



TANZANIA HUMAN RIGHTS DEFENDERS COALITION (THRDC)

Report on the Situation of Human Rights Defenders in Tanzania 2017

TANZANIA HUMAN RIGHTS DEFENDERS COALITION (THRDC)

REPORT ON THE SITUATION OF HUMAN RIGHTS DEFENDERS IN TANZANIA 2017

Researchers

Advocate Jones Sendodo and Deogratias Bwire

Writers

Advocate Jones Sendodo, Deogratias Bwire and Leopold Masha

Editor

Onesmo Olengurumwa

List of Donors

American Organization
Foundation for Civil Society



Table of Contents

LIST OF TABLES	v
LIST OF PICTURES	v
ABBREVIATIONS	vii
List of Statutes and International Instruments	ix
Acknowledgement	xi
Preface	xii
OUR VISION	xii
OUR MISSION	xii
OUR VALUES	xii
THE OVERAL GOAL OF THE THRDC	xiii
EXECUTIVE SUMMARY	xiv
CHAPTER ONE: INTRODUCTION	1
1.0 'Human Rights Defender' Defined	1
1.1 Protection Mechanisms for Human Rights Defenders	3
1.1.1 Legal Protection Mechanism at International Level	3
1.1.2 Legal Protection Mechanism at Regional Level	6
1.1.3 Legal Protection Mechanism at the National Level	9
1.1.4 Challenges with Both International and Regional Protection Mechanisms for HRDS	11
1.2 Non Legal Protection Mechanism	11
1.2.1 Non Legal Protection mechanism at International level	11
1.2.2 Non Legal Protection Mechanism at Regional level	13
1.2.3 Protection Mechanism at National Level	13

CHAPTER TWO: VIOLATIONS COMMITTED AGAINST HUMAN RIGHTS DEFENDERS	16
2.0 Overview of the Chapter	16
2.1 Violations Committed Against HRDs in 2017	16
2.2 Physical Violence, Attacks, and Torture	22
2.3 State of Impunity	23
2.4 Law Enforcers as Human Rights Defenders	25
CHAPTER THREE: MEDIA SECURITY AND SAFETY OF JOURNALISTS	29
3.0 Overview of the Chapter	29
3.1 Specific Challenges Facing Journalists	29
3.1.1 Physical threats, Attacks, Arbitrary arrests, Abductions and Malicious prosecutions Against Journalist	30
3.1.2 Ban of Newspapers and Other Threats Against Journalists	32
3.1.3 Digital Threats/Incidents	34
3.2 Legal Challenges Affecting the Security of Media and Journalists	35
3.3 Right to Privacy in Tanzania and the Protection of Whistle Blowers	41
3.4 Internet As a Human Right	43
CHAPTER FOUR: SECURITY MANAGEMENT AND RISK ASSESSMENT	45
4.0 General Introduction	45
4.1 The Need to Build Capacity in Security Management to HRDs	46
4.2 Awareness Level on Security Management for HRDs Before 2013	46
4.3 Human Rights Defenders in 2017	47
CHAPTER FIVE: THE CIVIL SOCIETY SPACE IN TANZANIA	51
5.0 Introduction	51
5.1. The Role and Significance of Civil Society	51
5.2 Historical Background of Civil Society in Tanzania	52
5.3 The Space of Civil Society	53

5.3.1	Indicators of the Space of Civil Society	53
5.4	The Space of Civil Society Organizations at Regional and International Level	55
5.4.1	Civil society space at International (UN) Level	55
5.4.2	Civil Society space at the Regional level	56
5.4.3	The Space of Civil Society Organization at National Level	57
5.5	A Critical Analysis of the Civil Society Space in Tanzania	58
5.5.1	Internal Factors Affecting Civil Society Space	58
5.5.1.1	Poor networking and Cooperation	58
5.5.1.2	Lack of Common Agenda	58
5.5.1.3	Poor Governance structure and Leadership	59
5.5.1.4	Organizational Capacity	59
5.5.1.5	Lack of Capacity to Open up Beyond Borders	59
5.5.2	External factors	59
5.5.2.1	Civil society Freedoms of Information and Expression	60
5.5.2.2	Rights of assembly and association	61
5.5.2.3	CSOs Engagement and Participatory Rights	65
5.5.2.4	Human Rights and Rule of Law	67
5.6	Improving Civil Society Space in Tanzania	68
5.7	Conclusion:	69
CHAPTER SIX: GENERAL CONCLUSION AND RECOMMENDATIONS		70
6.0	Conclusion	70
6.1	Way Forward	70
6.2	Recommendations	71
Annexure One: The List of Countries with Legal Protection of HRDs		73
Annexure Two: The List of Oppressive Laws & Proposed Bills		74

LIST OF TABLES

Table 1. HRDs rights protected under the Declaration include:	4
Table 2. Summary of Regional Mechanism	6
Table 3. Below shows Court Cases related to Internet use	38
Table 4. Security management of Human Rights NGOs in Tanzania	46
Table 5. Illustration of indicators for Civil Society space	47

LIST OF PICTURES

Picture 1: Filing of the case to challenge the Media Services Act, 2016	17
Picture 2: Alphonse Lusako's Case	17
Picture 3: Chibura Makongoro's Case	18
Picture 4: Newspaper article on the arraignment of Mr. Onesmo Olengurumwa – THRDC National Coordinator	18
Picture 5: Police cars outside Blue Pearl Hotel on the day of the Launching of Alphonse Lusako's Book	18
Picture 6: Mr. Onesmo Olengurumwa after being released on court bail	19
Picture 7: Advocate Paul Kaunda together with the two HRDs who were arrested in Kishapu District	19
Picture 8: Newspaper article on the interrogation of Mr. Onesmo Olengurumwa by the Immigration officers	20
Picture 9: A Newspaper article on the violations of Human Rights in Loliondo	20
Picture 10: MCT's press statement condemning the attack on Hon. Tundu Lissu.	20
Picture 11: The Arrest of music artist Ney wa Mitego	21
Picture 12: Roma Mkatoliki and his fellow artists speaking with the media on their forced disappearance	21
Picture 13: A Crime scene in Kibiti	26
Picture 14: The Assault on Hon Nape Nnauye	27
Picture 15: The threat against former Deputy Minister of Finance Mr. Adam Malima	27
Picture 16: A letter restricting THRDC's peaceful demonstration	28
Picture 17: TEF's press statement in response to the Regional Commissioner's invasion of Clouds Media Group station	30
Picture 18: The Arrest of journalists in Arusha region	31

Picture 19:	A poster of the Missing journalist Azory Gwanda	32
Picture 20:	Letter of Mwananchi Communications Limited showing that Mr. Azory went missing	32
Picture 21:	The ban of MAWIO Newspaper	33
Picture 22:	The ban of Raia Mwema Newspaper	33
Picture 23:	The ban of MwanaHalisi Newspaper	34
Picture 24:	The ban of DAIMA Newspaper	34
Figure 25:	Newspaper article on Challenging the Media Services Act, 2016	37
Picture 26:	Newspapers articles on the violations of Human Rights in Tanzania	48
Picture 27:	Security check at Under The Same Sun (UTSS) offices	49
Picture 28:	Public notice by the Registrar of NGOs on CHESA's suspension	62
Picture 29:	Public notice by the Registrar on the NGOs verification process	63
Picture 30:	A letter from the Kinondoni District Authority	63
Picture 31:	A tweet about the interrogation of THRDC National Coordinator by Immigration officers	64
Picture 32:	Hon. Nzunda's order to Local Government Authorities not to partner with NGOs	66
Picture 33:	Activist Jenerali Ulimwengu's article on the Shrinking Civic Space in Tanzania	66
Figure 34:	A tweet about Tanzanian NGOs' condemnation of the President's decision on pregnant girls	68

Abbreviations

AATz	Action Aid Tanzania
AU	African Union
BRELA	Business Registration Licensing Agency
BVR	Biometric Voter Register
Cap	Chapter
CCM	Chama Cha Mapinduzi
CHADEMA	Chama Cha Demokrasia na Maendeleo
CIVICUS	World Alliance for Citizen Participation
CPJ	Committee for Protection of Journalists
CSOs	Civil Society Organizations
CUF	Civic United Front
CORI	Coalition for the Right to Information
DIT	Dar es Salaam Institute of Technology
EHARDP	Eastern and Horn of Africa Human Rights Defenders
EU	European Union
Etc	Et cetera
HIV/Aids	Human Immuno-deficiency Virus/ Acquired Immune Deficiency Syndrome
HRDs	Human Rights Defenders
HRNGOs	Human Rights Non-Government Organizations
IACHR-Inter	Inter- American Commission on Human Rights
ICCPR	International Covenant for Civil and Political Rights
ITV	Independent Television
KRAs	Key Result Areas
LHRC	Legal and Human Rights Center
NGOs	Non-Government Organizations
NEC	National Electoral Commission
MSB	Media Services Bill

OAS	Organization of American States
OSIEA	Open Society Initiates for East Africa
Pg	Page
SAHRINGON	Southern Africa Human Rights NGO-Network
RITA	Registration, Insolvency and Trusteeship Agency
RBA	Rights Based Approach
TACAIDS	Tanzania Commission for Acquired Immune Deficiency Syndrome
TAWLA	Tanzania Women Lawyers Association
TACCEO	Tanzania Civil Society Consortium on Election Observation
TCRA	Tanzania Communication Regulatory Authority
TGNP	Tanzania Gender Network Programme
THRDC	Tanzania Human Rights Defenders Coalition
UPR	Universal Periodic Review
UN	United Nations

List of Statutes and International Instruments

(i) Statutes

The Constitution of the United Republic of Tanzania, 1977

The Constitution of the Revolutionary Government of Zanzibar, 1984

The Second Draft Constitution of the United Republic of Tanzania 2013

The Penal Code [Cap 16 R.E.2002]

The Probate and Administration of Estates Act, 1965, [Cap 352 R.E. 2002]

The Marriage Act of 1971 Cap 29 [RE; 2002]

Probate and Administration of Estates Act, [Cap 445 [R.E 2002]

The Prison Act, 1967, Cap 58 [R.E 2002]

The National Security Act of 1970, [Cap. 47 [R.E 2002]

The Public Leaders Code of Ethics, Cap 398 [R.E 2002]

The National Defense Act, Cap 192 [R.E 2002]

The Prevention and Combating of Corruption, Act No. 11 of 2007

The Area Commissioner Act 1962 & Regions and Regional Commissioners Act 1962

The Civil Service Act 1989

The Film and Stage Act No 4 of 1976

The Newspapers and Books Act (1988)

The Broadcasting Services Cap. 306 of the R. E 2002

The Land Act, 1999 (Act No.4 of 1999)

The Wildlife Conservation Act of 2009 (Cap 5 of 2009)

The Investment Act, 1997 (Act No. 26 of 1997)

The Forest Act, 2002 (Act No. 14 of 2002)

The National Park Act, Cap 282 [R.E 2002]

The Ngorongoro Conservation Act, 1959 Cap 284 [R.E 2002]

The Mining Act, 2010 (Act No. 14 of 2010)

The Basic Rights and Duties Enforcement Act No. 33 of 1994

The Police Force and Auxiliary Services Act, 1939 Cap. 322, [R.E. 2002]

The Non- Governmental Organizations Act, 2002

The Media Services Act, 2016

The Access to Information Act, 2017

The Cyber Crimes Act, 2015

The Statistics Act, 2015

(ii) International Human Rights Instruments

Declaration on the Right of Individuals, Groups and Organs of Society to Promote and

Protect Universally Recognized Human Rights and Fundamental Freedoms on December 9, 1998 (Declaration for Human Rights Defenders).

United Nations Resolution on Protection of Human Rights Defenders March 2013

UN Resolution on Protection of Women Human Rights Defenders November 2013

The International Covenant on Civil and Political Rights 1966

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

The European Convention on Human Rights of 1950

The African Charter on Human and Peoples Rights of 1981

The American Convention on Human Rights 1969

Acknowledgement

Tanzania Human Rights Defenders Coalition (THRDC) would like to express its deep appreciation to individuals, institutions, organizations and government for showing significant support to ensure we have intensive and comprehensive report. We do really appreciate their commitment and dedication to make this report a success one.

We value the contributions of the Human Rights Organizations for their active cooperation during the interviews and Focus Group Discussions (FGD) which enabled us to gather very useful information for this report. We also recognize and appreciate our financial supporter of this project, Finnish Embassy in Tanzania. Moreover, we strongly acknowledge the human rights defenders contribution for sharing their various experiences through our trainings and meetings. They were really informative and useful.

We note with admiration the vital role of the THRDC members, journalists, leaders of regional press clubs for the cooperation accorded to us during our visits. Furthermore, we appreciate the strengthened working relationship between THRDC with some government institutions such as Commission for Human Rights and Good Governance and others for their generous contribution in making this report a significant document.

Preface

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

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

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

OUR VISION

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

OUR MISSION

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

OUR VALUES

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

THE OVERAL GOAL OF THE THRDC

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

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

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

Executive Summary

This situation report is the fifth by the THRDC after the 2013, 2014, 2015 and the 2016 reports. The report is intending to assess the situation of Human Rights Defenders in the country for the year 2017. According to the data collected, HRDs and CSOs in the country work in a difficult environment mainly due to the country's legal framework being hostile towards protection of HRDs. Further, the report indicates that human rights defenders have continued to be the target of different harassment such as attacks, arrests, malicious prosecutions, killings and abduction.

Chapter one introduces the meaning and importance of human rights defenders and the legal protection available at international, regional and national levels. In this report specifically in this chapter countries that have taken up HRDs protection initiatives through legislations have been highly appreciated. The report indicates the lack of legal protection for HRDs in Tanzania. However, THRDC is making efforts to ensure that the country's Legal system protects HRDs and states clearly on their existence, respect and value their great work on protecting and promoting Human Rights.

The report presents various challenges of legal protection for HRDs such as; the existence of laws which do not stand for the protection of HRDs and Civil Society space in Tanzania, slight knowledge about existence of HRDs as well as protection by international and National organizations to both authorities and HRDs themselves. Also lack of knowledge on protection mechanisms for HRDs such as the existence of UN special Rapporteur, the African Rapporteur as well as the Universal Periodic Review (UPR Mechanisms) are also among the challenges. Moreover from this chapter, protection mechanism for HRDs existing in international, regional also at the national level as well as initiatives taken by THRDC to ensure that HRDs work safely is elaborated accordingly. The Coalition still strive to make sure the work of HRDs is well respected and recognized in the country.

Chapter two discusses human rights violations committed against HRDs in 2016 contrary to the Declaration of Human Rights Defenders of 1998. The violations are embodied in various forms. Nevertheless, findings of the report in this chapter point out, the risks that HRDs face in different thematic groups derived from various settings such as political, legal, financial and social cultural challenges. Lack of security awareness and inadequate knowledge on information sharing, are setbacks in this line, joined with restrictions on access to information, and inhibiting media freedom.

Chapter three furthermore spells out that HRDs in Tanzania work in highly difficult and risky environment as they are being harassed, tortured, criminalized, arbitrary arrested, and sometimes charged under some criminal provisions. During the year 2016, the THRDC protection desk recorded cases of baseless charges, criminalization and HRDs security claims including arrest and torture. All the claims were assessed and where necessary technical support was provided. On the other hand, in this report we will only elaborate on key HRDs violations that took place in 2016. The law enforcers are exposed to risk due to sometimes being directed to pursue their duties against their code of ethics and hence put their lives in danger.

Chapter three assessed the Freedom of expression, access to information and the situation of journalists. Other issues highlighted include the risk that journalists face in the line of their duties as well as the legal setbacks which breach freedom of expression and access to information. Draconian media pieces which break Article 19 of the Universal Declaration of Human Rights such as The Cyber Crime Act of 2015 and other media bills have also been noted as set back in the work of HRDs. The Media industry in Tanzania has been operating under laws which were put in place 40 years back with draconian provisions amidst it all. These laws have been used to ban independent newspapers and prosecute journalists who write articles critical of government actions.

Introduction

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

1.0 ‘Human Rights Defender’ Defined

There is no universally accepted definition of the phrase “Human Rights Defender”. According to the Office of the High Commission for Human Rights (OHCHR), HRD is a term used to describe people who, individually or with others, act to promote or protect human rights”¹. Human Rights Defenders are above all recognized by what they do. They work to promote, protect and implement civil and political rights, as well as economic, social and cultural rights.²

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

HRDs play a key role to improve the human rights situation and standards in their countries. HRDs are defined by what they do. They include individuals, lawyers, journalists, NGO activists, trade unionists, minority activists, and demonstrators who act to promote or protect human rights. Needless to say the definition does not include individuals or groups who commit or propagate violence.⁴

1 <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx>

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

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

4 Irish –HRDs Guidelines 2010

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

Human Rights Defenders on occasion, also deal with certain specific categories of people such as women, children, indigenous people, refugees, and displaced persons, in addition to national, linguistic, and sexual minority groups. HRDs are active throughout the world and strive to promote and protect human rights in all sorts of difficult contexts relating, notably, to HIV and AIDS, development, migration, structural adjustment policies and political transition.⁵

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

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

Activities of human rights defenders include⁶:

- documenting violations of human rights ;
- seeking remedies for victims of such violations through the provision of legal, psychological, medical or other support;
- combating cultures of impunity which serve to cloak systematic and repeated breaches of human rights and fundamental freedoms;
- mainstreaming human rights culture and information on human rights defenders at national, regional and international level
- seeking and dissemination of information

The work of human rights defenders often involves criticism of government policies and actions. However, governments should not perceive this role negatively. The principle of allowing room for independence of mind and free debate on a government's policies and actions is fundamental, and is a tried and tested way of establishing a better level of protection of human rights. Human rights defenders can assist governments in promoting and protecting human rights. As part of consultation processes they can play a key role in helping to draft appropriate legislation, and in helping to draw up national plans and strategies on human rights. This role too should be recognized and supported.⁷

5 Ibid.

6 European Union Guidelines on Human Rights Defenders 2004

7 Ibid

1.1 Protection Mechanisms for Human Rights Defenders

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

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

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

1.1.1 Legal Protection Mechanism at International Level

The legal recognition and protection of human rights defenders is crucial to ensure that they can work in a safe, supportive environment and free from attacks, reprisals and unreasonable legal restrictions.⁸The struggle for recognition of HRDs has never been easy, despite the world marking 50 years ever since the Declaration of Human Rights in 1948. In December 1998, HRDs were accorded with recognition and protection after 12 years of negotiations. The UN adopted the;

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

The adoption of this salient document marked a historic achievement in the struggle towards better protection of those at risk for carrying out legitimate human rights activities. This Declaration was the only UN instrument that openly and comprehensively defined and recognized the work and protection of HRDs.⁹

The Declaration is a well-defined international instrument that codifies and puts together standards to protect activities of human rights defenders all over the world. It recognizes the legitimacy of human rights activity and the need for this activity and protection for those who execute it . The declaration imposes duty to every State to protect Human Rights Defenders in accordance with the International Law. Civil authorities and law enforcement organs in each country are also primarily responsible to protect HRDs.

