



REPORT ON THE SITUATION OF HUMAN RIGHTS DEFENDERS AND CIVIC SPACE IN TANZANIA 2019





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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
HIV/AIDS	Human Immuno-Deficiency Virus/ Acquired Immune Deficiency Syndrome
HRDs	Human Rights Defenders
HRNGOs	Human Rights Non-Government Organizations
IACHR-Inter	Inter- American Commission on Human Rights
ICCPR	International Covenant for Civil and Political Rights
ITV	Independent Television
KRAs	Key Result Areas
LHRC	Legal and Human Rights 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 Miscellaneous Amendment Act No3 of 2019
The Non-Governmental Organizations Act (Amendment) Regulations, 2019
The Online Content Regulations, 2018

(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 19

Our Vision

The Coalition envisages a free and secured working environment for Human Rights Defenders in Tanzania.

Our Mission

The Coalition strives to maximize the protection, respect and recognition of HRDs in Tanzania through, protection, capacity building and advocacy.

Our Values

- The promotion of deep respect and empathy for defenders.
- Acting in a very responsive, rapid, flexible manner
- A result-oriented organization, with tangible impact.
- Acting independently, with creativity, impartiality and integrity.
- Operating with dedication, professionalism, transparency and accountability.

Objectives

The main objective of the THRD-Coalition is to work towards enhancing the security and protection of the human rights defenders (HRDs) in the United Republic of Tanzania and hence to ensure that human rights defenders in our country are able to carry out their essential function free from harm and repression, in accordance with the 1998 UN Declaration on Human Rights Defenders. Its specific objectives are:

Overall Goal

To contribute to the growth of civic space in which Human Right Defenders (HRDs') working environments are improved and secured.

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EXECUTIVE SUMMARY

This is the seventh report detailing the situation of human rights defenders in Tanzania. It has six chapters as narrated herein. Chapter one basically highlights the concept of “Human Rights Defenders (HRDs)”, legal and non –legal mechanisms under which HRDs are recognized and protected. 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 covers strategic cases and cases against human rights defenders, and various documented incidents on violations committed against HRDs in 2019. HRDs have worked under a more hostile environment compared to previous years. According to the survey conducted by the Tanzania Human Rights Defenders Coalition (THRDC) Protection Desk in 2019, incidents of human rights defenders’ violations have been increasing hence making the working environment of HRDs in the country difficult.

In 2019, THRDC documented nine (9) strategic cases and 10 of violations against HRDs working in different thematic areas except journalists whose incidents are presented under chapter three of the report. Most of the incidents relate to arbitrary arrest, malicious prosecution, threats, attacks, curtailment of freedom of expression etc. Most of the perpetrators in these incidents are the state machineries, private companies and individuals.

Chapter three provides details of the situation of Journalists as human rights defenders and the state of media industry. For the year 2019, THRDC protection desk recorded a total of 36 incidents of violation of rights against journalists. Most of these involve threats, denial of access to information, arrests and malicious prosecutions, fines and ban of media outlets and arbitrary confiscation of journalist’s working tools. It discusses further security challenges encountered by journalists and the media industry in general. These challenges include but not limited to harassment, abductions, criminalization, detention, torture, killings, defamation, and suspension from their employment, denial of freedom of movement and other legal and regulatory related challenges.

Chapter four covers issues related to HRDs security management capacities for the year 2019 following the security management and risk assessment training sessions conducted by THRDC. For the year 2019, a total of about 461 Human rights defenders were empowered through various security management sessions, dialogues and trainings. These sessions were conducted in either zonal classification (Northern Zone, Central Zone, Lake Zone, West Zone, Southern Highland, South Coastal Zone and East Coastal Zones) or at thematic levels (freedom of expression,

women rights, social and economic rights, political rights, minority rights and indigenous/pastoral rights). Moreover, THRDC conducted about eight trainings on security management and risk assessment to about 381 HRDs. Beneficiaries of these trainings were HRDs (including journalists) from across the country (both mainland and Zanzibar). It concludes by highlighting the fact that there is an improved level of security management and risk assessment to HRDs in Tanzania, despite the security situation of HRDs in Tanzania continues to be appalling hence the need for increased efforts to protect HRDs.

Chapter five looks into the situation of civil society space in Tanzania in 2019 based on the various indicators. It explains their roles which include; Political roles, Democratic roles, Economic and developmental roles, Educational and informational roles, Socio-cultural roles, Sports and recreational roles, Service Delivery, Professional regulation and Member welfare. The chapter elaborates on the indicators of Freedom of Information and Expression, Human Rights/Rule of Law, Citizen Participation, Non-Discrimination/Inclusion, Freedom of Assembly and Association. Civic space of CSOs in Tanzania is limited because the government views the work of CSOs as a threat to its initiatives at some point. For the year 2019, a general trend has shown that the enabling environment for civil society operation keeps changing. For example, a total of 4 NGOs were deregistered due to the reason that the Non-Governmental Organizations operate in variance to their constitutions, 2 NGOs were deregistered upon their own request to the Registrar of NGOs, and 158 NGOs were deregistered for non-compliance with the Misc. Amendment Act No. 3 of 2019.

Lastly, Chapter six contains the recommendations, conclusions and annexure. Recommendations such as that, the government has 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. Amendment of all draconian laws such as (Cybercrimes Act, Media Services Act, 2016), Media Services Rules, 2018, The Online Content Regulations in order to expand civic space in the country etc.

GENERAL INTRODUCTION

1.0 Introduction

This chapter analyses the concept of “Human Rights Defender (HRD)”, legal and non –legal mechanisms under which HRDs are recognized and protected. The meaning of HRDs 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 occasionally 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 in order 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.

¹ <https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx> site visited on January 2019

² *ibid*

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.

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

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.

Human Rights Defenders Rights 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.

³ *ibid*

⁴ <https://www.ohchr.org/en/issues/srhrdefenders/pages/defender.aspx>

⁵ [https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders? Site visited on May 2019](https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders?Site%20visited%20on%20May%202019)

- 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.

States such as Norway, Switzerland, Ireland and the Netherlands are great example for recognition of HRDs as they have adopted the UN declaration. These states have recently between the years of 2018-2019 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.

In 2019, Protection International supported more than 50 countries around the world and issued protection manuals to Human Rights Defenders.

In 2019, International Service for Human Rights in Switzerland launched a Human Rights Defenders Advocacy Program which welcomed 18 Human Rights Defenders around the world who were equipped with skills to make strategic use of international Human Rights system with great impact back to their home countries, they were provided with an opportunity to directly lobby in advocacy action at the UN level.⁸

It also has online Academy to complement on the human rights defenders advocacy program and reach out to more Human Rights Defenders who are at risk⁹.

The Netherlands follows the European Union's guidelines on human rights defenders. The guidelines aim to improve the support and protection given to human rights defenders in non-EU countries. The Dutch embassies work with the embassies of other EU member states and of the EU itself to help human rights defenders.¹⁰

In addition to that Human Rights Fund provides funds to human rights organizations. The Netherlands provides financial support for human rights defenders and non-governmental organisations (NGOs) that promote human rights worldwide¹¹.

⁶ <https://www.amnesty.eu/human-rights-defenders/> site visited in May 2019

⁷ Ibid

⁸ https://eeas.europa.eu/sites/eeas/files/eu_guidelines_hrd_en.pdf site visited in May 2019

⁹ <https://www.ishr.ch/news/supporting-human-rights-defenders> site visited in May 2019

¹⁰ <https://www.government.nl/topics/human-rights/human-rights-worldwide/supporting-human-rights-defenders> site visited in May 2019

¹¹ Ibid

In 2019, Frontline Defenders in Ireland, issued a Global analysis which highlighted some of the major challenges on Human Rights Defenders, threats, challenges, how they are targeted, politicization of human rights, draconian laws, judicial harassment and digital threats.¹²

According to the Frontline Defenders global analysis, in just the year 2019, 304 Human Rights Defenders around the world were killed, for defending human rights.¹³

1.2 Protection Mechanisms for Human Rights Defenders

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

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

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

1.2.1 Legal Protection Mechanism at International Level

At the 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, 1998¹⁴.

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.¹⁵

¹² <https://www.government.nl/topics/human-rights/human-rights-worldwide/supporting-human-rights-defenders> site visited on December 2019

¹³ *Ibid*

¹⁴ <https://www.ohchr.org/en/issues/srhrdefenders/pages/srhrdefendersindex.aspx> site visited in June 2019

¹⁵ <https://www.google.com/search?q=declaration+of+human+rights+defenders&> site visited in July 2019

The 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 states to recognize and protect the rights of HRDs.¹⁶

The Declaration outlines specific duties of states with regard to 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 .¹⁷

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.¹⁸

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.¹⁹

1.2.2 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.

¹⁶ *ibid*

¹⁷ *ibid*

¹⁸ <https://www.google.com/search?q=un+resolution+2013+human+rights+defenders&rlz> site visited on May 2019

¹⁹ <https://www.google.com/search?q=declaration+of+human+rights+defenders&> site visited in May 2019

Table 1.2.2.1 Summary of Regional 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 has 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 Member. 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.
AFRICA	The Grand Bay Declaration and Plan of Action of 16 April 1999	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.

	<p>The Kigali Declaration of 8 May 2003</p>	<p>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.</p>	<p>Recognizes the key role played by civil society organizations and Human Rights Defenders, in particular in promoting Human Rights in Africa” and “calls upon Member States and regional institutions to protect them and to foster their participation in the decision-making process.”</p>
	<p>Resolution 273 of the African Commission is another useful instrument that will help secure a better working environment for HRDs.</p>	<p>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</p>	<p>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.</p> <p>The system of has the potential to respond effectively to the obligation to protect all citizens and particularly HRDs. States should conform to article 2 (2) of the UN Declaration on Human Rights Defenders.</p>

	Marrakech Declaration 2018.	Adopted on 12th 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 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.
EUROPE	EU Guidelines on Human Rights Defenders.	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 countries 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.

	<p>In 2010, the European Parliament adopted a Resolution on the EU policy in favour of Human Rights Defenders (2009/2199(INI)).</p>	<p>Adopted in 2010</p>	<p>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 16th December 2010.</p>
	<p>UNGA74 Global agreement on key elements of an effective defender protection policy.</p>	<p>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.</p>	<p>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.</p>

1.2.3 Legal Protection Mechanism at the National Level

The UNHRDs reports indicate that very few States have incorporated the International Declaration on Human Rights Defenders, 1998 into their national laws despite 15 years of its adoption.³⁰

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 has been enacted such as the Cybercrimes Act 2015, the Statistic Act 2015, Media Services Act 2016 and Access to Information's Act 2016.

Hate speech should never be confused with suppressing freedom of expression," said UN Special Adviser on the Prevention of Genocide, Adama Dieng. Dieng heads the United Nations' new push to counter hate speech.

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.²⁰

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.²¹

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.²²

The Constitution of the United Republic of Tanzania of 1977 and that 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 has created a Human Rights Model Policy that will help governments 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.

The Commission for Human Rights and Good Governance in Tanzania is the only National Human Rights Institution (NHRI). This Commission has full mandate to protect human rights and good governance in general.²³

Tanzania Human Rights Defenders Coalition has made effort 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.

20 <http://www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders#sthash.fcKqckKj.dpuf> visited on 23rd March 2019

21 *ibid*

22 <http://www.ishr.ch/news/asia-isshr-launches-new-report-legislative-protection-human-rights-defenders-seven-countries>

23 <https://chragg.go.tz/>

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.²⁴ The declaration seeks national human rights institutions to among other declarations to: declare responsibility and obligation to protect, respect and promote the fulfilment of the human rights and fundamental freedoms of all persons, to promote of the rule of law, and the eradication of Human rights violations and to interact, cooperate and build partnership among civil society, media, business entities , networks, governmental and non-governmental organizations.²⁵

‘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 Jurists²⁶

1.3 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 the 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.

1.3.1 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.²⁷

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 world²⁸.

24 https://www.google.com/search?safe=active&rlz=1C1CHBF_enTZ850TZ850&sxsrf= site visited in December 2019

25 *ibid*

26 <https://www.ishr.ch/news/developing-model-national-law-protect-human-rights-defenders site visited on April 2019.>

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

28 <https://www.ohchr.org/en/issues/srhrdefenders/pages/srhrdefendersindex.aspx site visited in May 2019>

In June 2014, Mr. Michel Forst (France) was appointed by the President of the Human Rights Council as the UN Special Rapporteur on the situation of human rights defenders. Mr. Forst succeeds Ms. Margaret Sekaggya (Ugandan) as Special Rapporteur on the situation of human rights defenders (2008-2014) and Ms. Hina Jilani as Special Representative of the Secretary General on the situation of human rights defenders (2000-2008).²⁹

The following are the major duties assigned to the UN special rapporteur on human rights defenders³⁰

- (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 Rapporteurs³¹:

- 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 such as the Frontline Defenders, 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.³²

1.3.2 Non Legal Protection Mechanism at Regional level

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

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

²⁹ <https://www.ohchr.org/en/issues/srhrdefenders/pages/srhrdefendersindex.aspx> site visited in May 2019

³⁰ <https://www.tandfonline.com/doi/full/10.1080/13642987.2011.537463> site visited in January 2019

³¹ *ibid*

³² https://www.academia.edu/12256645/Human_Rights_Defenders_Situation_Report site visited in May 2019

on Human Rights Defenders in Banjul, Gambia. Currently, the position is held by Ms. Reine Alapini-Gansou.³³

The 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.

The African Human Rights Commission assigned the special Rapporteur for HRDs in Africa to do the following duties³⁴:

- (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 defenders³⁵.

³³ https://en.wikipedia.org/wiki/Reine_Alapini-Gansou site visited in May 2019

³⁴ <https://www.achpr.org/specialmechanisms/detail?id=4> site visited in February 2019

³⁵ <http://www.ishr.ch/news/achpr-65-protecting-human-rights-defenders-through-protection-laws-africa> Site visited on 13th November 2019

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.³⁶ This initiative was facilitated by the Network of Human Rights Defenders in East and Horn of Africa. The latter bolstered the protection of Human Rights Defenders in Africa through networking.³⁷

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).³⁸

1.3.3 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

³⁶ <http://protectionline.org/2009/05/05/kampala-declaration-of-human-rights-defenders/> site visited on April 2019

³⁷ <https://www.achpr.org/legalinstruments/detail?id=39> site visited in June 2019

³⁸ <https://defenddefenders.org/> site visited on April 2019

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.

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 recognise and govern Human Rights Defenders.

1.3.4 Challenges with both International and Regional Protection Mechanisms for HRDs³⁹

- 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 enhance their security.

³⁹ <https://www.escr-net.org/news/2018/promoting-protection-human-rights-defenders-global-summit> site visited on November 2019.



VIOLATIONS COMMITTED AGAINST HUMAN RIGHTS DEFENDERS

2.0 Overview of the Chapter

This Chapter explores cases for and against human rights defenders, various recorded incidents of violations committed against HRDs in 2019, a year which has been marked as one with the most hostile environment compared to previous years. According to the survey conducted by THRDC's Protection Desk in 2019, incidents of human rights defenders' violations have been increasing hence hampering the work of HRDs in the country.

The situation is compounded by impunity, disrespect of the rule of law and rampant undemocratic practices. The state has also liberally used the existing draconian laws to curb HRDs work such as the Media Services Act, 2016, the Statistics Act, 2015 and their amendments, Cybercrimes Act, 2015, the Access to Information Act, 2016, Regional Administration Act, Police Force and Auxiliary Services Act, 1969, the Online Content Regulations of 2018, The NGOs Act (Amendment) Regulations, 2018 and the Written Laws (Miscellaneous Amendments) (No. 3) Act, 2019.

For the year 2019, THRDC documented 71 incidents of violations of rights against HRDs in Tanzania. These incidents are presented in different Chapters of this report. Most of the incidents relates to arbitrary arrest, malicious prosecution, threats, attacks, curtailment of freedom of expression etc. Journalists and HRDs defending political rights have been well documented under chapter three and five. The perpetrators of these incidents are the state machineries, private companies and individuals. For the purpose of this Chapter, THRDC documented nine (9) strategic cases and 10 of violations against HRDs working in different thematic areas except journalists whose incidents are presented under chapter three of the report.

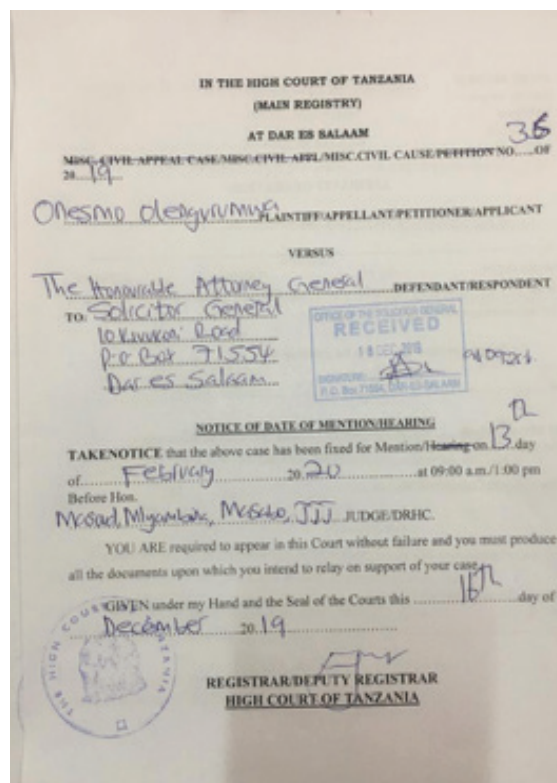
2.1 Strategic cases for HRDs, Cases against HRDs, threats and violations against human rights defenders in 2019 are as follows;

2.2.1 Strategic cases for HRDs

1. **Onesmo Olengurumwa Vs the Attorney General Misc. Civil Cause No. 36 of 2019.** A Lawyer and Human Rights Defender Mr. Onesmo petitioned on 16th December 2019 before the High

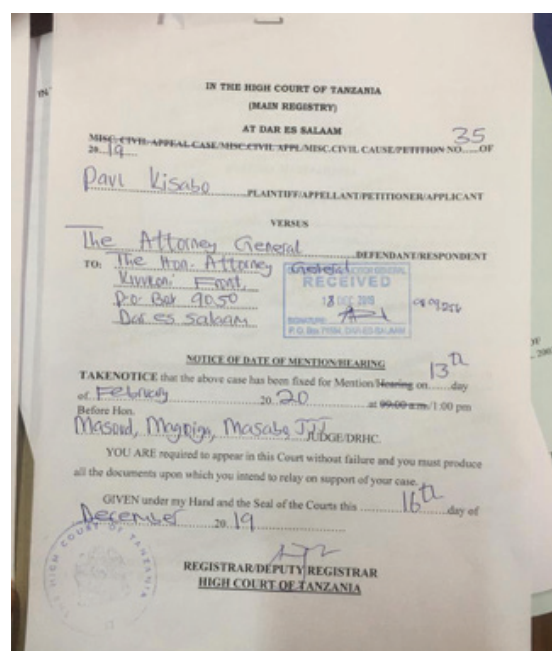
Court of Tanzania at Dar es Salaam. He challenged the committal proceedings and preliminary inquiries as they subject the accused persons to a delayed hearing and negates the right to fair trial and delay of justice. The petitioner specifically challenged section 178, 243, 244, 245, 246, 247, 248, 249, 250, 256, 257, 258 and 259 of the Criminal Procedure Act

Cap 20 R.E 2002 that they are unconstitutional, null and void and same sections be expunged from the statute book. The said 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 and authority. The case is still pending in the court of law for determination.



