



Office of the United Nations Resident Coordinator in Tanzania

**Joint submission by the UN Country Team (UNCT) in Tanzania for the UN Compilation report:
UNCT report for the Universal Periodic Review – Tanzania – 25th Session of the UPR Working
Group 2016.**

1. Background and Framework

1. This joint UNCT briefing note aims to provide information for the second Universal Periodic Review (UPR) of Tanzania during the 25th session of the UPR Working Group to be held in Geneva from April-June 2016.

A. Scope of International Obligations

2. Tanzania is a State party to major international human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination of 1965 (CERD), International Covenant on Civil and Political Rights of 1966 (ICCPR), International Covenant on Economic, Social and Cultural Rights of 1966 (CESCR), Convention on the Elimination of All Forms of Discrimination Against Women of 1979 and its Optional Protocol of 1999 (CEDAW) and Optional Protocol (OPT), Convention on the Rights of the Child (CRC) of 1989 and its Optional Protocols on the Involvement of Children in Armed Conflicts of 2000 (CRC-OPT-AC) and on the Sale of Children, Child Prostitution, and Child Pornography of 2000 (CRC-OPT-SC), and Convention on the Rights of Persons with Disabilities of 2008 and its Optional Protocol of (CRPD), CRPD –OPT. It is also party to the UN Refugees Convention of 1951 and a signatory to the Convention for the protection of all persons from enforced disappearance (CED). It ratified the Rome Statute of the International Criminal Court in August 2002, United Nations Convention Against Transnational Organized Crime of 2003, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime of 2000, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1957, Convention Against Discrimination in Education of 1960, Convention Relating to the Status of Refugees of 1950, Convention on the Prevention and Punishment of the Crime of Genocide of 1948, The Four Geneva Conventions of 1949, as well as Protocols I and II of 1949 to the Geneva Conventions, African Charter on Human and Peoples’ Rights of 1981, Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969, Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa of 2003, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights of 1998, African Charter on the Rights and Welfare of the Child of 1990, and African Youth Charter of 2006, as well as to some 35 ILO conventions of which 34 are in force. Tanzania is also signatory to the Minamata Convention and was also represented in the meeting of Ministers of Health during the World Health Assembly (WHA) in Geneva, May 2014, to endorse the resolutions on the Minamata Convention on Mercury. The country is host to the African Court of Human Rights, the East African Court of Justice and the International Criminal Tribunal for Rwanda.

B. Domestic normative and institutional framework

Constitutional and legislative framework

3. According to Article 9 of the 1977 Constitution of the United Republic of Tanzania, the State and all its agencies are obliged to direct their policies towards ensuring human dignity, and that other human rights are respected and upheld in accordance with the spirit of the Universal Declaration of Human Rights.

4. Since the first UPR review of Tanzania in 2011, the UNCT welcomes that a number of domestic laws have been adopted, revised and amended; The Law of the Child Act 2009 (Mainland) and the Children's Act 2011 (Zanzibar) are the single most important pieces of legislation for the protection of the rights of the child. The revised 2008 Child Development Policy identifies a series of key challenges to the full enjoyment of the rights of the child, with particular attention devoted to orphans, children with disabilities, children living in the streets and those engaged in dangerous or harmful forms of work. This policy is being revised, currently in the form of a draft Childhood Care, Growth and Development Policy, which also integrates issues related to early childhood development, early marriage, and children in conflict with the law. The revised National Health Policy of 2007¹ also emphasizes equity and human rights perspectives, especially among women, children, the elderly and persons with chronic diseases. Tanzania is reviewing the Citizenship Act (1995) in order to align it with Article 9 of the CEDAW. At the 2011 Ministerial Intergovernmental Event on Refugees and Stateless Persons, the Government of Tanzania pledged to review the 2003 *Refugee Policy* and to revise, or repeal and replace, the 1998 *Refugee Act*. The Government requested a thorough review of the existing legal and policy framework governing refugee matters². The UNCT commends these steps and looks forward to further supporting the review process.³ The UNCT also welcomes the positive legislative developments in favour of the rights of refugees, most notably regarding access to employment.⁴

5. Certain concerns remain, such as the Law of Marriage Act of 1971, which sets the minimum marital age at 15 years for girls and 18 years for boys (although in individual cases the age for both boys and girls can be lowered to 14 years by a court order) and the Local Customary Law (Declaration) Order of 1963, that discriminates against women in a number of areas at community level via a provision allowing male partners to control the political and economic well-being of the family at household levels. In addition, corruption is a serious and widespread problem in Tanzania that hampers development and human rights, including delivery of public services such as health and education, access to justice and law enforcement and civil and political rights. Tanzania has suffered from egregious corruption scandals. Indicators on control of corruption⁵ and perception of corruption⁶ indicate a deteriorating corruption situation. Challenges continue to exist with respect to access to justice in terms of availability of independent and impartial tribunals and courts; the presence and accessibility of tribunals and courts with sufficient resources; legal awareness and knowledge; sufficient and qualified lawyers as well as the possibility of a timely and fair trial regardless of one's socio-economic status. The UNCT also welcomes the fact that no execution has taken place in Tanzania since 1994; there are at least 414 individuals currently under sentence of death, with four individuals sentenced to death in the case of killing a person with albinism in 2015, The UNCT

¹ National Health Policy, 2007

² The review process started in June 2015, in partnership with UNHCR and the Centre for the Study of Forced Migration in Dar es Salaam.

³ This review should aim, *inter alia*, to make concrete recommendations with regard to the improvement of RSD procedures; the examination of the current approach toward designation and administration of refugee hosting areas; and the legal framework and practices in relation to refugee access to economic activities.

⁴ The "Bill Supplement No. 2. The Non-Citizens Act 2014 amending the Tanzania Refugee Act section 32 on issuance of Employment Permits for refugees" includes a section making explicit the delegation of authority to the Director of Refugee Services under the Minister of Home Affairs to issue individual work permits for refugees.

⁵ World Bank (2013), *World Bank Governance Indicators 2013*.

⁶ Transparency International (2014), *Transparency International Corruption Perception Index 2014*.

therefore calls upon the Government to establish an official moratorium and to consider the abolishment of the death penalty.

6. The draft constitution approved on 2 October 2014 (though still awaiting a referendum), proposes important changes, including greater representation of women in politics notably 50 percent representation in Parliament, a change welcomed and supported by a broad coalition of women's organisations. However, it also contains certain lacunae on the issue of women's leadership and access to basic services, including education and health. Certain portions of the draft constitution also give rise to a number of other human rights concerns. For example, those relating to the criminal justice system and gaps such as the ones noted in Article 34 on prohibited grounds of discrimination such as sexual orientation and gender identity. Articles 39 and 40 give rise to serious concerns regarding freedom of expression and association, as it implies, or appears to suggest, that the Government will oversee the freedom of journalists and the mass media. In Article 61 (3) (h), the proposed constitution potentially opens the door to forced labour for national development projects or any work that is useful by the State, or "for the enhancement of the society and the national economy," as the draft currently reads.

