi yanayohusu maslahi ya Taifa ambayo yanaweza kuwa ya kisiasa, kijamii, kiuchumi, au kiutamaduni.

Ni muhimu kuzingatia “ushiriki” ikimaanisha “mapenzi ya watu katika kufanya maamuzi, kukubalika kwa maamuzi, uhalali wa kisiasa kuhusu mahitaji na vipaumbele vya watu binafsi, jamii na makundi mbalimbali”. Hii haiwezi kupuuzwa kwa Watetezi wa Haki za Binadamu, kama wakihitaji kutoa maoni yao juu ya maendeleo ya demokrasia ya taifa ikiwa ni pamoja na kushiriki katika uchaguzi na michakato wa kidemokrasia.

v) Haki ya uhuru wa kujumuika na kufanya mikutano kwa amani

Uhuru wa kujumuika, ni pale ambapo mtu huamua kujumuika na wengine bila kubuguziwa pasipo sababu za msingi. Uhuru wa kukusanyika ni uhuru wa kukutana na wengine kwa kusudi au malengo maalumu. Kwa hiyo, Watetezi wa Haki za Binadamu wana haki ya kukutana pamoja na watu wengine kwa ajila ya kuhamasisha, kukuza, kuendeleza na / au kutetea maslahi ya pamoja.

Ibara ya 20 (1) ya Katiba ya Jamhuri ya Muungano wa Tanzania inatoa haki ya uhuru wa kujumuika na wengine. Zaidi ya hayo, kati ya malengo ya Sera ya Mashirika yasiyo ya Kiserikali ya mwaka 2001, ilikuwa kuweka taratibu za usajili ambazo ni za wazi kwa mashirika yasiyo ya kiserikali, mada-raka na ambayo yanawezesha kuratibu ubora wa mashirika yasiyo ya kiserikali wakati wa kulinda uhuru wa kujumuika.

Hii haki pia inatambuliwa na Mkataba wa Kimataifa wa Haki za Kiraia na Kisiasa (ICCPR), Mkataba wa Afrika juu ya Haki za Binadamu na Watu (ACHPR), na Mkataba wa Afrika wa Demokrasia Uchaguzi na Utawala, miongoni mwa mikataba mingine ya haki za binadamu. Watetezi wa Haki za binadamu wana uhuru wa kujumuika na kufanya mikutano ya amani kwa ajili ya kutetea masuala mbalimbali juu ya uwajibikaji na haki za HRDs na wananchi wengine.

Haki ya uhuru wa kujumuika inatoa hakikisho la uhuru kwa watetezi wa Haki za Binadamu kujiunga uanachama katika chama cha siasa kwa hiari au ridhaa yao wenyewe. Kwa hiari yake binasi, Mtetezi wa Haki za Binadamu ana haki ya kumpigia kura kiongozi katika hicho chama cha siasa. Kinachochu zuliwa ni ushiriki wa moja kwa moja katika shughuli za chama hicho cha siasa

vi) Haki ya kukosoa kwa lengo la kujenga

Katika nchi za kidemokrasia, wananchi ndio msingi wa mamlaka yote. Wananchi hukabidhi baadhi ya haki zao kwa viongozi wa serikali kwa ajili ya ulinzi. Aina hii ya uhusiano inajulikana kama mkataba wa kijamii au kisiasa kati ya wananchi na serikali.

Mkataba huu wa kijamii au kisiasa ni makubaliano kati ya wananchi na serikali. Wananchi hukubali kufuata sheria zilizotungwa na kusimamiwa na serikali. Sheria hizo zipo kwa ajili ya kuhakikisha kuwa haki za wananchi zinalindwa. Haki zisipolindwa wananchi wana haki ya kuikosoa serikali.

Kwa hiyo, kuikosoa serikali sio tu ni haki, lakini pia ni wajibu wa kila raia na Watetezi wote wa Haki za Binadamu. Ukosoa-ji ni msingi wa kuziwajibisha mamlaka zilizowekwa na wananchi juu ya majukumu yao. Hivyo basi kama raia yeyote anavyo paswa kuwajibika, watetezi wa haki za binadamu pia wana wajibu wa kuiwajibisha serikali kwa kuikosoa, ku-

toa mapendekezo juu ya nini kifanyike. Watetezi wa haki za Binadamu wanaweza kushirikiana na vyombo vya serikali moja kwa moja katika mijadala juu ya kupitishwa kwa mapendekezo yao na kufuatilia kwa ukaribu utekelezaji wake.

vii) Haki ya maandamano ya amani

Haki ya kuandamana ni haki ya binadamu ambayo inatambuliwa na mikataba mbalimbali ya haki za binadamu. Wakati hakuna mkataba wa haki za binadamu au katiba inayotoa moja kwa moja haki ya kuandamana, haki hiyo ya kuandamana inaweza kudhihirishwa kwenye haki ya uhuru wa kukutana, haki ya uhuru wa kujumuika, na haki ya uhuru wa kujieleza.

Ina maana ya watu kujumuika kwa wakati fulani na kueleza malengo yao juu ya jambo fulani. Kuandamana, hata hivyo, sio lazima pawe na vurugu au tishio juu ya maslahi ya usalama wa taifa au usalama wa wananchi. Wala sio lazima pawe na ukiukwaji wa sheria, sababu maandamano si lazima kuhusisha ukiukwaji wa sheria za nchi.

viii) Haki ya uhuru wa maoni na kujieleza

Hii haki inamaanisha, uhuru wa kutoa maoni bila kuingiliwa, haki ya kupata taarifa na kutoa habari na kila aina ya maoni kupitia Vyombo vya Habari bila kujali mipaka, iwe ni kwa mdomo, maandishi au kuchapisha, katika muundo wa sa-

naa, au kwa njia nyingine yoyote. Kimsingi uhuru wa kujieleza ni pamoja na uhuru wa Vyombo vya Habari.