Picture 2.2.1.1 Petition Notice: Onesmo Olenyumwa Vs the Attorney General Misc. Civil Cause No. 36 of 2019

2. **Paul Kisabo Vs the Attorney General Misc. Civil Cause No. 35 of 2019.** A Lawyer and Human Rights Defender Mr. Paul Kisabo petitioned on 16th December 2019 before the High Court of Tanzania at Dar es Salaam. He challenged the denial of the right to bail for people charged with money laundering offence in Tanzania. The petitioner has challenged section 148 (5)(a)(v) of the Criminal Procedure Act Cap 20 R.E 2002 that, it is unconstitutional for offending the provisions of Articles 4 (1) & (2), 13 (4) & (6) (a), (b) and (d), 15 (1) and 17 (1) of the Constitution of the United Republic of Tanzania of 1977. The case is still pending in court of law for determination.



Picture 2.2.1.2 Petition Notice: Paul Kisabo Vs the Attorney General Misc. Civil Cause No. 35 of 2019.

3. The Attorney General and 2 Others Vs Bob Chacha Wangwe Civil Appeal No. 138 of 2019 [Appeal from the Ruling and Drawn Order of the High Court of Tanzania in Misc Civil Cause No. 17 of 2018]. A Lawyer and Human Rights Defender Mr. Bob petitioned seeking a declaration order that sections 6(1), 7(1) and (3) of the National Elections Act, [Cap. 343 R.E. 2015] are unconstitutional for allowing the City, Municipal and Town Directors to serve as returning officers in overseeing the elections in Tanzania. The High Court held in his favor but the Court of Appeal on 16th October 2019 held in favor of the Appellants.

4 **Bob Chacha Wangwe Vs the Republic, Criminal Appeal No. 370 of 2018 (originating from Criminal Case No. 167 of 2016 in the Resident Magistrate Court at Kisutu).** The Appellant lodged his appeal at the High Court of Tanzania challenging his conviction by the lower court under section 16 of the Cybercrimes Act 2015. He was charged and convicted for publication of false information c/s 16 of the Act. On 27th March 2019, the High Court held in his favor stating that if the information remains with the accused there is no publication.



Picture 2.2.1.3 Bob Chacha Wangwe with his legal representative Advocate Jebra Kambole after a court session



Picture 2.2.1.4 A Team of Lawyers in the East African Court of Justice

5. **The Honorable Attorney General of Tanzania Vs MCT, LHRC and THRDC, Application No. 5 of 2019 [originating from Reference No. 2 of 2017] at the East African Court of Justice.** In 2017 THRDC collaborated with the Media Council of Tanzania (MCT) and LHRC to file a Reference before the East African Court of Justice in Arusha challenging the Media Services Act, 2016, seeking to challenge several provisions of the Media Services Act, 2016. The reference was heard on merit on 28th March 2019 the EACJ held in favor of the Applicants. The Respondent filed a notice of appeal on 11th April 2019 before the EACJ [Appellate Division at Arusha]. The case is now at appeal level before the court and fixed for scheduling conference on 13th February 2020.

6. ***LHRC, MCT and THRDC Vs the Minister for Information Culture, Arts and Sports and 2 Others Misc Civil Application No. 20 of 2018.*** In June 2018, THRDC collaborated and supported in the filing of an application for certiorari in the High Court of Tanzania at Mtwara to challenge the Online Content Regulations 2018, which to a greater extent violates the right to freedom of expression as enshrined under Article 18 of the Constitution of the United Republic of Tanzania 1977. The case was heard on merit and the applicants who are THRDC, MCT and LHRC did not win the case save for one aspect where the court quashed the word content which the Minister had gone beyond the meaning provided in the Parent Act. The applicants have filed necessary documents for appealing to the Court of Appeal of Tanzania. The appeal is still pending before the court of appeal.
7. ***Legal and Human Rights Centre Vs the Minister for Health, Community Development, Gender, Elderly and Children and 2 Others [High Court of Tanzania at Mbeya].*** In 2019, LHRC filed an application challenging Regulations 12 and 13 of the Non-Governmental Organization (Amendments) Regulations, 2018 being unreasonable and prone to arbitrary use for requiring the disclosure of contracts entered between NGOs and donors and requiring publication of funds exceeding twenty million. The Regulations have been drafted in a vague and ambiguous manner thus impairing the right to privacy of NGOs. The case is still pending at the court of law.



Picture 2.2.1.5 The CIPESA Executive Director, Dr. Wairagala Wakabi

8. ***On 25th April 2019 Dr. Wairagala Wakabi was unlawfully detained, interrogated and deported to Uganda upon arrival at Julius Nyerere International Airport.*** Dr. Wakabi who is an executive Director of CIPESA was arrested in April 2019 at Julius Nyerere International Airport allegedly for being a prohibited immigrant. He was attending a Tanzania Human Rights Defenders Day a commemoration that takes place every year on the 28th day of April. He was then deported to Kampala. THRDC engaged lawyers to file a reference at the EACJ challenging the decision to declare Dr. Wakabi as a PI without stating reasons. The case is still pending at the EACJ to date.



Picture 2.2.1.6 Advocate Jebra Kambole, the petitioner in App. No. 018/2018

9. *App. No. 018/2018 – Jebra Kambole v. The United Republic of Tanzania [African Court on Human and Peoples’ Rights at Arusha]*. On 3rd July 2018, advocate Jebra filed an Application Challenging Article 41 (7) of the Constitution of the United Republic of Tanzania, 1977 which prohibits any person aggrieved by presidential election results to challenge them in court. Article 41(7) reads that, when a candidate is declared by the Electoral Commission to have been duly elected in accordance with this Article, then no court of law shall have any jurisdiction to inquire into the election of that candidate. The case is still pending before the court.

2.2.2 Cases against HRDs

- 10 The Director of Public Prosecutions Vs Abdul Mohamed Omary Nondo Criminal Appeal No. 10 of 2019 [originating from Iringa Resident Magistrate Court Criminal Case No. 13 of 2018]. Abdul is the former Chairperson of the Tanzania Students’ Networking Programme (TSNP). On 6th March 2018 at midnight he disappeared, sent a message to his friend 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 taken him to the said place.

He was however, detained for 14 days before being arraigned to court on 21st March 2018 and charged for publication of false information (“I am at risk”) c/s 16 of the Cybercrimes Act, 2015 and for giving false information to a person employed in public service c/s 122 (a) of the Penal Code Cap 16 R.E 2002. THRDC hired advocates Jebra Kambole and Chance Luoga for legal representation and Mr. Abdul won the case at both the Resident Magistrates Court and the High Court on 23rd December 2019. The Republic has filed the notice of intention to appeal before the Court of Appeal of Tanzania at Iringa.



Picture 2.2.2.1 A team of advocates and other well-wishers who were present immediately after the judgment of the case

11 On 20th December 2019 Mr. Tito Elia Magoti (Program Officer: Public Education Department at the Legal and Human Rights Centre and Mr. Theodory Faustine Giyan ICT Officer, were arrested by five unknown people at Mwenge area in Dar es Salaam. On 22nd December 2019 the Dar es Salaam Special Zone Police Commander, Lazaro Mambosasa confirmed to have arrested Mr. Magoti and Mr. Giyan without stating the charges facilitated the arrest or whereabouts.

On 24th December 2019 both Mr. Magoti and Mr. Giyan were brought before the Resident Magistrates' Court of Dar es Salaam at Kisutu and charged with three counts "leading organized crime C/S. 4(1)(a) of the First Schedule and Section 57(1) and 60(2) of the Economic and Organized Crimes Control Act, "possession of a computer program designed for the purpose of committing an offence" C/S 10(1) of the Cybercrimes Act, 2015 and "money laundering" C/S 12(d) and 13(a) of the Anti-Money Laundering Act. The case is still at committal proceedings before the Resident Magistrates' Court of Dar es Salaam at Kisutu.



Picture 2.2.2.2 Theodory Faustine Giyan and Tito Magoti in Court with advocates



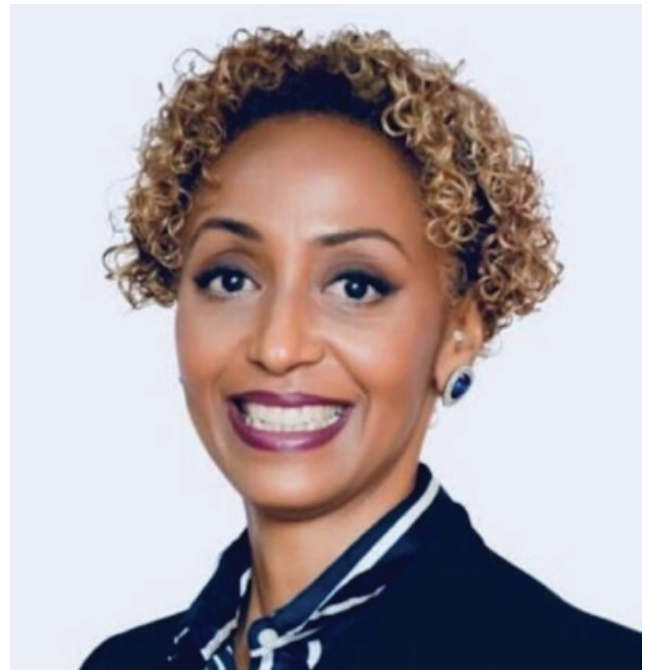
Picture 2.2.2.3 Gervas Mshana who was dismissed from College

- 12 ***Gervas Mshana Vs Isack Elia and 3 Others Misc Civil Cause No. 8 of 2019.*** On 21st August 2018 Gervas Mshana being a student and vice president of the students' organization was dismissed from studies at Silva Institute of Business and Management because of defending students' rights. With THRDC legal support, he challenged the dismissal by way of Judicial Review at the High Court of Tanzania in Dar es Salaam and on 9th September 2019 the High Court, Masoud J quashed the decision of the University and ordered that Gervas has to resume his studies.

- 13 ***On 20th September 2019, the High Court Principal Judge Eliezer Feleshi slapped Ms. Fatma Karume with an indefinite suspension as an advocate over alleged misconduct.*** Judge Feleshi was dismissing a case in which Ms. Karume was representing Mr. Ado Shaibu who challenged President John Magufuli's appointment of Prof Adelardus Kilangi as Attorney General, on the grounds that he is unqualified. Advocate Fatma did not enter appearance on the day of ruling and was accused of impropriety in her submission without stating what impropriety Ms. Fatma has committed. Ms. Karume challenged her suspension because she was not given the chance to be heard.

Advocate Fatma Karume was admitted to the bar at Tanzania and Zanzibar in 1994. She has over twenty (20) years of experience in civil and commercial litigation and specialises in civil litigation, arbitration, constitutional law and administrative law and is associated with various landmark reported judgments of the Court of Appeal and the High Court of Tanzania.

She is the granddaughter of the first President of Zanzibar, Abeid Karume, and daughter of former President of Zanzibar, Amani Abeid Karume. She was elected into one-year President of the Tanganyika Law Society on Saturday 14th April 2018.



Picture 2.2.2.4 Advocate Fatma Karume slapped with indefinite suspension from practice

- 14 **On 28th April 2019 Advocate Maneno Mbunda** was abducted by unknown people, went missing for seven days, but later on the police force agreed to have detained him with other 9 people including a magistrate for a money laundering and economic organized crimes in Arusha.

2.2.3 Violation Against HRDs

- 15 **On 25th April 2019 Dr. Wairagala Wakabi was unlawfully detained, interrogated and deported to Uganda upon arrival at Julius Nyerere International Airport.** Dr. Wakabi who is an executive Director of CIPESA was arrested in April 2019 at Julius Nyerere International Airport allegedly for being a prohibited immigrant. He was attending a Tanzania Human Rights Defenders Day a commemoration that takes place each year on the 28th day of April. He was then deported to Kampala. THRDC engaged lawyers to file a reference at the EACJ challenging the decision to declare Dr. Wakabi as a PI without stating reasons. The case is still pending at the EACJ to date.
- 16 **On 27th August 2019 Advocate Shadrack Samwel was arrested in Bagamoyo.** He was joined in an armed robbery case of which he was defending his clients. He was later released unconditionally.
- 17 **In April 2019, Peter Celestine was arrested in Dar es Salaam** as he was defending three health rights defenders of the key population group who were threatened at Mto wa Mbu in Arusha. He spent more than a week in police custody and later on released after receiving legal support from THRDC legal team.

- 18 ***On 22nd November 2019, Advocate Joseph Rhobi Martinus was arrested by police officers on the order issued by the Shinyanga Regional Commissioner.*** He was released on the same day and rearrested on 24th November 2019. The underlying circumstances for such order were that, he was defending clients charged with tax evasion. THRDC hired an advocate to facilitate his bail and he was released unconditionally.
- 19 ***THRDC supported a woman and child human rights defender Ms. Ramla Issah who was defending the rights of women and children in the Teleza Saga in the year 2019 in Kigoma Region.*** She was threatened by perpetrators of Teleza in Kigoma. Women and children were reported to be raped at night by the so-called Teleza, a group of notorious men who break into houses at night and rape single women, widows, old women and married women whose husbands are away. Children were left to witness these acts and were always under guard and so could not call for help.

2.2.4 Physical violence, Attacks and Torture

Human rights defenders face various challenges despite the Declaration on Human Rights, in every region of the world, human rights defenders, including women human rights defenders and often their beloved ones continue to be subjects of intimidation, threats, killings, disappearances, torture and ill-treatment, arbitrary detention, surveillance, administrative and judicial harassment and more generally, stigmatization by State authorities and non-State actors. The mandate on human rights defenders in their 2011 commentaries noted clear that they are extremely concerned about allegations received over acts of intimidation, threats, attacks, arbitrary arrests, ill-treatment, torture and killings of human rights defenders who collaborate with the UN or other international mechanisms.⁴⁰

The situation is similar for almost all HRDs in Tanzania. HRDs from different thematic groups experienced physical violence, attacks, arbitrary arrest, and malicious prosecutions, being branded bad names, abductions, torture and killings. The most at risk HRDs who received several incidences of attacks, harassment, malicious prosecutions, arbitrary arrests, physical violence and torture in the year 2019 were journalists and land rights defenders and those who advocate for human rights generally.

2.2.5 Pastoralists Land Rights Defenders Incident in Loliondo

On 7th January 2019 Mr. Clinton Kairungi and Supuk Maoi who are HRDs along with two other citizens were arrested and detained by police officers. THRDC, instructed Advocate Samson Rumembe together with a paralegal Mr. Charles Nangoya, upon receiving information about their arrest, to proceed and render appropriate legal assistance. Sadly, the lawyers were denied by the police officers to see the suspects. Advocate Rumembe inquired the reasons for the suspects arrest, the Police Officers bluntly refused to divulge any information. They were later released unconditionally.

⁴⁰ Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms P 15

2.2.6 State of Impunity

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

According to Margaret Sekaggya, a Special Rapporteur on the situation of human rights defenders, States have the primary responsibility to ensure that defenders work in a safe and enabling environment. Under this call States should end impunity for violations against defenders by ensuring that investigations are promptly and impartially conducted. Perpetrators should be held accountable; while victims should obtain appropriate remedies.⁴¹

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.⁴²

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

The justice system in Tanzania is comprised of three main organs namely the Police, judiciary, and prison. The Judiciary has a role to dispense justice while the Police Force maintains peace and ensures the security of people and their properties and the prisons ensures that prisoners are kept in a safe and rehabilitative environment. The Police have the mandate to arrest, suppress, investigate and finally prosecute alleged offenders.

The criminal justice system in place is too weak to dispense justice when it comes to incidents where perpetrators of the alleged violations are state actors, who essentially are law enforcers such as the police, government leaders and other security officers. The independence of Tanzanian Judiciary is highly questionable mainly because the government officials have in many occasions seen to intimidate the system let alone the fact that the decision of the court are not respected by law enforcers. Among other things, the weak criminal justice system remains the main reason behind the growing state of impunity in Tanzania.

