

Sexual Violence:

A Threat to Child Rights and Welfare in Tanzania

# SUMMARY OF THE TANZANIA HUMAN RIGHTS REPORT 2018

TANZANIA MAINLAND



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## ABOUT LEGAL AND HUMAN RIGHTS CENTRE

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Legal and Human Rights Centre is a private, autonomous, voluntary non-Governmental, non-partisan and non-profit sharing organization envisioning a just and equitable society. It has a mission of empowering the people of Tanzania, so as to promote, reinforce and safeguard human rights and good governance in the country. The broad objective is to create legal and human rights awareness among the public and in particular the underprivileged section of the society through legal and civic education, advocacy linked with legal aid provision, research and human rights monitoring. LHRC was established in 1995 and operates in Tanzania Mainland.

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## Major Developments in 2018

Alarming rate of incidents of sexual violence against children

Minister of Home Affairs ordering police to grant bail even during weekends and issuing stern warning against police fabrication of cases

Controversial Online Content Regulations signed into law

Government to establish gender desks in primary and secondary schools in a bid to promote reporting of violence against children and address the problem

North Mara Gold Mine implicated in grand corruption scandal

Introduction of controversial Political Parties Bill

Reports of child-on-child sexual abuse in schools, primary and secondary schools – especially boarding schools

Senior government officials speaking out against misuse of arrest and detention powers by regional and district heads

Tanzania further dropping in the World Press Freedom Index

Judicial action to improve access to justice and address violence against children

Acute shortage of classrooms for pupils who passed Standard VII exams

Abduction of business mogul raising concerns over personal security

Killings of older people in Tabora, Songwe, Kagera and Rukwa

Killing of a university student, Akwelina Akwilini, during an opposition protest in Dar es Salaam

National and international stakeholders and partners expressing concern over decline of human rights in Tanzania

Concerns over by-election costs as political defections become a common occurrence in Tanzania

Amendment of the Appellate Jurisdiction Act to prohibit striking out cases because of procedural irregularities: a positive action to enhance access to justice

Abductions and killings of bobaboda drivers

Introduction of the Micro Finance Act 2018

Introduction of the Non-Governmental Organizations Act (Amendments) Regulations, 2018

Introduction and suspension of a new pension pay formula

Introduction of Legal Aid Regulations of 2018



## 5 Most violated human rights in 2018 Right & Major Violations

1. **Freedom from Violence**  
Sexual violence against children;  
Physical violence against children;  
Economic violence against women;  
Physical and psychological violence against  
women; and  
Violence against the elderly
2. **Right to Life**  
Mob violence; Witchcraft-related killings;  
Extrajudicial killings
3. **Freedom of Expression**  
Arbitrary restrictions on freedom of  
expression imposed by laws; Harassment  
and beatings of journalists
4. **Right to Liberty and Personal Security**  
Arbitrary arrests and detentions;  
Abductions; and Killings
5. **Freedoms of Assembly and Association**  
Restrictions on political rallies; Proposed  
amendments to the Political Parties Act



## Report Objectives and Methodology

The main objective of the report is to highlight the situation of human rights in Tanzania for the year 2018, indicating human rights violations and efforts made to promote or safeguard human rights. The report also seeks remind duty bearers of their human rights protection obligations and make comparisons on human rights situation between the years 2017 and 2018. The report is a useful tool in human rights advocacy and can also be used in teaching human rights. Data used to prepare this report were obtained from different credible sources, including government institutions, the Judiciary, the Parliament, district/municipal officials, the Police Force, human rights monitors, other CSOs, international NGOs, legal aid clients, paralegals, national and international human rights mechanisms and the media.

The data was collected between January 2018 and March 2019. The report covers the period of January to December 2018, thus all collected information relate to incidents or events of the year 2018.

## Report Structure

The Tanzania Human Rights Report 2018 is divided into two parts. Part One depicts the situation of human rights in Tanzania Mainland and Part Two covers the situation in Zanzibar. Chapter One provides an overview of Tanzania, briefly discussing the history, geography, population and governance system. Chapters Two to Six discuss different human rights falling under the three major categories of human rights, namely: civil and political rights; economic, social and cultural rights; and collective rights. Chapter Seven covers the rights of vulnerable or special groups, namely: women, children, persons with disabilities (PWDs), the elderly and persons living with HIV/AIDS.

Chapter Eight is about corruption and human rights, while Chapter Nine looks at human rights mechanisms. Chapter Ten focuses on other issues of human rights concern in the year 2018.

## Regions to Watch

Region	Right issue(s)
Mwanza	Sexual and physical violence against children Witchcraft-related killings
Tabora	Witchcraft-related killings Economic and psychological violence against women Child marriage Child/teenage pregnancy
Dar es Salaam	Sexual violence against children Mob violence Freedom of expression,
Kilimanjaro	Economic and sexual violence against women Sexual violence against children
Mbeya	Sexual violence against children Economic violence against women
Iringa	Sexual violence against children Economic violence against women
Shinyanga	Witchcraft-related killings Child marriage
Singida	Sexual violence against children Economic violence against women
Kigoma	Sexual violence against women



## 1.1. History

Before being subjected to German and British colonial rule in 19th Century, Tanganyika (now called Tanzania Mainland) was inhabited by the Bantu-speaking natives. By then, these natives had interacted with and were living with traders from Asia and the Arab world. By 15th Century, the Portuguese had also entered the land of Tanganyika; and it was during this period of interaction with the Arabs and the Portuguese that slave trade intensified. In 1880s, there was a conference in Berlin-Germany, popularly known as the Berlin Conference, during which major European powers (countries) scrambled for and partitioned Africa, formalizing the process of colonizing the continent. During the conference, Germany was awarded different parts of East Africa, including Tanganyika. However, after the Second World War, Germany lost the Tanganyika territory, which was placed under the British colonial rule until it gained independence in 1961.

During the colonial rules, especially German colonial rule, different local chiefdoms rebelled against the oppressive colonial administration, which massively violated the natives' human rights. Among the local chiefs who led the uprisings include Chief Mirambo of the Nyamwezi, Chief Meli of the Chagga and Chief Abushiri of Pangani. The most popular uprising was that of 1905 against the German colonial administration, popularly known as the Majimaji Uprising, led by a traditional and spiritual leader called Kinjekitile Ngwale, who was believed to possess powers of turning bullets into water, hence the term 'Majimaji' (maji) is a Swahili word meaning water).

Independence struggles were led by a political party that was called the Tanganyika African National Union (TANU), born in 1954. Before 1954 TANU was known as

the Tanganyika African Association (TAA), a political association established in 1929. TANU was led by Julius Kambarage Nyerere (the father of the nation), who led his party and Tangayika to independence in 1961, becoming independent Tangayika's first Prime Minister under the Independence Constitution. In 1962, Tanganyika became a republic, with Nyerere as its first President under the Republican Constitution, which declared him as the Head of State, Head of Government, Commander in Chief of the Army and part of the Parliament. In 1964, Tanganyika merged with the neighbouring Zanzibar to form Tanzania. Zanzibar had gained independence from Britain in 1963 and overthrown the Sultan of Zanzibar (from Oman) in January 1964.

The third constitution, the Union Constitution, was adopted, introducing a two-government system under TANU (Tanzania Mainland) and Afro-Shirazi Party (ASP). In 1965, the Interim Constitution was adopted, re-introducing a one-party state system. This Constitution was enacted by an ordinary Act of Parliament, contrary to principles of constitutionalism and people participation. In 1977, TANU and ASP merged to form Chama cha Mapinduzi (CCM), which adopted the Permanent Constitution of the United Republic of Tanzania 1997, which is used to date.

This Constitution has been amended at 14 times. One of the major constitutional amendments was that of 1992, which re-introduced multi-party system. Previously, in 1984, there had been another major amendment of the Constitution, which incorporated the Bill of Rights in the Constitution. Before that, since Tanganyika gained independence and later merged with Zanzibar, human rights were not seen as a priority or important in the Constitution, although Tanzania had already signed and ratified some of the international human rights conventions.



## 12. Geography

Tanzania is located in East Africa between Latitudes 10 and 120 South and Longitude 290 and 410 East. It borders the Indian Ocean to the East and is also bordered by the States of Kenya, Uganda, Rwanda, Burundi, Malawi and Zambia in other cardinal directions. Tanzania is the largest country in East Africa and has Mount Kilimanjaro, the highest in Africa and third highest in the world. Tanzania is blessed with abundant natural resources, including striking green vegetation, rift valleys, lakes, rivers and national parks. Lakes found in Tanzania include Lake Victoria – the biggest in Africa and Lake Tanganyika – the deepest in Africa. National parks include Serengeti, Mikumi, Manyara, Ngorongoro and Katavi.

## 13. Population

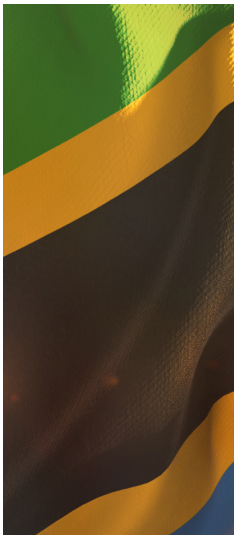
Tanzania population continues to grow each year. According to the 2012 population census, Tanzania has 43,625,354 in Mainland Tanzania and 1,303,569 in Zanzibar. Women account for majority of the population (51.3%) while men constitute 48.7%. By 2016, population projections indicated that the Tanzania population had reached 50,144,175, with 24,412,889 males and 25,731,286 females. Majority of the population lives in rural areas.

