



**JOINT NON GOVERNMENTAL ORGANIZATIONS (NGOs) REPORT TO THE THIRD UNIVERSAL PERIODIC REVIEW  
(UPR) OF THE UNITED REPUBLIC OF TANZANIA BY THE UNITED NATIONS HUMAN RIGHTS COUNCIL**

The report was prepared with the support of the UN RICHWE (United Nations Reporting Initiative on Climate Change, Health, Water and the Environmental) initiative. It was written by and concluded after close consultation and input by 10 grassroots NGOs in Tanzania. Their names are known.

However, the current environment for civil society in Tanzania is not safe enough for them to have their names included in this report. A worrying situation which is in fact addressed in the report.

The organisations involved in UN RICHWE, consultancy and law firms JustLaw, The Fresh Water Monitor and Leapfrog 2SD, worked with these 10 NGOs from Tanzania on this report and work for and in support of the UN Human Rights Framework, hence are also relevant stakeholders and include their names: in support of the (Environmental) Human Rights Defenders of Tanzania.

**So this report, is submitted on behalf of ten Tanzanian NGOs, with support of three consultancy firms and by the following international NGOs:**

- **Stakeholder Forum for a Sustainable Future**  
(non-governmental organization in consultative status with the UN Economic and Social Council, since 1996, see <https://stakeholderforum.org>)
- **Stand Up For Your Rights**  
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## **THE LIST OF ABBREVIATIONS**

ACHPR	African Charter on Human and Peoples Rights
CC	Climate Change
EACJ	East African Court of Justice
EIA	Environmental Impact Assessment
FPIC	Fair, Prior and Informed Consent
FYDP II	Five Years Development Plan, phase two
GN	Government Notice
Ibid	Ibidem
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Convention on Economic, Social and Cultural Rights
Loc Cit	Loc Citato
NEMC	National Environmental Management Council
NGO	Non-Governmental Organization
No.	Number
UDHR	Universal Declaration of Human Rights
UN	The United Nations
UNCC learn	United Nations Climate Change Learning Partnership
UNDP	United Nations Development Programme
UNDRIP	The United Nations Declaration on Rights of Indigenous People
UNEP	United Nations Environment Programme
UPR	Universal Periodic Review
URT	The United Republic of Tanzania

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## **PREFACE**

The stakeholders report for the Universal Periodic Review (UPR) of the United Republic of Tanzania was prepared by a consortium of Non-Governmental Organizations that have strong interest with the Environment, Natural Resources, Good Governance, Inclusion and Rule of Law.

The report, among other things is mainly considered with environmental issues and sustainable development in relation to human rights in Tanzania,

It is our high hope that findings of this report will open up gateways for dialogues that will positively address the identified shortcomings thus protecting the environment, promoting sustainable development while adhering to the universal and immutable principles of human rights.

## **CHAPTER ONE**

### **Human Rights in Tanzania**

#### **The Bill of rights and its enforcement**

Human Rights in Tanzania are anchored in the Tanzania's Constitution<sup>i</sup>. The Bill of rights was made part of the Tanzania's constitution in the year 1985.<sup>ii</sup> In order to enable effective enforcement of the constitutional basic rights, Tanzania enacted the Basic Rights and Duties Enforcement Act, Act. 33 of 1994 (hereinafter referred as BRADEA).

#### Human Rights Defenders at Threat

In the UPR second cycle, under recommendation No. 134.11, it was recommended that Tanzania should improve her national laws and regulations for protection and promotion of human rights, Tanzania accepted the recommendation, however, in the recent years, Tanzania has taken some measures such as enacting restrictive laws which limit free exercise of human rights, such laws include the following;

#### ***Amendments to the Non Governmental Organizations Act, No. 24 of 2002***

In the UPR second cycle, under recommendation No. 134.98, it was recommended that Tanzania should create and maintain the enabling environment for civil society organization to function and exercise their rights.

Tanzania accepted the recommendation; however in the year 2019 the NGO Act, No. 24 of 2002 was amended. The amendments to the Act have created a difficult ground for NGO to effectively play their roles. The amendments have significantly touched the following areas;

- (i) Time limit of the Certificate of registration

The NGO Act, 2002 has been amended to introduce a time limit to the certificate of registration. After the expiry, organizations have to make applications for renewal. The Non Governmental Organization Coordination Board is vested with powers to deny renewal if it deems fit.<sup>iii</sup>

- (ii) The definition of NGO has been narrowed.

All NGOs that were previously registered under the Companies Act, No. 12 of 2012 have been moved to the NGOs registry, due to narrowing of the definition of NGO under the Companies Act.<sup>iv</sup> As the provisions of the Companies Act made it difficult to deregister a company and the provisions of the

NGOs Act make it easy to deregister an NGO. The result of changing the definition is that NGOs run a higher risk of being deregistered.