Haki ya uhuru wa kujieleza inajumuisha pia matumizi ya mitandao na kutoa maoni au kujieleza. Huu uhuru ni muhimu kwa wananchi kuiwajibisha Serikali, mashirika na maafisa, kwa kuonyesha wasiwasi wao na maoni kupitia majukwaa na vyombo vya habari vyenye kuwapendeza.

Ibara ya 18 ya Katiba ya Jamhuri ya Muungano wa Tanzania ya 1977 inalinda uhuru wa kujieleza. Ni moja ya haki za ushiriki - haki muhimu kwa wananchi kushiriki kutoa maoni kuhusu utawala. Kwa mujibu wa Kamati ya Haki za Binadamu (HRC), haki hii 'ni haki ya muhimu kwaajili ya utekelezaji wa kanuni za uwazi na uwajibikaji katika nchi za kidemokrasia, Pia ni ya muhimu kwaajili ya kukuza na kulinda haki za binadamu katika uchaguzi na michakato wa kidemokrasia.

ix) Haki ya kutafuta rasilimali

Wanachama wa THRDC na Watetezi wa Haki za Binadamu wana haki ya kuomba au kutafuta rasilimali kwa lengo la kushiriki katika shughuli mbalimbali za uchaguzi na michakato ya kidemokrasia. Rasilimali hizo ni kwaajili ya shughuli kama vile: kutoa elimu ya uraia na upigaji kura, mijadala ya umma, kuandaa ilani au ajenda za uchaguzi na kidemokrasia au ilani na kufanya uangalizi wa uchaguzi.

1.10 Tamaduni na Misingi ya Watetezi wa Haki za Binadamu

Wakati wa kutekeleza hizi kanuni, HRDs watahitajika kukuza na kulinda tamaduni na misingi ifuatayo:

a) Watetezi wa haki za Binadamu katika nyakati za uchaguzi, hawapaswi kujihusisha moja kwa moja na chama cha siasa, mgombea wa cheo cha kisiasa, mwanasiasa (Kanuni ya Kutofungamana na Chama)

b) Watetezi wa Haki za Binadamu wanapaswa kuwa na matumizi sahihi ya rasilimali walizopewa na wafadhili, na wanapaswa kuhakikisha kwamba wanazitumia kwa madhumuni yaliyokusudiwa (Kanuni ya Utunzaji)

c) Watetezi wa haki za Binadamu ni lazima waeleze ni kwa jinsi gani wametumia rasilimali zao na matokeo waliyoyapata, kwa wadau wote, ikiwa ni pamoja na walengwa (Kanuni ya Uwajibikaji)

d) Watetezi wa Haki za Binadamu wanapaswa kufanya kazi zao kwa uwazi, kutoa taarifa za shughuli zao na mipango yao kwa wadau (kanuni ya Uwazi).

e) Watetezi wa Haki za Binadamu wanapaswa kufanya kazi kwa uadilifu na kwa ufasaha nyakati za uchaguzi (kanuni ya Uadilifu)

f)Wanachama wa THRDC pamoja na Watetezi wa Haki za Binadamu, wanaoshiriki shughuli mbalimbali nyakati za uchaguzi na kwenye michakato ya kidemokrasia, wataongozwa na kanuni hizi bila kupendelea upande wowote na bila kumbagua mgombea yeyote.

g)Mfumo wa utunzaji wa kumbukumbu za fedha na nyaraka wakati wa uchaguzi, HRDs wanapaswa kuzingatia viwango vya uhasibu vya kimataifa.

h)Vikwazo vyovyote wakati wa uchaguzi ambavyo vinaweza kuwekwa dhidi ya Watetezi wa Haki za Binadamu kuhusiana na uhuru wa kujieleza, maandamano ya amani na kujumuika lazima vizingatie viwango vya kisheria vya kimataifa.

i)Watetezi wa Haki za Binadamu wanapaswa kufanya kazi zao kwa amani na katika mazingira ya ukarimu, bila hofu ya kunyanyaswa, kulipiziwa kisasi, vitisho na ubaguzi nyakati za uchaguzi.

j)Kutambua mamlaka za serikali katika kusimamia mashirika ndani ya nchi kwa lengo la kukuza ustawi wa jamii, mamlaka na hatua hizo za kiutawala zinapaswa kulinda na sio kuzuia utendaji kazi wa Watetezi wa Haki za Binadamu.

k)Mashtaka ya jinai na madai yanayofunguliwa na serikali dhidi ya Watetezi (HRDs), kama yale yanayofunguli-

wa dhidi ya watu binafsi na mashirika, yanapaswa kuzingatia misingi ya sheria na usawa mbele ya sheria.

l) Serikali haipaswi kuwaingilia Watetezi wa Haki za Binadamu pale ambapo wanafanya kazi na vyombo vya habari vya ndani na nje ya nchi wakati wa uchaguzi na kwenye michakato yote ya kidemokrasia.

m) Serikali na Watetezi wa Haki za Binadamu wana wajibu wa kukuza uhuru wa Watetezi (HRDs), utawala binafsi na kanuni za kuwaongoza watetezi nyakati za uchaguzi.

n) Watetezi wa Haki za Binadamu wataheshimu haki za msingi za binadamu na uhuru wa utamaduni wa jamii na imani za kidini wakati walikishiriki katika nyakati za uchaguzi.