8 See more at: <http://www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders#sthash.fcKqcKj.dpuf> (Accessed when)

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

Table 1. HRDs rights protected under the Declaration

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

States such as Norway, Switzerland, Ireland and the Netherlands are great example for recognition of HRDs as they have facilitated the adoption of the UN declaration. They have also published guidelines directing their diplomats and decision-makers to prioritize the protection of human rights defenders and civil society space abroad.

In 2015, the Finland passed land mark guidelines for protection of HRDs as progressive measures towards the recognition of HRDs globally. The Finnish Guidelines recognize the vital role of human rights defenders in preventing conflict, addressing discrimination and inequality, promoting security and the rule of law, and exposing and seeking accountability for violations where they occur. The Guidelines also recognize the significant risks and threats that many defenders face because of this work, particularly women human rights defenders, and those working on SOGI and minority rights.¹⁰

The aforementioned Guidelines outline a range of actions for Finnish diplomats and missions to achieve their objective of ‘promoting an enabling environment and the capacity of human rights defenders’, including¹¹:

- consulting closely with human rights defenders on their support and protection needs;
- publicly recognizing and promoting the valuable work of human rights defenders and the risks they face, including through regular meetings and events;
- advocating both publicly and privately, and both bilaterally and through multilateral mechanisms such as the UN, in relation to the situation and safety of defenders;
- providing financial support and assistance to national and international human rights NGOs;
- appointing a human rights focal point within diplomatic missions;
- monitoring trials of human rights defenders;
- promoting the invaluable work of defenders through media and social media;
- continuously monitoring and regularly reporting on the situation of human rights defenders, including through field trips and investigations; and
- Where necessary and appropriate, assist to relocate human rights defenders within their own country or to another country to ensure their security.

On 29/11/2013, the UN adopted a landmark resolution on Protection of Women Human Rights Defenders¹². ‘The resolution urges States to put in place gender-specific laws and policies for the protection of women human rights defenders and to ensure that defenders themselves are involved in the design and implementation of these measures,’ MsBjerler said, the ‘Effective implementation of such measures by States will be key to enabling women human rights defenders to carry out their important and legitimate work.’¹³

10 Public Guidelines of the Foreign Ministry of Finland on the implementation of the European Union Guidelines on Human Rights Defenders 2015

11 See more at: <http://www.ishr.ch/news/finland-new-guidelines-will-strengthen-protection-human-rights-defenders#sthash.7uslEmZi.dpuf>

12 UN Resolution on Protection of Women Human Rights Defenders See more at: <http://www.ishr.ch/news/un-adopts-landmark-resolution-protecting-women-human-rights-defenders#sthash.NJ12LaQH.dpuf>

13 Ibid.

1.1.2 Legal Protection Mechanism at Regional Level

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

Table 2. Summary of Regional Mechanism

Continent	Legal Mechanism	Brief Explanation
AMERICA	Human Rights Defenders in America, support individuals, groups, and organizations of civil society working to promote and protect human rights in America (AG/RES.16715), ¹	In its 1998 annual report, the Inter-American Commission on Human Rights (IACHR) highlighted the importance of the work carried out by Human Rights Defenders and recommended to Member States of the Organization of American States (OAS) the adoption of measures necessary for their protection. On this basis, in June 1999 the General Assembly of the OAS adopted a resolution entitled: In the event of imminent danger, the IACHR may issue preventative measures to Human Rights Defenders under threat to avoid any irreparable harm. The IACHR may also request information from States and issue recommendations thereunto. It is also possible to request that the Inter-American Court adopts provisional protection measures.
	-The Grand Bay Declaration and Plan of Action of 16 April 1999 calls upon African Union Member States to take all appropriate measures to implement the United Nations Declaration on Human Rights Defenders. ²	The African Union (AU) touched on the issue of the protection of Human Rights Defenders in 1999 during its Ministerial Conference on Human Rights in Africa.

	<p>-The Kigali Declaration of 8 May 2003</p>	<p>Recognizes the key role played by civil society organizations and Human Rights Defenders, in particular in promoting Human Rights in Africa” and “calls upon Member States and regional institutions to protect them and to foster their participation in the decision-making process.”³</p>
	<p>- Resolution 273 of the African Commission, which will surely be echoed at the United Nations level, is yet another useful instrument that will help secure a better working environment for HRDs.⁴</p>	<p>In short, a system of promotion and protection of human rights does exist on a continental level in Africa. It has the potential to respond effectively to the obligation to protect all citizens and particularly HRDs. Coherent public policies for the protection of this target-group, however, is lacking. It is imperative that States conform to article 2(2) of the UN Declaration on Human Rights Defenders: “Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed”. The actions of States should constitute effective contributions to the efforts made by civil society to try and increase the well-being and the safety of the world’s population.⁵</p>

2016 African Commission passed the following Resolution on Measures to Protect and Promote the Work of Women Human Rights Defenders⁶

Calls on State Parties to:

- disseminate and implement the recommendations of the Commission's Report on the Situation of Women Human Rights Defenders in Africa, in consultation with relevant stakeholders, and in particular women human rights defenders;
- end impunity by adopting specific laws and relevant measures to promote and protect the work of human rights defenders, which should include provisions that recognize and address the specific protection needs of women human rights defenders;
- ensure that efforts designed to prevent and address violations and discrimination against women human rights defenders are developed and monitored in consultation with human rights defenders and other relevant stakeholders;
- train the judiciary and public security and other relevant authorities on the specific risks and protections for human rights defenders and in particular women human rights defenders;
- report on the progress made in the promotion and protection of the work of women human rights defenders during presentation of periodic reports to the Commission in accordance with Article 62 of the African Charter and Article 26 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

EUROPE	EU Guidelines on Human Rights Defenders	In Europe, the European Union established EU Guidelines on Human Rights Defenders as the best way to support the implementation of the Declaration on Human Rights Defenders in third countries. ⁷ These guidelines provide practical suggestions to enhance EU action in relation to HRDs. Guidelines can be used in contact with third countries at all levels to support and strengthen ongoing EU efforts to protect the rights of HRDs. This may also provide for interventions by the EU on behalf of human rights defenders at risk, and suggest practical means to support and assist them.
	In 2010, the European Parliament adopted a Resolution on the EU policy in favor of Human Rights Defenders (2009/2199(INI)).	It calls on the various EU institutions and its missions to reinforce their action for effective implementation of Guidelines, notably by ensuring regular contact with Human Rights Defenders prior to taking any action on their behalf and to provide them with feedback. These recommendations were reiterated with the adoption, on 16 December 2010. ⁸ Therefore it is only fair to declare EUROPE as a leading continent in laws, guidelines, judicial, administrative and policies that protect HRDs. EU members should play an active role in the enforcement of Guidelines issued as well as a dynamic role to create a successful mechanism to protect human rights defenders in Europe, and thus set precedent for other States in the world.

1.1.3 Legal Protection Mechanism at the National Level

The UN HRDs reports indicate that very few States have incorporated the International Declaration on Human Rights Defenders, 1998 into the national law despite 15 years of its adoption. Worse still, governments in all regions are increasingly enacting laws which restrict and even criminalize the work of human rights defenders and NGOs as is the case with the Cybercrime Act 2015 and the Statistic Act 2015 in Tanzania, Media Services Act 2016 and Access to Information's Act 2016.

One of the key elements of a safe and enabling environment for defenders is the existence of laws and provisions...that protect, support and empower defenders...The adoption of laws that explicitly guarantee the rights contained in the Declaration on Human Rights Defenders is crucial in that it could contribute to building an enabling environment and give these rights legitimacy (former UN Special Rapporteur).¹⁴

In response to these gaps and trends, one of the leading international organizations such as the International Service for Human Rights (ISHR) is working in partnership with key regional, sub-regional and national human rights defender groups from around the world to develop a model national law on human rights defenders and to advocate for its adoption at the international level and its enactment locally.¹⁵

The model law will assist States to develop laws, policies and institutions at the national level to support the work of human rights defenders and to protect them from reprisals and attacks. The model law will also serve as a valuable tool for human rights defenders to advocate for stronger legal recognition and protection of their important work.¹⁶

Several countries have set national legal mechanisms to protect HRDs. Such initiatives are generally the result of pressure enforced by HRDs themselves and relayed by the international community. In general, they work towards accessing immediate protection measures. There are national legal protection mechanisms currently in place for Human Rights Defenders in Mexico, Colombia, Guatemala and Brazil. Initiatives in this direction have also been taken in Honduras. In the Democratic Republic of Congo, a national law and provincial decree (South Kivu) is under discussion. Other countries active in the area are South Sudan, Indonesia, the Philippines and more recently, Ivory Coast.¹⁷

The Constitution of the United Republic of Tanzania of 1977 and that of Zanzibar of 1984 including the proposed Constitutions of 2014 do not guarantee in any way the rights of HRDs despite the tough work done by THRDC to lobby for its inclusion in the Mother Law. The legal framework at the national level including the Draft Constitution provides for general protection of human rights but remains silent on the rights of human rights promoters/defenders. In short, lack of specific legal protection renders HRDs vulnerable and easy prey for perpetrators of human rights violations. The legal challenges which affect HRDs will be discussed at length in chapter three of this report.

The coalition's five years strategic plan focuses on Advocacy, among the outputs being to advocate for the availability of specific legal protection for HRDs in Tanzania and space of CSOs. Tanzania is yet to formulate a policy or draft bill to recognize and protect HRDs

14 <http://www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders#sthash.fcKqccKj.dpuf> visited on 23rd March 2016

15 <http://www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders#sthash.fcKqccKj.dpuf> visited on 23rd March 2016

16 <http://www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders#sthash.fcKqccKj.dpuf> visited on 23rd March 2016

17 Protection international Op. cit. at pg 9.

as is the case in other countries such as Mexico and Brazil. Thus Tanzania ought to start initiatives to come up with legal, policies, judicial judgments, quasi-judicial, administrative decision on human rights defenders, to increase their legal protection

1.1.4 Challenges with Both International and Regional Protection Mechanisms for HRDS

- The declaration on human rights defenders provides protection and legitimacy to the work of HRDs. But in order for that to happen, the Declaration has to be widely known and respected by authorities, and the population as a whole. It also has to be known and used by HRDs themselves. Findings of the THRDC indicate that as of year 2016, majority of HRDs were yet to be informed about this declaration.
- HRDs in Tanzania know nothing about the available mechanism for their protection let alone on how to use the special UN and the Africa Rapporteurs on human rights defenders to protect them.
- Again, the EU Guidelines on HRDs are also not widely known by HRDs in Tanzania despite the EU taking some action to defend them. A lot more has to be done to raise HRD awareness about and the usefulness of the guidelines as a form of capacity building to enable them enhance their security.
- The HRDs law and Policy has no specific model hence making it difficult for national NGOs to lobby for its inclusion of the same to the domestic legislations.
- Despite the fact that Tanzania does not have specific law for HRDs, during the 59th Ordinary session of African commission on Human and peoples' Rights, African countries came up with model law on protection of human rights defenders.

1.2 Non Legal Protection Mechanism

Protection mechanisms for HRDs can simply be defined as defense strategies put in place to ensure that HRDs are safe and operate in a safe environment. Through their active commitment, HRDS are frequently target of acts of repression perpetrated by States or by private or Para-State groups acting in complicity with States. They are in many countries targeted for attacks such as murders, forced kidnapping, arbitrary arrests, imprisonment, torture, improper treatment, retaliation against family or friends, death threats, defamation campaigns, adoption of restrictive legislation in terms of the freedom of association, expression and gathering. Thus UN, International NGOs and Local NGOs were forced to chip and establish protection desks/unit to ensure HRDs mitigate these threats and in worst situation provide emergence assistance.

1.2.1 Non Legal Protection mechanism at International level

The mandate on the situation of human rights defenders was established in 2000 by the Commission on Human Rights (as a Special Procedure) to support implementation of the 1998 Declaration on Human Rights Defenders. In 2014, the UN Human

Rights Council came up with a resolution number [25/18](#), in a bid to continue the mandate on human rights defenders for a consecutive period of three years.¹⁸

In June 2014, Mr. Michel Forst (France) was appointed by the President of the Human Rights Council as the UN Special Rapporteur on the situation of human rights defenders. Mr. Forst succeeds Ms. Margaret Sekaggya as Special Rapporteur on the situation of human rights defenders (2008-2014) and Ms. Hina Jilani as Special Representative of the Secretary General on the situation of human rights defenders (2000-2008).¹⁹

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

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

In performing his duties, the Rapporteur:

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

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

In 2015, THRDC signed an MOU with Civil Rights Defenders to extend protection for Tanzanian HRDs. Civil Rights Defenders is an independent expert organization founded in Stockholm in 1982 with its goal being to defend human rights, in particular people's civil and political rights, while also supporting and empowering human rights defenders at risk.

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

19 *ibid*

1.2.2 Non Legal Protection Mechanism at Regional level

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

On 23rd April, 2009, Non-Governmental stakeholders in Africa adopted the Kampala Declaration on Human Rights Defenders, during a Conference on Human Rights Defenders at the Ugandan capital.²⁰ This initiative was facilitated by the Network of Human Rights Defenders in East and Horn of Africa. The latter bolstered the protection of Human Rights Defenders in Africa through networking.

On the 15th of November 2017, there was a change of the African Commission Rapporteur on Human Rights Defenders in Africa. Through resolution 38121 the African Commission on Human and Peoples Rights (ACHPR), appointed Commissioner Prof. Remy Ngoy Lumbu as the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa for a period of two (2) years, with effect from 15 November 2017. The new Rapporteur has replaced Commissioner Reine Alapini Gansou.

The East and Horn of Africa Human Rights Defenders Project (EHAHRDP) play a key role to protect HRDs in the region. Others include the Pan Africa Human Rights Defenders Network, West Africa Human Rights Defenders Network, Central Africa Human Rights Defenders Network, South Africa Human Rights Defenders Network, and recently another establishment for a special fund for legal protection by the name of Legal Protection Fund (LPF).

1.2.3 Protection Mechanism at National Level

To most states in Africa and elsewhere, protection of HRDs at national level is still a new agenda. However, gradually, African civil societies continue to form networks and coalition for human rights defenders in their respective countries and regions. Coalitions and Networks in Africa include: Kenya, Eritrea, Djibouti, Uganda, Tanzania and Burundi. The final group in the list is South Sudan, Rwanda, Somali and Senegalese Human Rights Defenders Coalition.

Tanzania is yet to enact any legislation let alone a policy to recognize HRDs. Nevertheless, THRDC has been working to ensure HRDs operate under safe environment by immediately intervening whenever there is a looming risk. The THRDC operates in the framework of accepted international mechanisms established and adopted by other human rights conscious nations including Tanzania, to ensure good governance.

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

21 Resolution on the Appointment of the Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa - ACHPR/ Res.381(LXI) 2017

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

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

Progress to note, in 2015 the government enacted the Whistle Blowers and Witness Protection Act 2015, to protect those who expose corruption issues and any other information for public interest. This can be taken as great step when it comes to legislation in favour of human rights defenders, simply because most of the witnesses and whistle blowers are also human rights defenders. However the Act in itself does not provide full protection to all whistle blowers. The framing of section 4 of the Act only recognizes a whistle blower as a person who discloses information of public interest to a competent authority. Section 3 of the Act provides for interpretation but bears a very narrow meaning of competent authority. This makes it difficult for a person who reveals information via social media or other platforms when it comes to being regarded as a whistle blower.

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

Major Role of Protection Programme

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

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

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

Violations Committed against Human Rights Defenders

2.0 Overview of the Chapter

This chapter explores various recorded incidents on the violations committed against HRDs in the year 2017. According to these incidents, the situation of human rights defenders in Tanzania is increasingly becoming worse due to different reasons. The current government regime continued to use bad and repressive laws hence making the situation of human rights defenders in the country even worse. Closing space of SCOs, non-respect to the rule of law, independence of judiciary and lack of democracy leading to curtailment of freedom of expression, association, assembly, forced disappearances, malicious prosecutions and arbitrary arrests among others are yet other contributing factors to violation of human rights in Tanzania.

2.1 Violations Committed Against HRDs in 2017

Current Cases for and against HRDs:

1. February 2017, THRDC supported human rights defenders, namely Halihalisi Publishers and Union of Tanzania Press Club (UTPC) to file a Constitutional Case at the High Court of Mwanza to challenge several provisions of the Media Services Act, 2016 which went against the Constitution of the United Republic of Tanzania, 1977.
2. February 2016, THRDC collaborated with LHRC and other human rights activists to file a Constitutional case challenging some provisions of the Media Services Act, 2016 which infringes the right to freedom of expression. The case is filed at the East African Court of Justice in Arusha Tanzania. The legal representation of the petitioners was offered under the support of protection fund. All pleadings are ready and the petitioners are waiting to be served the summons from court to appear and defend the case.



Picture 1: Filing of the case to challenge the Media Services Act, 2016

Pictured above are Human Rights Activists who took part in challenging the Media Services Act, 2016

- Alphonse Lusako is a young human rights defender who was expelled from his studies by the University of Dar es Salaam because of his human rights work. He approached the Coalition to assist him challenge the decision by the University of Dar es Salaam. He was assisted to file Mis. Cause No 39 of 2017 seeking the leave of the court to file an application for the orders of Certiorari, Mandamus and Prohibition. The case was scheduled for the hearing on the 23rd day of May 2017. However, it could not proceed as the presiding judge was absent. The case was scheduled to proceed with the hearing on the 29th May 2017.

Picture 2: Alphonse Lusako's Case

The group photo of advocates for Mr. Alphonse Lusako and some of the LL.B students who accompanied him during his case on 23rd May 2017.



Cases against HRDs

- March 2017, Chibura Makorongo, a journalist human rights defender based in Shinyanga was charged with the offence of assault causing bodily harm contrary to section 241 of the Penal Code [CAP 16] the Penal Code. The HRD in this case was represented by advocate Amri Linus under the auspices of the THRDC. This case was withdrawn by the prosecution side for they failed to prove their case beyond reasonable doubt.



Picture 3: Chibura Makongoro's Case

Advocate Amri Linus with Chibura Makongoro immediately after he won the case against the Republic.

- On 3rd June 2017, two human rights defenders, Onesmo Olungurumwa and Baraka John Mbwambo were arrested and subsequently arraigned to Magomeni Primary court. Their arrest follows the complaint that was lodged by one Manager of Blue Pearl Hotel who accused them of trespassing the hotel contrary to section 299 of the penal Code. The two were however arrested while attending the book launch event. The case is still pending in court.

Picture 4: Newspaper article on the arraignment of Mr. Onesmo Olungurumwa – THRDC National Coordinator



- On 13th June 2017, two human rights defenders namely Onesmo Olungurumwa, THRDC Coordinator was arraigned before Magomeni Primary Court following his together with another human rights defender, Baraka John Mbwambo (TSNP Coordinator) arrest at the Blue Pearl Hotel where they were attending a book launch event. The two were arrested allegedly for committing the offence of criminal trespass contrary to section 299 of the Penal Code, Cap 16. His case was scheduled to come for mention on the 26th of July 2017. However, the said case is in the process of being transferred to Kinondoni District Court so the accused persons can get legal representation of advocates.