7. There are also commendable efforts being undertaken such as the implementation of the Tanzania Mainland National Action Plan for Prevention and Eradication of Violence against Women and Children 2001 – 2015 that has been progressing well. The UNCT welcomes the commitment and achievements of the Government of Tanzania in protecting the human rights and freedoms of all people, including persons of concern to UNHCR. This commitment was most evident in two significant areas: 1) the unprecedented granting of citizenship to more than 160,000 former Burundian refugees and 2) the reception of more than 80,000 new asylum-seekers fleeing violence in Burundi since April 2015. In October 2014, the Government of Tanzania completed the much-anticipated naturalization process that commenced in 2007: the granting of citizenship to 162,156 former Burundian refugees who had fled their country in 1972. With children being included as beneficiaries of this decision the positive benefit will affect more than 200,000 people. This is the first time in UNHCR's history that naturalization has been offered as a solution to such a large group of refugees of the same nationality in a country of first asylum.

C. Institutional and Human Rights infrastructure and policy measures

8. The Commission on Human Rights and Good Governance (CHRAGG) was awarded "A" status at its last review in 2011⁷. Nonetheless, the CHRAGG is weak in reality, unable to enforce many of its recommendations and its ability to function effectively is affected by serious budgetary constraints.⁸ The CHRAGG was further undermined due to the extended delay of over six months in the appointment of the Chair, vice-Chair and member posts. The Chair and six commissioners were appointed and assumed responsibilities in early 2015.

9. The Ministry of Constitutional and Legal Affairs launched a National Human Rights Action Plan (NHRAP) for 2013-2017 in December 2013. The NHRAP, identifies twenty-three human rights issues as priorities for improving human rights protection in Tanzania, it includes notably the rights of refugees, asylum-seekers, and stateless persons. The NHRAP while reflecting Tanzania's international obligations, also highlights Tanzania's commitment to the protection of all persons within its borders. The responsibility of coordinating and monitoring the implementation of NHRAP is on CHRAGG. Current efforts by CHRAGG continue to focus on dissemination of the plan and on monitoring its implementation, together with multiple stakeholders such as leading NGOs and CSOs. In 2015 in the run-up to the UPR submission, the exercise has highlighted capacity challenges and the need for systematic monitoring. The UNCT

⁷ Its next review at the ICC secretariat for African region is scheduled for 2016.

⁸ Since 2014 and early 2015 it has been facing a major resource crisis, as the Government has released only some 40 percent of its allocated budget.

recommends that the Government together with CHRAGG and key CSOs establish a formal coordinating mechanism for the coordination of monitoring the implementation of the UPR recommendations as well as have a common understanding on key human rights indicators and benchmarks integrated into a revised NHRAP following the second review of the State under the UPR. The UNCT recommends that Tanzania ensure that all rights protected under the ICCR and ESCR, CEDAW and CRC be made fully effective in the context of domestic law and, furthermore, that the SDGs be fully integrated into the national action plan as well as the revision of any future planning.

10. In its efforts to address harmful cultural and traditional customs and practices, such as female genital mutilation practices, polygamy and the bride price; the State party continued to strengthen the implementation of the Zanzibar Penal Act (2004)⁹ and the Penal Code¹⁰ (applicable in Tanzania mainland)¹¹, both of which criminalize female genital mutilation and cut (FGM/C). In the period under report, cases against perpetrators of FGM were processed in the criminal justice system.

11. The State party has been carrying out public awareness-raising campaigns¹² and media programmes to ensure that female genital mutilation is eliminated as well as to enhance a positive and non-stereotypical portrayal of women. Tanzania Demographic and Health Survey (TDHS 2010) has indicated a slight drop in prevalence of FGM/C from 18 percent in 1996¹³ to 15 percent in 2010¹⁴. The country has also hosted international campaigns such as *UNiTE CAMPAIGN* (Mount Kilimanjaro Climb – “*Speak Out, Climb Out*”), whose main aim is to raise public awareness and mobilizing communities to end violence against women and girls as well as *Zero Tolerance* on SGBV in order to enhance political leadership and commitment at national levels to accelerate elimination of all forms of violence against women and children.

Institutional structure and collaboration with human rights mechanisms

12. The State party has reported to CRC, CEDAW during this the cycle. Currently, pending are reports to the CERD, ICCPR and ICESCR. It has also facilitated the visit of the African Committee of Experts on the Rights and Welfare of the Child, African Union Commission, to investigate the situation of children with albinism living in centres.

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Children’s Rights

13. *Birth registration* establishes the existence of the child under law and provides the foundation for safeguarding many of the child’s civil, political, economic, social and cultural rights. In 2010 only 16 percent of children in Tanzania under the age of five were registered with civil authorities, and only about eight percent possessed a birth certificate. Registration in Zanzibar is much more widespread than on the

⁹ As amended by the Sexual Offences Special Provisions Act (1998), No.7 of 1998.

¹⁰ Cap. 16 R.E. 2002.

¹¹ As amended by Sexual Offences Special Provisions Act (1998), No. 4 of 1998.

¹² In collaboration with non-State actors, particularly CSOs, the State party has been undertaking public awareness-raising campaigns to combat and eliminate discrimination and violence against women through the famous Sixteen Days of Activism International Women’s Day, the Day of the Girl Child and the Gender Festivals. Through the celebrations of the International Day of Women, state and non-State actors raise public awareness on the CEDAW and the rights of women.

¹³ United Republic of Tanzania, *Tanzania Demographic and Health Survey 1996* Dar es Salaam: National Bureau of Statistics, 1997.

¹⁴ United Republic of Tanzania, *Tanzania Demographic and Health Survey 2010* Dar es Salaam: National Bureau of Statistics, 2011.

mainland; 78.7 percent of under-fives have been registered (63 percent obtained a certificate) versus 14.6 percent registered (6.2 percent with a certificate) respectively. The number of registered births varies significantly throughout the mainland, from a high of 58.8 percent in Dar es Salaam to five percent in some remote, rural areas. The UNCT calls on the Government of Tanzania to allocate sufficient resources to ensure that all children in the country have access to free birth registration and certification. The UNCT recommends that Tanzania should ensure an open and transparent discussion with respect to its Civil Registration and Vital Statistics (CRVS) strategy.

14. *Juvenile Justice*: Children are routinely held pre- and post-trial in adult detention centres, even in regions where juvenile detention centres exist. The prisons are not staffed or equipped to provide specialist services, and although generally under-18s are separated at night, they mix with adults during the day. There are only two post-trial detention centres and five retention homes for under-18s in Tanzania, and all of the facilities are on the mainland. In Zanzibar there are no specific detention facilities for children, and children are detained in adult prisons. On Tanzania's mainland, community rehabilitation is provided for in the law as a form of alternative sentencing, but there is no system of diversion for use by prosecutors and police. Non-custodial sentencing is limited. Zanzibar's Children Act does provide for Community Rehabilitation as a means of alternative sentencing and diversion.

