

# UNIVERSAL PERIODIC REVIEW (UPR) GENERAL REPORT

Joint civil society submission to the  
UPR working group review of the  
United Republic of Tanzania

**UPR**  
*25<sup>th</sup> Session,  
April 2016*

# Executive Summary

1. The Universal Periodical Review (UPR) is a State-driven process which involves a review of the human rights records of all UN Member States. The ultimate aim of the mechanism is to improve human rights in all countries and address human rights violations. The United Republic of Tanzania underwent the first cycle of the UPR on 3 October 2011. The State considered all 153 recommendations, accepted 107 in full, 33 in part, and the remaining four were referred for further consideration or rejected.
2. The implementation report has been prepared by a coalition of about 80 human rights NGOs from across the country. The coalition has been monitoring and documenting the implementation of 107 accepted UPR recommendations during the past four years. The coalition found that nine percent of the recommendation have been fully implemented, 62 percent partially implemented, and 29 percent not implemented. Implementation report was developed under the Coordination of Tanzania Human Rights Defender's Coalition and HIVO's financial support since 26/4/2015 when those 80 CSOs were grouped according to thematic issues to collectively review the government's implementation of the 107 accepted recommendations.
3. The United Republic of Tanzania is scheduled for its 2nd cycle of UPR review in April 2016. This report assesses the progress made by the government and highlights ongoing human rights violations in Tanzania. We acknowledge the Government's effort in formulating policies, laws and strategies in relation to human rights in Tanzania. Despite this progress, there were several human rights violations regarding freedom of expression, press and right to information; women rights; children rights; social rights; civil society rights; freedom of association and human right defenders; political rights; minorities and people with disabilities; indigenous and pastoralist rights; economic rights; and the rights of refugees and asylum seekers.

## METHODOLOGY AND CONSULTATION

4. This joint submission has been prepared by a coalition of 103 civil society organizations (CSOs) in Tanzania after consultation with several NGOs, governmental agencies and officials, academia, and members of the community at the grass-roots level by way of conferences, meetings, workshops and seminars.
5. This report was validated and endorsed by CSOs at the Double View Hotel in Dar es Salaam on 17 September 2015.<sup>1</sup>

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<sup>1</sup> List of NGOs is attached as Annexure A.

# HUMAN RIGHTS ISSUES AND RECOMMENDATIONS

## A. FREEDOM OF EXPRESSION/RIGHTS TO INFORMATION

### The use of old and repressive laws

6. There has been no law reform on long disputed draconian laws, such as the Newspaper Act, 1976 and the National Security Act, 1970. There are also practices which indicate that freedom of expression has not been observed since 2011. There have been many violations of the media's freedom of expression.
7. In mid-2015, five laws were enacted which affect freedom of expression. The way the government enacted them through parliament has received criticism from various information and media stakeholders, including some of the legislators. These laws include Cybercrime Act, 2015; Statistics Act, 2015; and Whistleblower Act, 2015.
8. On 27 January 2015, the weekly newspaper, East African, was banned from circulation by government authorities. The authorities noted that the paper was not properly registered in accordance with the Newspaper Act, 1976.<sup>2</sup> However, the actual reason for the ban was because of its critical coverage of government officials.
9. On 30 September 2013, the Minister for Information suspended two Swahili newspapers, Mwananchi and MTanzania, for 14 and 90 days respectively for the alleged publication of seditious stories.<sup>3</sup> The authorities accused the newspapers of publishing articles and photographs that could instigate public outrage against the State. Specifically, Mwananchi was accused of publishing an article on government salaries using information that was confidential.<sup>4</sup> MTanzania was suspended because of articles which described police attacks on civilians.<sup>5</sup> Prior to issuing the suspension, the Registrar of Newspapers issued warnings to the papers for stories published with titles such as "bloody presidential"; "the revolution is inevitable"; and "the government smells blood."<sup>6</sup>

### Recommendations: The State is urged to:

10. Amend all draconian laws such as the Newspaper Act, 1976 and the recently passed media related laws (Cybercrimes Act and Statistics Act).
11. Provide an inclusive environment to the public and other key stakeholders when developing laws regarding media services, access to information and freedom of expression.

<sup>2</sup>"Tanzania bans 'the EastAfrican over coverage of government, registration,'" *The EastAfrican* <http://www.theeastafican.co.ke/news/Tanzania-now-bans--The-EastAfrican--/2558/2600522/-/cp5mmlz/-/index.html>, accessed 26 August 2015.

<sup>3</sup>"UN urged to intervene over Tanzania ban of two papers," *Daily Nation*, <http://mobile.nation.co.ke/News/UN-urged-to-intervene-over-Tanzania-ban-of-two-papers-/1950946/2013584/-/format/xhtml/-/4a4of2z/-/index.html>, accessed 25 August 2015.

<sup>4</sup>"Kibanda returns from S.Africa," *The Citizen*, <http://www.thecitizen.co.tz/News/Kibanda-returns-from-S--Africa/-/1840392/1872692/-/yd3gkj/-/index.html>, accessed 26 August 2015.

