

Tanzania: 65 civil society groups call on the Tanzanian Government to address rapidly deteriorating environment for media, human rights defenders and opposition party members

To: President John Magufuli

10 May 2018

Your Excellency,

We, the undersigned civil society organisations (CSOs) from across world, write to express our deep concern over the worrying decline in respect for human rights, including the rights to freedom of association, expression and peaceful assembly, in Tanzania. We urge your government to take proactive measures to protect these rights which are crucial to civic space and publicly recognise the essential role that a vibrant civil society and an independent media play in creating peaceful and equal societies.

Tanzania's long-standing commitment to improving the human rights of all people, both nationally and within the region, is notable and should be acknowledged as such. However, we are deeply alarmed that these human rights issues are being precipitously undermined by the unwarranted closure of media outlets, judicial persecution and harassment of independent journalists, the targeted assassination of opposition party members, blanket restrictions on peaceful protests and the introduction and invocation of a raft of laws to undermine freedom of speech online. These and other forms of harassment and persecution of civil society and media discussed below erode Tanzania's role as a regional champion of public freedoms, peace and stability and represent a breach of its international, national and regional human rights obligations and commitments.

New legal restrictions criminalizing freedom of expression on social and traditional media

The Electronic and Postal Communications (Online Content) Regulations, which was signed into law in March 2018, criminalises a broad scope of legitimate forms of online freedom of expression. Under the regulation, all bloggers and persons operating online radio and television streaming services must secure a license and pay an annual fee of over \$900 before they can publish any material online. Such fees are not only financially prohibitive but place an arbitrary bar to entry to exercise the right to freedom of expression. We are also deeply concerned by provisions which endow the government with the authority to revoke a permit if a site or blogger publishes content that "causes annoyance" or "leads to public disorder."

Of equal concern are vague and overbroad provisions of the 2015 Cybercrimes Act which empower the government to arbitrarily ban and sanction the dissemination of newspaper articles or social media posts which it deems critical, including insulting the President. In particular, Article 16 criminalizes the publication of all information deemed "false, deceptive, misleading or

inaccurate.” Persons found to have contravened the Act are subject to draconian prison sentences and harsh fines of not less than five million shillings (\$2,190) or a term of not less than three years or both. Since coming into force, the law has been invoked to persecute dozens of individuals and journalists. In one week alone, five private citizens were charged under the Cybercrimes Act for statements made on Facebook, WhatsApp and other social media platforms, including a three-year sentence handed down to a private citizen for insulting President John Magufuli on Facebook.

Moreover, the Media Services Act, which came into force in November 2016, allows the authorities to unilaterally determine which journalists receive licenses, forces all journalists to obtain a license, and makes defamation and sedition a criminal offense. Under the law, the government-run Accreditation Board is empowered to “suspend or expunge journalists” for committing “gross professional misconduct as prescribed in the code of ethics for professional journalists.” The penalties for violating provisions of law are severe. According to the law, anyone found guilty of acting with a seditious intention who commits an offence is liable to a fine of not less than 5 million Shillings (approximately \$2,260) or three years in prison or both.

Suspensions, fines and banning media outlets

Despite strong constitutional, United Nations and African Charter on Human and Peoples’ Rights safeguards protecting the right to freedom of expression, the government has systematically targeted Tanzanian media outlets through a combination of closures and hefty fines on newspapers. This campaign of harassment, which appears to be an attempt to suppress their work to report on government policy and conduct, has resulted in four prominent newspapers being banned in 2017 and four other papers being heavily fined in early 2018.

On 24 October 2017, the government banned the Swahili-language Tanzania Daima for a period of 90 days on specious claims of publishing false news about anti-retroviral drug use for people with HIV. This was the fourth newspaper banned since June 2017 including Mwanahalisi which was banned for 24 months in September 2017; the weekly Raia Mwema for 90 days in September and Mawio newspaper for 24 months in June 2017.

On 2 January 2018, the Tanzania Communications Regulatory Authority (TCRA) fined five television stations a combined 60 million Tanzanian shillings (\$27,000) for broadcasting “offensive and unethical” content, in particular for airing a press statement issued on 30 November by the Legal Human Rights Centre (LHRC). The report by LHRC documented violations such as detentions, intimidation and physical abuse in the context of the 6 November 2017 elections of councillors in 43 wards. The TV stations that featured the LHRC's press statement and were subsequently penalised include: Star TV, Azam Two, East Africa TV, Channel 10 and ITV.