15. Over the last few years, reform of the child justice system has gained traction. December 2013 saw the launch of the Five Year Strategy for Progressive Child Justice Reform 2013 – 2017 on the mainland, and the development of the Five Year Strategy for Child Justice Reform 2013-2017 in Zanzibar (launched in 2014). In addition to both these strategies, spelling out measures to build capacity of the justice system so as to handle all cases involving children, there is a specific objective focusing on children in conflict with the law. Positive steps have been taken by the Department of Social Welfare to strengthen protection of children in the six juvenile detention centres under their mandate, including through the adoption of child protection policies and procedures and the establishment of complaints mechanisms for the institutions and staff have been trained. The UNCT calls for the Government of Tanzania to pursue efforts to enhance its juvenile justice system and ensure separation of juveniles from adults in detention.

16. *Violence against Children*: Sexual, physical, and emotional violence against children is a pervasive problem in Tanzania, occupying both the private and the public sphere, including Government facilities such as schools and prisons. Tanzania was one of the first countries to undertake a comprehensive study on the prevalence of Violence Against Children (VAC Survey¹⁵). The National Plan of Action to Prevent and Respond to Violence Against Children 2013-2016 was adopted on the mainland, and the National Plan to Respond to Violence Against Children 2011-15 was adopted in Zanzibar. Both plans are overseen by multi-sector task forces. While some progress has been made in implementing the commitments under these plans, insufficient resources have been allocated to match the positive rhetoric. Survivors of sexual abuse and violence struggle to achieve justice and obtain social support. The vast majority of the police, prosecutors, and magistrates require training to meet the needs of survivors¹⁶. This lack of capacity often

¹⁵ Published in 2011, the VAC Survey highlighted high levels of physical and sexual violence in Tanzania. Of the 3,739 interviews conducted of children, 3 out of 10 females and 1 out of 7 males reported having at least one experience of sexual violence prior to turning 18. Of that population, almost 4 out of 10 girls and 3 out of 10 boys had experienced 3 or more incidents before they reached the age of 18 years. The VAC Survey highlighted that more than 70% of girls and boys interviewed had experienced physical violence, including kicking, punching, or being threatened with weapons. Most of the children did not report physical or sexual abuse, with half of the girls and two thirds of the boys interviewed citing community, family, and personal reasons for keeping silent. Approximately 1 in 5 girls and 1 in 10 boys sought services, but only 12% of females and 5% of males actually received support.

¹⁶ Many officers recommend out-of-court settlements. Stigma and community pressure often dissuade families from lodging complaints, with the community preferring that the case be handled outside the justice system.

contributes to impunity for perpetrators. Tanzania should continue to step up its efforts to protect children from all forms of violence, allocate sufficient resources for this aim and ensure that survivors have access to legal recourse and health services.

17. *Corporal Punishment:* In Tanzania, corporal punishment means caning, rather than other forms of discipline. Caning is permitted in the home, in school, and as a judicial sanction. It is a widely supported measure of discipline, which led Tanzania to reject recommendations from the 2011 UPR process to prohibit all corporal punishment. Significant steps have been taken to eliminate the use of corporal punishment in schools in Zanzibar; however, on the mainland corporal punishment is still permitted under the Education (Corporal Punishment) Regulations 1979 and the Education Act 1978. Corporal punishment is lawful in schools in Zanzibar under Education Act Regulations 1988. Government guidelines reduced the number of permissible strokes from six to four in 2000 and provided that only the head teacher (or teachers formally delegated with that authority) can administer the punishment. This rule is routinely flouted with impunity. Corporal punishment is regarded by children as a major disincentive for learning and a cause for dropping out of school. During the last 12 months there have been cases in which children have suffered significant harm and even death due to corporal punishment in schools. The UNCT urges that the State should explicitly prohibit all forms of corporal punishment in the family, schools, the penal system, and in other institutional settings and alternative care systems as a matter of priority. Tanzania should carry out educational campaigns on the harmful impact of corporal punishment, and promote instead non-violent forms of discipline.

Right to Education

18. Enrolment rates for primary school remain high in Tanzania, where the Gross Enrolment Ratio (GER) stood at 96.2% in 2013, indicating the achievement of UPE. However, enrolment indicators show low enrolment ratios in pre-primary (GER=37.3% in 2013) and secondary education (GER=45.5% for Form 1-4, and 4.2% for Form 5-6).

19. The poor quality of education remains a grave concern. While 47.5% of secondary school teachers are graduates, the figures are only 4.3% in primary and 4.5% in pre-primary schools. Pupil-teacher ratios vary from an average of 1:83 in pre-primary to 1:43 in primary and 1:25 in secondary education. In some regions these numbers are considerably higher. Moreover, the percentage of pupils passing the Primary School Leaving Examination declined to 30,7% in 2012. The Net Completion Rate in primary education in 2013 stood at 5,3 percent, while the transition rate from primary to secondary education was 59.5 %.

20. *Refugee Children:* The existing policy on the education of refugee children under Tanzania's 2003 National Refugee Policy requires that education opportunities offered to refugee children be tailored with a focus on their repatriation and re-integration on return to their country of origin, and, therefore, it allows the provision of education to refugees in accordance with the curricula used in their countries of origin. In the existing refugee schools at Nyarugusu¹⁷ Refugee Camp, the education curriculum for the DRC and Burundi is in use. As a result, and in light of the protracted nature of refugees from the Democratic Republic of Congo (DRC), (the majority of whom have been displaced for over 19 years since their first arrival in 1996), opportunities for enrolment to any tertiary education in Tanzania has remained difficult, and they have been unable to fulfil their potential to contribute to their own as well as their host communities. The UNCT urges a relaxation of education policy in favour of education for integration as opposed to education focused on refugee children's repatriation.

¹⁷ By June 2015, a total of 24,095 (12,158 F and 11,937 M) refugee pupils were enrolled in 12 primary schools in Nyarugusu refugee camp and 8,280 (3,531 F and 4,749 M) in 4 secondary schools. There were 6,261 (3,039 F and 3,222 M) children enrolled in 12 Early Childhood Development (ECD) programs. Enrolment in the non-formal education in 4 centres was 656 (162 F and 494 M).

21. *Treatment of pupils:* A series of issues regarding the treatment of pupils needs more Government attention. Children with disabilities (0,3% of the total pupil population) attend special needs schools rather than enjoying inclusive education. While the Government has developed an Inclusive Education Strategy, immediate efforts should be taken to ensure its implementation and hence increase the inclusion of orphans and other vulnerable children, many of whom are likely to be among the primary age children missing in schools. Existing protection and special programs for girls have been inadequate and resulted in many girls being unable to fulfil compulsory educational requirements. While the 2002 regulation still allows for the expulsion of pregnant girls from school, there is draft re-entry programme under review and pending approval for girls who have dropped out of school due to pregnancy. Attention should be paid especially to the enrolment and retention of boys within nomadic and fishing communities. The UNCT calls for greater attention to be paid to prevent sexual harassment and corporal punishment in schools.