<sup>5</sup>"Government shuts down Mwananchi and Mtanzania for provoking hostility," *The Citizen*, <http://www.thecitizen.co.tz/News/Govt-bans-Mwananchi--Mtanzania/-/1840392/2011424/-/12bbww5z/-/index.html>, accessed 26 August 2015,

<sup>6</sup>"Dar Bans Mwananchi over story," *Daily Nation*, <http://mobile.nation.co.ke/news/Dar-bans-Mwananchi-over-story-/1950946/2012060/-/format/xhtml/item/1/-/r4g7iqz/-/index.html>, accessed 26 August 2015.

### **Restrictions on media freedom and attacks against journalists**

12. Journalists in Tanzania face harassment, threats, detention, death, torture, defamation, suspension from their employment, denial of freedom of movement and bans against their newspapers. This is despite the government's repeated statements about its support of the freedom and access to information. Tanzania Human Rights Defenders Coalition (THRDC) has recorded more than 20 incidents of harassment, torture, killings, arrests, baseless charges, attacks and threats involving journalists from across the country annually.
13. For example, in June 2015 a freelance journalist, Omar Ali, from Pemba was attacked and severely beaten by police officers. The assault left the journalist with broken legs and other injuries. The assault is directly linked with voters registration in Zanzibar.<sup>7</sup>
14. On 2 September 2012, journalist Daudi Mwangosi of a private television station, Channel 10 TV, who was also Chair of the Iringa Press Club, was killed during confrontations between police and political protesters in the region of Iringa. The demonstrations had been organised by the political party, Chadema, in Nyolo Iringa. Mwangosi was physically assaulted and a tear gas canister was fired at him at very close range. Murder charges were brought against the officer who fired the tear gas canister, however the case has not concluded. In addition, six other officers involved in the confrontations with Mwangosi have not been held accountable for their actions.

### **Recommendations: The State is urged to:**

15. Ensure that the police force observes and protects the rights of journalists when undertaking their duties in the country.
16. Create a criminal system that provides an independent investigation organ to investigate all cases involving journalists who were killed or assaulted while on duty.

## **B. WOMEN RIGHTS**

### **Women's participation in decision-making**

17. The Government of Tanzania has made commendable efforts over the past four years in increasing women's participation in decision-making bodies. Notably, female representation in parliament, the judiciary, government bodies and political parties has increased tremendously since 2011. Despite these efforts, the State is yet to enact legislation that provides for strict observance of gender equality during elections.

### **Recommendations: The State is urged to:**

18. Enact a law to ensure equal participation of women in all political and administrative positions.
19. Endorse the Draft Constitution of the United Republic of Tanzania which provides for 50/50 female representation in parliament and other administrative positions.

### **Women's right to inheritance**

20. Article 24 of The Constitution of the United Republic of Tanzania of 1977 (Constitution) allows every person to own property, and article 13(1) provides that all persons are equal before the law and are entitled, without any discrimination, to protection and equality before the law. In addition, article 13(5) defines discrimination and includes gender.

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<sup>7</sup>See the Media Council of Tanzania (MCT), 2015 Freedom Violation Report.

21. Tanzania's inheritance regime violates women's fundamental rights to equality and ownership of property. The multiplicity of legal systems as to the administration of a deceased's estate (i.e. statutory law, customary law, Islamic law and Hindu law) creates internal conflicts of laws leading to the question of choice of law in the distribution of a deceased person's estate.<sup>8</sup>

**Recommendations: The state is urged to:**

22. Enact a uniform and non-discriminatory succession law to meet Tanzania's constitutional and international obligations on women's rights
23. Repeal and amend all laws which discriminate and deny women's inheritance rights, including customary laws.

**Gender based violence (GBV)**

24. The government is reluctant to domesticate the Convention the Elimination Discrimination Against Women (CEDAW) and no concrete efforts have been made to implement relevant UPR recommendation on GBV.
25. Various reports from CSOs and the Government indicate that GBV and witchcraft killings in Tanzania are still rampant, however no new laws have been enacted to combat this problem. Despite this, the Government developed several strategies and initiatives to handle such issues, such as the establishment of Police Gender Desks, Tanzania Women Police Network (TPFNET) and National Health Management Guidelines for the Ministry of Health; changing P3 forms to capture information from GBV victims; and introducing One Stop Centers.

**Recommendations: The State is urged to:**

26. Allocate human and material resources to support diversion services for children who come into conflict with the law.
27. Strengthen efforts to fulfill its obligations under CEDAW, including adopting and implementing legislation prohibiting female genital mutilation.
28. Enact a law specifically defining and criminalizing domestic violence and implement international obligations in this regard, including domesticating CEDAW.
29. Consider strengthening the national gender policies and implementing a comprehensive strategy, including enacting legislation, to modify or eliminate traditional practices, such as female genital mutilation, and stereotypes that discriminate against women, in particular considering the situation of elderly women.
30. Deploy more efforts to address the problem of street children, child work and devise training programs to improve the qualifications of those working in the field in order to receive the necessary technical assistance from human rights mechanisms and other relevant organizations.

## C. CIVIL SOCIETIES AND HUMAN RIGHTS DEFENDERS

### Restrictions to civil societies' operation

31. Although CSOs have been freely operating in the country, several setbacks have been observed. CSOs have been degraded and labeled as belonging to opposition parties or serving donors' interests. This creates an unsafe work environment for CSOs in Tanzania.

