



# SUMMARY OF THE TANZANIA HUMAN RIGHTS REPORT 2019



TANZANIA MAINLAND

*Kwa Jamii yenye Haki na Usawa*



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**Published by:**

Legal and Human Rights Centre

April 2020

Not for Sale

ISBN: 978-9987-740-52-9



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# ABOUT LEGAL AND HUMAN RIGHTS CENTRE

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 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 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.

## INTRODUCTION

### Major Developments in 2019

#### *Positive Developments*

Introduction of the plea-bargaining law in the criminal justice system

PCCB's study on sexual corruption

Appointment of the Chairperson of the Commission for Human Rights and Good Governance and human rights commissioners

Launch of mobile court services and the Judicial Statistics Dashboard System (JSDS-2),

Amendment of the Statistics Act of 2015 to safeguard freedom of expression

Court of Appeal of Tanzania affirming High Court's position that child marriage needs to be outlawed

Intensified efforts in infrastructural development

East African Court of Justice's ruling on Tanzania's Media Services Act

Update of voter register as Tanzania heads towards elections

African Court's decision on the mandatory death penalty

Introduction of the Judicature and Application of Laws (Practice and Procedure of Cases Involving Vulnerable Groups) Rules to expedite dispensation of cases involving vulnerable groups.

Launch of Sector Skills Councils to bridge acute skills gap among university graduates.

Harmonization and formalization of sign language towards safeguarding rights of PWDs

#### *Negative Developments*

Amendment of the Non-Governmental Organizations Act

Amendment of the Tanganyika Law Societies Act

Mental health problem and alarming suicide rates

Congestion in prisons due to the large number of remandees

Tanzania's Withdrawal of Individuals and NGOs' access to the African Court on Human and Peoples' Rights

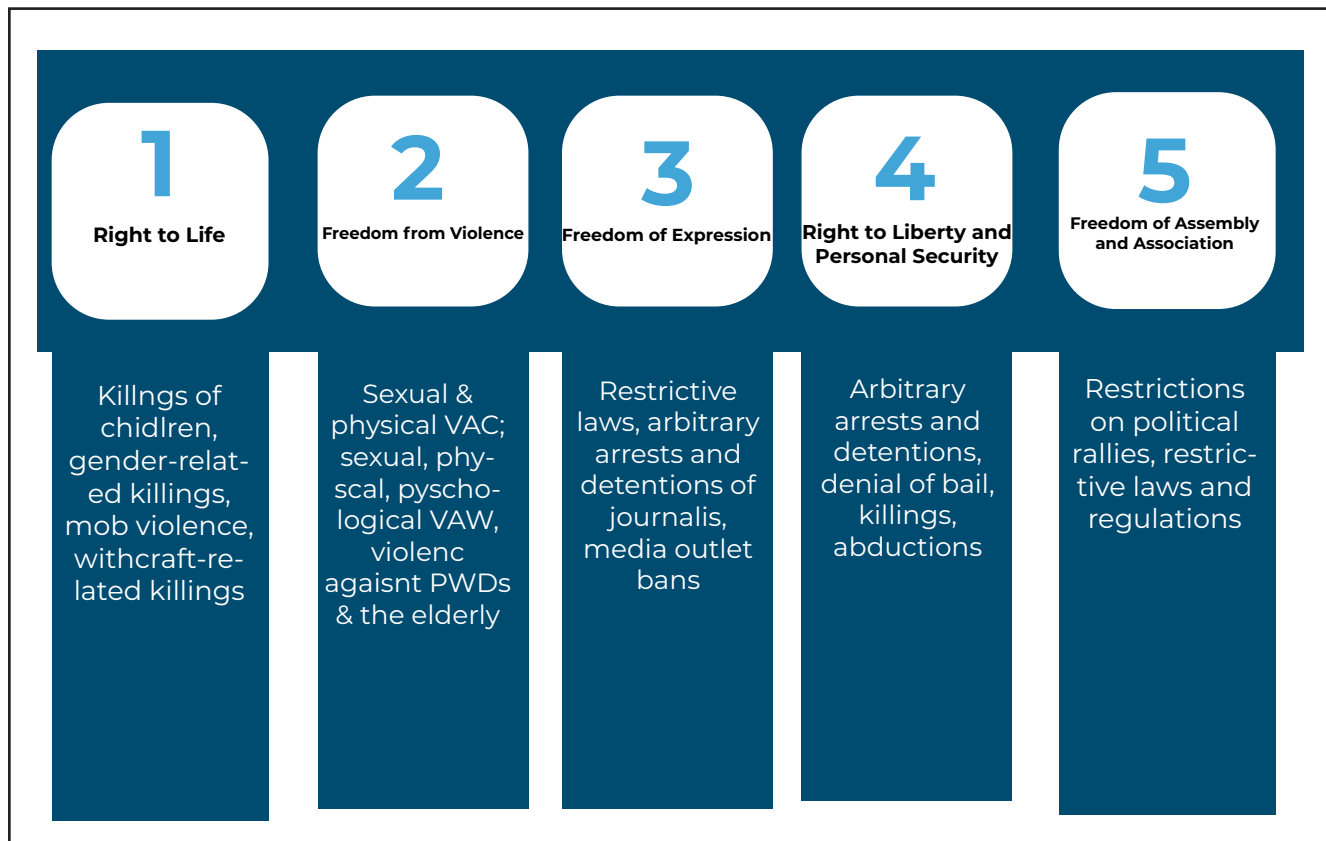
High incidence of sexual violence against children, especially rape and sodomy

High incidence of child pregnancy



The 2019 Local Government Elections and opposition boycott of the elections  
 Killings of bodaboda drivers by unknown assailants  
 Increased incidents of women killed due to jealousy (physical violence against women)  
 Brutal killings of innocent children in Njombe Region

### 5 Most violated human rights in 2019



## Report Objectives and Methodology

### Objectives

**Human rights education** – what does a specific human right entail? What legal framework governs it? Why is the right important?

**Reminder** – what area of human rights needs strengthening?

**Evidence-based advocacy** – what needs to change and why?

**Positive action** – what action has improved human rights?

**Negative action** – what action has infringed human rights?



**Bill and law analysis** – what has changed following enactment or amendment of a law or regulations? What impact will it have on human rights?

**Recommendations** – what can be done to improve or safeguard human rights?

**Inform** – inform you about human rights and legal issues so that you take precautions.

**Show trends** – what was the situation like in previous years?

**Guide/inform interventions** – useful as a starting point in planning interventions.

**Educate** – about human rights; about domestic, regional and international human rights instruments; about legal issues; about legal and human rights developments

## Methodology

Information used to prepare this report was obtained from primary and secondary sources. Primary data was mainly obtained through LHRC's engagement with its beneficiaries, including through legal aid, and human rights monitoring system. Field data obtained during human rights and business survey conducted in 2019 also provided important information used in preparation of this report, especially labour-related rights. Secondary data was obtained through review of various credible sources, including reports and statements by government and non-government actors. LHRC's media survey also provided an important data source for this report and laid a foundation for further research.

## Report Structure

### Chapter 1: Contextual Overview

Provides a short introduction to Tanzania, constitutional and human rights developments and government structure.

### Chapter 2: Civil and Political Rights

Covers situation of key civil and political rights, including freedoms of association, assembly and expression; rights to equality before the law and effective remedy; and right to life.

### Chapter 3: Economic, Social and Cultural Rights

Covers economic, social and cultural rights, including right to work, right to education, right to health and right to water.

### Chapter 4: Collective Rights

Looks at and discusses realisation of rights to development and right to benefit from natural resources.

### Chapter 5: Rights of Vulnerable Groups

Covers the rights of women, children, PWDs, the elderly and PLHIVs.



**Chapter 6: Human Rights Mechanisms**

Looks at human rights mechanisms at domestic, regional and international levels and discusses their role in human rights protection.

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**Chapter 7: Conclusion and Recommendations**

Provides general conclusion and recommendations to enhance promotion and protection of human rights in Tanzania.

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# CHAPTER ONE: ABOUT TANZANIA

## 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.



### 1.2. 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.

### 1.3. 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.

### 1.4. State Organs and their role in human rights protection

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**.

**Role in human rights protection:** Implementing obligations under various ratified treaties; obligation to defend the Constitution, including Bill of Rights; ensure progressive realization of economic, social and cultural rights by providing social services such as water, health and education; safeguard the right to liberty and personal security through its organs, including law enforcement organs; provide legal and human rights protection through the Tanzania Police Force, the Commission for Human Rights and Good Governance and sectoral ministries.



### 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.

**Role in human rights protection:** Enactment of laws to protect rights; ratification and domestication of regional and international; government watchdog in line with the principle of separation of powers; advise the Government; debate human rights issues and bring them to the political agenda.

### 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 the 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.

**Role in human rights protection;** Legal action against perpetrators; implement the law; determine human rights cases through the Basic Rights and Duties Enforcement Act; conduct judicial review; enhance access to justice; enhance procedural safeguards; and develop case law.



# CHAPTER TWO: CIVIL AND POLITICAL RIGHTS

## Introduction

### Human Rights Discussed (9)

Right to Life, Freedom of Expression, Rights to Equality before the Law and Effective Remedy, Right to Liberty and Personal Security, Freedom from Torture, Freedoms of Assembly and Association, Right to Take Part in Governance

Civil and 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 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.

### 2.1. Right to Life

Right to life continued to be threatened by incidents of mob violence, extrajudicial killings, violence against law enforcement officers, witchcraft-related killings, attacks of PWAs, death penalty, road accidents, killings motivated by belief in witchcraft and killings of women motivated by jealousy.

#### Mob violence and killings

Although the trend shows a decline in number of reported mob violence and killing incidents since 2015, the rate of such incidents is still high. Most recent police data of June 2018 shows that a total of 385 incidents were reported, which translates to an average of 76 people killed each month. In 2019, LHRC did not obtain police data on mob violence incidents, but documented at least 8 incidents reported in Kagera, Shinyanga, Dar es Salaam, Ruvuma, Mtwara and Dodoma.

**LHRC's view:** The tendency of people deciding to take matters into their own hands is dangerous and is contrary to human rights principles. This could be an indicator of lack of faith in the justice system, but it can also be an indicator of low awareness about the criminal justice system, including issues such as bail for bailable criminal offences, which would see criminal suspects return to the streets pending police investigation or court trial.