Judicial harassment and persecution of journalists and human rights defenders

In stark contrast to the authorities' human rights obligations to uphold and protect the safety of journalists, several independent media practitioners have recently been subject to physical attacks and judicial persecution. Recently on 21 November 2017, newspaper journalist Azory Gwanda was abducted by a group of unknown assailants in the Coast Region. Prior to his enforced disappearance, Gwanda who is a journalist with newspapers, Mwananchi and The Citizen, had authored a number of articles documenting the murders of several local officials and police officers. To date Gwanda's whereabouts remain unknown.

In August 2017, a Tanzania court began hearing a case against Micke William and Maxence Melo Mubyazi, co-owners of the whistleblower website, Jamii Forums. Both journalists were charged under the Cybercrimes Act on spurious accusations of obstructing justice for failing to disclose the identities of persons who posted details of allegedly corrupt officials on Jamiiforums. There have been over 40 adjournments of the case, including most recently on 3 May 2018. If convicted, they face fines up to 3 million shillings (\$1,300) or a jail term of at least one year, or both.

Groups and defenders advocating for the rights of LGBTI individuals have also been equally persecuted. Among a wave of recent attempts to suppress organisations and activists working on SOGI issues, in October 2017, 13 human rights lawyers and defender were arbitrarily arrested and detained on allegations of promoting "promoting homosexuality". Three civil society representatives, including Ugandan and South African lawyers from the Initiative for Strategic Litigation in Africa and nine members of Tanzanian Community Health and Education Services and Advocacy (Chesa), were arrested during a private meeting.

Killings and criminal cases against political opposition members

Since the start of 2018, scores of political opposition members and parliamentarians have been violently attacked and even killed. On 22 February, Godfrey Luena, a member of parliament with Tanzania's main opposition party Chama Cha Demokrasia Na Maendeleo (CHADEMA) and a vocal land rights defender, was killed with machetes outside of his home. Mr Luena had been a critic of alleged state sponsored land-grabbing. Days earlier, on 13 February, Daniel John, a CHADEMA official in Dar es Salaam, was abducted and killed by unknown assailants using machetes. Mr John was supporting an opposition political campaign for a contested parliamentary seat in Dar es Salaam.

A number of opposition party members and lawmakers have also been targeted in what appears to be a systematic campaign of judicial harassment. Among other worrying cases, two opposition leaders, CHADEMA MP Joseph Mbilinyi and local party leader Emmanuel Masonga were sentenced to five months on 26 February 2018 for insulting President John Magufuli during a political rally.

Harassment, intimidation arbitrary arrest of peaceful protesters

In response to growing public frustration over human rights backsliding in the country, individuals and groups have increasingly sought to exercise their rights to peaceful assembly to air their legitimate grievances. Worryingly, the authorities, including members of the government and security apparatus, have resorted to arbitrary arrests, excessive use of force and intimidation to silence these protests.

In April 2018, Tanzanian activists called for national demonstrations to bring attention to the decline in respect for human rights in Tanzania. However, in contravention of international standards, the authorities, which require anyone seeking to hold a public assembly to secure a permit, declared the protests illegal.

The government and police forces responded to these calls to stage public protests with severe intolerance, including hostile statements by senior government and police officials, including threats that protesters “*will be beaten like stray dogs.*” Days before the planned 26 April demonstrations seven people were arrested in Arusha for their purported role in organising the protests. The few who dared to take part in the protests were quickly persecuted; nine protesters, who marched in Dar Es Salaam, were almost immediately arrested.

Recommendations to the Government of Tanzania

The undersigned groups urge your government to create an enabling environment for civil society and the media to operate in accordance with the rights enshrined in the Constitution of Tanzania, International Covenant on Civil and Political Rights (ICCPR), the UN Declaration on Human Rights Defenders and the African Charter on Human and Peoples’ Rights, including the guidelines on freedom of association and peaceful assembly. Tanzania has ratified both the ICCPR and the African Charter. 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. In light of this, the following specific recommendations are made.

