

**JOINT SUBMISSION MADE BY THE CIVIL SOCIETY ORGANIZATIONS WHOSE LOGOS ARE DISPLAYED AND THEIR ADDRESSES ARE LISTED AS ANNEX 1**



**Key words: land rights and forceful evictions, right to adequate housing, gender, financial services, enabling environment for small scale farmers, food and food security.**

#### **a. EXECUTIVE SUMMARY**

This is a joint submission by ten (10) Civil Society Organizations (CSOs) which has been a joint effort of various stakeholders in Tanzania. Our core areas that we work in are on: rural development, financial services, gender equality, housing, environment and climate change and HIV/AIDS. The joint submission is intended to brief Tanzania's period review. The submission draws its attention from the recommendations enjoyed by the state under review and accepted to implement, thematic areas agreed by stakeholders, commitments made by Tanzania under the 1<sup>st</sup> review cycle and other human rights concerns that have emerged during the current review period. It acknowledges the progress that the country has made so far with regard to human rights since the 1<sup>st</sup> review cycle.

It is worth noting that our joint submission takes into consideration a number of international legal instruments that Tanzania has, in one way or another expressed its commitments to be bound with. It also visited a number of national legislation with direct or indirect implications on human rights issues. All these legal instruments enabled the participating CSOs to build their case on calling for affirmative actions to protect and furthering the attainment of human rights by all Tanzanians irrespective of their differences socially, economically or politically.

#### **b. METHODOLOGY**

1. On 23<sup>rd</sup> August 2015, the CSOs which are submitting this joint submission, agreed to document (report) human rights concerns on thematic areas they on. They also analyzed the 1<sup>st</sup> review cycle documents. Thereafter, they met from 7<sup>th</sup> -10<sup>th</sup> September 2015 in Arusha to share their human rights concerns on the thematic areas they work on. At this stage, the CSOs agreed on the human rights concerns to be covered by this submission.
2. A small taskforce was tasked to compile the reports from each CSOs and come up with a draft submission. The draft joint submission was shared on the 11<sup>th</sup> September 2015.

Each CSOs reviewed the draft joint submission and sent to the CSOs appointed for incorporating comments and other reviewed issues. The validation was made on 15<sup>th</sup> September 2015 by all participating CSOs. The final joint submission was shared to the CSOs for validation. Lastly, the joint submission was sent to the Office of the High Commissioner for Human Rights (OHCHR).

**c. CURRENT NORMATIVE FRAMEWORK**

3. Tanzania is a member to a number of international and regional legal instruments which address human rights issues. It has also domesticated or otherwise indicated its willingness to be bound by a number of international and regional instruments which protect human rights. For the purpose of our joint submission, Tanzania has ratified the following international legal instruments: the International Covenant on Economic, Social and Cultural Rights (ICESCR (in 1976) and the Convention on the Elimination of Discrimination against Women (CEDAW (in 1985)), the International Covenant on Civil and Political Rights (ICCPR), Tanzania ratified the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol (in 2009).
4. Other important legal instruments that Tanzania is the part to are: the Universal Declaration of Human Rights, and the African Charter. It is also a member to two important regional courts: the African Court on Human and Peoples Rights (ACHPR) and the East African Court of Justice (ECJ).
5. Under the domestic normative framework, the Constitution of Tanzania contains the Bill of Rights. Various other pieces of legislation guarantee human rights. There are also courts of law and the Commission for Human Rights and Good Governance (CHRAGG) to address human rights violation cases.
6. Despite all these, Tanzania the violation of human rights have been witnessing serious cases of violations of human rights or/and failure by the state to implement and honor its obligations.