### **Extrajudicial killings and violence against law enforcement officers**

Fewer incidents of extrajudicial killings (3) were reported in 2019, compared to 5 in 2018. These incidents were reported in Kilimanjaro, Geita and Pwani Regions. Regarding violence against law enforcement officers, one incident of violence against law enforcement officers was reported in Geita Region, whereby three police officers from the Nyang'hwale District Police Station were injured by an angry mob after trying to intervene to prevent them from killing a suspected robber.

**LHRC's call:** Police officers to refrain from using excessive force when apprehending criminal suspects and when such suspects are under police custody, in line with domestic and international standards, including Police General Orders and the United Nations Code of Conduct for Law Enforcement Official.

**LHRC's call:** Community members to refrain from attacking law enforcement officers because it is contrary to the law and contravenes their rights as human beings. It is also dangerous for the community members to attack law enforcement officers because the law permits them to use firearms in line with the principle of proportionality where their lives are at risk – forcing them to defend themselves.

### **Witchcraft-related killings and violence against PWAs**

The number witchcraft-related killings have also declined in recent years, owing to police action in regions such as Tabora and Shinyanga. Last recorded police data of 2018 indicated 106 killings by the month of June, an average of 17 people per month. In 2019, LHRC recorded 6 incidents of witchcraft-related killings reported in Mbeya, Dar es Salaam, Iringa, Simiyu, Tabora and Shinyanga. Killings of children in Njombe which began towards the end of 2018 were also said to be largely motivated by witchcraft-beliefs.

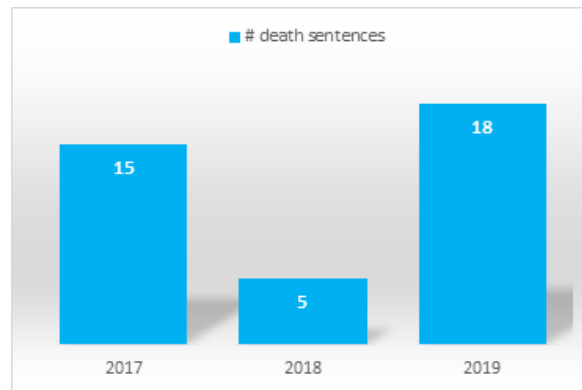
**Attacks and killings of PWAs are motivated by belief in witchcraft. Some people believe that PWA body parts can be used to make a magic potion that will bring them good luck or make them rich.**

PWAs continued to live in fear, owing to attacks motivated by belief of witchcraft. Attacks against PWAs usually intensify during election periods, but in 2019 – the year of Local Government Elections – only two incidents of attacks against PWAs were reported, including one PWA grave vandalism/violation. No killings were reported. However, PWAs continue to live in great fear as Tanzania heads towards the General Elections of 2020.

### **Death penalty**

In 2019 death sentences documented by LHRC were 19, which are 14 fewer than those reported in 2018. Currently over 480 prisoners are on death row, majority of them (90%) male. This increase of death sentences comes in the wake of the ruling against death penalty in Tanzania issued by the African Court on Human and Peoples' Rights in November 2019 in the case of Ally Rajabu and Others v. United Republic of Tanzania. The African Court directed Tanzania to remove mandatory death penalty from its penal law as it contravenes the African Charter on Human and Peoples' Rights.



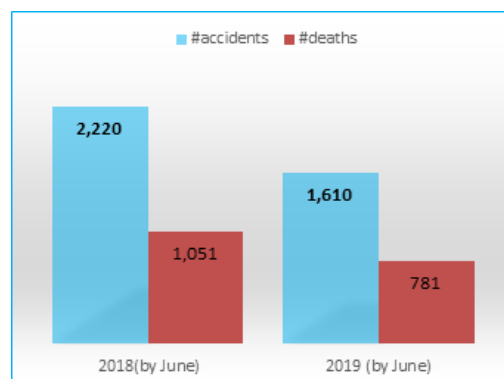


Death sentences recorded by LHRC – 2017 to 2019

**LHRC's call:** Tanzania is already an abolitionist state in practice and should take a step further and sign and ratify the Second Optional Protocol to the International Covenant and Political Rights, aiming at the abolition of the death penalty 1991. There is also a worldwide trend of abolition of death penalty and Tanzania should follow suit. As of December 2017, a total of 106 countries around the world had abolished death penalty, including neighbours Mozambique and Rwanda. Most recently, other African countries such as Madagascar (2015), Benin (2016), Guinea (2017) and Burkina Faso (2018), have also abolished death penalty. Only about 53 countries in the world have retained death penalty and execute death row inmates, while 29 are abolitionist in practice, including Tanzania.

### Road accidents

The year 2019 witnessed reduced incidents of road accidents and resulting deaths. 1,610 road accidents and 781 deaths occurred by June 2019, compared to 2,220 road accidents and 1,051 deaths which occurred by June 2019. However, the rate of incidents is still high as an average of 268 accidents and 130 resulting deaths occurred each month in 2019. Most road accidents are caused by high speed, alcoholism, substance abuse, not wearing head-gear for motorcycles and not wearing a seat belt. Roads which are in bad condition also contribute to road accidents.



Recorded incidents of road accidents and resulting deaths – January to June 2018 & 2019



### **Brutal killings of children in Njombe**

Children's right to life was jeopardized by killings of children in Njombe Region, which began in late 2018, resulted in deaths of ten children. Some of the bodies of the children were found without body parts, including private parts. Among those killed were three children of the same family. The killings are believed to be motivated by witchcraft beliefs.

### **Killings of women motivated by jealousy (intimate partner femicide)**

The year 2019 also witnesses increased incident of women, motivated by jealousy. Recent UNODC report, released in 2018, indicates that home has become the most-dangerous place for women due to gender-related violence and killings. According to the report, more than 1500 women are killed by intimate partner and family in Africa each year, of which 35% are killed by current or intimate partner. LHRC recorded 12 reported incidents of killings of women by their spouses in Tanzania Mainland in 2019, of which 8 were motivated by jealousy.

## **2.2. Freedom of Expression**

In 2019, freedom of expression was positively and negatively affected in various ways, as indicated below, but generally continued to deteriorate, owing to existence and implementation of restrictive laws; ban and suspension of media outlets; and arbitrary arrests and/or detention of journalists.

### **Restrictive laws and East African Court of Justice's ruling against the Media Services Act of 2016**

Restrictive legislations continued to be a major obstacle in effective realisation of freedom of expression in Tanzania. In March 2019, the East African Court of Justice delivered its landmark judgement on Tanzania's Media Services Act of 2016, following a petition filed by LHRC, MCT and THRC. The Court found sections 7(3) (a), (b), (c), (f), (g), (h), (i) and (j); sections 19,20 and 21; sections 35,36,37,38,39 and 40; sections 50 and 54; sections 52 and 53; and sections 58 and 59 to constitute violation of freedom of expression and the Treaty for the Establishment of the East African Community, directing the Government to bring the Media Services Act in line with the Treaty.

### **Amendment of the Statistics Act of 2015 to safeguard freedom of expression**

The year 2019 also witnessed a positive development with regard to the Statistics Act of 2015, as the restrictive law was finally amended to remove provisions which severely hinder realisation of freedom of expression, including those prohibiting publishing statistics without NBS approval and publishing findings different from official statistics.

### **Arbitrary arrests and/or detention of journalists**

Arbitrary arrests of journalists in 2019 included that of Erick Kabendera and Joseph Gandye. THRC also documented 13 more arbitrary arrests reported in the period of January to September 2019.



**Ban and fines imposed on media outlets:** Four media outlets reportedly faced ban or fine punishment for allegedly contravening the Online Content Regulations, which have been criticised for not meeting international standards on freedom of expression. The media outlets are The Citizen Newspaper, Kwanza Online TV, Watetezi TV and Ayo TV.

### **Other laws continuing to curtail freedom of expression**

Apart from the Media Services Act of 2016, other laws that continued to affect freedom of expression included the Cybercrimes Act of 2015, Access to Information Act of 2016, and Electronic and Postal Communications (Online Content) Regulations of 2018. These laws contain provisions which do not meet international standards on freedom of expression. Existence and implementation of these laws continued to contribute to shrinking civic space in 2019.

### **Tanzania's performance in World Press Index 2019**

In 2019, the situation of freedom of expression continued to affect Tanzania's performance in the World Press Freedom Index. The 2019 World Press Index shows that Tanzania further dropped 25 places to sit at 118th position in the world rankings, compared to 93rd in 2018.

**LHRC's call:** The Government and The Parliament to facilitate amendment of all laws and regulations that have contributed to reduced civic space in Tanzania so that they conform with international standards on freedom of expression. Freedoms of expression, assembly and association for civil society are essential for social, economic, political and cultural development. An active and vibrant civil society can also be a huge asset as Tanzania seeks to become a middle-income country through industrialisation and infrastructural development.

### **2.3. Rights to Equality before the Law and Effective Remedy**

Rights to equality before the law and effective remedy include the right to access to justice, the right to legal representation, the right to presumption of innocence, the right to fair trial and the right to effective remedy. In 2019, protection of the rights to equality before the law and effective remedy was boosted by actions of government and non-government actors in various ways. They include: the use of ICT to expedite dispensation of justice and reduce costs of attending court sessions; introduction and operationalisation of rules aimed at accelerating cases involving vulnerable groups; development of sentencing guidelines; developing the Second National Human Rights Action Plan 2019-2023; introduction of mobile courts; introduction of integrated Justice Centres; provision of legal aid; and introduction of plea-bargaining law.

The measures highlighted above have potential to positively impact human rights in Tanzania, and LHRC will continue to monitor their implementation and determine to what extent they have improved enjoyment and realisation of the rights to equality before the law and effective remedy. Despite these positive developments recorded in 2019, various challenges continued to hinder effective realisation of the rights to



equality before the law and effective remedy. These challenges include: parading of suspected criminals before the media by law enforcement officers, in violation of the principle and right to presumption of innocence; delays and constant adjournment of cases in the criminal justice system; limited access to legal aid by people residing in rural areas; congestion in prisons; shortage of judicial workers, magistrates and judges; and corruption within the judicial system.

### **Parading of suspected criminals before the media by law enforcement officers**

Parading of suspected criminals before the media by law enforcement officers emerged as a key issue in 2019. Chief of Police, IGP Simon Sirro, spoke against the practice, warning Regional Police Commanders (RPCs) that doing so contravenes the principle of presumption of innocence, which states that everyone should be presumed innocent until proven guilty by a court of law. He reminded the police commanders to maintain a high level of professionalism in executing their duties and called upon them to refrain from assuming the role of the Judiciary. Parading of suspected criminals contravenes due process and presumption of innocence and has been prohibited in different countries in the world including most recently The Philippines. LHRC commends the IGP for speaking against this practice, which is prohibited under Article 13(6)(b) of the Constitution of the United Republic of Tanzania of 1977.