- 1) All disabling and restrictive provisions in the Cybercrimes Act, the Electronic and Postal Communications (Online Content) Regulations and the Media Services Act must be amended and replaced by progressive sections that will guarantee freedom of expression and the media in line with international human rights standards.
- 2) The cases of newspapers banned, suspended or fined under the Media Service Act 2016 should be reviewed to enable them to continue their operations without undue interference.

3) Independent investigations should be conducted into cases of attacks and assaults on journalists, human rights defenders and opposition party members with a view to bringing suspected perpetrators to justice and these attacks should be publicly and unequivocally condemned.

4) Government officials should desist from publicly threatening human rights defenders including when activists that are working to expose corrupt practices in government or are critical of government policies and actions.

5) Best practices on the right to freedom of peaceful assembly prescribed by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association should be adopted by the Government of Tanzania including removing the permission regime and providing recourse in cases of unlawful denial of the right to freedom of peaceful assembly.

Sincerely,

1. Access Now
2. African Centre for Democracy and Human Rights Studies (ACDHRS)
3. Americans for Democracy & Human Rights in Bahrain (ADHRB)
4. Amnesty International
5. ARTICLE 19 East Africa
6. The Article 20 Network
7. Asian Legal Resource Centre (ALRC)
8. Association for Human Rights in Ethiopia (AHRE) - Ethiopia
9. Association for Progressive Communications (APC)
10. Bahrain Center for Human Rights - Bahrain
11. Balkan Civil Society Development Network (BCSDN)
12. Cairo Institute for Human Rights Studies (CIHRS)
13. Caucasus Civil Initiatives Center (CCIC)
14. Center for Civil Liberties - Ukraine
15. Centre for Human Rights and Rehabilitation (CHRR) - Malawi
16. Centre for Research on Multinational Corporations
17. Chapter Four - Uganda
18. Citizens for Democratic Rights in Eritrea (CDRiE) - Eritrea
19. CIVICUS
20. Civil Rights Defenders (CRD)
21. Committee to Protect Journalists (CPJ)
22. Commonwealth Human Rights Initiative (CHRI)
23. Community Empowerment for Progress Organization (CEPO) - South Sudan
24. DefendDefenders (East and Horn of Africa Human Rights Defenders Project)

25. End Impunity Organisation
26. Ethiopia Human Rights Project (EHRP) - Ethiopia
27. Freedom House
28. Front Line Defenders
29. Greenpeace Africa
30. Governance, Elections, Advocacy, Research Services (GEARS) Initiative - Zambia
31. Groupe d'Action pour le Progrès et la Paix (ONG GAPP-BÉNIN) - Bénin
32. HAKI Africa - Kenya
33. Human Rights Defenders Network - Sierra Leone
34. International Civil Society Center (ICSC)
35. International Rivers - Africa Program
36. Iraqi Network of Social Media - Iraq
37. Jamaa Resource Initiatives - East Africa
38. JOINT Liga de ONGs em Mocambique - Mozambique
39. Karapatan Alliance for the Advancement of People's Rights - Philippines
40. Kefa - the Finnish NGO platform - Finland
41. Latin American and Caribbean Network for Democracy (REDLAD)
42. Liberia Coalition of Human Rights Defenders (LICHRD) - Liberia
43. Ligue Djiboutienne des Droits Humains (LDDH) - Djibouti
44. Ligue Iteka - Burundi
45. Lumiere Synergie pour le Developpement - Senegal
46. Malawi Human Rights Defenders Coalition - Malawi
47. Minority Rights Group International
48. National Civic Forum - Sudan
49. Observatoire des Droits de l'Homme au Rwanda - Rwanda
50. Odhikar - Bangladesh
51. OutRight Action International
52. Pan-African Human Rights Defenders Network (PAHRDN)
53. Public Interest Law Center (PILC) - Chad
54. RESOCIDE - Burkina Faso
55. Robert F. Kennedy Human Rights
56. Robert L. Bernstein Institute for Human Rights | NYU School of Law
57. Servicios y Asesoría para la Paz (Serapaz) - México
58. Sinergia - Venezuela
59. Solidarity Center
60. Sudanese Development Initiative (SUDIA) - Sudan
61. Tournons la page (TLP)
62. West African Human Rights Defenders' Network (WAHRDN)
63. World Movement for Democracy
64. The Zambia Council for Social Development (ZCSD) - Zambia

65. Zimbabwe Human Rights NGO Forum - Zimbabwe