Equality and non-discrimination

22. *Gender equality:* In 2013, the Gender Inequality Index ranked Tanzania at 123 out of a total of 149 countries, with a score of 0.553, which implies the existence of significant gender gaps in human development and continuing gender-based inequalities¹⁸ in reproductive health, empowerment, and economic activity¹⁹. While 89 percent of women in Tanzania participate in the country's workforce, more than 53 percent are not remunerated for their work. A high number of women work in the informal sector, which is characterized by low wages and lack of job security benefits; and of the approximately 30 percent who are remunerated, 17 percent have no say whatsoever with regard to household expenditures²⁰. Also, the unemployment rate is disproportionately high among young people, and among young women in particular²¹.

23. Certain rights have been impinged upon owing to retrogressive law, in particular with regard to property and access to land. Legal protection of yet other rights is threatened by the existence of contravening customary rules. A case in point is female genital mutilation (FGM). Although officially prohibited under the 1998 Sexual Offences Special Provisions Act, women continue to experience severe forms of FGM, as enforcement of the law is extremely lax in certain districts amounting to being non-existent. Other areas in which customary norms or dispute-resolution mechanisms discriminate against women include a woman's right to privacy, marriage and family life.

24. *Elderly women:* Killings and harassment related to claims of witchcraft violates the right to life and security of person as provided by international human rights instruments as well as the Tanzanian Constitution. Monitoring by the Legal and Human Rights Service Centre in Tanzania shows 320 incidents of witchcraft-related killings in the first-half of the year up till June 2014, which is an increase from 303 in the year 2013 and 336 in 2012. There are gender, age and a poverty aspects in witchcraft-related killings and harassment, most victims being poor, elderly women²².

¹⁸ National reviews and assessments of equality between men and women, including the gender assessment of the first generation of national poverty reduction strategies— have identified a wide range of ongoing challenges. These include: the persistent and increasing burden of poverty on women; inequalities in arrangements for productive activities and in access to resources; inequalities in the sharing of power and decision-making; lack of respect for and inadequate promotion and protection of the human rights of women; and inequalities in managing natural resources and safeguarding the environment. The Government has yet to provide information on the steps being taken to promote women's equality in the private and the public labour sectors.

¹⁹ Government of Tanzania and UNDP (2014), *Tanzania Human Development Report 2014*.

²⁰ National Bureau of Statistics (2011), *Youth in Tanzania: Data from the 2010 Tanzania Demographic and Health Service (TDHS)*.

²¹ Government of Tanzania and UNDP (2014), *Tanzania Human Development Report 2014*.

²² Legal and Human Rights Service Center (2014), *Tanzania Human Rights Report 2014*.

25. *Early Marriage/Child Marriage and Right to Education*: Calls have been made to review the Education 2014 Policy, which fails to stipulate re-entry of pregnant girls after delivery into the educational system. While Article 3.3, however, does underscore the importance of removing of all types of obstacles that might prevent students from attaining the highest level of education they can it does not ensure the re-entry specifically of girls after pregnancy and motherhood. Particular attention should be given to the widespread marginalization of the girl child in various spheres of life, including secondary school completion, and for many the total exclusion resulting from early and forced marriage. Note that certain of these discriminatory practices have actually been codified. The Law of Marriage Act of 1971 sets the minimum marital age at 15 years for girls and 18 years for boys (although in individual cases the age for both boys and girls can be lowered to 14 years by a court order), and there exist policy guidelines on the re-entry into the educational system of school-aged girls who become pregnant. The UNCT urges that Tanzania raise the lawful age of marriage for both girls and boys to 18 and expedite the passage of policy guidelines that enable re-enrolment in the educational system of girls who become pregnant.

26. *SGBV*: Several steps taken in recent years to combat gender-based violence are commendable²³, in particular, a Coalition against **Sextortion** comprising of fifteen civil society organizations and the Tanzanian Police Female Network (TPF-NET) has been established and publicly launched in November 2014. It has brought together judicial officers, non-judicial personnel, investigators, prosecutors, police, prison officers, and other law enforcement personnel to learn about sextortion and develop strategies for addressing it. Furthermore, national gender machineries from the mainland and Zanzibar plans to review their existing plans and develop on consolidated action plan to address violence against women and children to enhance coordination in the structures and services that seek to prevent and respond to both GBV and violence against children. The plan to address violence against women and children will cover 2016-2021.

27. Despite positive steps taken, the issue of gender-based violence remains an issue of concern. As highlighted by the Tanzania Health Demographic Survey (TDHS 2010), physical violence affects one in three women overall. The UNCT supports the CEDAW recommendation for the state to scale up law enforcement and community sensitisation interventions to protect women's rights and prevent violence against particularly vulnerable groups of women, including elderly women, pastoralist women and women with albinism. The UNCT urges that the State prioritise amending discriminatory laws to align with CEDAW. This should be separated from the Constitutional Review process; it encourages the continuation of awareness-raising on the rights of all Tanzanians, irrespective of their sexual orientation or gender

²³ The multi-sectoral approach to preventing and responding to GBV/VAC has been strengthened, institutional mechanisms for prevention, providing services and coordination have been established/strengthened. A Multi-sectoral Committee to prevent and respond to Violence against Women and Children (Tanzanian mainland) and a Multi-Sectoral National Gender-Based Violence Committee (Zanzibar) have been established. The Ministry of Health and Social Welfare in 2013, launched national guidelines for integration of one-stop centres for GBV and VAC prevention and response services in health facilities. The Ministry of Health and Social Welfare has introduced One Stop Centre Model, Gender-Based Violence and Violence Against Children services providing medical, psychosocial, security/protection and legal support at one location within the health facility premises in a coordinated manner. The Ministry of Home Affairs has established guidelines for establishment of Gender and Children Desks and the Standard Operating Procedure on Prevention and Response to GBV and Child Abuse 2012 (SOPs). The police also revised Police Form Number 3 (PF 3) in 2012 to assist legal and medical personnel respond to GBV issues, allowing them to document relevant information and refer cases for further response to the GBV problem. The engagement of the police with communities has resulted in increased reporting of cases at the GCDs (162% increase). There was an increase in the number of people reporting GBV and VAC cases at police stations (11650 cases = 162%) in 2014 compared to the baseline of 4441. Also, 5166 (44.3%) of cases reported were prosecuted in court during 2014; 5520 cases were under investigation and 984 (8%) were closed for various reasons at police stations. The awareness of community members on where to report cases of GBV and child abuse has been raised via local radio programs, television stations, newspapers and the dissemination of brochures and leaflets on GBV and child abuse.

identity, and the potential decriminalisation, of same sex relationships; the establishment of a multi-sectoral critical service package available to all victim/survivors of VAWG, including confidential psychological care and counselling; the scaling up law enforcement and community sensitisation interventions to protect women's rights and prevent violence against particularly vulnerable groups of women, including elderly women and women with albinism. The UNCT strongly encourages the State party to strengthen institutional mechanisms at the sub-national and national levels to be established in order to ensure implementation, coordination and follow-up on the promotion of gender equality and the combat to end discrimination against women and girls; the collection of data on violence against women and development indicators; and the combat against impunity of perpetrators of violence against women and improved access to justice.