### **Right to legal aid for people residing in rural areas**

Access to legal aid, particularly for people residing in rural areas, emerged as an issue of concern in 2019. Despite efforts by government and non-government actors to provide legal aid to people who cannot afford legal representation, access to legal aid to most rural residents remained a challenge in 2019. There is a growing concern that legal aid is more concentrated in urban areas and semi-urban areas.

### **Congestion in prisons**

In 2019, congestion in prisons was found to be a big problem, with 54% of people in prisons currently have not been convicted by courts of law. In 2019, upon visiting Butimba Prison, Hon. President John Magufuli ordered responsible government actors, including the Judiciary, to take the relevant measures to address problems in prisons, particularly reducing congestion.



54% of people in Tanzania prisons have not been convicted

### **Introduction of the plea-bargaining law in the criminal justice system**

In September 2019, plea-bargaining law was introduced in Tanzania through amendment of the Criminal Procedure Act (Cap 20). The amendment introduced plea agreement – which is entered between the prosecution and the accused. Introduction of plea bargaining was met with mixed reactions, with concerns over procedural safeguards and rights of accused person on one hand, and the need to speed up dispensation of justice on the other. In LHRC's view, the starting point to balance the scale is involvement of the Judiciary in the plea agreements, as it is the case in Singapore.



### Advantages of plea-deals

- o Defendant can receive a lighter sentence
- o Defendant does not have to 'gamble' with trial, which could go either way and become a lengthy process, depending on the offence
- o Time can be saved, for defendant, prosecutor and the court
- o Accused person can save huge amount of money in the form of advocate/lawyer fees
- o There is reduction of caseload for prosecutors and courts (Magistrates and Judges) – essentially less work and increased 'efficiency'
- o There are less people in prison (remandees), if plea-agreement results into release or lesser offence which is bailable
- o Accused person may provide information in exchange for the plea deal that may lead to apprehension of 'bigger fish' or discovery of more information relevant to the case

### Concerns over plea-deals

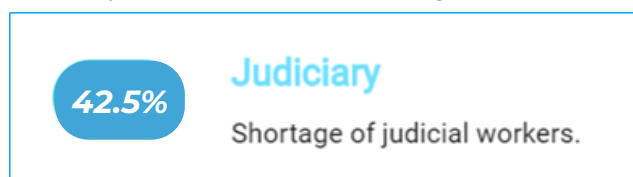
- o Coercion of accused persons (distinction between voluntary confession and one made under pressure)
- o Irrelevance of innocence, instead whether to risk facing a Magistrate or a Judge
- o Bad advice from an accused's lawyer
- o Leverage on the part of the prosecutor (threatening accused person to seek maximum sentence if they do not take the plea, possible claims or vulnerability to corruption)
- o People may be encouraged to plead guilty for crimes they did not commit. Consequently, the real culprit may continue to terrorize the community
- o Reduced role of Magistrates/Judges and public defenders in dispensation of justice and more power for prosecutors
- o Accused's name may not be cleared since one's innocence or guilt does not matter
- o Less focus on the victim of a crime

### Delays and constant adjournment of cases in the criminal justice system

Despite notable improvements to enhance access to justice, in 2019 delays and constant adjournment of cases continued to be a thorn in dispensation of justice. Complaints about delays in police investigation and prosecutors appearing in court and claiming investigation has not been completed have become a common occurrence in courts of law. These delays contribute to congestion in prisons for cases which are not bailable.

### Shortage of judicial workers, magistrates and judges

According to the Chief Justice, Prof. Ibrahim Juma, the Judiciary needs a total of 10,351 workers but currently there are only 5,947, hence shortage of 4,404 workers, translating to shortage of 42.5%.



### **Corruption within the judicial system**

Corruption within the judicial system was reported in Shinyanga and Dar es Salaam Regions whereby two cases of magistrates accused of soliciting and receiving bribes were reported. These are six cases fewer than those reported in 2018.

**LHRC's call:** The Ministry of Constitutional and Legal Affairs to fast-track finalisation of the Second National Human Rights Action Plan 2019-2023, as we are already are already past the year it is supposed to be operational (2019).

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

For the year 2019, right to liberty and personal security was mainly jeopardised by incidents of attacks and killings of bodaboda drivers; abductions; and arbitrary arrest and detention.

#### **Attacks and killings of bodaboda drivers, threatening their personal security**

In 2019, theft of motorcycles and personal security of bodaboda drivers continued to be an issue of concern. Police data on theft of motorcycles from January to June 2019 indicates that a total of 2,329 incidents of motorcycle theft were reported, while during the same period in 2018, a total of 2,510 incidents were reported. In 2019, LHRC recorded four killings of bodaboda drivers, reported in Mbeya (3) and Shiyanga (1) Regions.

#### **Abductions, missing persons and arbitrary arrests and detentions**

In 2019, the incident of abduction of a political activist, Mdude Nyagali, was reported in Songwe Region. Eyewitnesses reported that he was taken by force by unknown people and went missing for four days before he was found, appearing weak and to have been tortured. There were no updates on Azory Gwanda and Ben Saanane who went missing in 2017 and 2016 respectively.

In 2019, LHRC documented 17 incidents of arbitrary arrests and detention, including of LHRC's Tito Magoti, rising from at least 8 incidents documented in 2018. These arrests were mainly characterized by failure of arresting officers to properly introduce themselves, including showing relevant IDs; failure on the part of arresting officers to state reasons for arrest; denial of legal representation during interrogations; denial of bail pending trial and failure to bring accused person promptly before a judge or judicial officer.

#### **Key messages:**

- o An accused person has the right to be told reasons for arrest
- o An accused person has the right to be promptly informed about charges against him or her
- o An accused person has the right to access to and assistance of lawyer
- o An accused person has the right to be presented before court promptly (within 24 hours)



- o An accused person has the right to bail pending trial
- o An accused person has the right to be informed about his rights by arresting officer and how to avail himself or herself of such rights
- o An accused person has the right to be presumed innocent until proven guilty by court of law
- o An accused person has the right to raise objections to the behaviour of courts and law enforcement authorities
- o An accused person has the right to fair trial and effective remedy
- o Justice delayed is justice denied

### **Right to bail**

Right to bail emerged as an issue in 2019, as the Chief Justice and other stakeholders took issue with the denial of bail. The Chief Justice advised that like it is the case in neighbouring Kenya, all criminal offences should be bailable, with the Judiciary should be left with mandate to regulate bail.

### **Prosecution before completion of investigation**

Prosecution of accused persons before completion of investigation re-emerged as key issue of criminal justice and human rights concern. This practice contravenes the principle of presumption of innocence, which is established under the Constitution of the United Republic of Tanzania as well as regional and international human rights instruments. It also contributes to the predicament of prison overcrowding.

### **Concerns over fabrication of cases against innocent civilians**

Fabrication of cases continued to be an issue of concern in 2019, raised by top state officials, including the Minister of Home Affairs, Hon. George Simbachawene.

## **2.5. Freedoms of Assembly and Association**

In 2019, the freedoms of assembly and association continued to suffer due to various factors, including amendment of the Political Parties Act to introduce provisions which are not in line with international standards on freedoms of association and assembly; amendments of the Non-Governmental Organisations Act and Tangayika Law Society Act; and arbitrary restrictions on political assemblies.

### **Amendment of the Political Parties Act**

Amendments of the Political Parties Act were criticised by stakeholders for introducing provisions which arbitrarily and severely restrict freedoms of assembly and association. Major concerns regarding the amendment include: lack of clarity in some provisions, which leaves loopholes for abuse of powers and creation of fear; sweeping discretionary powers granted to the Registrar, which seriously affect autonomy of political parties; and severe penalties for breaching the law



### **Amendments of the Non-Governmental Organisations Act and Tanganyika Law Society Act**

Like the amendment of the Political Parties Act, amendments of the Non-Government Organisations Act and the Tanganyika Law Society Act raised various human rights concerns. In the former, major concerns include: too much powers vested in the NGO Registrar, automatic de-registration; extensive reporting requirements; and certificate renewal requirements. The provisions are not in line with regional and international standards on freedoms of association and assembly. In the latter, major concerns are: interference with the right of TLS to manage its own affairs and freedom of association; and undermining the independence of TLS as a bar association.

### **Complaints of arbitrary restrictions on political assemblies**

In 2019 the major obstacle in realization of freedoms of assembly and association for political parties, particularly the opposition, was the ban on political assemblies outside one's constituency. Opposition parties continued to lament this move, noting that they are not free to conduct political assemblies – which affects their chances in the upcoming elections. Political parties also complained about the amendments of the Political Parties Act because they infringe on their rights to freedoms of assembly and association

## **2.6. Right to Take Part in Governance**

### **The 2019 Local Government Elections**

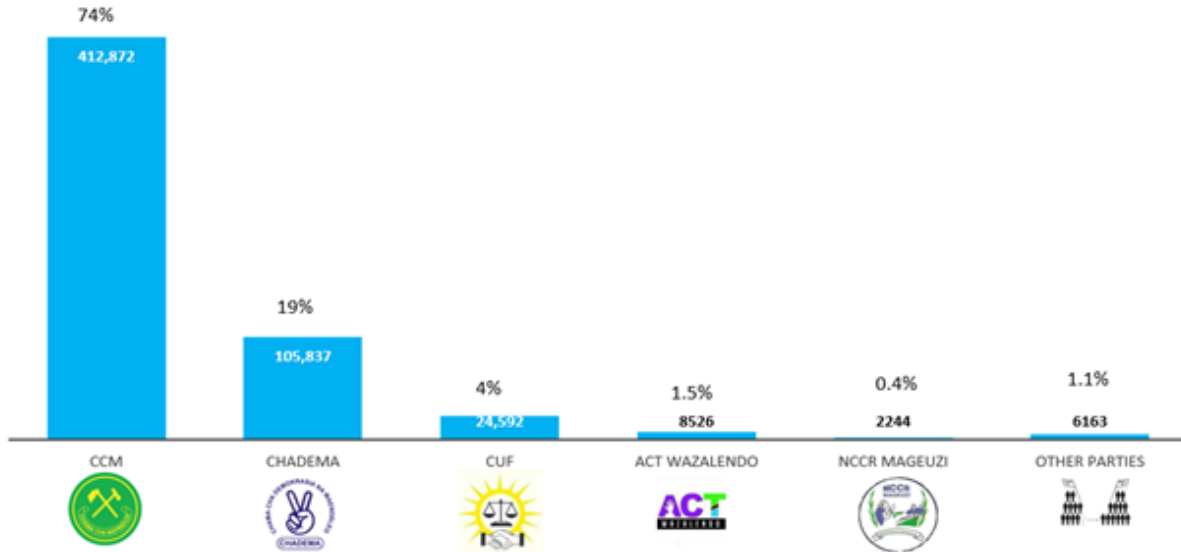
The major activity relating to right to take part in governance for the year 2019 was the Local Government Elections, which took place in November 2019. Key Issues which arose with regards to the elections include voter registration and turnout; civic and voter education; complaints about candidate nomination and disqualification; complaints about denial of accreditation; and concerns regarding some of the provisions of the regulations governing the elections.