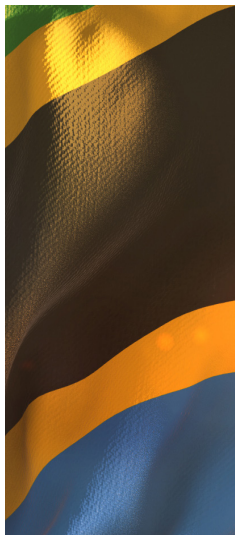
## 14. State Organs

There are three state organs in Tanzania, namely: the Executive, the Parliament and the Judiciary. These organs are established in and given different powers by the Constitution of the United Republic of Tanzania of 1977.

### A. Executive

The Executive includes the President – who is the Head of State, Head of Government and Commander-in-Chief of the Armed Forces – and the cabinet. The cabinet consists of the Vice-President, Prime Minister, President of Zanzibar and all ministers. The cabinet is chaired by the President. The Vice-President assists the President with all union matters. Zanzibar has its own government and President under the two-government system that is in place in Tanzania. Zanzibar has authority over all non-union matters as indicated in the Constitution of the United Republic of Tanzania of 1977.





#### Presidents of the United Republic of Tanzania

Mw. Julius Kambarage Nyerere	1964-1985
Ali Hassan Mwinyi	1985-1995
Benjamin William Mkapa	1995-2005
Jakaya Mrisho Kikwete	2005-2015
John Pombe Magufuli	2015- to date

#### B. Parliament

The Parliament of the United Republic of Tanzania is the main law-making body in Tanzania, consisting of elected and appointed members of parliament (MPs) from the ruling party (CCM) and opposition parties. The President is part of the Parliament, according to the Constitution. The Parliament is vested with powers of overseeing and advising the Executive/Government and its institutions or agencies.

Zanzibar has its own legislative body, called House of Representatives, which also oversees and advises the Revolutionary Government of Zanzibar.

#### C. Judiciary

The judiciary is the principal organ charged with dispensation of justice in Tanzania. It consists of different courts with varying jurisdictional powers. The highest court is the Court of Appeal, which is presided by Justices of Appeal (Judges), who entertain all appeal cases. The second highest court is the High Court, presided by Judges. These first two courts are called higher courts. Lower courts are Resident Magistrates Courts, District Courts and Primary Courts – which are the lowest courts. All lower courts are presided over by Magistrates. The High Court has several divisions, including Land, Commercial, Labour and recently introduced Economic, Corruption and Organised Crime Division (established in 2016). All judges are appointed by the President after consulting the Judicial Services Commission, while magistrates are directly appointed by the Commission. There is also the Constitutional Court, which had mandate to exercise jurisdiction over all cases relating to the Constitution of the United Republic of Tanzania. Furthermore, there are military courts, which are guided by military laws and have jurisdiction over military officers.

The Court of Appeal also has powers to entertain some of the appeal cases from Zanzibar – which has its own court system consisting of the High Court of Zanzibar, Resident Magistrates Courts, District Courts and Primary Courts. Zanzibar also has Kadhi Court of Appeal and Kadhi Court, specific for Muslims.



## CHAPTER TWO: CIVIL RIGHTS

### Introduction

Civil rights are protected under various regional and international human rights conventions. These conventions include the International Covenant on Civil and Political Rights (ICCPR) of 1966, the African Charter on Human and Peoples' Rights (ACHPR), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) and the African Charter on the Rights and Welfare of the Child (ACRWC). These rights are also included and guaranteed under the Constitution of the United Republic of Tanzania of 1977. These rights are thus protected at both national and international levels and are key in enjoyment of other human rights.

Generally, the situation of civil and political rights slightly worsened in 2018 compared to 2017, owing to increased violations of/ arbitrary restrictions on freedom of expression, right to liberty and personal security, freedom from torture, freedom of association and right to take part in governance.

### 2.1. Right to Life

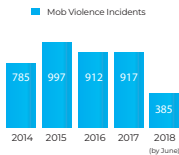
The report focuses on mob violence, extrajudicial killings, violence against law enforcement officers, witchcraft-related killings, violence against PWAs, death penalty and road accidents as key issues affecting right to life in 2018. However, being the most fundamental human right, violations of other rights usually also threaten right to life, given the interrelation and indivisible nature of human rights. For the year 2018, other incidents/actions that threatened right to life include: violations of consumer rights through selling of counterfeit and substandard products; abductions and killings; acts of violence, including sexual and physical violence; killings of police officers in Kigoma; and non-realization of social and economic rights.

The situation of the right to life slightly improved in 2018, compared to 2017. This is due to reduced incidents of reported mob killings, extra judicial killings, witchcraft-related killings and road accidents and resulting deaths. However, the rate of these incidents is still high and they continue to be a major threat to right to life.

### Human Rights Discussed (5)

Right to Life,  
Freedom of Expression,  
Rights to Equality before the  
Law and Effective Remedy  
Right to Liberty and  
Personal Security,  
Freedom from Torture



**Mob Violence:**

# Mob killings in Tanzania Mainland, 2014-2018

Source: Police data, 2014-2018

An average of 65 people was killed each month across Tanzania Mainland from January to June 2018. These incidents are more prevalent in urban areas. A total of 385 mob killings were recorded by the Police Force in the first six months of 2018. Lack of faith in the justice system (police and judiciary) and due to corruption continued to be the major reason for resorting to mob violence. Poor knowledge about legal procedures also a contributing factor.

It is LHRC's view that mob violence is mainly caused by lack of faith in the justice system, which is still significantly tainted by corruption. In some cases, however, ignorance of the law fuels mob violence – especially when a populace is not aware of legal procedures such as bail.



# Witchcraft-related killings in Tanzania Mainland, 2014-2018

Source: Police data, 2014-2018

**Extrajudicial Killings and Violence against Law Enforcement Officers:**

LHRC documented 5 incidents of alleged extrajudicial killings, 4 less incidents than those documented in 2017. These incidents were reported in Dar es Salaam, Mara, Mbeya, Tanga and Tabora. These killings are caused by excessive use of force and torture by law enforcement officials. On the other hand, LHRC documented two incidents of violence against law enforcement officers, reported in Uvinza-Kigoma. In this incident, Inspector Ramadhani Mbini, and another police officer, were killed by civilians when conducting an operation to remove pastoralists in Mpeta Village, Uvinza District.

**Witchcraft-related Killings and Violence against Persons with Albinism:**

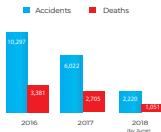
106 killings due to witchcraft suspicion were reported in the first half of 2018. LHRC documented incidents of witchcraft-related killings reported in regions such as Tabora, Geita, Morogoro, Songwe, Rukwa, Mwanza, Ruvuma and Shinyanga. LHRC was able to document one incident of attack against a PWA, which was in Singida. Action by the Government, the Commission for Human Rights (CHRAGG) and other stakeholders has contributed to improving the situation of PWAs. However, they continue to live in fear, especially at this period as we head to the general elections in 2020.

**Death Penalty:** In 2018, LHRC was able to document five death sentences, which are considerably less than those documented in 2017 (15). Currently, there are over 480 death row inmates, majority of them (over 90%) are male.



**Road Accidents:** Fewer road accidents and deaths (2,220 accidents and 1,051 deaths) were reported in the first half of 2018, compared to the same period in 2017 (3,090 accidents and 1,308 deaths).

Road accidents and resulting deaths, 2016-2018



## 2.2. Freedom of Expression

Freedom of expression is a fundamental human right. It includes media/press freedom, right to information and freedom of opinion.

In 2018, situation of freedom of expression continued to deteriorate, owing to continued restrictions, which have had a negative impact on civil society, human rights activists, political parties, media and the community at large. These restrictions have been a major factor behind reduced civic space in Tanzania Mainland. Key issues affecting freedom of expression in 2018 were:

Introduction of online content regulations, which are a threat to media freedom, freedom of opinion and right to information: Key concerns with the regulations include: vague and ambiguous definitions and prohibitions; requirement of internet café owners to install video cameras and record activities of internet users and keep recordings for at least a year; severe and uniform punishment for failure to comply with regulations; too much powers granted for the regulatory authority; requirements of registration, license and annual fees; obligation to moderate and filter content; some of the obligations of application services licensees; and some of the obligations of online content hosts;

Harassment of and threats to journalists: LHRC documented at least four incidents of harassment of journalists, including foreign journalists from the Committee to Protect Journalists (CPJ) and beating of a journalist at a sports bonanza in Dar es Salaam;

Amendments to the Statistics Act of 2015: Major concerns regarding the amendments include prohibiting dissemination of statistics that are considered to invalidate, distort or discredit official statistics by the National Bureau of Statistics (NBS), and publishing statistics without the approval of the bureau;

**93**  
in the 2018 World Press  
Freedom Index

**RANKING**  
**-10**  
83 in 2017

**GLOBAL SCORE**  
**= 0**  
30.65 in 2017

🕒 Ranking since 2013



Continued application of laws that contain provisions that arbitrarily restrict freedom of expression, such as Media Services Act and Cyber Crimes Act;

Employers restricting freedom of expression of employees: LHRC received several complaints about employers not prohibiting employees from expressing opinions deemed 'unconventional'; and

Working environment forcing journalists into self-censorship and sometimes kill stories: Existence and application of restrictive laws and harassment of journalists and media outlets, including through threats from unknown people, have created a difficult working environment for journalists, forcing them into self-censorship in the course of doing their job. A study conducted by Twaweza in 2018, majority of citizens (62%) feel that freedom of the media to criticize or report government mistakes has diminished.