#### **d. LAND RIGHTS AND FORCEFUL EVICTIONS**

7. The government of Tanzania promised to consider reviewing the question of land rights and forceful eviction in the 1<sup>st</sup> review cycle. We are cognizant of the efforts that have been done to address land questions that face small producers. However, the government has not taken affirmative actions to address land conflicts. The long standing land conflicts, mostly between small holders and investors, small holders themselves have not been resolved. The land cases in Mvomero, Bagamoyo, Mbarali, Loliondo, Babati, Kilosa, and Kiteto, to mention a few.<sup>1</sup> Conflicts between farmers and pastoralists in Tanzania have been recurring for a long time claiming lives of many innocent people and create major economic impacts to the nation. The Special Parliamentary Committee to Inquiry on the Sources of Land Conflicts among different land Users 2015 (pastoralists, small holder farmers, investors and others) also showed its great concern over the escalation of the violation of land rights, forceful evictions and improper administration of the land, lack of transparency in large land deals, inadequate and unfair compensation.

**We urge the government of Tanzania to ensure support and guarantee of secure land tenure system which facilitates sustainable use of resource and land management.**

8. The period under review, December 17, 2012, the Ministry of Land, Housing and Human settlement had released a number of regulations on land matters as enumerated here under:

1.1 GN 266 of 2012: The Land (Rent) Regulations, 2012

1.2 GN 264 of 2012: The Land (Fees) (Amendment) Regulations, 2012

1.3 GN 265 of 2012: The Land Survey (General) Regulations, 2012

1.4 GN 263 of 2012: The Land Disputes Courts (District Land and Housing Tribunal) (Amendment) Regulations, 2012

1.5 GN 259 of 2012: The Registration of Documents (Amendment) Rules, 2012

1.6 GN 260 of 2012: The Chattel Transfer (Amendment) Rules, 2012

1.7 GN 261 of 2012: The Land Registration (Amendment) Rules, 2012

The above regulations were made from the following laws;

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<sup>1</sup> Legal and Human Rights Report (2014), Tanzania Human Rights Report pp 158-170.

1. The Land Act, Cap 113
2. The Land Registration Act, Cap 334
3. The Registration of Documents Act, Cap 117
4. The Courts (Land Disputes Settlement) Act, Cap 216
5. The Chattel Transfer Act, Cap 210
6. The Land Survey Act, Cap 324

**Our general observation is that there are serious concerns that small holder farmers cannot afford some of the suggested fees, thus their lands remain insecure and possibly under constant threat.**

9. The government of Tanzania has, under the 2<sup>nd</sup> cycle review period, initiated two programs aiming at commercializing and modernizing the agriculture sector: Kilimo Kwanza and Southern Agricultural Growth Corridor of Tanzania (SAGCOT). One of the areas that the Kilimo Kwanza initiative is, *interlia*, targeting at amending of the Village Land Act No.5 of 1999 to facilitate access to land. We are greatly concerned that more village land is falling to be the victim of the initiative and forceful evictions cannot be avoided. The SAGCOT initiative is also framed in a manner where village lands are subjected to annexation on whatever ground, public interest for example. In that regard, forceful evictions and land rights violations are likely to be witnessed.

**e. RIGHT TO ADEQUATE HOUSING**

10. During the first review cycle the government reported that it has put in place two initiatives so that every Tanzanians can get access to adequate housing to meet its vision (quality life) by 2015. The reported initiatives were expected to provide offer cheap houses for individuals. We are greatly concerned about the prices of the houses by the National Housing Cooperation (NHC). A two bed room house, for example, costs up to TZS 67.9M. Furthermore, the initiative is focusing more in urban areas. It is important to note that the poverty rate in Tanzania is 65.6% and per capital income is USD 584.<sup>2</sup> The NHC housing projects also seem to lack proper financing mechanisms for the poor.

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<sup>2</sup> <http://www.tz.undp.org/content/tanzania/en/home.html> (lastly visited on 10th September 2015)

**We call on for the government to address the challenges in the housing sub-sector including very high land prices and costs of building material, as well as correctly identifying suitable housing infrastructure, complete of the National housing policy and putting in place the requisite legal framework, including putting in place new law on housing and related regulations immediately. This should go hand in hand with subsidization of building materials. Our call is also made in respect of formulation of proper financing mechanisms for the poor.**

#### **d. ENABLING ENVIRONMENT FOR SMALL SCALE FARMERS AND FOOD SECURITY**

11. Tanzania, under the 1<sup>st</sup> review cycle reported on food and food security and the strategies it has put in place for addressing food and food security. On top of that, Tanzania is also a part to the Maputo Declaration on Agriculture and Food Security. The Declaration contains several important decisions regarding agriculture, but prominent among them was the “commitment to the allocation of at least 10 percent of national budgetary resources to agriculture and rural development policy implementation within five years”.