The major highlight of the elections was the massive withdrawal of eight political parties, including major opposition parties, from the elections for what they called unfair treatment and deliberate disqualification. Opposition parties that boycotted the LGE of 2019 were ACT Wazalendo, CHADEMA, CUF, NCCR-Mageuzi, CHAUMA, CCK, UMD, NLD and UPDP. ACT Wazalendo indicated that 96% of its candidates were disqualified, while NCCR-Mageuzi complained that 90% of its candidates were disqualified. For CHADEMA, the number of disqualified candidates was over 1570. Most of the CCM candidates were unopposed, hence elections did not take place in most parts of Tanzania Mainland. The ruling party won 95% of the seats unopposed.

**19,681,259**  
Number of people registered to vote during the  
Local Government Elections of 2019.  
- PO-RALG 2019

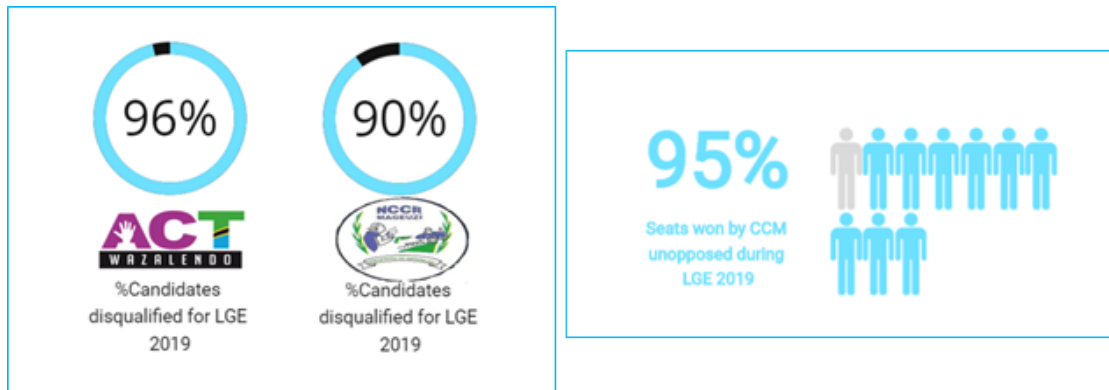


## Civil and Political Rights



### Political parties whose cleared candidates picked the nomination forms

The massive party withdrawal was a big dent on the 2019 Local Government Elections, putting its credibility into question.



### Bob Chacha Wangwe's Case on suitability of city, municipal, district and town directors to be returning officers during elections

The year 2019 also witnessed decisions of the High Court and Court of Appeal regarding the provisions of the National Elections Act allowing district executive directors, town directors, municipal directors and city directors to be returning officers during general elections. In May 2019, the High Court found such provision to contravene the Constitution, declared them void for being unconstitutional and thus proceeded to strike them out. However, in its judgement delivered in October 2019, the Court of Appeal overturned the High Court's decision and reinstated the directors as returning officers. The constitutional case was filed in 2018 by Bob Chacha Wangwe, raising concerns over impartiality of the directors as returning officers during elections.



**LHRC's view:** The judgement delivered by the High Court in May 2019 was in line with the election standards under regional and international frameworks on elections, which seek to guarantee free and fair elections. The reversal in the Court of Appeal judgment is unfortunate considering the principles of natural justice, which raise concerns over impartiality when applied to the use of district executive directors, town directors, municipal directors and city directors as returning officers during elections.



# CHAPTER THREE: ECONOMIC, SOCIAL AND CULTURAL RIGHTS

## Introduction

### Human Rights Discussed (4)

Right to Education, Right to Health,  
Right to Water, Right to Work

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, social and cultural rights, which include the right to education, right to health, right to water and right to work.

### 3.1. Right to Education

In 2019, key issues which positively or negatively affected enjoyment and realisation of the right to education included: implementation of fee-free education policy; budgetary allocation for the education sector; shortages of toilet holes, classrooms, dormitories and menstrual hygiene facilities; shortages of teachers and teacher houses; long distance to school; incidents of male teachers raping and impregnating girls at school; alarming rate of child pregnancy; concerns over quality of education; violence against children; and absenteeism among teachers.

#### Government action to ensure the progressive realisation of the right to education

The Government continued to take steps to ensure progressive realisation of the right to education, including implementation of education sector programmes and setting budget for the education sector. Other actions taken by the Government during the reporting period include employment of teachers, provision of loans for higher education students, renovation and construction of schools. A total of 49,485 higher education students were provided with loans.

In 2019, the Government also continued with the implementation of fee-free education policy, which has led to increased access to education and increase coverage of basic education to Form Four level. Authorities at district and ward levels have been active to ensure parents comply with the law by sending their children to school or face legal action.

#### Budgetary allocation for the education sector

Education stakeholders continued to raise concerns over budget allocated for education, which is insufficient and not in line with international standards, particularly the Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4. Disbursement of funds was also raised as a concern. For instance, for the financial year 2018/19, by March 2019, the funds disbursed were 64.2% of funds allocated for development expenditure and 73.1% for recurrent expenditure.



### **Challenges of shortages of toilet holes, classrooms, dormitories and menstrual hygiene facilities**

Shortages of toilet holes, classrooms and dormitories are key challenges affecting schools in Sub-Saharan Africa, including Tanzania. Deficit of classrooms exists in high, moderate and low performing regions.

While the official Government standard in Tanzania for latrines in schools is one pit latrine/toilet per 20 girl pupils (1:20) and one per 25 boy pupils (1:25), an average pupil to latrine ratio in surveyed primary schools is 58:1, according to a recent survey by Twaweza.

Lack of and/or shortage of menstrual hygiene facilities continued to be a challenge for girls at schools in 2019. Most schools lack sufficient WASH facilities in terms of water, privacy and adequate waste disposal. Lack of hygiene facilities, such as sufficient number of toilets and changing rooms, cause girls to be very uncomfortable during menstruation while at school and some to miss class or even stay at home during days of heavy flow. Inadequate access to clean toilets can seriously interfere with children's education as it can accelerate the spread of infectious diseases such as diarrhea and fungal infections which in turn makes many children sick and can cause them to miss school regularly.

**Menstrual hygiene facilities are important in keeping girls in schools.**

**LHRC's call:** The Government and other stakeholders to intervene and address menstrual hygiene issues at school in order to keep girls at school, including ensuring there are changing rooms and girls have access to sanitary pads and are well informed about menstruation. Addressing the problem of shortage of toilet holes is also important in menstrual hygiene management in schools.

### **Shortages of teachers and teacher houses**

Shortages of teachers and teacher houses were mentioned as a key issue in 2019. It was revealed by the Government that 80,000 teachers are needed across the country to address the problem of shortage of teachers. Among areas mostly affected by shortage of teachers in 2019 were Bumbuli District Council in Tanga and Bukombe District in Geita.

### **Long distance to and from school**

Long distance to school continued to jeopardise children's right to education in 2019. Incidents of children having to walk for up to 24km and 30km to reach school were reported in areas such as Siha District in Kilimanjaro and Handeni and Muheza Districts in Tanga respectively.

Long distance to school puts children at greater risk of violence, especially girls, and is among factors contributing to child pregnancy and dropping out of school.

Increased incidents of male teachers raping and impregnating girls at school



In recent years, there has emerged a wave of male teachers raping, engaging in sexual relationships with female pupils and students, and impregnating girls at school in different parts of Tanzania. According to the Teachers Service Commission (TSC), 162 teachers have been dismissed since July 2016 for engaging in sexual relationships with female school children.

In 2018 and 2019, LHRC documented a total of 24 cases of teachers implicated in sexual VAC, who were either arrested and sent to court or found guilty and imprisoned, three of which were headteachers.

### **Alarming rate of child pregnancy, forcing girls to drop out of school**

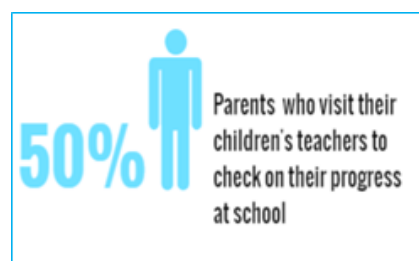
In 2018 and 2019, LHRC documented more than 2,540 cases of female school children getting pregnant. Since pregnant girls are currently not allowed to continue with school, many girls' journey in education ends when they become pregnant. Bodaboda drivers and male teachers were cited to be among major perpetrators of child pregnancy. Bodaboda drivers tend take advantage of long distance to school and poverty to lure girls, while teachers use their position of power to prey on young girls at school.

### **Violence against children affecting their concentration and performance at school**

Many cases of VAC were reported in 2019. Acts of VAC such as food denial, verbal abuse/insults, sexual harassment, rape, sodomy, threats and humiliation and beatings may result in psychological harm, emotional harm, physical pain or injury, lack of self-confidence and lack of self-esteem on the child, affecting their wellbeing and ability to concentrate in class.

### **Concerns over literacy and numeracy levels of pupils**

In October 2019, it was reported in Same, Kilimanjaro, that 18 students of Form One and Form Two at one of the schools in the district were found incapable of reading and writing. This issue raised some key concerns regarding the levels of literacy and numeracy among pupils. A *Twaweza* report on learning assessment, released in 2019, shows that while trends show a continuing trend of improvement in the level of literacy in Swahili, literacy in English is low and declining, with few pupils able to read a Standard 2 level story in English. In Swahili, 62% of standard three pupils were found able to read a Swahili story, but 14% of standard seven pupils were found not able to read a standard two-level story. In English, only 15% of standard three pupils and 47% of standard seven pupils were able to read a standard two-level English story. Regarding numeracy, pass rates for the numeracy test among standard seven pupils declined from 88% in 2014 to 80% in 2017.