28. *Justice for survivors of sexual abuse and violence*: With the advent of mechanisms for reporting gender-based violence (GBV) and child abuse, Tanzania has gained a clearer view of the extent to which violence against women and children exists. Indeed, the six priority districts covered by the Action Plan for Police Gender and Children Desks showed a 162% increase in the number of cases reported in 2013 (4,441) versus 2015 (11,650). Gender and Children's Desks (GCDs) have been established in all 417 police stations to allow cases to be handled in designated private rooms; however, the quality of the services offered varies, e.g. only 12 police stations possess custom-made units providing a victim/survivor with a child-friendly environment. The UNCT recommends that a more strongly integrated and institutionalised programme be put in place to reduce bureaucratic red-tape that often dissuades families from lodging complaints and opting to have their case handled outside the justice system.

29. *People with Disabilities*: The Constitution and the Persons with Disabilities Act guarantee rights of persons with disabilities. However, those with disabilities face ongoing challenges, stigmatisation and discrimination including discrimination with respect to health services, education and participation in Government²⁴.

30. *Land Conflicts/Pastoralists*: Land rights conflicts in Tanzania, including conflicts related to eviction of pastoralists, alleged interference in land issues by politicians, Government and district officials and land grabbing for business purposes, involve a number of human rights violations²⁵. Pastoralist find increasing difficulties in maintaining their way of life as the lands on which they depend for gathering and hunting continue to shrink²⁶.

31. *Discrimination at the Workplace*: Despite the Government's having put in place the HIV/AIDS (Prevention and Control) Act 2008 and the Employment and Labour Relations (Code of Good Practice) Rules 2007, HIV/AIDS-related discrimination remains institutionalized in the workplace in both the public and private spheres. More needs to be done to combat discrimination in the workplace. Although the ILO Convention on Equal Remuneration and the Convention on Discrimination in Employment and Occupation have been ratified and domestic laws to their effect have been introduced, the Government has yet to elaborate measures to address wage discrimination and disparities between job value in the private and public sectors. In addition, for persons living with HIV/AIDS, stigma and discrimination, including within healthcare settings, remain among perhaps the greatest barriers in the fight against AIDS in Tanzania. Stigma and discrimination remain institutionalised in a number of private and public sector workplaces, where one's status may warrant denial of employment or dismissal. The practice is prevalent, inter alia, in certain large mining companies in the private sector as well as in the police force.

32. *Commercial sex worker (CSW)*: CSW are another group at risk of social exclusion and harsh treatment by law enforcement. Considered an offence under applicable criminal law, commercial sex continues to

²⁴ Legal and Human Rights Service Center

²⁵ Legal and Human Rights Service Center (2014), *Tanzania Human Rights Report 2014*.

²⁶ US State Department (2013), *Tanzania 2013 Human Rights Report*.

fuel harassment and abuse. Human rights abuses of sex workers might include arbitrary detention, infringements on privacy and the possibility to use the mere possession of condoms as evidence of sex work. Some effort has been made to improve access to SRH services in the form of national guidelines for a comprehensive package of HIV intervention for key populations involving the participation of health workers specially trained for this purpose. The Government should recognise that laws that directly or indirectly criminalise sex work undermine the effectiveness of HIV and sexual health programmes by limiting the ability of sex workers and their clients to seek and benefit from HIV assistance programmes; moreover, it encourages human rights abuses.

33. *Lesbian, Gay, Transgender/transsexual and Intersexed persons (LGBTI)*: Homosexuality is criminalized, with penalties of 30 years to life imprisonment for consensual sex between men in Tanzania mainland. Zanzibar criminalizes undefined same-sex ‘unions’. Lesbian, gay, transgender/transsexual and intersexed people suffer persecution and violence from State actors and from fellow citizens and suffer discrimination, including to discrimination related to access to public services—notably health services²⁷.

34. The UNCT recommends that the Government should first enforce current laws, rules and regulations that prohibit stigma and discrimination; based on assessment of enforcement it may enact a comprehensive anti-discrimination law as a complement to the existing provisions in the Constitution, setting out bold provisions against all horizontal forms of discrimination, including indirect discrimination, and enshrining contemporary standards regarding burden of proof in legal proceedings. It should be encouraged to ensure freedom of association, opinion and expression, particularly on the part of organisations providing services to key populations. Those organisations should be granted the right of association, which in practice means the opportunity to register with the relevant ministries and obtain authorization to operate and serve. The State should also establish an authority within the Ministries, and particularly the Ministry of Health and Social Welfare, mandated to receive complaints for misbehaviour by public health officials and to carry out investigations. The Government should insist that discrimination by public health officials and the police against key populations will not be tolerated and persons responsible for this will be prosecuted.

Right to social security and to an adequate standard of living

35. Limited coverage of social protection in Tanzania leaves poor people with inadequate protection in case of disease, job loss, or other catastrophes²⁸. The existing mandatory Social Security Scheme only covers employees in the formal sector, who constitute less than 10% of the Tanzanian labour force (approximately 1.95 million of a total 22 million people). This leaves the majority of the labour force, engaged in the informal sector and who reside in rural areas, with inadequate coverage, further, its targeted nature prevents many living below or just above the poverty line from receiving any assistance whatsoever. Furthermore, the benefits provided by most schemes are not sufficient to address contingencies, and bureaucracy causes serious delays in payment

Right to Health

36. The Health Policy of 2007, places an emphasis on equity and access to services especially by marginalized groups, including women, children and the elderly. Despite efforts by the Government to ensure that health services are equitably distributed, there have been limitations in the implementation of health policies, especially the provision of free services for women, children under five and the elderly. Among the main challenges has been inadequate financial resources available to cater for these groups’ needs. The continuation of the implementation of the Health Sector Strategic Plan IV focusing on Universal Health Coverage may be necessary to address this challenge.

²⁷ Human Rights Watch (2013), *Treat us like human beings: Discrimination against Sex Workers, Sexual and Gender Minorities, and People Who Use Drugs in Tanzania*.

²⁸ World Bank (2013), Tanzania economic update: raising the game - can Tanzania eradicate extreme poverty?

37. Since the last report to the UPR, Tanzania continues to register good progress in reducing child mortality, and it is among the few countries which have met the 2015 MDG target (UN IGME 2015 Report); however, mortality of under-fives is estimated at 98,000. The new-born mortality rate, which constitute 40% of the deaths of under-fives, is still lagging behind. In addition, there remain inequalities at the subnational level in terms child mortality. Thus, UNCT encourages greater efforts be made to address the major causes of under-five mortality: pneumonia, malaria, diarrhoea-related diseases and malnutrition, to ensure similar progress at the subnational level and in terms of neonatal mortality as well as the scaling up of evidence-based interventions, including immunisation, newborn resuscitation and management of underweight babies at birth.