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<sup>8</sup> See <http://ilawadvocates.blogspot.com/2012/05/successio-and-inheritance-in-tanzania.html>.

32. Approximately 30 human rights defender (HRD) security incidents are recorded yearly in Tanzania. Such claims include arrest, malicious prosecutions, torture, criminalization of freedom of expression and CSOs operations.
33. There is controversy regarding CSOs' compliance with the Non-governmental Organizations Act, 2002 regarding non-governmental organizations that are established under any other written law. Also, draconian laws do not specify what CSOs are permitted to do. In addition, these laws restrict CSOs' right to assembly because they do not permit them to form coalitions for a certain purpose and duration.
34. In November 2014, Samwel Nangiria, human rights defender and Coordinator of the NGO, NGONET, received threatening phone calls and text messages warning him about his advocacy campaigns on the land rights of the Masai in Loliondo in the Ngorongoro district. Samwel continues to lead advocacy efforts against a decision taken by the Ministry of Tourism to allocate 1500 square kilometres of land to a Dubai-based hunting company –Otterlo Business Corporation (OBC).<sup>9</sup>
35. On 9 February 2012, human rights defender, Helen Kijo, and 15 other human rights defenders were arrested and detained because they took part in a peaceful demonstration calling on the government to resolve health challenges in Tanzania. They were arrested as they entered the premises of Muhimbili National Hospital in Dar es Salaam to receive feedback following discussions between the Prime Minister and health workers. They human rights activists were detained at the Oyster Bay Police.
36. On 26 July 2014, the Kondo District Council issued a ban on all activities of health advocacy NGO, Sikika, in the Kondo District. Shortly before the ban, Sikika had completed a project on social accountability and the promotion of transparency, accountability and good governance in the health sector. The District Council intimated that it had been insulted in the Sikika report. On 28 February 2014, Sisi kwa Sisi, an NGO working on key population health issues, was deregistered. The letter of deregistration was sent by the Permanent Secretary of the Ministry of Community Development, Gender and Children.
37. Despite some government efforts to strengthen the Tanzania Commission for Human Rights and Good Governance (CHRAGG), there are still many challenges preventing its effectiveness. CHRAGG is poorly funded with limited power to enforce their recommendations in court or require their reports to be discussed by Parliament.

**Recommendations: The State is urged to:**

38. Create a civic space and conducive environment for civil society and human rights defenders to work freely.
39. Develop national policy and law that recognizes and protects human rights NGOs and human rights defenders in Tanzania.
40. Amend all laws that restrict and affect the work of CSOs and human rights defenders in Tanzania.
41. Fully investigate all cases of intimidation and attacks against civil society activists and human rights defenders to bring perpetrators to justice and deter similar acts.
42. Establish a legal framework that does not contradict the existing legal framework that governs CSOs' operations in Tanzania.

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<sup>9</sup> "Tanzania ditches plan to evict Maasai of Serengeti wildlife corridor," Tanzania News Reports, <http://www.tanzanianewsreports.com/tanzania-ditches-plan-to-evict-masai-for-serengeti-wildlife-corridor/>, accessed 2 September 2015.

43. Create an environment for civil society and the media to operate in accordance with the rights enshrined in the Constitution of Tanzania, International Covenant on Civil and Political Rights (ICCPR) and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association; freedom of expression; the right to operate free from unwarranted state interference; the right to seek and secure funding; and the State's duty to protect.
44. Support the implementation of the National Human Rights Action Plan by allocating sufficient resources to CHRAGG through an independent funding mechanism directly from the Treasury and not through the Ministry.

## **D. GENERAL HUMAN RIGHTS AND POLITICAL RIGHTS**

### **Constitution making process**

45. The constitutional review process started positively; however, during the process the ruling party, through the Constituent Assembly, disregarded the draft Constitution produced by the Constitutional Review Commission. Consequently, most citizens' views were not incorporated in the current draft Constitution.

### **Recommendations: The State is urged to:**

46. Restore the constitution making process and ensure that the Constituent Assembly considers the views of the public contained in the draft Constitution.
47. Ensure that freedom of expression and assembly is maintained and guaranteed during the entire constitution making process.

### **Independence of the National Electoral Commission**

48. The National Electoral Commission of the United Republic of Tanzania is established under Article 74(1) of the Constitution. The Chairman and Commissioners of the Commission are appointed by the President, who is also the Chairman of the ruling party. The Commission lacks sub-offices and its own permanent officers in rural areas which results in the Commission relying on local government leaders who are also presidential appointees. These issues diminish the public's trust and credibility of the Commission.

### **Recommendations: the State is urged to:**

49. Amend the national electoral laws and give the Parliament the power to vet the Chairman of the Electoral Commission and other Commissioners after official appointment.
50. Ensure the draft Constitution by the Constitution Review Commission is restored because it had good provisions on the independence of the Electoral Commission.

