



SITUATION REPORT ON HUMAN RIGHTS DEFENDERS AND CIVIC SPACE IN TANZANIA 2022



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Table of Contents

ABBREVIATIONS.....	vii
LIST OF STATUTES AND INTERNATIONAL INSTRUMENTS	viii
EXECUTIVE SUMMARY.....	ix

CHAPTER ONE 1

GENERAL INTRODUCTION.....	1
1.0 Introduction	1
1.1 Who is a Human Rights Defender?	1
1.2 Activities of human rights defenders include:	2
1.3 Rights of Human Rights Defenders protected under the Declaration are:.....	2
1.4 Protection Mechanisms for Human Rights Defenders	3
1.4.1 Legal Protection Mechanism at International Level.....	3
1.4.2 Legal Protection Mechanism at Regional Level.....	4
1.4.3 Legal Protection Mechanism at the National Level	8
1.5 Non-Legal Protection mechanism.....	9
1.5.1 Non-Legal Protection mechanism at International level	9
1.5.2 Non-Legal Protection Mechanism at Regional level.....	10
1.5.3 Non legal Protection Mechanism at National Level.....	12
1.6 Challenges for both International and Regional Protection Mechanisms for HRDs .	13

CHAPTER TWO 14

VIOLATIONS COMMITTED AGAINST HUMAN RIGHTS DEFENDERS	14
2.1 Overview	14
2.1.1 Enhancing Protection of HRDs through Emergency Support.....	14
2.1.2 Enhancing Protection of HRDs through Legal Assistance.....	14
<i>Table 2.1: Number of HRDs Received Emergency Support from THRDC between 2018 and 2022</i>	<i>15</i>
2.2 The Situation of Human Rights Defenders and Civil Society Organisations in Ngorongoro District	15
2.2.1 About Ngorongoro District.....	15

Map 2.2.1: Map of Ngorongoro District.....	16
Table 2.1: Land area distribution in each division of the Ngorongoro District.....	17
Graph 2.2.1: Land distribution in Loliondo, Sale and Ngorongoro Divisions	17
2.2.2 Land Conflict in Loliondo	17
Photo 2.2.2.1 A group photo of the Maasai assembled in Loliondo discussing the fate of their land...18	
2.2.3 Demarcating the area covering 1,500 sq km in Loliondo and Sale divisions	18
2.2.4 Obstruction of Journalists in Loliondo	19
2.2.5 Murder Case for leaders in Loliondo.....	20
Photo 2.2.5.1: Local leaders and Maasai HRDs in court attending the murder case.	21
2.2.6 Denial of medical services to injured HRDs and Citizens in Loliondo.....	21
2.2.7 Impacts of the demarcation process of the land in Loliondo and Sale divisions.....	22
2.2.7.1 Lack of land for grazing livestock.....	22
2.2.7.2 Extreme poverty to the people.....	22
2.2.8 Denial of Social Services in Ngorongoro Division	22
2.2.8.1. Curtailment of right to education in Ngorongoro.....	22
2.2.8.2. Ban of Flying Medical Service in Ngorongoro	23
2.2.8.3. Denial of building permits	25
2.2.8.4. Relocation of the Maasai from Ngorongoro to Msomera	25
2.2.9 Interventions by the Government Leaders.....	27
2.2.9.1 Intervention by the Prime Minister of the United Republic of Tanzania	27
Photo 2.2.8.1: A Statement of the Prime Minister	27
2.2.9.2 Intervention by the Speaker of the Parliament of the United Republic of Tanzania. 27	
2.2.9.3 Intervention by the Minister for Home Affairs.....	28
2.2.10 Immigration case against HRDs in Loliondo	28
Photo 2.2.9.1: A letter from the Immigration Office to Hon. Ndirango.....	29
2.3 Strategic Cases Conducted	31
i. Paul Emmanuel Kilasa Kisabo Versus Attorney General [Miscellaneous Civil Cause No 09 of 2022].....	31
ii. Peter Michael Madeleka Vs Attorney General of the United Republic of Tanzania [Reference No 31 of 2022]	31
iii. Grace Naimadu Ngorisha Versus Minister of Natural Resources and the Attorney General of Tanzania [Reference No 38 of 2022]	32
iv. Onesmo Olengurumwa Versus the Attorney General [Civil Appeal No 134 of 2022, originating from Miscellaneous Civil Cause no 9 of 2021].....	32
v. Tanzania Epilepsy Organisation Versus the Attorney General of Tanzania [Miscellaneous Civil Cause No 05 of 2022]	33

vi.	Ololosokwan Village Council & Three Others Versus Attorney General of Tanzania [Reference No 10 of 2017]	34
vii.	Onesmo Olengurumwa Vs the Attorney General [Civil Appeal No 165 of 2021 originating from Miscellaneous Civil Cause No. 36 of 2019].....	35
viii.	Tanzania Human Rights Defenders Coalition (THRDC), Legal and Human Rights Centre (LHRC) versus the United Republic of Tanzania [Application No 039 of 2020] ...	35
ix.	Tanzania Human Rights Defenders Coalition (THRDC), Media Council of Tanzania (MCT), Legal and Human Rights Centre (LHRC) versus the Attorney General	36
x.	Tanzania Human Rights Defenders Coalition (THRDC), Pan African Lawyers Union (PALU), Tanganyika Law Society (TLS), Legal and Human Rights Centre (LHRC), and Centre for Strategic Litigation (CSL) versus the Attorney General of the United Republic of Tanzania [Reference No 25 of 2020]	36
xi.	Tanzania Human Rights Defenders Coalition (THRDC), Pan African Lawyers Union (PALU), Tanganyika Law Society (TLS), Legal and Human Rights Centre (LHRC), and Centre for Strategic Litigation (CSL) versus the Attorney General of the United Republic of Tanzania [Reference No 27 of 2020].....	36
xii.	Francis Muhingira Garatwa, Baraka Mwago and Allan Bujo Mwakatumbula Versus the Attorney General (Consolidated Miscellaneous Civil Cause No. 4 of 2018 and Miscellaneous Civil Cause No. 8 of 2018)	37
xiii.	Joseph Osmund Mbilinyi & Peter Simon Msigwa Versus Commissioner General of Tanzania Prisons & Attorney General [Miscellaneous Civil Cause No 13 of 2021]...	37
xiv.	Tito Elia Magoti and John Boniface Tulla versus the National Electoral Commission, Attorney General, Commission for Human Rights and Good Governance and the Tanzania Prison Service [Miscellaneous Civil Cause No 03 of 2022].	38
xv.	Mary Barnaba Mushi Versus the Attorney General [Miscellaneous Civil Cause No 14 of 2022].....	38
xvi.	Charles Lutobisha Kasema and 3 Others [Miscellaneous Application No 47 of 2022] ..	39

2.4 Cases against HRDs	39
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2.5 Strengthening intervention through documentation of incidents and conducting fact finding missions.	41
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2.6 State of Impunity.....	42
-----------------------------------	-----------

2.7 Un investigated HRD’s incidents.	43
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CHAPTER THREE 46

MEDIA SECURITY AND JOURNALISTS’ SAFETY	46
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3.0 Overview	46
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3.1 Specific Challenges Facing Journalists	47
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3.2 Legal challenges affecting the security of Media and Journalists	51
i) The Media Services Act, 2016	51
ii) The Access to Information Act 2016.....	52
iii) The Statistics Act, 2015	53
iv) The Electronic and Postal Communications (Online Content) Regulations, 2020	53
v) The Cybercrimes Act, 2015.....	53
3.3 The Right to Privacy in Tanzania and the Protection of Whistle Blowers	53

CHAPTER FOUR..... 55

PROTECTION, PLANNING AND RISK MANAGEMENT	55
4.1 An Overview	55
4.2 Areas of Capacity Constraints Facing Human Rights Defenders	55
4.2.1 Physical and Digital Security.....	55
<i>Figure 4.2.1.1</i>	<i>56</i>
4.2.2 Digital Security.....	57
4.2.3 Monitoring, Documentation and Reporting Human Rights Violations.....	57
4.2.4 Compliance to Regulatory Laws	58
<i>Figure 4.2.1.3 Percentage level of understanding of the NGOs Regulatory Laws by NGOs in 2022..</i>	<i>58</i>
<i>Figure 4.2.1.4 Percentage level of understanding of Taxation Laws by NGOs in 2022.....</i>	<i>59</i>
4.2.5 Financial Sustainability.....	60
4.3 Final Communiqué of the 2022 CSOs’ Directors Annual Reflection Meeting on Financial Accountability and Sustainability of CSOs in Tanzania.....	60
4.3.1 Resolutions of the meeting	63
4.3.2 Operational Constraints	63
4.4 Conclusion and Recommendations	63

CHAPTER FIVE 65

THE SITUATION OF CIVIC SPACE IN TANZANIA.....	65
5.0 Introduction.....	65
5.1 Contextual background of Civic Space.....	65
<i>Figure 5.1.1: Three Common Sectors in a Modern Society.....</i>	<i>66</i>
5.1.2 Indicators of the Space of Civil Society.....	67
<i>Figure 5.1.2.1. An illustration of indicators for Civil Society space.....</i>	<i>67</i>
<i>Figure 5.1.2.2: an overview of the dimensions of civic space.....</i>	<i>67</i>

5.2 Critical analysis of the Civic Space in Tanzania	68
5.2.1 Freedoms of Information and Expression	68
5.2.2 Human rights and Rule of Law.....	69
<i>Photo 5.2.2.1: Hon.President Samia Suluhu Hassan with Hon. Tundu Lissu.....</i>	<i>70</i>
<i>Photo 5.2.2.2 Hon. President Samia Hassan with Hon. Freeman Mbowe.....</i>	<i>71</i>
5.2.3 Freedom of Association and Assembly	71
5.2.4 Enabling Environment for Civil Society Organisations	72
5.2.4.1 Legal and Policy Environment.....	72
5.2.4.2 CSOs Engagement and Participatory Rights.....	72
5.2.4.3 The Space of Civil Society Organizations at Regional and International Level... 75	
5.2.4.3.1 African Commission on Human and Peoples’ Rights (ACHPR).....	75
5.2.4.3.2 Resolution Passed by NGO Forums of the 73rd Session of the African Commission on Human and Peoples Rights on the Republic of Tanzania	76
5.2.4.4 Civil society space at International (UN) Level	77
5.2.4.5 Sustaining Universal Periodic Review Monitoring and Implementation	78
5.2.4.6 Global Campaign for Human Rights Defenders with Disability by UN Special Rapporteur on Human Rights Defenders.....	79
5.2.4.7 High Level Regional and International Meetings.....	80
5.3 Achievements.....	81
5.4 Best Practices and Lessons Learned	84

CHAPTER SIX **85**

GENERAL CONCLUSION AND RECOMMENDATIONS.....	85
6.0 Conclusion	85
6.1 Way Forward.....	85
6.2 Recommendations	86
6.2.1 Recommendations to Human Rights Defenders.....	86
6.2.2 Recommendations to the government:	87
Annexure i: List of Countries with HRDs Legal Protection Mechanism	89

Abbreviations

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

List of Statutes and International Instruments

(i) Statutes

The Constitution of the United Republic of Tanzania, 1977
The Constitution of the Revolutionary Government of Zanzibar, 1984
The Second Draft Constitution of the United Republic of Tanzania 2013
The Penal Code [Cap 16 R.E.2002]
The Marriage Act of 1971 Cap 29 [RE; 2002]
Probate and Administration of Estates Act, [Cap 445 [R.E 2002]
The Newspaper Act of 1976 [Cap. 229, R.E. 2002]
The Media Services Act, 2016
The Cyber Crimes Act, 2015
The Statistics Act, 2015 and its 2019 Amendments
The Prison Act, 1967, Cap 58 [R.E 2002]
The National Security Act of 1970, [Cap. 47 [R.E 2002]
The National Defence Act, Cap 192 [R.E 2002]
The Prevention and Combating of Corruption, Act No. 11 of 2007
The Area Commissioner Act 1962 & Regions and Regional Commissioners Act 1962
The Civil Service Act 1989
The Film and Stage Act No 4 of 1976, and its 2019 amendments
The Newspapers and Books Act (1988)
The Broadcasting Services Cap. 306 of the R. E 2002
The Land Act, 1999 (Act No.4 of 1999)
The Wildlife Conservation Act of 2009 (Cap 5 of 2009)
The Investment Act, 1997 (Act No. 26 of 1997)
The Forest Act, 2002 (Act No. 14 of 2002)
The Political Parties Amendment Act, 2019
The National Park Act, Cap 282 [R.E 2002]
The Ngorongoro Conservation Act, 1959 Cap 284 [R.E 2002]
The Mining Act, 2010 (Act No. 14 of 2010)
The Basic Rights and Duties Enforcement Act No. 33 of 1994
The Police Force and Auxiliary Services Act, 1939 Cap. 322, [R.E. 2002]
The Non- Governmental Organizations Act 2002.
The Written Laws (Miscellaneous Amendment) Act No3 of 2019
The Written Laws (Miscellaneous Amendment) Act No3 of 2020
The Non-Governmental Organizations Act (Amendment) Regulations, 2019
The Electronic and Postal Communications (Online Content) Regulations, 2020

(ii) International and Regional Human Rights Instruments

Declaration on the Right of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms on December 9, 1998 (Declaration for Human Rights Defenders).
United Nations Resolution on Protection of Human Rights Defenders March 2013
UN Resolution on Protection of Women Human Rights Defenders November 2013
The International Covenant on Civil and Political Rights 1966
The Convention on the Elimination of All Forms of Discrimination against Women 1979
The European Convention on Human Rights of 1950
The African Charter on Human and Peoples Rights of 1981
The American Convention on Human Rights 1969

Executive Summary

This is the 10th report detailing the situation of Human Rights Defenders (HRDs) and civic space in Tanzania. It has six chapters containing different topics as narrated herein. Chapter one basically highlights the concept of HRDs, legal and non –legal protection mechanisms for HRDs. It also gives an analysis of the laws and policies which provide for the recognition and protection of HRDs at the national, regional, and international level.

Chapter two details the violations committed against HRDs, and the necessary support provided by the Coalition. Most of the HRDs supported were the victims of the land grabbing and eviction process in Loliondo, Sale and Ngorongoro divisions in Arusha region. It also covers cases against HRDs, documented incidents of violations committed against HRDs and the strategic cases.

In 2022 a total of 278 human rights defenders were supported with relocation, medical, legal support, and other emergency support. A total of 157 HRDs at risk (20 women, 137 men) received direct legal support from THRDC and 89 HRDs amongst them were released by the court after the prosecution withdrawing the case against them. Emergency protection support in terms of relocation was provided to 46 HRDs (8 women, 38 men), medical support to 7 HRDs (2 women, 5 men), psychosocial support to 25 (3 female, 22 men) office relocation for 1 human rights organisation, and 8 HRDs' families were provided with humanitarian support. Further, 19 HRDs were provided with emergency referral assistance to external sister organizations promoting and protecting HRDs' rights.

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

Chapter three provides details of the situation of Journalists as HRDs and the state of media industry. A total of 22 incidents were documented in 2022 totaling 24 journalists and 2 media outlets. The chapter further illustrates cases against journalist, security challenges encountered by journalists and the media outlets. Such challenges include but not limited to arrest, malicious prosecution, unlawful detention, imposition of hefty fine to media outlets, termination journalists from employment and other legal and regulatory related challenges.

Chapter four provides the assessment of the HRD capacity situation particularly in the five areas namely: physical and digital security; monitoring, documentation, and reporting human rights violations; Compliance to Regulatory laws; Financial Sustainability; and Operational Constraints. Noting the challenges that HRDs face in these areas, THRDC continues to build capacity through workshop meetings and seminars while engaging relevant authorities to push for legal and policy reforms to safeguard HRDs' working environment.

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

Chapter ONE

GENERAL INTRODUCTION

1.0 Introduction

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

1.1 Who is a Human Rights Defender?

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

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

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

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

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.

1 <https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx> Accessed on February 10, 2022

2 <https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx> Accesses on February 10,2022

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

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

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

1.2 Activities of human rights defenders include:⁴

- Documenting violations of human rights.
- Seeking remedies for victims of such violations through the provision of legal, psychological, medical, and 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.
- Providing legal support through legal aid
- Conducting human rights awareness sessions to the public

1.3 Rights of Human Rights Defenders protected under the Declaration are:⁵

- To conduct human rights, work individually and in association with others.
- To get unhindered access to and communication with non-governmental and intergovernmental organizations, to form associations and non-governmental organizations.
- To benefit from an effective remedy.
- To meet or assemble peacefully, the lawful exercise of the occupation or profession of human rights defender.
- To seek, obtain, receive and hold information relating to human rights.
- To develop and discuss new human rights ideas and principles and to advocate their acceptance.
- To submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals to improve their functioning.
- To draw attention to any aspect of their work that may impede the realization of human rights.
- To effectively protect under the law in reacting against or opposing, through peaceful means, acts or omissions attributable to the State that result in violations of human rights.

3 <https://www.ohchr.org/en/issues/srhdefenders/pages/defender.aspx> Accessed on February 10, 2022

4 <https://www.ohchr.org/en/issues/srhdefenders/pages/defender.aspx> Accessed on February 13, 2022

5 <https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders?> Site visited on February 15, 2022

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

1.4 Protection Mechanisms for Human Rights Defenders

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

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

1.4.1 Legal Protection Mechanism at International Level

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

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

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

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

6 <https://www.amnesty.eu/human-rights-defenders/> site visited on February 15, 2022

7 Ibid

8 <https://www.ohchr.org/en/issues/srhrdefenders/pages/srhrdefendersindex.aspx> Accessed on February 17, 2022

9 <https://www.google.com/search?q=declaration+of+human+rights+defenders&> Accessed on 19th February 2022

10 <https://www.google.com/search?q=declaration+of+human+rights+defenders&> Accessed on 19th February 2022

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

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

The Declaration on Human Rights Defenders specifically provides that states are obliged to implement and respect all provisions of the Declaration. In particular, states have a duty to protect human rights defenders against any violence, retaliation and intimidation as a consequence of their human rights work. Nevertheless, protection is not limited to actions by state bodies and officials but rather extends to actions of non-state actors, including corporations, religious groups, and private individuals.¹³

1.4.2 Legal Protection Mechanism at Regional Level

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

Table 1 Summary of Regional Protection Mechanism

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

11 <https://www.google.com/search?q=declaration+of+human+rights+defenders&> Accessed on 19th February 2022

12 <https://www.google.com/search?q=un+resolution+2013+human+rights+defenders&rlz> Accessed on February 19, 2022

13 <https://www.google.com/search?q=declaration+of+human+rights+defenders&> Accessed on 19th February 2022

Continent	Legal Mechanism	Year of Adoption	Brief Explanation
AFRICA	The Grand Bay Declaration and Plan of Action of 16 April 1999 ¹⁴	Adopted at Grand Bay, Mauritius on 16 April 1999. Member states are :Benin , Cameroon, Chad , Ghana , Kenya ,Liberia, Malawi, Mauritania, Nigeria, Rwanda, Senegal, Sierra Leone ,South Africa ,Sudan , Togo , Uganda and Zambia .	The African Union (AU) touched on the issue of the protection of Human Rights Defenders in 1999 during its Ministerial Conference on Human Rights in Africa.
	The Kigali Declaration of 8 May 2003	Adopted in 2003 By the following member state, Republic of Zimbabwe, Republic of Zambia, Uganda, Tunisia, Togo, Tanzania, Swaziland, Sudan, South Sudan, South Africa, Somalia, Sierra Leone, Seychelles, Sahrawi Arab Democratic Republic, Rwanda, Nigeria, Republic of Niger, Namibia, Republic of Mozambique, Morocco, Mauritius, Mauritania, Mali, Republic of Malawi, Madagascar, Malawi, State of Libya, Liberia, Lesotho, Kenya.	Recognizes the key role played by civil society organizations and Human Rights Defenders, in particular in promoting Human Rights in Africa” and “calls upon Member States and regional institutions to protect them and to foster their participation in the decision-making process.” ¹⁵
	Resolution 273 of the African Commission is another useful instrument that will help secure a better working environment for HRDs. ¹⁶	The African Commission on Human and Peoples’ Rights (the Commission) at its 55th Ordinary Session in Luanda, Angola, from 28 April to 12 May 2014 recognizes	Its mandate is to promote and protect human and peoples’ rights under the African Charter on Human and Peoples’ Right. African Union member States under the African Charter and under other regional and international human rights instruments for the protection of human rights. The system has the potential to respond effectively to the obligation to protect all citizens and particularly HRDs. States should conform to article2 (2) of the UN Declaration on Human Rights Defenders ¹⁷ .

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

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

16 www.achpr.org/ Accessed on 19th February 2022

17 www.achpr.org/ Accessed on 19th February 2022

Continent	Legal Mechanism	Year of Adoption	Brief Explanation
	A Resolution on Measures to Protect and Promote the Work of Women Human Rights Defenders ¹⁸	Resolution Passed by African Commission in 2016. A landmark resolution adopted at the African Commission on Human and Peoples' Rights calls on African States to ensure specific legal recognition and protection of women human rights defenders and end impunity for attacks against them.	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, end impunity by adopting specific laws and relevant measures, Ensure efforts are designed to prevent and address violations and discrimination against women human rights defenders, Train the judiciary and public security and other relevant authorities on the specific risks and protections for human rights defenders and in particular women human rights defenders.
	Marrakech Declaration 2018.	Adopted on 12 th October 2018 by Global Alliance of National Human Rights Institutions.	The declaration has focused on the role of National Human Rights Institutions. The declaration seeks to involve the Commission for Human Rights and good Governance as the only National Human Rights Institution in Tanzania in implementation of this declaration to; Declare responsibility and obligation to protect, Respect and promote the fulfilment of Human Rights and fundamental freedoms of all persons, the Rule of Law, eradication of Human rights violations, to adopt the 2030 Agenda for sustainable development regarding Human Rights development and peace and security. ¹⁹

18 www.acdhhs.org/2015/04/tres00542015-resolution-on-women-human-rights-defenders-in-africa-we-the-participants-of-the-forum-on-the-participation-of-ngos-in-the-56th-ordinary-session-of-the-african-commission-on-human-an/, Accessed on 19th February 2022

19 <https://www.google.com/search?q=marrakech+declaration+december+2018> site accessed on 19th February 2022

Continent	Legal Mechanism	Year of Adoption	Brief Explanation
EUROPE	EU Guidelines on Human Rights Defenders. ²⁰	Adopted in 2004	In Europe, the European Union established EU Guidelines on Human Rights Defenders as the best way to support the implementation of the Declaration on Human Rights Defenders in third world countries ²¹ These guidelines provide practical suggestions to enhance EU action in relation to HRDs. Guidelines can be used in contact with third countries at all levels to support and strengthen ongoing EU efforts to protect the rights of HRDs.
	In 2010, the European Parliament adopted a Resolution on the EU policy in favour of Human Rights Defenders (2009/2199(INI).	Adopted in 2010	It calls on the various EU institutions and its missions to reinforce their action for effective implementation of Guidelines, notably by ensuring regular contact with Human Rights Defenders prior to taking any action on their behalf and to provide them with feedback. These recommendations were reiterated with the adoption, on 16 th December 2010. ²²
	UNGA74 Global agreement on key elements of an effective defender protection policy.	On 20.11.2019 UN General Assembly's human rights committee in New York – the Third Committee –passed by consensus a resolution focusing on implementation of the Declaration on Human Rights defenders and some key elements of protection policy.	On human rights defender protection policy, the resolution states: the need for comprehensive risk analysis, that protection mechanisms should provide an early warning function to enable human rights defenders immediate access to 'competent and adequately resourced authorities to provide effective protective measures and address causes of attacks against defenders and barriers against the defence of rights ²³ .

20 https://eeas.europa.eu/sites/eeas/files/eu_guidelines_hrd_en.pdf Accessed on 19th February 2022

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

22 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:133601> Accessed on 29th March 2023

23 www.ishr.ch/news/unga74-global-agreement-key-elements-effective-defender-protection-policy Accessed on 19th March 2023

1.4.3 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 their national laws despite 22 years of its adoption.²⁴ Worse still, governments in all regions are increasingly enacting laws which restrict and even criminalize the work of human rights defenders and NGOs example in Tanzania several draconian laws have been enacted such as the Cybercrimes Act of 2015, the Statistic Act of 2015, the Media Services Act of 2016, Access to Information's Act of 2016²⁵ and the Electronic and Postal Communications (Online Content) Regulations of 2020.²⁶

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

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

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

The Constitution of the United Republic of Tanzania of 1977 and the Constitution of Zanzibar of 1984 including the proposed Constitution of the United Republic of Tanzania of 2014 do not guarantee in any way the rights of HRDs despite the tough work done by THRDC to lobby for its inclusion in the Mother Law. In an effort to do so, THRDC prepared a Human Rights Model Policy that will help the government and the legislature to enact national human rights defenders' policy and laws.