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

42 Commentaries to declaration on human rights defenders July 2011 P 18

2.2.7 Uninvestigated incidents committed against HRDs and political activists

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

1. 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 on found at Segerea in the suburbs of Dar es Salaam.
2. 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.
3. Abductors of Mr. Absalom Kibanda (journalist HRD) have never been arrested and no investigative report has been issued.
4. Abductors of Dr. Steven Ulimboka have never been arrested and no any investigative report has been issued.
5. Abductors of Mr. Raphael Ongangi, a Kenyan National and Assistant of the ACT 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 at Mombasa, Kenya on Wednesday, July 3, 2019.
6. Abductors of Mr. Saed Kubenea (journalist HRD and now MP for Ubungo Constituency) who was abducted and poisoned with gas on his face have never been acted upon and no investigation report has been issued.
7. 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 alleged to be police officers who are the ones entrusted with making investigation and thus under normal circumstances the investigation could not be conducted.
8. Attackers of Mdude Mpaluka Nyagali have never been arrested and investigation report has not been issued.
9. Attackers of Mr. Sirili John also known as Rasta, businessman, resident of Arusha and previously a CHADEMA candidate at Unga Ltd Council Local Government Elections 2019 who was brutally slaughtered on election day allegedly by unknown persons have never been brought to justice.
10. Attackers of the office of IMMMA Advocates have never been found neither have there be efforts from the government/police to investigate the matter.
11. Attackers who gunned down the Member of Parliament from the opposition CHADEMA party Tundu Antiphasi Lissu has never been investigated and no report has ever been issued from the police regarding the incident.

12. 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.
13. 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 whereabouts.
14. Killers of Daniel John, CHADEMA ward leader for Kinondoni have never been investigated and no report was ever issued with that regard.
15. 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.
16. Measures against the police officer who shot to death 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.
17. The 2017 incident of invasion of the Clouds Media Group by 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 event of invasion. The RC is still in power and no efforts are being made to ensure he is held responsible for what he did.
18. The abduction and torture of a JKT movement leader George Mgoba in 2015 has never been investigated. Worse enough the HRD has continued to receive threats from police despite the fact that his case was finalized in his favour.
19. 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 event they did on 21st April, 2017 seriously beating up journalists and members and leaders of the opposition party - CUF.
20. The findings of the Report of the then Minister for Information, Nape Nnauye regarding the invasion of the Clouds Media Group by the RC of Dar es Salaam have never been acted upon. The security officer who pointed out a gun to Mr Nape Nnauye has never been taken to court for excessive use of force.
21. The incident of a police officer who shooting live ammunition in the air during an attempt to arrest the former Minister of Finance, Adam Malima. The police were allegedly dispersing people who had gathered to witness the arrest for wrong parking. Unfortunately, the Inspector General of Police (IGP), Simon Sirro justified the act saying the police officer acted within the parameters of the law.

- 22. The incident of the Regional Commissioner for Arusha, Mrisho Gambo directing police to arrest journalists, some political and religious leaders who went to send condolences money to the Lucky Vincent Primary School tragedy victims has never been investigated nor are there any plans to hold RC responsible for his acts.
- 23. The kidnapers of Salma Said who is a journalist HRD from Zanzibar have never been found and charged for their deeds. She was abducted and tortured by unknown people in 2016 as she landed at the Julius Kambarage International Airport-Dar es Salaam. Critics have argued that, perhaps the government is directly or indirectly behind her abduction and that is why measures are not taken to find the kidnapers.

Trends on HRDs Incidents has increased

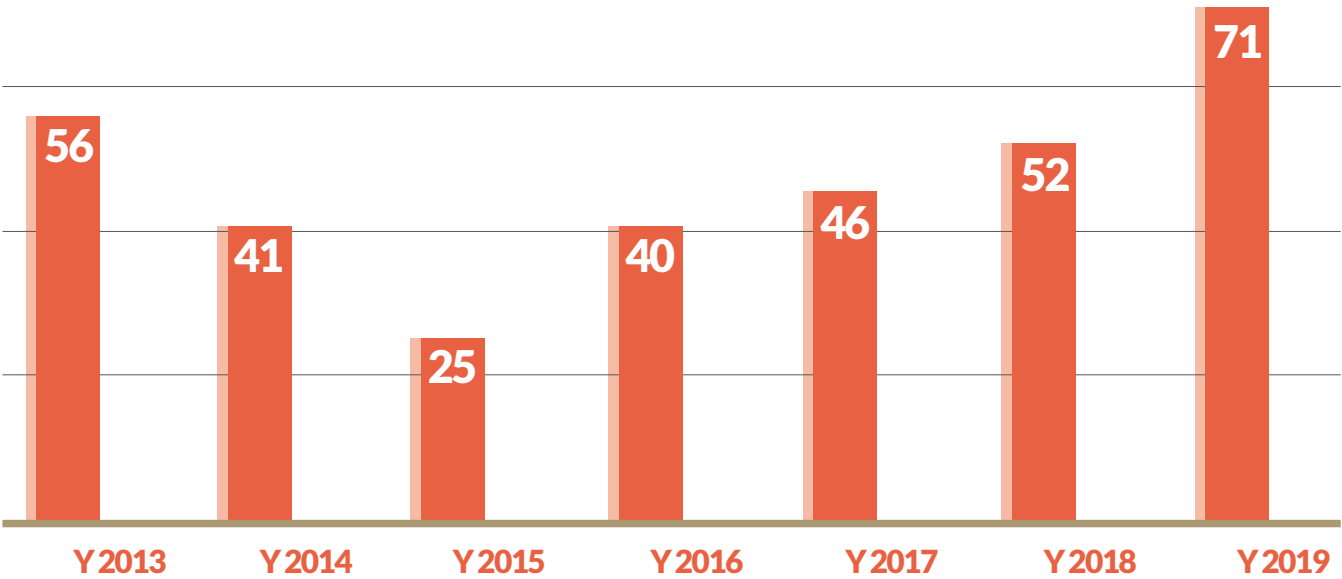


Figure 2.2.8.1 Trends of Incidents of violation against HRDs from 2013-2019

THRDC is highly disturbed with the state of impunity at the high level and 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 of their activities or human rights activities. THRDC also calls upon the government to provide legitimacy to the work of HRDs, and to create an 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 future is still bright in terms of the fight against state impunity in Tanzania owing to the introduction of criminal jurisdiction, international crimes against humanity and war crimes to the African Court under the Malabo Protocol on statute of the African Court of Justice and Human Rights. All is needed is country’s commitment to honor the said international and regional legal instruments in good faith. CSOs should also cooperate with the government in ensuring that all sorts of impunity are properly and timely dealt with for the betterment of HRDs and the general public.

MEDIA SECURITY AND SAFETY OF JOURNALISTS

3.0 Overview of the Chapter

Chapter three details on the situation of journalists as human rights defenders and the state of media industry. This chapter discusses security challenges encountered by journalists and the media industry in general. These challenges include but not limited to harassment, abductions, criminalization, detention, torture, killings, defamation, and suspension from their employment, denial of freedom of movement and other legal and regulatory related challenges.

3.1 Specific Challenges Facing Journalists

Freedom of expression is constitutionally guaranteed under Article 18 of the Constitution of the United Republic of Tanzania that 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 (ICCPR) states, “everyone shall have the right to freedom of expression”. This right shall include freedom to seek, receive, and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice. This right carries certain duties and responsibilities and may be subject to certain restrictions only as provided by the law.

Despite these guarantees, attacks and restrictions on journalists and independent newspapers in Tanzania are still in persistence. Journalists have been physically assaulted and threatened for the work they do while government officials and business-people often sue newspapers for criminal and civil defamation and seek significant amounts in compensation for critical articles. Several independent newspapers have been banned for long time unjustifiably. Journalists who cover peaceful protests against government policies and actions have also been attacked. Threats to freedom of expression generally emanate from security forces, senior government officials, and some non-state actors.⁴³

With the enactment of the Media Service Act, 2016, Cyber Crimes Act, 2015 and their respective Regulations, the Electronic and Postal Communications (Online Content Regulations), 2018 and amendment of the Statistics Act, and the Media Services Rules, press freedom has been diminishing over time. These laws, which the Government claims are aimed at improving the media, are in fact having a devastating effect on the media industry in Tanzania.

43 Joint CIVICUS Tanzania UPR report 2015

3.1.1 Physical threats, arbitrary arrests , malicious prosecutions and denial of access to information ;

For the year 2019, THRDC protection desk recorded a total of 36 incidents of violation of rights against journalists. Most of these involve threats, denial of access to information, arrests and malicious prosecutions, fines and ban of media outlets and arbitrary confiscation of journalist's working tools. The following details depict the recorded incidents against journalists in Tanzania;

A: Physical threats to Journalists

- In January 2019 a journalist of ITV in Mwanza Cosmas Makongo was threatened at a restaurant because of the story he reported, in which a public school was turned to a private school.
- On August 7, 2019 journalists: Simon Mkina, Neville Meena, Eddo Kumwembe and Absalom Kibanda and five other HRDs: Thabit Jacob, Aidan Eyakuze, Maria Sarungi, Fatma Karume and Sammy Awami were threatened after a message circulated on social media warning them of impending unspecified danger, advising them to stay within locations covered by CCTV cameras.
- On September 4, 2019, journalist Zuhura Juma Said writing for Zanzibar Leo in Pemba was threatened after she received a call from the Information Officer for North Pemba Mr. Masanja Mabula Shauri warning her not to report the incidence implicating Mr. Abdallah Ali Khatib who was accused of abduction of a civilian. The information officer went on threatening the journalist by telling her that she has to stop following up on news that embarrass others and for her own safety she should not write the story.
- On September 25, 2019, Ayo Online TV, Kwanza Online Tv and Watetezi were summoned by the Tanzania Communications Regulatory Authority (TCRA) to appear and defend themselves before the Content Committee on September 26, 2019. They were charged, with not making available to the users their Online Policy or guideline contrary to Regulation 5(1) (c) of the Electronic and Postal Communication (Online Content) Regulations.



Picture 3.1.1.1 a display of denial of journalists' access to information

Arbitrary arrests and Malicious Prosecutions

- On January 14, 2019, Majira Newspaper correspondent/ journalist Deogratus Chechele was arrested after conducting an interview with citizens on different challenges they are facing within the District of Gairo. His move to interview citizens made him clash with the Gairo District Commissioner Ms. Sirel Shaidi Mchembe who threatened him and ordered his arrest. Mr. Chechele was arrested and detained, interrogated and later he was arraigned in court on charges related to insulting the District Commissioner.

- In February 2019 journalists, Jonathan Musa of Mwananchi Newspaper and Sylvester Bulengela of Star TV were arrested, their working tools confiscated and they were detained to stop them from getting news. This incident occurred in the Mwanza region when the journalist went to report an incident involving the citizens who went to Nyakato Police Station after the news that the police were holding people who had allegedly been found in possession of heads of young children.
- In July 2019, Erick Kabendera who is an investigative journalist was arrested and charged with three unbailable offences of leading organized crime, tax evasion and money laundering. His case is still pending in court. The accused through his advocate on 11th October 2019 notified the court of his intention to initiate plea bargaining negotiations.
- In November 2018, THRDC provided legal support to three journalists HRDs, Christopher Gamaina and two others who were arrested and charged with theft of three million c/s 269 of the Penal Code. In essence the three were arrested while searching for news after they received a tip from good Samaritans that there was a traditional herbalist in Magu district who pretends to be a professional doctor. They were charged before the District Court of Magu. They were convicted and sentenced. They appealed against the conviction and sentence. The High Court of Tanzania at Mwanza quashed the decision of the lower Court and ordered for the re-trial. Their case was finalized as the prosecution showed no interest to continue with the case and therefore the accused persons were acquitted.
- In March 2019 a journalist reporting for ITV in Arusha Mr. Basil Elias was arrested and denied bail for what was said to be executing an order from above. According to the journalist he visited the where he had been informed by one resident that there was sewage flowing into clean water pipes. Before going there, he had however, informed officials of the regional water and sewerage authority (AUWASA) who also went with him to the area. To his surprise on their way back he was taken to the police station where he got arrested, detained and denied bail. Following pressure from the Arusha Press Club, the journalist was released on bail the following day on the condition that he should be reporting to the Arusha Central Police Station while the police are doing investigation on his charges. After he reported several times he was told not to report up until he is being called⁴⁴.
- In April 2019 George Mwita, a journalist from Radio Baraka FM was arrested and detained for some time because of interfering with the president's motorcade without having press card to identify him as a journalist. This happened when the president had his visit in Njombe. He was later on released on bail.
- On August 22, 2019, a Production editor and associate head of Watetezi TV, Joseph Gandye was arrested after the publication of news which showed police brutality in Mafinga. Police said they arrested Gandye allegedly on suspicion of publishing false news in contravention of the Cyber Crimes Act, 2015. According to a Facebook post from THRDC, Mr. Gandye was arrested by the Police in Dar es Salaam at the request of their colleagues in the central region of Iringa and on 23rd August 2019, he was then transferred to Iringa before he was released on bail unconditionally.

Journalist Joseph Gandye

- On Saturday, August 24, 2019, journalist Haruna Mapunda of Gillbony Online TV was arrested by police when he was reporting the opening of opposition party ACT-Wazalendo Branch in Temeke District, Dar es Salaam Region. Haruna was taken by police and detained at Chang'ombe Police Station. He was released on bail but had not obtained his camera to date.



Picture 3.1.1.2 A Production editor and associate head of Watetezi TV, Journalist Joseph Gandye

- On September 3, 2019, the Mwanza Police Force arrested three journalists, Lilian Kidahya, Ezila Peter and Godfrey Kalabi on allegations of stealing car equipment belonging to Sahara Media Group. The company owns Star TV, Radio Free Africa and Kiss FM. The journalists were bailed out after being held at Kirumba police station in Mwanza but they have disputed the allegations and further stated that the charges have been fabricated to deny them their dues against their former employer and their arrest came after they decided to camp within Sahara premises to push the company to pay their outstanding dues⁴⁵.
- In August 2019, journalist Bollen Ngetti was arrested for publishing false information contrary to Section 16 of the Cybercrimes Act 2015. The said journalist from Raia Mwema had written on his Facebook Page that the police were looking for his wife, information that was allegedly not accurate and not from the police officers. He was later on released unconditionally after receiving legal support from THRDC.

Journalist Bollen Ngetti

- On September 7, 2019. A freelance journalist, Sebastian Emmanuel Atilio was arrested by police in Mufindi District, Iringa Region, for allegedly falsifying information and working without being registered by the Accreditation Board. Sebastian was reporting a land dispute between Ifupilo village and the Unilever Tea Tanzania Ltd and Mufindi Tea Tanzania Ltd or Rift Valley Holding Ltd. He was then arraigned before Mufindi District Magistrate's Court in Mafinga, Iringa on Criminal Case No. 208 of 2019 on charges of publishing false news and working without registering with the board contrary to sections 54(1) and 50(2) (b) of the Media Services Act, 2016 respectively, the charges that were denied by the accused person. Unexpectedly the public prosecutor filed a Criminal Application No. 11 of 2019 moving the court to deny bail against the accused person using section 148 (5) of the Criminal Procedure Act, Cap 20 [RE] 2002. Following that the court granted the Respondent/Accused an opportunity to file a Counter-Affidavit by September 16, 2019, and schedule for hearing of the Application on September 18, 2019. Atilio was then released on bail and his case is still pending in court. THRDC engaged an advocate to defend him.

⁴⁵ MCT-Press Freedom Violation Register



Picture 3.1.1.3 A photo of Journalist Bollen Ngeti who was arrested for publishing false information

- On September 17, 2019, a journalist by the name Chibura Makorongo was arrested and detained by the Regional Crimes Officer one Patrick Sanane in Shinyanga. The journalist was accused of sending two short messages using his mobile phone related to the Prison Department Shinyanga and another one about the country's top leaders. The first one was about two women who got pregnant while in remand. And another story was about a woman from Kishapu District who was arrested following murder accusations against the husband. Eventually, the husband was released and the woman stayed and gave birth while in remand until the child reached 10 years without any formal education. The journalist was later released but his mobile phones were confiscated.
- In February 22, 2019, Hamis Kasapa from Uplands FM was arrested and their phones confiscated on the allegation of spreading false information on the recent killings of children in Njombe. Mr. Kasapa was arrested while on duty when reporting incidences of child killings.
- On March 8, 2019, a journalist for Majira in Katavi George Mwigulu was arrested while doing his job. According to the journalist, Katavi Press Club received a letter from ACT Wazalendo inviting them to participate and make coverage while commemorating the women's day, on which ACT Wazalendo planned to march from their office to the Municipal Hospital. The journalist further stated that there was a letter that directed the ACT Wazalendo not to march to the hospital; instead they should find their own means to get to the hospital and mark their commemorations. While at the hospital gate the police vehicle came and started dispersing people, and Mr. Mwingulu was taking photos of the incidence when he was arrested and his camera confiscated⁴⁶.

46 MCT-Press Freedom Violation Register

- George Marato is a journalist working with Independent Television (ITV). He was arrested and charged with corrupt transactions contrary to section 15(1)(a) and (2) of the prevention and combating of corruption Act no. 11 of 2017. The reasons for his arrest are connected with his journalistic work.
- Charles Kombo is a blogger who was arrested and detained at Polisi Mabatini for nearly two weeks. The reason for his arrest was running online Blog without registration. His case is still pending at the Kisutu Resident Magistrate Court.