### **Poor conditions in prisons centers**

51. In 2012, the Government launched the first community-based diversion and alternative to custody programme in one district of Dar es Salaam for children aged 10-17 years; children can be referred to this programme from the police, prosecutors, courts and social welfare. Despite this, prisons conditions throughout the country are very poor and no law reform has been made to improve the prison sector. However, there is a draft of the Prison Policy which is yet to be finalised.
52. The prison service is still bound by laws and policies that were used during the colonial era. For example, unlike the police force, prisons only have one spokesperson throughout the entire country and the Regional Prison Officers are restricted from acting freely in their jurisdictions.

**Recommendations: The State is urged to:**

53. Improve conditions in Tanzania's prisons, including in relation to overcrowding and inadequate health care.
54. Improve conditions in prisons centers, including alternative mechanisms to deprivation of liberty such as community service.
55. Amend the Prison Act to include provisions that allow the prison to decentralize its administration

**Corruption and embezzlement**

56. Corruption is rampant and is an issue of particular concern in Tanzania. The government has taken some steps towards good governance and anti-corruption through establishing the National Anti-Corruption Strategy and Action Plan. However, the plan and strategy have not been fully implemented leading to the involvement of public officials in embezzlement and corruption such as the recent 2015 escrow saga. Moreover, the government's unjustifiable restrictions on freedom of press and association limit the role of media and CSOs in the fight against corruption.

**Recommendations: The State is urged to:**

57. Implement a national action plan to combat corruption, including enhanced laws and enforcement, more resources dedicated to anti-corruption bodies, a review of law enforcement compensation, and a nation-wide educational campaign on corruption and embezzlement.
58. Remove unjustifiable restrictions on media and CSOs in criticizing and speaking out about government embezzlement and corruption practices.

**State of impunity**

59. The State has made no significant efforts to investigate and prosecute criminal cases, especially cases involving the violations of journalists' and HRDs' rights. The police has the mandate to arrest, investigate and prosecute alleged offenders. The criminal justice system is too weak to dispense justice when it comes to incidents where perpetrators of the alleged violations are state actors, who are law enforcers such as the police and other security officers. The weak criminal justice system remains the main reason behind the growing state of impunity in Tanzania.
60. Until late 2014, several perpetrators in cases that involve HRDs and journalists were not held accountable for their actions. This includes the killing of a Channel 10 reporter, Daudi Mwangosi; Director of ABC foundation in Mara region, Mr. Eustace Nyarugenda; and the abduction and torture of Dr. Steven Ulimboka, former Chairperson Medical Doctor's Association, and Mr. Absalom Kibanda, the Chairman of the Editors Forum.

**Recommendation: the State is urged to:**

61. End impunity for violations against innocent people, journalists and human rights defenders by ensuring that investigations are promptly and impartially conducted, perpetrators are held accountable, and victims obtain appropriate remedies.

**Corporate social responsibility**

62. Tanzania does not have specific laws which govern corporate social accountability. Corporate companies' accountability status to the community is still a problem in Tanzania because many companies violate the rights of people living around investment areas.<sup>10</sup>

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<sup>10</sup> Human rights and Business Report in Tanzania 2013 pg xxvi.



**Recommendations: the State is urged to:**

63. Amend all laws relevant to taxes to limit tax-exemption not to exceed one percent of the GDP as proposed by Chief Auditor General (CAG), and require the Minister's power of grant exemption to be approved by a special committee.
64. Formulate a specific law on corporate social accountability in Tanzania.

## E. MINORITY GROUPS

### I. Refugees and asylum seekers

65. The State has facilitated durable solutions for refugees by naturalizing approximately 162,000 former Burundian refugees, and its generosity is demonstrated by hosting the recent influx of 92,000 Burundian refugees. Despite these achievements, breaches of refugees' and asylum seekers' human rights have occurred since 2011.

**The right to freedom of movement**

66. The State's mandatory encampment of refugees and asylum seekers violates their right to freedom of movement.<sup>11</sup> Refugees and asylum seekers can only apply for temporary absences from the camp<sup>12</sup> and those who leave without permission are liable to pay a fine and/or be imprisoned.<sup>13</sup> Refugees and asylum seekers who cannot obtain permission to leave the camp, often live outside the camp in hiding at risk of detention and deportation.<sup>14</sup> People leave the camp due to personal security concerns; generalized insecurity; outbreak of diseases; insufficient services; poverty; and/or lack of employment opportunities.<sup>15</sup>

**Recommendation: the State is urged to:**

67. Urgently take measures toward granting freedom of movement to asylum seekers and refugees.

**The right to self-employment**

68. The high cost and bureaucratic challenges to access requisite work permits violate refugees' and asylum seekers' right to self-employment and right to wage-earning employment.<sup>16</sup> As this population does not automatically have the right to work, many of them work illegally in the informal sector, live in constant hiding from government authorities and are exploited by their employers and landlords.<sup>17</sup> The State recently enacted The Non-Citizens (Employment Regulation) Act 2014, which waives certain work permit fees for refugees; however, other barriers still exist. Refugees are often unable to obtain business licences because they do not have permission to live outside the camp. Also, work permit requirements that refugees cannot satisfy by virtue of their displacement, such as employer sponsorship, prevent them from accessing their right to work.