Moreover, Tanzania is part to the International Covenant on Economic, Social and Cultural Rights (ICESCR ratified in 1976). ICESCR provides that everyone has a right to adequate standard of living for himself and his family, including adequate food, clothing, and housing.<sup>3</sup>

The agriculture in Tanzania employs more than 80% of its population (44.9m). However, little progress towards reducing extreme hunger and malnutrition. The 2010 Global Hunger Index ranks the situation as “alarming”. Children in rural areas suffer substantially higher rates of malnutrition and chronic hunger, although urban-rural disparities have narrowed as regards both stunting and underweight. *According to*

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<sup>3</sup> ICESCR, Article 11 (1).

*Assessment of Policy Coherence for Development for Food Security in Tanzania by European centre for development policy management January 2015, about 213,400 people have been identified as food and nutrition insecure, with a food requirement estimate of 5,121 MT.<sup>4</sup>*

Low rural sector productivity arises mainly from inadequate infrastructure investment; limited access to farm inputs, extension services and credit; limited technology as well as trade and marketing support; fake seed and agrochemicals; and heavy dependence on rain-fed agriculture and natural resources.<sup>5</sup> The national budget has not, since 2003, met the country's obligations as per Maputo Declaration. The last year financial budget for the agriculture sector, for example, was 6.5% of the total national budget.

**We call on the government to honor its commitments under the Maputo Declaration (allocation of 10% of its national budget) and ICESCR, so that it can create an enabling environment for small scale farmers to produce more for their families and meet the market demands. Furthermore, we call on government to remove all constraints to agricultural production and marketing, and implement, as a matter of urgency, the Tanzania Agriculture and Food Security Investment Plan and flagship projects and evolving Action Plans for agricultural development, at the national and regional levels. This should happen as soon as possible.**

#### **f. WOMEN'S RIGHTS**

12. We are cognizant of the efforts, legal and administrative, made by the government to mitigate violence and discrimination against women. Furthermore, we are cognizant Tanzanian laws stipulated that women and men in Tanzania have equal property rights, including the right to acquire, inherit, maintain and dispose of properties. However, we are greatly concerned with the application of the customary laws and other oppress laws against women, especially on matters related to inheritance, marriage and property ownership.

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<sup>4</sup> Regional FSNWG Update, July 2014

<sup>5</sup> <http://www.tz.undp.org/content/tanzania/en/home/countryinfo/> (lastly visited on 10<sup>th</sup> September 2015)

**We therefore call on for the government to immediately take appropriate measures to eliminate all forms of discrimination against women in line with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In doing so, the government should, with immediate effect, put in place a comprehensive strategy and effective legislation to eliminate practices that discriminate against women.**

**g. ACCESS TO FINANCIAL SERVICES**

13. As we have demonstrated elsewhere in this joint submission, that Tanzania is part to the International Covenant on Economic, Social and Cultural Rights (ICESCR ratified it in 1976). ICESCR, *interalia*, provides that everyone has a right to adequate standard of living for himself and his family, including adequate food, clothing, and housing.<sup>6</sup> For one to realize his rights to food, clothing, and housing access to financial services must be guaranteed.
14. According to Finscope, Tanzania Survey report 2013, only 12% of the population has access to formal financial services. The other 40% have semi-formal financial services from SACCOs, credit union and mobile money and the 17% use informal mechanisms such as VICOBAs and other grouping in the community. 31% have no access to any form of financial services. For the population to engage in meaningful economic activities, agricultural activities which employ more than 80% of the population, it need access to affordable credit, insurance and other related services.
15. We are aware of the efforts done by the government of Tanzania since the 1<sup>st</sup> review period for ensuring that financial services are affordable, accessible and enjoyed by small scale farmers and other small scale producers. The government, for example, in the financial year 2015/2016, set aside TZS 500M additional capital for the Tanzania Agricultural Development Bank (TADP). It further, through Tanzania Investment Bank (TIB), opened a window for agriculture sector, which so far had issued TZS 67.5M, of which 54 per cent went to small holder and medium scale farmers. We also take recognizance of other programs which the government of Tanzania has put in place to

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<sup>6</sup> ICESCR, Article 11 (1).

facilitate the availability of financial services to small producers. The program like MKUKUTA and MKURABITA, for instance, are one of the programs government has put in place to facilitate, *interlia*, the accessibility to financial services.