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

24 www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefenders Accessed on 19th March 2023

25 www.parliament.go.tz Accessed on 19th March 2023

26 www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefenders Accessed on 19th March 2023

27 www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders#sthash.fcKqqcKj.dpuf Accessed on 19th March 2023

28 www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders#sthash.fcKqqcKj.dpuf Accessed on 19th March 2023

29 www.ishr.ch/news/asia-isshr-launches-new-report-legislative-protection-human-rights-defenders-seven-countries Accessed on 19th March 2023

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

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

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

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

1.5 Non-Legal Protection mechanism

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

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

1.5.1 Non-Legal Protection mechanism at International level

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

30 www.chragg.go.tz Accessed on 19th March 2023

31 www.google.com/search?safe=active&rlz=1C1CHBF_enTZ850TZ850&sxsrf Accessed on 19th March 2023

32 www.google.com/search?safe=active&rlz=1C1CHBF_enTZ850TZ850&sxsrf Accessed on 27th March 2023

33 www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders Accessed on 27th March 2023

34 www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx Accessed on 27th March 2023

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

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

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

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

In performing their duties, Special Rapporteurs³⁹:

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

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

1.5.2 Non-Legal Protection Mechanism at Regional level

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

35 www.ohchr.org/en/issues/srhrdefenders/pages/srhrdefendersindex.aspx Accessed on 27th March 2023

36 <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders> Accessed on 17th August 2023

37 www.ohchr.org/en/issues/srhrdefenders/pages/srhrdefendersindex.aspx Accessed on 21st February 2023

38 www.tandfonline.com/doi/full/10.1080/13642987.2011.537463 Accessed on 21st February 2023

39 www.tandfonline.com/doi/full/10.1080/13642987.2011.537463 Accessed on 21st February 2023

40 www.academia.edu/12256645/Human_Rights_Defenders_Situation_Report Accessed on 21st February 2023

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

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

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

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

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

41 https://en.wikipedia.org/wiki/Reine_Alapini-Gansou Accessed on 21st February 2023

42 <https://www.achpr.org/specialmechanisms/detail?id=4> Accessed on 21st February 2023

43 www.ishr.ch/news/achpr-65-protecting-human-rights-defenders-through-protection-laws-africa Accessed on 21st February 2023

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

The East and Horn of Africa Human Rights Defenders Project (EHAHRDP) plays a key role to protect HRDs in the region. Others include the Pan Africa Human Rights Defenders Network, West Africa Human Rights Defenders Network, Central Africa Human Rights Defenders Network, South Africa Human Rights Defenders Network, and recently another establishment for a special fund for legal protection by the name of Legal Protection Fund (LPF).⁴⁶

1.5.3 Non-legal Protection Mechanism at National Level

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

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

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

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

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

44 <http://protectionline.org/2009/05/05/kampala-declaration-of-human-rights-defenders/> Accessed on 21st February 2023

45 <https://www.achpr.org/legalinstruments/detail?id=39> Accessed on 21st February 2023

46 <https://defenddefenders.org/> Accessed on 21st February 2023

The Constitution of the United Republic of Tanzania of 1977 and that of Zanzibar of 1984 including the current Draft Constitution do not guarantee in any way the rights of HRDs. The legal framework at the national level, including the Draft Constitution provide for general protection of human rights and remain silent on the rights of human rights promoters/defenders. In short, lack of specific legal protection makes the HRDs vulnerable and easy prey of perpetrators of human rights violations.

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

1.6 Challenges for both International and Regional Protection Mechanisms for HRDs⁴⁷

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

⁴⁷ www.escr-net.org/news/2018/promoting-protection-human-rights-defenders-global-summit Accessed on 21st February 2023

Chapter TWO

VIOLATIONS COMMITTED AGAINST HUMAN RIGHTS DEFENDERS

2.1 Overview

This Chapter stipulates on strategic cases instituted by Human Rights Defenders (HRDs), cases instituted by the Republic against HRDs, recorded incidents of violations against HRDs' rights for the year 2022. Incidents of HRDs' violations were perpetrated by some individuals and state organs hence limiting the scope of HRDs operation in Tanzania.

The cases for and against HRDs under this chapter are compounded by disrespect of the rule of law and rampant undemocratic practices. Continuously, the state has been using the existing restrictive laws to curb HRDs work such as the Media Services Act of 2016, the Electronic and Postal Communications (Online Content) Regulations of 2020 as amended in 2022, the Statistics Act of 2015 and its subsequent amendments, Cybercrimes Act of 2015, Police Force and Auxiliary Services Act, the Non-Governmental Organizations (Amendments) Regulations of 2018, the Written Laws (Miscellaneous Amendments) (No. 3) Act of 2019 and the Written Laws (Miscellaneous Amendments) (No.3) Act of 2020.

The year 2022 is unique in terms of workload and emergency support provided to HRDs at risk compared to the last year. There has been a drastic increase in terms of number of HRDs supported in 2022 compared to the previous five years of the ending strategic plan. A total of 278 HRDs were supported with legal assistance, relocation, medical, family support and other emergency support as follows.

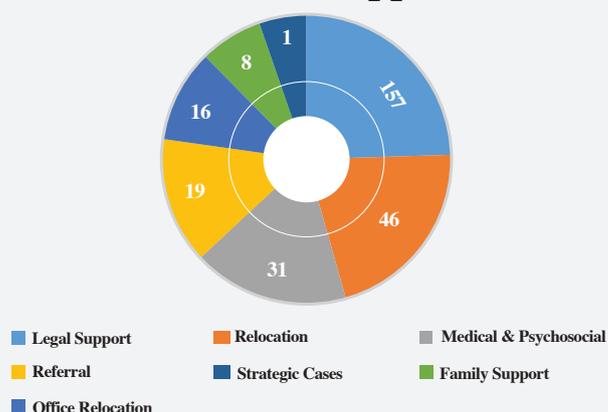
2.1.1 Enhancing Protection of HRDs through Emergency Support

Emergency protection support in terms of relocation was provided to 46 HRDs (8 women, 38 men), medical support to 7 HRDs (2 women, 5 men), psychosocial support to 25 (3 female, 22 men) office relocation for 1 human rights organisation, and 8 HRDs' families were provided with humanitarian support. Further, 19 HRDs were provided with emergency referral assistance to external sister organisations promoting and protecting HRDs' rights.

2.1.2 Enhancing Protection of HRDs through Legal Assistance

A total of 157 HRDs at risk (20 women, 137 men) received direct legal support from THRDC and 89 HRDs amongst them were released by the court after the prosecution withdrawing the case against them. A total of 9 immigration cases was handled by two human rights advocates under the support of THRDC and its member organisations in Arusha region which are Pastoral Women's Council (PWC), Pingos Forum and Ujamaa Community Resource Team (UCRT)

A total of 278 HRDs Supported in 2022



Notably, there is a significant increase in the number of HRDs supported in 2022 (278) compared to 78 in 2021 which is an increase of more than 100 percent. Through its assessment, THRDC established that all the HRDs supported were able to continue with their human rights work because of receiving protection support from the coalition.

Table 2.1: Number of HRDs Received Emergency Support from THRDC between 2018 and 2022

Services Offered	2018	2019	2020	2021	2022	Total
Legal representation	32	41	48	55	157	333
Short-term relocation	11	6	5	24	46	92
Medical support and psychological support	1	2	3	4	31	41
Strategic cases	5	9	20	9	16	59
Family Support	-	3	3	17	8	31
School Support	1	2	2	-	-	5
Office Relocation	-	-	-	1	1	2
Referral assistance	1	2	6	3	19	31
Total per annum	51	65	87	113	278	594

2.2 The Situation of Human Rights Defenders and Civil Society Organisations in Ngorongoro District

2.2.1 About Ngorongoro District

Ngorongoro District is one of the six District and City Councils in the Arusha Region of Tanzania. This district is bordered by neighboring country Kenya to the North, Serengeti District to the West, Meatu District to the Southwest, Monduli and Longido Districts to the East and Karatu District to the South. The district Headquarter is in Loliondo at Wasso about 400 km from the Regional Headquarters. The district was established in 1979 with three administrative divisions of Loliondo, Sale and Ngorongoro. According to the 2022 census report, Ngorongoro district has 273,549 (Ngorongoro division has a total of 100,793 population, Loliondo and Sale divisions have 166,553 population).⁴⁸

⁴⁸ The 2022 Population and Housing Census: Administrative Units Population Distribution Report; Tanzania Mainland, December 2022.

Map 2.2.1: Map of Ngorongoro District

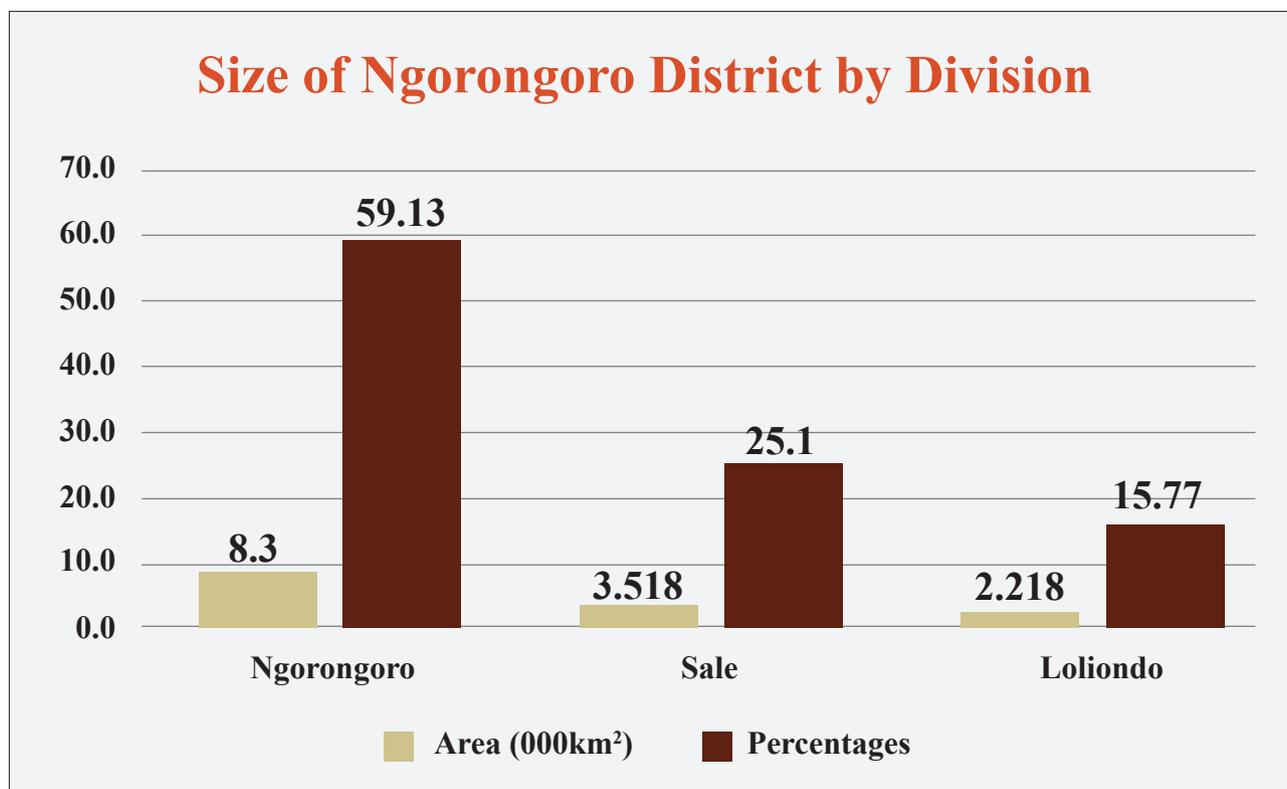


The Ngorongoro district has land area of 14,036 square kilometers which is found on Latitude 30030' south of Equator and Longitude 35042' East of Greenwich and the height of 1,009 and 3,645 metres from the sea level.

Loliondo and Sale divisions have an area of 5,744 square kilometres equivalent to 41% of the total area of Ngorongoro district. Out of the total area of 5,744 square kilometers an area of 1,744 square kilometres covers the entire Sale area except Malambo and Piyaya wards which are part of the 4000 square kilometres covering the entire Loliondo division. This area of 4000 square kilometres is the area of village land and the small town of Loliondo and sale areas. The analysis of the Sale and Loliondo Divisions is described in Table 1.

Table 2.1: Land area distribution in each division of the Ngorongoro District

	Division	(km ²)	Percentage
	Ngorongoro Division	8,300	59.13
	Sale Division	3,518	25.06
	Loliondo Division	2,218	15.80
Total		14,036	100



Graph 2.2.1: Land distribution in Loliondo, Sale and Ngorongoro Divisions

The area which comprises 1,500 square kilometres has a long standing land dispute involving two (2) wards of Malambo and Piyaya in Sale Division and six Wards (6) of the Loliondo Division, wards of Arash, Oloipiri, Maaloni, Oloirien, Soitsambu and Ololosokwan with a total of 23 villages. It should be clearly noted that this village land dispute emanated from conflict of interest in various land uses in the Village land between the people, investor (OBC) and the Government. This dispute has lasted for 30 years, whereas in recent years it has taken a new turn after the government started the process of apportioning that village land without the consent of the local people, thus causing great panic and state of uncertainty in every corner of the Wards involved.

2.2.2 Land Conflict in Loliondo

On 11th January 2022 the government of the United Republic of Tanzania through the Arusha Regional Commissioner issued a notice of eviction against the indigenous people living in Loliondo, Sale and

Ngorongoro divisions within Ngorongoro District. The government intended to acquire land covering 1500 square kilometers from Loliondo and Sale divisions as well as evicting people living in the Ngorongoro Conservation Area.



Photo 2.2.2.1 A group photo of the Maasai assembled in Loliondo discussing the fate of their land.

The notice of eviction was issued contrary to the Constitution of the United Republic of Tanzania as well as the United Nations Declaration on Indigenous Rights because no sufficient consultation was made between the government and the citizens or their leaders. The Constitution guarantees for the right to live at any place within the country subject to applicable laws. Samely, the UN Declaration provides further that indigenous people have the right to live at their ancestral land, in case the government intends to evict them, they must be consulted, and they have a right to give their own free consent free from any coercion with a right to effective compensation.

2.2.3 Demarcating the area covering 1,502 sq km in Loliondo and Sale divisions.

In June 2022 law enforcers and the government in general inserted beacons demarcating the area covering 1,502 sq km in Sale and Loliondo divisions. Such a process escalated conflict between the citizens, HRDs and local leaders whom they firmly stood against such a process. As a result, citizens, HRDs, citizens and leaders were unlawfully arrested and tortured because of defending their ancestral land. During such clashes with the Maasai who opposed the eviction and the process of erecting beacons, a Police officer was shot to death by unknow person on 10th June 2022. Such information was reported by the Regional Commissioner.

On 17th June 2022, the government of the United Republic of Tanzania through the Ministry of Natural Resources enacted and published Government Notice No 421 declaring the area covering 1,502 sq km as the Pololeti Game Controlled Area. However, such a declaration is contrary to the Wildlife Conservation Act of 2009 which required the Minister to declare an area as a game-controlled area within 12 months from enactment and implementation of the Act. Moreover, on 14th October 2022 the President of the United Republic of Tanzania declared the same area of 1,502 sq km as the Game Reserve under section 14(1) of the Wildlife Conservation Act. However, the Act requires the President to do so after a sufficient consultation with the relevant local authorities.

The Prime Minister Hon. Kassim Majaliwa on 23rd June 2022 visited Loliondo making follow up on the process of erecting beacons demarcating over the land covering 1,502 square kilometres. He found about 424 beacons were already erected. While addressing the inhabitants of Loliondo, he said “the current exercise is mainly focused on erecting beacons, no any person shall be ordered to vacate the area around those villages, the demarcated area is about 12 to 15 kilometres from the houses of the inhabitants”. However, this was unrealistic because people were living on the land covering 1,502 square kilometres because it was the village land.

2.2.4 Obstruction of Journalists in Loliondo

Article 18 of the Constitution of the United Republic of Tanzania of 1977 guarantees for the right to seek and the duty to disseminate information to the public. It is a cornerstone for the right to freedom of expression using any media of choice. Article 18 of the Constitution is the basis for the work of a journalist and any individual for the purpose of disseminating information to the public.

Journalists and HRDs who have attempted to use their constitutional right and duty under Article 18 of the Constitution regarding the Loliondo dispute experienced many challenges in 2022. Some were arbitrarily arrested, detained and others were obstructed from doing their work as explained hereunder.

Moreover, HRDs and CSOs have a constitutional right to associate themselves and defend the rights of the people. A constitutional right to freedom of association and assembly is the basis for establishment of CSOs or HRDs organisations in Tanzania. however, HRDs / CSOs experienced unusual arrest, detention, and malicious prosecution because of defending the rights of the people in Ngorongoro District.

Journalists or media outlets that attempted to report or publish information concerning the land conflict in Ngorongoro District were obstructed, threatened, some arrested, detained. Some were harassed through different social platforms.

For instance, on 3rd February 2022 six (6) journalists were arrested by the Ngorongoro Conservation Authority’s Security Guards jointly with Ngorongoro Police Officers after covering a public meeting organized by more than 2000 villagers at Ngorongoro Division. The villagers called for a public meeting at Naionokanoka Ward to deliberate the eviction threats among other things. The media/journalists were invited as part of ensuring their messages grasp the attention of top leaders of the country.

Instantly after the meeting on their way back, the six (6) journalists were obstructed more than three times. The first and second exit gates were closed within Ngorongoro Conservation area and all of them were arrested for almost 4 hours (from 17:00hrs to 21:00hrs) on the allegation that they entered in the conservation area without permission. However, all the journalists had entrance permits. While under detention, they were searched, all their identity cards and phone numbers recorded.

THRDC issued a statement and many other HRDs did, hence leading them being released, but they had developed with fear not to disclose any information gathered from the villagers meeting. The stressed journalists were:

1. **Janeth Mushi** - *Mwananchi Communications Ltd*

2. **Julias Sagati** - *Star TV*

3. **Amina Ngahewa** - *Mwananchi Digital*

4. **Allan Isack** - *Nipashe Newspaper*

5. **Profit Mmanga** - *Wasafi TV and*

6. **Apolo Benjamini** - *Daily News Digital*

Moreover, two journalists in Ngorongoro (Thobias Mwanakatwe working with Nipashe Newspaper and Journalist Joseph Kimambo working with Dar Mpya Online Tv and their driver Mr. Majuka Ngisaayo who works with PINGOs Forum were arrested and detained on 17th February 2022, by the Ngorongoro Conservation Authority's Security Guards and the Police Officers in Ngorongoro. Also there were attempts of arresting Ms. Hilda Ngatunga a journalist from Watetezi Tv who went in Ngorongoro for covering the said Prime Minister's meeting.

The journalists went for covering the public meeting which was expected to be addressed by the Prime Minister, Hon. Kassim Majaliwa. While waiting for the arrival of the Prime Minister, the two journalists were unlawfully arrested on undisclosed allegations. Concurrently, there were reports and accusations from the public and social media that certain media houses were disseminating misleading information, thereby potentially misinforming the public about the actual circumstances and the situation of the Maasai people and land conflict in Ngorongoro district.

2.2.5 Murder Case for Local leaders in Ngorongoro

On 9th June 2022 ten local leaders (including 9 ward councilors) were called up for a meeting by the District Commissioner of Ngorongoro. They attended the meeting and discussed about the human rights situation in Loliondo. Before the meeting could end, the District Commissioner requested the leaders to meet him at his office. He said, there is a task force intending to interview them about the land conflicts in Loliondo. They remained behind and shortly thereafter, they were arrested, detained, interrogated on seditious offence. During the midnight, they were transported to Chekereni Police station in Arusha for detention. They were detained incommunicado up to 16th June 2022 when they were arraigned before the Resident Magistrates' Court in Arusha charged with the offence of murder of a Police Officer who was reported to have been killed on 10th June 2022, one day after they were arrested.

Moreso, from 12th June 2022 other 17 individual HRDs including a student were arrested and detained incommunicado and were charged together with the local leaders in the murder case on (Preliminary Inquiry No 11 of 2022). A total number of 27 people were charged with murder and conspiracy to murder the Police officer who was reported to have been killed on 10th June 2022. The Director of Public Prosecutions withdrew the charges against three accused persons on 28th July 2022 and the other 24 were released by the court on 22nd November 2022. The Director of Public Prosecutions (DPP) withdrew such a case as he was no longer interested with prosecuting the case hence prayed for all the accused persons to be released under section 91 of the Criminal Procedure Act. The DPP has the legal power under the said provision of the law to withdraw any case against any accused person by entering a *nolle prosequi*, that he has no interest to further prosecute the case. The Maasai community leaders and HRDs charged for murder were:

1. Moloimeti Yohana Saing'eu
2. Ndirango Senge Laizer
3. Joel S/O Clemes Lessonu
4. Simoni Nairiam Orosikiria
5. Damiani Rago Laiza
6. Mathew Eliakimu Siloma
7. Luka Kursas Njausi
8. Taleng'o W/O Twambei Leshoko
9. Kijoolu Kakeya Olojiloji
10. Shengena Joseph Killel
11. Molongo Daniel Paschal
12. Albert Kiseya Selembo
13. Simeli S/O Parmwati Karongoi
14. Lekayoko S/O Parmwati Sirikoti

15. Sapati S/O Parmwati Sirikoti
16. Ingoi S/O Olkedenyi Kanjwel
17. Sangau Moronget Ngiminisi
18. Morijoi Ngoisa Parmati
19. Morongeti Meeki Masako
20. Kambatai Lulu
21. Kelvin Shaso Nairobi
22. Lekerenga S/O Koyee Orodo
23. Fred S/O Victor Ledidi
24. Wilson Tiuwa Kilong
25. James Memusi Taki
26. Simon Morindati Saitoti
27. Joseph Meluso Jaritan Lukumay

After their release, a psychosocial expert was commissioned by THRDC to provide counselling and psychological services. It was essential for the psychosocial support because the HRDs/land human rights defenders stayed in prison for more than five months for offenses they never committed.



Photo 2.2.5.1: Local leaders and Maasai HRDs in court attending the murder case.

2.2.6 Denial of medical services to injured HRDs and Citizens in Loliondo

During the demarcation process of the land covering 1,500 sq km in Loliondo Police brutality against the Maasai citizens escalated in Loliondo and Sale divisions. Many were reported to have been shot by Police officers, badly injured and sustained injuries over their bodies, denied Police Form No. 03 for medical access and treatment hence fled to neighboring countries for asylum and medical attendance.

All the sufferings against the Maasai citizens in Loliondo and Sale divisions were rooted from the forceful eviction of the Maasai from their ancestral land without meaningful consultation with them or their local and political leaders. There was no prior consultation and neither there was any free consent of the residents to be evicted or relocated to other places.

On 10th June 2022 several Police officers were in Loliondo supervising the eviction of the Maasai and putting beacons at the area covering 1,500km hence the strong resistance from the Maasai citizens. Confrontations arose between the Maasai and the Police officers. In resisting the eviction, residents were beaten, some shot by Police officers. During such clashes with the Maasai who opposed the eviction and the process of erecting beacons, a Police officer was shot to death by unknown person on 10th June 2022 in Loliondo.

There were no reports from the government concerning the injured residents of Loliondo on whether they were taken to hospital for medical treatment or not. Media outlets were blocked from publishing news about human rights violations in Loliondo, only very few private media outlets were reporting and individual human rights defenders. According to a thorough research by THRDC Protection Desk, about 2,291 people fled to Kenya from Ololosokwan, Oserosopia, Iltepes, Mairoua, Enkongu Naiouwu, Maragori, Odarpoi, Esukuta, Olepolos, Njoroi, Kirtalo, Karkamoru, and Illusien.

2.2.7 Impacts of the demarcation process of the land in Loliondo and Sale divisions

2.2.7.1 Lack of land for grazing livestock

The land acquired by the government covering 1,502 square kilometers in Loliondo and Sale divisions was the only fertile land with green pastures for livestock, it has water for both livestock and human beings. The left village land is unfertile with no pastures for grazing. Moreso, if cows are found within the Pololet Game reserve the owner is fined to pay Tshs. 100,000 per cattle or Tshs 25,000 per goat or sheep. This has led to confiscation of cows or goat and sheep for persons who cannot afford paying fine. Some paid huge fines for instance people from Arash ward paid over 800 million in 2022 to rescue their cows. People from Ololosokwan village paid over 400 million to rescue their cows.

2.2.7.2 Extreme poverty to the people

People in Loliondo and Sale divisions lack food for sustaining their life because their village fertile land of 1,502 sq km was demarcated and acquired by the government without fair, adequate and prompt compensation. The livestock have been facing drought. People do not have cows because some were confiscated, auctioned hence people are economically very poor. The only way to rescue this situation is allowing people to conduct pastoralist and other economic activities on the land covering 1,502 sq km. it is the only fertile land with water for both human beings and livestock, the only area with green pastures.