<sup>11</sup>Convention Relating to the Status of Refugees, 189 U.N.T.S. 137, articles 26 and 31 (Refugee Convention); International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, article 12 (ICCPR); Universal Declaration of Human Rights, GA Res 217A (III), articles 3 and 13 (UDHR); Refugees Act, Cap 37 (R.E 2002), sections 17 and 24 (Refugees Act).

<sup>12</sup> Refugees Act, section 17. The Act permits refugees to apply to leave the camp for a period of up to 14 days which may be renewed for a limited amount time.

<sup>13</sup> Ibid, sections 17 and 24.

<sup>14</sup> Asylum Access Tanzania, No Place Called Home: A Report on Urban Refugees Living in Dar es Salaam (2011) 7 (No Place Called Home).

<sup>15</sup> Ibid, 4.

<sup>16</sup> Refugee Convention, articles 17 and 18; International Covenant of Economic, Social and Cultural Rights, 993 U.N.T.S. 3, article 6; UDHR, article 23.

<sup>17</sup> No Place Called Home, 5.

**Recommendations: the State is urged to:**

69. Improve access to business licenses and work permits for asylum seekers and refugees.
70. Exempt refugees seeking work permits from the requirement of employer sponsorship and other conditions that they are unable to satisfy because of their displacement.

## II. Key Population, Gender and Sexual Minority

71. The key population working group has knowledge of several incidents of grave human rights violations by police, including arbitrary arrest, torture, rape and inhuman treatment, often combined with extortion for money or sex. In most of these cases, there was denial of access to justice, as police officers refused to accept complaints from members of key populations and sexual minorities. Additional sources known to the working group indicate that members of key populations and sexual minorities are sometimes arrested on false accusations or are victims of arbitrary arrest.
72. Despite several commitments by the government to key populations and sexual minorities, there are still several challenges with regard to key populations' access to health services. There have been several cases of human rights violations within the health sector affecting key populations, which include denial of services, verbal harassment, abuse and violation of confidentiality. The National Third Multi Sectoral Strategic Framework for HIV and AIDS of 2013-2017 and National Guideline for Comprehensive Package of HIV Intervention for Key Population 2014 recognize the existence of high prevalence of HIV/AIDS among key populations and sexual minorities, and call for more interventions to focus on these groups.

**Recommendations: the State is urged to:**

73. Take action against all people including police officers responsible for harassment, torture, and all other forms of ill treatment against sexual minorities and key populations on the basis of their orientation or identity.
74. Ensure there are no restrictions in the registration of minority groups, especially those dealing with HIV interventions, sexual and reproductive health and social rights, in order to better uphold the objectives of National Third Multi Sectoral Strategic Framework for HIV and AIDS.
75. Ensure that key populations and sexual minorities receive equal treatment in accessing health services and justice.

## III. People with Disabilities (PWDs)

76. The government has prosecuted the perpetrators of killing of persons with albinism and enacted the People with Disability Act, 2010 which has laid down a remarkable foundation in protection of PWDs. Despite this progress, the society has not been informed of the importance of PWDs protection. This work of raising awareness is mainly done by CSOs which lack sufficient funds.
77. 286 suspects were arrested and taken to court; 30 were found guilty, 35 files are under police prosecution and 193 prosecutions are in progress. Nevertheless, security of persons with albinism (PWA) failed to be achieved due to ongoing attacks and killings.
78. The number of killings of PWA is escalating and it is believed this trend is due to the upcoming election. The Minister of Home Affairs recently spoke about the three killings of PWA which occurred in Simiyu, Geita and Singida, and pointed out that 17 suspects were arrested, seven were released due to lack of evidence, seven were prosecuted and three are still under police prosecution.

**Recommendations: The State is urged to:**

79. Use more efforts to educate and raise awareness on the rights of persons with disabilities.
80. Implement the People with Disability Act, 2010 and include PWDs in its implementation.
81. Increase its commitment in implementing the law protecting PWDs rights.
82. Increase expediency in investigating and prosecuting cases involving persons with albinism.
83. Develop a more effective system to apprehend principle offenders against people with albinism instead of only prosecuting agents of principle offenders.
84. Improve security for PWAs especially children.
85. Provide fully insured health services through national health insurance.
86. Launch a nationwide education and awareness campaign to prevent stigmatization of persons with albinism to ensure their security and facilitate their equal access to education and employment.
87. Improve schools and other educational facilities and environments to meet the needs of persons with disabilities.
88. Review the Witchcraft Act, 1928 and the Alternative Medicine Act, 2002 since they permit offences against humanity.
89. Provide updated and precise statistics on crimes such as assaults on albinos and extra-judicial killings of elderly women, and define the murder of elderly women based on accusations of witchcraft as a specific category in police reports.

## IV. The Right of Elderly People

90. Tanzania is a difficult country to live in when growing old. There is no legal protection of the rights of elderly people. The elderly do not have health insurance or a sustainable and pensionable income after reaching the age of 60.

**Recommendations: the State is urged to:**

91. Enact a law that guarantees the rights of elderly people to ensure their health security.
92. Ensure all elderly including those without formal employment are included in the pension system to ensure sustainable income and a minimum standard of living.