Picture 5: Police cars outside Blue Pearl Hotel on the day of the Launching of Alphonse Lusako's Book

A picture of Police cars with heavily armed police officers surrounding the Hotel where the book launch was planned to take place

Picture 6: Mr. Onesmo Olungurumwa after being released on court bail

Mr. Onesmo Olungurumwa, second from the right hand together with Advocate Jones Sendodo, first from the right and other HRDs getting out Magomeni Primary Court after the charge against him was read and thereafter released on court bail.



7. On 12th July 2017 two human rights defenders namely; Bibiana Mushi and Nicodemus Ngelela Luhende were arrested in Kishapu District following the order of the District Commissioner for Kishapu. The two are the employees of Actions for Democracy and Local Governance – ADLG based in Shinyanga. The accused persons are alleged to have committed the offence of disobedience of statutory duty contrary to section 123 of the Penal Code, Cap 16 read together with section 35 (1) of the Non-Governmental Organizations Act, 2002. The case is at the Kishapu District Court. The case was withdrawn by the prosecution side for they failed to prove their case beyond reasonable doubt.

Picture 7: Advocate Paul Kaunda together with the two HRDs who were arrested in Kishapu District

Advocate Paul Kaunda in between, with the two HRDs who were arrested in Kishapu before they were immediately arraigned to Kishapu District Court to face the Charge of Disobedience of Statutory Duty c/s 123 of the Penal Code read together with Section 35(1) of the Non-Governmental Organizations Act, 2002.



8. In November 2017, THRDC supported human rights defender Bob Chacha Wangwe, who was charged with section 16 of the Cyber Crimes Act, 2015 and was convicted for 1.5 years or pay the fine of 5 million. THRDC supported the Human Rights Defender by providing legal support. The HRD paid the fine and now is free. THRDC in collaboration with Bob's advocate are making follow up to get copies of the judgment and proceeding so they can file appeal against the decision.

9. Mr. Onesmo Olegurumwa, THRDC Coordinator, was interrogated twice by Immigration Officers from Kinondoni who claimed he is not a Tanzanian but Kenyan.



Picture 8: Newspaper article on the interrogation of Mr. Onesmo Olegurumwa by the Immigration officers

Picture of Mr. Onesmo Olegurumwa appearing on the newspaper after being interrogated.

10. Violation of human rights also heavily existed in Loliondo where HRDs and natives of Loliondo were faced with forceful evictions and burning of houses conducted by the SENAPA rangers. THRDC intervened and helped community leaders to go file their complaint at the CHRAGG where by the same instructed the evictions and burning to stop pending their investigation into the matter.

Picture 9: A Newspaper article on the violations of Human Rights in Loliondo

The picture above shows the worse situation which was reported in Loliondo earlier this year.



11. On 7th September 2017, Hon. Tundu Antipas Lissu was attacked and shot by unknown assailants and was severely injured.



Picture 10: MCT's press statement condemning the attack on Hon. Tundu Lissu.

Pictured above is a copy of the press statement condemning the attack on Hon. Tundu Lissu.

12. On 25 March 2017 at night, one musician namely; Ney Wa Mitego was arrested by Police in Morogoro for what was alleged to be criticism in his recent released song where he used his freedom of expression to air his views on what is happening in the society. THRDC in collaboration with other advocates assisted him in processing his bail although later on an order from the government was issued to have him released.



203 likes

naytrueboy Nimekamatwa kweli. Muda Huu nikiwa hotel Morogoro baada ya kumaliza Kazi yangu iliyo ni leta. Napelekwa Mvomelo Police. Nawapenda Watanzania wote.

Picture 11: The Arrest of music artist Ney wa Mitego

An Instagram post by artist 'Nay wa Mitego' on his Instagram page after he was arrested by police in Morogoro region

13. On 5th Ibrahim Musa alias Roma Mkatoliki and his fellow artists Moni, Bello and Emma were kidnapped while at Tongwe Records Studio and their whereabouts was not known for at least two days. The four were later on reported to have been found at Oysterbay Police Station while seriously injured.

Picture 12: Roma Mkatoliki and his fellow artists speaking with the media about their forced disappearance



THRDC conducted Security needs assessment in 2013 to identify security needs and see how it can solve challenges facing HRDs in Tanzania. This was part and parcel of THRDC's 2013-2017 Strategic Plan which ended in December 2017. Majority of HRDs interviewed during the THRDC security needs assessment in 2013 mentioned baseless charges and case fabrication among the other major threats that undermined their work. About 70% of all respondents agreed that HRDs always face illegal charges when dealing with issues of public interest.²² The 2013 responses have continued to prevail with additional and more serious challenges as mentioned at the beginning of this chapter. As THRDC embark on implementing its new strategic plan 2018-2022, the identified challenges have been mainstreamed in most of the activities to be conducted in five years to come.

²² THRDC (2013) Protection and Security Needs for Human Rights Defenders in Tanzania-Needs Assessment Report, page 21.

2.2 Physical Violence, Attacks, and Torture

Despite the adaption of the Declaration on Human Rights, in every region of the world, human rights defenders, including women human rights defenders and often their beloved ones continue to be subjects of intimidation, threats, killings, disappearances, torture and ill-treatment, arbitrary detention, surveillance, administrative and judicial harassment and more generally, stigmatization by State authorities and non-State actors. The mandate on human rights defenders in their 2011 commentaries clearly noted that they are extremely concerned about allegations received over acts of intimidation, threats, attacks, arbitrary arrests, ill-treatment, torture and killings of human rights defenders who collaborate with the UN or other international mechanisms.²³

The situation is similar for almost all HRDs in Tanzania. HRDs from different thematic groups experienced physical violence, attacks, arbitrary arrest and malicious prosecutions, branded with bad names, abductions, torture and killings. The most at risk HRDs who received several incidences of attacks, harassment, malicious prosecutions, arbitrary arrests, physical violence and torture in the year 2017 were journalists, artists, land rights defenders and those who advocates for human rights generally.

The situation of repression and retaliation against student activists, and other activists engaged in protests has particularly been harsh. The fact that the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment joined the mandate on defenders in many communications sent on student protests indicates the brutality of violations affecting student defenders.²⁴ On 26th January 2017, a student human rights defender, Mr Alphonse Lusako was expelled from the University of Dar es Salaam for the second time for what was alleged by the University that he was re-admitted at the University mistakenly.

In 2011 Mr. Lusako was briefly suspended and afterwards expelled from the University. He is alleged to lead a demonstration of students at University of Dar es Salaam to demand for the loans. After 5 years staying at home with nothing to do, he applied at TCU and was selected to join at the University of Dar es Salaam to pursue a Bachelor of Commerce degree where he changed to LL.B degree study before he was expelled after staying at the University for about four months. No sooner had he began his University exams than he was expelled in the middle of the exams without even being accorded the right to be heard. He was ordered to leave the University premises forthwith.

Mr. Lusako is now assisted by THRDC and has filed a case at the High Court of Tanzania challenging the University's decision. THRDC in collaboration with Defend Defenders-Uganda has helped him to get admission at Tumaini University, Dar es Salaam College with full sponsorship where he pursues a degree in law.

23 Commentary to 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 pg 15

24 Commentary to 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

2.3 State of Impunity

Like many other countries, Tanzania is confronted with the problem of state impunity. The situation in Tanzania has however worsened beginning the year 2015 right after the general election. Within the three years of operation of the fifth government regime we have witnessed unprecedented state of impunity where government officials especially police, regional and district commissioners and Ministers have been using arbitrary powers, unreasonable forces to violate rights of majority of Tanzanians HRDs without any appropriate measures being taken against them.

According to Margaret Sekaggya, a Special Rapporteur on the situation of human rights defenders, States have the primary responsibility to ensure that defenders work in a safe and enabling environment. Under this call States should end impunity for violations against defenders by ensuring that investigations are promptly and impartially conducted. Perpetrators should be held accountable; while victims should obtain appropriate remedies²⁵.

There are only few countries which have adopted legislation or taken effective measures to end the numerous violent attacks against defenders. Impunity continues to prevail and no specific compensation mechanisms for human rights violations committed against human rights defenders have been created.²⁶

Addressing the issue of impunity, in line with article 12 of the Declaration is a key step to ensure a safe environment for defenders. The degree of security enjoyed by human rights defenders will determine the capacity to expose human rights violations and to seek redress for victims of such violations.²⁷

Tanzania as a State has made no significant efforts of legislation let alone take effective measures to end the numerous and violent attacks against defenders. So far it has never investigated and prosecuted cases involving the violations of HRDs rights.

The justice system in Tanzania is comprised of various entities such as the Police and the Judiciary. The Judiciary has a role to dispense justice while the Police Force maintains peace and ensures the security of people and their properties. The Police have got the mandate to arrest, suppress, investigate and finally prosecute alleged offenders. The criminal justice system in place is too weak to dispense justice when it comes to incidents where perpetrators of the alleged violations are state actors, who essentially are law enforcers such as the police and other security officers. The independence of Tanzanian Judiciary is highly questionable mainly because the government officials have in many occasions seen to intimidate the justice system. Most Court's decisions are not respected by law enforcers. The growing state of impunity is mainly being fueled by the weak criminal justice system in Tanzania.

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

26 Commentaries to declaration on human rights defenders July 2011 pd 18

27 *ibid*

The perpetrator of the following incidents have never been investigated and prosecuted for their deeds;

- Abduction of Dr. Ulimboka , the Chairperson of Doctors Union in Tanzania
- Absalom Kibanda, Chairperson Tanzania Editors Forum
- Daudi Mwangosi (journalist HRD) who was shot dead while covering a story in Iringa
- Saed Kubenea (journalist HRD and now MP for Ubungo Constituency) was attacked by unknown men who threw acid on his face and have never been arrested.
- The kidnapers of Salma Said a journalist HRD from Zanzibar have never been found and charged for their deeds. She was abducted and tortured by unknown people in 2016 as she landed at the Julius Kambarage International Airport-Dar es Salaam.
- The abduction and torture of a JKT trainees' leaders George Mgoba and others in 2015 has never been investigated.
- Abduction and torture of Artist Ibrahim Musa alias Roma Mkatoliki and other three artists in May and June 2017, the results of the investigation have never been released neither have the police issued any statement on the progress of the investigation.
- The findings of the Report of the then Minister for Information, Nape Nnauye regarding the invasion of the Clouds Media Group by the RC of Dar es Salaam have never been acted upon. The security officer who pointed out a gun to Mr Nape Nnauye has never been taken to court for excessive use of force.
- The 2017 incident of invasion of the Clouds Media Group by Dar es salam Regional Commissioner has never been investigated by police to arraign and prosecute the perpetrator despite evidence of a video clip which clearly captured the event.
- The incident of a police officer who shot several rounds of ammunition in air in presence of the former Minister of Finance, Kigoma Malima allegedly dispersing people while they were not having any weapons to harm anybody has also never been acted upon.
- Measures against the police officer who shot dead Sheikh Mohammed Bin Almas have never been taken. Sheikh Almas was shot after crossing the area on his way to the ATM while there was a warning sign prohibiting people from frequenting into the area before police finishes depositing money to the ATM machine.
- Attackers of journalists in Geita who were covering students' demonstration story had not been reported and prosecuted by responsible authorities. The attackers were police officers who are the ones entrusted with making investigation.It was never conducted.
- Attackers of the President of the Tanganyika Law Society, Tundu Antipas Lissu who was shot at area D-Dodoma on 7th September 2017 have never been found and arrested.
- Attackers of the office of IMMMA Advocates have never been found nor has there been efforts from the police to investigate the matter.

THRDC is concerned with the state of impunity at the high level and recommends investigations with the view to bring perpetrators to justice. Investigation should be conducted to all HRDs cases, journalists killed because of their activities or human rights activities. THRDC also calls upon the government to grant legitimacy to the work of HRDs, and to create enabling environment for their operation. The State should refrain from stigmatizing the work of human rights defenders.

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

2.4 Law Enforcers as Human Rights Defenders

This sub- chapter provides for the general situation of police officers and the violation of their rights as human rights defenders. The sub chapter indicates that more than twelve police officers were killed in the year 2017 while others left injured. Compared to 2016 whereby more than 5 police officers were killed while 2 were left injured with multiple gun wounds and the assailants vanished with a horde of ammunition. The killings were prevalent mostly in Kibiti district Pwani region where also many civilians (local government leaders and normal citizens) had been murdered by unknown assailants.

THRDC understands that Police officers are also Human Rights Defenders because they do protect the rights of people and their properties as a major role provided under the Policy Force and Auxiliary Services Act, 1969 and the Constitution of the United Republic of Tanzania, 1977. The expression “Human Rights Defender” is used to refer to anybody who, individually or together with others, works to promote and protect human rights. Human Rights Defenders are above all recognized by what they do. They work to promote, protect, and implement civil and political rights, as well as economic, social, and cultural rights. Therefore based on the definition above, Police officers by virtue of their daily work are qualified to be HRDs.

However in reality most human rights defenders in the country do not regard law enforcers as colleagues in the human rights arena. This is simply because in most cases their rights are violated by the State through its agents including the police. For instance, the 2017 events where police officers using excessive force to deal with the suspects in different regions in Tanzania depicts bleak picture on how the community perceive police officers.

Police officers do receive allegations of human rights violation on a daily basis. Just like other HRDS, they fight all sorts of criminal conducts, brutality, and gender-based violence as well as restore peace where the security of people is at risk. It is therefore, very clear that police and human rights actors play almost a similar and mutual role in the field of human rights.

THRDC documented some of the security incidents, which occurred to police officers for the year 2017. The following are some of the incidences of violation, which THRDC managed to capture under its protection desk;

- On 13th April 2017 unknown bandits shot and killed 8 police officers who were preparing to leave from a road block to the Police Post. The bandits suddenly ambushed the police who were in a car, killed them and they disappeared from the crime scene. The thugs were hidden in the nearby bush before they attacked a police car with registration number PT. 3713TOYOTA LANDCRUISER, causing the car to lose direction. Investigation of the incident is still underway. The Inspector General of Police, Ernest Mangu confirmed the occurrence of the incidence and the names of murdered police officers were A/INSP PETER KIGUGU F.3451 SPL FRANCIS, F.6990 PC HARUNA, G. 3247 PC JACKSON, H.1872 PC ZACHARIA, H.5503 PC SIWALE, H.7629 PC MASWI, H. 7680 PC AYOUB. Also, a police officer with RegNo.F 6456 PC FREDRICK was shot on his left arm and was taken to Mchumi Mission Hospital for treatment

Picture 13: A Crime scene in Kibiti

Picture of the police officers and some citizens of Kibiti area, Pwani inspecting the scene of the crime



In yet another event, on 21st June 2017 two traffic police were again brutally killed in area between Bungu and Jaribu in Kibiti, Pwani Region. Reports showed that shortly after the death of the above mentioned traffic police, their car and motor cycle were set ablaze before the bandits escaped to unknown place. The tragic event occurred while those traffic police were on the course of execution of their daily activities. Report from the Police Force issued by the regional police commander for Pwani region Onesmo Lyanga confirmed the deaths of the said traffic police whose names are Sergeant Salum and Constable Masola.

Police officers as human rights defenders are supposed to carry out their duties according to the law (The Police Force and Auxiliary Services Act, 1969), the Constitution of the United Republic of Tanzania, 1977 as well as the accepted standards of their profession. However, this has been different given the serious violations of human rights that police officers are accused to be behind them. For instance, in the year2017, we witnessed police officers using excessive forces to deal with suspects while in real sense they were not supposed to.

- On 23rd March 2017 one armed police officer publicly pointed out a gun to the then Minister of Information Nape Nnauye ordering him to leave the venue where he had planned to speak with the media about his removal from office in the wake of his decision to defend freedom of information in Tanzania.



Picture 14: The Assault on Hon Nape Nnauye

A Picture of a police officer (allegedly from the TISS) about to point a gun to the former Minister of Information, Hon. Nape Nnauye.

- On 15th May 2017, one armed police officer accompanied by his fellow police officer and other staff of PBEL AUCTION MART fired in air allegedly with the view to disperse citizens who surrounded the former deputy Minister of Finance, Adam Malima. The incident happened after the former Minister requested to see the ID of an officer accompanied by two armed police officers who wanted to leave with the Minister's car allegedly because it was parked in an unauthorized area.

Picture 15: The threat against former Deputy Minister of Finance Mr. Adam Malima

Pictured above is a police officer firing in the air to threaten and disperse people who were milling about to witness an altercation between the former Deputy Minister of Finance Mr. Adam Malima, and police officers before he was arrested for parking a car on a wrong area



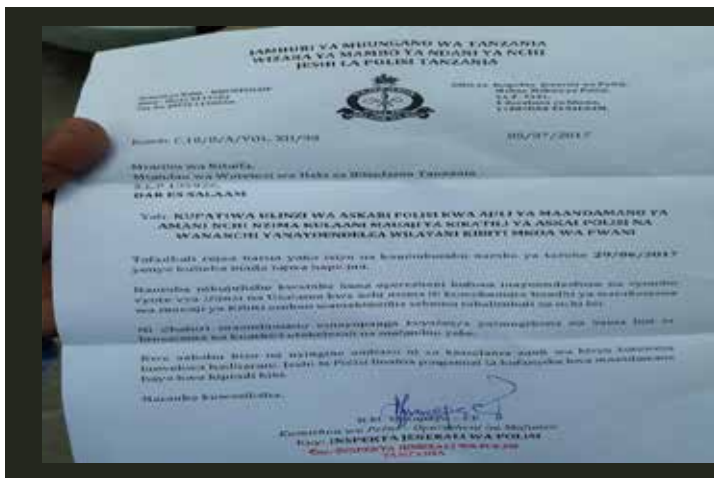
- In May 2017 another tragic event involving police officers using excessive force occurred whereby some officers who were escorting a car carrying cash money shot dead a passersby who was going to withdraw cash from the ATM. It was reported that, Sheikh Mohammed Bin Almas crossed the area as he was going to the ATM. He did not see a sign warning people from crossing into the area before the bank officials and the police had finished stashing money to the alleged ATM.

Law enforcers in Tanzania are obliged to know and to apply International Human Rights Standards during their operations. Generally, they must respect and protect human dignity, maintain and uphold the human rights of all persons. The Tanzania Police Force (TPF) is

statutorily mandated by the Police Force and Auxiliary Services Act to oversee the work of the preservation of peace; maintenance of law and order; prevention and detection of crime; apprehension and guarding of offenders; and protection of property.

Events of police force going against the law and their profession are immense and some of them have already been elaborated in other chapter and therefore their repetition here is of no value. Incidents of police officers using excessive force to deal with suspects are increasingly. Such incidents paint a bad picture of the police force and if they are not properly address they can potentially continue to inflict harm and spoil the future of our nation. The animosity between the police and local citizen intensifies to the extent that some people cherish whenever they hear police officers had been killed.