2.2.8 Denial of Social Services in Ngorongoro Division

2.2.8.1 Curtailment of right to education in Ngorongoro

On 31st March 2022 the government issued a letters (Ref. No.NGOR/DC/F.1/02/VOLIII/68 and Ref. No.NGOR/DC/F.1/02/VOLIII/69 both dated 31/03/2022) directing the transfer of Covid-19 relief funds (a total of Tanzanian shillings 355,500,000) which were previously allocated for education and health services in the Ngorongoro Conservation Area (NCA) directing them to be transferred to Handeni

District in Tanga region hence leading residents lacking key human facilities for their life.

Such funds were initially intended for building school classrooms and dormitories, latrines, houses for teachers at Nainokanoka, Embarway and Endulen primary schools as well as Ngorongoro girls' secondary school. Currently, the pupils at the mentioned schools lack classrooms, dormitories and latrines hence putting them in danger of facing eruptional diseases. For instance, Endulen primary school has a total of 1,900 pupils but there are only 9 latrines, thus there is an urgency needy of 25 latrines, 4 dormitories are needed and there are only 17 teachers.

As a response to the above curtailment, Pan African Lawyers Union (PALU) and the Legal and Human Rights Centre (LHRC) instituted a case against the Attorney General [*Reference No 22 of 2022*] before the East African Court of Justice challenging such inhumane act before the court for judicial pronouncement as to the legality of such a letter. The case is pending before the court.

Another related case is that of *Ololosokwan Village Council & Three Others Vs Attorney General of Tanzania* [*Reference No 10 of 2017*]. In 2017 four villages on behalf of the people in Ngorongoro district instituted a case against the attorney general of the United Republic of Tanzania at the East African Court of Justice. The case was challenging the unlawful eviction of the Maasai communities in Loliondo, Sale and Ngorongoro divisions that were conducted in 2016 and 2017.

Among other things, the case sought for an injunction order for prohibiting the government from evicting the residents of the aforesaid villages, an order which was issued in 2018. The main case was argued and scheduled for judgment delivery on 22nd June 2022 but adjourned to September 30, 2022, because of unavoidable circumstances which were not disclosed by the court. On 30th September, the Court held that there was insufficient evidence from the Applicants to demonstrate that they were evicted from village land. The Maasai communities were dissatisfied and disappointed by the Judgment and instructed PALU to appeal at the Appellate Division of the Court.

2.2.8.2. Ban of Flying Medical Service in Ngorongoro

There is only one hospital in Ngorongoro division (Endulen hospital owned by the roman catholic church) and 8 dispensaries in Ngorongoro division with a size of 8,100 kilometers. It has 11 wards with 25 villages. Due to its geographical nature (remoteness of the areas) and because there is no tarmac road in Ngorongoro division the Roman Catholic church was providing medical services to the people through flying medical service for immediate health help for women, children, pregnant women, elders, and other sick people.

However, on 8th April 2022 the government banned flying medical service in Ngorongoro without justifiable reasons and the medical services stopped since then. The simple reason given by the government is that the flight (CESSNA-206) that was used in providing the services was registered in the United States of America and not Tanzania, but the same flight has been operational since 1983. According to the patient report of flying medical service, from 1985 to 2021 a total of 765,947 patients had been treated including children, pregnant women, elders, others had received different vaccination. The medical services were freely provided by the doctors.

The table below shows the number of patients reached between 1985 to 2021.

Patient Reports: 1985 to 2021

A	B	C	D	E	F	G	H	I	J	K
Year	Treated	Vaccinated	PNC	TB	HIV	Evacuated	Emergency	Total	Hours	Ps/Hr
1983	689	7,926	2,952	*		165	43	17,337	1,368.2	12.7
1984				*						
1985	5,435			*						
1986	4,811	1,673	130	-		104	26	6,744	262.6	25.7
1987	4,884	3,027	397	-		215	22	8,545	398.0	21.5
1988	4,117	2,018	737	-		304	18	7,194	380.5	18.9
1989	3,826	3,666	938	187		246	16	8,879	339.8	26.1
1990	3,473	5,590	1,428	167		213	19	10,890	626.4	17.4
1991	3,454	5,434	1,674	212		122	23	10,919	509.4	21.4
1992	3,621	6,970	2,151	278		155	38	13,213	695.7	19.0
1993	5,068	10,705	3,472	538		193	41	20,017	689.0	29.1
1994	4,024	7,646	2,860	706		196	43	15,475	645.9	24.0
1995	4,260	6,573	3,300	605		249	40	15,027	780.8	19.2
1996	4,312	9,467	3,594	473		166	51	18,063	787.6	22.9
1997	2,067	9,835	2,697	317		117	67	15,100	782.5	19.3
1998	2,601	6,897	2,793	123		179	63	12,656	903.7	14.0
1999	2,705	8,243	2,747	86		88	55	13,924	668.4	20.8
2000	3,634	9,205	3,531	330		114	75	16,889	882.7	19.1
2001	5,546	8,176	3,372	650		128	95	17,967	865.6	20.8
2002	6,094	9,855	4,369	532		84	121	21,055	969.7	21.7
2003	6,989	9,080	4,377	421		121	74	21,062	818.0	25.7
2004	6,872	9,260	3,609	373		126	96	20,336	859.8	23.7
2005	6,928	9,217	4,317	530		79	149	21,220	1,150.9	18.4
2006	5,280	10,317	4,135	498		105	147	20,482	1,218.8	16.8
2007	7,250	13,434	5,301	474		119	113	26,691	1,072.8	24.9
2008	6,662	16,404	5,405	431		83	87	29,072	793.1	36.7
2009	5,356	16,151	5,139	544		65	93	27,348	764.6	35.8
2010	7,011	15,710	4,939	390		44	138	28,232	1,080.9	26.1
2011	5,034	18,331	5,020	413		37	160	28,995	1,192.0	24.3
2012	4,693	17,612	5,235	441		19	97	28,097	959.6	29.3
2013	4,148	19,861	5,185	495		24	107	29,820	824.7	36.2
2014	1,980	11,733	3,733	109		11	36	17,602	467.6	37.6
2015	5,470	19,557	5,801	178		11	82	31,099	871.2	35.7
2016	3,228	18,258	5,805	176		8	89	27,564	894.8	30.8
2017	3,368	16,447	4,498	160		18	70	24,561	759.0	32.4
2018	5,633	18,917	5,772	187		20	91	30,620	880.0	34.8
2019	5,372	23,013	5,957	157	102	13	85	34,699	796.2	43.6
2020	6,961	23,722	5,395	174	75	15	68	36,410	703.5	51.8
2021	5,604	20,918	5,271	174	77	9	95	32,143	801.6	40.1
Total	178,460	430,848	138,036	11,529	254	4,070	2,755	765,947	29,796	25.7

* Information not available

Clinic Definitions:

- A. Year of operation: 1 January through 31 December
- B. Patients treated for medical problems.
- C. The number of children vaccinated for infectious diseases.
- D. Pre-natal care: The number attending the pregnant women's clinic (also known as Ante Natal Clinic)
- E. Tuberculosis patients treated.
- F. HIV patients treated.
- G. Evacuated: patients seen at, but too sick to be treated in, the under-the wing-of-the-airplane clinics and who were flown to a nearby hospital.
- H. Emergency: Critically ill patients not seen on a scheduled clinic and who require immediate attention and usually a special emergency flight transfer to a higher level hospital.
- I. Total Patients seen
- J. Total hours flown
- K. The average number of patients seen per hour flown.

2.2.8.3. Denial of building permits

The residents of Ngorongoro have been denied building permits regardless of the challenges that they are going through. People are denied even to construct latrines, dormitories, classrooms, or houses for teachers at schools in Ngorongoro division. Leave alone building permissions but also even permits for repairing houses are withheld by the Ngorongoro Conservation Area Authority.

2.2.8.4. Relocation of the Maasai from Ngorongoro to Msomera

Social services had been curtailed in Ngorongoro to ensure that the Maasai people are relocating themselves to Msomera village in Handeni district, Tanga region. For instance, banning of flying medical service, denying building permits etc triggered people to relocate themselves to Msomera. People were solicited by some leaders and using media propagandas to make sure that they relocate themselves to Msomera. However, proper consultation was not done by the government leaders to the people. The relocation process had no relocation or resettlement plan. Some of the people who relocated themselves to Msomera were given a little compensation leaving their houses being demolished immediately in Ngorongoro. In 2022 about 3,010 people were relocated to Msomera. The table below indicates the amount of compensation to people who relocated to Msomera.

Amount of compensation given to the family relocated from Ngorongoro.

SN	Compensation based on Assessment	Amount given by the President “Mother’s hand”	Total
1	3,424,211.5	10,000,000	13,424,211.5
2	5,784,217.94	10,000,000	15,784,217.94
3	8,681,393.17	10,000,000	18,681,393.17
4	3,865,383.2	10,000,000	13,865,383.2
5	76,620.01	10,000,000	10,076,620.01
6	4,794,927.4	10,000,000	14,794,927.4
7	3,759,601.5	10,000,000	13,759,601.5
8	9,607,533.36	10,000,000	19,607,533.36
9	12,700,297.44	10,000,000	22,700,297.44
10	2,282,671.3	10,000,000	12,282,671.3
11	6,843,576.9	10,000,000	16,843,576.9
12	4,386,005.5	10,000,000	14,386,005.5
13	2,127,726.71	10,000,000	12,127,726.71
14	4,567,812.84	10,000,000	14,567,812.84
15	3,901,981.8	10,000,000	13,901,981.8
16	4,362,109.88	10,000,000	14,362,109.88
17	3,268,856.7	10,000,000	13,268,856.7
18	3,644,464	10,000,000	13,644,464
19	6,584,324.18	10,000,000	16,584,324.18
20	12,516,087.07	10,000,000	22,516,087.07
21	3,520,247	10,000,000	13,520,247
22	2,149,333.5	10,000,000	12,149,333.5

23	3, 524,416.25	10, 000, 000	13, 524, 416.25
24	2, 496, 954.1	10, 000, 000	12, 496, 954.1
25	5, 886, 518.5	10, 000, 000	15,886, 518.5
26	5, 679, 657.44	10, 000, 000	15, 679, 657.44
27	3, 094,269.93	10, 000, 000	13, 094, 269.93
28	4,255,116.5	10, 000, 000	14, 255, 118.5
29	3,976,447.7	10, 000, 000	13, 976, 447.7
30	1, 985, 949.6	10, 000, 000	11, 985, 949.6
31	22,864,358.5	10, 000, 000	32, 864, 358.5
32	9,175,868.06	10, 000, 000	19, 175, 868.06
33	1, 455, 741.2	10, 000, 000	11, 455, 741.2
34	3,743, 070	10, 000, 000	13, 743, 070
35	22,864,358.5	10, 000, 000	32, 864, 358.5
36	9,175,868.06	10, 000, 000	19, 175, 868.06
37	22,864,358.5	10, 000, 000	32, 864, 358.5
38	5, 314, 769.46	10, 000, 000	15, 314, 769.46
39	13,581,232.72	10, 000, 000	23, 581, 232.72
40	3,133,867	10, 000, 000	13, 133, 867
41	3, 780,821.1	10, 000, 000	13, 780, 821.1
42	9,576, 679.81	10, 000, 000	19, 576, 679.81
43	1,727,325.25	10, 000, 000	11, 727, 325.25
44	2,332, 597.5	10, 000, 000	12, 332, 597.5
45	4,183,128.9	10, 000, 000	14, 183, 128.9
46	13,581,223.72	10, 000, 000	23, 581, 233.72
47	3,143,190.23	10, 000, 000	13, 143, 190.23
48	6, 397, 838.69	10, 000, 000	16, 397, 838.69
49	2,396, 800	10, 000, 000	12, 396, 800
50	76,620.01	10, 000, 000	10, 076, 620.01
51	14,822, 579.24	10, 000, 000	24, 822, 579.24
52	25, 640, 133.14	10, 000, 000	35, 640, 133.14
53	8, 628, 937.6	10, 000, 000	18, 628, 937.6
54	6, 991, 686.4	10, 000, 000	16, 991, 686.4
55	7,864, 016.44	10, 000, 000	17, 864, 016.44

The compensation given did not take into account the fact that people in Ngorongoro for so long were prohibited from implementing development projects like construction of modern houses, farming, and owning motorcycles and other means of transport. Also, about 130 families were not given any kind of compensation by the Ngorongoro Conservation Area Authority. People were denied to voluntarily choose a place to relocate themselves rather than Msomera village. They were all commanded to shift to Msomera village and not any other place. Thus people did not free consent on the relocation process, but they were forced by the circumstances and the government as illucidated herein.

2.2.9 Interventions by the Government Leaders

2.2.9.1 Intervention by the Prime Minister of the United Republic of Tanzania

On 14th February 2022 the Prime Minister of the United Republic of Tanzania Hon. Kassim Majaliwa visited Loliondo and Ngorongoro district and spoke with some of the leaders. During his speech, the Hon. Prime Minister stated before the residents of Ngorongoro District that the government of the United Republic of Tanzania does not plan to evict them from their land but rather to involve them in conflict resolution, as well as to conserve the environment and that he would assign a team from the Ministry of Tourism and Natural Resources to come and cooperate with the residents of Loliondo to see the best way to develop a solution on the disputed land to suit wider national interests.

Further, on 17th February 2022 Hon. Prime Minister met with government leaders and various conservation experts for the purpose of discussing about the challenges related to conservation due to an increase of population and livestock in the Ngorongoro Conservation Area Authority (NCAA). Non-Governmental Organizations were prohibited from entering the meeting, and some media organizations presented similar complaints. Apart from those two reporters and a driver from a non-governmental organization had been arrested throughout the Prime Minister's tour, something which provoked fear.



Photo 2.2.8.1: A Statement of the Prime Minister

In his speech he made it clear that there is a need to meet with various stakeholders including Non-Governmental Organizations (NGOs) for the purpose of listening to their opinions so that they can help the government when it makes decisions about the dispute. Either there was fear among the native people and residents from Ngorongoro District due to the presence of mistaken information from some media organizations, social media, and various groups and in parliamentary debates.

Her statement was cemented by the Prime Minister who strongly said that “there is no any Police officer who went in the villages to shot citizens, a video clip spread all over is not related to the Police officers at all”

2.2.9.2 Intervention by the Speaker of the Parliament of the United Republic of Tanzania

In June 2022 the Speaker of the Parliament issued a statement before the National Assembly that persons who are publishing via social media information showing that there are violations of human rights in Loliondo should be arrested. She issued such a statement and continued saying that what is reported is not exactly what is happening in Loliondo. Her statement was cemented by the Hon. Prime Minister who strongly said that “there is no any Police officer who went in the villages to shot citizens...”

2.2.9.3 Intervention by the Minister for Home Affairs

On 16th June 2022 the Minister for Home Affairs Hon. Hamad Yusuph Masauni went to Loliondo and issued some directives including assessment of NGOs operating in Loliondo to see whether they are operating within their registered Constitution. The Minister further challenged immigration officers at all exit and entry check points, to be extra vigilant in curbing such illegal entries into Tanzania.

Non-Governmental Organizations in Loliondo were ordered to avail their details before the Regional Immigration Department in Ngorongoro, when briefing media reporters, the Assistant Commissioner of Immigration Mr. Kagimbo Hosea said information and the whereabouts of 16 organizations was needed, he further said, “we successfully managed to meet and question owners of the only ten out of the 26 organizations,”. The motive behind was to establish the authenticity and legitimacy of some of the organizations operating in Loliondo and Sale Divisions, Ngorongoro District.

According to Commissioner Kagimbo, it had come to his attention that some NGOs were being operated by some foreigners whose stay and work in their country was shrouded in controversy.

He further alleged that some of the organizations’ financial transactions were being managed by some individuals who weren’t Tanzanians. Commissioner Kagimbo disclosed that they had arrested Rebecca Jacob Koriata, a Kenyan national who worked as an accountant with Maasai Honey, an NGO operating in Ololosokwan Village in Loliondo.

Alongside her, is Ormunai Koriata her husband and accomplice to the suspect. Detailing on the special operation of flushing out illegal immigrants from the area, Commander Kagimbo said a total of 61 suspects had been apprehended and arraigned in court. Three of the suspects had been convicted, with two parting ways with 500,000 for the freedom and are awaiting repatriation.

“We’ve also impounded two motorcycles during the ongoing operation,” added Commissioner Kagimbo. In his last month’s directive, Engineer Masauni instructed the Immigration Department to intensify border patrols with the aim to control influx of illegal immigrants.

2.2.10 Immigration case against HRDs in Loliondo

After the demarcation process of the land in Loliondo, murder case against the Maasai community leaders, other 61 HRDs were arrested and charged with illegal stay within the United Republic of Tanzania. Annexed herewith is the list of people arrested by the immigration officers from Ololosokwan, Kirtalo, Mondorosi, Njoroi. Enguserosambu, Naan, ilutulele, Ng’arwa and Orkiuvillages in Loliondo division.

The then Chairperson of the ruling party in Ngorongoro District, Hon. Ndirango Tajewo Olesenge was summoned in April 2022 to appear before the immigration officers in Arusha on 14th April 2022 to be interrogated about his citizenship. This was before the operation and cases of June 2022.

JAMHURI YA MUUNGANO WA TANZANIA
WIZARA YA MAMBO YA NDANI
IDARA YA UHAMIAJI



KUMB. IMM/NGR/C/56/VOLI
/27

OFISI YA UHAMIAJI,
WILAYA YA NGORONGORO,
S.L.P 30,
LOLIONDO.
05/04/2022

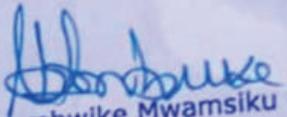
W. NDIRANGO TAJEWO OLESENGE,
OFISI ZA CCM (W) NGORONGORO,
LOLIONDO.

YAH. WITO.

Tafadhali husika na somo tajwa hapo juu.

Kwa barua hii unataarifiwa kufika ofisi za Uhamiaji Mkoa wa Arusha kwa ajili ya
suala lako la Uraia wa Tanzania. Unatakiwa kufika huko kabla ya tarehe
14/04/2022.

Nakutakia utekelezaji mwema.


Lydia Angumbwike Mwamsiku (SI)

Afisa Uhamiaji (W)
NGORONGORO.

Nakala:

Afisa Uhamiaji Mkoa,
S.L.P 236,
Arusha- kwa taarifa.

Photo 2.2.9.1: A letter from the Immigration Office to Hon. Ndirango

The list of HRDs charged in court for illegal stay in the United Republic of Tanzania are:

1. Nooseuri Kipean Rotiken	32. Randio Atteti
2. Rebeka Jacob Koriata	33. Ngamineni Kerenge
3. Jacob ormunai Koriata	34. Kipainoi Timan
4. Paulo yale makko	35. Njuguna Ngoyoo
5. Kipainoi Timan Murasini	36. Sanguteti Musanga
6. Ndatiri Metui Olekiu	37. Peter Mononi.
7. Kisinyinye Nyapato Timan	38. Naserian Kisaita Taiyo.
8. Saning'o Ngakenya Ketuta	39. Sanguteti Musanga.
9. Kimimde Pariken Kijape	40. Peter Mononi
10. Kone Sironga Tereza	41. Simel olenaoto Laput
11. Lemaliya Leteipa	42. Matuya Munga Sawani
12. Kipui Timan	43. Ndinini Mashati Nguko
13. Taruru Sadira Tipatit	44. Kanwa Nayla Laput
14. Lengoroko Lodidio	45. Letete Olosira
15. Kopapi Lotitika	46. Sumuni Kaete Leina
16. Manjau Ngoyo	47. Nampapa Oleiti Olang'ayam
17. Shiinga Wandai Nguyu	48. Mathayo Migori olodo
18. Parmalai Wandai Nguyu	49. Kaiki Pemba Rago
19. Olobisi Makei Mako	50. Joyce Normali Oleken Laizer
20. Murasini Oleteman Taki	51. Norkiropil Orming'an Munga.
21. Kutata Lukeine	52. Matiko kandoye
22. Parsele Tukai Lapiyo	53. Metui Oloshomang
23. Katikwa Murasini Timan	54. Naisako Katende
24. Kimba kikanai Lukeine	55. Isaya Mshele
25. Samson Joseph Kipukya	56. Mwatati Ole Msana
26. Philip Lavu Mwinzi	57. Namnyaki Mekii
27. Saringe Kelembu	58. Kiaro Katende
28. Dominic Letura Siminde	59. Yakobo Muliyanga
29. Meluwa Sitaka Mako	60. Philemon Matiko
30. Saruni Ololopara Koriata.	61. Paulo Saruni
31. Sanare Salonik	

2.3 Strategic Cases Conducted

In 2022 a total of 16 strategic cases (9 new, and 7 ongoing strategic cases) were supported on area of independence of the judiciary, legality of enacted Laws and Regulations, freedom of expression, etc. The brief below illustrates cases.

i. Paul Emmanuel Kilasa Kisabo Versus Attorney General [Miscellaneous Civil Cause No 09 of 2022]

The Constitution of the United Republic of Tanzania provides under article 118(2)(c) that the President can remove the Chief Justice of Tanzania from office. The said article does not mandate the President to give reasons, no stipulated procedures or guidance on how the Chief Justice can be removed.

Adv. Kisabo instituted a case in the High Court of Tanzania, seeking several declaratory orders challenging the powers vested in the President of the United Republic of Tanzania, under Article 118 (2) (c) of the Constitution of the United Republic of Tanzania, to remove the Chief Justice from his position. The petitioner terms the removal as an interference with the principles of separation of powers that require each State Organ to operate and act independently, as enshrined in the URT Constitution and international human rights treaties to which Tanzania is a party.

The petitioner further alleges that, whilst the URT Constitution has an elaborate procedure on how the heads of the other organs of the State may be removed from office, there is no guidance on how the Chief Justice may be removed from office. This, he said, leaves everything in the whims of the President, an act that interferes with the independence of the Judiciary.

On 7th March 2023 the High Court of Tanzania held that since the President appoints the Chief Justice, can also terminate him from the same position. Adv. Kisabo lodged an appeal before the Court of Appeal of Tanzania.

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

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

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

THRDC in collaboration with the International Center for Not-for-Profit Law (ICNL) prepared a case challenging the practicability of section 16 of the Cybercrimes Act as it limits freedom of expression but also does not meet threshold of the limitation test under

international human rights law. On 4th July 2022 the case was filed before the East African Court of Justice, to date, the case is pending in court.

iii. Grace Naimadu Ngorisha Versus Minister of Natural Resources and the Attorney General of Tanzania [Reference No 38 of 2022]

On 11th January 2022 the government of the United Republic of Tanzania through the Arusha Regional Commissioner issued a notice of eviction of the indigenous people living in Loliondo and Sale divisions within Ngorongoro District. The government intended to acquire land covering 1500 square kilometers from Loliondo and Sale divisions as well as evicting people living in the Ngorongoro Conservation Area.

However, contrary to the Constitution of the United Republic of Tanzania as well as the UN Declaration on Indigenous Rights no sufficient consultation before the execution of the eviction plan/notice was made. The Constitution guarantees for the right to live at any place within the country subject to applicable laws. The UN Declaration provides further that indigenous have the right to live at their ancestral land, in case the government intends to evict them, they must be consulted, and they have a right to give their free consent free from any coercion with a right to effective compensation.

Following the notice issued on 11th January 2022, local leaders, individual HRDs, human rights organizations stood against it and organized several public meetings. Some HRDs and leaders who organized public meetings were intimidated, arrested and some threatened not to convene any public meetings with villagers. In June 2022 law enforcers and the government inserted beacons demarcating the area covering 1,500 sq. km. This escalated conflict between the Maasai communities, HRDs, local leaders whom they firmly stood against such a process. As a result, citizens, HRDs, and leaders were unlawfully arrested and tortured because of defending their ancestral land.

On 17th June 2022, the Hon. Minister of Natural Resources enacted and published the Pololeti Game Controlled Area declaring the area covering 1502 sq km as a game-controlled area. Ms. Grace Naimadu instituted a case challenging the enactment and implementation of the Regulations. The case is pending before the East African Court of Justice.

iv. Onesmo Olengurumwa Versus the Attorney General [Civil Appeal No 134 of 2022, originating from Miscellaneous Civil Cause no 9 of 2021]

The National Assembly of Tanzania on 10th June 2020 passed the Written Laws (Miscellaneous Amendments) (No. 3) Act and assented to by the President on 15th June 2020. On 19th June 2020, the government gazetted the Act. The Act amended thirteen (13) laws. Among the amendments is, an amendment to Section 4 of the Basic Rights and Duties Enforcement Act (BRADEA) (under Section 7 of the Written Laws (Miscellaneous Amendments) Act, No. 03 of 2020) which has been amended.

“Abolishing Public Interest Litigation (PIL) in Tanzania. The amendments require one to prove how an action complained of *“has affected that person personally for his case to be admitted by the High Court”*. On the other hand, it conferred sovereign immunity on heads of the Executive, Legislature, and the Judiciary. These amendments technically barred NGOs and HRDs from instituting strategic cases before courts.