Shortage of teachers, shortage of classrooms, lack of meals at school, lack of parents' participation, teacher-pupil ratio, and shortage of toilet holes affect the learning



environment, and consequently the quality of education. Regarding parents' participation, recent study shows that 50% of parents do not visit teachers to check on their children's progress at school.

### **Teacher absenteeism**

A 2018 education report by the World Bank indicated that teacher absenteeism is a big problem in East Africa, including in Tanzania. The report indicates that a lot of official teaching time is lost and shows that teachers in Tanzania use only 55% of the time officially allocated to teach to actually teach. The report indicates that in Africa teachers are often absent from school or absent from classroom even when they are at school.

In Tanzania teacher absenteeism also emerged as an issue of concern for the right to education in 2019. In November 2019, the Teachers Service Commission (TSC) revealed that since TSC was established in July 2016, it has received 7,123 complaints relating to teachers; including on absenteeism, violation of code of conduct and engaging in sexual relationship with female school children. Majority of the complaints, 76%, were on teacher absenteeism.

### **Employability of graduates**

Employability skills of university graduates came into the spotlight again in 2019. At least 45% of graduates in the telecommunication and information technology (ICT) industry lack skills and experience to grab employment opportunities in the growing competitive sector. Employers continue to raise concerns over education which is provided in colleges and higher level institutions, indicating that it does not match with the market demand and they are forced to spend a lot of money to train new employees on the relevant skills. To help address this problem, in June 2019, the Tanzania Private Sector Foundation (TPSF) and the Ministry of Education, Science and Technology established the Sector Skills Council, launched by the Minister of Education, Science and Technology, Hon. Prof. Joyce Ndali-chako

## **3.2. Right to Health**

In 2019, the Government continued to take various actions to ensure progressive realisation of the right to health. Measures taken included allocating budget for relevant programmes geared towards improving health services, construction and repair of health heath facilities; provision of essential medical equipment and supplies; and improving HIV-related health services.

However, as is the case with the right to education, the major challenge that was found to affect effective realisation of the right to health in 2019 was insufficient budget allocated for the health sector. Concerns over budgetary allocation for the health sector include low budget allocation and partial and delayed disbursements. For instance, for the financial year 2018/19, by March 2019, only 39% of the funds had been disbursed to MOHCDGEC. Another key challenge that came to light in 2019 is shortage of health workers. Shortage of doctors is particularly a bigger issue, as it was revealed that while the WHO guidelines indicate that one doctor should attend 10,000 patients per year, one doctor in Tanzania attends up to 22,000 patients per year.



Other challenges that continued to affect realisation of the right to health include shortage of toilets in some parts of Tanzania Mainland and shortage of buildings and beds at health facilities. For instance, in 2019 it was revealed that a total of 22,547 households in Mara Region do not have toilets, putting the health of household members at risk. To address this problem, the Government is conducting a campaign to promote toilet use called “Usichukulie poa, nyumba ni choo.” Shortages of buildings and beds were reported in areas such as Igunga in Tabora, Sumbawanga in Rukwa and Kinondoni in Dar es Salaam. The challenge of shortage of buildings and beds at health facilities disproportionately affects women, as most of them have to share beds and some have to even sleep on the floor.

Alarming suicide rates also emerged as a threat to right to health in the year 2019. The 2018 report on suicides by the WHO indicates that close to 800 000 people in the world die due to suicide every year and 79% of global suicides occur in low-income and middle-income countries. In Tanzania, it was reported that 666 Tanzanians were reported to have committed suicide from 2016 to 2019. For the year 2019, there were 105 reported cases of people committing suicide by hanging themselves, 8 by drinking poison, and 2 by shooting themselves. Reasons for people to commit suicide include relationships/love, family quarrels/conflicts, problems/stress at workplaces, and life/economic hardships. Another key issue relating to right to health which came to light in 2019 is the alarming rate of violence against children and its impact on their mental health. Sexual violence in the form of rape and sodomy are becoming a common occurrence in different parts of the country, leaving the children damaged psychologically and putting their mental health at huge risk. Children who cannot easily access GBV-related health services, including counselling, are at greater risk of their mental health being severely affected.

### **3.3. Right to Water**

Right to water is a key socio-economic right that needs to be realised daily. In 2019, it was revealed that about 60% of Tanzanians have access to improved water; and it was reported that various measures were undertaken by the Government to ensure access to clean and safe water, including establishment of National Multi-Sectoral Water Resources Management Forum, bringing together water experts, institutions in the water sector, higher learning institutions, sectoral ministries, research institutions, development partners and journalists; and implementation of Water Safety Plan.

In 2019, various challenges were identified to hinder effective and progressive realisation of the right to water, including budgetary allocation and delayed disbursement of funds. By April 2019, the Ministry of Water had only received 51% of its development budget for the financial year 2018/19, contributing to some of the projects not being implemented and others not completed in time. Other challenges are shortage of experts in water sector; inability to effectively implement water projects and failure to complete projects in



time; non-payment of water bills by government institutions; little investment in water projects by the private sector; water leakages and loss; lack of sustainability of water projects; and challenges faced by Basin Water Boards, such as including shortage of funds, shortage of experts and shortage of equipment.

- o Shortage of experts in the water sector stands at 38%.
- o From 2016 to 2019, regional capitals' water authorities lost an average of Tshs. 51 billion per year and experienced 33% water loss. For DAWASA, the water loss was 43%, while the amount lost was Tshs. 80 billion.
- o By April 2019, government institutions owed a total of Tshs. 21.84 billion in water bills.
- o Women and girls are disproportionately affected by shortage of clean and safe water.

### 3.4. Right to Work

Right to work includes right to gain living by work and right to just and favourable working conditions. In 2019, enjoyment of the right to work was affected by various factors, including unemployment and lack of employability skills; unpaid staff claims, especially for teachers; the burden of excessive deductions, including PAYE and loan board repayments; shortage of workers in key sectors such as health, water and educations; unfavourable working conditions; inadequate rest; and violations of labour rights, especially for workers in private companies and industries.

- o Lack of relevant employability skills among college and university graduates prompted establishment of the Sector Skills Council, launched in 2019. A 2014 study conducted by the Inter-University Council of East Africa had revealed that over 50% of college and university graduates in Tanzania lack relevant employability skills; and in 2019, it was revealed that at least 45% of graduates in the telecommunication and information technology (ICT) industry lack skills and experience to grab employment opportunities in the growing competitive sector. Most employers, particularly in the private sector, have indicated that are not happy with the skills of graduates and thus require extensive experience for the jobs they advertise, putting fresh graduates at a huge disadvantage. They indicate that most graduates are not ready for the job market (half-baked).
- o For the financial year 2017/2018, CAG report indicated outstanding staff claims and salary arrears in 22 LGAs amounted to Tshs. 11,141,505,574. In 2019, the Government acknowledged that it owes a total of 86,000 teachers unpaid staff claims. The teachers are entitled to a total of Tshs. 43 billion, including salaries and leave allowances.
- o While the Specified Officers (Debt Recovery) Act No.7 of 1970 requires employees not to receive less than one third of their basic salaries, in practice some of them continue to be subjected deductions beyond this limit. Increase of loan board



- repayment rate from 8% to 15% has significantly contributed to this problem. Excessive deductions may adversely affect employees' performance and their well-being and leave them vulnerable to fraudulent practices and misappropriation of public funds or abuse of office, which will affect service delivery.
- o Shortage of workers in health, water and educations sectors creates a huge burden on the existing workers and affects their basic human rights such as right to adequate rest and right to health, as they are forced to work harder in order to meet performance expectations.
  - o Unfavourable working conditions continued to be a challenge, especially for sectors such as education and health. For the educations sector, poor working environment was largely contributed by factors such as shortages of classrooms, teacher houses, desks and unpaid staff claims. Workers in privately-owned industries also faced difficulties relating to working conditions in 2019, including shortage of personal protective equipment, as detailed in LHRC's Human Rights and Business Report 2018/19.
  - o Violations of labour rights for workers in private companies and industries in 2019 included; poor remuneration/inadequate wages; restrictions on freedom of association and collective bargaining; low awareness about labour laws, rights and duties; violation of employment contracts; denial of written employment contracts and copies of contracts; overtime work without pay or adequate pay; poor labour inspection; shortage or lack of personal protective equipment (PPE); leave granted as privilege in some private companies; discrimination of women and PWDs at workplaces; and inadequate rest for workers.



# CHAPTER FOUR: COLLECTIVE RIGHTS

## Introduction

### Human Rights Discussed (2)

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

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.

#### 4.1. Right to Development

Right to development includes participation in contribution to and enjoyment of economic, social, cultural and political development.

Positives in infrastructural development, indicating progress in realisation of the right to development in 2019

In 2019, the Government continued implementing various projects geared towards improving infrastructure in different parts of Tanzania. The projects include construction of bridges and flyovers, expansion of roads and construction of new roads, especially in rural areas. The key players in these projects are the Ministry of Works, Transport and Communications, Tanzania National Roads Agency (TANROADS) and Tanzania Rural and Urban Roads Agency (TARURA). In Dar es Salaam, LHRC observed implementation of key infrastructural projects such as the Ubungo Interchange, the construction of Salender Bridge construction, Morocco – Mwenge road expansion, and Kimara – Kibaha road expansion.

#### Concerns over human development and political development

Despite the growth experienced in terms of economy, 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. Investing in agriculture is vital in achieving economic development and eradicating poverty in Tanzania. The Government should thus make efforts to increase budget for the agricultural sector in line with international standards and commitments.

Regarding political development, the major concern was restrictions on participation rights, as indicated in Chapter Two above. In 2019, political development stalled due to restrictions on participation rights, which include freedoms of expression, assembly and association.



### **Social development**

As highlighted in Chapter Three above, significant steps were taken to ensure progressive realisation of social rights in 2019. However, various challenges continued to hinder effective and progressive realization of the key social rights, namely right to education, right to health and right to clean and safe water, including budgetary constraints and shortages of human and material resources. Nevertheless, it is worth remembering that collection of taxes and allocation of resources is essential to the realization of social and economic rights. Trends in recent years a general increase in direct taxes collected by TRA in Tanzania Mainland. In 2019, it was reported that TRA had collected Tshs. 1.767 trillion in taxes in September 2019, the highest amount it has collected since 1996 when it was established, equal to 97.2% of the target. However, despite the increasing trend of tax contributions, it has been widely claimed that Tanzania could earn so much more if not for tax avoidance and evasion, as well as transfer pricing and tax exemptions.