### 2.3. Right to Equality before the Law and Effective Remedy

Right to Equality before the law includes: access to justice, right to legal representation and right to fair trial. Right to effective remedy is a key right related to equality before the law.

In 2018, rights to equality before the law and effective remedy were boosted through action by Government and Judiciary action to improve access to justice and effective remedy. Action includes: amendment of the Appellate Jurisdiction Act; introduction of Legal Aid Regulations; employing technology to increase access to justice; hiring of judicial servants; implementation of Judiciary policy to reduce backlog of cases; introduction of mobile courts; and construction and renovation of court buildings.



#### Conditions for Access to Justice

Availability of independent and impartial courts and tribunals  
Good laws  
Courts/tribunals to be accessible and have sufficient resources to administer justice  
Availability of qualified lawyers for legal representation  
Fair trial and timely justice

However, realization of rights to equality before the law and effective remedy continued to be hampered by several challenges, including: corruption in the justice system, violation of rights of accused persons, shortage of resources within the judiciary, and high costs of effective legal representation.

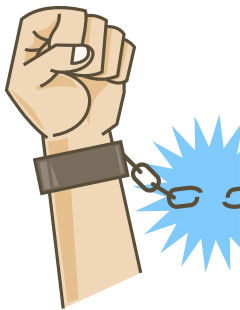
Access to justice continues to be faced with a number of challenges. These include limited access to legal aid, corruption within the justice system, inaccessibility of police stations and courts, high costs of effective legal representation, low awareness of relevant laws and procedures amongst community members, shortage of and uneven distribution of lawyers and advocates and prolonged detention of accused persons. Other factors include threats to lawyers seeking to represent clients, especially criminal suspects; interference with the independence of the Judiciary; prolonged detention of accused persons and criminal suspects languishing in jail as remandees; existence of unethical lawyers, who take advantage of clients; English language problem for some lawyers and magistrates; shortage of judicial staff, corruption within the judiciary, and inadequate allowance for assessors in Primary Courts. According to the Chief Justice, Prof. Ibrahim Hamis Juma, there is a need of 24,643 judicial staff members, but currently there are only 6,096.

In 2018, rights to fair trial and effective remedy continued to be hampered by limited access to courts and delays in dispensation of justice. Recent estimates show that more than 20 million Tanzanians have no access to the High Court. According to the World Bank, delays and prolonged or unnecessary procedures cost Tanzania an estimated US\$464 million a year.

Corruption also continues to play a part in hindering full realization of the rights to fair trial and effective remedy, known to be more prevalent in lower courts, which are more accessible to majority of Tanzanians.

#### 2.4. Right to Liberty and Personal Security

In 2018, the right to liberty and personal security was mainly affected by arbitrary arrests, including orders of arbitrary arrest and detention by regional and district commissioners; controversial/suspicious killings; and abductions.



**Freedom from Arbitrary Arrest and Detention:** Reported incidents of arbitrary arrest and detention documented by LHRC include arrest of a journalist in Dar es Salaam; and arbitrary arrest and detention of a university student-Abdul Nondo. In this year, there were also multiple complaints about police fabrication of cases against innocent civilians. Orders of arbitrary arrest and detention by regional and district commissioners were also an issue of key concern in 2018, with attracted media attention.

**Right to Personal Security:** Incidents of that threatened or violated right to personal security documented by LHRC include: the killing of a land rights activist, Godrey Luena, in Morogoro; attack and killing of an opposition political party in Dar es Salaam; killing of police officers in Uvinza-Kigoma; abduction of a business mogul in Dar es Salaam; and abduction of a university student.

Another key issue is the growing trend of abductions and killings of boboda drivers in different parts of Tanzania Mainland. Incidences such as disappearances of politician Ben Saanane in 2016 and journalist Azory Gwanda in 2017 remained without answers in 2018, as did she shooting incident of Tundu Lissu (MP) in 2017.

**Right to Bail:** Although guaranteed under the Constitution of the United of Tanzania, right to bail, especially bail granted by police was found to be under threat in 2018. Some police officers were accused of extorting money from individuals under police custody or their relatives as a condition for release on bail. Because of this situation, in 2018 the Minister of Home Affairs issued a warning to police officers to refrain from corrupt behaviour and ordered that police bail should be granted even during weekends.

## 2.5. Freedom from Torture

In 2018, incidents of torture documented by LHRC include: torture of a journalist at a sports bonanza in Dar es Salaam; torture of a local businessman in Bunju area in Dar es Salaam; beating of a journalist in Tarime-Mara; and torture of children by parents, teachers and guardians. The incident which attracted nation-wide attention was that of teacher in Kagera Region beating a primary school pupil to death for allegedly stealing his teacher's purse.



## Introduction

As it is the case for civil rights, political rights are protected under various regional and international human rights conventions. These conventions include the International Covenant on Civil and Political Rights (ICCPR) of 1966, the African Charter on Human and Peoples' Rights (ACHPR), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) and the African Charter on the Rights and Welfare of the Child (ACRWC). These rights are also guaranteed under the Constitution of the United Republic of Tanzania of 1977.

### 3.1. Freedom of Assembly

Freedom of assembly continued to be under severe pressure in 2018, particularly through ban of political assemblies for political parties, unless rally is held by a Member of Parliament or other political leader within their respective constituency. Though it has no legal basis, several opposition political leaders were arrested in connection with this; and requests for political rallies were reportedly denied on a regular basis. Blanket bans of assembly are contrary to the Constitution of the United Republic of Tanzania of 1977, Guidelines on Freedom of Association and Assembly in Africa and international standards on freedoms of association and assembly.

### 3.2. Freedom of Association

Arbitrary restrictions on freedom of assembly had a severe impact on realization of freedom of association in 2018. As the African Commission on Human and Peoples' Rights held in the case of the World Organization against Torture et al v. Zaire, not permitting opposition parties to meet in public or private and harassing them, amounts to violation of their right to freedom of association. In 2018, Opposition members and leaders also complained of unfair treatment while in the conduct of political affairs in the forms of harassments, denial or delays in granting bail and prison sentences. Proposed amendments to the Political Parties in 2018 also further jeopardised freedom of association for political parties. LHRC's assessment of the proposed amendments showed that problematic provisions proposed in the Bill included: those criminalizing legitimate political activities; vague provisions, susceptible to multiple interpretations and abuse; severe penalties and disregard of the principles of natural justice; and sweeping discretion-

10

## Human Rights Discussed (3)

Freedom of Assembly,  
Freedom of Association,  
Right to Take Part in  
Governance



ary powers of the Registrar of Political Parties. A survey by Twaweza, released in 2018 indicates low public awareness of smaller political parties. According to the survey, most citizens are aware of three major political parties in Tanzania, namely CCM (100%), CHADEMA (97%) and CUF (83%), while knowing little about other parties. This attests to the importance of realization of the right to freedom of association and the impact that a blanket ban on political rallies is having on these parties.

In October 2018, the Ministry of Health, Community Development, Gender, Elderly and Children introduced the Non-Governmental Organizations Act (Amendments) Regulations, 2018. The regulations provide for some positive provisions, seeking to ensure financial transparency and accountability of NGOs operating in Tanzania, as well as combating corruption and money laundering. However, LHRC's assessment of the regulations shows that the reporting requirements under the Regulations are burdensome and the Regulations generally raise the question of practicability and leave loopholes for misuse of power by government officials, which might lead to harassment and arbitrary interference with the freedom of association of NGOs.

### 3.3. Right to Participate in Governance

Right to take part in governance or participate in the government includes the right to vote and be voted for and the right to participate in political life. Right to Vote and Be Voted for: In 2018, LHRC was able to observe and document a number of incidents which threatened the right to vote and be voted for during by-elections in different parts of Tanzania Mainland. Violence erupted at some polling stations, leading to physical harm. There were also some complaints about irregularities, including denial of permits for opposition agents.

Right to Participate in Political Life: Arbitrary restrictions on participation rights, namely: freedom of expression, freedom of assembly and freedom of association, greatly affected right to participate in political life in 2018, due they contributed to reduced civic space. Proposed amendments to the Political Parties Act further jeopardized the right to participate in political life in 2018. The Political Parties (Amendment) Act, 2018 contained several problematic provisions, including those essentially legitimate criminalizing political activities; granting too much powers to the Registrar; and providing severe punishment for contravention of provisions by part and party members. Arbitrary restrictions on participation rights have contributed to shrinking civic space in Tanzania.