## F. PASTORALISTS/INDIGENOUS COMMUNITIES

**Marginalization of pastoralists and hunter-gatherers**

93. Pastoralists and hunter-gatherers continued to be marginalized and discriminated against in Tanzania by existing policies, laws and government officials. The Wildlife Act, 2009 that considers hunter-gatherers to be poachers is evidence of this discrimination. The National Livestock Policy does not recognize pastoralism as a mode of life and production in Tanzania. Further, some government officials perceive pastoralists to be uncivilized citizens.

**Recommendations: the State is urged to:**

94. Put in place appropriate constitutional and legislative mechanisms to protect pastoralists and hunter-gatherers against discrimination of all forms including discrimination of their dignity, livelihoods and protection of their land.
95. Review the current Livestock Policy to accommodate pastoralism or develop a new Pastoralist Policy.

### **Unlawful arrests, torture and prosecution of pastoralists and hunter-gatherers**

96. Pastoralists and hunter-gatherers have been subjected to arbitrary decisions of law enforcement agencies in many districts including Kilosa, Mvomero, Ulanga, Kilombero, Meatu, Kiteto, Ngorongoro and Siha. This has resulted in harassment and gross violation of the human rights of members of their communities.

#### **Recommendation: the State is urged to:**

97. Set up an independent commission of inquiry involving pastoralists and hunter-gatherers to investigate unlawful arrests, prosecution and other human rights violations against pastoralists and hunter-gatherers.

### **Land grabs and unlawful evictions**

98. During the period under review, Tanzania witnessed escalating cases of land grabs and unlawful evictions of pastoralists and hunter-gatherers from their ancestral land. The land grabs and unlawful evictions were carried out by different land users including wildlife protected area authorities, farmers and investors supported by the government.

#### **Recommendation: the State is urged to:**

99. Ensure that all land that has been taken unlawfully is restored to the pastoralists and hunter-gatherers and that no further land grabs and unlawful evictions occur.

### **Delay of justice on constitutional and public interest litigation**

100. Court cases involving pastoralists and hunter-gatherers have been subjected to unreasonable delay. The Loliondo constitutional case has been pending in the High Court of Tanzania, Arusha Registry since December 2010.<sup>18</sup> To date, the case is pending while the violence continues. Also, some government officials are reluctant to implement court judgments in favor of pastoralists such as in Kiteto and Kilosa.

#### **Recommendation: the State is urged to:**

101. Improve the efficiency of the justice system to ensure that constitutional litigation as well as other public interest cases are conducted expediently to avoid miscarriages of justice while ensuring all cases decided by courts are executed in a timely manner.

### **Collective punishment of pastoralists and hunter-gatherers**

102. While presenting a report of the Presidential Quasi-Judicial Commission on Operation Tokomeza Ujangili<sup>19</sup> to the President on 10 April 2015,<sup>20</sup> the retired judge Hamis Amir Msumim confirmed *nine* deaths resulting from torture during the operation. It also found that in 22 districts the military breached laws and regulations during the operation and tortured, illegally arrested and humiliated the victims, many of whom included indigenous/pastoralist peoples.<sup>21</sup>

#### **Recommendation: the State is urged to:**

103. Prosecute all those involved in the violation of human rights during Operation Tokomeza Ujangili and ensure that it refrains from misusing the military in local level operations involving civilians and that victims of all operations receive fair and adequate compensation without further delay.

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<sup>18</sup> MISC.CIVIL CAUSE No.15 of 2010.

<sup>19</sup> Operation Tokomeza Ujangili (Operation Destroy Poaching), which was meant to stop the then escalating poaching in the country started on October 4, 2013 for several weeks. Unfortunately the operation resulted in gross violations of human rights as provided by the parliamentary committee report that showed that pastoralists were targeted rather than poachers.

<sup>20</sup> The full report was not made public but the press release is available at [www.blog.ikulu.go.tz/?p=5510](http://www.blog.ikulu.go.tz/?p=5510).

<sup>21</sup> Mwananchi [Dar es Salaam] (May 9, 2015).

## G. SOCIAL RIGHTS

### I. Right to health

104. In the last reporting cycle, the Government of Tanzania pledged to reduce maternal and child mortality rates by taking necessary measures toward increasing women's access to health care facilities and medical assistance by trained personnel, in particular in rural areas. Our findings indicate that the government has made efforts to reduce incidents of mother, new-born and child mortality rates through various ways.
105. Despite these efforts, the shortage of essential medicines, medical supplies, equipment and health workers; inaccessibility of health services; and grievances of health workers are major challenges to health rights in Tanzania<sup>22</sup>. In addition, the shortage of essential medicine, medical supplies and equipment is mainly caused by a lack of funds for the health sector. The budget allocation is usually insufficient and procurement procedures are long and complex.
106. In 2001, the Government of Tanzania and other African countries signed and ratified the Abuja Declaration which calls upon all signatory countries to allocate at least 15 percent of the total government budget to the health sector. Tanzania has been allocating about ten percent of its budget to health services which causes CSOs to question its commitment to fulfill this obligation.

#### **Recommendations: the State is urged to:**

107. Increase internal financial allocation to 15 percent of the total government budget to the health sector and ensure timely and full disbursement of the allocated funds.
108. Take necessary measures to increase women's access to health care facilities and medical assistance by trained personnel, in particular in rural areas.