### **4.2. Right to Enjoy and Benefit from Natural Resources**

Action to safeguard the right to enjoy and benefit from natural resources

Measures taken by the Government to safeguard the right to right to enjoy and benefit from natural resources. These include taking legislative action to protect natural resources; enhance monitoring of companies in the extractive sector – especially the mining sector; and taking action to address tax evasion. Key action was especially taken to address tax evasion in the mining sector, including against the Acacia Mining Company, which had been implicated in practices of corruption and tax evasion.

Challenges in realisation of the right to enjoy and benefit from natural resources

Several challenges continued to affect realisation of the right to enjoy and benefit from natural resources. These challenges include corruption; tax evasion and avoidance; tax incentives; transfer pricing; and loopholes in mining and natural resources laws.



# CHAPTER FIVE: RIGHTS OF VULNERABLE GROUPS

## Introduction

### Human Rights Discussed (5)

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

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

### 5.1. 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 2019, Women's rights were mainly affected by acts of VAW, especially physical and sexual VAW.

### Government and CSO action to address VAW

Efforts by government and non-government actors in addressing VAW included implementation of the NPA – VAWC, enhancing access to legal aid for different groups, including women, arrest and prosecution of perpetrators of VAW, enhancing capacity of police gender and children desks, and continuing implementing with women's empowerment programmes. These efforts are key to achieving SDG goals relating to gender equality and health, as well as the target of high-quality livelihood under the Tanzania Development Vision 2025.

### Increased reporting of GBV and VAW incidents

Collective efforts to combat VAC and VAW by government and non-government actors have led to increased reporting of such incidents.

**88,612+**  
Number of GBV incidents  
recorded by police from  
2017 to June 2019.

### Alarming rate of violence against women

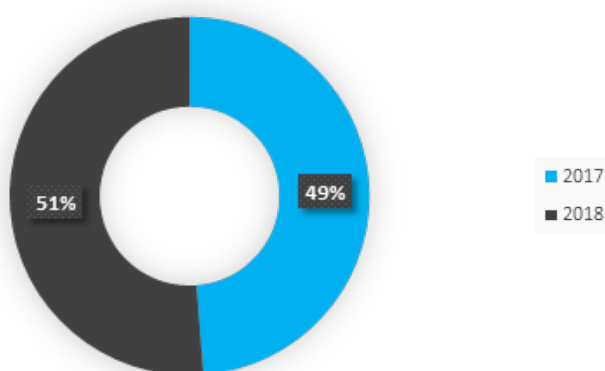
Despite efforts to combat VAW, effective realisation of women's rights continues to be hindered by VAW, especially physical and sexual VAW. Vulnerable groups such as young



and adolescent women, elderly women, and women with disabilities are more vulnerable to certain types of violence, including physical and sexual violence. More than 88,612 GBV incidents were recorded by police 2017 to June 2019. By the month of June 2019, a total of 3,709 incidents of rape of women and children were reported to police stations.

In 2019 women in Kigoma were terrorized by a group of men known as 'Teleza,' whose members would break into women's homes and rape them, some of them repeatedly. Gang leader was arrested in June 2019.

GBV incidents 2017 & 2018



GBV incidents recorded by police in 2017 & 2018 (n=84,903)

Home has become the most dangerous place for women, according to the United Nations Office on Drugs and Crime (UNODC) report released in 2018. More than 1500 women are killed by intimate partner and family in Africa. More than 50% of women killed are killed by intimate partner or family member. 35% are killed by current or intimate partner. Another report on women's rights in Africa, called the State of African Women Report, released in 2018, indicates that one in three African women experience VAW in their life and lifetime prevalence of some of physical and/or sexual violence among women by an intimate partner is around 36.6%.

In 2019 LHRC recorded at least 14 incidents of physical VAW, of which 12 were killings. Out of the 12 killings of women by their spouses, 8 were motivated by jealousy. However, it should be noted that incidents reported to the police are usually much more. By the time of finalising this report, LHRC had not obtained the number of VAW incidents reported to the police.



### **Discrimination of workers at workplaces**

In 2019, issue of discrimination of women at workplace was observed when in August 2019, the Tanzania Union of Government and Health Employees (TUGHE) in Morogoro revealed that it had received complaints about private dispensaries, health centres and hospitals in the region discriminating and mistreating women workers, especially those who become pregnant. In its report on human rights and business 2018/19, LHRC found discrimination of women based on gender being a challenge, especially when seeking jobs and promotion in the private sector. For instance, in Mtwara, issues of pregnancy, menstrual cycle/periods, delivery and breastfeeding were cited as reasons for some of the employers being reluctant to hire women. The human rights and business report also revealed discrimination of women workers in the mining sector. Further research is needed to determine the extent of discrimination of women at workplaces in Tanzania, both in public and private employment.

### **Sexual corruption in the job market, at higher learning institutions and in politics**

Sexual corruption in the job market, at work, at higher working institutions and in politics re-emerged as a key issue in the public debate. Recent TAMWA report indicates that about 89% of women in the public sector have experienced sexual harassment when seeking jobs, promotion or services. PCCB also revealed plans to collaborate with other stakeholders to conduct a study on sexual corruption in different areas, starting at higher learning institutions.

### **Gender equality and achievement of SDG goals**

Continued and alarming rate of violence against women and girls jeopardize efforts to achieve gender equality in line with SDG goals.

### **Budget for NPA-VAWC**

The analysis of the budget allocated for implementation of NPA-VAWC for the financial year 2019/20 revealed some budgetary concerns, which may affect efforts to combat VAW and VAC. The analysis indicates that while the overall budget for the MOHCDGEC increased by 10.7% for the financial year 2019/20 compared to that of financial year 2018/19, the budget allocation for Community Development related activities at the ministerial level experienced a reduction of 1.9%. It also shows that sub-budget for Social Welfare within the budget for Community Development has decreased by 19.3% in the financial year 2019/20 compared to financial year 2018/19.



### 5.2. 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.

In 2019, freedom from violence for children continued to be the most violated children's right, owing to an alarming rate of VAC. The following key findings regarding the situation of VAC in Tanzania Mainland came to light in 2019:

#### **Government, Judiciary and CSO action in preventing and combating violence against women and children**

In 2019, action by the Government, the Police Force, Judiciary and CSOs contributed to implementation of the National Plan of Action on Ending Violence against Women and Children (NPA-NAWC). Steps taken in line with the NPA-NAWC included awareness-raising on VAC; arrest and prosecution of perpetrators of VAC; provision of legal, health and other services to victims of VAW; documentation of VAC incidents for evidence-based advocacy; provision of legal aid to victims of VAC and their families; and introduction of the Judicature and Application of Laws (Practice and Procedure of Cases Involving Vulnerable Groups) Rules to ensure speedy dispensation of cases involving vulnerable groups.

#### **Increased reporting of VAC incidents**

Collective efforts to combat VAC and VAW by government and non-government actors have led to increased reporting of such incidents.

#### **Physical VAW**

Physical and sexual VAC are on the rise in 2019. Physical VAC incidents include wave of attacks of children, which began in late 2018 in Njombe Region, ten children were brutally killed, with some of them found without some of the organs of their body, including private parts. The killings were mainly motivated by witchcraft beliefs. 16% of incidents of VAC incidents recorded by LHRC in 2019 were physical VAC; and Physical VAW caused serious physical injuries and even deaths to children. From January to December 2019, LHRC documented 26 child killings caused by VAW.

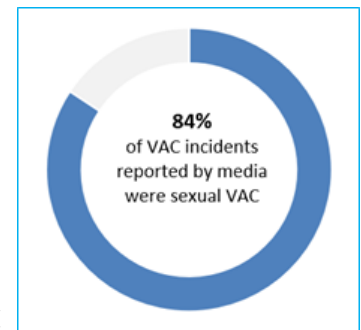


### High rates of sexual violence against children in various parts of the country

High rates of sexual violence against children were reported in various parts of the country. From January to June 2019, a total of 3,709 rape incidents were recorded by police, 126 more than those reported during the same period in 2018. During this same period of 2019, 688 sodomy incidents were recorded by police, 141 more than those recorded in 2018.

**42,824+**  
Number of VAC incidents recorded  
by police, 2016 - 2019

LHRC's media survey revealed that 84% of VAC incidents reported by media in 2019 were sexual VAC incidents, mainly reported in Tabora, Njombe, Geita, Songwe, Simiyu, Pwani, Ruvuma, Kilimanjaro, Katavi, Mara, Dodoma, Kagera, Mwanza, Iringa, Morogoro, Mbeya, Lindi, Manyara, Arusha Morogoro, Tanga, Singida, Rukwa and Dar es Salaam Regions. Incidents included a gang-rape to death of a Standard Seven pupil at Mahina Primary School in Mwanza. LHRC survey in 2019 also revealed that most sexual VAC acts are perpetrated in home, street and school settings.



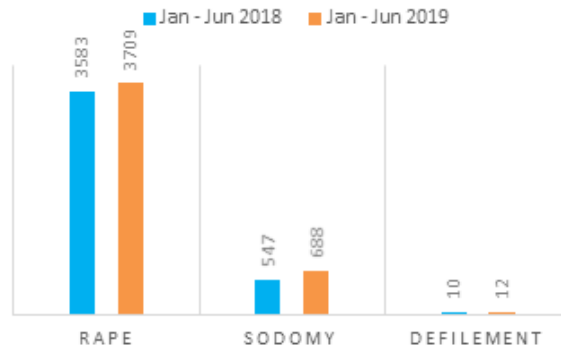
**162** number of teachers  
dismissed by TSC for engaging in  
sexual relationships with female  
school children since 2016.

Main perpetrators of sexual VAC in 2019 included male teachers, bodaboda drivers and male parents, who implicated in various acts of sexual VAC, including rape, sodomy, sexual harassment and engaging in sexual relationships with schoolgirls. In the period of 2018 to 2019, documented a total of 24 cases of teachers implicated in sexual VAC, who were either arrested and sent to court or found guilty and

imprisoned. Of these, three were headteachers.