38. *Maternal mortality*: is still very high in Tanzania, and it has shown very little decline over the last decade. With maternal mortality at 454 for every 100,000 live births, Tanzania is not on track to reach the target of MDG 5. Maternal mortality has been found to have a direct impact on child survival. In studies carried out in two districts it was found that when the mother dies only 44% of children in one district and 47% in the other survive to the age of five, as compared to the prevailing 95% child survival rate.²⁹ Tanzania should improve maternal care, especially with respect to labour, delivery, and during the postpartum period, as most deaths occur during these periods.

39. In Tanzania there has been a reduction in antenatal visits by expectant mothers, from 64% of women attending the required four visits in 2005 to 36% in 2010 (TDHS 2010); there are also low levels of health facility deliveries, with only 50% of deliveries taking place there. Not all health facility deliveries are attended by a skilled birth attendant³⁰. In rural areas only 34% of women give birth in a health facility as compared to 84% in urban areas, and only 43% of births in rural areas are attended by skilled birth attendants compared to 83% in urban areas (TDHS 2010). Reports suggest that poor attitudes and neglect by the health staff are barriers to mothers seeking care. Tanzania should focus more on improving effective coverage and quality of antenatal care services, with a clear plan for community intervention and skilled birth attendants present at the facility level. Maternal Mortality also continues to be high despite observable progress in maternal mortality: from 578 per 100,000 live births in 2008/09 to 454 per 100,000 live births in 2010 and a further reduction down to 410 per 100,000 in 2013. The major causes of maternal mortality are preventable and attributed to poor quality of health services, including unavailability of skilled providers³¹ and essential equipment as well as geographical inaccessibility. The Government, in collaboration with partners, has developed the Road Map to accelerate the reduction of preventable maternal, new-born and child mortality and to ensure universal access to sexual and reproductive health, 2016-2020. The UNCT recommends the allocation of resources to ensure the implementation of the interventions and monitor progress through the RMNCH Score Card.

40. *Under Five Mortality*: A commendable achievement is the significant reduction in under-five mortality now estimated at 54 per 1,000 live births³², which meets the target of MDG 4. The continuing decline can be attributed to increased coverage of key child health interventions, i.e., routine immunisation, distribution of Vitamin A supplements, the use of insecticide-treated bed nets, and more effective drugs to treat malaria; however, significant differences are observed across different geographic, social, and economic groups.

²⁹ Issue brief – *The impact of maternal death on living children*, Program on the Health Rights of Women and Children, Harvard University, FXB Centre.

³⁰ Health Management Information System 2012

³¹ Over the last four years, limited coverage of maternal health services, as evidenced by low coverage of skilled birth attendance, has been an estimated 51%; there was a decline in antenatal care visits of at least four times from 64% in 2008/2009 to 43% in 2010, a slight improvement in contraceptive prevalence rates and a high adolescent pregnancy rate of 116 per 1000 births. This coverage is unacceptably low; hence, the need to scale up maternal health interventions, especially in rural areas and for the poor.

³² Levels and Trends of Child Mortality report 2013

Children from households in the lowest economic quintile have a 20% higher chance of dying than those from the highest quintile. The proportion of newborns (0-28 days) among the population of those children who die under the age of five increased from 27% in 2006, to 40% in 2013, due in large part to the newborn population now forming a larger percentage of the total population of children who die under the age of five. Survival of children over the age of one month has improved; however, poor quality of care during child birth and during the post-natal period continue to contribute to poor health outcomes to newborns. The UNCT calls upon the Government of Tanzania to improve access to newborn care, with emphasis placed on emergency obstetric and newborn care, newborn resuscitation and essential newborn care, including management of premature and underweight newborns, infection prevention and treatment. The under-five mortality rate is nearly double in the Lake Regions as compared with northern regions. The UNCT urges that the Government of Tanzania improve its service delivery to the most underserved regions, with a scaling-up of the “Reaching Every Child” approach that incorporates all child health interventions.

41. *HIV/AIDS*: Tanzania has made significant progress in the response to the challenges posed by the HIV epidemic. HIV transmission in Tanzania continues to be dominated by heterosexual sexual transmission. As stated earlier, women, particularly young women, are more vulnerable to infection, due to their unequal status in the community, pervasive gender-based violence and harmful traditional norms, practices and customary laws. Women are more than twice as likely to test HIV-positive as men. The Government should therefore ensure that national strategies address the rights and needs of girls and women in the context of HIV. The Law of Marriage Act (1971), which allows for early marriage, increases the risk of HIV infection to young women and girls, and needs to be revised. To achieve a substantial reduction in HIV transmission, the Government must ensure that key populations access needed information and services both on the mainland and Zanzibar³³. In this respect, it is essential that a human rights lens be applied to the HIV situation and that the UPR process continue to monitor human rights concerns related to HIV/AIDS.

42. The country has developed and successfully implemented community-based harm reduction programs.³⁴ In 2011, Tanzania became the first Sub-Saharan African country to open a methadone clinic, and since then three clinics were opened. The Government is urged to scale up these programmes, particularly by opening centres in regions other than Dar es Salaam, as well as review laws on personal drug consumption and possession in order to ensure they are consistent with public health and human rights imperatives. Key aspects of the right to health, including availability, access and quality of HIV-related services, have been neglected, which has a negative impact on the response to the epidemic in Tanzania. Children and adolescents continue to be left behind in the national HIV response. Paediatric HIV treatment still lags behind its provision for adults. Only 3 in 10 HIV-positive children aged 0-14 years who were eligible for HIV treatment actually received it in 2014, as compared to 7 in 10 HIV-positive adults. The Government must urgently scale up paediatric HIV services, integrated within maternal neonatal child health services, and ensure that health/HIV services meet the special sexual reproductive health and psychosocial needs of adolescents. Furthermore, due to the unavailability of data to track access to lifesaving HIV services and treatment outcomes, in particular for children and adolescents, age disaggregation must be accommodated into national health information systems. The age of consent for HIV testing without parent/guardian consent should be lowered from 18 to 12 years old.³⁵

33. Furthermore, various studies demonstrate much higher HIV prevalence among key populations compared to the general population (Mainland: people who inject drugs (PWID) at 36%, men who have sex with men (MSM) at 25% and female sex workers at 26% (Consensus Estimates on Key Population Size and HIV Prevalence in Tanzania, NACP, 2014); Zanzibar: PWID (11%), MSM (3%) and female sex workers 19% (Integrated Behavioural and Biological Surveillance Survey, ZACP, 2012).

³⁴ Under PEPFAR support and the *Médecins du Monde* Harm reduction program in Dar es Salaam.