### II. Right to education

109. The government has selected the education sector to be in the Big Results Now initiative aimed at maximising the utilisation of available resources to achieve specific results within a stipulated time line (3 years in this case). Further, the Government of Tanzania has also continued to implement the MESS program (a plan to construct secondary schools in each ward). Also, the government established the new Education Policy in 2014. However, the quality of education in Tanzania continues to be very poor because of many factors such as insufficient resources, poor teaching and learning conditions, poorly paid teachers and lack of quality-oriented policies.

#### **Recommendations: The State is urged to:**

110. Increase its efforts to develop and maintain a qualified cadre of highly motivated primary and secondary school teachers capable of providing quality education to students.
111. Continue to invest more resources in education to reduce overcrowding in classrooms.

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<sup>22</sup> 2014 human rights reports by LHRC.

## H. CHILD RIGHTS

### **Non-implementation of children laws and policy**

112. Laws and policies about child rights, particularly the Law of the Child Act, 2009, regulations, and the National Child Development Policy have not been implemented. For example, there is poor administration of children despite the presence of the Law of the Child Act. Cases are not expediently handled because there is only one juvenile court and one approved school in Tanzania.

### **Recommendation: The State is urged to:**

113. Increase resource allocation to child rights and the juvenile justice sector in order to implement laws and policies. This includes budgetary allocation to juvenile courts and alternatives for children who come into conflict with the law.

### **Contradiction of legal and policy framework on child rights**

114. The laws and policies in force, particularly the Law of Child Act, Law of Marriage Act, Employment and Labor Relation Act and the Anti-Trafficking in Persons Act are not harmonized to address children issues/rights in line with current global changes.

### **Recommendation: the State is urged to:**

115. Harmonize laws and policies to conform to international human rights standards for child protection, which includes amending all provisions in laws which curtail children rights contrary to their best interests.

### **Poor learning environment at schools**

116. In Tanzania, there is an inadequate number of schools, especially special schools for children with disabilities. There are also insufficient classrooms and latrines pits on school premises. In addition, schools still administer corporal punishment to children.

### **Recommendations: the State is urged to:**

117. Improve learning environments to achieve better academic results.

118. Harmonize the national education curriculum, syllabuses and guidelines in relation to the newly enacted Education Policy.

## TANZANIA CIVIL SOCIETIES WHICH PARTICIPATED IN THE PREPARATION OF THE JOINT CSO's UPR REPORT

1. ACTION AID
2. ACTION FOR DEMOCRACY AND LOCAL GOVERNANCE
3. ARUSHA NGO NETWORK (ANGONET)
4. ASSOCIATION OF NGO'S IN ZANZIBAR (ANGOZA)
5. ASYLUM ACCESS
6. BARAZA LA KATIBA ZANZIBAR
7. BETHANIA EMPOWERMENT AND SUPPORT (BEST)
8. BETTER LIFE
9. BLOGGERS ASSOCIATION OF TANZANIA
10. CHANGE TANZANIA
11. CHILDREN EDUCATION SOCIETY(CHESO)
12. CIVIL EDUCATION IS THE SOLUTION FOR POVERTY AND ENVIRONMENTAL MANAGEMENT (CESOPE)
13. COMMUNITY DEVELOPMENT FUND
14. COMMUNITY HEALTH EDUCATION SERVICES AND ADVOCACY (CHESA)
15. COMMUNITY PARTICIPATION DEVELOPMENT ASSOCIATION
16. DUNGONET
17. ENVIROCARE
18. GOSPEL COMMUNICATION NETWORK OF TANZANIA(GCNT)
19. HAKI ARDHI
20. HAKI ELIMU
21. HAKI MADINI
22. HAKI ZA BINADAMU
23. HAKIKAZI CATALYST
24. HELP STREET CHILDREN AND TRUST OF TANZANIA
25. HOME AND CARE FOR AGED AND ORPHANS
26. HUMANITY ASSISTANCE CENTER
27. JAMII MEDIA
28. JUKWAA LA KATIBA TANZANIA (JUKATA)
29. KASULU LEGAL AID
30. KIOTA WOMEN'S HEALTH AND DEVELOPMENT (KIWOHEDE)
31. KIVULINI WOMENS RIGHTS ORGANIZATION
32. LAWYERS' ENVIRONMENTAL ACTION TEAM (LEAT)
33. LEGAL AID COMMITTEE OF THE UNIVERSITY OF DAR ES SALAAM (LAC)