16. We are, however, deeply concerned with the location of the said banks. The two banks are located in the commercial city of the country, Dar es salaam. The accessibility question remains challenging to the rural communities where majority of Tanzanians do live and earn their livelihoods.

**We therefore call on the government to strategically position the said services (Banks) and control the interest rate that other commercial banks are charging their clients. The central bank (BOT) may be role tasked to control the interest rate that commercial banks do charge their clients as soon as it is practically possible.**

#### **h. KILLINGS OF PEOPLE LIVING WITH ALBINISM (PWAs)**

17. From early 2000, Tanzania started to witness new forms of persecutions against PWAs. These include killings and mutilations. The assailants target the body parts of PWA since it is generally believed that certain body parts of PWAs have magical powers which can be used to generate wealth and make people financially prosperous. A black market of the body parts is therefore the main reason behind the killings and mutilations. From 2007 to 2010 it was estimated that roughly three PWAs were attacked per month of which most of them were hacked to death.<sup>7</sup>

Further statistics indicate that between 2000 and 2013 the total number of deaths in the Tanzania was 72<sup>8</sup> whereas the number of mutilations and attempted murders stood at 49.<sup>9</sup>

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<sup>7</sup> Children with Albinism in Africa: Murder, Mutilation and Violence: A report on Tanzania by Under the Same Sun. Under The Same Sun (UTSS) is a registered Canadian and US charitable organization founded in 2008 by Peter Ash. Its goal is to promote, via advocacy and education, the wellbeing of persons with albinism. Website: [www.underthesamesun.com](http://www.underthesamesun.com).

<sup>8</sup>The Legal and Human Rights Centre (LHRC) & the Zanzibar Legal Services Centre (ZLSC) 'Tanzania human rights report 2013' (2014) 46.

<sup>9</sup> NGO REPORT of UNDER THE SAME SUN (UTSS) Children with Albinism: Violence & Displacement submitted to the UN Committee of the Right of the Child (2013) 11.

Among the most recent incident reported to have happened on 12 May 2014, Munghu Lugata, a forty year old woman with albinism was brutally murdered in Mwachalala sub village, Gasuma Village of Mwaubingi Ward, Nkololo Division, Bariadi District of Simiyu Region. The killers severed her left leg from the knee; chopped off her left index and middle fingers and the upper part of her left thumb.<sup>10</sup> This brings the number of killings to 73 since the year 2000.<sup>11</sup> This recent incident has added to the physical and psychological insecurity of PWAs in Tanzania.

18. Records show that most victims of killings and mutilations are children below the age of eighteen-nearly 70%.<sup>12</sup> Amongst the reported attacks in 2011 and 2012, seven involved children between the ages of 7 months and 18 years. Children are easy targets as they cannot easily resist attacks and are considered to have innocent souls and thus more suitable for the magical purposes of generating wealth.<sup>13</sup> Moreover, it is said that the body parts produce better results if they are obtained when the person is alive. However, in some instances buried bodies of PWAs are exhumed by those who are after their body parts.<sup>14</sup>

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<sup>10</sup> DAILY NEWS newspaper “Need to End Persecution of People with Albinism” published on May 22 2014. (<http://dailynews.co.tz/index.php/features/31681-need-to-end-persecution-of-people-with-albinism>)

<sup>11</sup> Following this incident outcries from various angles were directed at the government of Tanzania. 12 Ambassadors from European Union countries wrote a joint letter to the Prime Minister of Tanzania demanding him to do more to address the atrocities against PWA. See: [http://www.shanghaidaily.com/article/article\\_xinhua.aspx?id=219475](http://www.shanghaidaily.com/article/article_xinhua.aspx?id=219475) and Mwananchi newspaper of 21 May 2014 (<http://www.mwananchi.co.tz/habari/Kitaifa/Mabalozzi-12-EU-wamlima-Pinda-barua-kuhusu-albino/-/1597296/2321776/-/wk6j5wz/-/index.html>).