A 2018 Twaweza study on citizens' views on politics in Tanzania shows that majority of Tanzanians are not confident in their representation by their Members of Parliament (MPs). According to study findings, fewer than half of all citizens approve of the performance of their MPs (44%) and councillors (45%) since coming to office.



## Introduction

The Government of Tanzania has an obligation under the International Covenant on Economic, Social and Cultural Rights (ICCPR), other human rights conventions and the Constitution of the United Republic of Tanzania of 1977 to ensure progressive realization of economic rights, which include the right to own property and the right to work.

### 4.1. Right to Own Property

This right focuses on land, which is defined to include anything erected above it. While enjoyment of the right to property continued to be particularly a key issue of concern for women, the overall situation of this right was found to have improved in 2018. This is attested by several government actions to address land-related problems, including land disputes; launch of the Land Management Programme; and strengthening of the security of tenure.

However, land-related conflicts still persist in different parts of Tanzania Mainland, especially between farmers and pastoralists. Between July 2017 and March 2018, a total of 86 land-related conflicts between farmers and pastoralists were recorded in Tanzania Mainland, resulting into deaths of 44 people and causing injuries to 75 people. In 2018, discriminatory laws and GBV also continued limiting women's access, control and ownership of land.

Affordability of land was also highlighted as a key issue for majority of citizens, who are poor, owing to high land prices. Another key issue affecting right to acquire and use land in 2018 was corruption and land grabbing. In September 2018, during his visit in Bunda-Mara Region, Hon. President John P. Magufuli issued a warning against investors who grab land of citizens, instead of following relevant procedures for land acquisition for investment. This followed complaints by Bunda residents about an investor who took their land without compensating them

### 4.2. Right to Work

Right to Work consists of right to gain living by work and right to just and favourable working conditions. Several challenges hindered realization or full realization of right to gain living by work, including unemployment problem and most university graduates falling short in employability skills. Other factors include inadequate wages; restrictions on freedom of associa-

#### Human Rights Discussed (2)

Right to Own Property,  
Right to Work



tion and collective bargaining; poor working environment; low awareness about labour laws, rights and duties. Teachers are among the groups mostly affected by these challenges. For women, sexual violence against them at workplaces re-emerged as a key issue in 2018. It was revealed that solicitation of sex bribe to secure employment or promotion continued to be a common practice in 2018.

In 2018, right to work was also affected by introduction of a new pension pay formula, which caused a public outcry and criticized by various stakeholders. The new formula provided for a pension pay of 25% in lump sum and the remaining 75% to be paid on a monthly basis in a period of 12 years. The practice before was a 50% lump sum pay and 50% monthly packages. In December 2018, President John Magufuli ordered suspension of the new pension pay formula and reverting to the previously-used formula.

Moreover, in 2018, workers in both public and private sectors continued to bemoan the burden of Pay as You Earn (PAYE) tax and loan board payments. PAYE constitutes 30% of monthly pay, while loan board in now 15% of monthly pay, rising from 8% since January 2017. 2016/2017 CAG report on local government authorities indicates that a total of 4,830 employees in 58 local government authorities (LGAs) were noted to receive less than one third of their basic salaries, which is contrary to law, owing to excessive deductions due to application of new rate of 15% to employees who were loan beneficiaries.

In 2018, realization of the right to gain living by work was partly hindered by unpaid staff claims, inadequate staff appraisal and delays in promotion. According to the audit report on local government authorities by the Controller and Auditor General (CAG) for the financial year 2017/2018, outstanding staff claims and salary arrears in 22 LGAs amounted to Tshs. 11,141,505,574. These outstanding claims demoralize employees in delivery of effective

and efficient services to the community The CAG report on LGAs has also highlighted absence of or inadequate staff appraisal, which affects delivery of service.

Furthermore, the CAG report shows that for the financial year 2017/18, there were delays in approving promotions and salary increments to 10,899 officers in 17 audited LGAs. Lists for approval were submitted to the President Office Public Service Management (PO PSM) for approval, but delayed despite the employees in question have the required qualifications.

The CAG report on local government authorities (LGAs) for the financial year 2017/2018 also reveals that despite Government effort to halt payment of salaries to ghost workers, the problem still exists in 17 LGAs that were audited.

Shortage of staff at LGAs was also revealed in the CAG report, creating a burden for existing employees, who are forced to do more than they are required in order to meet performance expectations.

Another key issue on right to work for the year 2018 was violation of right to work of domestic workers. This right was violated through violation of various labour rights, such as right to employment contract; right to fair remuneration; right to normal working hours; right to overtime pay; right to favourable working conditions; and right to leave. Recent study on situation of domestic workers indicates that 80% of domestic workers did not have employment contracts. There report further reveals that majority of these workers are made to work beyond normal working hours without overtime pay, are paid less than minimum wages, are not granted leave, are not informed about their rights, and are mistreated.



## CHAPTER FIVE:

### SOCIAL AND CULTURAL RIGHTS

#### Introduction

Social Rights include Right to Education, Right to Health, Right to Clean and Safe Water, Right to Adequate Standard of Living and Right to Culture. These rights are protected under the International Covenant on Economic, Social and Cultural Rights (ICCPR) of 1966 and the African Charter on Human and Peoples' Rights (ACHPR) of 1981, both ratified by Tanzania. These rights are also stipulated in the Constitution of the United Republic of Tanzania of 1977. The Government has a duty under the Constitution and international human rights law to ensure progressive realization of these rights, creating a good environment for their enjoyment.

#### 5.1. Right to Education

Introduction of a fee-free education policy by the Government has helped to increase access to education (primary and secondary). However, this has created a problem of acute shortage of classrooms for pupils who have completed and passed primary education. Shortage of classrooms in this regard was reported in regions such as Shinyanga and Arusha. Other challenges affecting access and quality of education in 2018 included: distance from home to school; lack of /shortage of dormitories; violence against children at school and on their way to and from school; insufficient budget for the education sector; shortage of toilets and toilet holes; shortage of teachers and learning materials; child pregnancy; child marriage; and poor working conditions for teachers.

#### 5.2. Right to Health

In 2018, the Government took several measures to ensure progressive realisation of right to health in Tanzania Mainland, including preparations for construction of over 60 district hospitals. However, realisation of this right continued to be affected by challenges such as shortage of health facilities; shortage of healthcare workers; insufficient budget; delayed disbursement of funds or disbursement of only half the funds; and shortage of beds, essential medicines and medical supplies. Shortages of health facilities were reported in regions such as Kigoma, Mwanza (Ukerewe),

14

#### Human Rights Discussed (5)

Right to Education,  
Right to Health,  
Right to Clean and Safe Water,  
Right to Adequate Standard of Living,  
Right to Culture



Tanga (Muheza) and Shinyanga (Kahama). Access to health services is also hindered by lack of coverage of health insurance for the majority of citizens, as only 30% are covered. In 2018, the Minister responsible for health, Hon. Ummu Mwalimu, mentioned that the Government was planning to expand health insurance coverage to 50% of Tanzanians by 2020.

### 5.3. Right to Clean and Safe Water

Right to water is a key socio-economic right that needs to be realized on a daily basis. In 2018, limited access to clean and safe water in some parts of Tanzania Mainland, especially in rural areas, greatly affected women and girls – who are usually forced to walk long distances to fetch water. When the women delay coming back from the water source they are usually accused of cheating by their spouses. For girls, lack of access to water affects them in various ways, including creating an uncomfortable learning environment at school. Challenges related to realization of right to water include: budgetary constraints; shortage of experts in the water sector; inability of councils to effectively monitor water project funds; failure to complete water projects on time; non-payment of water bills by government institutions; decline in water resources; underinvestment in water projects by private sector; damage to water infrastructure and destruction of water sources; water leakages/loss; and poor management of water projects.



### 5.4. Right to Adequate Standard of Living

Right to adequate standard of living includes the right to food and right to shelter/adequate housing. These rights are essential for realization of other human rights. Food security was generally not an issue of major concern in 2018. However, nutritionally adequate food is also still a challenge, especially for children in rural areas. Moreover, right to shelter/adequate housing continues to be a challenge for many Tanzanians, most of whom continue to live in houses which are in poor condition. For the people who faced the unfortunate fate of demolition of their houses in 2017, which caused public outcry, they continued to feel the impact in 2018, affecting their realization of the right to adequate standard of living.



### 5.5. Right to Culture

Right to culture is one of the fundamental human rights that is freely enjoyed in Tanzania; and 2018 was no different. Tanzanians, including ethnic minorities, were generally free to participate in cultural life and enjoy cultural products and identity. The Government continued to promote the Swahili language. People were also free to practice religion and embrace religious culture.



CHAPTER SIX:  
COLLECTIVE RIGHTS

## Introduction

Collective rights are the rights that belong to and are enjoyed by a group of people as opposed to individual rights. These rights include right to development and right to enjoy and benefit from natural resources.

### 6.1. Right to Development

This right includes participation in contribution to and enjoyment of economic, social, cultural and political development. Political development stalled in the year 2018, owing to arbitrary restrictions of participation rights, affecting peoples' participation in political development. Participation rights such as freedom of expression, freedom of assembly and freedom of association were negatively affected by government action and enactment of laws and adoption of regulations which infringe on these fundamental rights.