Despite the police brutality against HRDs, Tanzania Human Rights Defenders Coalition with its 130 members requested security from police force to demonstrate to condemn the ongoing killings of police in Kibiti, the permission had not been granted.



Picture 16: A letter restricting THRDC's peaceful demonstration

Letter from Commissioner of Training and Operations on behalf of IGP restricting the peaceful demonstration that was planned by THRDC and its members.

In common parlance, violations of rights against HRDs have increased in the year 2017. State of impunity has tremendously grown. The use of excessive force by police is alarming. With all these incidents, a holistic and innovative approach to identify and deal with such problems is needed today than ever.

Chapter Three

Media Security and Safety of Journalists

3.0 Overview of the Chapter

Chapter three highlights on the situation of Journalists as human rights defenders and the state of media operations as an important tool towards realization of the journalist's work. This chapter discusses security challenges encountered by journalists and the media industry in general. These challenges include but not limited to harassment, abductions, criminalization, detention, torture, killings, defamation, and suspension from their employment, denial of freedom of movement and other legal related challenges.

3.1 Specific Challenges Facing Journalists

Article 18 of the Constitution of the United Republic of Tanzania provides for the respect of citizens' freedom of expression and opinion. On the other hand, Article 19 of the International Covenant on Civil and Political Rights (ICCPR) states, "everyone shall have the right to freedom of expression". This right shall include freedom to seek, receive, and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice. This right carries certain duties and responsibilities and may be subject to certain restrictions only as provided by the law.

Despite these guarantees, attacks and restrictions on journalists and independent newspapers in Tanzania persist. Journalists have been physically assaulted and threatened for the work they do while government officials and business-people often sue newspapers for criminal and civil defamation and seek significant amounts in compensation for critical articles. Several independent newspapers have been banned for long time unjustifiably. Journalists who cover peaceful protests against government policies and actions have also been attacked. Threats to freedom of expression generally emanate from security forces, senior government officials, and some non-state actors.²⁸

28 Joint CIVICUS Tanzania UPR report 2015

Journalists as Human Rights Defenders often face harassment, killings, malicious prosecutions, arbitrary arrests and detention, torture, defamation, abduction, suspension from their employment, denial of freedom of movement, operation of draconian laws such as the Media Services Act, 2016, Cyber Crimes Act, 2015, The Statistics Act, 2015 and the Access to Information Act, 2017, excessive usage of powers by regional and district commissioners and other difficulties in obtaining legal recognition for their work.

In the year 2017, the THRDC’s protection desk documented over 9 different cases of intimidation, arrests attacks, abduction, malicious prosecutions and threats to journalists in Tanzania. Details of the incidents against journalists are provided below.

3.1.1 Physical threats, Attacks, Arbitrary arrests, Abductions and Malicious Prosecutions Against Journalist

- On 8th Feb 2017 two journalists in Arusha were arrested and detained at USA River Police Station. It was reported that while the two journalists were at the said police station, they requested to know why they were arrested and who ordered the arrest but they did not get an answer. The two arrested were Bahati Chume, a freelance journalist based in Kilimanjaro and Dorine Alois who is a reporter at Sunrise Radio station in Arusha. The two journalists were arrested while executing their duties in Arumeru district. Alexander Mnyeti who is a DC of Arumeru was asked as to who ordered their arrest and categorically denied being involved. The DC is now RC of Manyara region.
- On March 17, 2017 the Regional Commissioner for Dar es Salaam, Paul Makonda accompanied by armed police officers allegedly invaded one of the leading media houses in the city known as Clouds Media Group— forcing two journalists to air a television program of his own interest.

Picture 17: TEF’s press statement in response to the Regional Commissioner’s invasion of Clouds Media Group station

Tanzania Editors Forum responds to the RC’s invasion of Clouds Media Group station



- March 2017, Chibura Makorongo, a journalist human rights defender based in Shinyanga was maliciously charged with the offence of assault causing bodily harm contrary to section 241 of the Penal Code [CAP 16] the Penal Code. The HRD in this case was represented by advocate Amri Linus under the auspices of the THRDC. This case was withdrawn by the prosecution side as they failed to prove their case beyond reasonable doubt.
- On 18th May 2017 several people including a group of journalists, religious leaders and the Mayor of Arusha City Council were arrested in Arusha as they were about to submit condolence money to the bereaved families of the victims of Lucky Vicent tragic accident. Armed Police officers stormed a room in which several people including religious leaders had been gathering. Some individuals were taken to the police post and they were subsequently released on the grounds that their arrest was wrong following the order of the Regional Commissioner for Arusha, Mrisho Gambo.

Picture 18: The Arrest of journalists in Arusha region

Arrested journalists in Arusha region following the order of the Arusha regional Commissioner, Mrisho Gambo



- In August, 2017 Idrisa Jabiri, a journalist working with Mwanahalisi newspaper was threatened by the state/Director of Criminal Investigation whereby he was supposed to report to DCI for investigation because he wrote an Article which according to DCI tarnished the image of the Tanzania Police Force. He was at the DCI office for more than eleven hours. THRDC provided him with legal support through an advocate who helped him to process the bail. The scribe was ordered to report to the office of DCI for several months before his case goes to court. The newspaper in which Jabir Idrisa reports was also banned.
- September 2017, a journalist human rights defender known as Ansbert Ngurumo, received threat from unknown people due to his Article he wrote in Mwana Halisi newspaper, saying that, “Who should we pray for, Tundu Lissu or President Magufuli Due to the threats he received he had to seek temporary relocation from THRDC and now he continue with his human rights work.
- October 2017, journalists in Geita, were intimidated and attacked by police officers while conducting their duties. Their working tools had been seized while some of them badly destroyed. The journalists were covering a story about students who were marching to demand for their rights.

- November 21st 2017, journalist human rights defender who reports for Mwananchi Communications Limited, Azory Gwanda, disappeared in Kibiti. His whereabouts are unknown to date. Azory has been reporting on different incidents in Kibiti district where there have been serious violation of human rights. Activists and members of the public are of the view that, his disappearance might be connected to his work as he fearlessly been reporting violations of human rights.

Picture 19: A poster of the Missing journalist Azory Gwanda

The picture right is a poster of the missing journalist Mr. Azory Gwanda who reports for Mwananchi Newspaper



Picture 20: Letter of Mwananchi Communications Limited showing that Mr. Azory went missing

3.1.2 Ban of Newspapers and Other Threats Against Journalists

In the year 2017, the THRDC’s protection desk documented incidents of 4 newspapers being banned by the government. Details and the list of the banned newspapers are provided below

- On 15th June 2017 Mawio newspaper was banned for two years by the Minister of Information Sports, Youth and Culture, Dr. Harisson Mwakyembe. The ban follows the release of MAWIO’s weekly version number 196 dated 15-21 June 2017. The Minister used the new law, Media Services Act, 2016 to issue the order on the ban of the newspaper. The Minister alleged that Mawio violated Section 50 (a) (b) (c) (d) and (e) of the law as well as the order of the President who ordered that media owners should not involve former presidents in the mineral scandal because they are not mentioned in the two released reports.

Despite, several calls by THRDC and other HRDs urging the government allow operations of the newspaper, it was unwilling to do so. There is a pending court case challenging the ban of this newspaper.

Picture 21: The ban of MAWIO Newspaper

The picture of a letter from Chief Government spokesperson confirming the decision of the Minister of Information to ban MAWIO newspaper for two years.



- The government also banned RAIA MWEMA for three months for allegedly contravening section 59 of the Media Services Act, 2016.

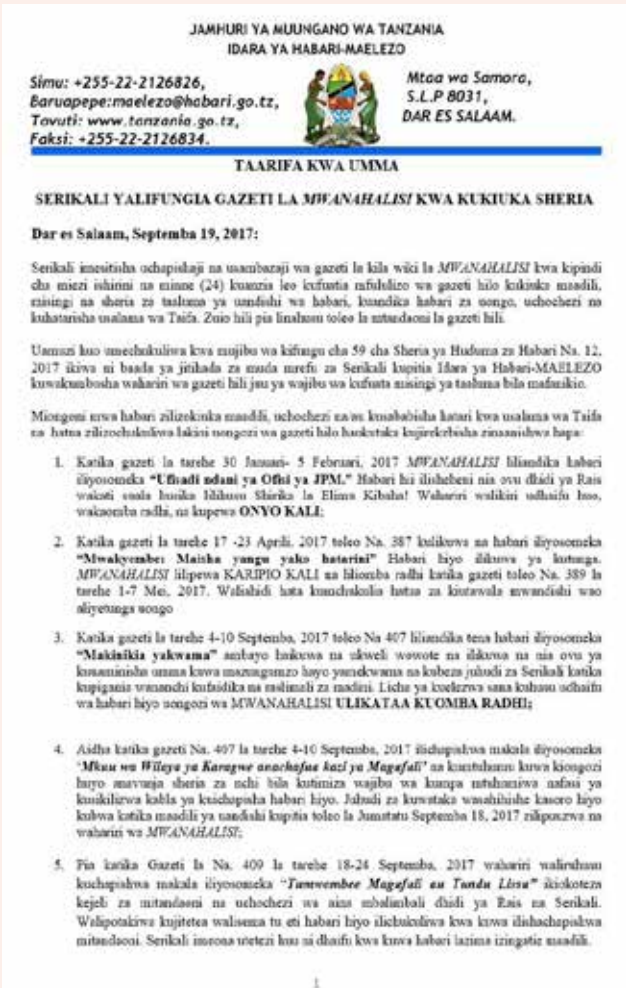


Picture 22: The ban of Raia Mwema Newspaper

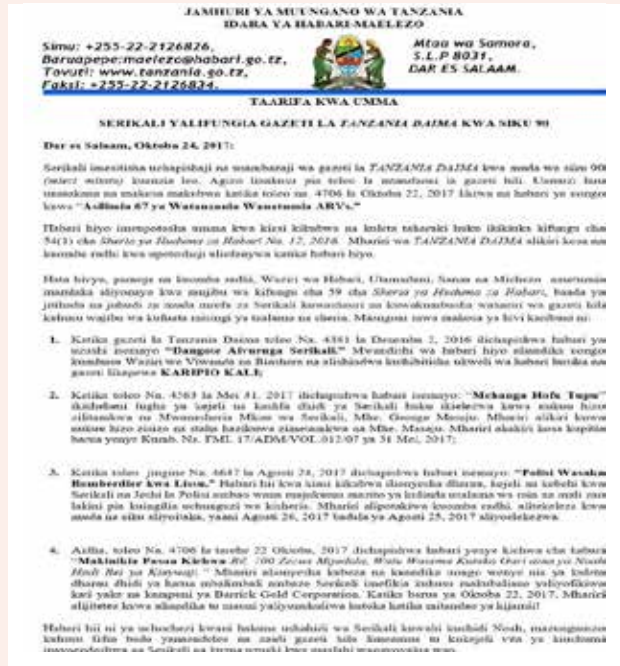
Letter from Chief government spokesperson, Dr. Hassan Abbas confirming the ban of RaiaMwema

- On 19 September 2017, the government also banned MwanaHalisi Newspaper for two years for allegedly writing news that were contrary to public interests. No specific provision of the law was quoted to support the argument that the said paper had indeed contravened the law.

Picture 23: The ban of Mwanahalisi Newspaper



On 24th October 2017, Tanzania Daima newspaper was also banned for three months for what was alleged to be the news written in the said newspaper which were contrary to the public interest.



Picture 24: The ban of DAIMA Newspaper

The above picture is a letter from the Chief government spokesperson banning Tanzania Daima newspaper.

3.1.3 Digital Threats/Incidents

The enactment of Cybercrime Act 2015, Media Services Act, 2016 and the Access to Information Act, 2016 and its enforcement remained to be the most threats to people who are using social media to express their own views. Users of blogs and online TVs were also facing some threats from the government especially the Tanzania Communication Regulatory Authority (TCRA) where some online TV (Millard Ayo TV) were threatened not to air their programs until they get licensed. The list of cases resulting from the operation of the Cyber Crimes Act, 2015 will be discussed right after the discussion on the challenges of the Act.

3.2 Legal Challenges Affecting the Security of Media and Journalists

Before exploring the legal challenges that affect the media and journalists in Tanzania, political willingness/commitment has been a great challenge, leading to arbitrary enforcement of the laws in place. In 2017 for instance, the President of the United Republic of Tanzania Dr. John Pombe Magufuli was quoted as saying “the media have freedom of expression but not to that extent-Watch it”. Statements like these from a top leader are disturbing and show how the government is prepared to restrict the freedom of expression.

The Constitution of the United Republic of Tanzania²⁹ provides for freedom of expression. Article 18 of the Constitution provides that every person has the right to enjoy the freedom of opinion and expression of his ideas. It provides further that everyone has the freedom to communicate and enjoy protection from interference in his communication. Article 19 of the Universal Declaration of Human Rights, 1948 and the International Covenant on Civil and Political Rights, 1966 guarantees everyone with the right to freedom of opinion and expression. This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

Despite these guarantees, the media environment in Tanzania is restricted by the selective implementation and application of laws with draconian provisions, some dating 40 years back. These laws have been used to ban independent newspapers and prosecute and at times jail journalists who write articles critical of government actions and specific authorities.

i) Access to Information Act 2016

This Act was passed by the National Assembly on the 7th day of September 2016 and assented by the President on 23rd day of September 2016. According to section 2(1), the Act applies only to Mainland Tanzania. This is an Act to provide for access to information, define the scope of the information which the public can access, promote transparency and accountability of the information holders and to provide for other matters pertinent thereto.³⁰

Most of the provisions of this Act are generally fair and conform to the acceptable standards. However, there are some provisions which do not meet the prescribed standards and therefore they are restricting the right to access information as provided under the Constitution of the United Republic of Tanzania and other human rights instruments to which Tanzania is a signatory. These provisions must be amended in order to ensure unhindered access to information.³¹

Moreover, the Act fails to carry out to the maximum the spirit of the Information and Broadcasting Policy of 2003 of ensuring unhindered access to information. This is because; the Act contains a provision, which restricts the right to access information only to citizens,

29 Constitution of United Republic of Tanzania 1977 as revised

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

31 Ibid

broad exceptions, and access fees, which are nothing but barriers. Nevertheless the Act conforms to the objectives set out in the Open Government Action Plan of Tanzania for 2014-2016. There are very few provisions, which do not reflect the objectives as it can be seen in the analysis below.³²

i) Media Service Act, 2016

On 5th of November 2016, the Parliament of United Republic of Tanzania enacted the Media Services Act and the same has been assented to by the President on 16th day of November 2016. This Act provides for promotion of professionalism in the media industry, establishment of the Journalists Accreditation Board, Independent Media Council, and framework for regulation of the media services and for other related matters.³³ It is worth noting at this juncture that in the process of making this Act, the stakeholders were not involved and therefore couldn't present their proposals on the draft bill.³⁴

Structurally, this Act has eight parts, 67 sections, and one schedule. Application of the Act is confined only to mainland Tanzania. It is worth noting that, the current Media Services Act, 2016 introduced new provisions which were not featured in the Media Service Bill of 2015, for instance section 7 which provides for rights and obligations of the media houses and journalists, sections 22 which establish Media training fund, section 58 which provides for power of the Minister to prohibit importations of publications and section 59 which provides for powers of the Minister to prohibit or sanction publication of any content which in his opinion jeopardizes national security or public safety.³⁵ Section 59 of the MSA, 2016 has been used as a backup provision in almost every ban of the newspapers. Some of these newspapers include Mawio, Tanzania Daima and RaiaMwema. They were all banned using section 59 of the Media Services Act, 2016.

Again, the Act contains a number of weaknesses such as the retention of accreditation of the journalists, licensing of the printing media, criminalization of the defamation, seditious offences, establishments of non-independent regulatory bodies and replication of some of the draconian provisions from the Newspaper Act, 1976, for instance section 58 and 59 which gives power to Minister to prohibit importation or sanctioning of any publication in his absolute discretion if in his own opinion such publication is against public interest or jeopardizes national security.³⁶ During the year 2017, the Minister of Information Sports, Youth and Culture used the Media Services Act, 2016 to ban newspapers such as Mawio, RaiaMwema, Tanzania Daima and MwanaHalisi.

32 Ibid

33 See preamble to the Act.

34 MCT report on the Media Services Act Analysis

35 Ibid.

36 Ibid.

Figure 25: Newspaper article on Challenging the Media Services Act, 2016



The Media Services Act, 2016 is now being challenged at the High Court of Mwanza following the ban of several newspapers using the same.

Following the decision of the High Court (Justice Demello) and that of three judges confirming the first one that the High Court had no jurisdiction to entertain the Petition, the Petitioners have appealed to the Court of Appeal in Mwanza. Another case challenging the Media Services Act, 2016 was filed at the East African Court of Justice by MCT, LHRC and THRDC and the same will be coming for scheduling conference on the 13th day of March 2018.

ii) Statistics Act 2015

The Statistics Act imposes harsh penalties on those found guilty of publishing misleading and inaccurate statistics or statistics not approved by the National Bureau of Statistics. Those found guilty of providing false or misleading statistics without authorization from the National Bureau of Statistics are liable for a one-year jail term and a fine of 10 million Shillings (approximately US \$ 4500), Some of the newspapers such as Tanzania Daima was banned because of the allegations of providing wrong statistics.

iii) The Cybercrimes Act 2015

On April 1st 2015, the Parliament of Tanzania passed the Cybercrimes Act which criminalizes information deemed false, misleading, inaccurate or deceptive. The Act prohibits citizens or agencies from obtaining computer data protected against unauthorized access without permission. It empowers police or law enforcement officers to storm the premises of a news agency and confiscate a computer system or device and computer data if law enforcement officials believe that such information can be used as evidence to prove an offence has been committed. The police are equally given the right to search devices like cell phones, laptops or computers if they believe they contain information that can be used as evidence to prove a crime has been committed.

In 2017 THRDC had managed to document 20 cases involving HRDs ever since the Cybercrime Act became operational where section 16 of the Act was used to charge those arrested. The total number of cases may reach 400 according to police information. Article 19 in their analysis pointed out that section 16 of the Cyber Crime Act, 2015 which was coined to prevent publication of false information was vague.

Article 19 pointed out clearly that the provision of section 16 violates international freedom of expression standard, they further state that it make work of journalists covering current development unreasonably dangerous as in situation of breaking news; facts are often

difficult to verify, moreover it is often debate as to what the truth of a particular matter is and state should trust citizens to reach own conclusion. Article 19 recommended the section to be struck out entirely.