In August 2020, THRDC supported one strategic case [Onesmo Olengurumwa versus the Attorney General, Miscellaneous Civil Cause No 15 of 2020] to challenge such amendments. On 17th December 2020, the case was struck out with costs. This increased fear among HRDs worrying instituting strategic cases because most of HRDs cannot pay costs if a human rights case is struck out with costs.

Human rights attorneys under the support of THRDC, managed to refile the case in early March 2021. It was heard on merit and on 15th February 2022 the High Court held that Section 4 (2) (3) (4) (5) of the Basic Rights and Duties Enforcement Act, Cap 3 R.E 2019 is proper and in line with article 26(2) and 30(3) of the Constitution of United Republic of Tanzania, 1977.

Tirelessly, human rights attorneys appealed to the Court of Appeal of Tanzania against the judgment of the High Court. To date the case is pending for hearing in the Court of Appeal of Tanzania.

**v. Tanzania Epilepsy Organisation Versus the Attorney General of Tanzania
[Miscellaneous Civil Cause No 05 of 2022]**

Tanzania Epilepsy Organisation (TEO) is a registered non-governmental organization in Tanzania since 2021 under the Non-Governmental Organizations Act No 24 of 2002. Its objectives are to raise awareness on epilepsy in the community, empower women and youth who are living with epilepsy for the development of their family and community, to promote values and dignity in the society. Its mission is to change the negative attitude towards people living with epilepsy through awareness, empowerment, promote education, advocacy research, access to best medication and diagnose.

On 12th April 2022 TEO under the legal guidance of Adv. Paul Kisabo instituted a strategic case challenging Section 39(a)(ii) of the Law of Marriage Act [Cap 29 R.E. 2019]. The section provides that a spouse may petition for annulment of marriage if at the time of marriage, the other spouse was subject to epilepsy or recurrent attacks of epilepsy.

It was the position of the petitioner that such a provision of the Law discriminates persons with epilepsy to sustain a marriage and propagates stigma basing on his or her medical or social condition of epilepsy contrary to the dictates of the international human rights treaties promoting and protecting fundamental human rights including the right to sustain a marriage. Further, the complained provision of the Law restricts enjoyment of fundamental human rights and disregards the state's constitutional role to respect dignity of a person, protect and fulfil human rights in accordance with the Constitution of the United Republic of Tanzania of 1977 and existing human rights treaties.

The Attorney General in his reply stated that the complained provision of the Law of Marriage Act does not discriminate persons with epilepsy from sustaining a lawful marriage neither does it disrespect the dignity of persons with epilepsy. Further, he raised an objection to the effect that Tanzania Epilepsy Organisation had no locus standi/legal capacity to institute the case because TEO is not personally affected by the complained provision of the law as it cannot marry or engage in a marriage.

Basically, the objection is an outcome of the amendments to Section 4 (2) (3) (4) (5) of the Basic Rights and Duties Enforcement Act which are still being challenged in court. The High Court (Moshi J) held that Tanzania Epilepsy Organisation cannot be personally affected by section 39 (a) (ii) of the Law of Marriage Act, cap. 29 R.E.2019 because it is incapable of contracting a marriage.

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

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

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

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

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

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

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

Law enforcers in Tanzania for several years have developed the tendency of arresting people, HRDs charging them for unbailable offences before the committal court, a court without jurisdiction of determining such a case on its merit. Such a tendency is legally allowed under the Criminal Procedure Act of Tanzania. Investigation of such cases normally take a long period of time even more than five years. Cases are usually adjourned on the reason of incomplete investigation.

To curb the committal process, Mr. Olungurumwa petitioned on 16th December 2019 before the High Court of Tanzania at Dar es Salaam challenging the committal proceedings and preliminary inquiries because they subject the accused person to the delay of hearing of cases, negates the right to fair trial and it amounts to the delay of justice.

Through that strategic case, Mr. Onesmo specifically challenged section 178, 243, 244, 245, 246, 247 248, 249, 250, 256, 257, 258 and 259 of the Criminal Procedure Act that they are unconstitutional, null and void and same sections be expunged from the statute book. Such sections contravene the provisions of the Constitution, violates the fundamental rights and freedoms of people, suppresses the rule of law and the due process of the law, and encourages abuse of power by the authority.

On 21st October 2020, the High Court of Tanzania dismissed the case on the ground of being *res-judicata* with the case of Zephryne Galeba v. Honorable Attorney General [Miscellaneous Civil Application No 21 of 2013]. Being aggrieved, Mr. Onesmo lodged an appeal before the Court of Appeal of Tanzania in April 2021. To date the case has not yet been scheduled for hearing.

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

On 18th November 2020, THRDC and LHRC (Supra) approached the African Court on Human and Peoples' Rights challenging section 148(5) of the Criminal Procedure Act.

This was after the Court of Appeal of Tanzania declaring that section 148(5) of the Act is in compliance with the Constitution of the United Republic of Tanzania, through a Criminal Appeal No 175 of 2020 [Attorney General versus Dickson Sanga]

Tanzania enacted the Criminal Procedure Act on 1st November 1985 where Section 148(5) contains a list of unbailable offences. Section 148(5) violates provisions of the African Charter on Human and People's Rights (Charter), the Universal Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the Constitution of the United Republic of Tanzania, 1977.

THRDC jointly with the Legal and Human Rights Centre (LHRC) filed an application before the African Court on Human and Peoples' Rights on 18th November 2020 to challenge section 148(5) of the Criminal Procedure Act. The Act provides for unbailable offences contrary to the Banjour Charter, International Covenant on Civil and Political Rights. The government replied to the Application, and therefore THRDC and LHRC are supposed to file their reply on the case. To date, the case is pending for judgement in the African Court on Human and Peoples' Rights.

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

THRDC in collaboration with other Applicants (LHRC and MCT) filed a strategic case at the East African Court of Justice (EACJ) in August 2020 challenging the Electronic and Postal Communications (Online Contents) Regulations of 2020. The Regulations repealed the Online Content Regulations of 2018 with a list of prohibited contents under its schedules. The Regulations indeed curtail freedom of expression by imposing restrictions to online platforms among other things. The case is pending for a scheduling conference at EACJ.

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

The National Assembly of Tanzania on 10th June 2020 passed the Written Laws (Miscellaneous Amendments) (No. 3) Act and assented to by the President on 15th June 2020. On 19th June 2020, the government gazetted the Act. The Act amended thirteen (13) laws. Among the amendments is, an amendment to Section 4 of the Basic Rights and Duties Enforcement Act (under Section 7 of the Written Laws (Miscellaneous Amendments) Act, No. 03 of 2020) which abolished Public Interest Litigation unless a person shows how he has been personally affected.

On 14th August 2020, THRDC, PALU, TLS, LHRC and CSL (Supra) instituted Reference No 25 of 2020 at the First Instance Division of the East African Court of Justice challenging the amendments of Section 4 of the Basic Rights and Duties Enforcement Act (under Section 7 of the Written Laws (Miscellaneous Amendments) Act, No. 03 of 2020) that they contain a blatant violation of Articles 6(d), 7(2) and 8(1) (c) of the Treaty for establishment of the East African Community ; Articles 2, 3(1) and 7 of the African Charter on Human and Peoples' Rights and all other international agreements to which the United Republic of Tanzania is a party to. The case is pending for a scheduling conference at EACJ.

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

The National Assembly of Tanzania on 10th June 2020 passed the Written Laws (Miscellaneous Amendments) (No. 3) Act and assented to by the President on 15th June 2020. On 19th June 2020, the government gazetted the Act. The Act amended thirteen (13) laws. Among the amendments is, an amendment to Section 4 of the Basic Rights and Duties Enforcement Act (under Section 7 of the Written Laws (Miscellaneous Amendments) Act, No. 03 of 2020) which abolished Public Interest Litigation unless a person shows how he has been personally affected.

On 17th August 2020, THRDC, PALU, TLS, LHRC and CSL (Supra) instituted Reference No 27 of 2020 at the First Instance Division of the East African Court of Justice challenging the Act, that it violates Articles 6(d), 7(2) and 8(1)(c) of the Treaty. Specifically, Sections 33,

35, 37, 39, 40, 41, 43, 45, 46, 48 and 49 of the Act violate the fundamental and operational principles codified in Articles 6(d) and 7(2) of the Treaty and Articles 3(1) and 7 of the African Charter.

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

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

The petitioners filed the case in 2018 before the High Court of Tanzania seeking the court to declare the constitutionality of Sections 43, 44, 45 and 46 of the Police Force and Auxiliary Services Act (Cap 322 R.E 2002) and Section 11 (2), (4), (6) and (7) of the Political Parties Act (Cap 258 R.E 2002) for offending Articles; 13(6) (a), 18, 20(1), 21 and 29 of the Constitution of the United Republic of Tanzania. The petitioners also sought the court to expunge the same after it declares them unconstitutional.

The stated provisions under the Police Force Auxiliary Services Act requires that for any person wishing to conduct a public rally or procession must give notice of not less than 48 hours to the OCD of that respective area where the public rally or procession is scheduled to take place, for purposes of providing security. The spirit of the law might be very good, but its practice has never been realistic. Those provisions have been highly misused by the Police, including denying people to conduct their public rallies or procession especially the opposition political parties. Meanwhile the provision of the Political Parties Act requires all Political Parties to notify the Police before they hold public meetings. On 18th March 2020, the High Court of Tanzania delivered its judgment by declaring that such provisions are constitutional and hence they cannot be expunged from the statute book. Mr. Garatwa and his colleague being aggrieved filed an appeal before the Court of Appeal of Tanzania. To date, the appeal is pending before the Court of Appeal for scheduling a hearing date.

xiii. Joseph Osmund Mbilinyi & Peter Simon Msigwa Versus Commissioner General of Tanzania Prisons & Attorney General [Miscellaneous Civil Cause No 13 of 2021]

THRDC documented the strategic case of two human rights defenders mentioned above challenging the Prisons Act [Cap 58 R.E 2002] and the Prisons (Prison Offences) Regulations No 13 of 1968.

The Petitioners are challenging the practice of the Tanzania Prison Services subjecting prisoners to mandatory HIV testing upon admission in prison without consent of the prisoners, medical examination results are issued in front of all the prisoners disregarding the right to privacy of prisoners. The practice of limiting the number of times for a prisoner to use latrine facilities, the practice of forcing the prisoner to take off all the clothes and remain naked in front of all the prisoners during search, the practice of providing only one pair of clothes to a prisoner without any alternative clothes once the once provided are being washed, the

practice of accommodating more prisoners in a cell beyond its capacity, the practice of not providing adequate separate bedding/sleeping equipment, the practice of providing diet scale below the prescribed diet scale and the practice of engaging prisoners in different works without paying them remunerations.

On 19th December 2022, the High Court of Tanzania held that the acts of compelling prisoners to test HIV and disclose or release results of testing to third parties, being not backed by law and therefore offending prisoners right to dignity, privacy and freedom enshrined under Article 12(2) and 1.6(1) of the Constitution, the rest of the complaints were all dismissed.

xiv. Tito Elia Magoti and John Boniface Tulla versus the National Electoral Commission, Attorney General, Commission for Human Rights and Good Governance and the Tanzania Prison Service [Miscellaneous Civil Cause No 03 of 2022].

THRDC supported this case challenging the denial of the right to vote for the remanded persons awaiting trial. The petitioners were remanded in prison during the 2020 General Election. However, while waiting for the trial, they were denied for their constitutional right to vote.

The National Electoral Commission (NEC) is specifically mandated under Article 5(1) of the Constitution to ensure that every citizen aged 18 years and above is granted the right to vote in an election in subject only to the constitutional restrictions under Article 5(2). However, Section 11(1)(c) of the National Elections Act disqualifies persons sentenced to death and persons serving a court issued sentence with imprisonment period of six [6] months and above, from registering as voters and or if already registered from voting in a General Election.

During the 2020 General Election, NEC did not promulgate procedures and guidelines to moderate the registration of people awaiting trial in remand prisons as voters as well as procedures to govern modalities of voting for people awaiting trial in remand prisons on Election Day. There is no legal restriction nor disqualification for citizens of Tanzania who are on remand prison awaiting trial to be registered as voters and exercise their rights to vote.

On 19th December 2022 the High Court of Tanzania held in favour of the petitioners stating that the right to vote in respect of remandees aged above eighteen years who are citizen of Tanzania, is cherished and enriched in Article 5(1) of the Constitution; the provision of paragraph (c) to subsection (1) of section 11 of the National Election Act, is hereby declared unconstitutional to the extent of it is inconsistent and therefore the said provision is void.

xv. Mary Barnaba Mushi Versus the Attorney General [Miscellaneous Civil Cause No 14 of 2022]

THRDC supported this case challenging the act of the government's consultations soliciting for people's opinion on the minimum age of marriage contrary to the directives of the Court of Appeal of Tanzania in the case of **Attorney General versus Rebecca Gyumi [2019] TZCA 348**

The aforesaid decision of the Court of Appeal of Tanzania confirmed the position of the High Court:-that the minimum age of marriage of a girl child is 18 years, the provisions of the Law of Marriage Act providing for a lower minimum age of marriage are unconstitutional and that the two unamended unconstitutional sections of the Law of Marriage Act were no longer part of the laws of Tanzania, following lapse of one year moratorium for their amendment on as at 07.06. 2017.

That to date the aforesaid decision of the Court of Appeal of Tanzania remains unimplemented and the unconstitutional section 13 and 17 still form part of the statute books and are currently included in the 2019 Revised Edition of the Laws.

That on 28.09.2022, the Government through the Minister for Justice and Constitutional Affairs issued a press release to announce commencement of nationwide consultations to solicit people's opinion on the minimum age of marriage on the ground that there exists confusion as to the minimum age of marriage brought about by the decision of the High Court of Tanzania in *Rebeca Z. Gyumi versus Attorney General, Misc. Civil Cause 5 of 2016 [2016] TZHC 2023*.

That the ongoing proposed consultation by the Government undermines the position and status of the Judiciary of Tanzania as the sole and final interpreter of the Constitution and Laws of Tanzania.

xvi. Charles Lutobisha Kasema and 3 Others [Miscellaneous Application No 47 of 2022]

THRDC supported this case challenging the order of the Songwe District Commissioner issued on 13th and 21st November 2022. The district commissioner issued unwritten notice against residents of Gua, Ngwala, Kapalala, and Itizilo village's respectively in Songwe District to leave and vacate from their respective homeland or residential areas within between 4 and 7 days, in default he said that they would be forced to leave uncompensated under special operation involves Police Task Force.

He issued such an order claiming that such villages are within the National Reserved Land really. Such an order causes injures to the villagers by placing them in a sudden plight of homelessness with devastating effects ranging from social psychological to economic consequence's they are succumbed to so far.

Being aggrieved with the said superfluous order, the villagers requested for legal support from THRDC. THRDC engaged a human rights advocate to support the case before the High Court in Mbeya.

2.4 Cases against HRDs

i. Republic Versus Peter Michael Madeleka [criminal case no 69 of 2022]

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

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

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

ii. Republic Vs Levinus Kidamambi@Tengwa [Criminal Case No 3 of 2022]

In September 2022 a human rights defender Mr. Levinus was arrested and detained at Central Police Station in Simiyu region in Tanzania. while under detention, he was accused with the allegation of publishing false information. He was arraigned in court and charged with publication of false information and failure to register a sim card in her own name, such a sim card (chip) was previously used by another person.

The false information charged against him related to the President of the United Republic of Tanzania. He published information challenging the acts of the President and stated that once the country is under the leadership of the woman, all people can be considered as breasting. He was convicted and sentenced to seven years of imprisonment with a fine of One Million Five Hundred Thousand. Human rights advocates have lodged an appeal against such a decision. The case is pending before the court.

iii. Republic Vs Peter Michael Madeleka [Criminal Case No 69 of 2022]

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

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

iv. Director of Public Prosecutions Versus Abdul Nondo [Criminal Appeal No 30 of 2021]

On 23rd March 2022 the Director of Public Prosecutions withdrew the case of Abdul Nondo from the Court of Appeal of Tanzania on the reason that he was not interested to prosecute him. In May 2020, the Director of Public Prosecutions appealed to the Court of Appeal of

Tanzania after being aggrieved by the decision of the High Court of Tanzania, Iringa District Registry that gave a victory to Mr. Abdul Nondo (a HRD).

Abdul is the former Chairperson of the Tanzania Students' Networking Programme (TSNP). On 6th March 2018 around midnight he disappeared, sent a message to his friend Mr. Paul Kisabo that "*am at risk*" and was later on found in Mafinga, Iringa Region on 7th March 2018 at 18:00hrs. Nondo reported to Mafinga Police station that he was kidnapped by unknown people at Ubungu in Dar es Salaam and he was taken to the said place.

He was however, detained for 14 days before being arraigned in court on 21st March 2018 and charged for publication of false information ("I am at risk") contrary to Section 16 of the Cybercrimes Act, 2015 and for giving false information (that he was kidnapped) to a person employed in public service contrary to section 122 (a) of the Penal Code Cap 16 R.E 2002.

THRDC engaged human rights advocates to provide legal representation and Mr. Abdul Nondo won the case at both the Resident Magistrates' Court and at the High Court of Tanzania on 23rd December 2019.

The Director of Public Prosecutions being aggrieved by the decision of the High Court, lodged a notice of intention to appeal and finally an appeal before the Court of Appeal of Tanzania at Iringa. However, on the date of hearing the appeal, the Director of Public Prosecutions withdrew the case stating that she has no intention to prosecute the case.

2.5 Strengthening intervention through documentation of incidents and conducting fact finding missions

Tanzania Human Rights Defenders Coalition (THRDC) supported four (4) fact finding missions in 2022. The first attempt was made in February under the coordination of THRDC in collaboration with 20 religious and human rights organisations. The mission aimed to conduct physical visit in Loliondo and Ngorongoro divisions, conduct meetings with the local people and different government departments or authorities in Ngorongoro district, collecting and gathering information from the ground on the land grabbing and forceful eviction of the Maasai from Ngorongoro district.

However, the mission was unsuccessfully conducted because after arriving in Arusha region on the way to Loliondo, the Arusha Regional Commissioner demanded for a written permit from the Prime Ministers' office authorizing the fact-finding mission to be conducted. However, THRDC made efforts in writing the letter to the office of the Prime Minister, but it was never replied, hence the mission was never conducted. THRDC further planned to conduct the same fact-finding mission in the year 2023 in collaboration with the Ministry of Constitutional and Legal Affairs, Commission for Human Rights and Good Governance and other suitable organisations.

The fact-finding mission was planned to be conducted after the government through the Regional Commissioner for Arusha region had issued a vacation notice of the Maasai who were residing in Loliondo, Sale and Ngorongoro divisions. The notice was issued on 11th January 2022 without consultations with the Maasai or their leaders.

Due to lack of effective consultation, the Maasai communities did not gently want to surrender their land instead they demanded for consultations, organized morning prayers, villagers' meetings, formed different committees, and made efforts to prepare reports and submitted to the Prime Minister on how

best to resolve the land conflict in Ngorongoro district. All their efforts were not taken much into consideration by the government and instead the government deployed Police officers who demarcated the land area covering 1,500 square kilometres in Loliondo and Sale divisions by erecting beacons.

During the erection of beacons, people who were against it were beaten, arrested, charged in court, tortured, denied Police forms for medical treatment hence over 2000 people crossed border to neighbouring countries for medical treatment and for fearing from being persecuted by the state machineries in the country.

Immediately after the demarcation process, four (4) HRDs under the support of THRDC conducted the fact-finding mission in Ngorongoro district regarding the violation of the Maasai and HRDs' rights which occurred during the demarcation process. The mission revealed that individuals who were tortured during the demarcation process were denied Police forms number 3 for medical services hence running away from the country.

In line with this, another fact-finding mission was conducted in Kilimanjaro region following massive arrest of livestock animals owned by pastoralists in Kilimanjaro. The mission revealed that the livestock were detained illegally by the government actors hence THRDC engaged the relevant authorities leading the livestock being released unconditionally.

Lastly on the fact-finding missions, a HRD was alleged and reported to have been shot to death by the Police officers in Shinyanga region. A member organization to THRDC operating in Shinyanga region was supported in conducting the fact-finding mission. It was revealed that the HRD was shot to death by the Police officers and the post-mortem report from the hospital was undisclosed to the family members and to the deceased legal representative. THRDC went further by engaging a human rights advocate who made follow up and found that according to the post-mortem report, the deceased was shot to death by a heavy object. The deceased was buried at his home village in Shinyanga region.

2.6 State of Impunity

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

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

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

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

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

2.7 Un investigated HRD's incidents

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

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

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

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

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

Chapter THREE

MEDIA SECURITY AND JOURNALISTS' SAFETY

3.0 Overview

Chapter three details on the situation of journalists as human rights defenders and the state of media outlets in Tanzania. Generally, the operating context of media outlets and the right to freedom of expression and association has been friendly to HRDs, the context of freedom of expression and freedom of assembly improved in 2022. Generally, a total of 22 incidents were documented in 2022 totaling 24 journalists and 2 media outlets. THRDC responded to all the incidents through press statements, emergency, and legal support.

For instance, on 10th February 2022 Hon. Nape Moses Nnauye, Minister of Information, Communication, and Information Technology lifted the ban and issued new license to four newspapers: Mseto, Mawio, MwanaHalisi and Tanzania Daima newspapers. The Minister promised and expressed his willingness to engage the media stakeholders to discuss on the amendments to the Media Services Act of 2016.

Importantly, on the World Press Freedom Day in May 2022, the President of Tanzania Hon. Samia Suluhu Hassan when delivering her speech declared that the government would review the media laws to promote press freedom in the country, even as she strongly warned against irresponsible journalism.

The President said that her administration is in dialogue with media stakeholders following complaints that the laws were draconian and hamper media development in Tanzania. She directed the Ministry of Information, Communication and Information Technology to collaborate with media stakeholders to review the Media Services Act of 2016 to enable journalists and media houses carry out their duties freely.

She urged the Ministry to “come up with better and friendly laws and regulations that would protect journalists and open more space for the freedom of expression and the media.” The president was addressing editors, journalists, government officials, diplomats, donor agencies and media partners who had gathered in Arusha, northern Tanzania, to mark World Press Freedom Day.

The President told the participants from Tanzania and other African states that African media should focus more on development agenda rather than copying foreign news for circulation through local media platforms.

“We should make our African media platforms cherish with our development goals and promote Africa’s rich resources rather than stereotype reporting under the influence of foreign media outside Africa,” she said.

Under the theme “Journalism Under Digital Siege”, the World Press Freedom Day event in Tanzania had attracted various media organisations, including the Eastern Africa Editors Society (EAES), an umbrella body bringing together editor organizations in Ethiopia, Uganda, Tanzania and Kenya.

EAES Chairman Churchill Otieno, who is also the president of the Kenya Editors Guild, said the Society looks forward to enhance freedom of expression, freedom of the media and access to information in the eastern Africa region.

This chapter discusses the current state of media industry, security challenges encountered by journalists and the media industry in general. The challenges include but not limited to harassment, suspension, malicious prosecution, detention, and other legal and regulatory related challenges.

3.1 Specific Challenges Facing Journalists

This party explains about the concept of freedom of expression as a cornerstone for all rights vis a vis the specific challenges facing journalists and media houses in Tanzania especially for the year 2022. Freedom of expression is constitutionally guaranteed under Article 18 of the Constitution of United Republic of Tanzania.

The Constitution provides for the respect of freedom of expression and opinions of Tanzanians. On the other hand, Article 19 of the International Covenant on Civil and Political Rights 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.

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

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

In the year 2022, THRDC Protection Desk documented a total of twenty-two (22) incidents of violation of journalists’/media outlets’ rights totaling forty (44) journalists/media whose rights were violated. Most of these involve arbitrary arrest, malicious prosecution, threats, and imposition of hefty fines as well as confiscation of journalist’s working tools. The following details depict the situation of journalists and media outlets in Tanzania for the year 2022.