KANUNI ZA UTENDAJI

2.0 Malengo ya Kanuni

Malengo ya kanuni hizi ni kuweka utaratibu na kanuni za msingi ambazo zitasimamia mwenendo mzima, na kutoa mwongozo wa namna ya utendaji wa watetezi wa haki za binadamu (HRDs) wanapojihusisha na uchaguzi pamoja na michakato ya kidemocrasia. Zitakuwa kanuni rasmi zitakazotumika kuwaongoza watetezi wa haki za binadamu hasa wanachama wa Mtandao wa Watetezi wa Haki za Binadamu Tanzania.

Kanuni za utendaji zinakusudia;

a. Kutoa uelewa kwa watetezi (HRDs) kuhusu majukumu yao nyakati za uchaguzi

b. Kuwaongoza watetezi wa haki za binadamu katika uangalizi na usimamizi wa mchakato wa uchaguzi nchini Tanzania

c. Kukuza uelewa juu ya haki pamoja na fursa za watetezi wa haki za binadamu zinazopatikana katika uchaguzi na mchakato mzima wa kidemokrasia

kutoa maarifa kwa watetezi wa haki za binadamu kuhusu namna ya kushiriki kwa usalama, ufanisi, bila kupendelea upande wowote katika uchaguzi na mchakato wa

kidemokrasia

2.1 Wigo wa Kanuni

Kanuni hizi zitatumika Tanzania bara na Zanzibar. Zitatumika kusimamia na kuratibu wanachama waliosajiliwa na ambao hawajasajiliwa pamoja na wanachama muhimu wa Mtandao (THRDC).

Watetezi (HRDs) Watalazimika Kuzingatia Kanuni Zifuatazo Kipindi cha Uchaguzi

2.2.1 Watalazimika kuelewa na kuzingatia sheria za ndani pamoja na za Kimataifa za uchaguzi, kanuni na marekebisho yoyote yatakayojitokeza.

2.2.2 Watatoa elimu ya uraia na ya wapiga kura kwa mujibu wa sheria zilizopo.

2.2.3 Watashirikiana na Tume za Uchaguzi (NEC, ZEC), Vyombo vya Habari na wadau wengine muhimu katika kutoa elimu ya uraia na ya wapiga kura.

2.2.4 Watetezi wataandaa ajenda na ilani za uchaguzi kwa umma.

2.2.5 Watetezi (HRDs) wataendesha mijadala ya umma na majadiliano juu ya masuala yanayohusiana na uchaguzi na demokrasia

2.2.6 Watetezi watasimamia uchaguzi na kufuatilia mwenendo wa uchaguzi kwa lengo la kujiridhisha kama mchakato huo unakidhi viwango vya kitaifa na kimataifa.

2.2.7 Watetezi watazingatia na kufichua maovu yatakayojitokeza katika shughuli za uchaguzi na kutoa mapendekezo muhimu.

2.2.8 Watetezi watakuwa na jukumu muhimu la kuwezesha mchakato wa uchaguzi kuwa huru na wa haki bila ya vurugu na vitisho, kwa kushirikiana na wadau wengine.

2.2.9 Watetezi watatoa taarifa juu ya vikwazo vyovyote, mashambulizi au vitisho dhidi yao kwa vyombo vya usalama, Mtandao na mashirika mengine yanayohusika.

2.2.10 Watetezi wanapaswa kuzingatia tamaduni na misingi iliyopo kwenye kanuni hizi.

2.2.11 Watetezi binafsi au kwa pamoja wanaweza kutafuta rasilimali kwaajili ya kufanya kazi nyakati za uchaguzi na michakato ya Kidemokrasia

2.2.12 Watetezi hawatajijhusisha na shughuli za kisiasa kwa kuunga mkono au kupinga chama chochote cha siasa au mgombea wa ofisi ya umma (ikiwa ni pamoja na kutoa au kupokea fedha au kuhalalisha), wala kutumia rasilimali za watetezi hazitatumika kwa madhumuni hayo.

2.2.13 Watetezi katika kipindi chote cha uchaguzi, hawatovaaa nguo zenye rangi za kisiasa, beji au kutumia misemo, na hawapaswi kupokea upendeleo wowote wa kisiasa kutoka kwa vyama vya kisiasa au wagombea.

2.2.4 Mtetezi yeyote wa haki za binadamu haruhusiwi kugombea ofisi yoyote ya kisiasa wakati yeye ni kiongozi au mfanyakazi wa AZAKI

2.2.15 Ikiwa mwanachama wa Mtandao (THRDC) anatarajia kugombea nafasi ya kisiasa na akishatangaza nia, atalazimika kujuzulu kutoka nafasi yake mwezi mmoja (1) kabla ya kuanza rasmi kwa kampeni za uchaguzi.

2.2.16 Ikiwa mwanachama wa THRDC atateuliwa au kuchaguliwa katika ofisi ya kisiasa (ndani ya serikali, bunge au chama cha siasa), atakoma kuwa mwanachama na shirika lake litachagua mtu mwingine kuchukua nafasi yake mara moja

UTEKELEZAJI NA USIMAMIZI WA KANUNI

3.0 Utekelezaji

Kutakuwa na ngazi mbili za utekelezaji wa kanuni hizi za Utendaji wa Watetezi (HRDs): Viongozi wa Kanda, (ZCUs) na Sekretarieti ya Mtandao wa Watetezi wa Haki za Binadamu Tanzania.