Table 3. Below shows Court Cases related to Internet use³⁷

S/N	Case	Offences Charged	Law cited	Status/Outcome
	Republic v. Bob Chacha Wangwe	Publishing false information on his Facebook account - a statement to the effect that Zanzibar was a colony of Tanganyika	Section 16 of the Cyber Crimes Act, 2015	The case has been decided with the accused being found guilty and convicted for 1.5 years or fine of 5 million. He paid fine in leau of the conviction.
	Republic v. Leonard Kyaruzi	The accused was arrested and reprimanded following his post on a WhatsApp group criticizing the manner in which President Magufuli was running the country. He stated that the either lacked good advisors or was mentally retarded.	Section 118(a) of the Electronic and Postal Communications Act, 2010.	Unknown
	Republic v Leyla Sinare & Others	It was alleged that the accused persons disseminated false information through a Whatsapp group known as 'sport group.' However, the details of false information could not immediately be found.	Section 16 of Cyber Crime Act	Unknown

³⁷ Based on a data base from Protection desk at THRDC

Republic v Benedicto Ngonyani	A student of Dar es Salaam Institute of Technology (DIT), he was accused of publishing information on Facebook that the Chief of Defence Forces was suffering from food poisoning.	Section 16 of the Cybercrime Act	Filed Constitution Petition challenging section 16
Republic v Israel William	Charged with two counts of publishing and disseminating false information against the Tanzania Communication Regulatory Authority (TCRA) which he allegedly committed on September 10 and October 5, 2015.	Electronic and Postal Communication Act (EPOCA)	Unknown
Cybercrime case	A lecturer at Mkwawa University college of Education was arrested in September 2016 for allegedly insulting President John Magufuli in a Whatsapp message. While confirming the detention of the lecturer, police declined to reveal the content of the message he was accused of sending	Cyber Crime Act	Unknown

Cybercrime allegations	During the tallying process, media houses aired various reports by the opposition party (CHADEMA) accusing the ruling party Chama Cha Mapinduzi (CCM) of election malpractice and interception of results during online transmission from constituencies to the Electoral Commission. Ruling party officials denied the allegations and instead accused CHADEMA of the same. The ICT team of CHADEMA was later arrested by the police and charged with an offence of publishing the presidential election results contrary to the Elections Act, 1985, the status of the case up to date is unknown	Section 16 of the Cyber Crime Act	Unknown
Cybercrime allegations	Maxence Mello, Director of Jamii Media was summoned by police and alleged to obstruct police from conducting investigation	Section 32 and 22 of the Cyber crime Act	Hearing of the case underway
Republic V. Shilinde	Advocate Shilinde was arrested on 22 nd of July 2016 in Loliondo and charged by section 16 of the Cybercrime Act, for the fact that he was providing false information using internet.	Section 16 of the Cybercrime Act	Case in progress

	Republic V MaxenceMelo and Mike Mushi	Maxence Melo and Mike Mushi being Directors of Jamii Media they were both charged under section 22 of the Cybercrime Act for obstructing Police Investigation	Section 22 of the Cybercrime Act	Case in progress
	Republic V Maxence Mello and Mike Mushi	Maxence and Mike Mushi being director of Jamii media they were charged under Electronic and Postal Communication Act for managing website not registered in Tanzania	Section of the 79 (c) EPOCA	Case in progress

Cases relating to internet use are many. Challenges have been to get the full list of the Cyber Crimes Cases at the Office of the Ministry of Home Affairs. Most of the documented cases are those in which THRDC has been monitoring them and/or those obtained online.

3.3 Right to Privacy in Tanzania and the Protection of Whistle Blowers

Privacy is a fundamental human right, enshrined in numerous international human rights instruments.³⁸ It is central to the protection of human dignity and forms the basis of any democratic society. It also supports and reinforces other rights, such as freedom of expression, information, and association.

Activities that restrict the right to privacy, such as surveillance and censorship, can only be justified when law, necessary to achieve a legitimate aim, prescribes them and proportionate to the aim pursued.³⁹

The Constitution of the United Republic of Tanzania⁴⁰ guarantees the right to privacy under Article 16:

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

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

40 The Constitution of the United Republic of Tanzania, 1977. Available at: <http://www.judiciary.go.tz/downloads/constitution.pdf>

16. - (1) every person is entitled to respect and protection of his person, the privacy of his own person, his family and of his matrimonial life, and respect and protection of his residence and private communications.”

(2) For the purpose of preserving the person’s right in accordance with this Article, the state authority shall lay down legal procedures regarding the circumstances, manner and extent to which the right to privacy, security of his person, his property and residence may be encroached upon without prejudice to the provisions of this Article.

Article 18(c) of Constitution further guarantees the freedom to communicate and protection from interference, and reads as follows,

“18. - Every person -

(c) has the freedom to communicate and a freedom with protection from interference from his communication.

In year 2017, THRDC documented several incidences/threats and violation of privacy rights against HRDs and this was specific for Jamii Forums. Jamii Media is a registered company which owns and runs websites of Jamii Forums and Fikra Pevu with more than 2.4 million users. Jamii Forums as one of the websites provides an access to users to post, engage and follow up posts of various issues and information of various matters regarding the society. The forum among others allows users to post on its websites by using anonymous or other hidden identities, with a guaranteed declaration of the users IDs protection (under the websites Privacy Policy)

In 2011, Jamii Forums, an online forum that has been called the “Kiswahili replica of Wiki leaks, was interrupted by the Tanzanian government to disrupt the conversations of members associated with the opposition. The founders of the forum were also detained and interrogated for 24 hours in 2008.⁴¹ On top of that the Managing director was in several occasions summoned to disclose information of whistle blowers who post information, which reveal grand corruption and tax evasion issues.

Some suggested that the Cybercrime law was specifically enacted for Jamii Forums. This may probably be true because few months after the Act came into force some provisions were used by the Police force to arbitrary demand Jamii Forums to disclose some information and IP addresses of their client.

The Police cited section 32 of The Cyber Crimes Act to compel Jamii forums to disclose information. THRDC is of the view that the section infringes the right to privacy as provided for under Article 16 of the Constitution of The United Republic of Tanzania of 1977. Furthermore the arbitrary application of the provision of section 32 of the Cyber Crimes Act restricts the right to freedom of expression as provided for under article 18 of the Constitution of the United Republic of Tanzania of 1977 as amended.

41 CIPESA, State of Internet Freedoms in Tanzania 2014: An Investigation Into the Policies And Practices Defining Internet Freedom in Tanzania, May 2014. Available at: http://www.cipesa.org/?wpfb_dl=182

Furthermore, section 38 of the Cyber Crimes Act restricts appearance of a person against whom an application is made for self-defense before the court of law. THRDC is of the view that the section infringes the right to be heard as provided for under the Constitution of United Republic of Tanzania of 1977 as amended.

In 2015, the government enacted the Whistle Blower Act 2015, yet to come into force. Needless to speak, the law itself does not provide enough protection for whistle blowers especially those using social media platforms to reveal information of public interest. This is simply because the definition of the Act is too narrow to cover the same and limits a person who unveils it for only competent authority something which is almost impossible for the Tanzanian environment.

Section 3 of the Act;

“Whistleblower” means any person who makes disclosure of wrongdoing in accordance with the provisions of this Act;

“Competent Authority” means- (a) in the case of a wrongdoing committed within a public or private institution, a superior person of that institution who has an authority to investigate the wrongdoing reported or, if the matter is beyond his powers, to forward the same to another institution responsible for investigation; and

(b) in the case of a wrongdoing that is committed outside a public or private institution, a superior person who has an authority to investigate the wrongdoing reported;

The wording of section 4 of the Act covers only a person who discloses information to the competent authority and according to the definition the above competent authority has been defined in a narrow sense and does not include a person who discloses information using social media, or media or any other way.

Public Interest disclosure 4.-(1) any person may make a public interest disclosure

Before a Competent Authority if that person is of reasonable belief that-

THRDC recommends the amendment of this Act and the section to remain; ‘any person who makes a public interest disclosure’

3.4 Internet As a Human Right

Generally speaking, in Tanzania the government seems to control the access and use of ICT by enacting laws, which limits the freedom of expression via the internet. Laws such as the Cybercrimes Act, 2015, the Statistics Act, 2015, the Electronic and Postal Communication Act, 2010 and the Media Services Act, 2016 seems to erode the freedom of expression on the internet. Again, there are some incidents in which the government has been alleged of conducting online surveillance and intercept communications. These seem to erode the basis of freedom of expression through the Internet.⁴²

42 CIPESA (2015) Report on Internet freedom in Tanzania.

CIPESA report also indicates the number of cases whereby police force in Tanzania has been used to curtail online freedom by issuing several arbitrary letters to Jamii Media demanding the disclosure of IP address of the user who has posted on the website. The report also point out the level of chill effect caused by the Cybercrime Act presence in Tanzania.

The report also indicates the number of cases whereby police force in Tanzania has been used to curtail online freedom by issuing several arbitrary letters to Jamii Media demanding the disclosure of IP address of the user who has posted on the website. The report also point out the level of chill effect caused by the Cybercrime Act presence in Tanzania.

Meanwhile, the enactment of the Cybercrimes Act and government cases against critics as stated above has had a chilling effect on freedom of expression online with numerous respondents citing widespread self-censorship amongst citizens and journalists alike.

Currently in Tanzania majority of the people afraid to post or comment on Facebook or other social apps like Twitter, Instagram, WhatsApp etc. Only those who are pro-government are considered be free. It is generally fair to say that the behavior of the citizens have drastically changed after the enactment of the Cybercrimes Act. Needless to say this seems to affect the internet freedom because people can no longer express themselves freely via the internet as it used to be before.⁴³

In 2017, for instance, the government announced that it intended to control internet use during office hours to ensure people dedicate most of their time for work. However, critics perceive this as an attempt to restrict the right to internet use. Most of the information is found online and workers use the internet as a tool to carry out their daily activities. Therefore, while the government seems to promote work through its slogan “HapaKaziTu” Swahili for “ Work, nothing else” the same will restrict the right to internet use by majority of Tanzanians.

43 Ibid.

Chapter Four

Security Management and Risk Assessment

4.0 General Introduction

To Human rights Defenders, the concept of Security means freedom from risk or harm resulting from violence or other intentional acts. ⁴⁴Protection measures refer to various measures taken by HRDs or other actors to enhance security of HRDs.⁴⁵ Security management is basically a long term overview to prevent risks, attacks and security incidences likely to happen to an individual HRD or to the HRDNGO. Because of the focus on the defense of others' rights, HRDs normally take for granted their own security and protection.

After five years of defending human rights defenders in Tanzania, Tanzania Human Rights Defenders Coalition is completing its five- year Strategic Plan (SP) 2013-2017. The THRDCoalition started implementing this SP in 2013 after its official launch in January of the same year. For simple and easy implementation of the Strategic Plan 2013-2017, THRDC developed a two year operational plan 2013-2014 which was followed by the three years operational plan 2015 -2017 which finalizes the second part of the five- year strategic plan ending in December 2017.

Committed to enhancing the security and protection of Human Rights defenders in Tanzania, Tanzania Human Rights Defenders Coalition (THRDC) devised the capacity building program through its five- year strategic plan 2013-2017. In its five- year strategic plan, the program is also identified as outcome two of THRDC programs. It reads 'the media and HRDs capacity to effectively participate in the HRDs protection processes improved' and was tailored to benefit two categories of Human Rights Defenders, the first group being existing and identified new human rights defenders and the second one being the group of media practitioners (mainstream and social).

⁴⁴ Frontline Defenders 2011; Workbook on security practical steps for human rights defenders at risk; Frontline Publishers, Dublin.

⁴⁵ Ibid

4.1 The Need to Build Capacity in Security Management to HRDs

THRDC being a new organization specifically for security and protection of HRDs in Tanzania, conduct needs assessment survey in 2013 and reached about 200 HRDS. The survey conducted was pivotal since it provided opportunities for those existing HRDs working in the field to inform the Coalition about their challenges and needs. So, the survey helped THRDC to get first hand stories from those who are affected in the field. It also provided an opportunity for them to interact and discuss security matters which had never happened in most organizations previously visited by this security body. For THRDC it was an opportunity to understand fully the kind of waters in which its stakeholders find themselves swimming.

4.2 Awareness Level on Security Management for HRDs Before 2013

The concept of a Human Rights Defender was in fact alien to the Tanzanian context. Most HRDs were unaware of both physical and digital security. According to the conducted survey, a total of 95% of the 200 visited human rights NGOs during the survey were unaware of security management and protection measures. Out of 2000 projected HRDs in visited survey regions only 135 individual HRDs in human rights organizations and the media had attended security management, trainings whether in the country or outside Tanzania.

Out of the 200 assessed offices were found to have staff programs for security management training at office level and about 95% of all visited and assessed offices were at risk because they lacked key items in the checklist for office security. These are mainly CCTV and security alarm, security guards and lack procedures for admitting visitors to the office while other offices were situated in a vulnerable physical location.

The table below indicates that only four offices out of 200 visited offices during the survey had security gears such as security alarm and CCTV. Responding to the question on the presence of security guards in HRNGOs' offices, only 31 offices had professional security guards available for 24 hours, 29 offices (14.5%) had only security guards who work only at night while 130 offices (65%) didn't have at all. But five years after THRDC intervention the situation has somehow changed.

Table 4. Security management of Human Rights NGOs in Tanzania

ITEM	POOR	FRAGILE	BASIC	ADVANCED	PROFESSIONAL	TOTAL
Security Fund	190	7	3	0	0	200
	95.0%	3.5%	1.5%	0.0%	0.0%	100.0%
Security gears such as CCTV	196	3	1	0	0	200
	98.0%	1.5%	0.5%	0.0%	0.0%	100.0%
Security Guards	130	18	29	17	6	200
	65.0%	9.0%	14.5%	8.5%	3.0%	100.0%

Source: THRDC 2013 Security Needs Assessment Report.

4.3 Human Rights Defenders in 2017

For the period of five years of the inception of the capacity building program, the Coalition managed to reach a total of 1546 HRDs which is 77% of the targeted beneficiaries (2000). THRDC used about 402,719\$ out of 589,651\$ estimated budget to reach the target. In the year 2017 itself, the Coalition conducted a total of six (6) capacity building activities thereby reaching about 270 beneficiaries including journalists who were identified as the most at risk group of human rights defenders in the country.

The following is the brief analysis of the situation of HRDs after five years with regards to the capacity building program. The situation focuses mainly on SP's outcome indicators mainly; number of human rights defenders empowered with training programs by 2017, level of the journalists' capacity according to the set criteria improved by 2017, level of satisfaction with accessibility and contents of materials provided through media and the number of new human rights ideas and principles included in HRDNGOs programs.

i. Number of Human Rights Defenders Empowered with Training Programs by 2017.

A total of 1546 Human rights defenders have been empowered through a total of 35 workshops and trainings reaching about 1546 HRDs in either zonal classification (Northern Zone, Central Zone, Lake Zone, West Zone, Southern Highland, South Coastal Zone and East Coastal Zones) or at thematic levels (freedom of expression, women rights, social and economic rights, political rights, minority rights and indigenous/pastoral rights). The target was to reach 2000 HRDs. This means that for each year the average of 310 HRDs including media practitioners who were reached.

The following topics/modules were covered;

Table 5. Human Rights Defenders training topics/modules to Journalists covered in 2017

Physical Security	Information/Digital Security	Other Human Rights Protection Mechanisms
The concept of the Human Rights Defender and their Protection mechanisms	Introduction to information security	Accessing Domestic legal and non-legal Mechanisms
Human Rights Defenders working environment and the importance of making informed decision about Security and Protection	Threat assessment and the security circle	Accessing Regional and Sub regional mechanisms
Assessing Risk: threats vulnerabilities and capacities	Windows Security	Accessing the UN mechanisms
Security incidences: Definition and analysis	Password Protection	The UN Human Rights council

Preventing and reacting to aggression	Information Backup, Destruction and Recover	
Organizational and Home Security	Encryption	
	Internet Surveillance and Monitoring	

ii. Level of Journalists' Capacity

Despite being the most at risk HRDs, journalists are currently more confident in reporting human rights issues notwithstanding the current political leadership which does not seem to tolerate critics or alternative views. This testimony was recorded during the survey evaluating the THRDC's strategic plan 2013-2017 by LEDECO Consultants.

There has been an increase of reported human rights abuses including ones relating to HRDs. For instance, for two years of 2016 and 2017, a total of 80 articles or stories concerning HRDs violations were reported by regular print media.

Picture 26: Newspapers articles on the violations of Human Rights in Tanzania



Security management and risk assessment trainings to journalists in particular has created confidence in reporting issues of rule of law and human rights abuses in the country including those committed by government officials.

iii. Level of Organizational/Office Compliance to Security Rules

Currently more than 10 HRD organizations have well-defined security policies in place. Many organizations have adhered to and considered the importance of office and staff security. Some have even incorporated security issues in their annual programs. During the evaluation of the 2013-2017 THRDC strategic plan, two respondents from Mwanza and Arusha said that, they were in the process of incorporating protection issues into their programs.

Picture 27: Security check at Under The Same Sun (UTSS) offices



Under the Same Sun (UTSS), one of the security conscious office adhering to office security and protection rules

General Achievements Attained by the Coalition through Security Management Trainings

- i. Since the inception of the capacity building program, many trained HRDs have understood matters of security and been able to recognize the nature of their working environment hence easy to note and identify and respond to security incidents whenever they are targeted. It is important to note that security incidents represent “the minimum unit” of security measurement and indicate the resistance/pressure on HRDs work therefore, they are not easily noticeable.

To illustrate this, here are some noticed security incidences by trained HRDs which were reported to the Coalition;

- Mr. Deus Kibamba (Former Executive Director, Jukwaa la Katiba/Constitutional Forum)
On 12th April 2013 around 11 a.m. to 12 p.m. a dark blue Land cruiser with registration number T 126 CCG, was seen packed at the CF premises with six men, two of whom went to the main gate of this office and requested for the CF’s Chairperson Mr. Deus Kibamba and its coordinator, Ms. Diana Kidala. The duo pretended to have been related to Mr. Kibamba. Ironically, they requested for his phone numbers after they realized that they had hit a snag. The duos reportedly stayed outside the CF’s offices

for about an hour and seem to have been in a serious discussion. CF reported the matter to the Police while as THRDC issued a press statement and there after took over the case by conducting a serious investigation.

· Mr. Maxence Melo, the Executive Director, Jamii Media (Jamii Forums as one of the websites provides an access to users to post, engage and follow up posts of various issues and information of various matters regarding the society).

He reported several security incidents and threats to the coalition which included over five demand letters issued to him in 2016 by the police compelling him to reveal the IP address its users at Jamii Forums platforms. Police invoked section 32 of the Cybercrime Act.

- ii. The trainings offered by the coalition have proved efficiency leading to Human rights defenders working on pastoral and land rights in collaboration with victims of illegal eviction of the Maasai community in Loliondo to lodge the complaint to the National Human Rights Institution (Commission for Human Rights and Good Governance) which issued injunction order to the Government pending its official enquiry.

Specifically, in 2017 the Coalition trained pastoral rights defenders in documentation and reporting to domestic, regional and international human rights mechanisms and defenders were empowered on how to access and use various human rights mechanisms. The Human Rights Commission is one among the domestic mechanism taught.