3.1.2 Arbitrary arrest and cases

i. **Republic Vs Tarzan Alfán Mwambengo [criminal case no 138 of 2022]**

On 16th August 2022 Mr. Tarzan Alfán Mwambengo who is the owner of MBENGO ONLINE TELEVISION was arrested by the Police, detained until 25th August when he was released on Police bail. He was conditioned to report on several dates until on 16th September 2022 when he was re-arrested by the Police and detained incommunicado until, 26th September 2022 when he was arraigned in the Resident Magistrates' Court of Dar es Salaam at Kisutu with five counts of publication of false information and publishing online content without having a valid license from the Tanzania Communications Regulatory Authority. Advocate Paul Kisabo provided legal support to facilitate his bail in court and he was released on court bail, the case is ongoing before the court.

ii. **Republic Vs Maria Victor Mahundi [Criminal Case No 407 of 2022]**

In September 2022 a journalist working with Raia Mwema and Mwanahalisi Newspapers in Dar es Salaam, Ms. Mary Victor was arrested and detained at Central Police Station. She was arrested in Dar es Salaam, on the allegation of publishing false information. The information charged with relates to victims of Covid-19 who run away from hospital in April 2020 because of lack of medical care from government hospitals in Tanzania. She was arraigned in court and charged with publication of false information and failure to register a sim card in her own name, such a sim card (chip) was previously used by another person. The case is pending before the court.

iii. **Republic Vs Hyasinti Hilary Mchau, [Criminal Case No 132 of 2021, District Court of Arusha]**

Hyasinti is a journalist employed by Jamhuri newspaper based in Arusha region. He is charged for soliciting and receiving corruption of Tshs 2,000,000 from Saleh Salim Saleh between 25th and 26th December 2021 as an inducement to forbear Mr. Saleh from publishing the story relating to the allegation of matters which are in the relation of his principal's affairs. He was charged under Section 15 (1)(a) and (2) of the Prevention and Combating of Corruption Act No 11 of 2007. THRDC won the case, and the journalist was acquitted by the court.

iv. **Tanzania Communications Regulatory Authority (TCRA) Vs Dar Mpya Online Tv, Case no 2 -2021/2022**

Dar Mpya Online Tv was charged before the TCRA Content Committee for publishing misleading information through its twitter account on 16th January 2022. The information published was alleged to be misleading the public about the speech of Hon. Pascal Katambi, the Deputy Minister of Employment, Youth and Persons with Disabilities. The information published showed that Hon. Katambi *"blamed youths for being too much complaining about lack of employment and insisting that youths shouldn't be selective of jobs"*. Such information is alleged to be false, untrue, and misleading content contrary to Regulation 12(a), 16(1) and paragraph 10 of the Third Schedule to the Electronic and Postal Communications (Online Content) Regulations, 2020. Dar Mpya prepared the written statement of defence under THRDC legal support and appeared for the first time on 7th February 2022, but the case was adjourned to 11th February. Upon appearing on 11th February 2022, the legal counsel for Dar Mpya was informed that the case has been adjourned until further notice.

v. The case of two journalists in Arusha

On 24th February 2022, two journalists; Kolumba Victor (Global Tv) and Alphonse Kusaga (Tripple A Radio and Kusaga Online Tv) were unlawfully arrested by the Police officers at Sakina area and were detained at Arusha Central Police Station.

The journalists were arrested while interviewing citizens who reported to them an incident of harassment and looting of their money which was done by the local security guards and one Police officer at Sakina area in Arusha. THRDC engaged a human rights advocate to procure their bail, they were released on the same day during the night and conditioned to report on the next day. Upon reporting on the next day, they were informed that when needed they will be called.

vi. Republic Vs. Opptertus John Fewma.

Cartoonist Opptertus John Fwema was arrested at his home, Bunju area in Dar es Salaam on Friday 24th September 2021. Since then, he was under unlawful detention at Oysterbay Police station. On 30th September 2021 Mr. Fwema was interrogated in absence of his advocate or family members for cyber offences. During the evening on 5th October 2021, Oysterbay Police officers took Mr. Fwema to his parents' residence, searched the house looking for the technical tools that he uses in preparing cartoons. However, they found nothing useful. After that, Mr. Fwema was taken back for detention at Oysterbay Police station. Neither search warrant was issued by the Police officers, nor the local government leader was consulted. He was arraigned to court on 7th October 2021 where he was charged with Publishing False information. The republic failed to bring witnesses before the court and Mr. Fwema was acquitted by the court.

vii. Republic Vs Japhet Ibrahim Mattara, Criminal Case No 435 of 2021, District Court of Moshi

In October 2021, Mr. Mattara through his twitter account published that the wealth of former President John Magufuli is estimated to be Tshs 11.2 B, for Jakaya Kikwete is 352B, for B.W.Mkapa is 461B, for Ally Hassan Mwinyi is 18.4B and for President Samia Suluhu is 34.5B". He was arrested and arraigned at the District Court of Moshi in Kilimanjaro on 20th December 2021 and charged for publication of false information contrary to section 16 of the Cybercrimes Act, 2015. The case is ongoing before the court.

viii. Arrest and detention of Abubakar Fambo

In May 2022, activist Abubakar Fambo, the chair to Umoja wa Kudai Katiba Mpya Tanzania (UKUKAMTA), a movement advocating for a new constitution, was reported abducted by unknown assailants believed to be state Police. His abduction drew attention from the public, who pushed for his release on Twitter under the hashtag #FreeFambo. He was later released unconditionally by the Police.

ix. Arrest and detention of Jonas Afumwisye

In August 2022, Jonas Afumwisye, a Tanzania Railways Corporation (TRC) regional manager was fired and then arrested by the Police in Dar es Salaam. Afumwisye had opposed the newly imposed mobile money transaction levies by the Tanzanian government. He is said to have published his views in a WhatsApp group. Further, in his dismissal letter, he was accused of: opposing the government's vaccination efforts on disease outbreaks in the country, and defaming President Samia Suluhu and the Speaker of Tanzania's Parliament, Dr. Tulia Ackson, in his social media posts (The said posts are not publicly available).

x. The case of Zama Mpya

Zama Mpya online TV was in September 2022 fined TZS 2 million (USD 800) by the Tanzania Communications Regulatory Authority (TCRA) Content Committee, for publishing a famous Tanzanian artist Afande Sele's comments, regarding the exorbitant mobile transaction fees imposed by the government on its citizens. Afande Sele had said that the levies were not justified, and that the government ought to have taxed members of parliament instead, since they do not pay taxes. The fine forced the online platform to resort to a social media fundraiser, where it urged followers and supporters to donate towards the fees imposed by TCRA.

xi. The case of Livinus Kidanabi

In October 2022, the Resident Magistrate's Court in Simiyu region sentenced Livinus Kidanabi, a youth cadre of the ruling party CCM, to seven years in prison, and a fine of TZS 10 million (USD 4000), for defaming the President of the Republic of Tanzania on a WhatsApp group. According to the magistrate's ruling, Kidanabi contravened the Cyber Crimes Act of 2015 by peddling falsehoods. Kidanabi was also fined TZS 5 million for impersonation. He was in possession of a SIM card not registered in his name, contrary to the EPOCA Regulations of 2020.

These select incidents illustrate how the enforcement of existing restrictive laws on freedom of expression enable the Tanzanian government to police social media and curtail the right to freedom of expression of Tanzanians, an absolute violation of Article 18 of the Tanzanian Constitution, and Article 19 of The Universal Declaration of Human Rights.

xii. Republic Versus Mussa Mwangoka and 2 Others [Economic Case No 32 of 2022]

Journalist Mwangoka and his two colleagues were leaders of the press club in Sumbawanga. Also, they had been reporting incidents of human rights violations in Sumbawanga, Rukwa region. In 2022 they were accused of corruption transactions relating with the monies of the press club. They were arrested and detained, later arraigned in court charged with corruption. They are under the legal support of THRDC. The case is ongoing before the court.

xiii. Journalist Mabere Makubi

On 9th April 2021, the Nyamagana District Commissioner Dr. Philis Nyimbi threatened journalist Mabere Makubi working for ITV that he will do something leading him to lose his employment on the ground that journalist Makubi has been publishing information that exposes his (DC) employment at risk. Journalist Makubi continued receiving threats and little cooperation from the government leaders in Mwanza. On 6th December 2021, his representation contract was ceased by ITV. THRDC provided necessary support to Mr. Makubi in early 2022.

Trend of Journalists and Media Incidents in 2022



It is interesting to note that, most of the reported incidents of violations of rights against journalists were promptly attended to by the Tanzania Human Rights Defenders Coalition by issuing press statement, assisting in bail processing and legal representation for those who were arraigned in court.

3.2 Legal challenges affecting the security of Media and Journalists

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

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

i) The Media Services Act, 2016

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

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. Section 59 of the MSA, 2016 has been used as a backup provision in almost every ban of the newspapers.

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

In 2021 the government used the Media Services Act, 2016 to suspend from operation Raia Mwema and Uhuru newspapers.

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

ii) The Access to Information Act 2016

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

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

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

iii) **The Statistics Act, 2015**

The Statistics Act imposes harsh penalties on those found guilty of publishing misleading and inaccurate statistics or statistics not approved by the National Bureau of Statistics. Those found guilty of providing false or misleading statistics without authorization from the National Bureau of Statistics are liable to a one-year jail term and a fine of 10 million Shillings (approximately US \$ 4500). The new amendments to the Statistics Act, also criminalizes any person who questions/ criticizes official statistics given by the government. The Statistics Act do not recognize any other statistics other than the official statistics. Any person wishing to produce official statistics should seek approval from the National Bureau of Statistics.

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

On 17th July 2020, the Tanzanian Minister for Information, Culture, Arts and Sports published the Electronic and Postal Communications (Online Content) Regulations, 2020 (2020 Online Content Regulations). The Regulation provides a list of prohibited contents under the Third Schedule, it covers, among other things, content that motivates or promotes phone tapping, espionage, data theft, tracking, recording or intercepting communications or conversation without right.

v) **The Cybercrimes Act, 2015**

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

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

Privacy is a fundamental human right, enshrined in numerous international human rights instruments. 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.

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

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

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

Chapter FOUR

PROTECTION, PLANNING AND RISK MANAGEMENT

4.1 An Overview

There continues to be a gap in capacity on issues of protection, planning, and risk management among human rights defenders (HRDs) in Tanzania. This has been observed by the Coalition including during members' visits as well as capacity building sessions. This chapter looks at the capacity situation of HRDs in 2022 particularly in the five areas namely: physical and digital security; monitoring, documentation, and reporting human rights violations; Compliance to Regulatory laws; Financial Sustainability; and Operational Constraints.

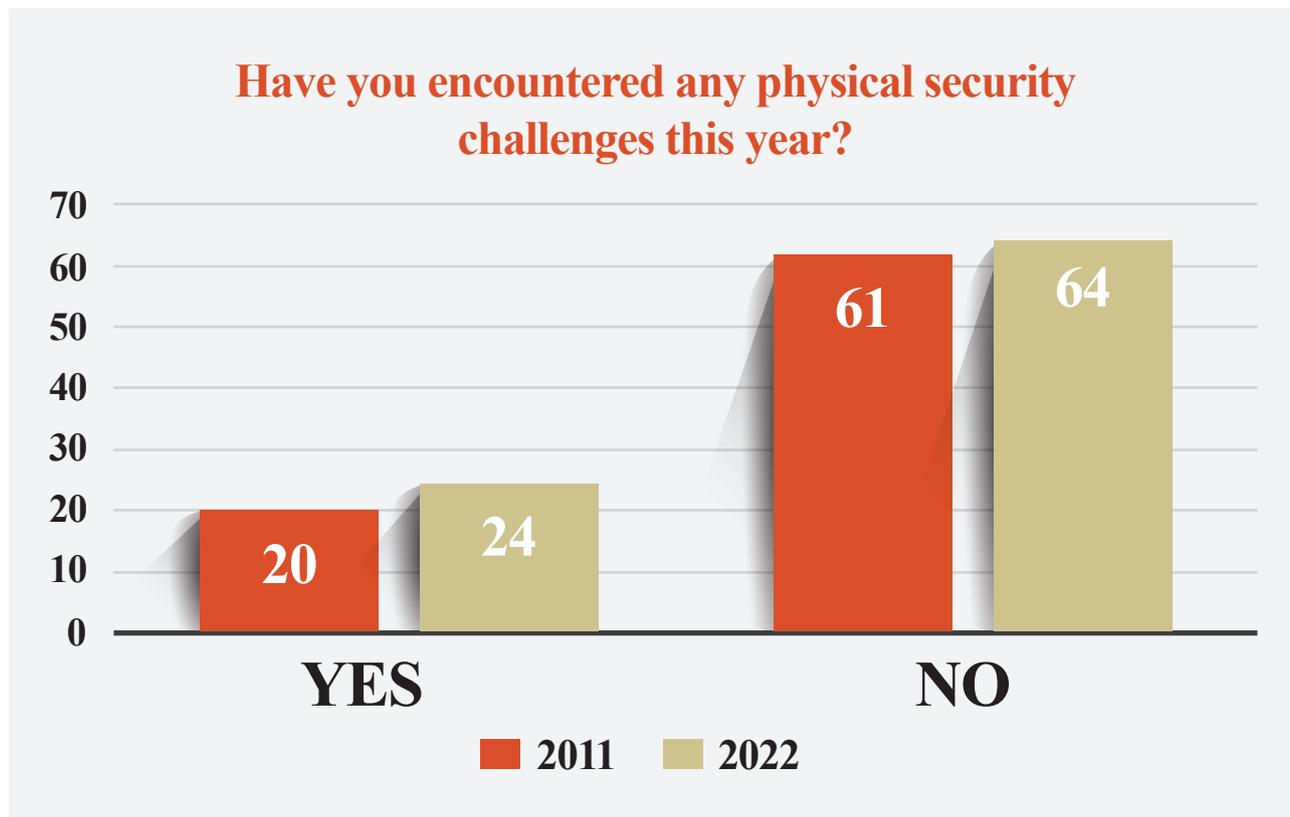
Noting the challenges that HRDs face in these areas, THRDC continues to build capacity through workshop meetings and seminars while engaging relevant authorities to push for legal and policy reforms to safeguard HRDs' working environment. This chapter is primarily informed by a survey conducted by the Coalition in November 2022 whereby 97 HRDs (71 men and 26 women) working with various non-government organizations across 21 regions in Tanzania responded to an e-questionnaire shared through survey monkey. The respondents were taken as a small sample representing a greater number of HRDs across the country. Furthermore, to build upon the survey information, data collected from the Coalition's field visits to member and non-member organizations in Western Tanzania (Katavi, Kigoma, Tabora) and the Southern Highlands (Rukwa, Songwe, and Mbeya) was utilized along with secondary and anecdotal information. Reference was also made to a similar online survey conducted by the Coalition in 2021. This was to get a comparative view of the situation of HRDs in 2021 and 2022.

4.2 Areas of Capacity Constraints Facing Human Rights Defenders

4.2.1 Physical and Digital Security

HRDs' situation surveys conducted in 2021 and 2022 suggest that the security situation of HRDs has started to improve. At least 64 respondents in the 2022 survey compared to 61 in 2021 as shown in *figure 1* below attested to not have encountered any physical security challenges this year. Moreover, the number remains to be significantly high (61/64) compared to those who claimed to have had physical security challenges (20/24). This may be mainly attributed to the improvement in the political environment which is currently more accommodating to the work of human rights defenders in the country. Also, the capacity building seminars and workshops, emergency support services, and advocacy initiatives conducted by the Coalition may as well be a contributing factor to this development.

Figure 4.2.1.1



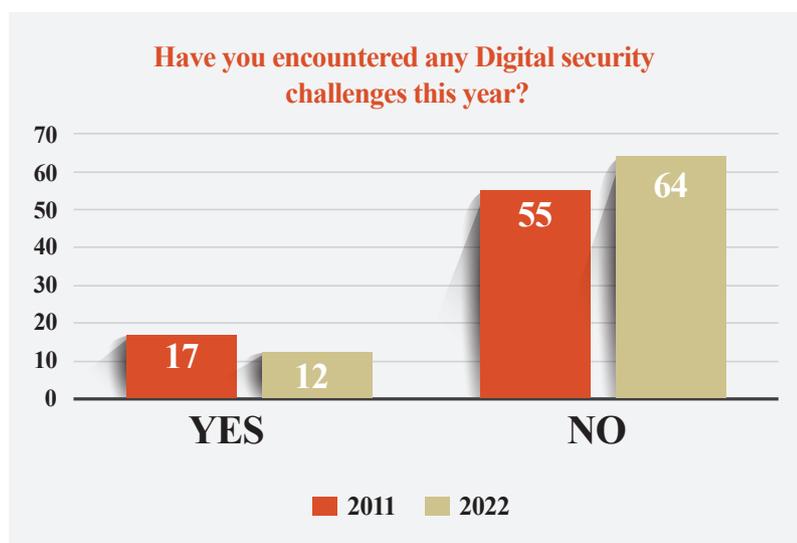
However, figure 4.2.1.1 also shows a slight increase of respondents who claim to have had experienced physical security challenges. For example, some respondents claimed to have been illegally detained while others were forced into hiding due to threats and reprisals because of advocating against the Maasai eviction in Loliondo and Ngorongoro. In Zanzibar, one NGO reports to have received deregistration threats, and some paralegals also got threats from suspects due to cases they were working on. An investigative journalist from Dar es salaam reported a car break-in by unknown people who took his laptop and flash drive. A HRD from Kigoma got murder threats from suspects in a case he was following up on, while another HRD from Serengeti faced community outrage due to their advocacy against female genital mutilation. A HRD from Mwanza was intimidated for advocating against child marriage, and another HRD from Iringa got threats from parents after advocating for their daughter’s education. Another HRD from Tabora was threatened with a lawsuit after publishing data on cases of gender-based violence.

In response to these issues, the HRDs took measures including engaging private legal services, consulting the Coalition; installing CCTV cameras at their offices; reporting the incidents to the police and local authorities; and resorting to mediation. In support to the actions THRDC continues to build capacity of HRDs on physical security management whereby many HRDs reached have attested to have benefited from this initiative. In the 2022 survey, 55 out of 82 (67%) respondents expressed to have been positively impacted by the capacity building sessions including by adopting constructive engagement with government authorities; limiting staff private information sharing during field visits; hiring security guards and building fences for their offices; periodically assessing security risks; having first aid kits in the office; and paying more attention to legal compliance.

4.2.2 Digital Security

Data from the 2021 and 2022 HRDs' situation surveys as illustrated in *figure 4.2.2* below suggests decreased digital security challenges this year compared to last year. However, challenges including email and mobile phone hacking attempts have been expressed among HRDs. In response to this, the HRDs took measures including shifting to more secure communication channels like signal, consulting ICT and legal experts, changing passwords, and communicating with network service providers. This was greatly contributed to by knowledge gained from THRDC's capacity building sessions on digital security.

Figure 4.2.1.2



Noting that the training sessions were mostly conducted to NGOs in Tanzania mainland, for journalists, there is yet a knowledge gap to be filled. For instance, in recent training session the Coalition conducted for journalists, it was observed that majority participants had poor understanding of digital security. The same was also observed among HRDs from Zanzibar. Therefore, there is still a need to widen the scope of beneficiaries of the trainings.

4.2.3 Monitoring, Documentation and Reporting Human Rights Violations

HRDs continue to face challenges in monitoring, documentation and reporting of human rights violations. Majority respondents in the 2022 survey mention to have had poor cooperation from local authorities when gathering information on different human rights issues. Victims of violations and their families were noted to be reluctant to cooperate especially in cases involving gender-based violence, thus causing such cases and others of the like to often go unreported. This impedes the actions being taken to address the violence due to inadequacy of evidence collected. Some respondents also mentioned corruption, bureaucratic systems, and intimidation from some officers as challenges faced when attempting to access information. For instance, more than 20 organizations which travelled to Arusha in March 2022 for gathering information on the human rights situation in the land dispute in Loliondo and Ngorongoro districts were prevented from doing so by the Arusha Regional Commissioner on the ground that they lacked a permit from the government.

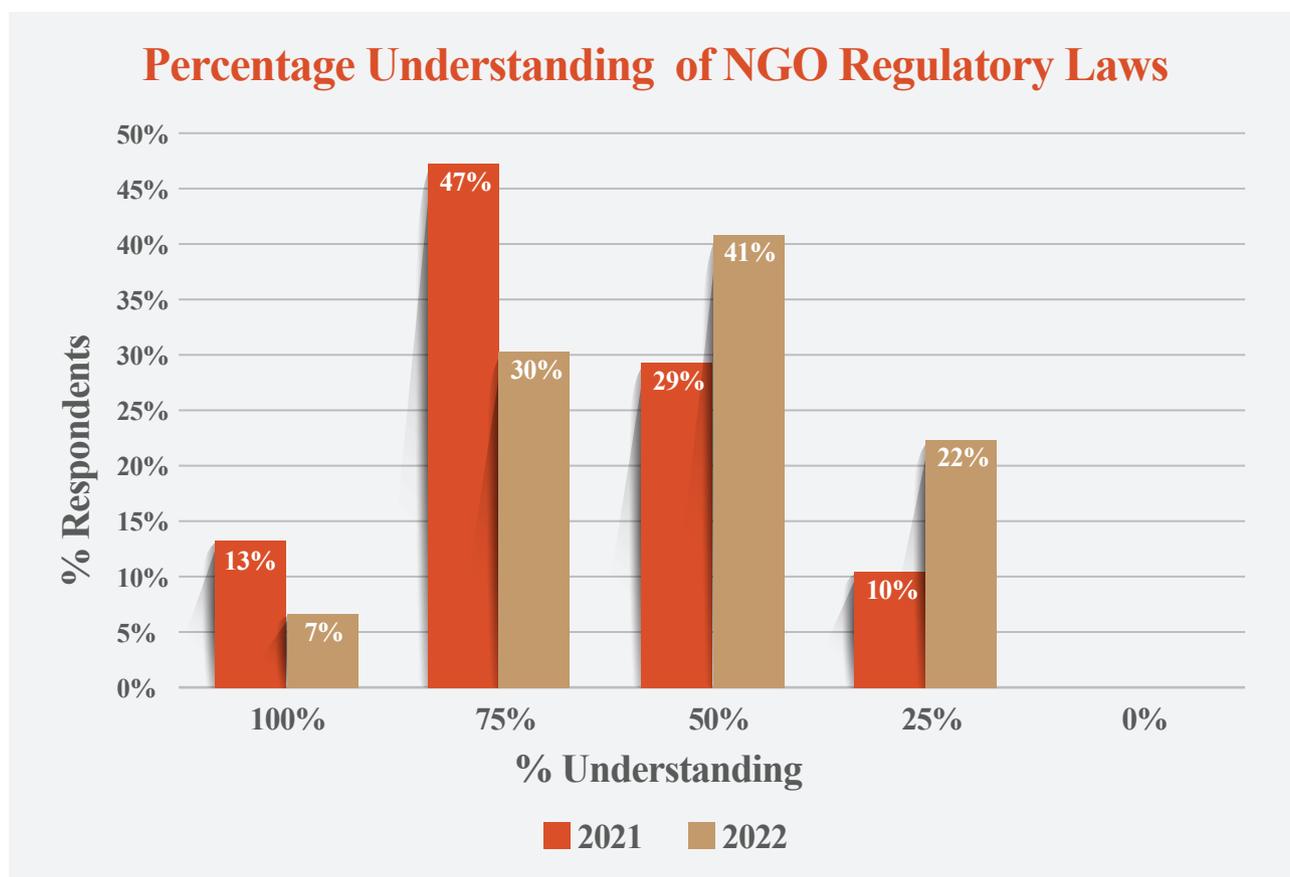
Furthermore, some respondents mentioned resource constraints impeding their work in monitoring human rights in the country. The constraints included lack of work equipment like recording devices; adequate funds especially when they must travel long distances to remote villages in search for information; as well as human resources for such work. A few respondents mentioned lack of knowledge concerning monitoring, documentation, and reporting human rights as a constraint.

4.2.4 Compliance to Regulatory Laws

Understanding and complying to regulatory laws continues to be low among HRDs. This was partly contributed to by the 2019 legal shift whereby all NGOs registered under the Business Registration and Licensing Agency (BRELA) and the Registration Insolvency and Trusteeship Agency (RITA) were required to re-register under the Registrar of NGOs pursuant to the NGO Act.