Denial of Access to Information

- In January 2019 a freelance journalist and the deputy chair of Central Press Club corresponding with the Mwananchi newspaper, Rahel Chibwete was denied information. Ms. Chibwete was following a story about the child of a house girl who had allegedly been locked in a wardrobe for five months by the mother's employer. The journalist failed to complete the story following obstacles from the Municipal Director of Dodoma Mr. Godwin Kunambi who was supposed to grant permission/ approval to Social Work Department. Despite her efforts to speak on phone with the Mr. Kunambi about the issues, she was told to speak with health officers dealing with the case because at that time the child was hospitalized at Dodoma Regional Hospital.
- In January 2019 a journalist for Majira Newspaper in Kagera Region Ms. Ashura Jumapili was denied access to speak with the Regional Health and Education Officers for Kagera Region. She wanted to have concrete data and information regarding reports of children's health deficiency in Ruhunga ward. The journalist visited the Municipal Director's office, where she was required to introduce herself by the Municipal Director. She did as guided and produced her identity card only to be told to bring an introduction letter from Kagera Press Club.
- In February 4, 2019 journalists Selemani Shagata of Daily News and Suleiman Abeid of Majira newspaper were denied access to information from the Education Department in Shinyanga Region. The journalists submitted forms requesting for information to the Regional Administrative Secretary Albert Msovela who did not avail that information.
- On 19th Jan-2019 journalists Rashidi Rukungu of CG FM, Joseph Ndau of TVE, Samwel Malle of V.O.T FM and Juma Kapipi of Azam TV were denied access to information after they went to interview different people during football match. When they approached the leaders of the Tabora football team the team coach started canning them after other journalists opted to run away. The coach attempted to break the cameras. After that incidence Juma Kapipi who is also a leader of Tabora Press Club contacted the Regional Crimes Officer of Tabora who brought police from the Field Force Unit to disperse people.
- A journalist representing clouds Radio and TV in Tanga Region Zawadi Kika was on January 17, 2019, denied access to information when she went to a meeting organized by the PCCB Office in Tanga. The journalist was denied information on the reason that she was not invited to the said meeting.

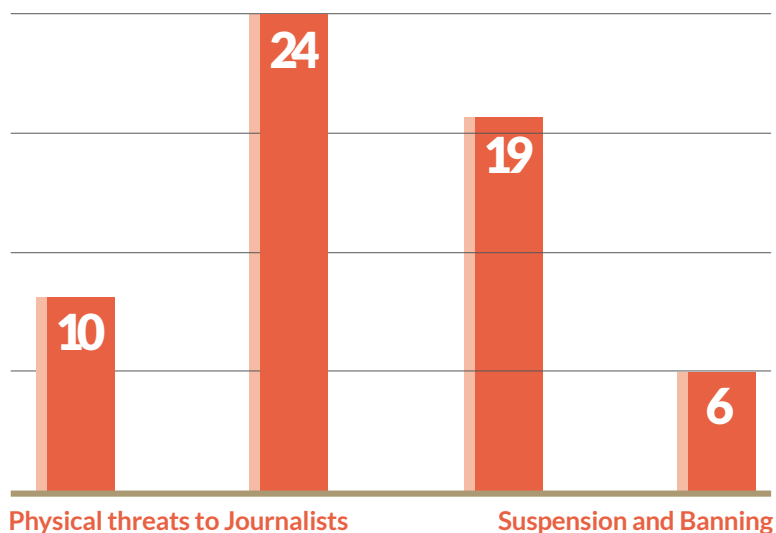
- In April 30, 2019 journalists Masanja Mabula of Channel 10, Zuhura Juma of Zanzibar Leo and Time Khamis of Radio Jamii were denied information by the coordinator of the participatory project of Tuberculosis, HIV/Aids, Hepatitis and leprosy after a seminar concerning hepatitis which was held in Pemba. After the seminar, these journalists wanted more information about Hepatitis B and C but the coordinator refused.
- In May 4, 2019 the Speaker of the National Assembly Mr. Job Ndugai, commanded all journalists covering the parliamentary sessions not to interview Members of the Parliament (MP) that were leaving an on-going parliamentary session in protest. He threatened the journalists saying that they would be removed from their duties if they were seen speaking to any of the MPs⁴⁷.
- Journalists Zuhura Juma and Maryam Salum of Zanzibar Leo and Fatma Hamad of Swahiba FM were on August 1, 2019, were denied access to information at the Zanzibar Electoral Commission Offices. This happened when the three journalists went to one of the Senior Officers of ZEC in Pemba, Mr. Ali Mohamed Dadi who denied them the information they were seeking regarding the participation of women in the upcoming elections.
- On 5th August 2019 Tom Wilson, Financial Times EA Correspondent applied for a press accreditation, sending a letter to Patrick Kipangula of the Department of Information. As the FT's East Africa correspondent he asked for accreditation to visit the country to report on the economic and investment landscape. This was rejected on 15 August 2019.
- In August 2019 owner of Domtz online Blog, Editha Majura was denied information by the Police Department in Dodoma Region. There was information that a seven (7) years child was poisoned in Dodoma. In a bid to establish the truth, she approached the police department to confirm the same. Unfortunately, she was denied cooperation.
- In September 2019, Nipashe journalist Renatha Msungu and two other journalists were denied access to information. The journalists got a tip that there was a meeting at Kilimani Club in Dodoma to resolve some management issues. Journalists sneaked into the meeting. But before the meeting started the leaders who are the “culprits” demanded that everyone in there to introduce themselves. The journalists were then ordered to leave the venue as they were not required inside the meeting room, and even after the meeting, none was ready to cooperate with them.

Suspension and Banning

- On February 27, 2019 the Information Services Department, which oversees newspaper licenses, temporarily suspended the license of The Citizen on allegations that it published reports that were false, misleading, and seditious. The order extended to the newspaper's online edition. The suspension order said that on February 23, 2019, the newspaper published an article reporting the depreciation of the Tanzanian shilling against the U.S. dollar that was false and misleading because only the Bank of Tanzania could release information on currency rates.

⁴⁷ MCT-Press Freedom Violation Register

- In September 25, 2019, Kwanza Online TV was summoned by the Tanzania Communications Regulatory Authority (TCRA) to appear before the Content Committee on account of two charges. First charge was, not adhering to journalistic professionalism and ethics and that the news reported intended to mislead the public. Kwanza Online TV had reported an accident that involved the Deputy Permanent Secretary at the President’s Office (Regional Administration and Local Governments) for health, Dr. Dorothy Gwajima that was posted on their Instagram, Facebook, Twitter and YouTube pages contrary to Regulation 7(1)(a) & (b) of the Electronic and Postal Communications (Online Content) Regulations, 2018 read together with Regulation 15(2) (b) (c) of the Electronic and Postal Communications (Radio and Television Content Broadcast) Regulations, 2018. The second charge was that Kwanza Online TV does not have/ has not printed or published an Online Policy or Guideline contrary to Regulation 5(1) (c) of the Electronic and Postal Communications (Online Content) Regulations, 2018. Following that on September 26, 2019, the management of Kwanza Broadcasting Ltd that own Kwanza Online TV appeared before the Content Committee constituted of Vice Chairman-Joseph Mapunda and Members - Abdul Ngarawa, Derek Murusuri and Jacob Tesha. But before advancing their defense they asked the Committee for some clarification which was declined instead instructed them to present their defense. In the end, the committee suspended Kwanza Online TV for six (6) months.
- Hefty fine of more than five million was imposed to Azam TV, Watetezi Online TV, Kwanza TV, Ayo TV and Gilly Bonny online Televisions Penalized for Posting Restricted Online Content, having no registered YouTube policy and Possessing Unregistered YouTube accounts Contrary to the Postal and Telecommunications Act. Gilly Bonny and Azam TV.



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 either assisting in bail processing and legal representation for those who were arraigned to court. Other cases were supported by the Media council of Tanzania (MCT).

Figure 3.1.1 1 Trends of violations journalists and media incidents in 2019

3.1.2 Digital threats/incidents

The enactment of Cybercrime Act 2015, Media Services Act, 2016 and the Access to Information Act, 2016 are the most repressive laws that affect the freedom of people who use social media to express their own views. Users of blogs and online TVs were also faced with some threats from the government especially the Tanzania Communication Regulatory Authority (TCRA) where some online TV, bloggers and other media platforms were threatened to be fined and their owners arrested if they do not register them with TCRA in accordance with the new Online Content Regulations, 2018. The list of cases resulting from the operation of the Cyber Crimes Act, 2015 will be discussed right after the discussion on the challenges of the Act.

3.2 Legal challenges affecting the security of Media and Journalists

The Constitution of the United Republic of Tanzania⁴⁸ provides for freedom of expression. Article 18 of the Constitution provides that every person has the right to enjoy the freedom of opinion and expression of his ideas. It provides further that everyone has the freedom to communicate and enjoy protection from interference in his communication. Article 19 of the Universal Declaration of Human Rights, 1948 and the International Covenant on Civil and Political Rights, 1966 guarantees everyone with the right to freedom of opinion and expression. This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

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

(i) Access to Information Act 2016

This Act was passed by the National Assembly on the 7th day of September 2016 and assented by the President on 23rd day of September 2016. According to section 2(1), 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.⁴⁹

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.⁵⁰

48 Constitution of United Republic of Tanzania 1977 as revised

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

50 Ibid

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.⁵¹

(ii) 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.⁵² 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.⁵³

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.⁵⁴ Section 59 of the MSA, 2016 has been used as a backup provision in almost every ban of the newspapers. Some of these newspapers include Mawio, Tanzania Daima MwanaHalisi, Raia Mwema and The Citizens. Section 59 of the Media Services Act, 2016 which gives the Minister enormous powers to deal with the media is the one which was used to ban these 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.⁵⁵ During the year 2017, the Minister of Information Sports, Youth and Culture used the Media Services Act, 2016 to ban newspapers such as Mawio, (2 years) Raia Mwema (3 months), Tanzania Daima (3 months) and MwanaHalisi (2 years) while in 2019 The Citizen newspaper was banned for seven days. Two newspapers ie. Mawio and MwanaHalisi have not yet resumed operations despite the fact that they sued and won the case against the government.

⁵¹ *Ibid*

⁵² *See preamble to the Act.*

⁵³ *MCT report on the Media Services Act Analysis*

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

(iii) Statistics Act, 2015

The Statistics Act imposes harsh penalties on those found guilty of publishing misleading and inaccurate statistics or statistics not approved by the National Bureau of Statistics. Those found guilty of providing false or misleading statistics without authorization from the National Bureau of Statistics are liable for a one-year jail term and a fine of 10 million Shillings (approximately US \$4500). 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. Also, although the 2019 amendments has removed the criminality aspect for those giving alternative statistics, the Act still has issues as far as issuing alternatives statistics is concerned. It has a lot of restrictions and bureaucracies from the Statistical technical committee which is the one entrusted to approve the alternative statistics. The committee also is not impartial given its composition.

(iv) Online Content Regulations, 2018

The Electronic and Postal Communications (Online Content) Regulations of 2018 are made under Section 103(1) of the Electronic and Postal Communications Act, Cap. 306 of the laws of Tanzania. Therefore, they are enforceable by the TCRA.

Clauses 2 of the 2018 Regulations make provisions for which these regulations are applicable for. According to this Clause, the regulations are applicable for (a) application services licensees; (b) bloggers; (c) internet cafes; (d) online content hosts; (e) online forums; (f) online radio or television; (g) social media; (h) subscribers and users of online content; and (i) any other related online content. It is obvious that CSOs' activities are subject to these regulations because majority of them are now engaging with or through alternative media outlets.

The regulations are criticized by many CSOs and internet users for being restrictive of freedom of information, which is guaranteed under the URT Constitution.

There are several provisions which either restrict the said freedom or have left ambiguous – and therefore, gives TCRA discretionary powers against the internet users. For instance, some of the prohibited (online) contents under Clause 12 of these regulations are '*content that portrays violence, whether physical, verbal or psychological, that can upset, alarm and offend viewers and cause undue fear among the audience or encourage imitation*' (Clause 10(1)(f)); '*portrays sadistic practices and torture, explicit and excessive imageries of injury and aggression, and of blood or scenes of executions or of people clearly being killed*' (Clause 10(1)(g)); and, the '*content that causes annoyance, threatens harm or evil, encourages or incites crime, or leads to public disorder*' (Clause 10(1)(h)). LHRC, MCT and THRDC teamed up to file an application at the High Court of Mtwara to challenge several provisions of the Regulations because of its chilling effects in media operations. The case is now pending at the Court of appeal after the applicants lost against the government. As of 2019, 8 journalists were arrested for allegedly for violating these Regulations. Watetezi TV, Kwanza TV, Gibony TV, Azam TV are among the TVs which fined five Million each and Kwanza TV was banned for six months.

(a) Challenges of the applicability of the Online Content Regulations

Some analysts⁵⁶ are of the views that the prohibiting such overly broad and ambiguous categories of content (Clause 12) is an unlawful restriction on the freedom of expression. Specifically, the first prong of the Article 19 of the International Covenant on Civil and Political Rights of 1966 (ICCPR), which requires restrictions to the freedom of expression to be both predictable and transparent. According to the ICNL analysis, to meet the requirement of predictability, the law in question must be formulated with sufficient precision to enable both the individual and those charged with its execution to conform their conduct to the law. Individuals and authorities must know precisely what speech is permitted and what is prohibited. Therefore, Clause 12 of the 2017 regulations fails this test.

Furthermore, ICNL analyses shows that, applicability of such kinds of provisions could prohibit broadcasting of news regarding violent crimes or campaigns highlighting the dangers of domestic violence or sexual trafficking; and that, prohibited images or content may also expose abuses at the hands of police or other authorities, such as unnecessary violence against protesters or marginalized groups, which is information that clearly is the public's right to know.

Another effect of the regulations is the requirement that anyone who operates a blog or forum in Tanzania should moderate all user-submitted content before it is publicly visible. This would require bloggers, for example, to review every comment posted on their blog and to check that it meets the requirements of the regulations before that comment is published. For any blog or forum that currently receives large amounts of user-generated content, this requirement would either introduce massive additional staffing requirements and costs and/or massively reduce the amount of content that gets published. In either case, operating a platform with an active community of users would become financially impossible for anyone other than the very wealthy. The requirement for pre-moderation would be to deny users their right to freedom of expression, by requiring that any opinion they express must be approved by site operators.

Moreover, there is also concern about registration of the social media owners as such process attracts a lot of fees, which could be unaffordable by some of the bloggers. Lastly, the concern is also on the severity of punishment. According, to Clause 16 of these regulations, 'any person, who contravenes the provisions of these Regulations, commits an offence and shall, upon conviction be liable to a fine not less than five million Tanzanian Shillings (approximately USD 2190) or to imprisonment for a term not less than twelve (12) months or to both.' The discussion on judicial freedom to impose punishment basing on the merit of each case is valid here as well.

The definitions and other terms of the Regulations create uncertainty around social media. In particular, some forms of social media – including Facebook, Twitter and Instagram – would

⁵⁶ Especially: ICNL 'Analysis of the Tanzania Online Content Regulation, September 2017.' Note, ICNL is the International Centre for Non-for-Profit Law, based in Washington DC, USA.

meet the definition of a forum as a “site where people can hold conversations in the form of posted messages or journals and whereby most forums allow anonymous visitors to view forum postings, but require creation of an account in order to post messages in the forum.” As such, the regulations would appear to require Facebook and the other social media companies to fulfil the requirements for blogs and forums, including registration with TCRA, pre-moderation of all content posted by users, identification of all users, etc.

These large social media companies are not based in Tanzania but have significant numbers of users in Tanzania. But it is unlikely that the companies would be willing to register with TCRA, and inconceivable that they would introduce pre-moderation and prohibit anonymity for their Tanzanian users. It is more likely that they would choose to make their services unavailable to users in Tanzania, thus depriving Tanzanian citizens of the opportunity to engage fully and freely in communications with the wider world, and of all the benefits that this can bring.

(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.

In 2019 THRDC had managed to document 12 cases ever since the Cybercrime Act became operational where section 16 of the Act was used to charge those arrested. Article 19 in their analysis they pointed out that section 16 of the Cyber Crime Act, 2015 which was coined to prevent publication of false information was vague.

Article 19 pointed out clearly that the provision of section 16 violates international freedom of expression standard, they further state that it makes work of journalist covering current development unreasonably dangerous as in situation of breaking news; facts are often difficult to verify, moreover it is often debate as to what the truth of a particular matter is and state should trust citizens to reach own conclusion. Article 19 recommended the section to be struck out entirely.

Table 3.2.1 Below shows Court Cases related to Internet use ⁵⁷

S/N	Case	Offences Charged	Law cited	Status/ Outcome
	Republic v. Bob Chacha Wangwe	Publishing false information on his Facebook account - a statement to the effect that Zanzibar was a colony of Tanganyika	Section 16 of the Cyber Crimes Act, 2015	Bob Wangwe won the case although the Republic is intending to appeal.
	Republic vs Abdul Omari Nondo	Disseminating false information to wit; "I am at risk" through WhatsApp	Section 16 of the Cyber Crimes Act, 2015	The Republic has filed a notice of appeal intending to appeal against the decision of the high court.
	Republic v. Leonard Kyaruzi	The accused was arrested and reprimanded following his post on a WhatsApp group criticizing the manner in which President Magufuli was running the country. He stated that the either lacked good advisors or was mentally retarded.	Section 118(a) of the Electronic and Postal Communications Act, 2010.	Unknown
	Republic v Leyla Sinare & Others	It was alleged that the accused persons disseminated false information through a WhatsApp group known as 'sport group'. However, the details of false information could not immediately be found.	Section 16 of Cyber Crime Act	Unknown

⁵⁷ Based on a data base from Protection desk at THRDC

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

	Cybercrime allegations	<p>During the tallying process, media houses aired various reports by the opposition party (CHADEMA) accusing the ruling party Chama Cha Mapinduzi (CCM) of election malpractice and interception of results during online transmission from constituencies to the Electoral Commission. Ruling party officials denied the allegations and instead accused CHADEMA of the same. The ICT team of CHADEMA was later arrested by the police and charged with an offence of publishing the presidential election results contrary to the Elections Act, 1985, the status of the case up to date is unknown</p>	Section 16 of the Cyber Crime Act	Unknown
	Cybercrime allegations	<p>Maxence Mello, Director of Jamii Media was summoned by police and alleged to obstruct police from conducting investigation</p>	Section 32 and 22 of the Cyber crime Act	Hearing of the case underway

Republic V. Shilinde	Advocate Shilinde was arrested on 22 nd of July 2016 in Loliondo and charged by section 16 of the Cybercrime Act, for the fact that he was providing false information using internet.	Section 16 of the Cybercrime Act	Case in progress
Republic V Maxence Melo and Mike Mushi	Maxence Melo and Mike Mushi being Directors of Jamii Media they were both charged under section 22 of the Cybercrime Act for obstructing Police Investigation	Section 22 of the Cybercrime Act	Case in progress
Republic V Maxence Mello and Mike Mushi	Maxence and Mike Mushi being director of Jamii media they were charged under Electronic and Postal Communication Act for managing website not registered in Tanzania	Section of the 79 (c) EPOCA	Case in progress

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

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

Privacy is a fundamental human right, enshrined in numerous international human rights instruments.⁵⁸ 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.