Social development suggests realization of key social rights such as right to education, right to health, right to water and right to adequate standard of living. Introduction of fee-free education policy by the government has definitely paid dividends as there has been increased enrolment in primary education and authorities in different parts of the country are making efforts to vigorously implement the policy.

However, increased enrolment has created a challenge of shortage of classrooms to accommodate pupils who pass the national examinations and ready to join secondary education. Revenue collection by the Government is key for the realization of social rights. The Govern-

#### Human Rights Discussed (2)

Right to Development,  
Right to Enjoy and Benefit from  
Natural Resources

ment needs to enable it to provide basic social services such as food, water, clothing, shelter and healthcare for its people, especially the poorer section of the society. Tax avoidance and evasion in 2018 thus contributed to loss of revenue needed to ensure progressive realisation of social and economic rights.

Despite continued improvement in economic development, the main challenge for Tanzania remains translating such growth into poverty reduction in order to boost human development. Majority of the people still live under or slightly above USD 1 per day.

Counterfeit and substandard products also threatened right to development and other human rights in 2018, as well as consumer rights. A 2017 report on state of counterfeit goods in Tanzania by the Confederation of Tanzania Industries (CTI) indicates that counterfeit products contribute to tax revenue loss of



about USD 4 million annually. Presence of these counterfeit and substandard products also causes loss of employment; ill-health; loss of consumer trust; loss of market share; and safety risks.

## 6.2. Right to Enjoy and Benefit from Natural Resources

Key factors which continued to affect realisation of the right to enjoy and benefit from natural resources in 2018 include: corruption within the mining sector; land grabbing; tax evasion; and lack of access to water resource in some areas. For instance, in 2018, authorities from North Mara Gold Mine and former government officials were accused of corruption in connection with mining operations of the mining company going as far back as 2006.



## CHAPTER SEVEN:

### RIGHTS OF VULNERABLE GROUPS

#### Introduction

Rights of vulnerable or special groups which are usually violated are Freedom from Violence, Right to Non-Discrimination and Right to Quality Social Services.

#### 6.1. Women's Rights

Apart from various human rights conventions that protect such rights for all people, there are human rights conventions which are specific for women, providing for women's rights. These conventions including the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) of 1979 and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol). These conventions prohibit discrimination against women – which prevents them from enjoying their fundamental human rights. In 2017, women continued to face discrimination and being subjected to various forms of violence, affecting enjoyment of their right to life, right to own property and right to equality.

#### Women

In 2018, the Government continued to take several measures, in collaboration with non-government actor, to address the problem of violence against women (VAW), through implementation of the national Plan of Action to End Violence Against Women and Children 2017/18 – 2021/22. However, the situation of women's rights continued to be negatively affected by different forms of VAW, which are still prevalent in different parts of Tanzania Mainland.

In the year 2018, LHRC documented various incidents of VAW, particularly in the forms of physical violence, economic violence and sexual violence, including beatings, rape, desertion/neglect, exploitation of labour and marital sodomy. More incidents of physical violence were reported in the media compared to the year 2017, including a husband stabbing to death his wife - was a lecturer at University of Dodoma; and a husband hitting his wife with hard object and killing her in Mkuranga-Pwani Region.

#### Groups Discussed (5)

Women,  
Children,  
Persons with Disability,  
Elderly,  
Persons living with  
HIV/AIDS



**Key issues affecting women's rights in 2018**

Economic violence

Physical and psychological violence

Sexual violence

Marital sodomy

Sexual corruption: A challenge for women, including female at higher learning institutions

"If you want child support, come get it!": co-parents using child support to take advantage of women

Regarding sexual violence, police data indicate that 1,218 women reportedly raped from January to Jun 2018. Sexual violence was said to be among the major forms of VAW in half of the regions that were visited by LHRC, namely: Songea, Tabora, Mbeya, Singida and Kilimanjaro. One of the acts of sexual violence reportedly widely committed against women in 2018 was their spouses forcing them to engage in anal intercourse (marital sodomy).

In Kigoma, LHRC and Twaweza were able to document a series of incidents of rape and attempted rape of women in the region's capital going as far back as 2017. These brutal acts are reportedly conducted by a group calling themselves TELEZA. The incidents include: raping of a woman who had returned home at midnight from fetching water in 2017; raping of a 60-year-old woman (four times) in 2017, after being hit with a rod; raping of a 36-year-old woman (who was reportedly raped 6 times from 2017 to 2019), such that she decided to buy a weapon to protect herself; raping of an eight-month-pregnant woman in 2018; and raping of two older persons, one of them 70-years old. Reports of sexual violence against women and killings were also reported in Monduli -Arusha. LHRC condemns these inhumane acts and calls upon authorities in Kigoma and police headquarters to intensify investigation and bring perpetrators to justice.

Sexual corruption was also identified as a major challenge for women in 2018, especially for young women seeking jobs. Reports of these women being asked to sleep with prospective bosses in order to secure employment continue to be widespread, with some agreeing in order to be employed or promoted and others are discouraged and give up on employment altogether. In November 2018, a lecturer at the University of Dar es Salaam, Dr. Vincensia Shule, took to her Twitter account to expose sexual corruption at the university, shortly after the visit of the President of Tanzania, Hon. Joseph Pombe Magufuli.

In 2018, LHRC found economic VAW to be a major problem in six out of the ten regions it was able to visit. These are Mbeya, Iringa, Shinyanga, Singida, Ruvuma and Kilimanjaro. In Ruvuma, economic violence was said to be more prevalent in Namtumbo.

Reasons for violence against women include witchcraft beliefs, jealousy and revenge; payment of dowry; lack of legal awareness; drunkenness among men; poor educational background; and harmful traditional practices.



Another key development which affected women's rights, sexual and reproductive rights in particular, was the President's advice for women to abandon family planning and the Ministry of Health, Community Development, Gender, Elderly and Children in Tanzania announcing ban on airing of all family planning advertisements on radio and television pending further notice in September 2018.

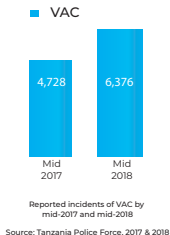
## 6.2. Children's Rights

Children's rights are protected under two main children rights conventions, namely: the UN Convention on the Rights of the Child (CRC) of 1989 and the African Charter on the Rights and Welfare of the Child (ACRWC) of 1990, both ratified by Tanzania. At domestic level, there is the Law of Child Act of 2009, which provides for fundamental rights of children as provided for in the two conventions and clearly stipulates that in making decisions about a child the best interests of that child must be given paramount and primary consideration (the principle of best interests of the child). These conventions and the law of the child stipulate duties of the Government, parents, guardians and community members at large to protect children from all forms of violence and discrimination. However, in the year 2018, children continued to be victims of violence against children, especially sexual violence (rape and sodomy).

### Sexual Violence:

For the year 2018, LHRC found children's freedom from violence to be the most violated human right, mainly caused by growing incidence of VAC. Incidents of violence against children increased from 4,728 incidents by mid-2017 to 6,376 incidents by mid-2018. Sexual violence against children, particularly in the forms of rape and sodomy, was a major human rights concern in 2018. Sexual violence was also mentioned as one of the major violations of children's rights in all 20 districts of 10 regions that LHRC visited in 2018. Child-on-child sexual abuse was said to exist and is becoming a major problem, especially at schools. Reported child rape incidents increased from 759 incidents in the first six months of 2017 to 2,365 from January to June 2018.

LHRC's media survey revealed that 91% of reported VAC incidents were of sexual violence, while 9% were physical and psychological violence. Reports of increased sex crimes against children were made in areas such as Mpwapwa-Dodoma, Chunya-Mbeya, Misungwi-Mwanza, Hai-Kilimanjaro and Tarime-Mara.



**Key highlights**

Alarming rate of sexual violence against children

Sexual violence putting girls at increased risk of HIV infection

Child-on-child sexual abuse: Older children raping and sodomizing younger children at home and school

Witchcraft beliefs among reasons for sexual violence against children

Long distance to school contributes to VAC, especially sexual violence

Government move to establish gender desks at schools: A positive action

Neighbours, close relatives, bodaboda drivers and teachers among main perpetrators of sexual violence against children

Complaints about rise of sex crimes committed against children in several districts of Tanzania Mainland

Intensified judicial action against perpetrators of sexual violence

Main perpetrators of sexual violence were identified as neighbours and close relatives. Bodaboda drivers and male teachers were mentioned among perpetrators and implicated in several acts of sexual violence against children in 2018.

Factors contributing to VAC in Tanzania Mainland include: lack of proper care and parental guidance; lack of parenting and child care knowledge/skills amongst parents/guardians, leading to poor upbringing; household poverty, leaving children – especially girls – vulnerable to men who offer them money and food; witchcraft-beliefs; low awareness about child rights; family disintegration, whereby mother leaves father with children or father leaves and mother stays with children but children spend most of the time alone at home; drunkenness among men, and in some few cases women; tendency of parents preferring to settle VAC cases out of court 'to conceal family shame.' Other factors are: men abandoning their wives and children to marry other, usually younger, women; poor school environment and long distance to school, leaving children vulnerable, especially to bodaboda drivers; peer pressure, especially for the case of child-on-child sexual abuse; and parents/guardians not spending adequate time with their children.