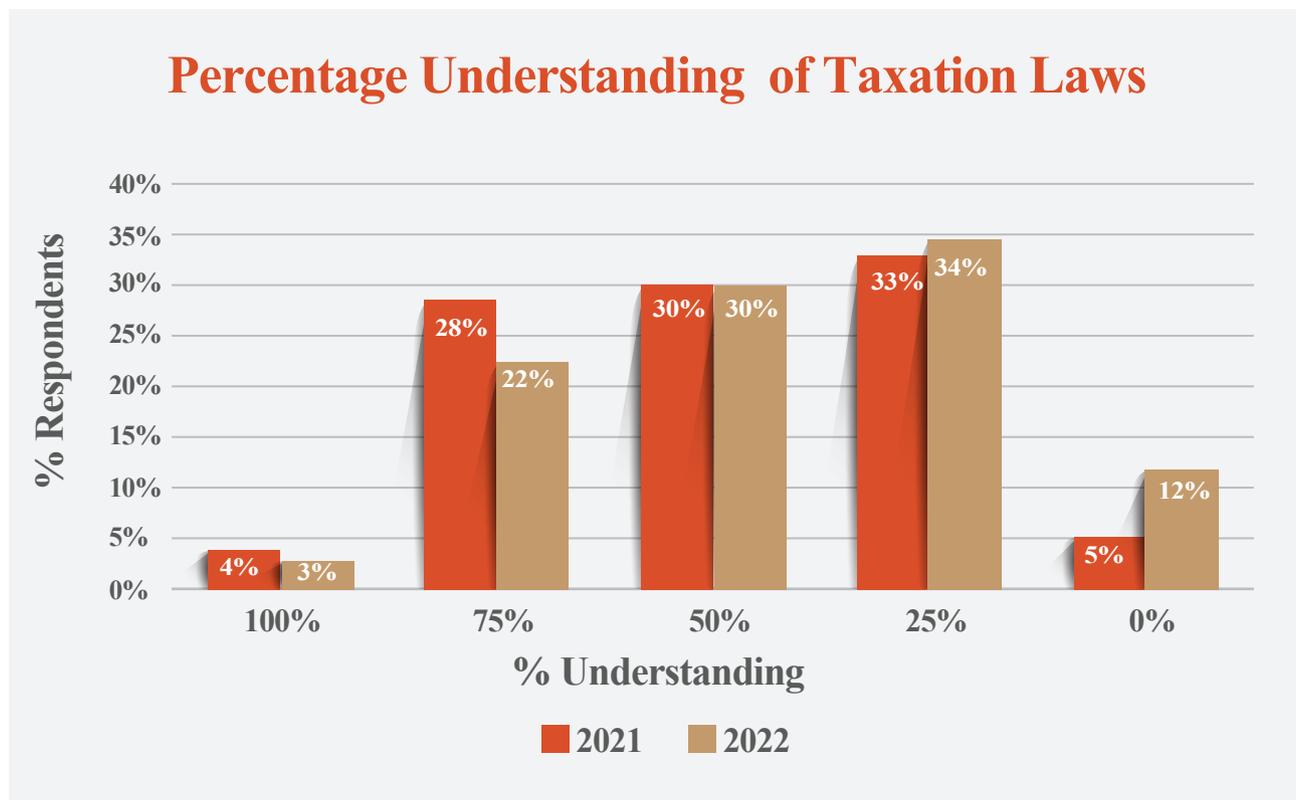
The 2021 and 2022 HRDs situation surveys suggested that more than 50% of respondents have some understanding of the laws regulating their organizations. However, survey data as illustrated in *Figure 4.2.1.3* below shows a decrease in understanding of the regulatory laws. That is, in 2022 majority (41%) of the respondents expressed to have 50% understanding of the laws compared to 2021 where majority (47%) of the respondents expressed to have 75% understanding of the issue. This shows that there is still a knowledge gap that requires capacity building.

Figure 4.2.1.3 Percentage level of understanding of the NGOs Regulatory Laws by NGOs in 2022



Moreover, poor awareness of taxation laws and regulations among non-governmental organizations continues to subject them to fines, penalties, and interest rates higher than their budgets. The 2019 NGO Act amendments which required all NGOs to register under the NGO Act left some NGOs with outstanding tax debts which were not concluded during their shift to the Act. Additionally, many NGOs have still not attempted to access tax exemptions including on imported materials and donations. This may be owed to the increased number of NGOs with 0% understanding of taxation laws and decreased number of NGOs with 75% and 100% knowledge of taxation laws as suggested by the 2021 and 2022 HRDs' situation surveys illustrated on *figure 4.2.1.4* below.

Figure 4.2.1.4 Percentage level of understanding of Taxation Laws by NGOs in 2022



Taxation laws recognize *trusts* as entities that can be used to run income generating activities for the benefit of NGOs. However, NGOs conducting such activities continue to be subject to complex regulations and requirements because of their lack of knowledge about the benefits of trusts under Tax laws. Therefore, few NGOs engage in profit-making activities for income generation. For example, during field visits conducted by the Coalition in 2022, only 2 out of 12 member organizations visited in on the Southern Highlands and 6 out of 18 members in the Southern Zone were operating depending on profit-making activities. The rest remained dependent upon external funding sources. Below are the taxation challenges facing NGOs.

- Filing of returns, consistent engagement, and communication with the TRA (Included zero return e-filing).
- Few/ No trainings provided by TRA to Non-Profit organizations.
- Few or lack of taxpayer’s awareness campaigns to Non-profit organizations.
- Electronics filling system failure to identify new register organization tax cut off especially on estimated tax payable.
- Non-profit organizations being taxed as corporate organizations.

THRDC continues to collaborate with the Tanzania Revenue Authority and the Registrar of NGOs in building capacity of NGOs on compliance to taxation laws and other regulatory laws. On this accord, capacity building sessions are conducted to NGOs, and a simplified booklet on NGO taxation of was developed and continues to be disseminated.

4.2.5 Financial Sustainability

Most NGOs continue to have high dependency upon donor funding without other fundraising alternatives. The lack of capacity in mobilization, proper utilization, and management of financial resources has left a larger part of available funding to a few big NGOs with such capacity. Moreover, many projects suited for implementation by grassroots organizations are instead implemented by international organizations, because more donor funding goes to them. According to the Tanzania Mainland Registrar of NGOs, in 2022, NGO funding increased compared to past years.

That is, less than 1 billion Tanzanian shillings was received in 2019, and over a trillion Tanzanian shillings was received in 2020, most of it going to health-related interventions. The data is based on donor contracts submitted by NGOs to the treasury in compliance to the law. However, despite the positive numbers, the actual situation on the ground was reported to be different whereby local NGOs showed concern over a decreased access to donor funding. It was also observed that donor funding has increased for NGOs which are international, based in donor countries, and/or developed countries.

In this year 2022, THRDC visited a total of 50 local NGOs (Coalition members and non-members) in the Western Zone (Katavi, Kigoma, Tabora) and the Southern Highlands zone (Rukwa, Songwe, and Mbeya). Information gathered during the visits suggested that 85% of the organizations are experiencing financial challenges. The organizations mainly operate through private income sources including membership fees which are often very low, whereas a few have been able to access donor funding for short term projects which do not address their long-term goals.

In a recent meeting convened for NGOs Directors in September 2022 by THRDC. The agenda of financial sustainability of the organizations was discussed. One donor representative expressed that donors face challenges to accommodate all types of NGOs because of their lack of capacity in financial management. That many local NGOs have difficulty with financial accountability and ensuring project value for money, and that is why donors seek to fund sub-granting NGOs instead. It was also noted that many NGOs lack specific focus, hence move according to donor interests which tend to shift from time to time. This reduces the efficiency and sustainability of project results.

Moreover, it was observed at the meeting that NGOs are yet to comprehensively tap into the private sector through corporate social responsibility schemes. NGOs expressed that many companies are reluctant to fund NGOs because of financial constraints, whereas many NGOs also do not know the language of businessmen when approaching them. Therefore, showing yet another capacity gap requiring attention.

4.3 Final Communiqué of the 2022 CSOs' Directors Annual Reflection Meeting on Financial Accountability and Sustainability of CSOs in Tanzania

In October 2022 the Coalition hosted an annual reflection meeting for more than 150 CSOs directors from across the country. This meeting was conducted along with the Annual NGO Forum as a side event, one day before the commencement of the NGOs Forum on the 2nd of October 2022 at the Morena Hotel in Dodoma.

The objectives of the meeting were: discussing and exchanging experiences on the challenges facing CSOs regarding financial accountability and sustainability; as well as to launch the Report on the Effectiveness, Challenges, and Recommendations for the Online NGOs Information System in Tanzania.

Amongst the challenges discussed were existing knowledge gap on NGOs regulatory laws and regulations including taxation laws. Amongst the efforts taken by the Coalition in addressing the challenges includes conducting capacity building sessions to CSOs and disseminating publications. One of the publications being the CSO guidelines on taxation and guidelines on the NGOs Act. Ms. Vickness Mayao Registrar of NGOs in Mainland applauded THRDC for coordinating these forums which aim at strengthening the sector, and the research team for the online NGO registration system report.

the guest of honour Mrs. Mwantumu Mahiza, Chairperson of the Board of Non-Governmental Organizations commended the Coalition's effort to host the CSO Directors meeting prior to the NGO forum to come forth with a common voice in the NGO forum. Regarding the Online NGOs Information System, she reiterated the importance of using Kiswahili language in that system to make it accessible to more users and asked the registrar's office to dully provide feedback to the users.

On financial difficulties facing CSOs in Tanzania the challenges discussed were: CSOs dependency upon donor funding without other fundraising alternatives, lack of capacity in mobilization, proper utilization, and management of financial resources, hence leaving a larger part of available funding to few big NGOs with such capacity. Moreover, many projects suited for implementation by grassroot organizations are instead being implemented by international organizations, because more donor funding is going to them.

There were two panel discussions organized at the meeting: the first panel was on Financial Accountability and Sustainability of NGOs in Tanzania: Reclaiming NGOs growth and Financial Sustainability, and the second panel was on Tax implications and Challenges affecting CSOs in Tanzania.

On the first panel the participants stated that the NGOs Act is silent on donor funding as a source of funds for NGOs. However, in 2018 there was introduction of Regulation No.609 on financial transparency and accountability to ensure transparency in funding directed to NGOs. The trend of NGOs funding in Tanzania shows that in 2019 not more than 40 funding contracts were submitted to the treasury due to many NGOs being reluctant to comply. It was observed that less than 1 billion Tanzanian shillings was received by NGOs in Tanzania. In the year 2020 800 funding contracts were assessed which showed that over 1 trillion Tanzanian shillings was received by CSOs, most programs funded being those on health issues. In 2022, the funding for NGOs increased compared to past years. However, complaints on accessing funding continue to exist among NGOs and social challenges continue to persist. Henceforth, from analysis of donor contracts submitted to the registrar of NGOs office, the trend of NGOs donor funding is increasing.

Observations at the meeting were:

- i. NGOs do not have specific focus; they move according to donor interests. This reduces their efficiency and measurability of results.
- ii. In order to reduce reliability on external donors, NGOs should also look at possible funding opportunities from internal private sector. NGOs should align their funding proposals with the sector's business interests.
- iii. Fundraising should follow adequate assessment/research on problems to be solved.
- iv. There should be a score card for determining internal NGOs fund management capacity
- v. NGOs must seek audience with donors to discuss and reach consensus on standards that coincide with the Tanzania's national context

It was then pointed out that increase in donor funding is rather for international NGOs, donor country-based NGOs, and developed country-based NGOs contrary to local CSOs which are experiencing a decrease in the funding. On this aspect the observations were the following;

- i. There should be a quota system in funding of local NGOs
- ii. Capacity building on financial resource management should be consistent and specifically targeted/defined.
- iii. CSOs should brand themselves uniquely by maintaining quality of their work.
- iv. CSOs should come up with a position paper on “Constraints of distribution of funding to CSOs sector”.

It was also observed that there is a problem with availability of data which impedes availability of accurate information on funding of the NGOs sector. It was also underscored that donor agencies are decreasing funding on shifting of their interests hence funding constraints for local CSOs. Moreover, where international NGOs restructure themselves to operate as local NGOs then they compete with the real local NGOs this greatly impedes access to funding by the local NGOs. Participants recommended that NGO funding should be done in an equitable manner and the international NGOs should normalize partnering with local NGOs in their program’s implementation.

From the donors’ point of view, it was observed that donors face challenges to accommodate all kinds of NGOs because of weaknesses in financial management capacity. That’s why they seek for sub granting NGOs. Donors wish for more NGOs accountability and project value for money. A representative from the international NGOs also pointed out that they sub-grant with the aim of capacity building more than ensuring project completion.

The CSOs directors also observed that donors are mostly unwilling to support structural costs like building of offices, many companies are reluctant to fund NGOs due to their own internal financial constraints, NGOs engagement in profit making activities as a fundraising strategy risks collision with regulators like TRA. The directors recommended that NGOs should push for sub-granting so that grassroots NGOs can also benefit and the THRDC Development Contribution strategy was commended as the best strategy in fundraising.

In the second panel on Tax implications and Challenges affecting CSOs in Tanzania there are several improvements on the system of taxation of NGOs. These include Modernization of the tax administration system to make it more automated in filing documents and returns, the 2021 Finance Act amended S.6 of the Value Added Tax Act to recognize NGOs as stakeholders in the implementation of Government projects making them qualified for some VAT exemptions, increasing the bracket for SDL tax charges from 4 to 10 employees in organizations thus increasing the number of NGOs exempted from SDL charges.

Observations

- i. NGOs with charitable status are not allowed to do non-charitable business.
- ii. TAX laws recognize trusts as entities that can be used to run non-charitable activities for the benefit of the NGO.

Prior, tax regulations were not considerate of Non-profit making institutions. This has changed with the removal of corporate tax for NGOs. However, Tax education is still scant among NGOs making many NGOs to be unable to access tax exemptions including on imported material/donations. Additionally, income generating activities within NGOs are subject to complex regulations and requirements for being treated as activities beneficial for NGOs like normal profit-making businesses. Moreover, the shift of NGOs from BRELA registration system to the NGOs Act left a lot of outstanding taxation processes that continue to be computed, hence some NGOs have found themselves with huge tax burdens. Directors recommended NACoNGO to make follow-up to TRA on behalf of NGOs.

CSO directors also observed that the TRA and the Registrar of NGOs have to communicate regarding NGOs taxation challenges. Law makers should be engaged on this matter, where an organization fails to pay annual charges to the registrar, interest charges should be decreased, and these forums should be extended to grassroots level.

4.3.1 Resolutions of the meeting.

The meeting finally came forth with the following resolutions:

- i. There should be a meeting with donors and government representatives to discuss challenges and recommendations on Financial Accountability and Sustainability of NGOs in Tanzania
- ii. Experienced NGOs and INGOs should build capacity of grassroots NGOs on resource mobilization.
- iii. NGOs should continue to provide transparent/accurate information to regulators and cooperate in analyzing the information for better planning.
- iv. A dashboard for presenting funding information should be developed.
- v. There should be a score card for determining internal NGO fund management capacity.
- vi. There should be deeper research to determine the best ways to tax NGOs.
- vii. NGOs should increase engagement with lawmakers on taxation challenges.
- viii. International NGOs should normalize partnering with local NGOs in their program's implementation
- ix. There should be a quota system in funding of local NGOs
- x. NGOs should look at possible funding opportunities from the internal private sector.

4.3.2 Operational Constraints

Funding constraints often result into operational challenges for many organizations. In the 2022 field visits, THRDC found most of the organizations visited operating on volunteering basis. This meant that most of their staff were not competent enough for their positions. For organizations which were able to build staff capacity, their staff then moved to other organizations with better pay. Moreover, some organizations were being run by members and not trained staff, while others were remotely located hence lacking visibility and networking with organizations which are better established. Hence, to address these issues, the Coalition invests great effort to reach these organizations, build their capacity, and provide them with avenues to network with bigger organizations.

Nevertheless, despite the financial and operational constraints, some local NGOs continue with their work of defending human rights and manage to reach the community. This has partly been facilitated by collaboration with local authorities. For instance, in 2022, the Mbeya Women Organization managed to reach more 4,000 youth in Mbeya, through voluntary medical outreaches and HIV education.

This was done in collaboration with the Mbeya Regional Referral Hospital. Another organization named Sauti ya Haki Tanzania operating in Tukuyu-Mbeya indirectly reaches about 50,000 people weekly on maternal and child health through two media programs, and social media platforms. Also, LICHIDE, an organization advocating for child rights and combating GBV has 50 school clubs in Rukwa region. Through the school clubs, LICHIDE has succeeded to document and address human rights violation cases that are reported by children who are part of the clubs. In promoting human rights in the regions, local NGOs continue with a high volunteerism spirit to work for the community even with funding constraints in collaboration with each other and other local stakeholders including government authorities and institutions.

4.4 Conclusion and Recommendations

From the above observations, it is evident that there is a lot that is yet to be done to address the capacity gaps challenging the work of human rights defenders in the country. It is therefore recommended that comprehensive data should be gathered about the financial situation of local NGOs for better planning to address their funding capacity. This should go hand in hand with consistent capacity building on resource mobilization and management. Regulatory authorities including the TRA should continue sensitizing HRDs on compliance with the law and legal avenues that can be to their advantage, for instance tax exemptions. Government authorities should increase cooperation with HRDs regarding access to information as this majorly contributes to improvements of the country's human rights situation; and lastly, physical, and digital security training should continue to be given to HRDs so as to promote safety in their working environment.

Chapter FIVE

THE SITUATION OF CIVIC SPACE IN TANZANIA

5.0 Introduction

This chapter analyzes in detail the situation of Civic Space in Tanzania for the year 2022. The past decade has seen increasing international recognition of civic space as a cornerstone of functioning democracies, alongside efforts to promote and protect it. Countries that foster civic space are better placed to reap the many benefits of higher levels of citizen engagement, strengthened transparency and accountability, and empowered citizens and civil society. In the longer term, a vibrant civic space can help to improve government effectiveness and responsiveness, contribute to more citizen-centered policies, and boost social cohesion.

Therefore, this chapter provides a contextual background of civic space and goes further analyze the 2022 situation of Civic Space per indicators and provide specific recommendations set to improve the working space of Civil Society Organisations in Tanzania.

5.1 Contextual background of Civic Space

Protected civic space as defined by Open Government is the set of legal, policy, institutional and practical conditions necessary for non-governmental actors to access information, express themselves, associate, organize and participate in public life.

It enables collaboration between civil society, citizens, and governments. When the fundamental civic freedoms of expression, peaceful assembly, association, and the right to privacy are protected, citizens can engage meaningfully in decision-making processes, evaluate outcomes, and hold their governments to account. Protecting civic space is thus about fostering and promoting the necessary environment in which citizens and non-governmental actors can exercise their right to participate in public affairs.

The protection of civic space comes in different forms ranging from constitutional guarantees and legislation to specific policies and practices governing key areas of public life. A thriving civic space emerges through joint efforts by a range of governmental institutions and across the public sector to protect civic freedoms and foster substantive opportunities for civic engagement. However, while the essence of these rights remains static, their scope and implementation evolve and need to be recast over time. While societal change and technological innovation have invigorated civic space in many countries, they have also contributed to the emergence of new pressures and threats to human rights defenders.

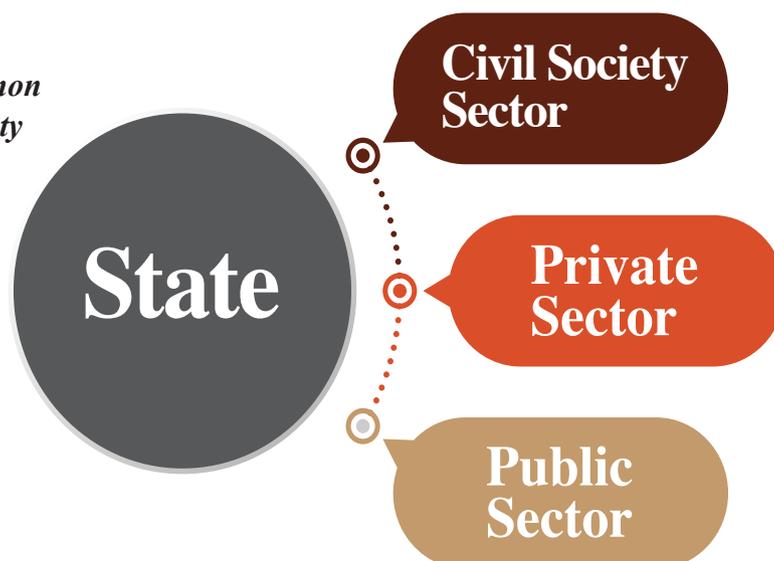
The acceleration of the digital transformation due to the pandemic, for example, presents a new set of opportunities as governments expand the scope of virtual participation for citizens. At the same time, this shift poses challenges to freedom of expression, as governments grapple with countering online threats. Traditional notions of freedom of assembly and association have become more complex with the global reach of today's online activism and the shift away from formal organisations towards informal social movements. Similarly, the right to privacy has to be balanced against governments' security imperatives and the growing pervasiveness of technology in everyday life. As always, context matters: countries where the rule of law and civic freedoms are respected, with strong oversight mechanisms and a long-standing commitment to democracy, are better equipped to provide an enabling environment for civic space and civil society than countries with less established institutions and protection mechanisms.

By promoting and protecting civic freedoms and providing concrete opportunities for collaboration with citizens and civil society, governments can better align services, policies, and laws to societal needs. Ensuring a healthy civic space, both on and offline, is thus a prerequisite for more inclusive governance and democratic participation more broadly. Countries that commit to fostering civic space at both the national and local levels reap many benefits: higher levels of citizen engagement, strengthened transparency and accountability, and empowered citizens and civil society. In the longer term, a vibrant civic space can help to improve government effectiveness and responsiveness, contribute to more citizen centered policies and programs, boost social cohesion, and ultimately increase trust in government.

Crucially, to realize these benefits, sustained efforts are needed, coupled with ongoing monitoring to detect, and counter any constraints, given the centrality of civic space to democratic life. It is with need, THRDC produces an annual report of Civic Space situation every year to highlight the degree to which Tanzania protects or shrinks its civic space as a strong gauge of democratic governance.

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

Figure 5.1.1: Three Common Sectors in a Modern Society



5.1.2 Indicators of the Space of Civil Society

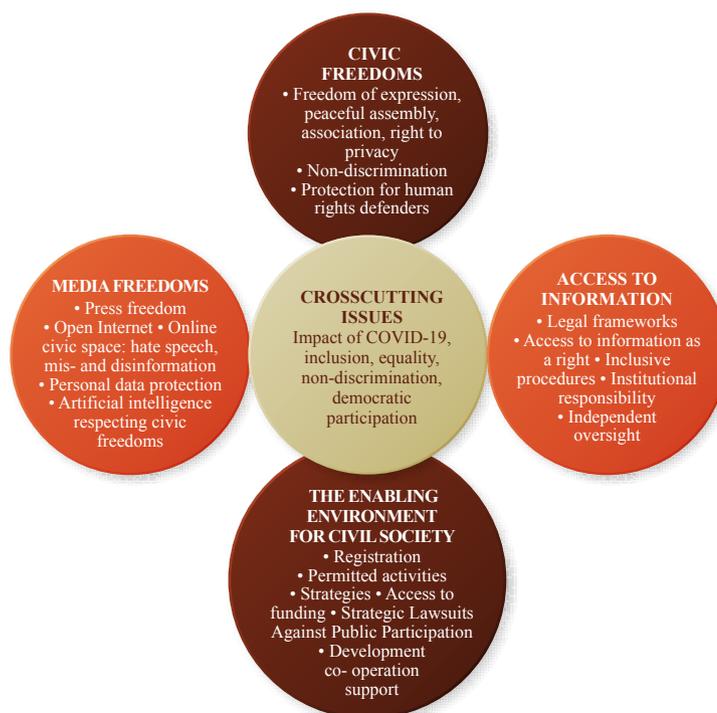
In measuring the space of Civil Society various indicators are used to see whether the space is improving or shrinking. These indicators are as follows.

- 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);
- 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).

Figure 5.1.2.1.
An illustration of indicators for Civil Society space



Figure 5.1.2.2:
an overview of the dimensions of civic space



5.2 Critical analysis of the Civic Space in Tanzania

There have been some positive developments of civic space since President Samia Suluhu Hassan took office in 2021. For example, the government released some political prisoners and allowed opposition parties to hold public meetings. For the past two years, human rights situation in Tanzania has improved through opening civic space, strategic engagements with Human Rights Defenders (HRDs) and reformation of the criminal justice system in the country. President Samia has declared to revive the constitutional making process which stopped in 2016. On civic space, majority of HRDs/CSOs are able carry out their duties with certain level of freedom and security comparing to three years back.

The Government of the United Republic of Tanzania declared to rejoin the Open Government Partnership (OGP) as a platform to continue improving Democracy, Human Rights and Good Governance in the country. Tanzania was a member of OGP from 2011 to 2017 when the renounce itself from the platform.

Regardless of this positive progress, there are some few recorded incidents related to violation of rule of law, political rights, freedom of assembly, freedom of expression and criminal justice in 2022.

This part provides an analysis of the situation of civic space in Tanzania for the year 2022 based on its indicators including freedom of assembly and association; freedom of information and expression; human rights and rule of law, civic participation, and Non-Discrimination.

5.2.1 Freedoms of Information and Expression

The right to freedom of expression and access to information is constitutionally guaranteed and regulated by Principal legislations such as the Media Services Act and the Access to Information Act. Having assumed the highest leadership position in the country on March 19, 2021, Hon. President Samia Suluhu Hassan carried an agenda of free flow of information and press freedom on her shoulders.

The operating context on the right to freedom of expression and access to information in Tanzania has generally improved despite of the legal challenges as explained under chapter three of this report. There has been lifting of ban for newspapers such as Mseto, Mawio, MwanaHalisi and Tanzania Daima newspapers.

During the commemoration of the World Press Freedom Day 2022, Hon. Samia Suluhu Hassan when delivering her speech promised that the government would review the media laws to promote press freedom in the country. She promised further that her government will be having continuous dialogues with media stakeholders following complaints that the laws were draconian and hamper media development in Tanzania.

Since then, the Ministry of Information, Communication, and Information Technology has been convening meetings with media stakeholders to discuss challenges facing press freedom in Tanzania with the view of resolving them. Amongst the challenges are existence of restrictive laws like the Media Services Act of 2016, Online Content Regulations of 2020 etc. The Minister has tabled a Bill before the National Assembly proposing amendments to the Media Services Act, however, there are only slight amendments compared to the existing provisional challenges. For example, the directives of the East African Court of Justice in reference number 10 of 2017, THRDC, LHRC and MCT versus the Attorney General where the court ordered amendment of 14 provisions has not been reflected in the proposed amendments.

