



Thematic Brief - II

Freedom of Assembly

Freedom of Assembly is a Civil Right

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Civil and Political Rights Tracking

Freedom of Assembly is a Civil Right

Freedom of Assembly is provided in all key human rights instruments that Tanzania has ratified and the Constitution of the United Republic of Tanzania.¹ They all provide that individuals have a right to assemble.

Freedom of Assembly is defined in the Constitution of the United Republic of Tanzania (1977) and Zanzibar Constitution of 1984 (Article 20 (1)) as ‘Every person has freedom, to freely and peacefully 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/her beliefs or interests or any other interests.’

In Tanzania mainland and Zanzibar, since 2010 in particular concerns have been raised by civil society that this freedom is being limited and interfered with arbitrarily without clear reasoning. There are suspicions about the objectivity and neutrality of the authorities (i.e. the police and their superiors). While LHRC and ZLSC reported on improvements in 2014, there are still incidents where the restriction of assembly is applied without clear reasoning and denials being provided informally and without much clarity. As Tanzania further develops into a multi-party system where diverse political ideas need to be discussed and debated, it is important that individuals’ right to assemble is promoted and protected by the authorities rather than thwarted. There is also a duty and responsibility to those who assemble or organize assemblies to promote and protect the rights of others and do so observing the laws of the land.

Key Message: The misinterpretation, misuse and/or non-compliance with legal frameworks governing the freedom of assembly by public authorities contribute to a restrictive and uncertain context for citizens to exercise their right to assemble.

Challenges Affecting Citizens’ Freedom to Assemble

There are a number of important issues to resolve in order to ensure this freedom is upheld and protected for the citizens of Tanzania mainland and Zanzibar.

1. **Arbitrary limitations to assembly:** While each individual has the freedom to assemble, authorities have the power to use their discretion to limit this freedom under specific conditions. Assemblies are restricted without adequate reasoning, leading to suspicions around the motivations for such denials. There is little official data available in Tanzania on the right to assembly, which makes it difficult to have a nuanced understanding of how the accessibility to this right has changed over time. Civil society and the media however have reported incidents of arbitrary denial of this right by police.
2. **Unaccountable denial of assembly:** As highlighted above, the law allows for the limitation of assemblies under certain conditions. While maintaining public order and security concerns are cited by the police as a reason for denying assembly, specifics are not provided. Often confidential ‘intelligence sources’ is cited. Furthermore, denial of assembly is provided informally rather than in officially written notices.

1 See UNDHR Article 20, ISSPR Article 21, ACHPR Article 11

Further citizens have little understanding on how to appeal such denials and may be unwilling to appeal to higher authorities due to the link between the police and the appealing authority. Also, there is little avenue to hold the authorities to account.

3. **Misunderstanding of terms and responsibilities:** The Police Force and Auxiliary Service Act 2002 (“Police Act”) outlines procedures the police must follow in the policing of public assemblies and processions. The terms “assembly” and “procession” are not defined in the Police Act. The Act does state that an assembly of three or more people, who do not obey orders to disperse when requested, would be classified as an “unlawful assembly”. This renders the right to assemble at the discretion of the police officers in charge of the area, which is reliant upon their knowledge and understanding of the law, as well as their potential political bias. As such, it is viewed as a ‘favour’ to let people assemble rather than a political and civil ‘right’.
4. **Arbitrary use of force:** The law stipulates that the state has obligations to support Freedom of Assembly. This means that Tanzanian authorities must facilitate the exercise of the freedom. These obligations cover the facilitation of peaceful assemblies and a duty to take reasonable and appropriate measures to enable lawful demonstration to proceed peacefully. There are however incidents reported across Tanzania where use of force has been excessive at demonstrations and the police have not fulfilled these obligations.
5. **Lack of clarity over the use of public space:** Freedoms can be restricted depending on the type of public space requested. Assemblies appear to be more difficult to hold in cities and urban areas and more easily authorised in rural and areas with less public and media profile.

Opportunities to Protect Freedom of Assembly - Key Messages

- a. **Interpreting the law on freedom of assembly:** The law on freedom of assembly as per the Constitution and other laws cited above needs to be applied by the police. The Police Force and Auxiliary Act needs to be amended so that assembly is clearly defined and adheres to international standards.
- b. **Police discretion to limit assemblies should be used objectively:** When the police consider prohibiting assemblies they should ensure that they are acting objectively. If an assembly is denied or cancelled the police should provide a clear justification and written notification.
- c. **Mechanisms need to be established to hold the police to account:** There is need to advocate for an independent body to be established, with the mandate to provide objective oversight of the police, separate from the government and political party influence. The remit of such a body would cover police action more broadly, significant consideration should be provided to how police promote and safeguard human rights including right to assembly.
- d. **Citizens who have assembled need to be protected:** LHRC/ZLSC are calling on the police to fulfil their obligations to facilitate peaceful assemblies and ensure measures are in place to enable lawful demonstrations to proceed peacefully. The police must fulfil this obligation equally across assemblies, regardless of the political affiliations or messages at these assemblies. Police should follow national (as per the Constitution) and international law (for example the UN Basic Principles on the Use of Force and Fire Arms) in providing security and ensure the use of force is a last resort and restricted to the minimum.

- e. **Contributing to enhancing the quality and availability of data:** Data should be collected and recorded on the number of assemblies authorized, denied and cancelled. Ideally this data should be managed by the police and made available to the public. A civil and political rights tracking methodology was developed by LHRC and ZLSC in late 2015. This will enable perception data on freedom of assembly to be collected and analyzed for the first time in Tanzania.

Prepared by:



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