- iii. Efficiency of two successive trainings offered to HRDs working on rights of people with disabilities on April and June 2017 led to successful preparation and validation of PWDs shadow report to be submitted to the United Nations Committee on People with disabilities as a way to implement the Convention on the Rights of Persons with Disabilities (2006) in Tanzania.
- iv. Successful formulation of the National Coalition of University Human Rights Association through the training on empowering and nurturing young Human Rights Defenders from Ten Universities in Tanzania conducted in March 2017.
- v. Successful attainment of 70 percent of all 10 THRDC staff possessing diplomas of security management and risk assessment for human rights defenders and social organizations. This is very important since as the security and protection organization, the Coalition's management becomes equipped in terms of organizational and staff security for effective protection of HRDs.
- vi. Successfully reached about 77.3% of the five years targeted beneficiaries through trainings, training of the trainers, round table discussions, dialogues and seminars on various aspects of security management, human rights and their enforcement mechanisms. Thorough the capacity building outcome, the Coalition aimed at reaching about 2,000 HRDs.

The Civil Society Space in Tanzania

5.0 Introduction

This chapter presents the situation of civil society space in Tanzania for the year 2017. It addresses the space of the CSOs based on the various indicators. According to the International Centre for Non-profit Law(ICNL), Civil society means: “that element of society outside of government and business sectors, both organized and essentially disorganized, that represents the workings of people among, and with one another to achieve their aspirations, meet their needs and live creative, active, healthy lives.”⁴⁶Civil Societies are sometimes referred as civil sector distinct from the state, and private sector. Civil society commonly embraces a diversity of spaces, actors, and institutional forms, varying their degree of formality, autonomy and power.

Civil society often differs depending on roles. These include; Political roles, Democratic roles, Economic and developmental roles, Educational and informational roles, Socio-cultural roles, Sports and recreational roles, Service Delivery, Professional regulation and Member welfare. Those who are at risk most of the time are the ones dealing with advocacy, democracy, rights based, accountability and governance. The chapter will base on CSOs working in this most risk.

5.1. The Role and Significance of Civil Society

Civil society contributes a lot to the promotion, protection and advancement of human rights in every single day and every part of the world. Civil society organizations work for a better future and share common goals of justice, equality, and human dignity as their major tasks are to promote awareness of rights, assist communities in articulating concerns, shape strategies, influence policy and laws, and press for accountability. They also collect and channel views of communities so that they can be fully informed of decision-making on public policies.

⁴⁶ Edwards, M., Civil Society, Polity Press, Cambridge (UK) (2004), Ch. 1.

- Civil society enables members of society to contribute to public life by empowering them to exercise their fundamental rights of information, expression, assembly, association and participation.
- Civil society contributes to societal and citizen well-being in myriad ways – by educating the public, protecting the environment, defending the interests of vulnerable groups, meeting basic needs, conducting social research and analysis.

“The presence of a robust, vocal and critical civil society sector guarantees, almost without exception, that a State also possesses a good business environment. The rule of law is stronger, transparency is greater and markets are less tainted by corruption. In other words, when civil society does well, business does well too.”

Former UN Special Rapporteur on Freedom of Assembly and Association, Maina Kiai.

5.2 Historical Background of Civil Society in Tanzania

Civil society in Tanzania has been shaped during distinct historical periods: the pre-colonial era, the colonial period (up to independence in 1964), the Post-Arusha Declaration period (1967-85), and the Liberalization period.

Traditional societies in the form of burial groups, conflict management groups, and traditional cultural groups have existed from the pre-colonial era throughout colonial period. They were highly discouraged and declared illegal by colonialists as they were considered uncivilized. Professional, religious groups and cooperative movements flourished especially during the colonial era and some stronger movements mainly the Tanganyika African National Union (TANU) led to the Tanganyika Independence in 1961.⁴⁷

The second phase is the period between 1965 and 1985. This is remembered for its systematic inhibiting of independent social, political, and economic activities following the introduction of a single party rule in Tanzania in 1965 and of a socialist and self-reliance ideology in 1967. These two institutional developments meant, among other things, that all organizations were either co-opted under the ruling political party or made to adhere to party/government guidelines in their operations. These processes prevented any activism of potential pressure groups such as those organized by or for young people, women, students and workers.

The third phase came between the mid-1980s and early 1990s. The inception of this phase was linked to economic hardships and the consequent International Monetary Fund (IMF) initiated restructuring process which compelled the government to reduce control of the State over public affairs, including service provision. From this period, the proliferation of private service providers indicated a reorganization of activities in response to market demands and the principles of a liberalized economy.

⁴⁷ Ndumbaro L and; Othman Y (2007) The third sector in Tanzania: capabilities and challenges of civil society organizations, Aga Khan Development Network : University of Dar es Salaam, Tanzania.

Finally, the fourth phase is associated with the era of political pluralism, beginning in the early 1990s to the present. It is a phase that opened political space in the context of introducing multi-party politics and other forms of political pluralism. As a result of this opening, many locally initiated lobby organizations emerged and, in many ways, could be said to have given confidence to civic-led contestations and struggles for more democratic movements.⁴⁸

5.3 The Space of Civil Society

Civil society space is a space where civil society actors occupy within the society; the environment and framework in which they operate; and the relationships among civil society actors, the state, private sector and the general public.⁴⁹

In the modern society the main common sectors legally recognized to form part of the main state sectors include Public Sector, which is the government and its branches; A Civil society or Civil Sector which is comprised of groups or organizations working not for profit, in the interest of the citizens but operating outside of the government; and the Private sector, which includes businesses and corporations.⁵⁰

Before and after independence and mainly in the modern democracies, CSOs have been at the forefront of agitating for reforms and increased involvement of the citizens in the governance structures. Since the re-introduction of multiparty democracy in Tanzania CSOs have played a significant role of transforming Tanzania's politics through various ways including the creation of public social capital.

When civil society space is restricted, human and civil rights are denied, government accountability is jeopardized, citizen voices are silenced, civic energy is sapped, confidence in state authorities is eroded and opportunities for dialogue and development are lost.

5.3.1 Indicators of the Space of Civil Society

In measuring the space of Civil Society various indicators are used to see whether the space is improving or shrinking⁵¹. These indicators are as follows;

- i. Freedoms of information and expression (access to information; freedom of expression; media freedoms; and, internet freedoms);
- ii. Rights of assembly and association (right of assembly; right of association; CSO autonomy and rights; and, CSO funding);
- iii. Citizen participation (free and fair elections, citizen participation, and citizen advocacy);

48 Ibid

49 Ibid Civil Society space and the United Nations human rights system pp 5.

50 Olengurumwa, O (2016). The Shrinking Space of Civil Society in Tanzania. A Paper Presented During Kepear Annual CSOs Forum on the Space of CSOs in Tanzania.

51 Malena C(2015); Improving the Measurement of Civic Space; Transparency &

Accountability Initiative London pp26-32

- iv. Non-discrimination/ inclusion (women’s rights; minority rights; and, the rights of marginalized groups); and,
- v. Human rights/rule of law (human rights; rule of law).

Table 5. Illustration of indicators for Civil Society space

No.	Dimension/Indicators of Civic Space	Principle/ Sub indicators
1.	Freedom of Information and Expression	Access to Information is guaranteed by law and respected in practice
		Freedom of Expression is guaranteed by law and respected in Practice
		Media Freedom is guaranteed by law and respected in Practice
		Internet Freedom is guaranteed by law and respected in Practice
2.	Freedom of Assembly and Association	Rights of Assembly are guaranteed by law and respected in Practice
		Rights of Associations are guaranteed by law and respected in Practice
		CSOs are able to function independently and free of government interference
		There is an enabling fiscal environment for CSOs
3.	Citizen Participation	Democracy and free and fair Elections
		The government facilitates the participation of citizens and CSOs in processes of public deliberation and decision-making
		The government recognizes and respects the legitimate role of citizens and CSOs as independent advocates, watchdogs and development agents
4.	Non-Discrimination/Inclusion	Women have equal civil rights and equal access to civic space
		Minority groups have equal civil rights and equal access to civic space
		Marginalized groups have equal civil rights and equal access to civic space
5.	Human Rights/Rule of Law	Basic human rights are guaranteed by law and respected in practice
		Effective Rule of Law including enactment of non-draconian laws

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

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

5.4.1 Civil society space at International (UN) Level

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

The first venue by which non-governmental organizations took a role in formal UN deliberations was through the Economic and Social Council (ECOSOC). In 1945, 41 NGOs were granted consultative status by the council; by 1992 more than 700 NGOs had attained consultative status and the number has been steadily increasing ever since with more than 4,000 organizations today.⁵²

Article 71 of the UN Charter opened the door by providing suitable arrangements for consultations with non-governmental organizations.⁵³ The consultative relationship with ECOSOC is governed by ECOSOC resolution 1996/31, which outlines the eligibility requirements for consultative status, rights and obligations of NGOs in consultative status, procedures for withdrawal or suspension of consultative status, the role and functions of the ECOSOC Committee on NGOs, and the responsibilities of the United Nations Secretariat in supporting the consultative relationship.

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

In addition to the ECOSOC, there are avenues which the UN human rights mechanisms can protect civil society space, that is documentation about obstacles, threats to civil society

52 <http://esango.un.org/civilsociety/displayConsultativeStatusSearch.do?method=search&sessionCheck=false>

53 Art 71 UN Charter; The Economic and Social Council may make suitable arrangements for consultation with nongovernmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

space, and good practices.⁵⁴ Documentation about human rights situations forms the basis for interventions by UN human rights mechanisms. Well-documented and verified information by CSOs makes a strong case for action, is more credible and persuasive, difficult to refute, and an effective way to promote and protect human rights. Through this avenue CSOs are invited to share documentation that is accurate, factual information, careful analyses, and concrete recommendations about obstacles, and threats they face.

5.4.2 Civil Society space at the Regional level

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

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

Moreover, the during the annual Ordinary Sessions of the African Commission on Human and Peoples' Rights, NGOs participates in the 'NGOs Forum', an advocacy platform coordinated by the African Centre for Democracy and Human Rights Studies (African Centre) aiming at promoting advocacy, lobbying and networking among Human Rights NGOs, for the promotion and protection of human rights in the continent.

The NGOs Forum shares updates on the human rights situation in Africa by the African and international NGOs community with a view of identifying responses as well as adopting strategies towards improving the human rights situation on the continent. A series of panel discussions on general human rights related issues are organized within the main agenda of the NGOs Forum as well as at side events. Basically, during the forum NGOs discuss issues relating to the;

- i. Status of Human Rights and Democracy in Africa (update from sub-regional Focal Points on the general situation of human rights in Africa)
- ii. Special Interest Groups Discussions (Kindly note that the list of not exhaustive, new interest groups are welcome)
- iii. Prisons and Conditions of Detention in Africa
- iv. Rights of Women in Africa
- v. Human Rights Defenders in Africa
- vi. Freedom of Expression and Access to Information in Africa

⁵⁴ UN Office of the High Commissioner for Human Rights(OHCHR) 2014; Civil Society Space And The United Nations Human Rights System; A Practical Guide for Civil Society pp 21

- vii. Prevention of Torture in Africa
- viii. Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa
- ix. Indigenous Populations/Communities in Africa
- x. Economic, Social and Cultural Rights in Africa
- xi. Death Penalty and Extra-Judicial, Summary or Arbitrary Killings in Africa
- xii. Rights of Older Persons and People with Disabilities in Africa
- xiii. People Living with HIV (PLHIV) and those at Risk, Vulnerable to and Affected by HIV
- xiv. Extractive Industries; Environment and Human Rights Violations
- xv. Policing and Human Rights
- xvi. Sexual Orientation and Gender Identity (SOGI)
- xvii. Freedom of Association and Assembly
- xviii. Peace and Security in Africa
- xix. Enforced disappearances

5.4.3 The Space of Civil Society Organization at National Level

At national level, the space of Civil society is limited. The government ought to involve CSOs in decision-making and give them space to complement its responsibilities. However, this is different in Tanzania as our government views the work of CSOs as a threat to government's initiatives. CSOs in Tanzania play an essential role in people's day to day lives. They are service delivery organizations, as well as advocates for people's rights and needs. CSOs represent citizens and give them a stronger voice. They are not only watchdog organizations, but equal partners in policy-making and shaking. Strong partnerships between political decision-makers and CSOs, transparent and accountable democratic political parties together with active political oppositions, manifest what pluralistic democratic societies are about: the fight for arguments and political solutions to pertinent challenges to the society.

A critical look at how the CSOs are operating in Tanzania reveals that, the enabling environment for civil society is rapidly changing. The general trend is that some state officials are attempting to crack down on civil society organizations and creating environments that are not conducive to their work.

Political leaders in some of these regimes have gone on record as arguing that civil society interferes with the functioning of government. It is these organizations which we can call, "change-seeking CSOs," that are the most affected, because they highlight human rights violations, corruption, and other aspects of the societies (such as irregularities in elections) that many would prefer not to expose. For example, independent civil society organizations are being openly shunned and placed under scrutiny by government officials. Civil society members are increasingly being accused of being agents of the political opposition or foreign powers (as puppets of donors and special interests). These brandings of CSOs have to a greater extent led to failure and/or delays in the execution of CSO's activities.

5.5 A Critical Analysis of the Civil Society Space in Tanzania

The space of CSOs is affected by both internal and external factors. The internal factors involve CSOs themselves not having cooperation with others, poor management, poor and/or lack of sustainability strategies to mention but a few. External factors are those beyond the control of the CSOs. These factors have to a greater extent led to the shrinking of civil society space. The main perpetrator of these factors at all levels is said to be the state.

This part provides a critical analysis of the Civil society space in Tanzania basing on the indicators of the civil society space that are freedoms of information and expression (access to information; freedom of expression; media freedoms; and, internet freedoms); Rights of assembly and association (right of assembly; right of association; CSO autonomy and rights; and, CSO funding); Citizen participation (free and fair elections, citizen participation, and citizen advocacy); Non-discrimination/ inclusion (women's rights; minority rights; and, the rights of marginalized groups); and, Human rights/rule of law (human rights; rule of law).

5.5.1 Internal Factors Affecting Civil Society Space

Given the fact that Tanzanian civil society is diverse and well-organized there are still a number of challenges that the country's CSOs face. These constrains mainly relate to problems with poor networking and cooperation, lack of common agenda, Poor governance and leadership, poor organizational capacity, poor management of resources, localization and lack of capacity to open up beyond borders.

5.5.1.1 Poor Networking and Cooperation

It is an undeniable fact that the degree of networking among CSOs is considerably improving, compared to the past years. However there are several setbacks which hinder the degree of networking including but not limited to competing over foreign fund. Better networking and cooperation would diminish overlapping activities and ensure that CSOs programs are well located in the larger contexts, both physically and conceptually.

Thematically, there are good examples of active CSO networks, such as the Farmers' Groups Network in Tanzania (MVIWATA), Tanzania Education Network (TENMET), and Tanzania Human Rights Defenders Coalition (THRDC).

5.5.1.2 Lack of Common Agenda

For decades now there has not been established CSOs Common agenda. The sector is dominated by selfishness and cowardliness and therefore disunited. However, recently there have been some efforts to create one stronger voice especially when advocating for the revival of the paralyzed new constitutional review process. More than 80 CSOs across the country ranging from youth organizations, women organizations, and people with disability organizations to mention but a few organized themselves and came up with the new CSOs constitutional agenda with agreed sectorial priorities.

Moreover, during the 2017 CSOs 30 years self-reflection meeting held in Arusha, CSOs

agreed on the need of conducting an overall sectorial survey aiming at making evaluation of the SCOs sector in Tanzania and coming up with the SCOs Strategic Plan which will envision what the sector wants to do and achieve for the period of five years. The formulated strategic plan is expected to open doors for CSOs working towards achieving common goal instead of uncoordinated isolated agenda.

5.5.1.3 Poor Governance structure and Leadership

Among CSOs themselves there are poor governance systems. NGO Boards are ill equipped to provide professional and ethical leadership expected of them to organizations under their care. Weak institutional capacities are characterized by power struggle and factionalism within institutions. Institutional policies are weak, no strong accountability systems, poor financial management capacity, no succession plan and continue learning plans. Majority have poor negotiations skills with donors and state actors. Some leaders affiliate themselves with political parties hence erodes CSOs public trust and credibility.

5.5.1.4 Organizational Capacity

The capacity of most grass root organizations is still low. Some CSOs use strategic plans to guide project implementation, but other organizations view strategic plans mainly as fundraising tools. In 2017 many CSOs, including larger CSO networks such as the Tanzania Human Rights Defenders completed its five years plan 2013-2017. THRDC expects to adopt its new plan with some modifications in light of changes in the political and social-economic environment.

Staff retention yet remains a challenge for the majority of large and middle-sized organizations because of decreased funding. However, throughout the country the spirit of volunteerism has grown, as demonstrated by the huge number of individuals, especially recent graduates, who applied to work with CSOs as volunteers and some forming up students networking programs and Students HRDs Coalition.

5.5.1.5. Lack of Capacity to Open up Beyond Borders

Many Tanzania CSOs fail to connect with regional and global processes, e.g. Sustainable Development Goals or Africa Agenda 2063, Agenda 2040 on children, African Commission on Human and People's Rights, the NGO Forum, African Court on Human and People's Rights, East Africa Court of Justice to mention but a few. This limits their negotiation power and capacity. CSOs have to balance their approaches for them to fit globally. They have to enhance their capacities both in terms of human resources, leadership and organizational development.

5.5.2 External factors

External factors are those which affect CSOs from outside the sector. The factors include those which are politically, economically, socially related which affects CSOs enjoyment of their rights to freedom of information and expression, association rights, rule of law and the general relationship between CSOs, the government and development partners.

5.5.2.1 Civil society Freedoms of Information and Expression

This indicator entails state's guarantee and respect to access to information, freedom of expression, Media and Internet freedom. Restricting all these rights to civil society eliminates the voices of people, brings into question the legitimacy of a government and might lead to a diplomatic consequence due to non-adherence to international and regional commitments to the fundamental freedoms of information and expression.

Although Tanzania is a party to various International and regional instruments, forums and initiatives aiming at promoting transparency and access to information, the country has recently shown lack of interest to such initiatives. This is illustrated by the letter dated June 29, 2017 by the Minister for Foreign affairs and East African Cooperation withdrawing from the Open Government Partnership (OGP), an international platform for state's commitments to making their governments more open, accountable, and responsive to citizens. 55

This retrogressive measure the Tanzanian government has taken, to withdraw from the OGP, clearly departs from the objectives of promoting transparency, freedom of opinion and the right to information against Article 18 of the Tanzania constitution and lead to increasingly limiting or restricting the involvement of CSOs in governance issues.

The government has recently enacted laws which blatantly limit the enjoyment of the rights of freedom of expression and the right to information to Civil Society Organizations as well as individuals. These laws include the Cyber Crimes Act (Act No. 14/2015), The Statistics Act, 2015 The Media Service Act 2016 and the Access to Information Act 2016 to mention but a few.