<sup>12</sup> NGO REPORT OF UNDER THE SAME SUN (UTSS) Children with Albinism: Violence & Displacement submitted to the UN Committee of the Right of the Child (2013) 12.

<sup>13</sup> Children with Albinism in Africa: Murder, Mutilation and Violence: A report on Tanzania (Under the Same Sun).

<sup>14</sup> Doto was 14 months old when she was poisoned by a relative who did not want a child with albinism in the family. Two hospitals were unable to treat the poisoning and he passed away. The news of Doto’s murder was delivered to Under the Same Sun by his parents in August of 2011. The parents did not report the alleged homicide to the police because his grandfather had warned them that if they did, they would never survive the Sukuma tribe’s traditional revenge. Sukumas cannot stand relatives who reveal family secrets to the authorities. Since the burial of Doto, there have been two failed attempts to rob his grave. In another incident three children with albinism were poisoned in Kagera region in 2000 and after their burial unknown people exhumed the graves and stole all the bodies. Due to this danger, it has become common to build graves with concrete in order to prevent people from reaching the dead body.

The steps taken by the government so far to contain the situation of persecution, discrimination and killings have proven insufficient. Some of the cases cannot be pursued allegedly for lack of evidence, some are still being investigated and yet some are disposed of by way of *nolle prosequi* allegedly due to lack of evidence. In the few cases that reached prosecution stage, PWAs were assisted by non-governmental organizations. As of January 2014, only 11 cases out of the 139 reported resulted in convictions by the courts.<sup>15</sup> According to the Report of Office of the United Nations High Commissioner for Human Rights on Persons with Albinism “while some investigation and prosecution seems to take place, sentencing appears to be extremely rare.” Of the 72 murders of people with albinism documented in the United Republic of Tanzania since 2000, only five cases are known to have resulted in successful prosecutions.<sup>16</sup>

The facts on hand show that the government of Tanzania is unwilling and/or unable to prosecute the offenders and take affirmative actions towards protecting PWAs.

**We therefore call on the government of the United Republic of Tanzania to commence prosecution of all the offenders (criminal justice) and to start offering compensation for the victims of this atrocity immediately**

**ANNEX 1: LIST OF CIVIL SOCIETY ORGANIZATIONS MAKING THIS JOINT SUBMISSION**

| SN | NAME OF THE CSO  | ADDRESS   |
|----|--|---|
| 1  | Mtandao wa Vikundi Vya Wakulima Tanzania (MVIWATA-Taifa, MVIWATA-Arusha, MVIWATA- Kilimanjaro) | P.O.BOX 3220 Morogoro Tanzania<br><a href="http://www.Mviwata.org">www. Mviwata.org</a> |

<sup>15</sup> Under the Same Sun ‘PWA attacks and legal action’ update of January 2014.

<sup>16</sup> PWA ATTACKS AND LEGAL ACTION, Under the Same Sun: <http://www.underthesamesun.com/>)

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|---|---|---|
|   |   | <p><a href="mailto:info@mviwata.org">info@mviwata.org</a></p> <p>Phone/Fax: +255232614184</p> <p>Phone: +2552727516639</p> <p>Phone: +255272549437</p>  |
| 2 | Tanzania Home Economics Association (TAHEA)     | <p>P.O. Box 11242, Mwanza, Tanzania</p> <p><a href="http://www.tahea.or.tz">www.tahea.or.tz</a></p> <p>Email: <a href="mailto:taheamwanza@gmail.com">taheamwanza@gmail.com</a></p> <p>Phone:+255 28 2502555</p>                       |
| 3 | Meru Community Bank – Arusha (MECOB)            | <p>Meru Community Bank</p> <p>P.O.BOX 365</p> <p>USA-River, Arusha-Tanzania</p> <p><a href="http://www.mecob.co.tz">www.mecob.co.tz</a></p> <p><a href="mailto:info@mecob.co.tz">info@mecob.co.tz</a></p> <p>Phone:+2550272541190</p> |
| 4 | Community Banks Association of Tanzania (COBAT) | <p>P.O.BOX 60651</p> <p>Dar es salaam, Tanzania</p> <p><a href="http://www.cobat.or.tz">www.cobat.or.tz</a></p> <p><a href="mailto:cobat@cobat.or.tz">cobat@cobat.or.tz</a></p> <p>Phone: +255222780956</p>                           |
| 5 | Mwanga Community Bank (MCBL)                    | <p>P.O.BOX 233, Mwanga-Kilimanjaro</p> <p><a href="http://www.mwangabank.co.tz">www.mwangabank.co.tz</a></p> <p><a href="mailto:info@mwangabank.co.tz">info@mwangabank.co.tz</a></p>  |