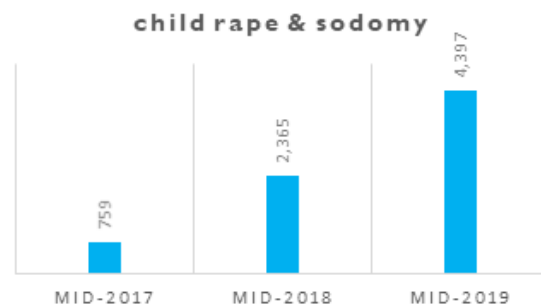
Factors contributing to sexual VAC include: long distance to school, which puts children, especially girls, at greater risk of sexual VAC, including rape and sodomy; slow pace of investigation and prosecution of perpetrators; and gap in parenting; tendency of community and family members being reluctant or deliberately undermining the proceedings in court by refusing to testify or convincing a VAC victim to become a hostile witness, due to what they call 'concealing family shame;' low awareness about access to justice; poverty; corruption; and beliefs in witchcraft.





### Incidents of rape, sodomy and defilement recorded by police – Jan to Jun 2018 & 2019

Source: Police Data



### Child rape and sodomy incidents mid-2017 to mid-2019

Source: Police data, 2017 - 2019

### Court of Appeal affirms High Court's position that child marriage needs to be outlawed

In a landmark decision, issued in October 2019 the Court of Appeal of Tanzania upheld that landmark 2016 ruling by the High of Tanzania that child marriage, allowed under the Law of Marriage Act of 1971, contravenes the Constitution of the United Republic of Tanzania of 1977 and increased the minimum age of marriage for girls and boys from 14 and 15 years respectively to 18 years.

### The predicament of child pregnancy

Child pregnancy continued to be a big challenge in 2019 as more cases were reported. In 2019, LHRC documented over 836 incidents of child pregnancy reported in different parts of Tanzania. For the period of 2018 and 2019 LHRC recorded more than 2,543 incidents of child pregnancy but believes there are more unreported incidents. Pregnant schoolgirls continue to face expulsion and exclusion.

**2,543+**  
Number of child pregnancy incidents documented by LHRC, in 2018 and 2019 through media survey and human right monitoring.

### Vulnerability of children to HIV infection

Child pregnancy means children are subjected to unprotected sexual activity. Child pregnancy, sodomy and rape put them at increased risk of HIV infection, which in turn affects the 90-90-90 target to help end the AIDS epidemic.



### **Child labour concerns around mining areas in Shinyanga**

Child labour was found to be a challenge around mining areas in Shinyanga as pupils tend to drop out of school to 'go and make money,' sometimes deliberately failing their examinations. This practice has also contributed to truancy.

### **5.3. 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.

- o Discrimination of children with disabilities continues to be a problem, especially in rural areas. Parents tend to lock these children in their homes, denying them their fundamental rights under the Law of the Child Act of 2009, including right to education.
- o PWDs, especially those who are mentally challenged, are more vulnerable to different forms of violence, including sexual violence.
- o Witchcraft-related attacks and killings continued to be a threat for PWAs in 2019. Despite progress in protection of PWAs, they continue to be vulnerable to attacks and live in great fear, which affects their ability to fully enjoy their fundamental human rights.
- o In 2019, UN Committee on the Rights of Persons with Disabilities issued its decision on a case instituted by a woman with albinism from Tanzania, who was attacked with machetes by two men at her home in October 2008; the attack saw her lose her one arm to the attackers and another amputated at a hospital. The Committee ruled that Tanzania, as a State party to the Convention on the Rights of Persons with Disabilities of 2006 (CRPD), had failed to adequately protect the woman with albinism in line with articles 5, 15 (1), 16 and 17, read alone, and articles 6 and 8, read in conjunction with articles 5, 15 (1), 16 and 17, of CRPD; and recommended that she is provided with effective remedy, including compensation, proper medical treatment, redress for the abuses suffered, support devices, rehabilitation, and the support necessary to enable her to live independently again.
- o Very few teachers are trained in any kind of special needs education. A recent learning assessment report by Twaweza indicates that only 13% of all teachers are trained in any kind of special needs education.
- o Access to social services, especially education, continued to be a challenge for children with disabilities. This is mainly contributed by inadequate infrastructure. Lack of friendly infrastructure, including hostels, contributes to absenteeism among the children with disabilities.



### 5.4. 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.

#### Violence against the Elderly

Less incidents of violence against the elderly were reported in 2019. However, the elderly continued to be subjected to attacks and violence, including sexual violence. In one incident a 77-year-old woman, Jema Macheho, was raped, an act that resulted into her death.

#### Access to social services

Complaints about access to social services continued to be made by the elderly in 2019, this time in Shinyanga Region, whereby the elderly in Shinyanga Rural complained about shortage of medicines at dispensaries and health centres.

### 5.5. 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.

Stigma and discrimination continued to be a major factor violating the right of PLHIVs. Women and girls are disproportionately affected by the stigma and discrimination associated with HIV infection, facing discrimination in settings such as family, community, school and workplace.



# CHAPTER SIX: 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.

### 6.1. 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.

#### Role of the national human rights mechanisms

**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, as well as receiving and addressing 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.

#### Action by national human rights mechanisms to promote and protect human rights

The Tanzania Police Force continued to take action to protect citizens and their property in 2019, including arresting perpetrators of human rights violations, including those implicated in committing acts of violence against children and women. Police gender desks continued with documentation of incidents of violence against women and children.

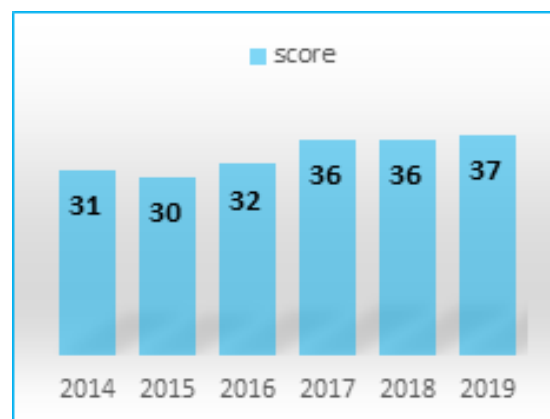
The Judiciary took various measures to enhance access to justice, including: construction of court buildings and renovation of old court buildings; using ICT to expedite dispensation of justice and reduce costs of attending court sessions; introduction and operationalization of mobile courts; conducting judicial inspections; introduction of integrated



justice centres; reducing backlog of cases; and developing sentencing guidelines. However, most of these measures are yet to fully impact protection of human rights but have a potential to do so. For instance, construction of new court buildings is only the first step towards enhancing access to justice. There is need to employ more judicial workers to work in these buildings, considering the acute shortage of judicial staff of over 40%, as highlighted above.

In 2019, CHRAGG continued carrying out its key functions, including: sensitizing about preservation of human rights and duties. But more importantly, CHRAGG was finally able to get its new Chairperson and Human Rights Commissioners. In September 2019, Hon. President John Magufuli appointed Judge (Rtd) Mathew Mwaimu to be the new Chairperson of CHRAGG. Mohamed Khamis Hamis, State Attorney from the Criminal Investigation Department office in Zanzibar, was appointed Deputy Chairperson of the national human rights institution. Moreover, 5 Commissioners were appointed, namely Dr. Fatma Rashid Khalfani (Lecturer at University of Zanzibar), Dr. Thomas Masanja (Lecturer at St. Augustine University of Tanzania), Amina Talib Ali (Senior Officer from the Second Vice-President Office, Zanzibar), Khatib Mwinyi Chande (Lecturer at Open University of Tanzania) and Nyanda Josiah Shuli (Senior Officer from the Ministry of Finance and Planning).

In 2019, PCCB continued carrying out its mandate to prevent and combat corruption in different parts of the country, including raising awareness and investigating and prosecuting corruption cases. Tanzania's performance in the Corruption Perceptions Index has indicated improvements in combating corruption, although the corruption is still a big problem in Tanzania. In 2017, Tanzania scored 36 out of 100 in the index, jumping 13 places compared to 2016. In 2018, Tanzania maintained the score of 36 out of 100 and jumped 4 places, ranked 99.th In 2019, Tanzania was ranked 96th out of 180 countries, jumping another 3 places after scoring 37 out 100 points.



Tanzania's scores in the Corruption Perceptions Indexes 2014-2019

**Source: Corruption Perceptions Index 2019**



### **Challenges faced by national human rights mechanisms**

Challenges faced by the national human rights mechanisms include corruption; delays in investigation and prosecution of cases; poor working environment due to shortage of equipment; shortage of law enforcement officers and judicial officers; overcrowding in prisons; budgetary constraints; shortage of facilities; poor knowledge about human rights and essence of procedural safeguards; and corruption and unethical conduct within the Tanzania Police Force.

### **6.2. Regional and International Human Rights Mechanisms**

International and regional human rights mechanisms include: Universal Periodic Review Mechanism (UPR), 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. A total of 227 recommendations were made for Tanzania to improve human rights, whereby 130 were accepted.

### **Difficulties in enforcing decisions of regional and international human rights mechanisms**

Enforcement of decisions/judgements of the regional and international human rights mechanisms in domestic jurisdictions usually depends on the political will. This has become a problem in Tanzania.

### **Tanzania's reporting to human rights mechanisms**

In 2019, the Minister of Constitutional and Legal Affairs, Hon. Ambassador Dr. Augustine Mahiga (MP) revealed that Tanzania is preparing its report on implementation on the UN Convention of the Rights of Persons with Disabilities (CRPD) of 2006.

Tanzania's withdrawal of individual and NGO access to the African Court on Human and Peoples' Rights

In 2019, Tanzania became the second African State to withdraw its declaration allowing individuals and NGOs access to the African Court on Human and Peoples' Rights after Rwanda did the same in 2016.



# CHAPTER SEVEN: CONCLUSION AND KEY RECOMMENDATIONS

## Conclusion

**Civil and Political Rights:** Situation of civil and political rights slightly deteriorated in 2019 due to violations of right to life, right to liberty and personal security, right to equality before the law and participation rights (freedoms of expression, association and assembly). For right to life violations, key contributing factors included death penalty, killings of children, gender-related killings of women, witchcraft-related killings, road accidents and mob violence. For right to liberty and personal security, right to equality before the law and participation rights violations, key contributing factors included existence and continued application of restrictive laws, amendments of laws that further curtailed the rights, constant adjournment of cases, disregard of the principle of presumption of innocence and arbitrary arrests and detention.