34. LEGAL AID SECRETARIAT (LAS)
35. LEGAL AND HUMAN RIGHTS CENTRE (LHRC)
36. LESHEHABINGO
37. LINDI WOMEN PARALEGAL AID CENTRE(LIWOPAC)
38. MAASAI WOMEN DEVELOPMENT ORGANIZATION
39. MBEYA HUMAN RIGHTS ORGANIZATION
40. MBEYA HUMAN RIGHTS ORGANIZATION
41. MBEYA PARALEGAL CENTRE(MBEPACE)
42. MBEYA WOMEN ORGANIZATION
43. MEDIA COUNCIL OF TANZANIA (MCT)
44. MEDIA INSTITUTE OF SOUTHERN AFRICA – TANZANIA (MISA-TAN)
45. MIKONO YETU
46. MTANDAO WA JAMII WA USIMAMIZI WA MISITU TANZANIA(MJUMITA)
47. MTWARA ORGANIZATION FOR LEGAL ASISTANCE(MOLA)
48. MTWARA PARALEGAL
49. MUSOMA SOCIAL DEVELOPMENT ORGANIZATION(MUSODEO)
50. NATIONAL ORGANIZATION FOR LEGAL ASSISTANCE (NOLA)
51. JOURNALIST ENVIRONMENTAL ASSOCIATION OF TANZANIA(JET)
52. PARAKUIYO PASTORALISTS INDIGENOUS. COMMUNITY DEVELOPMENT ORGANIZATION (PAICODEO)
53. PASTORAL WOMEN’S COUNCIL OF TANZANIA (PWC)
54. PASTORALISTS INDIGENOUS NON-GOVERNMENTAL ORGANIZATION ( PINGOS FORUM)
55. PASTORALISTS TANZANIA CENTER FOR RESEARCH AND INFORMATION ON PASTORALISM(TCRIP)
56. POLICY FORUM
57. RESTLESS DEVELOPMENT
58. RURAL WOMEN DEVELOPMENT INITIATIVE (RUWODI)
59. SAVE THE CHILDREN
60. SAVE THE CHILDREN RESOURCE CENTRE
61. SHAMSIA WOMEN GROUP(CBO)
62. SIKIKA
63. SOCIETY FOR RURAL DEVELOPMENT INITIATIVE
64. SOCIETY FOR WOMEN AND AIDS
65. SOUTHERN AFRICA HUMAN RIGHTS NGO-NETWORK (SAHRINGON)
66. STAY AWAKE NETWORK ACTIVITIES (SANA)
67. TANGANYIKA LAW SOCIETY (TLS)
68. TANZANIA ALBINO SOCIETY (TAS)
69. TANZANIA CHILD’S RIGHT FORUM
70. TANZANIA COUNCIL FOR SOCIAL DEVELOPMENT (TACOSEDO)



71. TANZANIA EARLY CHILDHOOD DEVELOPMENT NETWORK (TECDEN)
72. TANZANIA FEDERATION OF DISABLED PEOPLE'S ORGANIZATIONS (SHIVYAWATA)
73. TANZANIA GENDER NETWORK PROGRAMME (TGNP MTANDAO )
74. TANZANIA HUMAN RIGHTS DEFENDERS COALITION(THRDC)
75. TANZANIA MEDIA FUND (TMF)
76. TANZANIA NATURAL RESOURCE FORUM (TNRF)
77. TANZANIA NETWORK OF LEGAL AID PROVIDERS (TANLAP)
78. TANZANIA PASTORALIST AND HUNTER-GATHERER ORGANIZATION (TAPHGO)
79. TANZANIA PASTORALIST COMMUNITY FORUM (TPCF)
80. TANZANIA PATRTNERSHIP DEVELOPMENT ORGANIZATION
81. TANZANIA WIDOWS ASSOCIATION(TAWIA)
82. TANZANIA WOMEN LAND ACCESS TRUST (TAWLAT)
83. TANZANIA WOMEN LAWYERS ASSOCIATION (TAWLA)
84. TANZANIA YOUTH ALLIANCE (TAYOA)
85. TANZANIA YOUTH POTENTIAL ASSOCIATION
86. TANZANIA YOUTH VISION ASSOCIATION [TYVA]
87. THE OIL, NATURAL GAS AND ENVIRONMENTAL ALLIANCE (ONGEA)
88. TREE OF HOPE TANZANIA
89. TUF AE
90. UJAMAA COMMUNITY RESOURCE TEAM(UCRT)
91. UNDER THE SAME SUN (UTSS)
92. UNION OF TANZANIA PRESS CLUB
93. WADADA CENTRE
94. WOMEN AND CHILDREN FIRST
95. WOMEN IN LAW AND DEVELOPMENT IN AFRICA (WILDAF)
96. WOMEN WAKEUP ( WOWAP)
97. WOMEN'S LEGAL AID CENTRE (WLAC)
98. WOTE SAWA
99. YOUTH TO YOUTH
100. ZANZIBAR AIDS ASSOCIATION AND SUPPORT FOR ORPHANS(ZASO)
101. ZANZIBAR ASSOCIATION FOR CHILDREN ADVANCEMENT(ZACA)
102. ZANZIBAR FEMALE LAWYERS ASSOCIATION (ZAFELA)
103. ZANZIBAR LEGAL SERVICE CENTRE(ZLSC)

**TANZANIA HUMAN RIGHT DEFENDERS COALITION**

(THRDC) Kijitonyama near Police Mabatini,

P.O. Box 105926, Dar Es Salaam, Tanzania,

Mobile: +255 717 082 228 / +255 783 172 394

Email: [thrddefenders@gmail.com](mailto:thrddefenders@gmail.com),

Face book: [www.facebook.com/TanzaniaHumanRightsDefendersCoalition](http://www.facebook.com/TanzaniaHumanRightsDefendersCoalition)

**Web Site: [www.thrd.or.tz](http://www.thrd.or.tz)**