Tanzania accepted to make progress in implementing the National Human Rights Action Plan with full engagement of Civil Society Organizations (Recommendation No. 134.29). Contrary to the acceptance, Tanzania has amended the NGOs Act in a manner that creates a difficult ground for NGOs to function and address human rights concerns in the country.

### ***The Cyber Crimes Act, No. 4 of 2015***

In the UPR second cycle, under recommendation No. 136.4, 136.5, and 136.6 it was recommended that Tanzania should review The Cyber Crimes Act, 2015 so as to line with the internationally guaranteed and recognized human rights however the Act was never reviewed.

The Cyber Crimes Act, 2015 creates several offences such as the offence of sedition. The Section that criminalizes publication of false information is too unclear in a manner that it discourages whistle blowers<sup>v</sup>

Section 31, 32, 33, 34, 35 and 37 of the Act vest with law enforcers powers to conduct surveillance and censorship as well as search and seizure of computer systems, data, and information without an order of the court. The powers vested with law enforcers violate the right to privacy as guaranteed by the Constitution<sup>vi</sup>.

### **Limited Access to the Africans Human Rights Court**

Tanzania has withdrawn the access of individuals and NGOs to file suits before the African Court of Human and Peoples Rights. The withdrawal came into effects on November 21, 2020. Previously, Tanzania's NGO had access to file human rights cases before the African Human Rights Court under the provision of article 34 (6) of the African Court Protocols.<sup>vii</sup>

### **Amendments of the Basic Rights and Duties Act, No. 33 of 1994 (BRADEA)**

The Constitution of Tanzania guarantees public interest litigation.<sup>viii</sup> The amendments to BRADEA restrict filing of public interest litigation as it requires an affidavit showing how the individual is affected personally.<sup>ix</sup>

In the UPR second cycle, under recommendation No. 134.6, it was recommended that Tanzania should adopt the new constitution as soon as possible. Tanzania accepted the recommendation, however the new constitution has not been adopted and amendments to legislations have technically amended the

constitution i.e. by restricting public interest litigation since the amendments subjects Article 26 of the Constitution to Article 30.

## **CHAPTER TWO**

### **Indigenous People(s)**

In the year 2009 Tanzania enacted the Wildlife Conservation Act, 2009. The Act establishes Game Controlled Areas; it further provides that, save for the permission of the director of wildlife, a person shall not graze any livestock in the Game Controlled Area.<sup>x</sup>

Such provisions threaten livelihoods of indigenous people as their life depends on cattle grazing and most Game Controlled Areas were established within recognized villages; the ancestral land of the indigenous people.<sup>xi</sup>

#### **Forceful Evictions of the Indigenous People**

Tanzania has forcefully evicted a number of communities from their ancestral land without complying with the due process of law; the Loliondo eviction of the Maasai is a good example.

#### **Restrictions to engage in crop cultivation**

In the year 2020, the government issued letters to Ward Executive Officers to inform the people in the Ngorongoro Conservation Area of its intent to stop providing relief food and that they will have to hire farms outside the area at their own costs.

#### **Infringement of the Right to Freedom of Religion**

Tanzania has failed to guarantee indigenous people a right to exercise their faith and believes. Indigenous people have their sacred sites for worship and ritual ceremonies. However, the Government has been occupying sacred areas and designating them for other uses as it is pleased.

The available studies show that the Maasai's sacred hill known as '*endoinyo-oormorwak*' which was traditionally used for prayers and sacred ceremonies has been confiscated by the Government. The Government has confiscated the place for purposes of building National Police College.<sup>xii</sup> Deprivation of exercise of the right to freedom of religion violates Article 19 of the country's Constitution.

In the previous cycle, under recommendation No. 137.70 and 137.71 it was recommended that Tanzania should develop her legal framework to protect the indigenous rights to land and land tenure. Tanzania noted the recommendation; however no step has been taken so far.



*Image 1: The Maasai society in the Ngorongoro Conservation Area.*



## **CHAPTER THREE**

### **Industrialization, Environmental Protection and Extractive Industries**

#### **PART A: Industrialization and Environmental Protection**

Tanzania's fifth government has its emphasis on industrialization. However, the focus on industrialization seems not to consider environmental precautions provided under the laws.

Government officials have been quoted saying that projects can go on while Environmental Impact Assessments, Social Impact Assessment and other related certificates are in process; contrary to the Environmental Management Act, 2004 which calls for Environmental Impact Assessment before commencement of certain projects as listed under the schedule to the Act

Running projects without being issued with a certificate of Environmental Impact Assessment endangers people's right to life contrary to the Constitution and other human rights treaties,<sup>xiii</sup> as it threatens their environment.

The UN Human Rights Committee has recently confirmed that a threat to the environment constitutes one 'of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life,' and Implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors.<sup>xiv</sup> Environmental threats may include water pollution resulting from unchecked projects.