The Cyber Crimes Act contains so many questionable restrictions, which have raised concerns over their likely impact on limiting the CSOs space and interfering with freedoms of expression and independence of media. The Statistics Act, 2015 has also received critics from stakeholders that it represents a measure intending to close down democratic space in Tanzania. It goes against freedom of the media and contradicts the government's stated commitment to open government. Worse still, the government of Tanzania has pulled out of the OGP. This indicates that CSOs looking for data and statistics from various sources including the government will now be in difficult implementing their activities and programs.

The Media Services Act, 2016 requires journalists to be licensed or accredited; it establishes statutory Media Services Council to replace the self-regulatory body, currently the Media Council of Tanzania; it introduces severe sanctions for a number of media-specific offences and allowing for the banning of newspapers. In effect, it is intended to restrict both the space of civil societies as well as individual's access to information.

With these draconian laws, THRDC protection desk has recorded various incidences of limiting the civic space such as a ban of 6 newspapers (within a year), attack of journalists, and arbitrary arrest of more than 20 HRDs from January to November 2017.

55 https://www.opengovpartnership.org/sites/default/files/Tanzania_Withdrawal-Letter_Sept2017.pdf

5.5.2.2 Rights of assembly and association

States are required to ensure CSOs rights of assembly and associations are guaranteed by law and respected in practice. In addition to that, the state has to guarantee enabling environment for operations and functioning of CSOs in terms of technical and fiscal without any government interference.

Article 20(1) of the Constitution of the United Republic provides for the right to freedom of association.⁵⁶ In addition to the constitutional guarantee, among the objectives of the NGOs policy 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.⁵⁷

The major constraint for Civil Society limiting its rights of assembly and association is the legal framework regulating CSOs registration and operations. Before 2002 CSOs in Tanzania were registered and established under various laws and authorities. These authorities are the Business Registration and Licensing Agency (BRELA) in charge of registration of companies without share capital (Companies limited by guarantee) mandated by the Companies Act, Cap. 212; the Ministry of Home Affairs under the Societies Act which has mandate over all associations including faith based and sports clubs, while the Registration Insolvency and Trusteeship Agency (RITA) under the Trustees' Incorporation Act registers and regulates all trustees.

Local authorities have been using both penal laws and administrative pronouncements to limit CSOs association rights and the work of HRDs in general. Interruption of HRDs internal meeting and workshops and intimidation of HRDs working for marginalized groups such as pastoralists in Loliondo, people with disability and key populations. Intimidation, frivolous cases and arbitrary arrest of human rights defenders has been very common in 2017.

On the 12th July 2017 for example Miss Bibiana Mushi and Mr. Nicholas Ngelela, human rights defenders working with Action for Democracy and Local Governance (ADLG-Mwanza) were arrested and charged for allegedly disobedience of statutory duty under Section 123 of the Tanzanian Penal Code.⁵⁸ Miss Mushi and Mr. Ngelela were arrested in Kishapu District – Shinyanga region while carrying out their official duties, building the capacity of local government officials working in extractive industry regions. Through the legal aid mechanism under the Coalition's protection desk, they were acquitted.

Incidences of police raiding civil society meetings were also documented by the Coalitions

56 Every person has a freedom, to freely and peaceably assemble, associate and cooperate with other persons, and for that purpose, express views publicly and to form and join with associations or organizations formed for purposes of preserving or furthering his beliefs or interests or any other interests.

57 Objective (iii) Tanzania NGOs policy 2001.

58 S. 123 Tanzania Penal Code Cap 16 (R.E 2010); Everyone who willfully disobeys any Statute or Ordinance by doing any act which it forbids, or by omitting to do any act which it requires to be done, and which concerns the public or any part of the public, is guilty of a misdemeanor, and is liable, unless it appears from the Statute or Ordinance that it was the intention of the Legislature to provide some other penalty for such disobedience, to imprisonment for two years.

protection desk in 2017. One of the raided meetings included a legal consultation convened by Initiative for Strategic Litigation in Africa (ISLA) and Community Health Services and Advocacy (CHESA) in order to get more instructions and evidence on a case planned to be filed before a court. The case was due to challenge government's decision to limit the provision of certain health services that it had previously provided.

During the police raid, thirteen people were detained. No one has been charged but all were granted bail. A day after, the Dar es Salaam Police Regional Commissioner issued a press statement, referring to the "arrests" and stated that twelve people who were promoting homosexuality had been arrested. This mischaracterization of a legal consultation where lawyers and their clients were discussing a very specific case to be referred to the court is very unfortunate and it does not only limit the civic space, but also an attack and attempt to paralyze legal profession in Tanzania.

Later On the 20th of October 2017 the registrar's office issued a public notice to suspend the business of CHESA to allow investigation into allegations involving the organization in the promotion of marriages between persons of the same sex. Till the end of the year this report is prepared, the suspension has not been uplifted.

Picture 28: Public notice by the Registrar of NGOs on CHESA's suspension

On the 9th of August 2017, the Ministry of Health, Community Development, Gender, Elderly, and Children issued a notice requiring all NGOs to go to the designated zonal offices for verification. According to the notice, the objective was to update the NGOs data base and to evaluate the activities of such NGOs for the purpose of creating vibrant CSOs sector.⁵⁹

However in the same notice, there were some serious issues of concern which could jeopardize the existence of the operating NGOs. Some of them were the time for the review(only ten days, that is 21st August 2017, to 4th September 2017), proximity with regard to zonal/ verification station allocation and the types of documentation which were needed to be submitted. It was expressly stated by the Government that failure to be verified could lead to deregistration of such NGOs.

WIZARA YA AFYA, MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO

TAARIFA KWA UMMA



Ofisi ya Msajili wa NGOs inapenda kuujulisha umma kuwa imesimamisha shughuli za Shirika la **COMMUNITY HEALTH EDUCATION SERVICES AND ADVOCACY (CHESA)** kuanzia tarehe 20 Oktoba, 2017 ili kupisha uchunguzi unaofanywa dhidi ya tuhuma za shirika tajwa kujihusisha na uhamasishaji wa vitendo vya ndoa za jinsia moja katika maeneo mbalimbali nchini. Shirika tajwa pamoja na tuhuma mbalimbali zilizo, linatumiwa kuratibu warsha kuhusu masuala ya ndoa za jinsia moja tarehe 17 Oktoba, 2017 katika hoteli ya Peacock, Itala - Dar es Salaam. Kwa taarifa hii uongozi wa Shirika unaagizwa kusimamisha shughuli zake zote ikiwa ni pamoja na kufunga ofisi zote za Shirika hadi uchunguzi utakapokamilika. Ikumbukwe kuwa ndoa za jinsia moja hazikubaliki nchini kwani ni kinyume na mila, desturi na sheria za nchi.

M.S. Katemba
MSAJILI WA NGOs

59 http://www.tnnc.go.tz/documents/UHAKIKI_NGOs.pdf retrieved 12th December 2017 5:40am

WIZARA YA AFYA, MEANDELEO YA JAMII, JINSIA, WAZEE NA WATOTO.



TAARIFA KWA UMMA

Msaaji wa Mashirika Yasiyo ya Kiserikali anatarajia kuhakiki Mashirika yote Yasiyo ya Kiserikali kuanzia tarehe 21 hadi 31 Agosti, 2017. Lengo kuu la zoezi hili ni kuhusisha orodha ya Mashirika Yasiyo ya Kiserikali hchini, Kubonesha Kanzi Data ya Mashirika Yasiyo ya Kiserikali na kupima utekelezaji wa majukumu ya Mashirika haya. Zoezi hili itafanyika katika Kanda tano (5). Kanda ya Mashiriki itahudumia mikoa ya DAR ES SALAAM, LINDI, MTWARA, PWANI na MOROGORO na Kituo kitakuwa Idara ya Uratibu wa NGOs DAR ES SALAAM; Kanda ya Kati itahudumia mikoa ya DODOMA, SINGIDA, Tabora na KIGOMA na Kituo kitakuwa DODOMA, Makao Makuu wa Wizara ya Afya, Maendeleo ya Jamii, Jinsia, Wazee na Watoto iliyopo Chuo Kikuu cha Dodoma, Kitivo cha Sanaa na Sayansi ya Maendeleo ya Jamii, Jengo Na. 11, Dodoma; Kanda ya Kaskazini itahudumia mikoa ya KILIMANJARO, TANGA, ARUSHA na MANYARA na Kituo kitakuwa katika Ofisi ya Katibu Tawala (M) KILIMANJARO; Kanda ya Ziwa itahudumia mikoa ya MWANZA, KAGERA, MARA, GEITA, SIMIYU na SHINYANGA na Kituo kitakuwa katika Ofisi ya Katibu Tawala (M) MWANZA na Kanda ya Nyanda ziti Juu - Kusini itahudumia mikoa ya MBEYA, RUVUMA, KATAVI, RUKWA, SONGWE, NJOMBE na IRINGA na Kituo kitakuwa katika Ofisi ya Katibu Tawala (M) MBEYA.

Wakati wa uhakiki kila shirika linapaswa kuwasilisha Cheti Halisi cha Usajili, Nakala ya Cheti cha Usajili, kujaza formu ya uhakiki NGO-FomaUHK/2017 inayopakana katika Tovuti (www.tncc.go.tz). Shikabadi za Malipo ya Ada ya mwaka toka kuanzishwa kwa shirika, Barua kutoka kwa Afisa Maendeleo ya Jamii (Mkoa/Wilaya/Halmashauri/Maridapa) ibitibitisha uwezo wa Ofisi ya Shirika na nakala ya kati ibitibitishwa na Msaaji wa NGOs. Aidha, Mashirika yote yatakuwashindwa kuhakikiwa katika vituo vya Kanda sawa hapo juu, yatafutwa Usajili na kuondolewa kwenye Rosteti ya Msaaji wa NGOs. Ili kutoa fursa ya kuhusisha Kanzi Data na Benki ya Takwimu, Usajili wa NGOs utasitishwa kuanzia tarehe 21 Agosti hadi 30 Novemba, 2017.

M.S. Kalemba

MSAJILI WA MASHIRIKA YASIYO YA KISERIKALI

Picture 29: Public notice by the Registrar on the NGOs verification process

Due to the risk of deregistration of many NGOs considering the prevailing environment of shrinking civic space in the country, the THRDC in collaboration with the National Council of NGOs (NaCoNGO) decided to intervene the process. Several meetings were conducted with the Directors of CSOs and with the Registrar of NGOs in order to find better ways of conducting the exercise and without ill will.

This intervention was successful since the registrar responded positively and acted on the concerns including extending the verification period from September to November. Most importantly, the registrar of NGOs allowed participation of NGOs as observers to the process. Therefore THRDC and NaCoNGO allocated observers in each of the five zones. The Observers collected relevant data from the Organizations which were verified by officers from the Office of the Registrar of NGOs and came up with the report.

Although the exercise went well with full CSOs involvement, it was a surprise that THRDC received a letter dated 31st October 2017 from the Kinondoni District Authority (Where THRDC is situated) requesting registrations documents, activity reports sources of funds and many more. THRDC was shocked and worried about the request because it had been successfully verified and all the documents were submitted to Registrar of NGOs where THRDC is accountable according to NGOs Act of 2002. This type of disturbance has been happening to many vocal NGOs in the country.

Picture 30: A letter from the Kinondoni District Authority

The letter from the Kinondoni District Authority sent to THRDC offices demanding submission of various documentations which were however already submitted to the Registrar's office during verification exercise.

It is important to note that the same Kinondoni Office sent several times immigrations officers to interrogate the nationality of THRDC Notational Coordinator, Onesmo Olengurumwa for unknown reasons.



Picture 31: A tweet about the interrogation of THRDC National Coordinator by Immigration officers

A tweet informing the public about the interrogation of THRDC National Coordinator Mr. Onesmo Olengurumwa by Immigration Officers about his nationality

Among the affecting the CSOs right to association in Tanzania is the inadequate funding. CSOs provide integral support to their communities, but the local base for fundraising is poor; without the support of outside donors, the services might cease. Donors sometimes change their funding priorities. Currently in fact, donors are shifting from supporting delivery of services to influence over policy.

Much as CSOs have a great role of making sure that they secure resources for implementation of their activities, it is also the primary role to making sure that it sets funds enough for implementing activities which touches the life of its citizens. Services such as education, health, water and sanitation, access to justice, safe and clean environment are a primary responsibility of the government.

In 2017, the parliament passed the Legal Aid Act which regulates legal aid provision in Tanzania.⁶⁰ The credit is given to the government for coming up with such an important and long awaited law to regulate the provision on legal aid previously to be under inefficient and uncoordinated mechanisms. The major concern with the passed law is about the funding of the legal aid activities which most of them are done by CSOs providing legal aid (LAPs).

As stated in the preceding paragraphs, legal aid providers mainly depend on donor funding to be able to carry out their activities. In other countries like South Africa, Malawi Legal Aid Acts are prevalence they have special funds for helping in the implementation of legal aid provision to indigents unlike in Tanzania where this obligation seems to be left out to this donor funded CSOs. While commending the government in positive steps involving CSOs in matters affecting their space, declining to support the funding to legal aid providers is a discredit.



Tanzania Updates
@TanzaniaUpdates

Mratibu wa Mtandao wa Utetezi wa Haki za Binadamu (THRDC), Onesmo Olengurumwa amehojiwa leo na maofisa wa Uhamiaji kuhusu Uraia wake.



Tweet your reply

60 The new Legal Aid Act of 2017 in Tanzania was signed and gazetted on March 3, 2017.

5.5.2.3 CSOs Engagement and Participatory Rights

Governments are only credible partners as long as they represent their countries` interests. Recognition of constructive engagement and collaboration with Civil Society Organizations (CSOs) is an important ingredient to achieving better governance. When Civil Society has opportunity to engage with the government, can influence policy making and democratic processes through promotion of citizens` political participation.

This can be done by educating people about their rights and obligations as democratic citizens expose the corrupt conduct of public officials and lobby for good governance reforms, develop citizens` skills to work with one another to solve common problems, to debate public issues, and express their views.

The National Policy on Non-Governmental organizations (NGOs) encourages government partnership with private sector to complement on government`s efforts to promote democracy, human rights and rule of law in the country.⁶¹ However, the current status of state cooperation, engagement and support where the government and CSOs have worked together, reveals that the relationship is occasional and isolated. Civil society representatives have been regularly invited by the government to participate in policy dialogues, including the National Strategy for Growth and Reduction of Poverty, decentralization and local government reforms, privatizations, constitutional and legal reform processes.

CSOs engagement and participatory rights have not been automatic. CSOs struggle a lot for these rights despite some obvious constraints from state actors both at the central and local government levels. On the 17th November 2017 for example, the Deputy Secretary General of the Ministry for Local Government Authorities Mr. TixonNzunda while speaking to the Executive Officers and staff of the Tabora Regional Office, Tabora Municipality, Sikonge District Councils, Uyui, Kaliua and Urambo was quoted to have ordered LGAs not to collaborate with any CSO without prior approval from the Ministry. It is important to note that this order is not provided by any law.

Effects of the order have started to be witnessed since at the end of 2017, a child rights organization named MSICHANA INITIATIVE was informed by the BAHI District authority in Dodoma if they were at the stage of commencing implementation of their project they were supposed to get clearance letter from the Ministry of Local Government authority. This is a serious effort to limit CSOs-government relationship as partners in development.

61 2001 NGOs Policy; policy rule 1.1.1 pp3

Picture 32: Hon. Nzunda's order to Local Government Authorities not to partner with NGOs without official authorization from HQ

Hon. Nzunda, the Deputy Secretary General of the Ministry for Local Government Authorities who ordered LGAs not to partner with NGOs without prior approval by the Ministry for Local Government Authorities.



Branding of CSOs by government officials is yet another challenge which shrinks the space of CSOs. For a long time and repeatedly, various leaders of the government have been quoted as dubbing CSOs bad names. Government leaders views CSOs as source of conflicts rather than solutions to conflicts, puppets of donors and oppositions rather than partners in development. Threats to deregister NGOs working on pastoralist issues in Loliondo (NGONET, PWC, PINGOS), threats to deregister Tanganyika Law Society (TLS) also existed in the year 2017.

Picture 33: Activist Jenerali Ulimwengu's article on the Shrinking Civic Space in Tanzania

save to bear the actions of under him."

JENERALI ULIMWENGU

The democratic space is being shut down but PLO Lumumba keeps singing praises

into tyranny and the worst type of the Big Man syndrome we have ever experienced, even we who are of a certain age.

A district governor visits a school and subjects the teachers to an impromptu quiz. He asks teachers to mention his name, among other nonsensical questions. A teacher refuses -- or fails -- to answer, and he gets remanded in custody for this transgression. Another governor pursues an unruly schoolboy who is accused of damaging his car. At the boy's home he finds the boy's father and proceeds to beat up the old man thoroughly, just to teach him something about parenting.

In another district a governor is unhappy with the answers given by a citizen, and what does she do? She boxes the ears of the peasant to make him a better citizen. In yet another district, a governor takes it upon himself to uproot expensive irrigation equipment servicing the modern farm of the leader of the opposition.

An opposition MP is arrested on charges of attending a rally outside her constituency, which has become a "crime" in Tanzania since President John Magufuli issued a fiat requiring politicians to hold rallies only in their constituencies and nowhere else, no matter that the rally attended by this particular woman was organised by a fellow MP from her party.

There is an endless parade of opposition leaders entering and exiting police stations to answer to laughable charges, and the police show no qualms about arresting legislators and keeping them incommunicado for as long as they, the police, wish. Somebody has suggested that at this rate the opposition might as well establish sub-offices at police stations.

Tandru Ujima, that nemesis of President Magufuli, has been arrested again and his house has been searched for the nth time. For what? He is accused of accusing Magufuli of having occasioned the loss of many billions of shillings by his actions when he was a cabinet minister.

President Magufuli will have to bear the blame for the actions of those serving under him. He has publicly encouraged local governors to lock up people who disagree with them; now they are caning them into the bargain. The preventive detention law is an anachronistic piece of legislation dating from the days of the authoritarian regimes of Kwame Nkrumah and Julius Nyerere. President Magufuli has made that a central activity of his object in the districts.

It is bound to get even tougher in a country that has gone eight months without a Chief Justice, something never heard of before. The man who has been "acting" as CJ must be wondering what he needs to do to get confirmed. Parliament is a caricature of itself as President Magufuli takes pleasure in giving instructions to the Speaker on how to deal with "troublesome" MPs and the Speaker does as he is told.

The media, traditionally tame and timid, has been taken to the gallows with the newfangled Media Services Act which criminalises libel and

Tanzania has steadfastly slid back into tyranny and the worst type of the Big Man syndrome we have ever experienced, even we who are of a certain age.

imposes stiff prison terms for media misdemeanours. A Gulag has installed itself in Tanzania.