Mtandao kupitia kwa viongozi wa kanda (ZCUs), utaratibu na kusimamia utekelezaji wa kanuni hizi. Mtandao kupitia kwa viongozi wa kanda (ZCUs), utatoa ushauri, mapendekezo kwa wanachama na kwa Watetezi wa Haki za Binadamu au kwa mwanachama muhimu.

Mratibu wa Kitaifa wa Mtandao, inapobidi atatoa onyo la busara kwa mwanachama wa THRDC, ambaye matendo au tabia yake inakiuka kanuni hizi.

Kushindwa kuzingatia onyo hilo, hatua na taratibu zingine za kinidhamu zitachukuliwa kwa mujibu wa Katiba ya Mtandao (THRDC). Uvunjaji wa kanuni hizi ni moja ya makosa ya Kikatiba chini ya Katiba ya Mtandao.

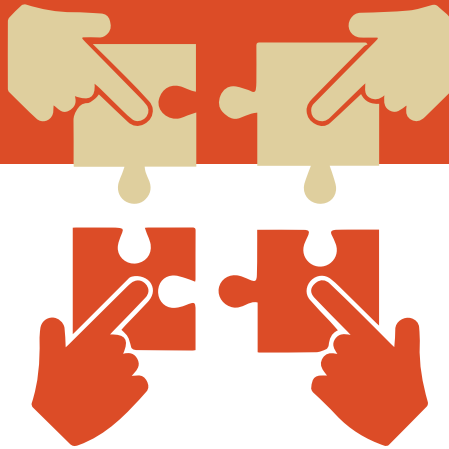
Viongozi wa Kanda (ZCUs), watatoa ripoti mara mbili kwa mwaka juu ya maendeleo ya utekelezaji wa kanuni hizi nyakati za uchaguzi. Dawati la Wanachama THRDC, litawasili-sha ripoti ya pamoja ya Viongozi wa Kanda kwa Mratibu wa Kitaifa wa Mtandao.

Kanuni hizi zitabadilishwa mara kwa mara kulingana na mapendekezo ya Watetezi wa Haki za Binadamu (HRDs) na maazimio ya wanachama.

Kanuni hizi zimetolewa kwa mujibu wa Katiba ya Mtandao wa Watetezi wa Haki za Binadamu, Sera ya Uanachama wa Mtandao na Miongozo ya Viongozi wa Kanda (ZCUs). Uvunjaji wa Kanuni hizi utashughulikiwa kwa mujibu wa nyaraka tajwa hapo juu



CODE OF CONDUCT FOR HUMAN RIGHTS DEFENDERS DURING ELECTIONS AND DEMOCRATIC PROCESSES IN TANZANIA



(Made under Article 6 and 37 of
the THRDC Constitution and
Paragraph 7.1 of the THRDC'S
Membership Policy)

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ABBREVIATIONS

CSOs	Civil Society Organizations
HRC	Human Rights Committee
HRDs	Human Rights Defenders
ICCPR	International Covenant on Civil and Political Rights
NEC	National Electoral Commission
NGOs	Non-Governmental Organizations
OHCHR	Office of the High Commission for Human Rights
THRDC	Tanzania Human Rights Defenders Coalition
ZCUs	Zonal Coordinating Units
ZEC	Zanzibar Electoral Commission

PREAMBLE

We Members of the Tanzania Human Rights Defenders Coalition (THRDC)/Human Rights Defenders (HRDs); **Inspired** by constitutional principles enshrined in the Constitution of the United Republic of Tanzania (1977), particularly Article 8(1), which emphasizes that the United Republic of Tanzania is a state which adheres to the principles of democracy and social justice. That the sovereignty of our country resides in the people and it is from the people that the Government shall derive all its power and authority.

Stressing that, Article 8(1)(d) of the Constitution, declares that the people of the United Republic of Tanzania shall participate in the affairs of their Government in accordance with the provisions of our Constitution.

Cognizant of the African Charter on Democracy, Elections and Governance of 2007, which is aimed at promoting adherence, by each State Party, to the universal values and principles of democracy and respect for human rights in elections and other democratic processes.

Reaffirming our collective will to work relentlessly to deepen and consolidate the rule of law, peace, security and development in our country by participating fully in elections and democratic processes;

Guided by our common mission to strengthen and consolidate institutions for good governance, unity and solidarity in our

country during elections and democratic process;

Committed to promote the universal values and principles of democracy, good governance, human rights and the right to development;

Recalling the duty of HRDs during elections while emphasizing issues of neutrality, accountability, non-partisanship, integrity and impartiality of HRDs during elections

Concerned also by the internal and external challenges facing HRDs in Tanzania, which hinders the realization of their work during elections and democratic processes to their maximum level

Bearing in mind the fact that HRDs have been playing a very significant role during entire election cycle in our country, ranging from the provision of voter's civic education, observation of elections, and other activities before election, during elections and in post-election period.

Desirous to address the misconception that HRDs are partisan and play an active political role during elections

Now, therefore, We Members of the Tanzania Human Rights Defenders/HRDs, agree as follows:

Approved by the THRDC Board of Directors in October 2019 and validated by the THRDC Members on 16th November 2019.