#### **PART II: Extractives Industry**

Following the adoption of the National Energy Policy in 2015 Tanzania extractives legal framework took another course. Most extractive laws were enacted, i.e. the Petroleum Act, 2015 and revision of the Mining Act of 2010 in 2019. Despite the changes; the newly enacted/revised laws are human rights insensitive.

The extractive laws happen to have some provisions/omission with less consideration to the environment and basic human rights.

#### **Mining operations and human rights violations**

Small scale mining in Tanzania is closely associated with the use of mercury. The use of mercury is arguably cemented by the silence of the Mining Act, 2010 on the question of legality of its usage. The

notion lays on the basic rule of law principle that whatever the law does not explicitly prohibit is allowed.

Studies show that effluents from mining activities by small scale/artisanal miners from the Lake Zone have been continuously discharged to the Lake Victoria Basin,<sup>xv</sup> Contrary to section 63 and 64 of the Water Resources Management Act No. 11 of 2009.

Unlawful discharge of effluents to the Lake Victoria Basin amounts to human rights violation as it endangers people's rights to life, health, a clean environment and clean water for domestic and other uses.

Pollution of the Lake Victoria basin violates not only Tanzania's municipal laws but also regional laws including the Lake Victoria Basin Commission Act, 2020. The violations endanger lives of all communities within the basin and all other communities alongside the Nile River since the White Nile originates from Lake Victoria.

### **Petroleum operations and human rights violations**

Tanzania's extractive industry has witnessed a milestone development of petroleum activities in the recent years. The country is on the final stages of completing a Host Government Agreement (HGA) for the East African Crude Oil Pipeline (EACOP); a 1445 Km electrically heated pipeline from Hoima, Uganda to Chongoleani in Tanga, Tanzania.

Despite the economic prospects, the pipeline poses serious threats to the environment thus endangering people's rights to life, health, a healthy environment and water. The pipeline passes through the Lake Victoria basin for more than 460 Km thus endangering lives of more than 40 million individuals whose life depends on Lake Victoria in case of any likely oil leakage.

The pipeline further passes through the Biharamulo Game Reserve for 33 Km and the Wembere Steppe Key Biodiversity Area (KBA) for 32 Km. The construction and maintenance of the pipeline is likely to cause habitat fragmentation and introduction of invasive species in the protected areas.

Loss of biodiversity may deny the future generations a right to heritage contrary to Article 27 of the Universal Declaration of Human Rights, 1948 and posing a big risk for non-compliance with the Sustainable Development Goals, which should implement that agenda for the benefit of all, present and future generations.

On top of too little overview and control by the State, business themselves in Tanzania do not comply with their responsibility to respect human rights, which should include undertaking a thorough human rights impact assessment and due diligence process.

Construction of the pipeline is likely to affect people's rights to land and livelihood as the government of Tanzania has clearly stated that there will be no land compensation (as the case was in Uganda) since the pipeline will be constructed on the road reserve; something that is practically impossible.

It is reported that more than 400 villages will be affected by the pipeline and 14,000 households will be deprived their land; land acquisition will further threat destruction of sites of spiritual values thus denying communities their right to freedom of religion ([Mongabay](#), 2021).

Depriving people their land is violation of the right to property guaranteed under the Constitutional and International Conventions.<sup>xvi</sup>



*Image 2: Mara River; a tributary of Lake Victoria is threatened by pollution from unsustainable mining practices*

## CHAPTER FOUR

### **Civic rights and Political space shrinking**

In the UPR second cycle it was recommended that Tanzania should create and maintain a safe and enabling environment where members of all political parties can exercise their rights. Despite the acceptance of this recommendation, exercise of civic and political rights has greatly deteriorated in the country; the assertion can be substantiated by addressing exercise of the following rights:

### **(i) The right to freedom of assembly**

In 2016, the government, contrary to the country's constitution and contrary to the human right to freedom of assembly,<sup>xvii</sup> prohibited all political rallies/assemblies with a justification that the election is over thus people should focus on developments not politics. The government further announced that politicians should only hold political rallies in their respective constituencies that elected them.

### **The right to freedom of expression of opinions**

The right to freedom of expression is guaranteed under Article 18 of the Tanzania's constitution. The right is further guaranteed in a number of regional and international legal instruments i.e. The African Convention on Human and Peoples Rights,<sup>xviii</sup> the International Covenant on Civil and Political Rights,<sup>xix</sup> and the Universal Declaration of Human Rights.<sup>xx</sup>

The right to freedom of expression of opinions is broad and includes the right to free media/press and the right to seek and disseminate information.

In the previous cycle, under recommendation No. 136.1, it was recommended that Tanzania should address concerns relating to claims of interference with freedom of expression, Tanzania accepted the recommendation. Despite the acceptance, Tanzania has enacted a number of legislations that technically restricts a free and effective exercise of the right to freedom of expression.

The enacted laws include The Cyber Crimes Act, 2015, The Media Service Act, 2016 and its regulations, including the Electronic and Postal Communication (Online Content) Regulations, 2020.