Sexual violence against girls and young women puts them at increased risk of HIV infection. This will hamper Tanzania's efforts to achieve its 90-90-90 HIV infection reduction targets and SDGs.

Long distance to and from school is a factor contributing to acts of violence (against children) as some of the girls have been raped while on their way to or from school. For instance, a 9-year-old girl was raped and sodomized by a man whom she met while on the way from school. The man grabbed her and took her to a nearby bush and raped and sodomized her. Her colleague ran and went to report the incident. The incident occurred in April 2018 in Uvanga Village, Iksimani Ward.

SWO, Iringa DC



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There is one case of a woman who sells traditional liquor. When she comes back home, she usually comes back with a man, both drunk. They engage in sexual activity, and when they finish the man turns to her 13-year-old daughter (they sleep in the same room) and rapes her. Different men come by the house every now and then, sometimes during the day, and rape the child. Fortunately, the child has been rescued by social welfare officers and was found to be HIV negative.

**SWO, Singida MC**

A 6-year-old child who was in a boarding school was repeatedly sodomized at school. Once his health started to deteriorate, his parents took him to the hospital for checkup and he was found to be HIV positive. Supposedly, he acquired the virus due to sexual abuse suffered at school. His father was shocked, suffered a stroke and then died.

**SWO, Tabora MC**

Most cases sent to juvenile court are rape and sodomy cases. Some of the children tend to even engage in gang-rape. There is a 7-year-old child who was accused of sodomizing a 5-year-old child. There is also a 12-year-old child who has two sodomy cases against him.

**SWO, Moshi MC**

Witchcraft beliefs play a big role in prevalence of violence against children. People expected to get quick money through violence against children, especially raping of girls.

**SWO department, Mbeya**

There is a child who, after completing his ordinary level secondary education and returned home, started sodomizing his younger brother, threatening him with a machete.

**SWO department, Moshi MC**

In July 2018, a child aged 11 years was reportedly regularly raped by her father. Following her parents' separation, she went to live with her mother but was going to her father's house to get some supplies. However, the father raped her whenever she went to his house and has infected her with HIV. The matter is now before the court of law.

**SWO, Mbeya CC**



There is a child who was HIV positive and was sodomized by an adult, who was also doing the same to another child. The child got used to the act and started doing it on other children.

**SWO, Tabora MC**

We have been receiving reports of children sodomizing one another at schools. When we make follow up teachers tend to be less cooperative, fearing that the image of the school could be tainted and they could get in trouble. This is especially the case with private schools.

**SWO department, Mbeya**



### Physical and psychological violence:

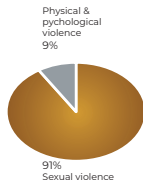
LHRC was able to document 13 incidents of physical and psychological violence against children through media survey. Many other incidents were reported to relevant authorities, such as police stations/gender desks and social welfare departments. One such incident was that of a 10-year-old child who was severely beaten by her teachers at school in Kilosa-Morogoro Region, such that she had to be admitted to Muhimbili Hospital in Dar es Salaam. In another incident – which drew a lot of public attention in Tanzania – a standard five pupil at Kibeta Primary School Bukoba-Kagera, Sperious Eradius, was severely beaten to death by his teacher, Respicious Patrick (also known as Mtazangira), on 27th August 2018 at the school.

### Child marriage and child pregnancy:

Child marriage is still widespread and continues to be a major challenge for girls in Tanzania. LHRC was able to document reports of child marriage in Nkasi-Rukwa, Same-Kilimanjaro, and Serengeti-Mara. Child marriage also continued to be a major challenge in regions such as Tabora and Shinyanga. Drivers of child marriage include poverty, traditions and socio-cultural norms such as FGM, initiation rites and traditional dances; gender discrimination; lack of educational opportunities; and fear of teenage pregnancy.

In 2018, the Regional Commissioner of Tabora, Hon. Aggrey Mwanri, and his team made some commendable efforts to address violence against children and child marriage as well as promoting right to education for girls in the region. This includes raising community awareness and ensuring legal action is taken against perpetrators and accomplices of such acts.

Child pregnancy was an issue of great concern in 2018. LHRC was able to document over 1000 cases of child pregnancy reported in less than 10 regions of Tanzania Mainland. High rate of child pregnancy incidents is an indicator of unprotected sex among girls. This puts them at increased risk of HIV infection and might hinder effective realization of achieving zero new infections among girls.



%Incidents of VAC reported by the media in 2018

Source: LHRC media survey 2018



## Discrimination

Street children and children with disabilities are the major victims of discriminations and social stigma. They usually do not enjoy their fundamental human rights as stipulated in various national, regional and international instruments providing for their rights equally with other children.

Street children in towns and cities in Tanzania constantly face harassment from authorities and other members of the public, denying their fundamental rights such as freedom of association and freedom of assembly. They also face discrimination in terms of access to public spaces such as parks, usually forcibly removed from such spaces; and get round up every now and then. Street children are also more vulnerable to difference forms of abuse and violence against children. Recognizing these vulnerabilities, in 2017, the UN Committee on the Rights of the Child issued a general comment, General Comment No. 21 (2017) on Children in Street Situations, which reminds States of their obligations under the Convention on the Rights of the Child in relation to street children.

In May 2018, a report on street children titled “Street-Connected Children in Tanzania: Headcount Findings 2017” was released. The report provides quantitative headcount of street-connected children or children living and working on the street (CLWS), which was conducted in six cities, namely: Arusha, Dar es Salaam, Dodoma, Iringa, Mbeya and Mwanza. The findings show that there are 6,393 street-connected children in these cities during the day, 76% of which are male and 24% are female. At night, there are 1,385 street-connected children, of which 70% are male and 30% are female. In all cities sharp increase of female CLWS at night was observed, with the exception of Dar es Salaam. This sharp increase is more likely driven by sex work. Among female CLWS counted at night, the majority (86%) were found to engage in sex work. Moreover, 39 female CLWS aged 11-14 (44%) were also found to engage in sex work, which is an alarming finding on child sex trade. This attests to increased risk of violence against female CLWS, including sexual violence, on the streets. Number of female CLWS engaging in sex work at night was found to be the highest in Iringa and Arusha (33%) and lowest in Dar es Salaam (9%).

Children with disabilities also face discrimination from different members of the community, including their own parents. In 10 regions of Tanzania Mainland that LHRC visited in 2018, there were reports of some parents ‘hiding’ their children with disabilities inside their homes, sometimes not even allowing them to come out. Some of these children are reportedly even denied their rights to health and education because of their disability



status. They also face difficulties at schools due to shortage or lack of relevant equipment and specialised learning materials.

### 6.3. Rights of Persons with Disabilities

Rights of persons with disabilities (PWDs) are provided for under the Convention of the Rights of Persons with Disabilities (CRPD). These rights include right to equality and non-discrimination, right to life, right to equality before the law, right to liberty and security of person, freedom from torture, freedom from violence, right to education, right to health and right to work and employment. Tanzania is party to this treaty and has an obligation to take measures to safeguard rights of PWDs. The treaty was domesticated in 2010 through the Persons with Disabilities Act. PWDs, especially children with disability, need special care to ensure they enjoy human rights equally with others.

In 2018, LHRC probed into challenges faced by persons with disabilities which prevent them from fully realizing their right to equality and non-discrimination. Among the key challenges mentioned were: inadequate budget allocated to address issues affecting PWDs; income poverty; inaccessibility of buildings due to lack of ramps; lack of learning tools for PWD children at schools (education not inclusive enough); lack of employment opportunities; and social stigma.



### 6.4 Rights of the Elderly

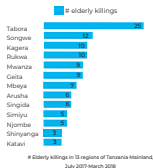
Unlike other vulnerable/special groups, there is no specific law for the elderly. However, like other human beings, the elderly have human rights provided for in various domestic, regional, and international legal laws. These include the Constitution of the United Republic of Tanzania 1977, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), for women elderly; the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); and the Convention on the Rights of Persons with Disabilities (CRPD), for elderly PWDs.

In 2018, violence continued to be a key issue affecting the elderly persons in Tanzania Mainland. Violence experienced by the elderly included physical violence in the form of witchcraft-related killings. As discussed in Chapter Two of this report, LHRC documented at least 3 incidents of killings of older persons on witchcraft suspicion. These are: the incident involving a 65-year-old man in Kaliua -Tabora; the incident involving a 77-year



old man was brutally killed by six people, including his own children, in Gairo-Morogoro; and killing of a 70-year old woman in Iljeje-Songwe.

In his ministry's budget speech for the financial year 2018/2019, the former Minister of Home Affairs, Hon. Dr. Mwigulu Nchemba (MP) noted that from July 2017 to March 2018, a total of 117 older people were killed in Tanzania Mainland (91 male, 26 female). Tabora leads with 25 killings, followed by Songwe with 12 and Kagera and Rukwa with 10 killings each.