ACKNOWLEDGMENT

The preparation of this work has been successful as a result of the efforts of the Tanzania Human Rights Defenders Coalition, THRDC members, various individual Human Rights Defenders and development partners. We would like to acknowledge their tremendous contributions during the whole period of writing this Code of Conduct. Words of appreciation in particular are extended to the esteemed development partners.

Sincere gratitude is extended to the Tanzania Human Rights Defenders Coalition National Coordinator, Mr. Onesmo Paul Olengurumwa for his guidance from stage one of this code up to the end. His scholarly guidance, comments and valuable criticisms have enabled to come up with this code of conduct.

Special thanks go to the THRDC Secretariat, Adv. Joyce Eliezer, Mr. Paul Kisabo, Adv. Leopold Masha and Adv. Deogratias Bwire for their skills and tirelessly efforts in writing the Code of Conduct

We are also indebted to the editors for their assistance in proofreading, editing and for their comments on the content and set up the final draft of this code of conduct.

INTERPRETATION

Active political activity- shall include partisan activities or activities affiliated to political parties such as contesting for political positions, political campaigns, soliciting or engaging in partisan fundraising activities, serving as the sponsor of a political party, bearing an office position within a political party, wearing political colours, badges or slogans, accepting favours from political parties or candidates, becoming a representative of a political party.

Civic education- shall mean provision of information and learning experiences to equip and empower citizens to participate in democratic processes.

Code of conduct—shall mean a set of codes, values, principles outlining the norms, rules, prohibitions and responsibilities of, and or proper practices for, a HRD or a member.

Common election activities by HRDs- these include widely and universally accepted activities conducted by Human Rights Defenders during election cycles: these include among others the provision of civic and voter education, monitoring and observation of elections, issuing public manifestos, advocating for electoral laws reforms, advocating for free and fair election, challenging election irregularities, advocating for peace and security during elections

Election cycle- shall mean three electoral phases: pre-election, during election and post-election activities.

Human rights defender - Shall mean any person whether individual or an organization who defend human rights from different thematic areas as enumerated in this code of conduct.

Non-partisanship- shall mean not biased on political ideology, especially towards any particular political group or candidate.

Political impartiality- shall mean neutrality, independence, objectivity, fairness, balance and open-mindedness.

Zonal Coordinating Units- shall mean the Organization appointed by the THRDC National Coordinator in accordance to the ZCUs Operational Guidelines.

EXECUTIVE SUMMARY

The Tanzania Human Rights Defenders Coalition is a membership organization having 200 organizations and individual members in Tanzania mainland and Zanzibar. All these members are human rights defenders.

THRDC members and HRDs for a long time have been engaging in election cycles and democratic processes without having any policy, law or code of conduct guiding them. This has led to the existence of complaints against HRDs that they have been engaging into active political activities.

To cure such a defect, THRDC has developed this code of conduct to guide members and HRDs engagement in election cycles and democratic processes. The code provides for the mechanisms that a HRD must adhere to ensure a neutral and effective engagement in election cycles and democratic processes in the country. The code consists mainly of three parts.

Part one provides for the background. It illustrates the concepts of democracy, major pillars of democracy, election, Human Rights Defenders and their rights, HRDs core values and principles.

Part two is a fundamental one as it consists the codes that THRDC members and human rights defenders must adhere during election cycles and democratic processes in Tanzania.

Part three is basically on the enforcement framework of the code of conduct. It provides that, enforcement of the code shall be governed by the THRDC Constitution.

BACKGROUND

1.0 Introduction

The Tanzania Human Rights Defenders Coalition (THRDC) is an umbrella organization comprising membership of both organizations and individual human rights defenders in Tanzania. The main objective of the Coalition is to work towards enhanced security and protection of human rights defenders (HRDs) in Tanzania. It also works to strengthen regional and international interventions towards protection and promotion of the rights and responsibilities of HRDs. THRDC members in Tanzania are divided into eleven (11) operational zones. Each zone is led by a Zonal Coordinating Unit (ZCU). The aim is to extend its wings down to the grassroots levels.



1.1 THRDC Operational Zones

	ZONE	REGIONS
01	East Coast Zone	Dar es Salaam and Coastal Region
02	Central Zone	Dodoma, Morogoro and Singida
03	Lake Zone	Mwanza, Mara and Simiyu
04	Northern Zone	Kilimanjaro, Arusha, Tanga and Manyara
05	Southern Zone	Iringa and Njombe
06	Southern Highland	Mbeya, Songwe and Rukwa
07	Southern Coast Zone	Ruvuma, Mtwara and Lindi
08	Western Zone	Tabora, Kigoma and Katavi
09	Western Lake Zone	Kagera, Geita and Shinyanga
10	Pemba Zone	Pemba – Zanzibar
11	Unguja Zone	Unguja – Zanzibar

Currently in the aforementioned zones, THRDC has 183 organizations and 17 individual members. All these members are Human Rights Defenders (HRDs). THRDC members engage in various aspects in the society, they are dedicated in promotion and protection of human rights in Tanzania.

1.2 Thematic Areas of THRDC Members

THRDC organizational membership is grouped into 9 thematic areas as illustrated below;

During the implementation of the past five years Strategic Plan (2013-2018), THRDC focused on institutional building advocacy, capacity building and protection of human rights defenders.

1.3 Rationale for this Code of Conduct

THRDC members and HRDs for a long time have been engaging in election cycles and democratic processes without having any policy, law or code of conduct guiding them. This has led to the existence of complaints against HRDs that they have been engaging into active political activities.