Following enactment of such laws Tanzania's press freedom has been shaken unprecedentedly. The statement can be substantiated with figures from International independent reports i.e. the 2020 World Press Freedom [Index Report](#) shows that Tanzania had dropped 49 places in the World rankings from 75th place in 2015 to 124 in 2020.<sup>xxi</sup>

The Media Service Act, 2016 was successfully challenged before the [East African Court of Justice](#). The East African Court of Justice found that section 7(3), (a), (b), (c), (f), (h), (i) and (j) as well as section 19, 20, 21, 35, 36, 37, 38, 39, 40, 50, 52, 53, 54, 58 and 59 of the Media Service Act, 2016 are in violation of Article 6(d) and 7(2) of the Treaty for the Establishment of the East African Community, 1999.<sup>xxii</sup>

### **Amendments of the Political Parties Act, 1992 and the violation of political and civic rights**

The amendments to the Act have significantly led to shrinking of political space and political parties exercise of basic rights. The Act has limited operations of the country's constitution as it takes away the rights that political parties are entitled to under the constitution.

The Political Parties (Amendments) Act, No. 1 of 2019, vests with the registrar of political parties, powers to regulate affairs of political parties in a manner that is allegedly created to cement a one party rule in the country thus making Tanzania a *de facto* one party State.<sup>xxiii</sup>

The amendments to the Act further prohibits political parties from acting as pressure groups and the definition section to the Act defines pressure groups to include a group of people that influences public opinion or government action in the interest of a particular case. The prohibition violates the right to information guaranteed under the country's constitution and International Human Rights Conventions.<sup>xxiv</sup>

Strangely, the amendments vest to the registrar of political parties' powers to deregister a political party even for minor reasons such as a party's engagement in offering unauthorized civic education.<sup>xxv</sup> The unchecked powers to deregister political parties violates the right to peaceful association guaranteed International Human Rights Instruments.<sup>xxvi</sup>

Political coalitions are further limited by the amendments to the Act. The Act pre-determines when political parties should form a coalition and vests with the Minister of Constitutional and Legal Affairs powers to prescribe how coalitions should be made.<sup>xxvii</sup>

The provision is clearly in violation of the natural justice principles i.e. the rule against bias since the Minister is a member of the ruling party; he is therefore likely to prescribe a coalition format that favors his political party or limits other parties from their coalitions thus affecting the exercise of right to association guaranteed under Article 20 of the Country's constitution.

The registrar of political parties is now protected with an immunity not to be sued for his acts/omission. The immunity violates the right to a legal action contrary to Article 7(1)(a) of the African Charter of Human and People's Rights, 1981.

## CHAPTER FIVE

### **Climate Change Issues**

Climate change is a global contemporary issue. The effects of climate change i.e. extreme weather events including droughts and floods are consistently increasing in most parts of the World with Tanzania included.

Human rights guarantee everyone's rights to life, health, water, food and adequate standard of living, to mention a few clearly linked to climate change. Exercise and enjoyment of human rights can be adversely affected by impacts of climate change. Extreme weather events i.e. droughts and floods can lead to loss of life and destruction of properties i.e. crops and houses.

In the previous cycle, under recommendation No. 134.125, it was recommended that Tanzania should promote strategies for climate change mitigation and adaptation to their effects and disseminate them through school programmes.

### **The legal and Institutional framework**

Implementation of climate change initiatives in Tanzania is undertaken within the context of the National Environmental Policy, 1997 and the Environmental Management Act, 2004 and other related legislations.

Key actors in implementing climate change initiatives include the Vice president's Office - Division of Environment. The division is both National Climate Change Focal Point and Designated National Authority for clean development mechanism under the framework of the Kyoto Protocol.

### **Climate Change in Tanzania's Context**

Recently, Tanzania has vividly experienced extreme weather events i.e. heavy rainfall, hailstorm, higher temperature and strong winds.<sup>xxviii</sup>

On November 4, 2015 Tukuyu Meteorological Station recorded 327.8mm of rainfall in 24 hours, the record is the highest ever since the station was established in the year 1928.

### **Economic implications of Climate Change in Tanzania**

The available reports show that climate change already costs Tanzania approximately 1% of her GDP and the projections suggest that it might go higher to 2% of the GDP per annum by the year 2030. The

available studies indicate that 300,000 to 1,000,000 people in Tanzania will be vulnerable to the rise of sea level in the country by the year 2030.<sup>xxix</sup>

Tanzania has taken a number of steps in addressing climate change related issues; such efforts are as follows:

- (i) Implementation of legislations and policies that calls for government and other actors to address climate change related issues
- (ii) Adoption of the National Climate Change Strategy of 2013
- (iii) Ratification of the United Nations Framework Convention for Climate Change (UNFCCC) in 1996 and the Kyoto Protocol in 2002
- (iv) Implementation of government plans to address climate change such as construction of the 780m sea wall at Barack Obama road
- (v) Construction of 500m wall at Mwalimu Nyerere Memorial College in Kigamboni;
- (vi) Restoration of 792 degraded hectares mangroves in Rufiji area;
- (vii) Restoration of 3000 square meters of coral reef in Sinda Kigamboni;
- (viii) Establishment of National Carbon Monitoring Center at Sokoine University of Agriculture.