⁵⁸ Universal Declaration of Human Rights Article 12, United Nations Convention on Migrant Workers Article 14, UN Convention of the Protection of the Child Article 16, International Covenant on Civil and Political Rights, International Covenant on Civil and Political Rights Article 17; regional conventions including Article 10 of the African Charter on the Rights and Welfare of the Child, Article 11 of the American Convention on Human Rights, Article 4 of the African Union Principles on Freedom of Expression, Article 5 of the American Declaration of the Rights and Duties of Man, Article 21 of the Arab Charter on Human Rights, and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; Johannesburg Principles on National Security, Free Expression and Access to Information, Camden Principles on Freedom of Expression and Equality.

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.⁵⁹

The Constitution of the United Republic of Tanzania⁶⁰ guarantees the right to privacy under Article 16:

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

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

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

“18. - Every person -
(c) *Has the freedom to communicate and a freedom with protection from interference from his communication.*

In year 2018, THRDC documented several incidences/threats and violation of privacy rights against HRDs and this was specific for Jamii Forums. Jamii Media is a registered company which owns and runs websites of Jamii Forums and FikraPevu with more than 2.4 million users. Jamii Forums as one of the websites provides an access to users to post, engage and follow up posts of various issues and information of various matters regarding the society. The forum among others allows users to post on its websites by using anonymous or other hidden identities, with a guaranteed declaration of the users’ IDs protection (under the websites Privacy Policy)

In 2011, Jamii Forums, an online forum that has been called the “Kiswahili replica of Wiki leaks, was interrupted by the Tanzanian government to disrupt the conversations of members associated with the opposition. The founders of the forum were also detained and interrogated for 24 hours in 2008.⁶¹ On top of that the Managing director was in several occasions summoned to disclose information of whistle blowers who post information, which reveal grand corruption and tax evasion issues.

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

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

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

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

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

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

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

Section 3 of the Act;

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

“Competent Authority” means-

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

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

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

Public Interest disclosure 4:-(1) any person may make a public interest disclosure Before a Competent Authority if that person is of reasonable belief that-

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

3.4 Internet as a human right

Generally speaking, in Tanzania the government seems to control the access and use of ICT by enacting laws, which limits the freedom of expression via the internet. Laws such as the Cybercrimes Act, 2015, the Statistics Act, 2015, the Electronic and Postal Communication Act, 2010 and the Media Services Act, 2016 seems to erode the freedom of expression in internet. Again, there are some incidents in which the government has been alleged of conducting online surveillance and intercept communications. These seem to erode the basis of freedom of expression through the Internet.⁶²

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

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

Currently in Tanzania majority of people afraid to post or comment on Facebook or other social apps like Twitter, Instagram, WhatsApp etc. Only those who are pro-government can be said to be free. It is generally fair to say that the behaviour of the citizens have drastically changed after the enactment of the Cybercrimes Act. Needless to say this seems to affect the internet freedom because people can no longer express themselves freely via the internet as it used to be before.⁶³

In 2018 there have been for instances some announcements from the government that they intend to control internet use during office hours to ensure people utilize most of their time for work. However, critics perceive this as a way of restricting the right to internet use. Most of the information is found online and even the daily activities of workers are conducted using internet. Therefore, while the government aim seems as promoting the slogan “Hapa Kazi Tu”. This slogan seems to ignore other aspects of human rights

⁶² CIPESA (2015) Report on Internet freedom in Tanzania.

⁶³ Ibid.



SECURITY MANAGEMENT AND RISK ASSESSMENT

4.0 Overview of the Chapter

To Human Rights Defenders, the concept of Security means freedom from risk or harm resulting from violence or other intentional acts.⁶⁴ Protection measures refer to various measures taken by HRDs or other actors to enhance security of HRDs.⁶⁵ Security management is basically a long term overview to prevent risks, attacks and security incidences likely to happen to an individual HRD or to the HRDNGO. Because of the focus on the defence of others' rights, HRDs normally take for granted their own security and protection.

As explained earlier in previous chapters, THRDC's core function is the security and protection of HRDs. This is the main reason of THRDC's existence. The protection program is categorized into three protective measures, which includes Preventive protection (Security management and risk assessment); preventive measures are aimed at ensuring that HRDs put in place measures to mitigate the possibility of being harmed in the course of their work. Security measures can be utilized to maintain operations in the face of imposed restrictions as well as measures that can be taken in advance to mitigate harm when high risk appears imminent.

Therefore, major components of preventative protection among others include security management trainings, risk assessment, legal compliance and digital security. Others are training in the use of international and regional protection mechanisms including the African Commission on Human and People's Rights, the European Union Guidelines on Human Rights Defenders and the United Nations Human Rights Council Special Procedures mechanisms as well as the Universal Periodic Review Mechanism.

Through security management trainings, HRD is equipped with techniques, tactics on how to carry out the activism safely. The knowledge imparted to HRDs makes them aware of their capacities, vulnerabilities and hence put them in a position to positively react to any situations.

This chapter narrates HRDs security management capacities for the year 2019 following the security management and risk assessment training sessions conducted by THRDC. The chapter, before presenting the situation as of 2019, begins with the background to the situation in the past six years (2013-2018) of THRD's security management sessions through the capacity building program. The chapter concludes by highlighting the fact that there is an improved level of security management and risk assessment to HRDs in Tanzania, still the security situation of these HRDs in Tanzania is appalling hence calling for increased efforts to protect HRDs.

⁶⁴ *Frontline Defenders 2011; Workbook on security practical steps for human rights defenders at risk; Frontline Publishers, Dublin.*

⁶⁵ *Ibid*

4.2 Awareness Level on Security Management for HRDs in the Past Six Years 2013-2018

For the period of six years of the capacity-building program (2013-2018), THRDC managed to reach 1,821, which is 79 per cent of the targeted 2300 beneficiary HRDs across the country. These figures are well illustrated in the table below;

Table 4.2.1 Awareness Level of Security Management for HRDs from 2013-2018

Year	Total Number of Training Sessions	Number of Trainees [Fe = Females/ Me = Males]				
		New HRDs		Existing HRDs		Total of Trainees Per Year
		Females	Males	Females	Males	
2013	2	20	30	30	33	113
2014	7	10	23	126	200	359
2015	8	15	17	120	151	303
2016	10	10	25	200	236	471
2017	6	13	22	100	135	270
2018	4	-	-	135	140	275
Total:	37	68	117	711	895	1821

Through these security management empowerment sessions, the level of confidence and solidarity among Tanzanian CSOs/HRDs has been uplifted to the extent that they are now able to jointly initiate various human rights advocacy campaigns such as issuing of the joint CSOs/HRDs statement condemning human rights violation in the country. On the 21st February 2018 for example, HRDs across the country issued a joint press release and called the Tanzanian Government to address rapidly deteriorating environment for media, human rights defenders and democracy.

'We urge the Government to establish an Independent Electoral Commission before the 2019 and 2020 elections which will be able to balance equality and justice for all parties to avoid conflicts that may arise from the Commission's failure to maintain equity principles in the election'. This was one of the calls in the CSOs joint statement.

Moreover, emphasizing the 'acceptance' strategy during security management trainings as one of the security strategies for HRDs risk mitigation, Level of Compliance by the HRDs to the Domestic Legal, Policy and Regulatory Framework has improved to Tanzania HRDs who have received security trainings. Compared to past six years which witnessed the suspension of various HRDNGOs such as the Community Health Services and Advocacy (CHESA) for the allegedly violating the NGOs Act, in 2018 there was no reported incidence of HRDs suspension or deregistration because of failure to comply with the law. This is partly because of the security management sessions to HRDs whereby HRDs are also empowered in the knowledge of the laws regulating the sector.

To illustrate the relevance of security trainings offered, following the follow up session to the Security Management Training to Zanzibar Journalists during the 2015 electoral cycle which aimed at the usefulness of safety techniques and special journalists jackets that the coalition gave them during General Election, most of the participants acknowledge the trainings offered by the coalition and testified that they were able to avoid security incidents due to the training they received.

“The training was so relevant to our actual work as journalists and hence gave us the ability to analyse our working environment and protecting ourselves during the whole period of election” said Mwinyimvua Abdi from Zanzibar Press Club.

4.1 The Need to Build Capacity in Security Management to HRDs in 2019

After the initial six operational years and service to HRDs, being the only organization specifically for security and protection of HRDs, considered the need to conduct a security needs assessment to existing HRDs in Tanzania. The security needs assessment survey, which among other things aimed at identifying the current security and capacity needs to HRDs, was conducted in two phases; in July 2018 and January 2019.

The survey was conducted within eight selected HRD zones in Tanzania Mainland and Zanzibar. The survey reached about 185 HRDs in all eight zones from one or two regions in each zone. The Selected Zones were selected because of their level of human rights violation and security incidents reported to THRDC.

In the survey report, among the findings on security management and protection level to HRDs, it was reported that, despite the fact that for about six years of security management empowerment sessions which to the large extent has uplifted the level of confidence and solidarity among Tanzanian CSOs/HRDs, still the level of security management is low to most of HRDs who were not reached in these six years. It was recommended therefore that more capacity building sessions to HRDs about security management and risk assessment should be provided. The survey conducted was very pivotal since it provided opportunities for those existing HRDs working in the field to inform THRDC about their security challenges and needs.

4.3 The Situation of HRDs with Regard to Security Management in 2019

Under the capacity-building program that was retained from the previous five years SP (2013-2017), THRDC planned to empower about 450 HRDs in 2019. These HRDs were to be reached through trainings, training of the trainers, round table discussions, dialogues and seminars on various aspects of security management, human rights and their enforcement mechanisms.

The following below is the brief analysis of the situation of HRDs for the year 2019 about their security management and risk assessment levels following various trainings, workshops and seminars of the capacity building program. The situation focuses mainly on the following major program indicators;

- (i) Number of HRDs knowledgeable on risks assessment and security management strategies
- (ii) The Level of confidence and Solidarity among Tanzanian CSOs/HRDs to initiate campaigns and interventions on human rights issues
- (iii) Level of compliance by the HRDs to the legal, policy and regulatory framework on matters related to HRDs, media and CSOs operations in Tanzania
- (iv) Level of awareness by HRDs on Regional and International human rights mechanisms for the protection of HRDs and Human Rights in General

4.3.1 Number of HRDs Knowledgeable on Risks Assessment and Security Management Strategies

For the year 2019, a total of about 461 Human rights defenders were empowered through various security management sessions, dialogues and trainings. These sessions were conducted in either zonal classification (Northern Zone, Central Zone, Lake Zone, West Zone, Southern Highland, South Coastal Zone and East Coastal Zones) or at thematic levels (freedom of expression, women rights, social and economic rights, political rights, minority rights and indigenous/pastoral rights).

Although THRDC targeted to reach about 450 HRDs throughout the year, THRDC went beyond the target and reached about 461 HRDs, which is 102% of the total number of expected HRDs. Among the factors, which led THRDC's exceeding targeted number, was the increased interest of HRDs especially journalists who had been faced with jeopardizing working environment following a number of laws affecting their work. In addition, the high need of HRDs to comply with domestic laws as a means of adaptation to the working environment made it necessary for THRDC to empower more HRDs in the laws and regulations related to CSOs taxation.

The following table below illustrates the trend of number of HRDs reached by security management and Risk assessment trainings conducted by THRDC for the past three years (from 2017 to 2019)

Table 4.3.1.1 : Number HRDs which were expected to be trained vis a vis the trained.

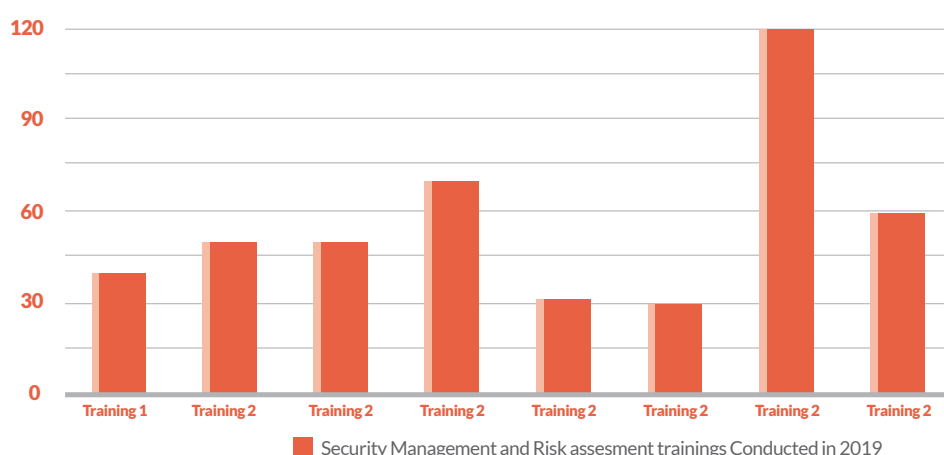
YEAR	EXPECTED HRDs	TRAINED HRDs	PERCENT
2017	300	270	90%
2018	300	250	75%
2019	450	461	102%
TOTAL	1050	981	93%

The table above illustrates the trend and number of HRDs expected to be trained and those who have actually been trained since 2017 to 2019. The Table shows that in 2017 and 2018, THRDC did not reach its expectations to reach the targeted number. Some of the reasons to these were fundraising activities, which dominated almost the whole of first half of 2018 as THRDC completed its five years strategic plan in 2017. In 2019 however, THRDC went beyond the expected number of HRDs who were expected to be trained.

As shown in the table above, 461 HRDs were empowered in security management and risk assessment for the year 2019. The following pie chart illustrates the number of HRDs empowered and training sessions delivered through security management trainings for the year 2019.

Security Management and Risk assesment trainings Conducted in 2019

Figure 4.3.1.1 : Security and Risk Management trainings conducted in 2019



Key;

- Training 1: Security management Training to 40 new HRDs
- Training 2: Security management and risk assessment training to Journalists in Southern Highlands Zone
- Training 3: Training To Human Rights Lawyers in Tanzania on how to handle election Petitions, Human Rights and Public Interest Litigation
- Training 4: Workshops on the role of law enforcers in peace building during elections (Mainland and Zanzibar)
- Training 5: Strengthening the Capacity of CSOs, Journalists, and Lawyers on Engagement with the African Commission on Human and People’s Rights (ACHPR) and the East African Court of Justice (EACJ)
- Training 6: Security management training to 30 HRDs working on social rights (Iringa, Njombe and Songea)
- Training 7: Workshop to HRDs on legal compliance and accountability on law and regulation governing Tax regime and financial regulations
- Training 8: Workshop on how to use online platforms for human rights promotion (digital rights session)

The Security management and risk assessment for human rights defenders is provided as preventive measures to help Human Rights Defenders have more secured working environment. The trainings are designed to cover matters such as working environment analysis, risk assessment, threat analysis, reaction to security incidents, digital security, and how to produce organizational security plans. Generally, security trainings provide general knowledge and tools for understanding and improving HRDs security and protection. The significance of empowering HRDs is generally to inform them on the basics of HRDs rights as well as enabling them to learn self-protection mechanisms.

Table 4.3.1.2 During the 2019 sessions, the following topics/modules were covered

Physical Security	Information/Digital Security	Other Human Rights Protection Mechanisms
The concept of the Human Rights Defender and their Protection mechanisms	Introduction to information security	Accessing Domestic legal and non-legal Mechanisms
Assessing Risk: threats vulnerabilities and capacities	Legal Framework on Internet Rights	Accessing Regional and Sub regional mechanisms
Security incidences and Preventing and reacting to aggression	Safe Use of internet/Digital Right	Accessing the UN mechanisms
Arrest, Detention and Prosecution of a Defender	Personal Data Protection and Privacy	The UN Human Rights Council
Mitigating Risk to Natural Calamities	Internet Surveillance and Monitoring	Human Rights Monitoring and Reporting
Security, Free Time And Stress Management		

4.3.2 The Level of Office Security

Security at working place is an aspect that cannot be ignored when assessing level of security management and protection measures. The most important issues assessed during the preparation of this report with regard to office security include office location; availability of security gears such as CCTV; General Office set up including the external gates / fences, doors to the building, windows, walls and roof, security guards, visitor admission procedures, Information security etc. Vulnerability of an office can always increase risk. An office with high level of vulnerability maximizes an authorized access, attacks and information insecurity.

The assessment conducted in 2018 revealed that, despite the security management trainings conducted for about six years, still some HRDs offices do not have any security gadgets such as fences, security cameras and located in vulnerable locations. However, others especially located in towns and cities are furnished with CCTV cameras, security alarms and professional security guards.