Furthermore, it has been noted that during previous elections, HRDs have been facing a lot of security incidents such as, attacks, arrests, abductions, intimidations and other related incidents.

To cure such a defect, THRDC has seen a practical need to develop this code of conduct to guide THRDC members and HRDs engagement during election cycles and democratic processes.

1.4 Democracy

According to the 16th President of the United States, Abraham Lincoln, democracy is government of the people, by the people, and for the people. Democracy is a system of government where all citizens are equal before the law and are involved in decision making either directly or indirectly through their elected officials. It is the rule of the people, and the rulers rule basing on the consent of the people.

According to the Constitution of the United Republic of Tanzania 1977, Tanzania is a democratic country and sovereignty resides in the people. Article (8) of the Constitution

states that, “*The United Republic of Tanzania is a country that adheres to the principles of democracy and social justice,*” and therefore the people are the basis of all power, and the government shall derive all its powers and authority from the people in accordance with the Constitution. The Government is accountable to the people.

Article 4 of the African Charter on Democracy, Elections and Governance obliges state parties to commit themselves to promote democracy, rule of law and human rights. It further stresses that, state parties shall recognize popular participation through universal suffrage as the inalienable right of the people.

1.5 Major Pillars of Democracy

The concept of democracy is built on five major pillars. These are; Truth and Transparency, Free and Fair Elections, Good Governance, Separation of Power and equality before the law. These pillars of democracy are the basis of the insurance of the rights and freedoms of the people. They are the key to an effective democratic society where all citizens are treated equally and with dignity. It is a dream of HRDs across the country to see Tanzania which adheres to the democratic principles.

Therefore, in short, democracy is the system of government in which power and civic responsibility are exercised by all adult citizens, directly, or through their freely elected representatives. Democracy rests upon the principles of majority rule and individual rights.

1.6 Election

An election can be defined as a formal group decision-making process by which a group of people chooses an individual to hold public office. It is through this process; citizens of a particular country are involved in electing individuals who take part in the leadership of their country.

In order to ensure public participation in elections, HRDs and other relevant groups in the society participates by conducting awareness campaigns, civic and voter education and other important engagements.

Article 2(13) of the African Charter on Democracy, Elections and Governance obliges states to promote best practices in the conduct and management of elections for purposes of political stability.

1.7 Universal Activities of HRDs During Election Cycles

Pre-election period	During Election Day	Post-Election Period
i) Monitoring Voter Registration(BVR)	i) Poll Observation	i) Dispute Resolution
ii) Voter and Civic Education	ii) Observing Tallying and counting process	ii) Post-election meetings and assessment
iii) Constitutional and Legal Reforms	iii) Observing results	iii) Issuing election
iv) Monitoring party Nominations	Announcement	observation reports
v) Monitoring election campaigns		
vi. Election manifestos		

1.8 Human Rights Defenders (HRDs)

“Human rights defender” is a term used to describe people who, individually or with others, take action to promote or protect human rights. Human rights defenders are identified above all by what they do, and the term can therefore best be explained by describing their actions and some of the contexts they work in.

Human rights defenders' work is legal and legitimated by the civil society they represent.

Every day around the world hundreds of human rights defenders are exposed to political violence due to their defense of the rights of others. Risking their own physical and mental integrity, they strive to bring an end to impunity of human rights violations and to promote social justice and peace.

In the year 1998 the United National General Assembly approved 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”.¹

In other words, fifty years after the Universal Declaration of Human Rights, and after twenty years of negotiations on a draft declaration on human rights defenders, the United Nations finally recognized what is a reality: that thousands of people were promoting and contributing to the protection

¹ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. A/RES/53/144, 8 March 1999

of human rights throughout the world. This is an inclusive Declaration that honours the amount and variety of people engaged in the promotion and protection of human rights.

1.9 Rights of HRDs During Election Cycle and Democratic Processes

i) The right to vote and/or to be voted for

Article 21(1) of the Constitution of the United Republic of Tanzania, 1977 provides that

“... every citizen of the United Republic is entitled to take part in matters pertaining to the governance of the country, either directly or through representatives freely elected by the people, in conformity with the procedures laid down by, or in accordance with, the law”.

Sub-article (2) of the same Article of the Constitution provides that, every citizen (HRDs included) has the right and the freedom to participate fully in the process leading to the decision making on matters affecting citizens and the well-being of the nation.

Therefore, the right to vote and/or to be voted is the cornerstone in any democratic nation and if denied or revoked, democracy in its most basic sense fails.

ii) The right to take part in public affairs and elections

This guarantees the right of citizens to stand for public office, to vote in elections and to have access to positions in public

service. Principally elections have to be free and fair in any democratic state. HRDs have a right to advocate for equality of the people to access equal positions in public service and in elections.

HRDs are supposed to make sure that all groups of people in the country have an equal opportunity in accessing public services and their interests have to be materialized. A good example is that, once an election approaches in the country, CSOs have adopted a tendency of drafting an election manifesto proposing things to be taken into account by the political candidates and the government as they are the peoples' needs at that particular moment. For example, the 2019/2020 Tanzania CSOs election manifesto contains 10 priorities including adherence to gender equality and respect of the rights of special groups.