|          |   |   |
|----------|---|---|
|          |   | <b>Phone: +255272757830</b>   |
| <b>6</b> | <b>Tanzania Women's Lawyers Association (TAWLA)</b> | TAWLA House, Plot 33 Ilala<br>Sharif Shamba<br>PO.BOX 9460<br>Dar Es Salaam<br>Tanzania<br><a href="http://www.tawla.or.tz">www.tawla.or.tz</a><br><a href="mailto:Office@tawla.or.tz">Office@tawla.or.tz</a><br>Phone: +255 (0) 222 862865 |
| <b>7</b> | <b>Mwanza Rural Housing Programme (MRHP)</b>        | P.O. Box 10, Misungwi,<br>Mwanza – Tanzania<br><a href="http://www.mrhp-tz.org">www.mrhp-tz.org</a><br><a href="mailto:ashililyanyanda@mrhp-tz.org">ashililyanyanda@mrhp-tz.org</a>   |
| <b>8</b> | <b>We Effect</b>                                    | <b>Lower Kabate/Ngecha Road</b><br><b>P.O.BOX 45786-00100 Nairobi,</b><br><b>Kenya</b><br><a href="http://www.weeffect.org">www.weeffect.org</a>  |

## **Annex 2: References**

1. Legal and Human Rights Report (2014), Tanzania Human Rights Report pp 158-170.
2. <http://www.tz.undp.org/content/tanzania/en/home.html> (lastly visited on 10th September 2015)
3. Regional FSNWG Update, July 2014
4. <http://www.tz.undp.org/content/tanzania/en/home/countryinfo/> (lastly visited on 10<sup>th</sup> September 2015)

5. Children with Albinism in Africa: Murder, Mutilation and Violence: A report on Tanzania by Under the Same Sun. Under The Same Sun (UTSS) is a registered Canadian and US charitable organization founded in 2008 by Peter Ash. Its goal is to promote, via advocacy and education, the wellbeing of persons with albinism. Website: [www.underthesamesun.com](http://www.underthesamesun.com).
6. NGO REPORT of UNDER THE SAME SUN (UTSS) Children with Albinism: Violence & Displacement submitted to the UN Committee of the Right of the Child (2013) 11.
7. DAILY NEWS newspaper “Need to End Persecution of People with Albinism” published on May 22 2014. (<http://dailynews.co.tz/index.php/features/31681-need-to-end-persecution-of-people-with-albinism>)
8. [http://www.shanghaidaily.com/article/article\\_xinhua.aspx?id=219475](http://www.shanghaidaily.com/article/article_xinhua.aspx?id=219475)
9. Mwananchi newspaper of 21 May 2014 (<http://www.mwananchi.co.tz/habari/Kitaifa/Mabalozzi-12-EU-wamlima-Pinda-barua-kuhusu-albino/-/1597296/2321776/-/wk6j5wz/-/index.html>).
10. NGO REPORT of UNDER THE SAME SUN (UTSS) Children with Albinism: Violence & Displacement submitted to the UN Committee of the Right of the Child (2013) 12.
11. The Guardian newspaper. “Farmers, pastoralists conflicts: Where have we failed?”. Published on 15<sup>th</sup> January 2014. (<http://www.ippmedia.com/frontend/?l=63745>)