Source: Budget speech of the Ministry of Home Affairs, 2018/19

### 6.5. Rights of Persons living with HIV/AIDS

Persons living with HIV/AIDS (PLHIV) enjoy all human rights as other people, but as a vulnerable group, their rights are also provided for under the HIV and Aids (Prevention and Control) Act of 2008. This Act provides for various rights of PLHIV, including the right to non-discrimination and right to access social services. The HIV and Aids (Prevention and Control) Act prohibits discrimination against PLHIVs and states that it is a criminal offence that may attract a penalty of fine of not less than Tshs. 2 million or imprisonment for a term not exceeding 1 year or both.

For the year 2018, LHRC did not record any incidents of discrimination against PLHIVs. However, social stigma continues to be a key issue affecting PLHIVs and preventing them from fully realizing their human rights.



## CHAPTER EIGHT:

### CORRUPTION, GOOD GOVERNANCE AND HUMAN RIGHTS

In terms of economic, social and cultural rights, corruption affects the ability of the Government to achieve progressive realization of these rights to the maximum of its available resources.

Embezzlement and mismanage of public resources may hinder the Government from effectively safeguarding key social rights such as the right to education, right to health and right to water by delivering quality education, health and water services. Civil and political rights such as right to life, access to justice, right to equality before the law and right to fair trial are also affected by corruption. Corruption within the justice system creates corrupt police officers, investigators, magistrates and judges, who tend to deny rights to equality before the law and right to fair trial. It thus weakens judicial institutions. Corruption during elections may also discourage people from exercising their political rights, such as right to vote.

Recent studies on corruption in Tanzania by Twaweza, REPOA and Transparency International paint a picture of perceived decrease in corruption in Tanzania. This could be attributed to intensified anti-corrupt effort and the Magufuli effect. This is reflected in the Corruption Perceptions Index 2018, which shows that Tanzania maintained its score (36) in the index, 4 more than scored in 2016. Nevertheless, corruption is still an issue of great concern in all key sectors, thus more effort needs to be made.

Arbitrary restriction on freedom of expression imposed by new laws may also, in the long run, negatively affect the fight against corruption. In 2018, the major corruption issue was the North Mara Gold Mine grand corruption scandal, which saw several government and Northa Mara officials arraigned in court and charged with corruption – accused of receiving millions in order to influence valuation and deny people their land-related rights.

Sexual corruption was also high on agenda in 2018. In November 2018, a lecturer at the University of Dar es Salaam, Dr. Vincensia Shule, took to her Twitter account to expose sexual corruption at the university, shortly after the visit of the President of Tanzania, Hon. Joseph Pombe Magufuli. In her tweet she urged the President to intervene on the matter, stating that sexual corruption at the university is rampant. A study conducted by Internews in 2018 also points to the sexual corruption at universities and workplaces in Tanzania. In December 2018,

Iringa District Commissioner, Hon. Richard Kasesela, also bemoaned growing incidence of sexual corruption in the district, calling for concrete action to address the problem.

The Annual General Report on the Audit of the Local Government Authorities (LGAs) for the Financial Year 2017/2018 reveals likelihood of corruption in several projects within the LGAs out of the 26 that were audited.



## CHAPTER NINE:

### HUMAN RIGHTS MECHANISMS

#### Introduction

Human rights mechanisms comprise of laws and institutions that protect and promote human rights. These mechanisms are national, regional and international.

#### 9.1. National Human Rights Mechanisms

National human rights mechanisms include institutions such as the Commission for Human Rights and Good Governance (CHRAGG), Judiciary and law enforcement organs.

The Commission for Human Rights and Good Governance: The Commission is an independent national human rights institution established under the Constitution of the United Republic of Tanzania of 1977. It has an overall mandate to promote, protect, and safeguard human rights and good governance in Tanzania. Among the functions of CHRAGG are sensitizing about preservation of human rights and duties and receiving complaints on human rights violations. CHRAGG is also tasked with advising the Government and its institutions on issues of human rights and good governance.

Judiciary: Judiciary is a vital institution in protection of human rights, interpretation of human rights laws, development of human rights jurisprudence, and providing remedies when human rights have been violated. They conduct judicial review of laws and administrative actions, and in this way they have a role of ensuring that

the Parliament and the Executive abide by the Constitution in order to protect people from laws and practices that infringe in their human rights.

Law enforcement Organs: Law enforcement organs, particularly the Tanzania Police Force (TPF) and the Tanzania Prisons Services (TPS) play an important role of protecting citizens and their properties. Police ensure justice is done through conducting investigations and taking suspected criminals to face justice. Prisons protect the society from convicted criminals and act to reform such individuals so that they can fit in back into the society, should they be released.

#### Challenges faced by National Human Rights Mechanisms in 2018

##### Corruption

Delays in investigation and prosecution of cases

Poor working environment due to shortage of equipment

Overcrowding of prisoners

Budgetary constraints: Shortage of facilities

Poor knowledge about human rights



## 9.2 Regional and International Human Rights Mechanisms

International, continental and regional human rights mechanisms include: Universal Periodic Review Mechanism, Human Rights Committee (HRC), the UN Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination Against Women, the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of Persons with Disabilities, the African Court on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights, African Committee of Experts on the Rights and Welfare of the Child and the East African Court of Justice. Tanzania has access to all these mechanisms.

UPR is a unique mechanism of the Human Rights Council (HRC) aimed at improving the human rights situation on the ground of each of the 193 United Nations (UN) Member States. Under this mechanism human rights situation of all UN Member States, Tanzania inclusive, is reviewed every 5 years to ascertain the extent states have taken action to improve human rights and fulfill their international human rights obligations. Tanzania, last UPR engagement was 2016, whereby the Government submitted its report and CSOs submitted the shadow report. Several recommendations were made for Tanzania to improve human rights, whereby some were accepted and some were rejected.

Regional and international human rights mechanisms have not been adequately engaged by individuals, lawyers and CSOs in Tanzania.



## CHAPTER TEN:

### OTHER ISSUES OF HUMAN RIGHTS CONCERN

#### Introduction

Lack of political tolerance and taking responsibility to protect and promote human rights continued to be issues of human concern in 2018.

#### 10.1. Political Tolerance

In 2018, LHRC continued to observe trends of political tension between ruling party members and those of the opposition, especially during by elections in Dar es Salaam and other parts of Tanzania Mainland such as Kilimanjaro, Arusha and Kigoma. Violent acts were reportedly perpetrated against members of opposing political parties during the by-elections held in these areas. There was also tension among members of the Civic United Front (CUF), between those who support Prof. Ibrahim Lipumba and those who support Seif Sharif Hamad. The tension is also felt on the social media, especially between members of the ruling party and those of the major opposition parties.

The tensions can be attributed to a number of factors, majority of which have been discussed above, including arbitrary restrictions on basic human rights such as freedom of expression and freedom of assembly.

It is important for the Government, political parties and community members to come together and promote political tolerance, especially at this time as Tanzania heads to the 2019 and 2020 elections, so that we have peaceful elections.

#### 10.2. Responsibility of the State and Non-state Actors to Promote and Protect Human Rights

Under international, regional and domestic law, States are charged with primary responsibility of promoting and protecting human rights and are required to refrain from interfering with them arbitrarily. This responsibility extends to individuals, groups and organs in the society as indicated by the UN General Assembly through its declaration called "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms." This Declaration provides for the right to promote human rights and highlights the responsibility of state and non-state actors in promoting and protecting human rights.

Key actors in protection and promotion of human rights include: politicians; government officials; the media; civil society; religious leaders; traditional leaders; and law enforcement officials. Other people also have a responsibility to protect and promoting human rights; and this includes intervening when they see human rights violations and reporting such incidents to the relevant authorities. Individual citizens have a duty to obey laws and follow legal procedures, as well as to report crimes and incidents of human rights violations, and intervene to protect human rights when possible. In 2018, taking this responsibility remained an issue of concern, which contributed to prevalence of acts of violence and violations of fundamental human rights.



## MAJOR ISSUES THAT AFFECT PROTECTION OF HUMAN RIGHTS

- Bad/restrictive or outdated laws containing vague and/or ambiguous provisions, contrary to human rights standards and principles
- Low awareness of human rights amongst citizens and their leaders
- Lack of individual and institutional accountability
- Disregard of due process of law
- Insufficient budgets for key sectors
- Corruption and tax avoidance and evasion
- Low awareness about laws, including those related to human rights
- Laziness and witchcraft-beliefs
- Harmful cultural/traditional practices
- Reduced/shrinking civic space



## KEY RECOMMENDATIONS

### CIVIL AND POLITICAL RIGHTS

#### State actors

Given President Magufuli's stance on death penalty execution, which is further proof of Tanzania's state of moratorium, the Government should move to declare the state of moratorium. The Law Reform Commission and the Parliamentary Committee on Constitutional and Legal Affairs should push for legal reforms to outlaw death penalty.

Commission for Human Rights and Good Governance (CHRAGG) and the Police Force to ensure police officers at all levels are regularly trained on the UN Basic Principles on Use of Force and Firearms by Law Enforcement Officials and human rights in general, in an effort to address extrajudicial killings.