Picture 4.3.2.1 A photo of the THRDC Capacity Building Officer, Adv. Deogratias Bwire (at the middle) taken at Lindi Press Club with two HRDs

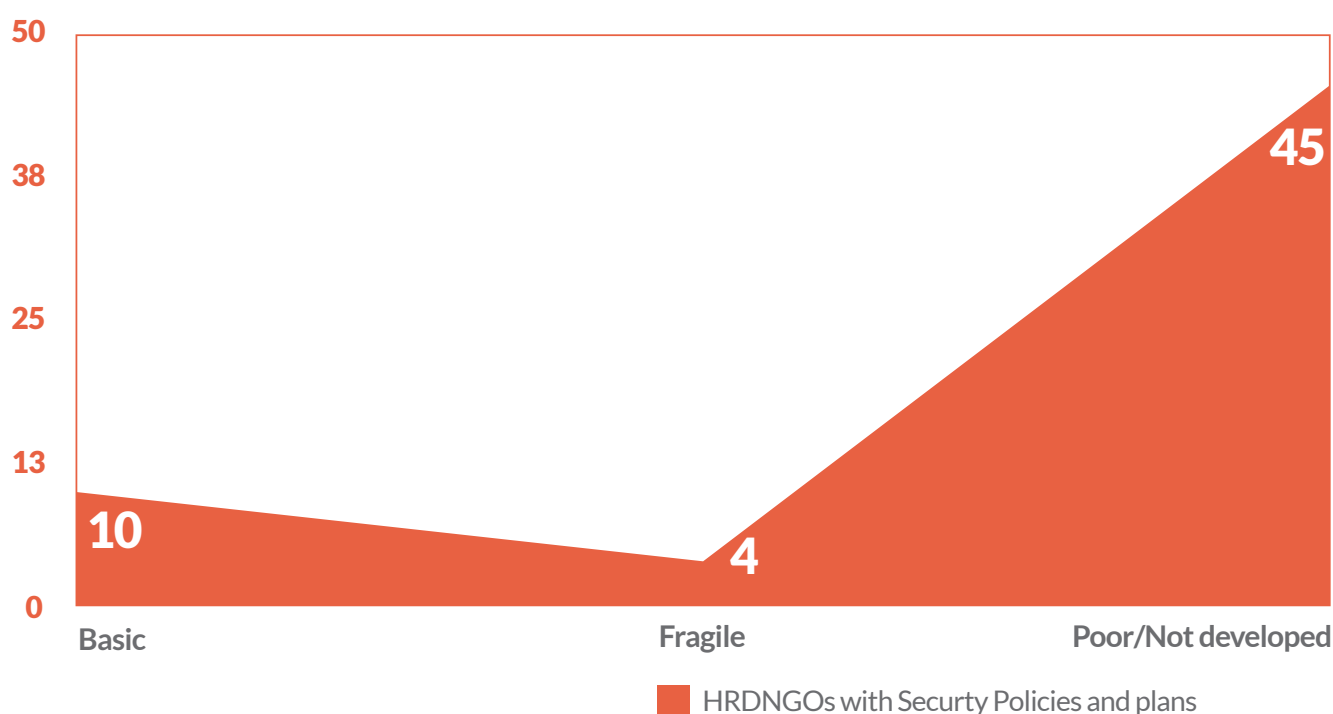
Above are photos of HRDNGOs offices. On the left is the Lindi Press Club office located in Lindi. The office does not have any security gadgets such as fences and security cameras. On the right is a well-electrified fence at THRDC offices

With regard to HRDs security policies and plans, according to the 2013 survey findings, majority of HRDs did not have security plan and policies. Out of the 200 visited offices, only four HRD offices namely Action Aid Zanzibar, Care International Mwanza, OXFAM –Arusha and DONET in Dodoma had security policies at the basic level. Poor knowledge on security management and sufficient resources were among the reasons given as to why only international HRNGOs have security policies and plans.

According to the findings of the 2018 THRDC’s needs assessment survey conducted in eight HRDs zones; many organizations have adhered to and considered the importance of security planning and staff security. Out of 180 visited HRDNGOs about 10 HRD organizations namely LHRC, TAWLA, HAKIELIMU, TGNP, UTSS, CAMMAC are some of the organizations with basic security policies and well defined security plans. Other HRDNGOs had either fragile, poor or not developed security policies or plans. This status has remained the same in the year 2019.

The pie chart below illustrates the level of compliance in terms of security policies and plans.

Figure 4.3.2 1 : HRDs organizations with Security Policies as of 2019



The above chart indicates the level of office security compliance in terms of having in place security policies and plans. Out of 180 reached HRDNGOs during the survey, 58 responded to the question on security policy. Ten HRDs responded that they have security at basic level. This meant that these organizations policy principles and responsibilities are clear and agreed upon. Four HRDs responded that they have some policies and principles on paper and 45 said they plan occasionally and do not have articulated policies and principles.

4.3.3 The Level of confidence and Solidarity among Tanzanian CSOs/HRDs to Initiate Campaigns and Interventions on Human Rights Issues

In the year 2019, THRDC conducted about eight trainings on security management and risk assessment to about 381 HRDs. Beneficiaries of these trainings were HRDs (including journalists) from across the country (both mainland and Zanzibar).

The major objective of these training sessions is to build confidence and strengthen the capacity in security management, risk assessment and improve their solidarity in order to improve their interventions at national, regional and international levels.

The beneficiaries of the trainings offered have demonstrated increased confidence and unity in advocating and defending human rights despite of the restrictive working environment for CSOs and HRDs in the country. This is illustrated by the following, to mention but a few;

(a) Joint Intervention and Call against the Contentious NGOs Amendment Act No. 3 of 2019

On 30th of June 2019, the contentious amendment, the Written Laws (Miscellaneous Amendments) No. 3 was assented to by the President to be a fully enforceable law. The new law among others issues redefines how non-governmental organizations (NGOs) should operate in the country. In addition, the amendment was brought for the debate before the national assembly under the certificate of urgency' to speed up its passage. The amendment had some contentious features, which would restrict the rights to freedom of association as guaranteed in the constitution of the Tanzania.

Expressing their dissatisfaction to the manner the amendment was brought and some contentious provisions, HRDs confidently came out in unity and solidarity to have a common stand on the amendment, which later on was passed with some contentious features being abandoned. This unity and confidence was to the large extent contributed by the security management and risk assessment trainings conducted to HRDs.



On the left is an extract from Twaweza website putting up the Joint CSOs statement and stand over the NGOs Amendment.(Misc. amendment No.3 of 2019). On the right is the front page of the citizen newspaper with the title of same press statement.



Picture 4.3.3.1 HRDs from Twaweza, Hakielimu, BAKWATA, LHRC and WAJIKI during the joint press statement on the proposed amendments to the NGOs Act, 2002)

HRDs from Twaweza, Hakielimu, BAKWATA, the Legal and Human Rights Centre(LHRC) and Wanawake Katika Jitihada za Kimaendeleo (WAJIKI) during the joint press statement on the proposed amendments to the NGOs Act 2002)

(b) The CSOs week commemorations

Aiming at strengthening the operations and standing of the sector by enhancing engagements among CSOs themselves, and between CSOs and multiple other players including the central government, parliament and the private sector from the 4th to 8th of October 2019 Tanzanian civil society organizations conducted an annual event dubbed the “CSO Week.”

The theme for the week was ‘Progress Through Partnership: Collaboration as a driver for development in Tanzania’. The theme placed greater emphasis on partnership. It proposed that, for Tanzania to achieve its development vision and attain a level of growth envisioned in the sustainable development goals, important pillars in delivering this growth, CSOs included must get better at working with each other. Therefore, the primary objective of the week to strengthen relationships between key development actors.

The CSOs week illustrated the high level of CSOs solidarity and unity from its preparations to the commemorations. More than 15 organizations collaborated in organizing and during the commemorations; more than 600 CSOs/HRDs participated in dialogues.



Picture 4.3.3.2 A photo showing high level of CSOs solidarity and unity taken during CSOs week

On the left is a section of CSOs Actors marching to the Jamhuri Stadium for the inaugural ceremony of the CSOs week in Dodoma. On the right is the registrar of NGOs Ms Vickness Mayao (at the middle) in a panel session on the NGOs-Government relationship. On her right is Mr. Francis Kiwanga the Executive Director of the Foundation for Civil Society and on her left is Mr. Israel Ilunde, the Executive Director of Youth Partnership countrywide.



Picture 4.3.3.3 On the left is the Executive Director of Wajibu Institute of Accountability Mr. Ludovic Uttoh and President of the Foundation for Civil Society Dr. Stigmata Tenga on the right

On the left is the Executive Director of Wajibu Institute of Accountability Mr. Ludovic Uttoh expressing his sentiments on the successful outcomes of the CSOs engagements with the government during the CSOs week. On the right is the President of the Foundation for Civil Society Dr. Stigmata Tenga appreciating the level of unity and solidarity, which CSOs have shown during the CSOs week 2019.

4.3.4 Increased interest to security management and Risk assessment to HRDs

Apart from increased level of confidence and Solidarity among Tanzanian CSOs/HRDs, THRDC in 2019, THRDC witnessed increased interest to HRDs who were not aware of the security management and Risk assessment trainings to get this important knowledge considering the current working environment for HRDs. This is illustrated by the request by Zanzibar Legal Services Centre (ZLSC) to THRDC to train its staff from both Unguja and Pemba. The THRDC's protection programs delivered a comprehensive training on risk assessment and digital security.



Picture 4.3.4.1 A group photo of trained ZLCS staff and other Zanzibar HRDs posing with THRDC staff and the National Coordinator (seated at the middle), Some Board members and the Zanzibar Zonal Coordinator.

Above is the group photo of trained ZLCS staff and other Zanzibar HRDs posing with THRDC staff and the National Coordinator (seated at the middle), Some Board members and the Zanzibar Zonal Coordinator.

Moreover, in 2019 THRDC noted increased commitment among HRDs especially from Zanzibar to initiate Campaigns and Interventions on Human Rights Issues. During the security management and risk assessment training to the new HRDs who were accepted as new members to THRDC in 2019, one participant was quoted expressing his commitment to defending human rights after being trained in security management;

“ Asili ya watanzania ni ya uoga na kutokuchukua hatua pindi Mtanzania anapodhalilishwa Watetezi wa mtandao wa haki za binadamu tunahitajika kujitoa sadaka ili kusimamia haki za binadamu nchini bila kujali ni Mzanzibari au kutoka bara. Kwa mafunzo haya niliyopata nitaendelea kusesitiza umoja na mshikamano kukemea uvunjifu wa haki za binadamu kwa jamii za wavuvi na jamii nzima ya kisiwa cha unguja”.

> Said M. Iddi Mwenyekiti Jumui ya Ya Maendeleo Ziwani (JUMAJZI) Unguja.

4.3.5 Level of Compliance by the HRDs to the Domestic Legal, Policy and Regulatory Framework

Although threats to HRDs operations have increased in 2019 compared to 2018, which there have been no reported incidence of HRDs suspension or deregistration because of failure to comply with the law. This is partly because of the security management sessions to HRDs whereby HRDs are also empowered in the knowledge of the laws regulating the sector.

During the 2018 CSOs Directors Reflection Meeting, Directors resolved to take deliberate steps in order to support CSOs to effectively improve internal governance and compliance with the legal requirements governing CSOs operation in the Tanzania. They agreed to develop simplified documents analysing legal challenges affecting CSOs in Tanzania and disseminating them to CSOs. Directors also agreed that matters relating to taxation should be given priority and those measures be taken to improve tax awareness and compliance among CSOs. With this backdrop, the Directors Forum under the coordination of THRDC decided to dedicate the 2019 CSOs Directors Forum to the general awareness and compliance of tax laws.

The panel discussions on tax compliance, which involved presentations from TRA officers, attracted an audience comprised of relevant government agency figures, thematic experts and civil society representatives. They stimulated significant dialogue that served to increase the understanding between government and civil society on CSOs tax compliance.



Picture 4.3.5.1 On the left is the TRA tax payer educational officer Mr. Matenus Mallya presenting on CSOs tax compliance. On the right are the Legal Officer from TRA Advocate Kachenje Octavian and an officer from the department of domestic revenue Ms Nyamtondo Joram.

On the left is the TRA tax payer educational officer Mr. Matenus Mallya presenting on CSOs tax compliance. On the right are the Legal Officer from TRA Advocate Kachenje Octavian and an officer from the department of domestic revenue Ms Nyamtondo Joram.

During the dialogue, among the agreed action points included continuous capacity building to CSOs on tax matters to provide guidance and enhancing voluntary tax compliance, and consolidating all tax laws relevant to CSOs to ensure there is one reference document in order to ensure a fair and consistent application of tax laws.

To effect this, the TRA and CSOs agreed to develop a specific CSO tax tool kit that indicate the taxes payable, governing laws and the compliance procedures. This is a huge step towards realizing the objective of providing guidance and enhancing voluntary tax compliance and a way to ensure a clear understanding, fair and consistent application of Tax laws by CSOs.

4.4 Conclusion

Generally, despite the THRDC's struggle to improve the level of security management and risk assessment to HRDs in Tanzania, the security situation of HRDs and their working environment has of recent turned worse in Tanzania. A number of HRDs especially journalists are being arrested, some tortured and baseless charges have been brought against them before courts of laws. Because of this majority, HRDs do not play their role as they use to do because of fear.

The situation of NGOs and HRDs in Loliondo is extremely hostile as compared to previous years. According to the findings of the 2018 survey and information from Ngorongoro District office, the number of active NGOs operating in NGOs has drastically declined HRDs are scared and hence a number of human rights issues in Ngorongoro go un-attended.

“Kwa kweli Loliondo si ile ya zamani, tulizoea zamani mashrika makubwa yakipishana hapa wilayani na hasa kutetea raia lakini kwa sasa hata NGOs tano hazifiki Wilayani zinazo fanya kazi, nyingi zimekimbia na zingine zimekufa”

> *Said the Director of one NGOs in Loliondo.*



THE SITUATION OF CIVIC SPACE IN TANZANIA

5.0 Introduction

It is undisputable fact that, in order for anything to flourish there must be an enabling environment. The same goes to Civil Society Organisations (CSOs). For any CSO to effectively conduct its mandated activities, there must be an enabling environment. In other words, there must be an enabling space for them to work. Therefore, this chapter presents the situation of civil society space in Tanzania for the year 2019. It addresses the space of the CSOs based on the various indicators.

Civil society refers to the space for collective action around shared interests, purposes and values, generally distinct from government and commercial for-profit actors. Civil society includes charities, development NGOs, community groups, women's organizations, faith-based organizations, professional associations, trade unions, social movements, coalitions and advocacy groups. However civil society is not homogeneous and the boundaries between civil society and government or civil society and commercial actors can be blurred. There is certainly no one 'civil society' view, and civil society actors need to contend with similar issues of representativeness and legitimacy as those of other representatives and advocates.⁶⁶

In Tanzania there are several categories of Civil Society Organisations based on their roles and modes of registration. Some of categories include faith-based organisations, professional organisations, societies and NGOs. Their roles include; Political roles, Democratic roles, Economic and developmental roles, Educational and informational roles, Socio-cultural roles, Sports and recreational roles, Service Delivery, Professional regulation and Member welfare. Those who are at risk most of the time are the ones dealing with advocacy, democracy, rights based, accountability and governance.

5.1. The Role and Significance of Civil Society

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

⁶⁶ https://www.who.int/social_determinants/themes/civilsociety/en/

Civil society enables members of society to contribute to public life by empowering them to exercise their fundamental rights of information, expression, assembly, association and participation.

Civil society contributes to societal and citizen well-being in a myriad ways – by educating the public, protecting the environment, defending the interests of vulnerable groups, meeting basic needs, conducting social research and analysis.

5.2 The Space of Civil Society

Civil society space is a space where civil society actors occupy within the society; the environment and framework in which they operate; and the relationships among civil society actors, the state, private sector and the general public.⁶⁷

Civic space can be defined as the political, legislative, social and economic environment which enables citizens to come together, share their interests and concerns and act individually and collectively to influence and shape the policy-making.⁶⁸

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.⁶⁹

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

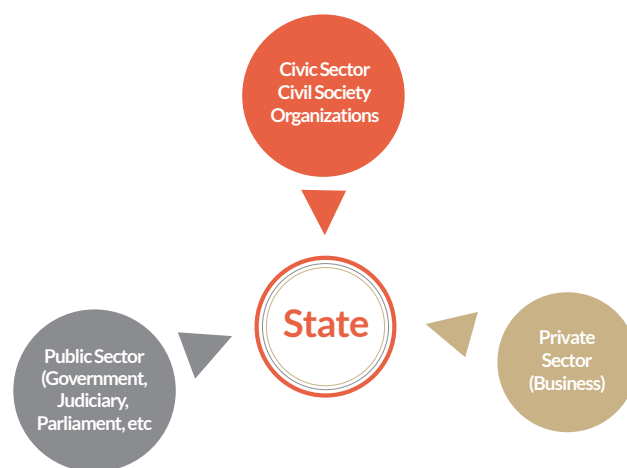


Table 8: Three Common Sectors in a Modern Society

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

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

68 <https://civicspacewatch.eu/what-is-civic-space/>

69 Olengurumwa, Onesmo (2016). *The Shrinking Space of Civil Society in Tanzania. A Paper Presented During KepaAnnual CSOs Forum on the Space of CSOs in Tanzania.*

5.3 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 shrinking⁷⁰. 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 An illustration of indicators for Civil Society space

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

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

5.4.1 Civil society space at International (UN) Level

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

⁷⁰ Malena C(2015); *Improving the Measurement of Civic Space; Transparency & Accountability Initiative* London pp26-32

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.⁷¹

Article 71 of the UN Charter opened the door by providing suitable arrangements for consultations with non-governmental organizations.⁷² 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.⁷³ Documentation about human rights situations forms the basis for interventions by UN human rights mechanisms. Well-documented and verified information by CSOs makes a strong case for action, is more credible and persuasive, difficult to refute, and an effective way to promote and protect human rights. Through this avenue CSOs are invited to share documentation that is accurate, factual information, careful analyses, and concrete recommendations about obstacles, and threats they face.

5.4.2 Civil Society space at the Regional level

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

⁷¹ <http://esango.un.org/civilsociety/displayConsultativeStatusSearch.do?method=search&sessionCheck=false>

⁷² Art 71 UN Charter; *The Economic and Social Council may make suitable arrangements for consultation with nongovernmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.*

⁷³ UN Office of the High Commissioner for Human Rights (OHCHR) 2014; *Civil Society Space And The United Nations Human Rights System; A Practical Guide for Civil Society* pp 21

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

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

The NGOs Forum shares updates on the human rights situation in Africa by the African and international NGOs community with a view of identifying responses as well as adopting strategies towards improving the human rights situation on the continent. A series of panel discussions on general human rights related issues are organized within the main agenda of the NGOs Forum as well as at side events. In 2019 CSOs from Tanzania attended two ordinary sessions of the African Commission on Human and Peoples Rights. The first meeting was held in Egypt - April 2019 and the other October 2019 in Banjul the Gambia. THRDC participated (African Commission), which is also known as the ‘NGOs Forum’. This is an advocacy platform coordinated by the African Centre for Democracy and Human Rights Studies to promote advocacy, lobbying and networking among and between human rights NGOs, for the promotion and protection of human rights in Africa.