In the course of participating in public affairs during election cycle, THRDC members and HRDs have also a right to provide civic and voter education after acquiring permits from relevant authorities. HRDs have to utilize this right effectively in any election cycle.

iii) The right to be protected

The legal recognition and protection of human rights defenders is crucial to ensure that they can work in a safe, supportive environment, free from attacks, reprisals and unreasonable legal restrictions. The UN Declaration on Human Rights Defenders, bestows the duty of protecting HRDs on states. Articles 2, 9 and 12 of the Declaration

summarily provides that States bear the primary responsibility for protecting defenders, under their jurisdiction, regardless of their status or ideological affiliations.

Moreover, the International Covenant on Civil and Political Rights which is a binding instrument, under article 2 establishes the obligation of States to guarantee to all individuals within their territories and subject to their jurisdiction the rights without discrimination.

iv) The right to participate in decision making

This is the basic right in any democratic nation, HRDs have right to participate in decision making by airing out their opinions or views for the welfare of the people in the nation without any unjustifiable restrictions or interference. Participation involves engagement by the public in the conduct of public affairs, which can be political, social, economic, or cultural.

It is important to consider “participation” as it means “will of the people in decision making, acceptability of decisions, political legitimacy about needs and priorities of individuals, communities and different interested groups”. This cannot be overlooked for Human Rights Defenders, as they have the right to air out their opinions on the progress of national democracy including participating in elections and democratic process.

v) The right to freedom of association and peaceful assembly

Freedom of association is simply the choice with whom to

associate without any unjustifiable restrictions. Freedom of assembly is the freedom to gather with others for a specific purpose, with a specific goal in mind. Therefore, HRDs have a right of coming together with other individuals to collectively express, promote, pursue and/or defend common interests. Freedom of peaceful assembly, sometimes is used interchangeably with the freedom of association.

Article 20(1) of the Constitution of the United Republic of Tanzania provides for the right to freedom of association. Furthermore, among the objectives of the NGOs policy of 2001 were to put in place NGOs registration procedures which are transparent, decentralized and which will facilitate better coordination of NGOs while safeguarding the freedom of association.

This right is also guaranteed under the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples Rights (ACHPR), and the African Charter on Democracy, Elections and Governance, among other human rights instruments. Human Rights Defenders have the right to freedom of association and peaceful assembly to advocate for various issues on the roles and rights of HRDs and other citizens in the country.

The right to freedom of association guarantees the freedom of a HRD to join into membership of a political party of his or her own choice. With his or her own free will a HRD has the right to vote for a leader in such a political party. What is prohibited is active engagement into political party's activities.

vi) The right to constructive criticism

In a democratic country, sovereignty resides in the people. People surrenders some of their rights to the government leaders for protection. This kind of relationship is known as a social or political contract between the people and the government.

A social contract or political contract is an agreement between the people and the government. The people agree to follow certain rules made by the government. These rules are usually called laws. Laws help to make sure people have rights and that their rights are protected. Once their rights become unprotected, the people have the right to criticize the government.

Therefore, criticizing the government is not only a right but also a duty of every citizen and HRDs. Criticism is the foundation of holding the authority accountable to their duties, roles and promises. Thus like any responsible citizens, human rights defenders have a duty to hold the government accountable by criticizing the wrongs and advocating for change and progress by drafting proposals on what should be done. HRDs can take the duty further by engaging the government agencies directly in discussions on the adoption of the proposals and closely monitoring the process.

vii)The right to peaceful protest

The right to protest is a human right arising out of a number of recognized human rights. While no human rights instrument or national constitution grants the absolute right to protest,

such a right to protest may be a manifestation of the right to freedom of assembly, the right to freedom of association, and the right to freedom of speech.

It simply means peoples' coming together at a particular time and express their common goal over something. Protesting, however, is not necessarily violent or a threat to the interests of national security or public safety. Nor is it necessarily civil disobedience, because most protest does not involve violating the laws of the state. Also, since it is an expression of a universal right, choosing to lawfully protest is not a violation of state laws.

viii) The right to freedom of opinion and expression

The This right is defined as a freedom to hold opinions without interference, right of access to information and to impart information and ideas of all kinds through any media regardless of frontiers, either orally, in writing or in printing, in the form of art, or through any other media of choice. Basically freedom of expression includes press/media freedom.

This right has to be enjoyed also through online platforms. It is protected both online and offline. This freedom is essential for the citizens to hold the government, other bodies and officials accountable by expressing their concerns and opinions through media platforms of their choice.

Right to freedom of expression is guaranteed and protected under Article 18 of the Constitution of United Republic

of Tanzania of 1977. It is one of the participation rights - rights essential for enjoyment of the right to participate in governance. According to the Human Rights Committee (HRC), this right 'is a necessary condition for the realization of the principles of transparency and accountability in the democratic country, in turn, essential for the promotion and protection of human rights in elections and democratic process.

ix) The right to solicit for resources

THRDC members and HRDs have the right to request or solicit for resources for engaging in different activities during election cycles and democratic processes. Resources for activities such as: conducting civic and voter education, awareness campaigns, public dialogues, preparing election and democratic agenda(s) or manifestos and for conducting monitoring and observations.