That is something Prof PLO Lumumba does not know and isn't interested in knowing. As he continues to sing his praises of the Tanzanian president, Lumumba spends out of ignorance and does us grievous injury.

Jenerali Ulimwengu is chairman of the board of the Raisi Mwema newspaper and an advocate of the High Court in Dar es Salaam. E-mail: ulimwengu@jenerali.com

LETTERS TO THE EDITOR **POLITICS AND VERSE**

Activist, Jenerali Ulimwengu airs his views on the shrinking Civic Space in Tanzania.

Through unified Civil Society efforts to struggle for CSOs engagement and participatory rights, there have been some noted indications for a prospective future despite obvious limitations. A notable illustration to this is the 2017 Human rights defenders day ceremony organized annually by the THRDC which carried the special theme; “Forging Relationship between the Government and Civil Societies”. In order to fulfill the major theme of the event the invited guest of honor was the Vice President of the United Republic of Tanzania Hon. Samia Suluhu Hassan who delegated the Minister of Constitution and Legal Affairs Hon. Professor Palamagamba Kabudi to represent her.



During the opening ceremony Professor Kabudi assured HRDs that, the Government of the United Republic of Tanzania supports and will always be ready to work with HRDs in making sure that good environment in which human rights are respected, protected and promoted is created.

“...The government will take all appropriate measures to deal with all violators of human rights in Tanzania. These measures, includes but not limited to taking the violators of the rights to courts law, enacting laws which protect human rights defenders, signing relevant international and regional instruments for the protection of human rights defenders...”, Hon. Prof. Palamagamba J.M Kabudi.

5.5.2.4 Human Rights and Rule of Law

Threats and intimidation to de-register CSOs in Tanzania is still a problem. Both legal instruments and administrative pronouncements have been of a threat to the work of CSOs. Old and new legislative enactments including, the Newspaper Act (Act No. 3/1976), (this is repealed) and the National Security Act. The Cyber Crimes Act (Act No. 14/2015), The Statistics Act, 2015 The Media Service Act, 2016 and the Access to Information Act, 2016 to mention but a few have jeopardized the existence and work of CSOs by either All these laws limit free expression and information rights or being interfered.

THRDC documentation indicates that Human Rights NGOs /CSOs have never been free from tough administrative measures that affect their freedom of operation. It has been noted that some of the local and central government officials use their administrative powers to infringe the rights of CSOs.

In a speech on 22nd June 2017, President Magufuli spoke out against education for adolescent girls who become mothers thereby expressing his disapproval of NGOs condemning the government’s violation of child rights to education.

The President stated that “as long as I’m president, no pregnant students will be allowed to return to school”. Three days later, at the Dodoma rally, Home Affairs Minister Nchemba also threatened organizations that challenge this educational ban as stated by the President with possible deregistration.

“...Si kwamba nawachukia wenye mimba, hata kwa bahati mbaya akapata mimba, kama hizo NGO zinawatetea sana, zifungue shuleza wenye mimba, kwasababu zinawapenda wenye mimba, wafungue shule zao. Haiwezekani fedha za walipa kodi, Sh 17 bilioni kila mwaka za kusomesha watoto wetu, kwenda kusomesha wakina mama, wazunguke, waimbe, waseme nini mimi ndiyo Rais, huo ndio ukweli...”

President Magufuli in the above Swahili text expressed his disapproval to NGOs defending child’s (pregnant schools girls) right to education. That the Government is not ready to spend Tax payers’ money to let pregnant school girls go back to school after giving birth even if becoming pregnant was not their fault. Later TAWLA was given a warning for leading other CSOs on the same issue of pregnant school girl education.

Figure 34: A tweet about Tanzanian NGOs’ condemnation of the President’s decision on pregnant girls

The tweet about NGOs condemnation of the President’s decision on pregnant school girls. In the tweet is the photo of Jacinta, 15 who was excluded from school after authorities found out that she was pregnant. She said her teachers took her to a medical clinic to undergo a pregnancy test. She subsequently gave birth prematurely and her baby did not survive. August 5, 2014. © 2014 Marcus Bleasdale/VII for Human Rights Watch



5.6 Improving Civil Society Space in Tanzania

From the above critical analysis of the civil society space in Tanzania, it is obvious that still a lot has to be done. Both internal and external challenges affecting the civic space should be worked on in order to widen the shrinking space.

The following are key recommendations for widening of the CSOs space suggested by CSOs directors, veteran, representatives from the government, academicians and other stakeholders during the CSOs self-reflection meeting conducted in October, 13 and 14 2017.

- i. The need for CSOs to become more engaged with governments on the laws governing them. A consultative and less combative approach to advocacy will help lessen existing tensions between the two sectors.
- ii. CSOs should be more engaged at regional level at EAC, SADC and African Union as this will enhance their bargaining power and overall strength. It is important for CSOs to be part of ongoing processes and campaigns at regional levels as this enhances their relevance and overall sustainability, e.g. integration and common market at EAC, ending child marriages and social protection campaigns at the AU, NGO Forum agenda at the Banjul Commission, etc.
- iii. CSOs should seek national resource mobilization strategies for enhanced effectiveness. At the same time, CSOs should negotiate with donors and development partners for more long term (5-10 years) and core funding as opposed to project funding.
- iv. Engage in institutionalization (beyond individualization) and succession planning processes to boost leadership and management
- v. Need to compile a compendium of all laws, policies, regulations and rules that are ancillary to CSOs in Tanzania and make periodic updates.
- vi. Need to have series of Self-educating and awareness creation among the CSOs on various aspects of the Legal Framework through which CSOs are registered, operating and required to comply.
- vii. The need to re-strategize and reorganize in order to push for reform of the oppressive and outdated legislation affecting CSOs.
- viii. Doing away with Internal CSOs challenges such as internal CSOs management and, leadership, advocacy strategies and good alliance with the public.

5.7 Conclusion:

All in all, the general assessment of CSOs space indicates that a lot has to be done. The civic space continues to be limited especially through legislations and administrative pronouncements. THRDC advises the government of the United Republic of Tanzania to embrace the Media, HRDs and the Civil Society in general as key and internal actors of development and nation building rather than seeing them as antagonists.

CSOs are also advised to re-strategize and reorganize in order to push for reform of the oppressive and outdated legislation affecting CSOs. They are also urged to remove internal CSOs challenges which are in fact more dangerous than the external challenges. To this CSOs need to have a tool for periodical self-reflection and peer-review in order to ensure that their 'houses are in good order.

General Conclusion and Recommendations

6.0 Conclusion

The 2017 Tanzania Human rights defenders situation report indicates that HRDs in the country still operate under unsafe environment and therefore making their work even more difficult. The report indicates that HRDs are continuously harassed, abducted, killed, attacked, maliciously prosecuted, and branded bad names just because of their work as human rights defenders.

The report further shows a shrinking space for civil society operations, non-respect of rule of law, non-independence of the judiciary, lack of democracy and the growing tendency of state impunity. This is not in favour of the principles of human rights and the Declaration for Human Rights Defenders of 1998 as well as the Constitution of the United Republic of Tanzania, 1977 and other laws of the land. The Coalition through this report comes with way forward and recommendations for different stakeholders specifically the government, CSOs themselves, regional and international partners to work towards improving the situation and security of human rights defenders as outlined below:

6.1 Way Forward

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

- Ensure legal reform are made to overhaul various draconian laws listed at the end of this report in order to make the working environment of HRDs and the general public safer.
- Create a pool of human rights lawyers across the country who are ready to take up human rights defenders cases on pro bono basis (with minimum token for transport) in order to actively defend every human rights defenders facing any risk.
- Increase protection and emergency funds in order to avoid delays in the provision of services to afflicted HRDs.

- Take innovative and diplomatic approach to strengthen the civic space which is vividly seen to have drastically shrunk .
- Conduct thorough media campaigns and change of behavior trainings in areas where HRDs are threatened due to some social cultural issues.
- Utilize the current country’s major legal reform to fight for inclusion of HRDs rights and protection in the coming Constitution.

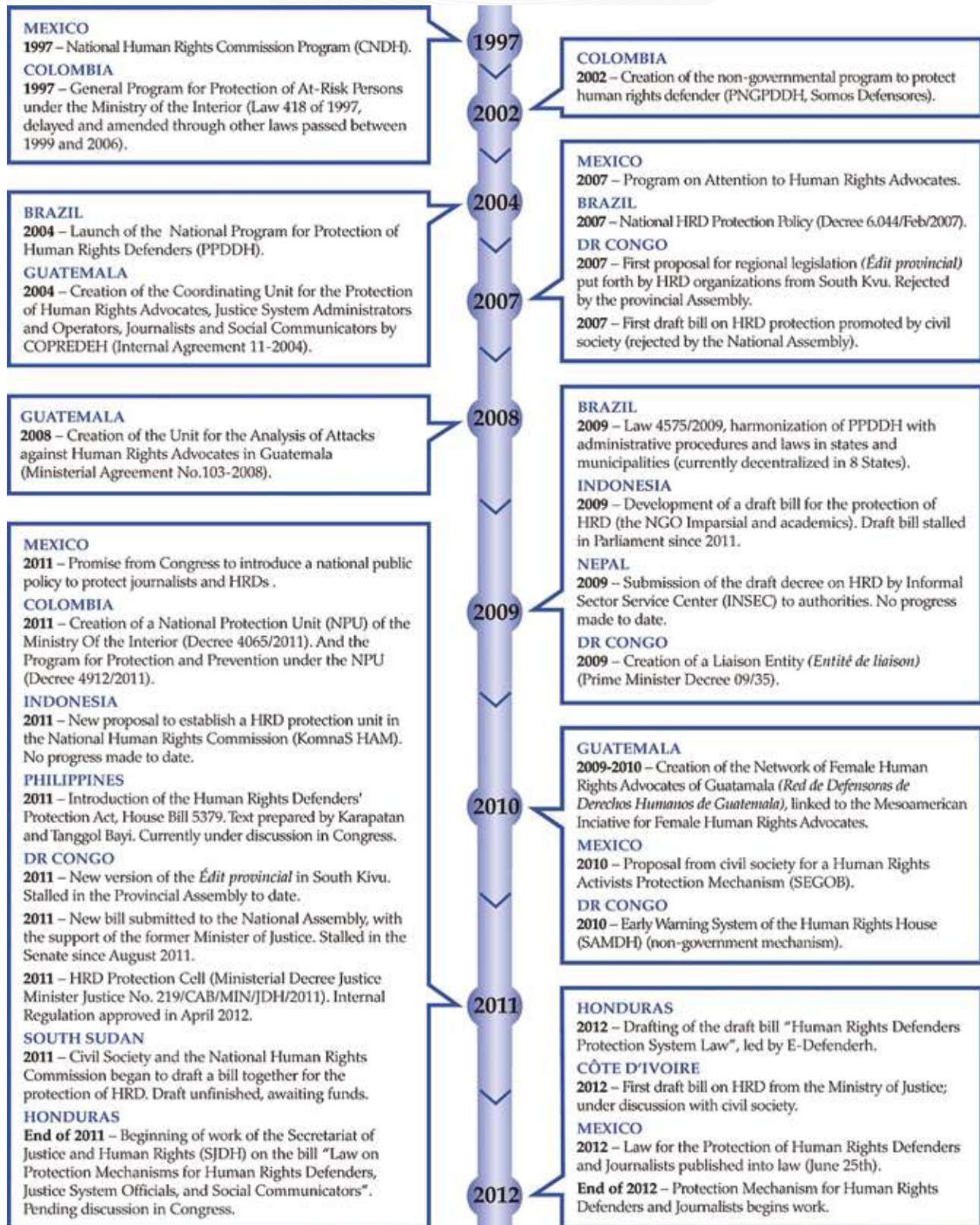
6.2 Recommendations

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

- HRDs need to work towards preventing risks rather than reacting to them, which could have far reaching consequences.
- The government should be more transparent in its operations because it has always been a source of upheaval between CSOs whenever there are discovery of leakage of “secrets” which to a great extent are of public interest.
- Good professional and financial status is vital for the safety and security of journalists. Journalists who work professionally and are financially well facilitated face less risk than those who operate unprofessionally and without sufficient resources. We therefore, advice media owners to consider this reality and act accordingly.
- Police force should work in accordance with the law and generally accepted standards of their profession rather than working on the interests of the rulers.
- The government should create a criminal system that provides an independent investigation to investigate all cases involving HRDs to avoid the state of impunity currently escalating.
- The government should create a civic space and conducive environment for civil society and human rights defenders to work freely. On top of that, the government should view CSOs as partners in development rather than seeing them as enemies as is the case today.
- The government should develop a national policy and law that recognizes and protects human rights defenders in Tanzania.
- The government should amend all draconian laws such as the Cyber Crimes Act, 2015, the Statistics Act, 2015, The Police Force and Auxiliary Services Act, 1969, Media Services Act, 2016) among others to allow free flow of information and the civic space in Tanzania.

- The government should amend the NGO Act 2002 especially all the repressive provisions such as sections 18, 35 and 36 of the Act. The Act has for instance been used to criminalize 2 HRDs in the year 2017.
- Authorities should 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.
- A legal framework that does not contradict the existing legal framework that governs CSOs' operations in Tanzania ought to be created particularly enacting one law which governs the establishment and operations of CSOs. CSOs should be involved in each stage of discussions and reforms and decisions affecting their operations.
- The government should create conducive environment for civil society and the media to operate in accordance with the rights enshrined in the Constitution of United Republic of Tanzania, International Covenant on Civil and Political Rights (ICCPR) and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association; freedom of expression; the right to operate free from unwarranted state interference; the right to seek and secure funding; and the State's duty to protect.
- The government and international development partners should support the implementation of the recommendations of the 2016 UPR and prepare for the next review.
- The Registrar of NGOs and other registrars as well as other government officials should refrain from giving unnecessary threats to CSOs and/or requesting information that have already been submitted to the respective authorities.
- Government leaders should take CSOs sector as a vital link to the community development especially in terms of job creation, economy, welfare and social services, development, human rights and welfare of the Democratic country. The NGOs sector should be respected, protected, recognised and accorded due cooperation rather than scorn and isolation even in matters relating to coordination with their registration.
- Police force/Immigration department should refrain from unnecessarily interrogate human rights defenders who are seen to be vocal and suspect them that they are non-citizens.

Annexure One: The List of Countries with Legal Protection of HRDs



Annexure Two: The List of Oppressive Laws & Proposed Bills

No	Thematic Areas Affected	Laws	How
1	Women HRDs	1. Marriage Act of 1971	These laws and policies have gaps with its provision contributing to the persistence of gender inequality, discrimination and gender based violence. The conclusion can therefore be derived that the work of WHRDs is not fully supported by these laws but rather the said legislations create hardship and risky environment for their work. For instance, customary laws treat them as minors who have to depend on others to inherit, instead of recognizing widows' right to inherit matrimonial property. With this kind of legal framework; it was observed that WHRDs conducted their activities in a very challenging environment which seems to be supported by the existing laws.
2		2. Inheritance Laws such as the Probate and Administration of Estates Act, Cap 445 [R.E 2002]	
		3. Religious laws	
		4. Customary laws including inheritance laws	
3		5. Prison Act, 1967, Cap 58 [R.E 2002]	This affects the rights of HRDs and journalists when it comes to advocating for the rights of prisoners and prison officials. The law requires anyone including Journalists who want to communicate with any prisoner or take any photo from the prison or outside the prison to write a letter to the Commissioner of Prisons requesting the permission to do so. The process has been so bureaucratic, that it has made the media fail to advocate for the improvement of the prison services in the country as little is known to the outside world.

4		6. National Security Act of 1970, Cap. 47 [R.E 2002]	<p>This law makes it a punishable offence in any way to investigate, obtain, possess, comment on, pass on or publish any document or information which the government considers to be classified. This includes documents or information relating to any public authority, company, organization or entity which is in any way connected with the government.</p> <p>The reference can be traced to incidents involving active journalists such as Adam Mwaibabile. The police in Songea were instructed by the regional commissioner to charge him with possession of classified documents. The magistrate wrongly convicted Adam on the grounds that he had committed offences under this law. The High Court observed this error in law and ruled out that the resident magistrate had misconstrued the provisions of the Act and hence quashed the decision and acquitted Mr. Mwaibabile.</p> <p>Also pastoralist HRDs from Loliondo have been affected by the operation of this law.</p>
5		7. The Public Leaders Code of Ethics Cap 398 [R.E 2002]	Restricts the investigative role of media and does not allow it to investigate and report on the property holdings of public leaders

6		8. The National Defense Act, Cap 192 [R.E 2002]	<p>This law prohibits journalists or any HRDs to publish any information relating to the National Defense Force. Sometimes members of this force commit offences like other citizens in public places but when journalists report the incident, soldiers follow them with intent to harass them.</p> <p>This law played a role in Mtwara during the gas saga where the public turned against members of the press and attacked them on account that they had failed to report on their grievances little did they know that there was no way they could report any misconduct by defense forces without higher authorities.</p>
7		9. The Police Force and Auxiliary Services Act, 1969	<p>Sections 41, 43, 45 and 46 of the Act have been disputed because of the unjustifiable ban of public meetings done by police. Many political meetings have been banned using this law. Some initiatives have been taken to do away with this law including challenging the aforementioned provision of the law before the High Court of Tanzania at Dar es Salaam.</p>
8		10. The Prevention and Combating of Corruption , Act No. 11 of 2007	<p>The law prohibits journalists from making follow ups of any corruption case under the PCCB investigation.</p>
9		11. The Area Commissioner Act 1962 & Regions and Regional Commissioners Act 1962	<p>These two have been used against journalists who expose malpractice and maladministration in public offices</p>

10		12. Civil Service Act 1989	The law curtails access to information and prevents any commissioner or civil servant from disclosing information obtained in the course of his/her employment in government without the express consent of the permanent secretary of the relevant ministry or department.
11		13. Film and Stage Act No 4 of 1976	Curtails the independence and creativity of individuals as it prohibits taking part or assisting in making a film unless the Minister has granted permission and prohibits the making of “home movies” by individuals.
12		14. Registration of News Agents, 15. Newspapers and Books Act (1988)	This operates in Zanzibar. It also has restrictive provisions. For instance it provides for the licensing of journalists and the establishment of a government-controlled “advisory board” to oversee the private print media.
13		16. Broadcasting Services Cap. 306 of the R. E 2002	The Act allows the government to regulate and place restrictions on the use of electronic media. The Act does not guarantee the independence of electronic media and other governing bodies. The editorial policy and decision-making are not free from interference by the government. Like the News Paper Act, this law doesn’t give room for one to appeal to the Courts of laws if aggrieved by the decision of the regulatory authorities and the minister.

TANZANIA HUMAN RIGHT DEFENDERS COALITION (THRDC)

Kijitonyama near Police Mabatini, P.o.box 105926, Dar Es Salaam, Tanzania

Mobile: +255 769 642208/+255657 043191, Email: thrddefenders@gmail.com

Face book: www.facebook.com/TanzaniaHumanRightsDefendersCoalition

Web Site: www.thrd.or.tz