³⁵ In Tanzania, children below 18 years of age are required to obtain parent/guardian consent before they can be tested for HIV. In other countries parental consent for testing only applies for children below the ages of 12 (**Uganda, Lesotho, South Africa**), 13 (**Malawi**), 15 (**Ethiopia**), 16 (**Zambia & Zimbabwe**). Of 1.4 million people in Tanzania are living with HIV, **28% being children aged less than 14 years, 11% are young people aged 15-24 years**. It can

43. *Adolescent Reproductive Health/ Access to Information for Youth*: Only 40% of girls and 47% of boys have the sort of in-depth knowledge of HIV/AIDS needed to protect themselves against infection (THMIS 2012). Condom use remains unacceptably low among sexually active youth, particularly in the case of high risk sexual practices (e.g. only 45% of male youth who engage in remunerated sex were found to have used a condom during their last sexual encounter (THMIS 2012)). The Government should require as a best practice that evidence-based comprehensive sex education be taught within the broader primary and secondary school curricula; this should include systematic monitoring of the quality and coverage of teaching. Furthermore, policies that recognize adolescent reproductive health rights must be more strongly disseminated, including via the National Policy Guidelines for Reproductive and Child Health Services (2005).

44. *Abortion*: Unsafe abortion accounts for about 20% of maternal mortality. The current abortion law is restrictive, and no Government policies or guidelines provide comprehensive guidance to safe abortion. This scenario suggests that induced abortions are commonplace and carried out generally in unsafe conditions. Furthermore, opting for an unsafe abortion reflects the problem of unwanted pregnancies as a result of inadequate access to FP methods among women of child-bearing age. The National Package of Essential Reproductive and Child Health Interventions is a key guideline document for the provision of services, including post-abortion care. The Tanganyika Medical Ordinance (1959) Act also provides guidance and regulation on circumstances in which the practice of termination of pregnancy can be performed upon consultation with three duly qualified and registered medical practitioners. A lack in adequate interpretation of the law and policy for the provision of safe abortions in Tanzania results in poor access to quality abortion care. While the Government and partners are currently working on a Safe Motherhood Bill which will address identified gaps more could be done to simplify and disseminate the policy and guidelines.

Right to life, liberty and security of person

45. UNCT reiterates its concern that in the Tanzanian Constitution there exists no recognition of the general prohibition against torture as set forth in the ICCPR. A general clause in the Constitution stipulates that human rights might be subject to limitations by ordinary legislation, if, for example, such legislation promotes or preserves the national interest in general.” As a result, retrogressive law has impinged upon certain basic human rights, in particular, those having to do with possession of property and access to land. Furthermore, conditions within prisons and detention centres continue to be of serious concern with reports of alleged torture, rape and extortion. The UNCT recommends that special efforts be undertaken to reform the penal system and that the CHRAGG undertake regular monitoring of all places of detention in country.

46. *Persons living with Albinism*: In the last 12 months alone, five women, one man, three girls and three boys affected by albinism have been killed or mutilated. Tanzania has the highest rate of albinism in Africa: 1 out of every 2000 people³⁶. Tanzania also has the highest levels of discrimination and violence against persons with albinism on the continent, with a reported 75 cases of killings since 2000³⁷. Approximately

be inferred that children & adolescents account for a disproportionately high burden of HIV infection in the country, Further, in general children have a more rapid progression to HIV disease than adults, and signs and symptoms of HIV infection are non-specific.

³⁶ It should be noted that the Tanzania Albino Society estimates that there are more than 150,000 PWA in Tanzania. Assessment Report of Centres for PWA, Under the Same Sun 2012

³⁷ *Reported Attacks of Persons with Albinism*, Under the Same Sun, 15th August 2013. 35 other persons with albinism have been attacked, many of whom were mutilated.

45% of those killed were children³⁸, with the most recent killing occurring in February 2015, when a mob brutally attacked a one-year-old boy, hacking off his arms and legs³⁹. It is likely that the killing of albino children is much higher than reported, but goes unnoticed due to very low birth- and death-registration rates in Tanzania. Infanticide and child abandonment are driven by the belief that children with albinism (CWA) are a potential source of misfortune and/or proof that wives have been unfaithful. Witchcraft is the main impetus for the killings and mutilations, as there is a belief that body parts possess magical powers capable of bringing wealth and power. Limbs can be sold for thousands of dollars, fuelling cross-border trade in body parts, trafficking, and the sale of children. Few of the perpetrators of these crimes are ever brought to justice.⁴⁰

47. State efforts to protect CWA from violence have focused predominantly on placing children in residential schools and centres for CWD (run by the MoEVT) located away from their communities, thus further exacerbating their exclusion from society. A 2012 report on nine institutions accommodating 510 CWA highlighted poor living conditions, feelings of insecurity, and cases of physical and sexual abuse.⁴¹

48. The UNCT recommends that the state consider taking immediate steps to respond to Human Rights Council resolutions (23/13 and 24/33), and the 2013 African Commission on Human and Peoples' Rights that calls for the prevention of attacks against persons with albinism, with all necessary efforts being made to challenge beliefs and attitudes in communities where CWA are at a high risk of attack; with emergency protection being provided for children under threat of attack (as well as their families), with areas being provided for children where they feel safe from abuse and enjoy access to quality health care and education; with improved living conditions for children in their current CWA institutions; with perpetrators being brought to justice through prompt and impartial investigations; and with birth and death registration being expedited and reinforced in areas of high risk.

Freedom of expression and right to participate in public and political life

49. The UNCT welcomes the initiative taken by the Government of Tanzania in drafting the Access to Information Act, 2015 and its willingness to release the draft to the public. The draft act has a number of positive provisions including the broad scope for every person to have the right to access information, as well as the appointment of the CHRAGG to conduct oversight. However, there are a number of concerns regarding the draft bill that should be improved upon, namely, under the requesting procedures section, where it is silent on the rules prohibiting public authorities from asking the reasons for a request as well as the stated requirement for the requester's name and physical address. Such conditions can deter the public, and journalists, from availing themselves of their right to access and publish information. Furthermore, the appeals section of the draft act limits the powers of CHRAGG by not outlining their authority to enforce measures on public authorities who are failing to respect the right to access to information. Such structural flaws can again act as a deterrent for those challenging any infringements in the process of requesting information.

38 *Children with Albinism in Africa: Murder, Mutilation and Violence - A report on Tanzania*, Under the Same Sun, 2013

39 The Guardian, <http://www.theguardian.com/world/2015/feb/18/kidnapped-tanzanian-albino-boy-found-dead-with-limbs-hacked-off>, cited 26 August 2015

40 Only 5 out of the 71 killings reported as of June 2012 had been prosecuted, *ibid.*

41 *Assessment Report of Centres for PWA*, Under the Same Sun 2012

50. The current draft of the Access to Information Act, combined with the newly existing legal framework, such as the restrictions in the Statistics Act of 2013⁴² and the Cybercrime Act of 2015⁴³, puts journalists, media houses and potential whistle blowers at more risk in both collecting and publishing their information. Moreover, the laws are allowing for the Government to easily regulate and punish the media instead of supporting and rewarding them for increasing the public's access to information. Other laws that infringe upon freedom of expression in Tanzania include the 1976 Newspaper Act, the Public Service Act, the Film and Stage Act No 4 of 1976 and the Records and Archives Management Act, The Tanzania News Agency Act of 1976, The National Security Act of 1970, the Broadcasting Services Act of 1993 and the Prisons Act of 1967.