The bi-annual event, which precedes the Ordinary Session of the ACHPR, is an advocacy platform for discussing human rights issues in Africa with a view of identifying possible strategies for engagement or redress, which are forwarded to the African Commission as contribution to its work during a said Session. The NGOs Forum shares updates on the human rights situation in Africa by the African and international NGOs community with a view of identifying responses as well as adopting strategies towards improving the human rights situation on the continent.

The main theme of the event was ‘Refugees, Returnees, Internally Displaced Persons, and Asylum Seekers towards durable Solutions to Forced Displacement in Africa’.

During the event, the THRDC together with other five NGOs from Tanzania participated in the event. Through its participation in the Forum, THRDC presented a report on the situation of Human Rights Defenders and Civic Space in Tanzania. This contributed to the adoption of specific recommendations targeting the situation of Human Rights Defenders in Tanzania.



Picture 5.4.2.1 On the left is a photo of some CSOs delegates from Tanzania attending the NGOs forum in Banjul. On the right is CSOs delegates from Tanzania having a side meeting with the UNOHCHR African Regional Coordinator

On the left is a photo of some CSOs delegates from Tanzania attending the NGOs forum in Banjul during the ACHPR sessions (October-November 2019). On the right is CSOs delegates from Tanzania having a side meeting with the UNOHCHR African Regional Coordinator.

Some of the notable achievements and importance of the meetings include, providing an avenue for CSOs from Tanzania to present on the situation of Human Rights Defenders in Tanzania. Also the CSOs from Tanzania under the coordination of THRDC got a chance to present on the situation of Civic Space in Tanzania Due to the presentations on the current situation of Civic Space and Human Rights Defenders in Tanzania, a total of 15 resolutions were adopted against Tanzania.

In addition to that, by attending the CSOs Forum in the ordinary sessions of the African Court on Human and Peoples' Rights in Banjul in October 2019 the THRDC and CSOs were able to convince the Commission to take vital steps to intervene the current situation of human rights in Tanzania. In November 2019, the Commission issued a statement to condemn the situation and call on the government to take immediate action to resolve the situation.

An extract of the full press statement by the Chairperson of the Commission Commissioner Solomon Ayele Dersso on the deteriorating human rights situation in Tanzania.



African Commission on Human and Peoples' Rights

HOME ABOUT US NETWORK SESSIONS COMMUNICATIONS SPECIAL MECHANISMS STATES

Press Statement of the African Commission on Human and Peoples' Rights on the deteriorating human rights situation in Tanzania

The African Commission on Human and Peoples' Rights (the Commission) is deeply concerned about recent developments affecting various areas of human rights in Tanzania, notably freedom of expression and the media, freedom of association, particularly the free operation of civil society organizations (CSOs) and opposition party members, and the right to non-discrimination, equality and education of pregnant girls and teen mothers.

The Commission wishes to express its concern about the limitations placed on freedom of assembly and association, and the unprecedented number of journalists and opposition politicians jailed for their activities, including the seven (7) incidents of arrest of opposition leaders in 2019, for meeting without prior authorisation. The Commission is also concerned about the 2019 amendments to the Political Parties Act, to give the Registrar of

5.4.3 The Space of Civil Society Organization at National Level

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

For the year 2019, a general trend has shown that the enabling environment for civil society operation keeps changing. Generally, governments in many countries are attempting to crack down the space of civil society organizations by creating environments that are not conducive to their work. There are variations between one regime and another, but successive governments in our country has always tried to exert pressure on CSOs.

5.5 A critical analysis of the Civic Space in Tanzania

This part provides an analysis of the situation of civic space in Tanzania for the year 2019 based on its indicators. As stated above, there are mainly five indicators of civic space. These indicators include, freedom of assembly and association; freedom of information and expression; human rights and rule of law, women participation, and non-discrimination.

5.5.1 Freedoms of Information and Expression

Freedom of information and expression plays a very vital role in the development of a country. It is one of very important element that enables Human Rights Defenders or CSOs to fully and freely conduct their legitimate activities. Freedom of information and expression mainly entails state's guarantee and respect to access to information, freedom of expression, Media and Internet freedom. Restriction of these rights to civil society eliminates the voices of people, brings into question the legitimacy of a government and might lead to a diplomatic consequence due to non-adherence to international and regional commitments to the fundamental freedoms of information and expression.

In the past five years, there has been an increase of the enactment of, new laws which limit the enjoyment of the rights of freedom of expression and the right to information to Civil Society Organizations as well as individuals. These laws include the Cyber Crimes Act, 2015, The Statistics Act, 2015 The Media Service Act 2016 and the Access to Information Act 2016.

The Cyber Crimes Act contains so many questionable restrictions, which have raised concerns over their likely impact on limiting the CSOs space and interfering with freedoms of expression and independence of media.

The Media Services Act, 2016 requires journalists to be licensed or accredited; it establishes statutory Media Services Council to replace the self-regulatory body, currently the Media Council of Tanzania and it introduces severe sanctions for a number of media-specific offences and allow for the banning of newspapers. In effect, it is intended to restrict both the space of civil societies as well as the individual's access to information. Luckily, the said law was challenged in the EACJ and the court declared the Act going contrary to the Article 6 and 7 of the Treaty to the Establishment of the East African Community.

An engagement in research activities by CSOs has increasingly become a challenge due to a number of reasons according to CSOs themselves. Most of these challenges are posed by the presence of many regulatory bodies which are established under several laws in order to oversee research activities in Tanzania. These laws include the Statistics Act of 2015, Commission for Science and Technology (COSTECH) Act of 1986 and the National Institute of Research (NIMRI) Act. Some of the challenges include insufficient funds to pay for statutory fees to National Bureau of Statistics (NBS) and COSTECH; costs associated to data collection; bureaucratic procedures to start researches at regional or district levels e.g RAS has to authenticate the permission and study mission; complying with requirements of the Statistics Act and COSTECH Act (obligation to engage with NBS and COSTECH); and, reactions of the some of the government leaders and other audience after the publication of the research results.

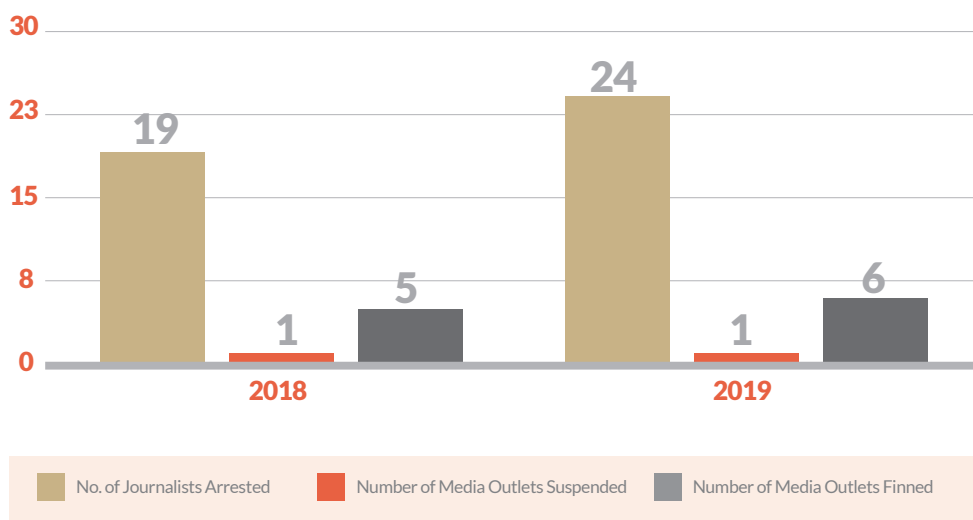
The presence of some legal provisions and actions of some government leaders and law enforcers has contributed to a number of violations to the freedoms of information and expression. The impact has been vividly observed through emerging challenges affecting CSOs/HRDs in the country, ranging from unlawful arrests, detentions, prosecution of HRDs, denial of relevant information to those in need of it, and many others.

With the presence of draconian legal provisions, in 2019, THRDC has recorded various incidences that indicate a rapid shrinking of media freedoms and rights of Journalists. Some of specific incidences include imposition of hefty fines to four media outlets (Watetezi TV owned by THRDC and Ayo TV were ordered to pay five million Tshs. for failure to publish their editorial policies and user guidelines), Other 4 televisions (Gilly Bonny, Azam TV and 2 others were penalized for posting restricted online content and possessing unregistered YouTube accounts contrary to the postal and telecommunications act; while one Online TV (Kwanza TV) was suspended for six months for violating the Online Content Regulations.

On another note the THRDC together with the Media Council of Tanzania (MCT)⁷⁴ recorded that, a total of 24 journalists were attacked or arbitrary arrested from January to December 2019. This is an increase of 5 incidences compared to 2018 where a total of 19 arrests were reported.

⁷⁴ MCT, Report of Press Freedom Violations, October 2018 to November 2019, pg11 to 17

Figure 5.5.1.1: Statistical Presentation of the violations against Media Outlets and Journalists comparison between 2018 and 2019



It is undisputable fact that, the work of HRDs would not be possible without guaranteed rights of the freedom of information and expression. In 2019, the THRDC recorded several incidences of violations against HRDs including arrests against HRDs, detention, denial of information and so on.

Amendment of the Statistics Act (2015): A Success to CSOs in 2019: One of key challenging laws to the freedom of information and research was the Statistics Act. This law introduced provisions that criminalised research. The law required researchers to seek permits from the National Bureau of Statistics (NBS). After three years of intense advocacy activities conducted by the THRDC together with other Partners and stakeholders at the National, Regional and International level, in June 2019 the Government of Tanzania submitted to the Parliament a Bill to amend challenging Provisions of the Statistics Act (2015). The Act was enacted in 2015 with some challenging provisions that required researchers to seek permits from NBS before they conduct any Research and later after the completion of the research they were required to submit the findings for approval before the statistics are subsequently published to the public. Failure to do so would attract some penalties from the law enforcers.

In June 2019, a Bill was tabled in the Parliament of the United Republic of Tanzania and later the Act was amended under Misc. Amendment Act No.3 of 2019. The Act was amended to the effect that no prior permit is required to be obtained from the National Bureau of Statistics before conducting researches and/or publishing statistical data. All these changes were contributed by efforts from the CSOs including THRDC, Development Partners and other Human Rights Stakeholders.

5.5.2 Rights of assembly and association

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

Article 20(1) of the Constitution of the United Republic provides for the right to freedom of

association.⁷⁵ In addition to the constitutional guarantee, among the objectives of the NGOs policy were to put in place NGOs registration procedures which are transparent, decentralized and which will facilitate better coordination of NGOs while safeguarding the freedom of association.⁷⁶

In 2002 NGOs Act as amended in 2005 was enacted. The law established the Directorate of NGOs of the Ministry of Community Development, Gender and Children who is responsible for the registration of NGOs. The new Act is considered as merely the state's attempt to control NGOs and not enabling an environment where CSOs can evolve independently.

The law has the provision which violates constitutional guarantees and objectives of the NGOs policy with regard to freedom of association by putting a compulsory registration requirement with the registrar of NGOs.⁷⁷ More over the Act further, requires NGOs that are established under any other written laws in Tanzania, where their status requires registration under the NGOs Act, to apply to the Registrar for a Certificate of Compliance.⁷⁸

This requirement for compliance has been used by the government as a shield to threaten CSOs which do not comply with the requirement. Government is now exploring loopholes available under the law to de-register CSOs. During the preparation of the amendment to the Act, NGOs proposed the provision be amended to provide for non-mandatory registration with the registrar due to presence of other laws preceding the NGOs Act. This recommendation was however not considered.

Key Laws Governing CSOs Amended through the Misc. Amendment Act (2019). On 19th day of June, 2019, the government issued a Special Bill Supplement amending among others the Non-governmental Organisations act 2002, The Tanzania Society Act and the Companies Act 2002. The three laws were the main legislations in the Country that register and regulate Civil Society Organization (CSOs) in Tanzania (After the adoption of the amendments, NGOs can no longer register under the Companies Act).

In one way the amendments were received as a positive change due to the fact that all CSOs that work as NGOs were now put under the Registrar of NGOs. This simplifies coordination of NGOs across the country.

On the other hand the enactment of the amendments caused unprecedented challenges to the CSOs that were registered under the Companies Act and Societies Act. These CSOs were required to re-reregister under the NGOs Act within 30 days. As a result, many CSOs failed to comply with the requirement. This lead to an automatic death due to non-compliance with the law.

⁷⁵ Every person has a freedom, to freely and peaceably assemble, associate and cooperate with other persons, and for that purpose, express views publicly and to form and join with associations or organizations formed for purposes of preserving or furthering his beliefs or interests or any other interests.

⁷⁶ Objective (iii) Tanzania NGOs policy 2001.

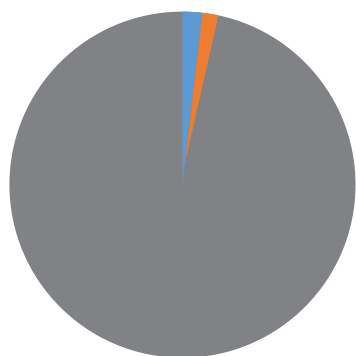
⁷⁷ Section 11 NGOs Amendment Act 2005; Each Non-Governmental Organization shall be required to register with the Registrar pursuant to the provisions of this Act.

⁷⁸ Provisions of Section 11(3) of the NGOs Amendment Act 2005

A total of 4 NGOs were deregistered due to the reason that the Non-Governmental Organizations operate in variance to their constitutions, 2 NGOs were deregistered upon their own request to the Registrar of NGOs, and 158 NGOs were deregistered for non-compliance with the Misc. Amendment Act No. 3 of 2019.

Figure 5.5.2.1 . Number of NGOs Deregistered

Statistical Presentation of NGOs Deregistered in 2019



- No. of NGOs Deregistered due to conducting activities contrary to their Constitutions (4)
- No. of NGOs Deregistered due to their own request (2)
- No. of NGOs Deregistered due to failure to comply with Misc. Amendment Act No. 3 of 2019 (158)

CSOs space to freely air out their voices has continued to deteriorate. This has also been contributed by harsh reactions from some government departments. For example in 2019 the THRDC was prohibited to conduct a one day meeting in Zanzibar for the purpose of launching 2019/2020 CSOs Election Manifesto. According to the letter from the Executive Secretary of the Ministry of the President’s Office Regional Administration and Local Government and Special Departments of Zanzibar, the permits were denied due to two major reasons. First, that, according to agreement between the Registrar of NGOs of Zanzibar and the Registrar of NGOs in Tanzania Mainland, CSOs registered in the Tanzania Mainland are required to seek permits from the Registrars before conducting the same. Secondly, it was argued that, launching of the Election Manifesto is ‘political activity’ (NGOs are prohibited from conducting political activities).

A public announcement issued by the Registrar of NGOs on the deregistration of 6 NGOs on 18th April, 2019. In 2019, the CSOs and Human Rights Defenders faced another challenge that affect their capacity to protect human rights by seeking redress in the major regional human rights forum at the African Union. Towards the end of the year 2019, the government of Tanzania announced that it has withdrawn the right of individuals and NGOs to directly file a case against it at the African Court on Human and Peoples’ Rights.



<<Picture 5.5.2.1 A sign board of the African Court on Human and Peoples Rights in Arusha Tanzania.

Despite the fact that the government withdrew the right of NGOs and individuals to file cases at the African Court on Human and Peoples Rights, the President of the United Republic of Tanzania took a vital move in September 2019 as he appointed the Chairman and Commissioners of the Commission of Human Rights and Good Governance (CHRAGG). This followed demands from CSOs, HRDs and human rights stakeholders urging the president to do so. The Commission lacked chairperson and commissioners for a period of about two years leading to piling up of cases for a long time unattended.

Political rights

Article 21(1) of the Constitution provides that subject to the provisions of Article 39, 47 and 67 of this Constitution and of the laws of the land in connection with the conditions for electing and being elected or for appointing and being appointed to take part in matters related to governance of the country, every citizen of the United Republic is entitled to take part in matters pertaining to the governance of the country, either directly or through representatives freely elected by the people, in conformity with the procedures laid down by, or in accordance with, the law. Sub article (2) of the same Article provides that every citizen has the right and the freedom to participate fully in the process leading to the decision on matters affecting him, his well-being or the nation. The Political Parties Act, 2009 as amended in 2019, further guarantees the rights of political parties' leaders to participate in political activities in accordance with the laws.

Despite the fact that the Constitution of the United Republic of Tanzania and other laws of the Country guarantees these rights, there has been serious crackdown on political activities in the country in 2019. Opposition leaders have been the target in this move. They have been seriously restricted from conducting political activities with their right to assembly been seriously curtailed at the pretext of national peace. The Police Force and Auxiliary Services Act, 1969 is particularly the law that police have been using to deny permission to opposition leaders from conducting public meetings. What is more repulsive is that even internal meetings of political leaders have been suppressed. The use of the law is in addition to the public statement that was made by the President that there should be no political activities whatsoever until the 2020 election campaigns. Surprisingly, this statement and even the misuse of the law seems to be tolerated while the ruling party has been conducting series of meetings in different places while enjoying the security of the police.

The 2019 amendments in the political parties Act is yet another obstacle to the enjoyment of political rights. The amendment introduces unnecessary criminalization of the basic duties and responsibilities of political parties and other actors, combined with excessively punitive measures without provisions for due process in the Act. The powers of the Registrar of political parties have been increased and he now manages the provision of civic education, deregister a political party, interfere with internal affairs of parties, among other powers. In essence, the amendment seeks to seriously restrict the scope of democracy rather than widening the same. The situation of political rights continued to deteriorate to unprecedented levels in 2019. The government continued to bar opposition political parties from conducting political rallies. Most of opposition leaders were denied their right to conduct public meetings for some reasons including allegedly lack of permits from the law enforcers. This has affected participation of

Political Parties in the local government elections in 2019. They later boycotted the elections leaving many candidates from CCM to win the elections unchallenged.