*Image 3; a 780m sea wall at Barack Obama road constructed by the Government of Tanzania as a response to effects of climate change.*



*Image 4: a picture showing part of the restored 792 degraded hectars of mangroves in Rufiji, Pwani, Tanzania.*

Tanzania accepted the recommendation No. 134.125, however, her efforts in implementing are not sufficient enough. To date, Tanzania has not amended her Environmental Management Act, 2004 to widen the covered scope of climate change related issues. The Environmental Management Act, 2004 Act has only one section, section 75, that mentions climate change and the climate change consideration is too narrow.

Furthermore the country has recently experienced severe weather events such as floods which claimed people's lives and led to loss of habitat and destruction of properties such as crops thus threatening communities' livelihood. The evidence of severe weather events as reported in the State of Environment Report (2019) call for more involving and participatory climate actions from Tanzania.

## **CHAPTER SIX**

### **Gender Issues**

Gender equality is a human right recognized by number of regional and international legal instruments such as the Convention for Elimination of All forms of Discrimination Against Women (CEDAW), 1979. The Convention binds 187 Member States, including the United Republic of Tanzania.

The United Republic of Tanzania is a Member State to the Beijing Declaration and Platform for Action, 1995 and to several other regional development plans such as the Regional Strategic Development Plan (2020 – 2025) of the South African Development Community (SADC).



In the UPR second cycle, under recommendation No. 134.42, it was recommended that Tanzania should take active measures to eliminate gender gaps in human development, active measures includes review and amendments of relevant legislations such as the Law of Marriage Act, 1971.

Generally, Tanzania has taken a number of steps in addressing gender issues; such steps include the 2005 Constitutional amendments that increased women's representation and participation in the National Assembly.

In a few years later, Tanzania designed and adopted a number of policies and strategies to address gender issues such as the National Strategy for Gender Development of 2008 which complimented the Women and Gender Development Policy of 2000.

Despite such efforts, the available literatures shows that national plans do not capture gender equality issues.<sup>xxx</sup> The studies further suggest that gender policies and strategies in Tanzania lack appropriate budgetary allocations.<sup>xxxi</sup>

### **Gender and Environment**

Principle 20 of the Rio Declaration on Environment and Development, 1992 states that 'women have a vital role in environmental management and sustainable development. Their full participation is therefore essential to achieve sustainable development.'

Several studies have confirmed a notion that men and women interact with the environment in different ways; they are therefore affected differently with environmental degradation. Basically: when the environment is not sustainably managed women are affected more than their counterparts.<sup>xxxii</sup>

With reference to recent studies conducted in Tanzania i.e. Action Aid Tanzania recent Assessment titled "who cares for our future?" shows how far women are adversely impacted with changes in weather patterns comparing to men.

The study indicated the effects of climate change and deforestation observed in Tanzania have adversely affected women and girls in a number of ways i.e. women and girls have got to travel greater distance to collect food and water they, therefore, have a very limited time to engage in income generating activities, other consequences of environmental degradation that affects women more than men are as follows:

- (i) Lack of clean and reliable energy for women to use for domestic purposes

- (ii) Climate change effects to women farmers: most small holder farmers are women; preparation of farms and tilling during drought makes women farmers suffer.
- (iii) Climate change in nomadic farming; women will have to struggle for water and pastures.

Generally, Gender inequalities affects women's rights in issues relating to access to, use, control and ownership of land due to customary practices that are discriminatory *ab initio*. Tanzania has not repealed its discriminatory Local Customary (Declaration) (No. 4) Order, GN. No. 436 of 1963.

The Order was declared unconstitutional for violating the right to equality which is guaranteed under Article 12 of the Tanzania's Constitution; however it is yet to be repealed; it is still part of laws in the United Republic of Tanzania.

## **CHAPTER SEVEN**

### **Recommendations**

Tanzania, by enforcement of its Constitution and by ratifying and supporting a number of international treaties and declarations, is committed to using its power to protect human rights. In this context, we call on the Working Group and the Human Rights Council to recommend to the Tanzanian authorities that:

#### **Recommendations on Indigenous People**

- (i) Take concrete measures to amend land laws so as to accommodate the indigenous people in matters such as security of tenure in line with their traditional ways of life thus to guarantee their right to property, heritage and livelihood.
- (ii) Adopt and amend laws to recognize hunting and gathering as livelihoods systems.
- (iii) Ensure Tanzania's Wildlife Authority declares all Game Controlled Areas so as to minimize conflicts with indigenous communities on land boundaries.
- (iv) Establish a legal framework which guarantees indigenous people(s) their right to freedom of religion by respecting their sacred places.
- (v) Allow the communities to engage in small scale agriculture in the Ngorongoro Conservation Area.