The Judiciary and the Prevention and Combating of Corruption Bureau (PCCB) to closely work together to address corruption within the justice system in order to restore public faith in the system and reduce incidents of mob violence. Addressing judicial corruption will also contribute to safeguarding access to justice.

The Government, through Ministry of Constitutional and Legal Affairs, should move table amendments of laws that impose arbitrary restrictions on participation rights, especially freedoms of expression, association

and assembly. These laws include Media Services Act, Cyber Crimes Act and Statistics Act.

The Ministry of Information, Culture, Arts and Sports should review the Online Content Regulations to remove or amend provisions that do not conform to international standards of freedom of expression.

Regional and District authorities should refrain from misusing their powers of arrest and detention under the Regional Administration Act.

The Police Force should ensure its officers refrain from fabricating cases, conducting arbitrary arrests and arbitrarily detaining suspected criminals instead of sending them to court within a specified period of time (usually 24 hours) as required by the law, in order to uphold the right to liberty. Police officers implicated in this behaviour should be held accountable.

The Government should move to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) in order to safeguard freedom from torture.

Government actors and police authorities to refrain from arbitrarily interfering with freedoms of assembly and association;

The Government should sign and ratify the African Charter on Democracy and Good Governance of 2007 in order to strengthen participation in democratic practices and processes;

The Officer of the Registrar of Political Parties should move to amend the proposed amendments to the Political Parties Act



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1992, by addressing problematic provisions identified by stakeholders and considering the recommendations given;

There is need to have in place an independent police oversight body to investigate police misconduct and ensure police officers who do not abide by the law are held accountable.  
Non-state actors

CSOs to intensify and enhance collective effort to raise public awareness on legal procedures and civil and political human rights, as well as encouraging community members to obey the law and respect human rights of others in order to preserve right to life.

CSOs to collaborate with CHRAGG to provide regular human rights trainings to judges, magistrates and other legal professionals in order to enhance their knowledge and understanding of human rights as a way of safeguarding right to equality before the law and ensuring access to justice.

#### Members of the public

To refrain from taking the law into their own hands and seek remedies at higher levels of the justice system where they are not happy with the outcome of a case.

Members of the public are also encouraged to report violations of their civil and political rights to the Commission for Human Rights and Good Governance, which is the national human rights institution mandated with protection and promotion of human rights;

## ECONOMIC, SOCIAL AND CULTURAL RIGHTS

### State actors

The Ministry of Lands, Housing and Human Settlements Development, should intensify efforts to address land-related conflicts and disputes and devise long-term solutions to this problem, in order to ensure realization of the right to own property. Land management programmes should be properly and cautiously implemented to guarantee long-term solutions;

The Prime Minister's Office Labour, Employment, Youth and People with Disability should ensure the Wage Order is regularly reviewed, in accordance with the law, to ensure realization of the right to work and promote adequate wages;

The Government, through the Ministry of Lands, Housing and Human Settlements Development and the Ministry of Water and Irrigation, should increase investment in irrigation in order to boost the right to work and economic boost;

The Prime Minister's Office Labour, Employment, Youth and People with Disability should strengthen mechanisms for protection of labour rights and enhance regular inspection of workplaces to ensure rights are respected, protected and promoted, including favourable working environment;

The Ministry of Education, Science and Technology to work with the Prime Minister's Office Labour, Employment, Youth and People with Disability to address the problem of lack of employability skills among majority of university graduates;



Local Government Authorities (LGAs), President's Office - Regional Administration and Local Government (PO-RALG) and President Office Public Service Management (PO PSM) in collaboration with Treasury to ensure that funds for settling staff claims are released without further delays to avoid accumulation of debts; and ensure no new staff debts are created without having funds;

Government to implement CAG recommendation of Managements of local government authorities (LGAs) to liaise with President's Office - Regional Administration and Local Government (PO-RALG) to speed up promotions of eligible officers and their salaries adjusted soon after being promoted;

Government to implement CAG recommendation of management of LGAs to ensure that all the retired, absconded, transferred and dismissed employees are timely and effectively removed from payroll; and stringent measures should be taken to ensure total recovery of TZS 207,375,726 used to pay nonexistent employees;

The Government, through the Ministry of Education and Vocational Training, to address key challenges affecting the education sector, such as poor working environment for teachers and shortage of facilities and learning materials. The Ministry should strive to ensure teacher houses are built and teachers are fairly and timely remunerated;

The Government, through the Ministry of Constitution and Legal Affairs, should move to make corporate social responsibility (CSR) a legal requirement for all sectors, following the amendments to the Mining Act, which saw CSR mandatory for companies in the mining sector;

Regarding pregnant girls, LHRC continues to urge the Government to reconsider its stance in order to protect right to education for girls in line with the Constitution of the United Republic of Tanzania of 1977 and regional and international conventions;

LHRC calls upon the Ministry of Education and Vocational Training to improve access to education for children with disabilities by ensuring availability of relevant infrastructure, teachers and learning tools;

The Government, through the Ministry of Finance and Planning, to increase budgetary allocations for health, education and water sectors in order to improve the access and quality of health, education and water services;

The Government, through the Ministry of Finance and Planning, to increase budgetary allocation for the sector of agriculture and increase investment in irrigation farming in order to boost food production and improve accessibility;

The Ministry of Lands, Housing and Human Settlements Development to ensure increased access to adequate but affordable housing in line with the Development Vision 2025 and the Sustainable Development Goals; and

The Ministry of Water and Irrigation, should enhance efforts to address the problem of water leakages, which lead to water loss, and costs water authorities billions of money.

Non-state actors

The private sector should collaborate with the Government to invest in water projects in order to increase access to water services. This could also be done as part of corporate social responsibility;



The private sector and CSOs should support the Government to address key challenges in its health, education and water sector, such as shortage of health and educational facilities. This includes construction or maintenance of relevant buildings and infrastructure, such as toilets/toilet holes and classrooms;

CSOs should assist the Government in devising strategies on the best ways to address some key challenges in the education, health, water and housing sectors;

CSOs should collaborate with the Prime Minister's Office Labour, Employment, Youth and People with Disability to raise awareness about labour laws, rights and duties as well as economic rights; and

Investors, both foreign and local, should follow relevant procedures to acquire land in Tanzania, comply with laws and respect human rights of the people where they operate.

Members of the public

Members of the public are encouraged to seek knowledge and access information about their economic rights, including right to work and right to own property, including popular versions on laws relating to these rights prepared by government and no-government actors;

Members of the public are also encouraged to report violations of their economic rights to relevant authorities, including trade unions and the Commission on Human Rights and Good Governance; and

Members of the public have a duty to protect infrastructure and refrain from the habit of damaging them, especially water infrastructure. They also have a duty to report incidents of damage to the infrastructure.

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## RIGHTS OF VULNERABLE GROUPS

### State actors

The Government to ensure enactment of a specific and comprehensive law on gender-based violence as the current legislations do not adequately address gender-based violence issues;

Regional and district authorities should work closely with the Police Force to address the problem of violence against women and children in their respective regions and districts;

The Government, through the Ministry of Constitution and Legal Affairs and the Law Reform Commission, to review, amend and repeal all discriminatory laws which continue to deprive women of their rights and which are contrary to fundamental principles of human rights as provided for in various regional and international conventions ratified by Tanzania;

The Government to consider gender parity and equality in leadership and decision-making positions in order to increase female representation;

The Government to fulfill its obligation under the regional and international children rights treaties to end child marriage and confirm the age of 18 as the minimum age for marriage, through a legislative action to amend the Law of Marriage Act 1971;

The police and courts of law to increase the pace of investigation and prosecution of cases of violence against children;

The Ministry responsible for Policy Coordination, Parliamentary Affairs, Employment and Persons with Physical Disabilities should ensure increased



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jobs and employment opportunities for PWDs;

The Government, through the Ministry of Home Affairs, should ensure that the elderly are protected from all forms of violence, particularly witchcraft-related killings, through investigation and prosecution of cases of violence against them;

The Government, through the Ministry of Health, Community Development, Gender, Elderly and Children, to spearhead the enactment of the law on elderly rights and protection to complement the National Age Policy; and

The Government, through the Ministry of Health, Community Development, Gender, Elderly and Children, should move to implement the Convention on the Rights of the Child in line with the General Comment No. 21 on Children in Street Situations, prepared by the UN Committee on the Rights of the Child, in order to safeguard rights of street children.

#### Non-state actors

CSOs should collaborate with the Government to ensure effective implementation of the Convention on the Rights of the Child in order to safeguard rights of all children, including street children and children with disabilities; and

CSOs to continue raising awareness on the rights of the elderly and conduct campaigns on ending violence and discrimination against the elderly.

#### Members of the public

Community members to perform their duties of protecting and safeguarding children's rights refraining from conducting acts of abuse to children;

Community members should refrain from discriminating all children, including street children and children with disabilities;

Community members to refrain from protecting perpetrators of violence against children simply because they need 'to conceal family shame'; and

Women and children are encouraged to come forward and report acts of violence against them in order to receive relevant assistance, including legal and health services. They are also encouraged to cooperate with the Prosecution and social welfare, including testifying in court, in order to ensure perpetrators of violence are held accountable and justice is achieved.





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For a Just and Equitable Society



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