In response to the alleged unfair elections in the past, opposition political parties and HRDs have been urging the government to revitalise constitutional making process for the adoption of a new constitution. Some of key issues demanded by political parties and human rights stakeholders include among other things formation of an independent national electoral commission.

On another note, Tundu Antipasi Lissu, a member of parliament from CHADEMA was removed from his position as a member of parliament due to ‘failure to attend parliamentary sessions’ for about two years. The Speaker of the National Assembly, Job Ndugai claimed that, Mr.Lissu was removed from his position following his failure to attend parliamentary sessions without prior notice to his office. Furthermore, the speaker noted that Lissu has violated the law by failing to file the wealth declaration forms with the national assembly. However, the major reason for his absence was that, he was attending medical treatment in Brussels, Belgium following an assassination attempt by unidentified persons in 2017.

5.5.3 CSOs Engagement and Participatory rights

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

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

The National Policy on Non-Governmental organizations (NGOs) encourages government partnership with private sector to complement on government`s efforts to promote democracy, human rights and rule of law in the country.⁷⁹ However, the current status of state cooperation, engagement and support where the government and CSOs have worked together, reveals that the relationship is occasional and isolated. Civil society representatives have been regularly invited by the government to participate in policy dialogues, including the National Strategy for Growth and Reduction of Poverty, decentralization and local government reforms, privatizations, constitutional and legal reform processes. As part of engaging the Government in advocacy work, CSOs have been doing several activities including meetings that are intended to influence legal and policy frameworks. Some of important engagements in 2019 on civic space issues include the following:

⁷⁹ 2001 NGOs Policy; policy rule 1.1.1 pp3

(i) Commemoration of the 6th Anniversary of HRDs: The CSOs Urge the Government to enact a Law that will ensure Online Data Protection

In 2019 THRDC On the 28th of April 2019, the Tanzania Human Rights Defenders Coalition (THRDC) commemorated the 6th Anniversary of Tanzania Human Rights Defenders' day. The Tanzania Human Rights Defenders' Day is commemorated annually as a way of honouring the establishment of the United Nations special mandate on Human Rights Defenders. The main theme of the event was **"Claiming and Protecting Online Civic Space for Promotion and Protection of Human Rights in Tanzania"**. This theme is based on the fact that, Freedom of expression and association is a fundamental human right and that, it is essential for enjoyment of other rights. If people can't express themselves freely, other rights suffer more.

As part of claiming online civic space, the Minister of Works, Transport and Communication was invited to participate as a special guest. His representative, Mr. Mulembwa Munaku, informed HRDs that, *the government through the Ministry recognizes the fact that there are some challenges that affect the operation of online media in our country and one of the challenges include lack of a specific law that protect online data. He assured Human Rights Defenders that, the government is committed to enact a law that will ensure protection of online data.*

(ii) CSOs Directors Annual Reflection Meeting; TRA and the Ministry of Finance Urged to Work over Challenges Affecting CSOs under the Tax Regime

During the 4th Tanzania CSOs Directors' Reflection Meeting (13th – 14th October 2019) organized by the Tanzania Human Rights Defenders Coalition (THRDC) in Mwanza. Executive Directors had a chance to discuss issues affecting CSOs under the Tax regime. The meeting was also attended by top official from the Tanzania Revenue Authority and the Ministry of Finance.

The 2019's CSOs Directors Forum was dedicated specifically on raising awareness and compliance of tax laws. Implementing this resolution, THRDC in collaboration with WAJIBU Institute of Public Accountability assessed most common taxation compliance challenges for CSOs and the underlying causes. Among the agreed action points included; the continuous capacity building to CSOs on tax issues to provide guidance and enhancing voluntary tax compliance, and consolidating all tax laws relevant to CSOs to ensure there is one reference document in order to ensure a fair and consistent application of tax laws. To this effect, the Tanzania Revenue Authority (TRA) and CSOs jointly agreed to develop a specific CSO tax tool-kit that indicates the taxes payable, governing laws and the compliance procedures.

This is a huge step towards realizing the objective of providing guidance and enhancing voluntary tax compliance and a way to ensure a clear understanding, fair and consistent application of Tax laws by CSOs.

Picture 5.5.3.1 Mr. Shogolo Msangi (Representative of the guest of honor – Minister of Finance, Hon. Philip Mipango) giving his speech and opening remarks to the CSOs directors during the fifth CSOs Director's Forum 2019 in Mwanza



5.5.4 Human Rights and Rule of Law

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

Branding of CSOs by government officials as puppets of imperialists is yet another challenge which shrinks the space of CSOs. For a long time and repeatedly, various leaders of the government have been quoted as calling CSOs bad names. Government leaders views CSOs as source of conflicts rather than solutions to conflicts, puppets of donors and oppositions rather than partners in development.

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

5.6 Improving Civil Society Space in Tanzania

From the above critical analysis of the civil society space in Tanzania, it is obvious that there is still a lot that needs to be done. Both internal and external challenges affecting the civic space should be worked on in order to widen the shrinking space. The following are key recommendations for widening of the CSOs space suggested by CSOs directors, veteran, representatives from the government, academicians and other stakeholders during the 4th CSOs Directors self-reflection meeting conducted in October, 13 and 14 2019 in Mwanza.

- (i) The increase of CSOs participation in the African Commission on Human and Peoples Rights. For the first time the Coalition has been able to coordinate CSOs Forum in the African Commission Ordinary Sessions which have been attended by more than 30 NGOs in 2018 and 2019.
- (ii) Increase campaigns which are aimed at building awareness about the concept of HRDs and CSOs should continue to engage the executive arm of the government, Parliament, Judiciary and other subdepartments in order to influence amendment of the draconian laws. In 2019 there were some notable achievements that resulted from these engagements. For instance, the Amendment of the Statistics Act (2015) was highly contributed by the influence of CSOs and other human rights stakeholder's mostly international organisations.
- (iii) 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.
- (iv) 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. This follows some other achievements in the last year where among other things CSOs including the THRDC successfully won case at the East African Court of Justice that multiple provisions of the Media Services Act violate press freedoms.
- (v) Increase engagement of the CSOs at the Regional and international Human Rights arena. Through its programs on building solidarity among CSOs, the THRDC has contributed to civic space. In the year 2019 the THRDC has witnessed increased movement and discussions about the rights of HRDs and civic space. It must be remembered that according to HRDs Needs Assessment conducted by the THRDC in 2013, very few people had knowledge about the concept and rights of HRDs. Currently more CSOs are being engaged in the struggle for civic space. For example there has been an increase of working groups on civic space, including groups such as the CSOs Working Group on Civic Space under the DDA program and CSOs Working Group on Democratic Rights (Ushiriki Tanzania). CSOs have increasingly been conducting dialogues and meetings on civic space issues.

5.7 Conclusion;

All in all, the general assessment of CSOs space indicates that a lot remains to be done. The civic space continues to be limited especially through legislations and administrative pronouncements. THRDC advises the government of the United Republic of Tanzania to embrace the Media, HRDs and the Civil Society in general as key and internal actors of development and nation building rather than seeing them as antagonists. In addition to that, CSOs are advised to re-strategize and reorganize in order to push for reform of the oppressive and out-dated legislation affecting CSOs. They are also urged to remove internal CSOs challenges which are in fact more dangerous than the external challenges. To this CSOs need to have a tool for periodical self-reflection and peer-review in order to ensure that their 'houses are in good order.

GENERAL CONCLUSION AND RECOMMENDATIONS

6.0 Conclusion

The 2019 Tanzania Human Rights Defenders situation report indicates that HRDs in the country still operate under unsafe environment and therefore making their work even more difficult. The report indicates that HRDs are continuously harassed, abducted, attacked, and maliciously prosecuted because of their work as human rights defenders. It further shows a drastic shrinking space for civil society operations, non-respect of the rule of law, non-independence of the judiciary, lack of democracy and the growing tendency of state impunity.

On issues of civic space, a general trend has shown that the enabling environment for civil society operation keeps changing. Governments in many countries are attempting to crack down the space of civil society organisations. There are variations between one regime and another, but successive governments in our country has always tried to exert pressure on CSOs.

However, despite this situation, it will be unfair not to recognize that the state through its different apparatus have acknowledged human rights defenders and their work, the Coalition and other SCO's have engaged with this state apparatus in various trainings, meetings, planning's with a common goal of protecting Human Rights Defenders at different levels and themes.

For example, workshop organised for police officers in Tanzania mainland and in Zanzibar on Peace and Security during election, shows that the police have agreed to be recognized as human rights defenders and are willing to protect human rights defenders in their profession.

The appointment of Commissioners for the Commission for Human Rights and Good Governance in Tanzania is also a progress that needs to be recognized. It is an indication that the state recognises the role of the National Human Rights institution in the protection and promotion of Human Rights in Tanzania. Therefore in order 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 SCO'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, so as to provide legal aid and protection to HRDs.
- Increase protection and emergency funds in order to avoid delays in the provision of services to afflicted HRDs.
- Continue to advocate for the amendment of the draconian laws as evaluated in chapters 4 and 5 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.

Recommendations to Human Rights Defenders:

- HRDs need to work sincerely and morally so as to avoid unethical conducts due to them being targeted by both state and non-state actors.
- Good professional and financial status is vital for the safety and security of journalists. Journalists who work professionally and are financially well facilitated face less risk than those who operate unprofessionally and without sufficient resources.
- 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 in order 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.
- CSOs should continue to engage the executive arm of the government, Parliament, Judiciary and other sub departments in order to influence amendment of the draconian laws.
- 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.
- Increase engagement of the CSOs at the Regional and international Human Rights arena. Through its programs on building solidarity among CSO's.

Recommendations to the government:

- 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, respect and protects the rights of journalists 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 police force should create a criminal system that provides an independent body to investigate all cases involving journalists who were killed or assaulted while on duty.
- 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 draconian laws such as (Cybercrimes Act, Media Services Act, 2016), Media Services Rules, 2018, The Online Content Regulations in order 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.
- The government should create a civic space and conducive environment for civil society and human rights defenders to work freely.
- 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 One: The Lit of Countries with Legal Protection of HRDs

1997	<p>MEXICO 1997 -National Human Rights Commission Program (CNDH)</p> <p>COLOMBIA 1997-General Program for Protection of At-Risk Persons under the Ministry of Interior (Law 418 of 1997, delayed and amended through other laws passed between 1999 and 2006)</p>	
2004	<p>BRAZIL 2004-Launch of the National Program for Protection of Human Rights Defenders(PPDDH)</p> <p>GUATEMALA 2004-Creation of the Coordinating Unit of the Protection of Human Rights Advocates, Justice System Administrators and Operators,Journalists and Social Communicator by COPREDEH (Interanal Agreement 11-2004)</p>	
2008	<p>GUATEMALA 2008-Creation of the Unit for the Analysis of Attacks against Human Advocates in Guatemala(Ministerial Agreement No.103-2008)</p>	
2011	<p>MEXICO 2011 -Promise from Congress to introduce a national public policy to protect journalists and HRDs.</p> <p>COLOMBIA 2011-Creation of a National Protection Unit(NPU) of the Ministry Of the Interior (Decree 4065/2011),And the Program for Protection and prevention under the NPU (Devree 4912/2011)</p> <p>INDONESIA 2011-New proposal to establish a HRD protection unit in the National Human Rights Commission (KomnaS HAM) No progress made to date.</p> <p>PHILIPPINES 2011 -Introduction of the Human Rights Defenders' Protection Act,House Bill 5379.Text prepared by Karapatan and Tanggol Bayi.Currently under discussion in Congress.</p> <p>DRC CONGO 2011 -New version of the Edit provincial in South Kivu. Stalled in the Provincial Assembly to date. 2011-New bill submitted to the National Assembly, with the support of the former Minister of Justice.Stalled in the Senate since August 2011. 2011-HRD Protection Cell(Ministerial Decree Justice Minister Justice No.219/CAB/MIN/JDH/2011).Internal Regulation approved in April 2012.</p> <p>SOUTH SUDAN 2011 -Civil Society and the National Human Rights Commission began to draft a bill together for the protection of HRD.Draft unfinished,awaiting funds.</p> <p>HONDURAS End of 2011-Beginning of work the Secretariat of Justice and Human Rights (SJDH) on the bill "Law on Protection Mechanisms for Human Rights Defenders, Justice System Officials, and Social Communicators". Pending discussion in Congress.</p>	
2014	<p>GREECE 2014-2016 -Introduce policy on the protection of HRD.</p>	
2018	<p>COSTA RICA 2018-2019 -The official signing of Shelter City Costa Rica took place on 5 February 2018. The signing marked an incredibly important step toward the protection of human rights defenders in Central America, a region particularly dangerous for those defending human rights and the environment in recent years.</p>	
		2002
		<p>COLOMBIA 2002-Creation of the non-governmental program to protect Human Rights Defender (PNGPDDH, Somos Defensores).</p>
		2007
		<p>MEXICO 2007-Program on Attention to Human Rights Advocates.</p> <p>BRAZIL 2007-National HRD Protection Policy (Decree 6.044/Feb/2007).</p> <p>DR CONGO 2007-First proposal for regional legislation (Edit Provincial) put forth by HRD Organizations from South Kvu. Rejected by provincial Assembly. 2007 -First draft bill on HRD protection promoted by civil society (Rejected by National Assembly).</p>
		2009
		<p>BRAZIL 2009-Law 4575/2009, harmonization of PPDDH with administrative procedures and laws in state and municipalities (Currently decentralized in 8 States).</p> <p>INDONESIA 2009-Development of draft bill for the protection of HRD (The NGO Imparsial and academics). Draft bill stalled in Parliament since 2011.</p> <p>NEPAL 2009-Submission of the draft decree on HRD by Informal Sector Service Center (INSEC) to authorities no progress made to date.</p> <p>DR CONGO 2009-Creation of Liaison Entity (Entite de liaison) (Prime Minister decree 09/35).</p>
		2010
		<p>GUATEMALA 2009-2010 -Creation of the Network of Female Human Rights Advocates of Guatemala (Red de Defensoras de Derechos Humamos de Guatemala), linked to the Mesoamerican Initiative for Female Human Rights Advocates.</p> <p>MEXICO 2010 -Proposals from civil society for a Human Rights Activits Protection Mechanism (SEGOB).</p> <p>DR CONGO 2010 -Early Warning System of the Human Rights House (SAMDH) (non-government mechanism).</p>
		2012
		<p>HONDURAS 2012 -Drafting of the draft bill "Huamn Rights Defenders Protection System Law", led by E-Defenderh.</p> <p>COTE D'IVOIRE 2012 -First draft bill on HRD from the Ministry of Justice; under discussion with civil society.</p> <p>MEXICO 2012 -Law for the Protection of Human Rights Defenders and Journalists published into law (June 25th). End of 2012 -Protection Mechanism for Human Rights Defenders and Journalists begins work.</p>
		2017
		<p>DR CONGO 2017 -Passed a bill for the protection of human rights defenders in DRC, in efforts to finalize</p> <p>KENYA 2017 -Developed a Human Rights Defenders model policy and plan of action in pursuit to defend and protect human rights defenders in Kenya.</p>

No	Thematic Areas Affected	Laws	How
1	Women HRDs		
2		<p>1. Inheritance Laws such as the Probate and Administration of Estates Act, Cap 445 [R.E 2002]</p> <p>2. Religious laws</p> <p>3. Customary laws including inheritance laws</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>
3		<p>4. Prison Act, 1967, Cap 58 [R.E 2002]</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>

4		5. National Security Act of 1970, Cap. 47 [R.E 2002]	<p>This law makes it a punishable offence in any way to investigate, obtain, possess, comment on, pass on or publish any document or information which the government considers to be classified. This includes documents or information relating to any public authority, company, organization or entity which is in any way connected with the government.</p>
			<p>The reference can be traced to incidents involving active journalists such as Adam Mwaibabile. The police in Songea were instructed by the regional commissioner to charge him with possession of classified documents. The magistrate wrongly convicted Adam on the 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.</p>
5		6. The Public Leaders Code of Ethics Cap 398 [R.E 2002]	<p>Restricts the investigative role of media and does not allow it to investigate and report on the property holdings of public leaders</p>
6		7. The National Defence Act, Cap 192 [R.E 2002]	<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>

7		8. The Prevention and Combating of Corruption, Act No. 11 of 2007	The law prohibits journalists from making follow ups of any corruption case under the PCCB investigation.
8		9. The Area Commissioner Act 1962 & Regions and Regional Commissioners Act 1962	These two have been used against journalists who expose malpractice and maladministration in public offices
9		10. Civil Service Act 1989	The law curtails access to information and prevents any commissioner or civil servant from disclosing information obtained in the course of his/her employment in government without the express consent of the permanent secretary of the relevant ministry or department.
10		11. Film and Stage Act No 4 of 1976	Curtails the independence and creativity of individuals as it prohibits taking part or assisting in making a film unless the Minister has granted permission and prohibits the making of “home movies” by individuals.
11		12. Registration of News Agents, 13. Newspapers and Books Act (1988)	This operates in Zanzibar. It also has restrictive provisions. For instance it provides for the licensing of journalists and the establishment of a government-controlled “advisory board” to oversee the private print media.

12		14. Broadcasting Services Cap. 306 of the R. E 2002	<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>
13		Cybercrimes Act 2015	<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>

14		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 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)
15		Media Services Act, 2016	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.
16		Access to Information Act, 2016	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.

17		Online Content Regulations, 2018	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.
18		Media Services Rules, 2018	The rules need to be amended for they are against the right to information enshrined in our Constitution under Article 18.
19		Miscellaneous amendment No 3 of 2019 amending the CSOs Act.	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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