## **Recommendations on Industrialization and Environmental Protection**

- (i) Ensure the National Environmental Management Council (NEMC) is free from political pressure.
- (ii) Take measures not to allow any project to commence before issuance of the Environmental Impact Assessment Certificate. The Government should further develop and enforce strategies to monitor compliance with expert advices given thereto i.e. if the drinking water is effected the government should not give permits to drill.
- (iii) Ensure effective compliance to the Environmental Management Act, 2004 by both government and private entities. The Act explicitly provides that it binds the government as it does to any other person.<sup>xxxiii</sup>

## **Recommendations on Human Right Defenders**

- (i) Re-define vague terms of the Cyber Crimes Act, No. 4 of 2015, i.e. the definition section.
- (ii) Take immediate measures to amend the Cyber Crimes Act to line with the Criminal Procedure Act on matters pertaining to search and seizure warranty and make it consistent with the Constitutional of the URT on matters relating to the right to privacy.
- (iii) Revoke the withdrawal and reinstate Non-Governmental Organizations access to file cases before the African Court of Human Rights.
- (iv) Guarantee public interest litigation by repealing section 3 and 4 of the Written Laws Miscellaneous Amendment Act No. 3 of 2020
- (v) Guarantee a free playground for NGOs by amending the Non-Governmental Organizations Act, No. 24 of 2002 on matters pertaining to expiry of certificate of registration and powers of the Registrar of NGOs to suspend/de-reregister an NGO.
- (vi) Adopt a new National Human Rights Action Plan.

## **Recommendations on Civil Rights and Political Space**

(i) Take concrete measures to restore free exercise of civil and political rights by amending the Political Parties Act, 1992 on the following specific areas:

- Amend all provision worded ‘with the approval of the registrar of political parties’ and substitute them with ‘with a notice to the registrar of political parties.’
- Amend all provisions that criminalize political activities by decriminalization.

- Develop a new modal of forming political parties' coalition; the available modal is not free from bias.
  - Repeal the provision that vest with the registrar powers to remove political parties' leaders from their respective positions and powers to strip individuals their party's membership.
- (ii) Take immediate actions to amend the Media Service Act, 2015 by repealing all provisions that were found in violation of the Treaty for the Establishment of the East African Community, 1999.

### **Recommendations on Climate Change Issues**

- (i) Amend the Environmental Management Act, No. 20 of 2004 and widen the coverage of climate change and related issues in the Act.
- (ii) Ensure that the National Climate Change Strategy of 2013 is effectively and efficiently communicated to all Tanzania communities.
- (iii) Take measures to allocate more funds in support of climate actions; such as trainings, capacity building activities and climate awareness sessions to communities.
- (iv) Adopt a national or regional research, oversight and advocacy facility with mandate to promote the responsible interpretation of climate science.
- (v) Ensure that climate change response moves beyond gender inclusion towards gender empowerment through effective climate change adaptation measures.

### **Recommendations on Gender Issues**

- (i) Adopt more plans and strategies that will foster increased awareness on the intersection of gender and environmental and Climate Change issues.
- (ii) Strengthen enforcement of laws/regulations that address issues relating to gender equality.
- (iii) Repeal all gender discriminative provisions under the Local Customary (Declaration) (No. 4) Order, GN. No. 436 of 1963.
- (iv) Adopt the principles of Climate justice. The principles of Climate Justice use human rights-based approach and safeguard the rights of the most vulnerable people.
- (v) Put in place measures that address women's rights at all stages of climate action, particularly in disaster risk reduction, response, recovery and adaptation.

- (vi) Prioritize implementation of the Continental Result Framework (a framework of the Africa Union) on implementation of the United Nation Security Council Resolution No. 1325.
- (vii) Domesticate the Regional and International women rights instruments such as the Maputo Protocol, 2005 (the Protocol to the African Charter of Human and Peoples' Rights, 1981).
- (viii) Adopt a Gender Responsive Human Right and Business Action Plan that will address climate change, and other related threats.

## **ANNEX 1**

### **BIBLIOGRAPHY**

#### **CONSTITUTION**

The Constitution of the United Republic of Tanzania, 1977, Cap 2, RE: 2005

#### **LEGISLATIONS**

The Companies Act, No. 12 of 2012

The Cyber Crimes Act, No. 4 of 2015

The Environmental Management Act, No. 20 of 2004

The Local Governments (Districts Authorities) Act, No. 7 of 1982

The Non Governmental Organization Act, No. 24 of 2002

The Political Parties Act, (Amendments), No. 1 of 2019

The Wildlife Conservation Act, No. 12 of 1974

The Wildlife Conservation Act, No. 5 of 2009

The Written Laws (Miscellaneous Amendments) Act, No. 3 of 2020

#### **INTERNATIONAL LEGAL INSTRUMENTS**

The International Covenant on Economic, Social and Cultural Rights, 1966

The Protocol to the African Charter on Human and People's Rights, 1998

The Rio declaration on Environment and Development, 1992

The Universal Declaration of Human Rights, 1948

#### **CASES**

*Bernado Ephraim v. Holaria Pastory and Gervas Kaizilege*, the High Court of Tanzania, at Mwanza, Civil Appeal No. 70 of 1987 (Unreported).