Therefore, the great challenges on freedom of expression in Tanzania at the moment are existence of restrictive laws, unwillingness of the government to implement court decisions in accordance with international standards on freedom of expression.

5.2.2 Human rights and Rule of Law

Human rights are the natural and fundamental rights that every human being is entitled to because of being human. Human rights and fundamental human rights are enshrined under Article One, Part Three (Articles 12-29), of the Constitution of the United Republic of Tanzania of 1977. Human rights enshrined in this Part of the Constitution include the right to equality. human rights (Article 12), the right to equality before the law (Article 13), the right to life and existence (Article 14), the right to personal freedom (Article 15), the right to privacy and personal security (Article 16), the right to work (Article 22), the right to a fair wage (Article 23), and the right to own property (Article 24).

In addition, Part Three of Chapter One of the Constitution lists and protects human rights including the freedom of movement (Article 17), freedom of expression (Article 18), freedom of belief in religion (Article 19), the freedom of the individual to interact with others (Article 20), and the freedom to participate in public affairs (Article 21). Human rights and freedoms go hand in hand with important human rights which include the duty to participate in the work (Article 25), the obligation to obey the laws of the land (Article 26), the duty to protect public property (Article 27), and the duty of National Defense (Article 28).

Pursuant to Article 33 (2) of the Constitution of the United Republic of Tanzania, the President shall be the Head of State, the Head of State and the Commander in- Chief of the Armed Forces. Moreover, in accordance with Article 34 (3), all the powers of the Government of the United Republic on all matters relating to the Union and those relating to Mainland Tanzania shall be ‘in the hands of the President of the United Republic of the United Republic.’ Among the authority of the Government of the United Republic is the ‘implementation and protection of the Union’s Constitution’ (Article 34 (2)).

Since human rights, freedoms and responsibilities are part of the Constitution of the United Republic, it is the responsibility of the Government of the United Republic to ensure the implementation and protection of these rights, freedoms, and responsibilities. And since the President is the Head of State, the Head of State, and the Commander-in-Chief of the Armed Forces, he has the highest responsibility to ensure that human rights, freedoms, and responsibilities are protected and protected in accordance with the Constitution of the United Republic.

On this basis the President of the United Republic of Tanzania is constitutionally the number one defender for human rights. Other defenders such as human rights organizations and individuals are constitutionally auxiliary defenders. Based on this logic when the President of a country fails to embody the image as a human rights defender it is very easy for the Nation to find itself engulfed in a huge wave of serious human rights violations. This analysis has been able to fathom Hon. Samia and found that she has been able to embody these responsibilities fully in a very short time, her biggest challenge is about the sustainability of this image that she currently has. In that sense, in order to be the best President of any nation, including Tanzania, one must have the experience, understanding, and commitment to human rights.

Her. Excellency Saima’s love and humility in respecting and protecting human rights is shaped by her attitude and belief in human rights. Through her history, her profile, her understanding, her frequent

utterances and perhaps due to her background, Hon. President Samia has clearly shown that she has a positive attitude towards human rights. Tanzania within two years has managed to do well in protecting and respecting the rights of the citizens and good governance because of having a Head of State with a positive attitude towards human rights, the rule of law and good governance.

On 16th February 2022 President Samia Suluhu Hassan and leading opposition figure Hon. Tundu Lissu held brief discussions in Brussels, Belgium. Hon. Lissu who is the Vice Chairman of opposition political party Chadema had made prior requests to meet the Head of State who is also the chairperson of the ruling party- CCM. According to a statement issued by the Director of Presidential Communications, Zuhura Yunus, the discussions, albeit brief, focused on pertinent issues. “During their talks the two discussed various issues of interests to the welfare of the United Republic of Tanzania,” reads the statement in part.

Lissu went into exile in Belgium after an attempt on his life seven years ago. He, however, was back in Tanzania to run for the 2020 presidential election and emerged second after the then incumbent John Pombe Magufuli. He later went flew back to Belgium at a time when many opposition figures also fled Tanzania, saying their lives were in danger.

Samia has lately been implementing reforms seen to overhaul some of her predecessor’s decision, including overturning punitive orders against the media and assuring the opposition of better working relations.

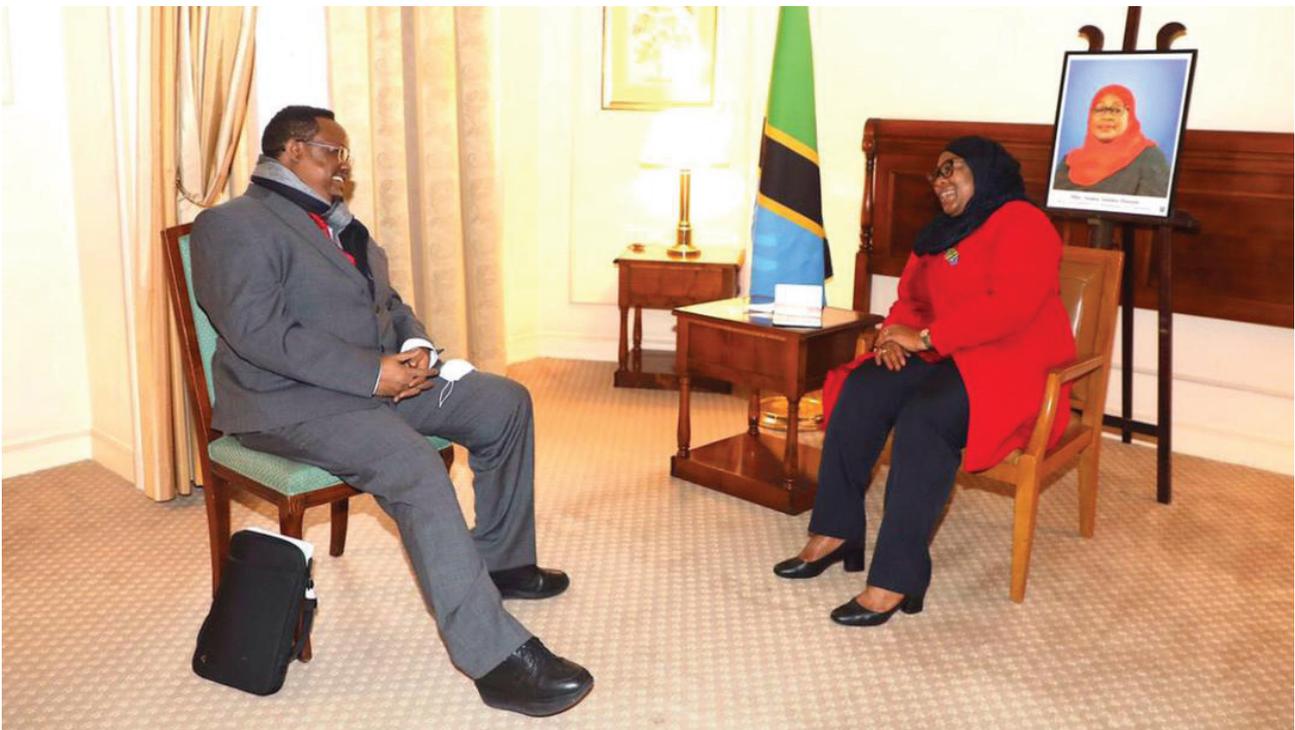


Photo 5.2.2.1: Hon.President Samia Suluhu Hassan with Hon. Tundu Lissu

Further, President Samia Suluhu Hassan on Friday March 4 met Chadema national chairman Freeman Mbowe at the State House in Dar es Salaam a few hours after he was released from prison after more than 200 days. The State House statement stated that President Samia spoke to Chadema chairman on the importance of working together to build Tanzania with mutual trust and respect on the basis of justice.

Mbowe on the other hand thanked President Samia for showing concern while acknowledging that the main basis for building Tanzania basing on justice. In the statement, Mbowe is quoted saying that they had agreed to conduct civilized politics and that he was ready to work with the Government to bring about development.



Photo 5.2.2.2 Hon. President Samia Hassan with Hon. Freeman Mbowe

Across the world the countries that that have poorly performed in the area of human rights and good governance have been largely influenced by the beliefs and negative attitudes of the leaders of those countries on human rights. Hon Samia in this area has been clearly seen as a leader with a positive attitude in the area of human rights. Human rights defenders in this country rely heavily on the will and attitude of the President to carry out their advocacy work more freely.

5.2.3 Freedom of Association and Assembly

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

Political rallies were banned in 2016 by the 5th President John Maguli with the view of eliminating opposition political parties in Tanzania before the 2020 general election. After the 2020 general election President Magufuli passed away in early 2021 hence President Samia Suluhu Hassan took over the position of presidency in the country. She has recently lifted the ban of political rallies in the country. She has been applauded for lifting the ban of political rallies in the country. To date opposition political parties have been conducting rallies freely without any unreasonable restrictions.

5.2.4 Enabling Environment for Civil Society Organisations

Enabling environment for civil society' refers to the political and policy context created by governments, donors and other actors that affect the ways civil society actors might carry out their work.

5.2.4.1 Legal and Policy Environment

Tanzania has no legislation that aims at the protection of human rights defenders (HRDs). Efforts have been made by Defenders Coalition (THRDC), but no progress has been made within the national legislation. THRDC has been working hard to create a National Policy for HRDs. The THRDC also advocated for the inclusion of an article for the protection of HRDs in the new Constitution, drafted in 2013. This initiative was, however, dropped when elected members who supported the proposal left the National Assembly after the 2015 elections. In mid-2021, after the change of government, conversations resumed, but there is no major development in the process.

Tanzania is also monitored by the Universal Periodic Review (UPR). In the UPR report of 2021 [Tanzania accepted and supported six recommendations aiming at ensuring the human rights of HRDs, combating impunity and amend legislation that restricts HRDs in their fundamental freedoms. Tanzania adopted its final UPR recommendations on 23rd March 2022 and the government noted recommendations (no. 147.76 to 147.105) which are in line with Tanzania's constitutional and international obligations. Tanzania announced to consider amending legal provisions affecting CSOs/HRDs operations in Tanzania and improving other frameworks governing human rights. There are currently no concrete steps taken towards the implementation of these recommendations.

5.2.4.2 CSOs Engagement and Participatory rights

In 2022, CSOs engagement and participation in various government intervention contributing to National Development plans continued. We have witnessed an increase of human rights organisations in Tanzania both Mainland and Zanzibar engaging.

a. Effectively engaged with Government Organs on issues affecting CSOs participation in supporting and complementing National Development Plans.

Since 2021, CSOs sustained its engagement with government apparatus to strengthen policy influence and advocacy engagements at all levels for HRDs' safety. Three top government officials such as the President of United Republic of Tanzania; President of Zanzibar and The Prime were engaged to reinforce dialogue aimed at identifying avenues recognition and protection of HRDs in the country; collaboration in implementation of national development plans to influence positive changes; and Human Rights promotion and Protection Generally. For the First time, Her. Excellency Samia Suluhu Hassan was the first President in Africa to attend HRDs event on May 13, 2023, as the Guest of Honor during the THRDC's 10th Anniversary.

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

The government both Tanzania mainland and Zanzibar has committed to reforms laws and regulation in line with CSOs needs to foster an enabling environment for the CSOs sector to operate and contribute to national development. This grounds the scale up of THRDC next five years of the 3rd strategic plan (2023-2027) aiming at improving the working environment Civil Society through widening civic space and strengthened CSO sector.



Photo 5.2.4.2.1: The President of the United Republic of Tanzania H.E. Samia Suluhu Hassan with the Minister of Constitutional and Legal Affairs Dr. Damas Ndumbaro, Chairperson of the THRDC Board of Directors Retired Judge Joaquine De Mello along with THRDC Secretariat in a joint photo immediately after her speech on May 13, 2022.



Photo 5.2.4.2.2: The President of Zanzibar and Chairperson of Revolutionary Council, His Excellency Dr. Hussein Ali Mwinyi (in the middle) holds the Judiciary Needs Assessment Report shortly after launching it. Other special guests at the high table includes Hon. Hamis Ramadhani Abdallah, Chief Justice of Zanzibar; the Minister of Constitutional and Affairs, Public Service and Good Governance, Hon. Haroun Ali Suleiman; Urban West Regional Commissioner Hon. Idrissa Kitwana Mustafa; THRDC Board Chair Hon. Rtd. Judge Joaquine De Mello; The President of African Court Lady Justice Imani Aboud; THRDC National Coordinator Advocate Onesmo Olungurumwa; THRDC Zanzibar Coordinator Mr. Abdalla Abeid.

b. Reflection on legal compliance and Financial Accountability for Grassroot NGOs in Tanzania.

THRDC in collaboration with the Office of Non-Governmental Organisation's Registrar and National Council of NGOs (NaCoNGO) conducted a reflection meeting on legal compliance and accountability to about 150 CSOs directors from across the country. This meeting was conducted along with the Annual NGO Forum as a side event, one day before the commencement of the NGO Forum on the 2nd of October 2022 at the Morena Hotel in Dodoma.



Photo 5.2.4.2.3: A group photo of participants of the meeting “Financial accountability and sustainability of NGOs” on 2nd October 2022 at Morena Hotel Dodoma.

The event was an opportunity to discuss financial challenges and spaces for sustainability of local NGOs in Tanzania. The Coalition in collaboration with the Office of NGO has utilized this opportunity to launch the Report on the Effectiveness, Challenges and Recommendations of the NGOs Information Management System.

The CSOs Directors reflection meeting finally deliberated the following resolutions:

- xi. There should be a meeting with donors and government representatives to discuss challenges and recommendations on Financial Accountability and Sustainability of NGOs in Tanzania
- xii. Experienced NGOs and INGOs should build capacity of grassroot NGOs on resource mobilization.
- xiii. NGOs should continue to provide transparent/accurate information to regulators and cooperate in analyzing the information for better planning.
- xiv. A dashboard for presenting funding information should be developed.
- xv. There should be a score card for determining internal NGO fund management capacity.
- xvi. There should be deeper research to determine the best ways to tax NGOs.
- xvii. NGOs should increase engagement with lawmakers on taxation challenges.
- xviii. International NGOs should normalize partnering with local NGOs in their program's implementation.

- xix. There should be a quota system in funding of local NGOs.
- xx. NGOs should look at possible funding opportunities from the internal private sector.

The government of Tanzania through the Ministry of Community Development, Gender, Women and Special Groups has adopted these 10 resolutions and currently, the government is in the process of separating the operationalization of the Office of NGO as independent entity for effective provision of services to NGOs in Tanzania.

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

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

In 2022, THRDC with affiliate organizations sustained its engagement at regional and international levels to influence the global agenda for HRDs, primarily at the UN Human Rights Council (UNHRC) and the African Commission on Human and Peoples' Rights (ACHPR). The major objective for these interventions is to strengthen policy influence and advocacy engagements at the global, African, sub regional, and national levels for HRDs' safety.

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

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

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

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



Photo 5.2.4.2.4: Solicitor General of the Gambia Mr. Husainou Thomas and H.E Commissioner Remy Ngoy Lumbu, Chairperson, African Commission on Human and Peoples' Rights (ACHPR) at the middle with other delegates of the 73rd NGO Forum at the Sir Dawda Kairaba Jawara International Conference Center Banjul on 17th October 2022

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

5.2.4.3.2 Resolution Passed by NGO Forums of the 73rd Session of the African Commission on Human and Peoples Rights on the Republic of Tanzania

1. The African commission to condemn the various human rights violations committed in the country and the continued repressions of human rights defenders especially on-going incidents in Ngorongoro and Loliondo.
2. The African commission to urges the government of Tanzania to take measures to release the Maasai leaders and other Human Rights Defenders charged with murder of the Police officer in Arusha as they have been held under detention for more than three months now without the investigation being completed.
3. Initiate prompt, impartial, and effective investigations into the alleged human rights violations in Ngorongoro and Loliondo and ensure that the perpetrators are held accountable and subjected to appropriate sanctions.
4. To urge the Government of Tanzania, to invite the African Commission and UN Special Mandates to undertake a special mission to the United Republic of Tanzania specifically in relation to human rights violations in Ngorongoro/Loliondo.

5. To reinstate the reservation under Article 34(6) Protocol to the African Charter on Human and Peoples' Rights to allow citizens of Tanzania and HRDs to access the African Court situated in their country.
6. Urge the government of Tanzania to amend and laws curtailing freedom of assembly including the Constitutional provisions related to election and election laws and establish an independent electoral commission before the next general election. This establishment should take concerns of citizens, CSOs and other key stakeholders in the independent electoral management bodies.
7. The African commission to urge the government of Tanzania to allow political rallies to all political parties including opposition parties, public meetings and protest guaranteeing the freedom of assembly without coercions.
8. The government of Tanzania to conduct wider community consultation for the purpose of inviting human rights-based approaches on any government plan to protect conservation areas.
9. The Commission urges the government of Tanzania to take measures to eliminate discrimination and violence against women and children including child marriage, Female Genital Mutilation (FGM), Child Molestations and violence against children generally. The Commission urge the government to use The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and United Nations Convention on the Rights of the Child as guidelines in making an effective strategy to prevent and eliminate violence against women and children.
10. THRDC and its affiliate organization commends initiatives of the Government of Tanzania to implement these resolutions especially resolution no 2. *“The African commission to urges the government of Tanzania to take measures to release the Maasai leaders and other Human Rights Defenders charged with murder of the Police officer in Arusha as they have been held under detention for more than three months now without the investigation being completed.”*

The government through the Office of Director of Public Prosecution (DPP) dropped the Maasai leaders' case on 22 November 2022 as recommended under ACHPR resolution 2. THRDC will continue following the implementation of the remaining 8 resolution and recommendations to the government of Tanzania.

5.2.4.4 Civil society space at International (UN) Level

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

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

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

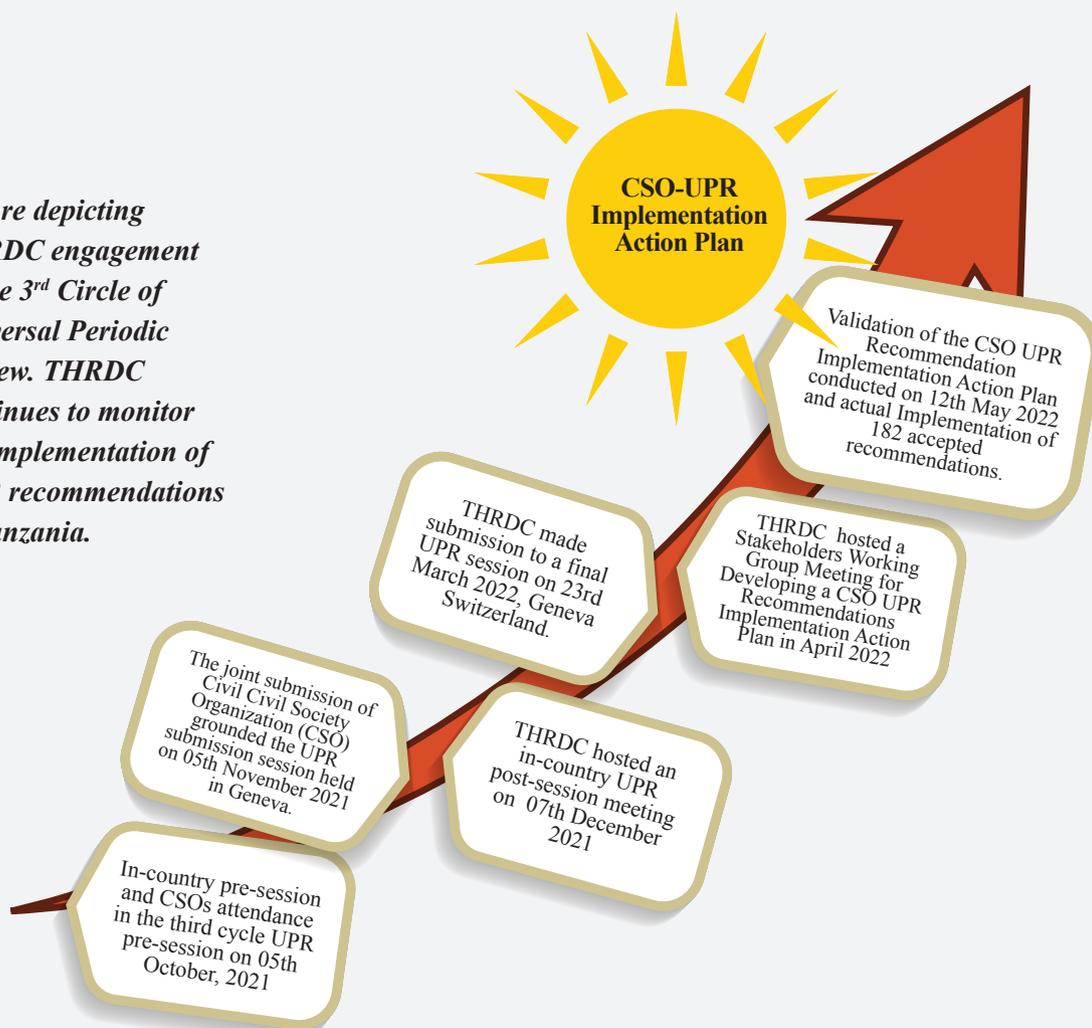
Consultative status provides NGOs with access to not only ECOSOC, but also to its many subsidiary bodies, to the various human rights mechanisms of the United Nations, ad-hoc processes on small arms, as well as special events organized by the President of the General Assembly.

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

5.2.4.5 Sustaining Universal Periodic Review Monitoring and Implementation

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

Figure depicting THRDC engagement in the 3rd Circle of Universal Periodic Review. THRDC continues to monitor the implementation of UPR recommendations to Tanzania.



On March 23, 2022, a final UPR session on the United Republic of Tanzania took place in Geneva Switzerland. At the session, Tanzania gave its final position regarding the recommendations. Tanzania increased the number of accepted recommendations from 108 to 187 (20 being partially accepted) out of 256 recommendations.



*THRDC National Coordinator Advocate Onesmo Olungurumwa (third from left) with the Minister of Constitution and Legal Affairs Hon. George Simbachawene, Ambassador Hoyce Temu-Permanent Representative, Tanzania Mission to the **FUIGNUiRnEGI** Geneva with other delegates' during the final UPR session on the United Republic of Tanzania in March 2022. THRDC made Joint Statement delivered*

5.2.4.6 Global Campaign for Human Rights Defenders with Disability by UN Special Rapporteur on Human Rights Defenders

Mary Lawlor • 3rd+
UN Special Rapporteur on Human Rights Defenders. Adju...
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"Apart from the risks that the general community of human rights defenders face, we also face unique risks. It's difficult not to say that I live in fear," says Woman Human Rights Defender, **Perpetua Senkoro**, from **TANZANIA HUMAN RIGHTS DEFENDERS COALITION (THRDC)**, #Tanzania.

In Episode 1 of the "Breaking Barriers" series, Perpetua calls on **#HumanRightsDefenders** with disabilities to unite, and speak with one voice.

Learn more about human rights defenders with **#disabilities** and read the UN joint statement about their work, challenges and successes here: srdefenders.org/disability

THRDC participated in a global campaign by *Mary Lawlor*, UN Special Rapporteur on Human Rights Defenders to highlight and address specific additional risks and challenges faced by human rights defenders with disabilities and build a series of guidelines for their better inclusion into civil society, at Government consultations, and other arenas.

Ms. Perpetua Senkoro; THRDC focal person in Disability Rights contributed to "Breaking Barriers" a series initiated to have open and honest discussion about disability rights. THRDC calls HRDs with disability to unite and speak with one voice, embrace themselves with their challenges, finding the right tools to learn to use them as a source of strength and power.

5.2.4.7 High Level Regional and International Meetings

i. Southern Africa Human Rights Defenders SUMMIT Biannual General Assembly



THRDC participated in “Southern Africa Human Rights Defenders SUMMIT Biannual General Assembly” held in Lusaka Zambia from today 28th 30th November 2022. The summit aimed at discussing ongoing human rights challenges and the need to strengthen institutions that are meant to defend democracies at both domestic and regional level.

The theme of the summit was “*A Journey to Sustainability: Protecting Civic Space through Strengthening Institutions for and Networks of Environmental and Human Rights Defenders in Southern Africa.*”

From THRDC, the National Coordinator Advocate Onesmo Olungurumwa participated in a panel of discussion speaking on “*Building Institutions to Protect Human Rights Defenders and Civic Space*”

Civil society is instrumental in the realisation of the Sustainable Development Goals seeking to promote peaceful and inclusive societies by, inter alia, developing effective, accountable, and transparent institutions at all levels; ensuring responsive, inclusive, participatory, and representative decision-making; and ensuring public access to information and protecting fundamental freedoms.

ii. Dublin Platform for Human Rights Defenders

THRDC participated in Dublin Platform for Human Rights Defenders from 26th - 28th October 2022. THRDC was able to meet with UN special rapporteur on human rights Defenders Mary Lawlor, Frontline Defenders Executive Director Mr. Andrew Andreson and other human rights defenders. The platform was an opportunity to share strategies for advocacy and protection, build solidarity with colleagues around the world, and network with high-level decision makers from governmental and intergovernmental bodies.