1.10 HRDs Core Values and Principles

While observing this code of conduct, HRDs shall promote and defend the following core values and principles:

- a. HRDs must make sure throughout the election process; they are not affiliated to any political party, politician or an election candidate. (Principle of non-partisanship)
- b. HRDs must take good care of the resources they are entrusted with and make sure that they are used for the intended purpose (Principle of Stewardship).

c. HRDs must explain how they have used their resources and results achieved, to all stakeholders, including beneficiaries (Principle of Accountability)

d. HRDs must be open about their work, information on their activities and plans have to be made available to relevant stakeholders (Principle of Openness)

e. HRDs must operate with honesty and propriety during election cycles (Principle of Integrity)

f. THRDC members and HRDs engaging in election cycle and democratic processes shall be guided by the principle of total impartiality and shall refrain from any discrimination in relation to any candidate

g. HRDs' system for keeping financial records and documentation in election cycles must observe internationally accepted accounting standards and principles.

h. Any restrictions during election cycle which may be placed on the exercise by HRDs of the rights to freedom of expression, peaceful assembly and association must be consistent with international legal obligations.

i. HRDs shall be permitted to carry out their peaceful work in a hospitable environment, free from fear of harassment, reprisal, intimidation and discrimination during election cycle.

j. Acknowledging governments' authority to regulate entities within their territory to promote the public welfare,

such laws and administrative measures should protect--not impede--the peaceful operation of HRDs and be enforced in an apolitical, fair, transparent and consistent manner.

k. Criminal and civil legal actions brought by governments against HRDs, like those brought against all individuals and organizations, should be based on tenets of due process and equality before the law.

l. Governments should not interfere with HRDs' access to domestic and foreign-based media during election cycle and in all democratic processes.

m. The government and HRDs shall promote freedom and autonomy of HRDs, self-governance and self-regulation during election cycles.

n. HRDs have to respect the fundamental human rights and freedom about social Cultural and religious beliefs when engaging in election cycles.

THE CODE OF CONDUCT

2.0 Purpose of the Code

The main purpose of this code of conduct is to establish core values and principles that shall guide the conduct and operations of HRDs engagement in election cycle and democratic process in Tanzania. It shall be a formal guiding instrument for human rights defenders in particular members of the Tanzania Human Rights Defenders Coalition.

The code of conduct intends;

a)To provide civic understanding on the roles of HRDs in election cycles

b)To guide HRDs in monitoring and observation of the election process in Tanzania

c)To raise awareness on the rights and opportunities of HRDs available in elections and democratic process

d)To equip HRDs with knowledge on how to engage securely, neutrally and effectively into elections and democratic process

2.1 Scope of the Code

This code of conduct shall apply in Tanzania mainland and Zanzibar. It shall only regulate and coordinate registered and non-registered HRDs who are members of the Coalition

and potential members of the Coalition.

2.2 HRDs must Adhere to the following Codes During Election Cycle

2.2.1 HRDs must understand and adhere to local and international electoral Laws, Rules, Regulations and any amendments thereto.

2.2.2 HRDs shall provide civic and voter education to the people in accordance to the existing laws

2.2.3 HRDs shall engage in partnership with the electoral management bodies (NEC, ZEC), the media and other relevant stakeholders in providing civic and voter education

2.2.4 HRDs shall prepare election agenda(s) and public manifestos

2.2.5 HRDs shall conduct public dialogues and discussions on issues related to elections and democratization.

2.2.6 HRDs shall undertake election monitoring and observation with an objective of establishing whether an election process meets required national and international standards.

2.2.7 HRDs shall observe and expose the electoral malpractices and providing useful recommendations.

2.2.8 HRDs must ensure that they play a very important role in collaboration with other stakeholders to facilitate a free and fair election process free from violence and intimidations.

2.2.9 HRDs shall report any restrictions, attacks or threats against them to the security organs, the Coalition and other relevant bodies.

2.2.10 HRDs must adhere to the core values and principles enshrined in this code of conduct.

2.2.11 HRDs either individually or jointly can solicit resources for engaging in election cycle and democratic processes

2.2.12 A HRD shall refrain from engaging in active political activities in support of or opposition to any political party or candidate for elective public office (including giving or receiving funds or endorsements), nor shall HRDs resources be used for such purposes.

2.2.13 HRDs throughout the election cycle, shall never wear political colours, badges or slogans, and should not accept favours from political parties or candidates.

2.2.14 A HRD shall not contest for any political office while he is a leader or a staff of a certain CSO.

2.2.15 If a HRD intends to contest for a political office, he/she must declare and resign from his position one (1) month before the official commencement of the election campaigns.

2.2.16 If a THRDC member becomes appointed or elected into a political office (in the government, parliament or political party), shall automatically cease from being a member of the Coalition and his or her respective organization shall appoint another person to assume his or her roles immediately.

CODE ENFORCEMENT

3.0 Enforcement

There shall be two levels of enforcing this code of conduct: the Zonal Coordinating Units (ZCUs) and the Secretariat of the Tanzania Human Rights Defenders Coalition.

The Coalition, through its ZCUs at zonal level shall coordinate and supervise implementation of this code of conduct. The Coalition, through its ZCUs shall provide advice, recommendations or compliments to members and HRDs or to a potential member of the Coalition.

The National Coordinator of the Coalition where necessary shall provide a reasonable warning to a member whose act or omission violates this code of conduct.

Failure to comply with such warnings, other THRDC Constitutional disciplinary procedures shall apply. Taking into consideration that breach of this code is one of the Constitutional misconduct under THRDC Constitution.

The ZCUs shall provide a bi-annual report to the Coalition on the implementation status of the code of conduct during election cycles. The Members Affairs Desk shall submit a ZCU collective report to the Coordinator.

This code of conduct shall be amended from time to time based on recommendations of HRDs and resolutions of members.

This Code of Conduct has been issued pursuant to the THRDC's Constitution, Membership Policy and ZCU Operational Guidelines. A breach of this Code will be dealt in joint with these documents all together.