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## **ANNEX 2 RELEVANT RECOMMENDATIONS FROM THE 2<sup>nd</sup> UPR CYCLE**

In the UPR second cycle, a number of recommendations were directed to the United Republic of Tanzania. Tanzania accepted some and noted some. However, to date, a number of recommendations have not been implemented and some have been lightly touched. Ineffective implementations of the recommendations make the process a cycle that revolves on the same issues gain and again.

The Annex 2, herein, contains recommendations that Tanzania either accepted or noted. The purpose of making them an annex to this report is to call for countries to follow up on previous recommendations and stress up on their implementations.

### **An overview of the relevant recommendations accepted by Tanzania in the previous UPR cycle that have not been followed up on sufficiently:**

A - 134.6 Consider adopting the new constitution as soon as possible (Togo);

A - 134.9 Proceed with the finalization of the draft constitution and take steps to make its provisions related to women's rights in matters of inheritance, succession and land rights, applicable (Burkina Faso);

A - 134.11 Continue to improve its national laws and regulations for the protection and promotion of human rights (Tajikistan);

A - 134.29 Make further progress in implementing the National Human Rights Action Plan with the full engagement of multi stakeholders, including civil society (Indonesia);

A - 134.35 Continue reviewing policies for the effective implementation of the Sustainable Development Goals (Pakistan);

A - 134.36 Continue to promote the rights of women and girls, the elderly and children (Pakistan);

A - 134.37 Coordinate closely with civil society, the Commission for Human Rights and Good Governance and other key stakeholders to have a shared view and systematic monitoring of the implementation of universal periodic review recommendations (Switzerland);



A - 134.40 Take concrete steps to implement the March 2016 recommendations of the Committee on the Elimination of Discrimination against Women (Switzerland);

A - 134.41 Adopt legislative and policy measures to combat all forms of discrimination and violence against women (Italy);

A - 134.42 Continue to take active measures to eliminate gender gaps in human development and gender-based inequalities in reproductive health, empowerment and economic activity (Namibia);

A - 134.43 Continue improving security of citizens and enhancing protection of particularly vulnerable groups such as women and children as well as promoting equality and countering discrimination with a focus on racial or religious discrimination and that of persons with albinism (Ukraine);

A - 134.45 Continue to exert concrete efforts to eliminate all forms of discrimination and violence against women and children (Republic of Korea);

A - 134.46 Take concrete measures to eliminate all discrimination against women, protect women from being victimized by domestic violence, and promote the participation of women in all aspects of life, including politics, administration and socio-economic settings (Malaysia);

A - 134.98 Create and maintain a safe and enabling environment where members of all political parties and civil society organizations can exercise their rights, including to freedom of assembly in a manner which allows legitimate and peaceful dissent (Ireland);

A - 134.100 Continue to implement measures to promote women's participation in society (Japan);

A - 134.102. Take steps to clarify land rights and the land use situation, taking into consideration all stakeholders that are affected by the decision-making related to land ownership and use. (Finland);

A - 134.103 Facilitate access to education and land rights, in particular for women and people in rural areas (Haiti);

A - 134.104 Improve access to safe drinking water and adequate sanitation facilities (Maldives);

A - 134.105 Accelerate on-going efforts to ensure access to clean and safe water, and to healthcare, countrywide (Zimbabwe);

A - 134.111 Continue its efforts to improve the physical environment of schools including by ensuring appropriate water and sanitation facilities and to ensure the full enrollment of all children in education (State of Palestine);

A - 134.122 Continue to promote women's rights and integrate the gender dimension in the economic and social development programmes (Senegal);

A - 134.125 Promote strategies for climate changes mitigation and adaptation to their effects, and disseminate them through school programmes (Haiti);

A - 134.127 Further enhance efforts to combat corruption which affects all areas of society and hinders individual and national development (Ethiopia);

**A list of recommendations noted by the United Republic of Tanzania that have not been sufficiently followed up.**

N - 136.8 Undertakes a thorough review with key stakeholders and civil society of its existing Cyber Crime and Statistic Acts and proposed Media Services and Access to Information bills, to meet human rights obligations (United Kingdom of Great Britain and Northern Ireland);

N - 136.24 Guarantee freedom of expression and association through amending the media laws (that is the Cybercrime Act, Statistics Act, both of 2015 and Newspaper Act of 1976) and to ensure a conducive environment for civil society organizations, human rights defenders and media to operate freely in accordance with the Constitution of the United Republic of Tanzania and the United Nations declaration on human rights defenders (Netherlands);