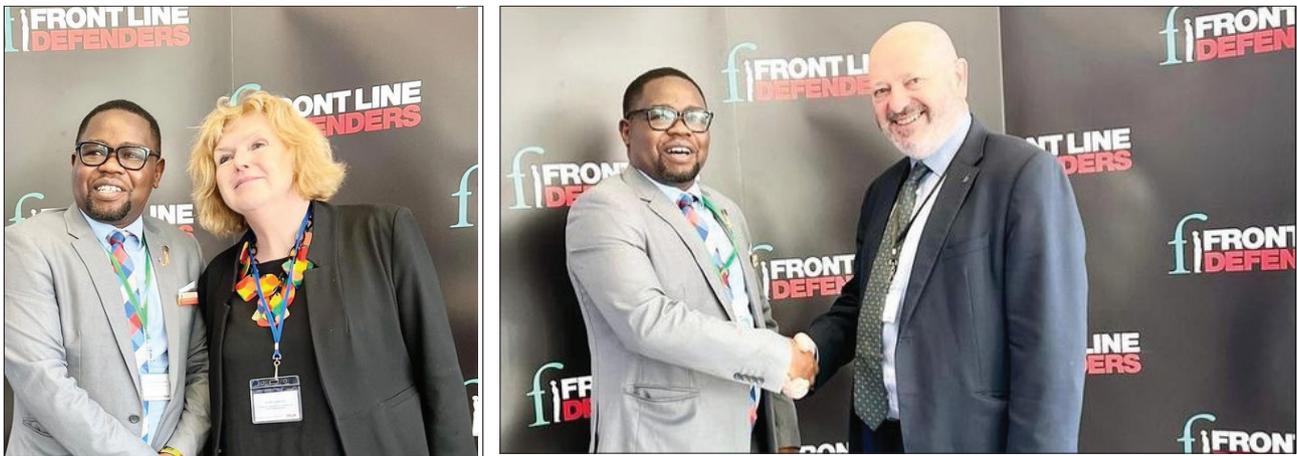


Photo 5.2.4.7.1: From left is the THRDC's National Coordinator Mr. Onesmo Olungurumwa with UN special rapporteur on human rights Defenders Mary Lawlor and the Frontline Defenders Executive Director Mr. Andrew Andreson during the Dublin Platform.

iii. Open Government Partnership (OGP 2022) Meeting in Marrakech

THRDC attended the Open Government Partnership (OGP2022) African and Middle East Regional Meeting in Marrakesh, Morocco from 1st to 3rd November 2022. The platform provided an opportunity to share information and provide mutual advice on using the OGP process to promote civic space reforms. Other participants including delegates from States, CSOs and Members of the Parliaments.

The meeting provided an outstanding opportunity to meet with other civil society and government leaders from the regions, and to participate in sessions addressing a broad array of open government topics, from civic participation, anti-corruption to digital innovation. In particular, the meeting was an excellent forum to push for Tanzania's re-engagement in the OGP process, advance civic space, and access to Justice reforms.

Tanzania Joined OGP in 2011 and withdrew in 2017 after remarkable achievements in all five areas of OGP focus. Tanzania stands on the right direction to meet the rejoining criteria given the ongoing legal reforms and the political will of President Samia to reposition Tanzania back to key regional and international engagements.

On 10th December 2022, THRDC submitted an open letter to the President of the United Republic of Tanzania, Her Excellency Dr. Samia Suluhu Hassan on Open Government Partnership (OGP). Tanzania joined OGP in 2011 and withdraw in 2017. In their letter, Human Rights Organization are advising the Government of Tanzania to join OGP as a platform to secure concrete commitments from national and sub-national governments to promote open government, empower citizens, fight corruption, improve public service delivery, Government responsiveness, building greater trust and the culture of human rights.

5.3 Achievements

a. Government commitment to strengthen Grassroot NGO in Tanzania.

The government through the Ministry of Community Development, Gender, Women and Special Groups, Dr. Dorothy Gwajima has committed to strengthen Grassroots NGO through the office of NGO registrar.

- i. The Tanzania Revenues Authority has committed to collaborate with other stakeholders in conduction of research to determine the best way to tax NGOs.
- ii. The ministry of Community Development, Gender, has adopted 10 deliberative resolutions to resolve challenges affecting local NGO on financial sustainability.
- iii. Adoption of the recommendations of NIS report including the government is in the process of separating the operation of the Office of NGO registrar as an independent entity to strengthen and improve its operation.

b. *Separation of the Office of the Registrar of NGOs as an independent entity*

The report recommended separation of the operationalization of the Office of NGO Registrar as an independence entity for effective operation. this recommendation was presented to the Prime Minister Hon. Kassim Majaliwa during the 2022 NGO Forum. The government is currently in the process of establishing the Office of NGO Registrar as an independent entity. This will increase the operationalization of this office and create a friendly reporting system of NGO reports in Tanzania.

c. *Adoption of Zanzibar Judiciary Needs Assessment Report for Improved Access to Justice*

The President of Zanzibar, His Excellency Dr. Hussein Ali Mwinyi launched Zanzibar Judiciary Needs Assessment Report 2022. The report identifies institutional capacity gaps and recommends for further reforms to improve its efficiency in justice dispensation and eventually the respect of human rights in Zanzibar. This is an inspiration to key stakeholders to take responsive measures towards reforming the Judiciary Zanzibar for improved access to justice in the isles.

“We will make use of this report to prepare a five-year Strategic Plan for the Judiciary which will be the right compass for the improvement of Zanzibar’s Judiciary. This report contains some issues which will be prioritized, moreover, there are certain issues whose implementation will be delayed due to financial constraints, but the overall aim is to forge ahead with them all to bring better services to the people” said Zanzibar’s Chief Justice Khamis Ramadhan Abdalla.

d. *Recognition of Human Rights Defenders’ Work in Human Rights Protection and National Development Plans.*

Both the President of United Republic of Tanzania and Zanzibar have recognized great contribution of human rights defenders and contributing to national development.

“You have earned trust from the government, no wonder you have grown to this level. There is no institution that doesn’t want human rights. We are very pleased to have people who can support us in protecting human rights. You still have so much to do, organize yourself, the government is there to support you,” H.E Dr. Samia Suluhu Hassan, President of the United Republic of Tanzania.

“You have been important partners in fighting gender-based violence, sexual harassment, children molestation and humiliation here in Zanzibar. The government is very satisfied with your efforts. We will continue to collaborate with various stakeholders, including civil society organizations, to address existing and emerging challenges in achieving our development plans”. H.E, Dr. Hussein Mwinyi, President of Zanzibar.

- e. *The African Court emphasizes on respect of Human Rights and Rule of law as integral aspects of democracy.*

“The needs assessment report launched today serves as incredibly tool towards decision making, resource allocation and ultimately reaching to programmatic goal to improve access to justice in Zanzibar. Access to justice and rule of law are important in democratic governance.

The primary responsibility of protecting these values lies to the court. The judiciary as an independent should collaboration with the government and other stakeholders including the civil society organizations”.

- f. *Release of Maasai Leaders and other Human Rights Defenders charge with Murder in Arusha*

The government through the Office of Director of Public Prosecution (DPP) dropped the Maasai leaders’ case on 22 November 2022 as recommended under ACHPR resolution two. THRDC will continue following the implementation of the remaining 8 resolution and recommendations to the government of Tanzania.

Resolution no 2. *“The African commission urges the government of Tanzania to take measures to release the Maasai leaders and other Human Rights Defenders charged with murder of the Police officer in Arusha as they have been held under detention for more than three months now without the investigation being completed.”*

- g. **Government Commitment to re-join OGP**

Our President, H.E Dr. Samia Suluhu Hassan confirmed Tanzania to rejoin OGP when addressing the Democracy Summit on 29/03/2023.

“The United Republic of Tanzania will continue supporting democracy, human rights and good governance at home and abroad, and we are looking to the issue of returning to the Open Government Partnership (OGP) at the earliest opportunity.....Democracy can only thrive where human rights are respected, and rule of law is observed. Our government has then given high priority [to] the promotion of human rights in the country and restriction to the enjoyment of human rights have been removed.” H.E Dr. Samia Suluhu Hassan in Her remarks when addressing the Summit for Democracy 2023 on 29th March 2023.

It is an indisputable fact that this commitment carries the essence and authenticity of our President's 4Rs ideology including *Rebuilding* and *Reforms*. *Reforms* to make changes where necessary pushing things forward and *Rebuilding* by looking at the existing challenges, working on them and moving forward in pushing our development agenda. We commend government initiatives towards positive changes in Tanzania. Good governance, rule of law and respect to human rights are the foundations of development for any country in the world. We as human rights defenders, our role is to promote human rights, condemn violations and advise the government in various matters for the best interest of the people. Rejoining the OGP is a step towards strengthening rule of law, respect for human rights and good governance.

5.4 Best Practices and Lessons Learned

The best practices which could be of a lesson to other grantees.

- i. With the current legal and practical challenges affecting the space of Civil Society Organizations (CSOs), organizations should continue to engage Government Ministries, and government departments as part of advocacy strategies. The affirmation of the new President, Her Excellency Samia Suluhu Hasan, there is an avenue for CSOs to engage with the government for reforms. This was insisted too by the President on the commemoration of the 10th anniversary of the Tanzania Human Rights Defenders Coalition in May 2022. Previous the Government was reluctant to collaborate with CSOs especially human rights organizations were labeled as opponent of the government through various strategic engagement meetings coordinated by THRDC in collaborations with other CSOs organizations, recently the government positively has been recognizing CSOs contribution to national development and currently, the government is engaging with CSOs including human rights organization in national development plans, decision making processes i.e law making and budget. For example, THRDC engages with the Parliament, Judiciary, Ministries, Human Rights Institution, and other state apparatus for recognition of HRDs, reform and enactment of laws, frameworks, plans, and policies related.
- ii. We have learned that most of the immediate graduate journalists from different universities in Tanzania do not have enough capital for registering and paying fees for running an online Televisions/media. That is why most of them are being arrested and arraigned in court for providing online content without license from the Tanzania Communications Regulatory Authority. THRDC will keep engaging more with the government to ensure that the registration and annual fees for online Television in Tanzania are removed and other restrictions to press freedom or freedom of expression are eliminated.
- iii. Following the enactment of the Written Laws (Miscellaneous Amendments) Act No 03 of 2020 which abolishes Public Interest Litigation in Tanzania some of the PIL cases are increasingly being struck out at preliminary stages. THRDC will keep and maintain engagement meetings with the government and responsible ministries and the office of the attorney general to ensure that the law is amended progressively.

Chapter SIX

CONCLUSION AND RECOMMENDATIONS

6.0 Conclusion

The 2022 Tanzania Human Rights Defenders situation report indicates that HRDs in the country still operate under unsafe legal environment and therefore making their work to a certain level difficult. The report indicates that HRDs are continuously detained, maliciously prosecuted, convicted, harassed because of their work as human rights defenders especially land rights defenders in pastoralists areas like Loliondo and Ngorongoro. It further shows the state of civic space in Tanzania with improvement since the swearing in of the 6th phase government, there are improvements on political rallies and other relevant gatherings by civil society organisations. There are challenges on non-respect of the rule of law, non-independence of the judiciary.

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

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

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

6.1 Way Forward

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

- Encourage the law reform to enable HRDs gain legal recognition such as the Human Rights Defenders Policy /law and thus become part and parcel of the governing structure. This will help in bridging the gap between them with the government functionaries a good of who perceive defenders negatively.

- Strengthen the Human rights lawyers working group by building more capacity through training on human rights and strategic litigation, to provide legal aid and protection to HRDs.
- Increase protection and emergency funds to avoid delays in the provision of services to affected HRDs.
- Continue to advocate for the amendment of the restrictive laws as evaluated in chapters 3 and 4 of this report that have been identified as a stumbling block towards the work of HRDs in Tanzania.
- Conduct thorough media campaigns and change of behaviour 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.
- Increase engagement with the National Human Rights Institution (CHRAGG)

6.2 Recommendations

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

6.2.1 Recommendations to Human Rights Defenders

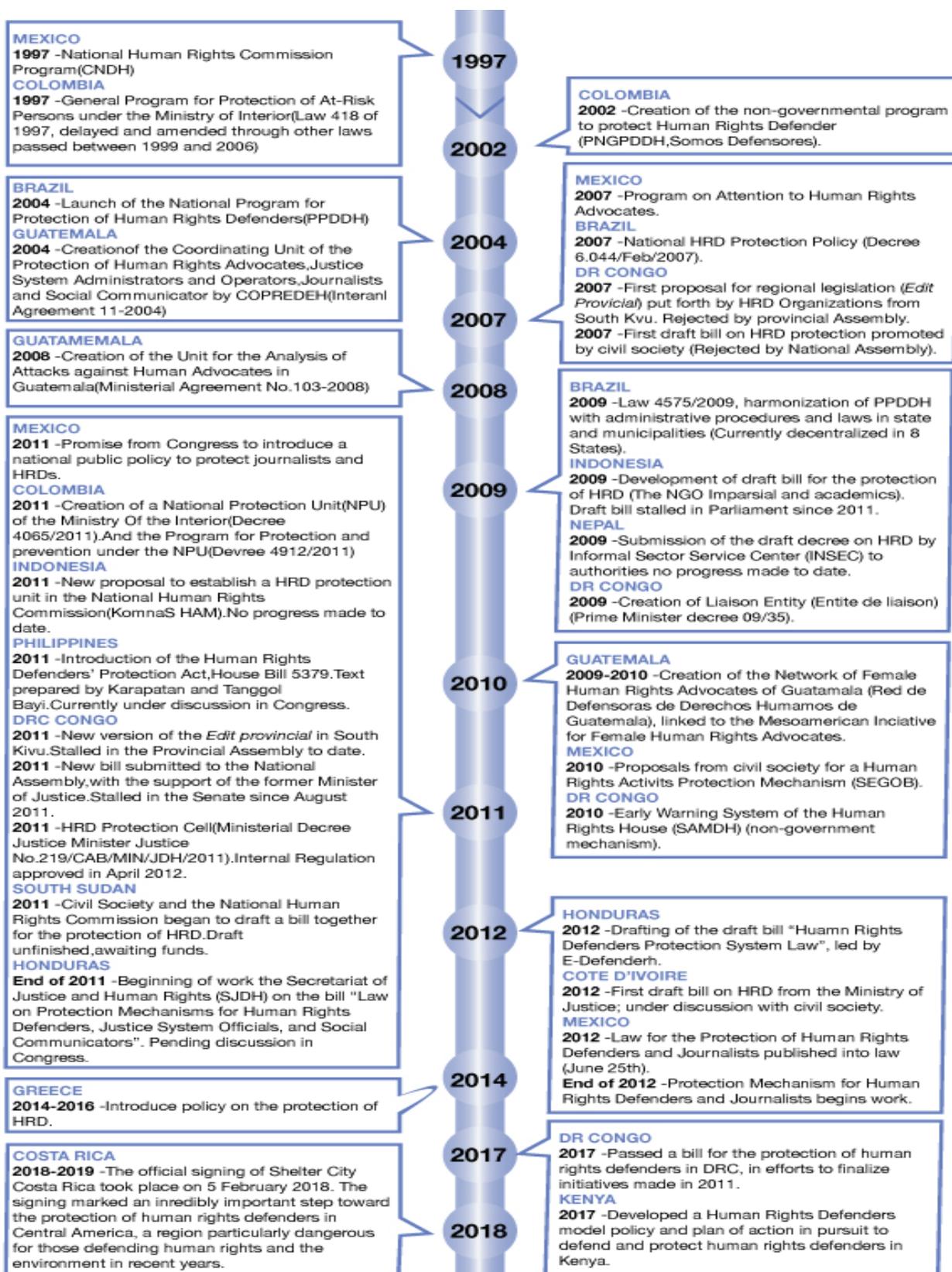
- CSOs should continue to engage the executive arm of the government, Parliament, Judiciary, and other sub departments to influence amendment of the restrictive laws and other matters concerning the society.
- HRDs need to work sincerely and morally to avoid unethical conducts due to them being targeted by both state and non-state actors.
- Good professional and financial status are vital for the safety and security of journalists. Journalists who work professionally and are financially well facilitated face less risk than those who operate unprofessionally and without sufficient resources.
- HRD's to increase campaigns which are aimed at building awareness about the concept of HRDs and civic space.
- CSOs should re-strategize and reorganize to push for reform of the oppressive and out-dated legislation affecting CSOs, also should remove internal CSOs challenges which are in fact more dangerous than the external challenges.
- Improved solidarity among CSOs/HRDs from across the country, partners, and other Human Rights Defenders at national, regional, and international level in the protection of civic space and human rights in general.
- More strategic cases should be filed in the courts of law in different parts of the country as one of the mechanisms of influencing change using personally affected individuals.
- Increase engagement of the CSOs at the Regional and international Human Rights arena. Through its programs on building solidarity among CSO's.

6.2.2 Recommendations to the government:

- The government should take a consultation approach in handling matters of pastoralists human rights defenders to avoid creating more problems to the people especially during the implementation of the relocation and resettlement of the people.
- Repressive laws that restrict freedom of the press in the country should be amended. For instance: The Media Services Act of 2016, the Cybercrimes Act of 2015, The Electronic and Postal Communications Act of 2010, and Online Contents Regulations of 2020.
- To create better working environment for the Press and journalists we request the government to implement the decisions made by several local and international courts of law.
- The decision of the East African court of Justice in the case filed by the Tanzania Human Rights Defenders Coalition, Legal and Human Rights Centre and Media Council of Tanzania versus the Attorney General of the United Republic of Tanzania [Case number 02 of 2017] where the court ruled that sections number 7 (3) (a), (b), (c), (f), (g), (h), (i) and (j), 13,14,19,20, 21, 35, 36, 37, 38, 39, 40, 50, 52, 53, 54,58 and 59 of the Media Services Act of 2016 violate the Treaty of the East African Community, therefore the government of Tanzania is supposed to remove those sections from the Media Services Act of 2016.
- We call upon the president to form a special commission which will examine media laws in Tanzania and thereafter recommend to the government for amendment of such laws.
- To ease the challenges facing the media sector, we ask the government to remove a legal requirement for compulsory registration of YouTube Channels even if those platforms are not used as official media outlets. The need to register such online platforms should remain with those who use such platforms as an official Online Media and minimize license and registration fees as many of them operate without profit.
- THRDC also calls upon the government to provide legitimacy to the work of HRDs, and to create enabling environment for their operation. The State should refrain from intimidating human rights defenders in any way because what they are doing is legally recognized under our laws.
- The government should ensure that the police force observes, respects, and protects the rights of HRDs when undertaking their daily duties in the country.
- The government and international development partners should support the implementation of the National Human Rights Action Plan by allocating sufficient resources to CHRAGG through an independent funding mechanism directly from the Treasury and not through the Ministry.
- The government may see the need to form an independent special commission to investigate all cases involving HRDs who were killed or assaulted while detained under Police stations.
- The government should end the culture of impunity for violations against innocent people, journalists, and human rights defenders by ensuring that investigations are promptly and impartially conducted, perpetrators are held accountable, and victims obtain appropriate remedies.

- Government leaders should take CSOs sector as a vital link to the community development especially in terms of job creation, economy, welfare and social services, development, human rights, and welfare of a democratic country. The NGOs sector should be given respect, protection, recognition, and cooperation rather than scorn and isolation even in matters relating to coordination with their registration.
- THRDC recommends the government to conduct investigations with the view to bringing perpetrators to justice. Investigation should be conducted to all HRDs cases who in one way or another found themselves in trouble because of their activities or human rights activities.
- The government should amend all laws that restrict and affect the work of CSOs and human rights defenders in Tanzania.
- The government should create an environment for civil society and the media to operate in accordance with the rights enshrined in the Constitution of United Republic of Tanzania, International Covenant on Civil and Political Rights (ICCPR) and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association; freedom of expression; the right to operate free from unwarranted state interference; the right to seek and secure funding; and the State's duty to protect.
- The government should amend all restrictive laws such as (Cybercrimes Act, Media Services Act, 2016), Media Services Rules, 2018, The Online Content Regulations to expand civic space in the country.
- The government should develop a national policy and law that recognizes and protects human rights NGOs and human rights defenders in Tanzania.
- An inclusive environment to the public and other key stakeholders when developing laws regarding media services, access to information and freedom of expression should be provided.

Annexure i: List of Countries with HRDs Legal Protection Mechanism



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

		<p>5. <i>National Security Act of 1970, Cap. 47 [R.E 2002]</i></p>	<p>This law makes it a punishable offence in any way to investigate, obtain, possess, comment on, pass on or publish any document or information which the government considers to be classified. This includes documents or information relating to any public authority, company, organization or entity which is in any way connected with the government.</p>
			<p>The reference can be traced to incidents involving active journalists such as Adam Mwaibabile. The police in Songea were instructed by the regional commissioner to charge him with possession of classified documents. The magistrate wrongly convicted Adam on the ground that he had committed offences under this law. The High Court observed this error in law and ruled out that the resident magistrate had misconstrued the provisions of the Act and hence quashed the decision and acquitted Mr. Mwaibabile.⁴⁹</p>
		<p>6. <i>The Public Leaders Code of Ethics Cap 398 [R.E 2002]</i></p>	<p>Restricts the investigative role of media and does not allow it to investigate and report on the property holdings of public leaders</p>

⁴⁹ <http://www.article19.org/data/files/pdfs/publications/tanzania-media-law-and-practice-in-southern-africa.pdf>. Visited on 02/04/2023.

		<p>7. <i>The National Defence Act, Cap 192 [R.E 2002]</i></p>	<p>This law prohibits journalists or any HRDs to publish any information relating to the National Defence Force. Sometimes members of this force commit offences like other citizens in public places but when journalists report the incident, soldiers follow them and start all sorts of harassments.</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 defence forces without higher authorities.</p>
		<p>8. <i>The Prevention and Combating of Corruption, Act No. 11 of 2007</i></p>	<p>The law prohibits journalists from making follow ups of any corruption case under the PCCB investigation.</p>
		<p>9. <i>The Area Commissioner Act 1962 & Regions and Regional Commissioners Act 1962</i></p>	<p>These two have been used against journalists who expose malpractice and maladministration in public offices</p>
		<p>10. <i>Civil Service Act 1989</i></p>	<p>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.</p>

		<p><i>11. Film and Stage Act No 4 of 1976</i></p>	<p>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.⁵⁰</p>
		<p><i>12. Registration of News Agents,</i> <i>13. Newspapers and Books Act (1988)</i></p>	<p>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.</p>
		<p><i>14. Broadcasting Services Cap. 306 of the R. E 2002</i></p>	<p>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.</p>

50 ARTICLE 19’s Submission to the UN Universal Periodic Review For consideration at the twelfth session of the UPR Working Group, October 2011 at <http://www.article19.org/data/files/pdfs/submissions/tanzania-upr-submission.pdf>. Visited on 01/04/2023.

		<i>Cybercrimes Act 2015</i>	<p>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.</p>
		<i>Statistics Act 2015</i>	<p>The Statistics Act imposes harsh penalties on those found guilty of publishing misleading and inaccurate statistics or statistics not approved by the National Statistics Bureau. Those found guilty of providing false or misleading statistics without authorization from the National Bureau of Statistics are liable for a one year jail term and a fine of 10 million Shillings (approximately US \$ 4500)</p>
		<i>Media Services Act, 2016</i>	<p>Various provisions of the Media Services Act, 2016 contravene Article 18 of the Constitution of the United Republic of Tanzania. These sections are sections 7 (2) (B) (III), (IV), (V), 7 (3) (A), (B), (C), (F), (G), (H), (I), (J), 8, 9(B), 10(2), 11(4), 13, 14, 19, 20, 21, 24, 25, 26, 35, 36, 37, 38, 39, 40, 50, 52, 53, 54 58 AND 59 of the Media Services Act No 12 of 2016. It is therefore proposed that these provisions be amended to allow freedom of expression as provided for in the Constitution.</p>

		<i>Access to Information Act, 2016</i>	This Act has several provisions which infringe the freedom of expression in Tanzania. It restricts free flow of information. It therefore contravenes the Constitution of the United Republic of Tanzania specifically on the right to information guaranteed under Article 18 of the Constitution, 1977.
		<i>Online Content Regulations, 2020</i>	These Regulations needs to be wholly amended for the Minister acted in excess of her powers while promulgating the same. The Regulations imposes unnecessary restrictions and burden to online users which in essence curtail their freedom of expression.
		<i>Media Services Rules, 2018</i>	The rules need to be amended for they are against the right to information enshrined in our Constitution under Article 18.
		<i>Miscellaneous amendment No 3 of 2018 amending the NGOs Act.</i>	These amendments are burdensome to the CSOs example is excessive and unrestricted powers to the minister such as to investigate, de registration, re registration after 10 years which has financial and administrative effect, no more companies limited by guarantee, submission of annual report and audit to the registrar and make their contracts public etc



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