**Economic, Social and Cultural Rights:** Situation of economic, social and cultural rights generally remained the same in 2019, save for the right of access to education, which continued to be bolstered by the fee-free education policy. Effective realisation of key rights such as right to education, right to health and right to clean and safe water continued to be hindered by budgetary constraints, disbursement of only part of the budgeted funds, and delays in disbursement of funds. Shortage of relevant experts and workers were also a challenge for the health, education and water sectors, while learning environment in primary and secondary schools continued to be affected by various challenges, including shortage of toilet holes and long distance to school. Other key issues included unpaid staff claims for teachers and violations of labour rights for workers, especially in private companies/industries.

**Collective Rights:** Realisation of the right to development slightly increased in 2019, owing to intensified efforts in infrastructural development, which is economic development. However, major challenges were found to be in realisation of rights related to human development, political development and social development, which generally continued to stall. Challenge hindering effective realisation of collective rights include mismanagement of natural resources, tax avoidance and evasion, corruption, tax incentives, and loopholes in mining and natural resources laws.

**Rights of vulnerable groups:** The situation of the rights of vulnerable groups continued to deteriorate in the year 2019, especially rights of women and children. This is mainly due to increased incidents of physical and sexual violence against women and children. Acts of physical violence have led to severe injuries and deaths of women and children, while acts of sexual violence, particularly in the form of rape and sodomy, continue to be on the rise, most of them perpetrated against children. The situation of right of Persons with Disabilities continued to slightly improve, owing to a smaller number of reported incidents of violations of their rights.



However, PWAs continue to live in fear despite decrease in attacks against them in recent years, as Tanzania head towards the General Elections of 2020. Situation of the elderly also improved in 2019, owing to less reported incidents of violence against them, while for persons living with HIV the main challenge continued to be discrimination and stigma.

### Key Recommendations

#### 1. CIVIL AND POLITICAL RIGHTS

##### State actors

- o Being a de facto abolitionist state, the Government, through the Ministry of Constitutional and Legal Affairs, should move to declare a state of moratorium and improve death row conditions and prepare to abolish death penalty.
- o The Ministry of Constitutional and Legal Affairs to spearhead amendments of restrictive laws restricting freedoms of expression, association and assembly, including the Online Content Regulations and Political Parties Act.
- o The Government to amend the Media Services Act of 2016 in line with the decision of the East African Court of Justice delivered in 2019.
- o The Police Force to speed up investigation of cases to safeguard rights to liberty and personal security and right to equality before the law.
- o Police to use their powers under the Police Force and Auxiliary Services Act in relation to freedom of assembly objectively, ensuring that any denial of assembly is lawful, reasonable and necessary.
- o Government officials and members of political parties to exercise political tolerance in order to preserve peace and security.
- o The Government, through the Ministry of Constitutional and Legal Affairs, to create a police oversight body to ensure and promote accountability in law enforcement.
- o 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.
- o The Police Force should ensure police officers refrain from conducting arbitrary arrests and arbitrarily detain suspected criminals instead of sending them court within a specified period of time (usually 24 hours) as required by the law, to the right to liberty. Police officers implicated in this behaviour should be held accountable.
- o The Police Force should ensure police officers refrain from fabricating cases against innocent civilians; and those responsible should be charged with malicious prosecution.
- o The Government should move to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) to safeguard freedom from torture.



### Non-state actors

- o CSOs to intensify effort to raise public awareness on legal procedures and 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. In case of mob violence, for example, members of the public should be made aware of offences which are bail able.
- o CSOs and FBOs to use their platforms to speak against and raise awareness about mob violence, death penalty, witchcraft-related killings, attacks of PWAs and road accidents as well as their overall impact on human rights.
- o CSOs to collaborate with CHRAGG to provide regular human rights trainings to judges, magistrates and other legal professionals in order to enhance with knowledge and understanding of human rights as a way of safeguarding right to equality before the law and ensuring access to justice.

### Community members

- o 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.
- o Religious leaders and traditional leaders to use their platforms to speak against violations of civil rights, especially right to life, freedom of expression and freedom from torture, as a way of promoting these rights.
- o Community members to expose and report violations of human rights, especially right to life, and ensure the perpetrators are brought to justice.

## 2. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

### State actors

- o The Government, through the Ministry of Finance and Planning, to increase budgetary allocations for education, water and health sectors in line with international standards and ensure full and timely disbursement of funds for these sectors.
- o The Government, through the Ministry of Finance and Planning, to increase budgetary allocation for the agriculture sector, which is the leading employer, to boost the right to development and right to work. It should also and increase investment in irrigation farming in order to boost food production and improve accessibility.
- o The Ministry of Education, Science and Technology should address challenges faced by teachers to ensure they work in favourable conditions, as key measure in improving quality of education and achieving key targets under SDG 4 and the Tanzania Development Vision 2025.
- o The Ministry of Education, Science and Technology to devise strategies of preventing VAC perpetrated by male teachers in schools.
- o The Government should ensure its institutions pay water bills on time to water authorities to effectively implement their activities and maintain water infrastructure.



## Conclusion and Key Recommendation

- o The Ministry of Water should enhance efforts to address the problem of water leak ages, which lead to water loss, and costs water authorities billions of money.
- o Regarding pregnant girls, LHRC continues to urge the Government to reconsider its stance 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.
- o Ministry of Education, Science and Technology to improve access to education for children with disabilities by ensuring availability of relevant infrastructure, teachers and learning tools.

### Non-state actors

- o CSOs should work with relevant government ministries, such as the ministry responsible for women and ministry responsible for land, to promote and protect economic rights, including conducting awareness-raising sessions and campaigns.
- o 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.
- o The private sector should collaborate with the Government to invest in water projects to increase access to water services. This could also be done as part of corporate social responsibility.
- o CSOs, the media and other stakeholders should collaborate with the Government to promote and protect social and cultural rights, including through awareness-raising of the public.

### Community members

- o 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 non-government actors.
- o 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.
- o Parents should strive to understand their duties and responsibilities towards their children under the Law of the Child Act of 2009 and make efforts to ensure children enjoy and realise their rights, including right to education and freedom from violence.
- o 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.
- o Community members should also mobilize themselves and help the Government in addressing some key challenges in the education sector, such as shortage of desks and shortage of toilets/toilet holes.



### 3. COLLECTIVE RIGHTS

#### State actors

- o The Government should address corruption in the mining sector, which is threatening right to development and right to enjoy and benefit from natural resources.
- o The Ministry of Natural Resources should ensure effective implementation of natural resources laws.
- o The Government to ensure respect of human rights in the course of attracting investment and ensure investors comply with Tanzanian laws and respect human rights in their operations.
- o The Government to address tax evasion and avoidance in the mining sector and ensure companies which evade tax are held accountable.

#### Non-state actors

- o CSOs and the Commission for Human Rights and Good Governance (CHRAGG) to raise public awareness on right to development and right to benefit from natural resources.
- o CSOs should identify gaps in realization of the right to enjoy and benefit from natural resources and engage and advise the Government accordingly.

#### Community members

- o Community members are encouraged to preserve and protect natural resources, which is their constitutional duty.
- o Community members are also encouraged to report incidents of that threaten realization of collective rights, including poaching.

### 4. RIGHTS OF VULNERABLE GROUPS

#### State actors

- o The Government, through the Ministry of Constitutional and Legal Affairs, 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.
- o 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.
- o The Government through the Ministry of Education, Science and Technology to integrate gender education in learning curriculums from elementary to higher learning.
- o 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.
- o The police and courts of law to increase the pace of investigation and prosecution of cases of violence against children and women.



## Conclusion and Key Recommendation

- o 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.
- o The Government, through the Ministry of Finance and Planning, to increase budget for implementation of the NPA-VAWC in order to address VAC and VAW, which have reached alarming levels.

### Non-state actors

- o CSOs and social welfare departments within local governments to increase awareness on violence against women and children and encourage community members to report incidents to relevant authorities so that the perpetrators can be brought to justice.
- o 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.
- o CSOs to continue raising awareness on the rights of the elderly and conduct campaigns on ending violence and discrimination against the elderly.
- o Stakeholders should strengthen mechanisms to enable women to report abuse instantly as they happen, especially women in remote areas of Tanzania.

### Community members

- o Community members to perform their duties of protecting and safeguarding children's rights refraining from conducting acts of abuse to children.
- o Community members should refrain from discriminating all children, including street children and children with disabilities.
- o Community members to refrain from protecting perpetrators of violence against children simply because they need 'to conceal family shame.'
- o 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



## MAJOR ISSUES THAT AFFECT PROTECTION OF HUMAN RIGHTS

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





Shiriki kulinda na kudumisha haki za binadamu

**Changia Haki**



#### Changia kwa Airtel Money

- Hatua ya 1: Ingia kwenye Menu ya Airtel Money (\*150\*60#)
- Hatua ya 2: Chagua (5) Lipia Bili
- Hatua ya 3: Chagua (4) Ingiza Namba ya Kampuni
- Hatua ya 4: Ingiza Namba ya Kampuni (275454)
- Hatua ya 5: Weka Kiasi Unachotaka Kuchangia
- Hatua ya 6: Ingiza Namba ya kumbukumbu (1234)
- Hatua ya 7: Weka Namba ya Siri Kuthibitisha Muamala



#### Changia kwa TigoPesa

- Hatua ya 1: Ingia kwenye Menu ya Tigo Pesa (\*150\*01#)
- Hatua ya 2: Chagua (4) Lipia Bili
- Hatua ya 3: Chagua (3) Ingiza Namba ya Kampuni
- Hatua ya 4: Ingiza Namba ya Kampuni (275454)
- Hatua ya 5: Weka Kumbukumbu Namba (1234)
- Hatua ya 6: Weka Kiasi Unachotaka Kuchangia
- Hatua ya 7: Ingiza Namba ya Siri Kuthibitisha Muamala



#### Changia M-Pesa

- Hatua ya 1: Ingia kwenye Menu ya M-Pesa (\*150\*00#)
- Hatua ya 2: Chagua (4) Lipa kwa Mpesa
- Hatua ya 3: Chagua (4) Namba ya Kampuni
- Hatua ya 4: Weka Namba ya Kampuni (275454)
- Hatua ya 5: Weka Namba ya Kumbukumbu ya Malipo (1234)
- Hatua ya 6: Weka Kiasi
- Hatua ya 7: Weka Namba ya Siri
- Hatua ya 8: Bonyeza 1 Kuthibitisha Muamala





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