N - 137.33 Strengthen the legal protection of individuals belonging to groups in the most vulnerable situations: persons living with albinism; lesbian, gay, bisexual, transgender and intersex persons; elderly women; pastoralist and hunter-gatherers/community with specific needs; and people with disabilities, in comprehensive anti-discrimination legislation (Sweden);

N - 137.34 Adopt specific legislation to ensure equality of women in family, social, economic and political spheres (Spain);

N - 137.35 Enact a non-discriminatory law on succession, inheritance and land-rights issues (Norway);

N - 137.68 Take appropriate measures to ensure that civil society, especially human rights defenders, may operate in a safe and enabling environment free from reprisals and to remove restrictions impeding their work, both in law and in practice, including by guaranteeing the rights to freedom of expression, association and assembly in accordance with international human rights standards (Finland);

N - 137.70 As previously recommended, promote a legal framework providing legal certainty in the area of property, particularly land tenure and protection against forced evictions, and recognize the rights of indigenous peoples, pastoralists, hunters and gatherers (Mexico);

N - 137.71 Provide fairness and swift action in protecting the rights and legitimate interests of indigenous minorities (Cabo Verde);

## ANNEX 3

## Endnotes

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- i The Constitution of the United Republic of Tanzania, Cap 2: RE 2005
- ii See Part III of the First Chapter of URT Constitution 1977,
- iii Section 17 of the Non Governmental Organization Act, Act No. 24 of 2002
- iv Section 3 of the Companies Act, No. 12 of 2012.
- v Section 16 of the Cyber Crimes Act, No. 4 of 2015.
- vi Article 19 of the Tanzania constitution, *loc cit*.
- vii Protocol to the African Charter on Human and People's Rights, 1998.
- viii Article 26(2) of the Constitution, *Loc cit*.
- ix Section 4(3) of the Written Laws (Miscellaneous Amendments) Act, No. 3 of 2020
- x Section 16 of the Wildlife Conservation Act, No. 5 of 2009.
- xi Section 22 of the Local Governments (Districts Authorities) Act, No. 7 of 1982.
- xii Coalition of the Indigenous Pastoralist and Hunter Gather Organizations in Tanzania, *loc cit*, at p. 6.
- xiii Article 14 of the Tanzania's Constitution and Article 4 and 24 of the African Charter of Human and people's Rights, 1981.
- xiv Human Rights Committee, General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, CCPR/C/GC/36, nr. 62.
- xv E. Odada, et al (2004) "*Mitigations of Environmental Problems in Lake Victoria, East Africa*" *Casual Chain and Policy sOptions Analyses*, Ambio Publishers, 2004;33(1):617-627 at p 622.
- xvi Article 24 Tanzania Constitution and Article 17(2) of the Universal Declaration of Human Rights, 1948.
- xvii Article 20 of the Tanzania's Constitution and Article 21 of the International Covenant on Civil and Political Rights, 1966
- xviii Article 9 of the African Convention on Human and Peoples Rights, 1981.
- xix Article 19 of the International Covenant on Civil and Political Rights, 1966.
- xx Article 19 of the Universal Declaration of Human Rights, 1948.
- xxi Reporters Without Borders (RSF), 2020, *the World Press Freedom Index*,
- xxii *The Media Council of Tanzania (MCT) et al sued the Attorney General of Tanzania before the [East African Court of Justice](#)*.
- xxiii FumbukaNg'wanakila, 2020, *Tanzania's MP grant Government sweeping powers over political parties*, [Reuters](#),
- xxiv Article 18 Tanzania Constitution and Article 19 of the Universal Declaration of Human Rights, 1948.
- xxv Section of the Act, *supra*.
- xxvi Article 20 of the UDHR, *loc cit*.
- xxvii Section 15 of the Political Parties Act, (Amendments), No. 1 of 2019.
- xxviii United Republic of Tanzania: Vice President's Office, (2019), [State of the Environment Report, 3](#), p. 25
- xxix *Ibid*.
- xxx The Gender Advocate Data Hub, (2020), *Goal and Indicator scores by country; comparing country and regional scores, Tanzania*, available at <https://data.em2030.org/countries/tanzania/> (accessed on November 18, 2020).
- xxxi *Ibid*.
- xxxii United Nations Climate Change Learning Partnership (UN CC: Learn), (2019), *Introduction to Gender and Environment*, unpublished, available at: [https://uncclearn.org/pluginfile.php/138423/format\\_uncclearn/syllabus/0/syllabus%20Gender%20and%20Environm ent.pdf](https://uncclearn.org/pluginfile.php/138423/format_uncclearn/syllabus/0/syllabus%20Gender%20and%20Environm ent.pdf), (retrieved on October 19, 2020), pg 16.
- xxxiii Section 224 of the Environmental Management Act, No. 20 of 2004.