51. In 2015, according to Tanzania Communications Regulatory Authority statistics, there were 105 registered radio stations and 28 television stations. According to the Tanzania Communications Regulatory Authority, by June 2015, 76 % of the Tanzanian population (34,251,000) owned mobile phones, while 25 % were Internet users. The concentration of the media into "politically oriented" blocks and the buyouts of media outlets by a handful of media houses backed by a powerful individuals remains a concern in this sector. The proposed accreditation of journalists risks resulting in massive layoffs and the control of journalists active in Tanzania. The Media Services Bill of 2015 stipulates that no person will be allowed to practice journalism in Tanzania unless accredited by the proposed Journalists Accreditation Board. If passed, accreditation of journalists could lead to massive layoffs and the side-lining of journalists in Tanzania. Accreditation will also lead to the suppression of citizen journalists and other voluntary journalists working with community radio stations.

52. Journalists in Tanzania have also been facing direct threats. According to the Tanzania Human Rights Defenders Coalition (THRDC) there was an increase in direct attacks and threats against journalists between 2011 and 2015, with three deaths of journalists recorded (Richard Masatu, 2011; Daudi Mwangosi, September 2012 and Issa Ngumbi, 2013). In general, more needs to be done to secure independent journalism, and the personal security of journalists. Capacity building of journalists in terms of understanding these controversial laws is also needed in order to avoid potential risks to their safety and security. Furthermore, the UNCT would like to highlight concerns around the use of security organs such as the district peace and security committees⁴⁴ in deciding what is good and bad content.

NGOs/ civil society space/Human Rights Defenders

53. The Constitution guarantees human rights and freedoms crucial to citizens' having a voice and organized civil society activity such as freedom of association, assembly, speech, and worship in accordance with the law of the land. **The NGO Act** provides for the creation of NGOs whose aim is to enhance or promote economic, social or cultural development, or to protect the environment, lobbying or advocating on issues of public interest, being defined as all forms of activities aimed at providing for and improving living standards or eradicating poverty in a given group or in the public at large. Organized civil society participation and a voice in public life and policy formulation seems to be increasing from a low base line due to poverty, lack of human rights awareness and the legacy of a one-party State.

⁴² The Statistics Act, 2013, contains a penalty for anyone who publishes data or statistics outside the scope of publications by the Tanzania National Bureau of Statistics (NBS), Part (V) Section 37, (4).

⁴³ Under Article 39 of the Cybercrime Act, 2015, unchecked powers are granted, both to the minister in charge as well as police forces, to search a suspect's data and/or source of information.

⁴⁴ An example is the case of the revocation of the construction permit by Kyela FM in August 2015. Due to its broadcasting a radio debate on water problems in Kyela district. The District Peace and Security Committee determined the radio programme to be a threat to peace and security. The fact that Kyela FM has been operating with a construction permit since 2011 shows that there are systemic delays in the issuing of broadcasting licenses as a way of monitoring the conduct of media organisations.

Climate change

54. Tanzania has begun to experience significant effects of climate change. Temperatures in different regions of the country have increased. Rainfall is expected to decrease in the dry season and increase in the rainy season, and extreme weather-related events such as droughts and floods are expected to increase in severity, duration and frequency⁴⁵. If citizens are to enjoy human rights related to food, shelter, water, health and life, government and others must strengthen their capacity to deal with climate change.

Right to Water

55. The Government has prioritized access to water in the national development plan supported by a water sector development programme. However, access to clean and safe water is still wanting, particularly for those living in rural areas. The cholera outbreak in 2015 with figures of over 3000 individuals effected and at least 53 deaths, covering 10 regions of the country underscore the need for immediate action. The UNCT calls for resource allocation and that water and sanitation infrastructures be upgraded and the implementation of social mobilization interventions be undertaken.

Right to adequate food

56. Food security is a precondition for the full enjoyment of the right to food. Tanzania's food security situation is improving, although it remains vulnerable to effects of climate change, notably drought. However, food security gains are not keeping up with population growth or national economic gains. Around 730,000 (8.3 percent) of households in Tanzania have been found to be food-insecure or vulnerable to food insecurity⁴⁶. The vast majority of persons suffering from food insecurity, including hunger and malnutrition, are poor and marginalized and struggling to survive in rural areas.⁴⁷ The prevalence of stunted growth in children is still high, particularly in rural areas, with 34.7 percent of children under five years of age manifesting this problem⁴⁸. At the national level, 3.8 percent of all children are wasted and 13.4 percent underweight. An increase in political attention to addressing malnutrition has been noted, resulting in some improvements in the case of all forms of malnutrition among children under five years of age.⁴⁹ While the Government is attempting to address the problem of malnutrition, it remains a major issue in Tanzania. The presence of a nutrition focal point in each district in Tanzania is welcome, but the allocation of adequate resources for nutrition programmes remains a challenge. The UNCT encourages the need for the State to prioritise food security and nutritional needs for vulnerable groups especially children below five.

⁴⁵ Climate Action Network Tanzania (2015), *Climate Change in Tanzania*.

⁴⁶ WFP Comprehensive Food Security and Vulnerability Analysis (CFSVA) 2012

⁴⁷ Food insecurity varies geographically in Tanzania. Food shortages were more commonly reported by households situated in Tanzania's drought-prone bimodal rainfall zone (north and west) than those in the unimodal zone (south and east). The diet of Tanzanians is based on cereals (maize and sorghum), starchy roots (cassava) and pulses (beans). Consumption of micronutrient-dense foods such as animal products, fruit and vegetables is low. The country's poor farming households need better livelihood support such as access to credit and training to improve their agricultural output and increase yields. They also need extension services that provide support to reduce post-harvest losses and mitigate the weather vagaries through adoption of Climate Smart Agriculture (CSA).

⁴⁸ Tanzania National Nutrition Survey 2014

⁴⁹ Government commitments include creation of the Tanzania Food and Nutrition Centre (TFNC); Adoption of a national nutrition strategy (2011–2016); endorsement of a costed implementation plan for the strategy in 2013; incorporation of the nutrition assessment, counselling, and support (NACS) approach into its national HIV Care, Treatment, and Support Programme. Tanzania joined the Scaling Up Nutrition (SUN) movement in 2011, with President Jakaya Kikwete participating in the SUN Movement Lead Group and making a National Call for Action on Nutrition in 2013.

Right to a safe and healthy environment and the enjoyment of human rights

57. Management of natural resources by Government faces significant challenges, including those related to deforestation, illegal fishing and poaching; further, a number of rivers and streams in urban areas are being used for the indiscriminate disposal of different types of waste materials from industries, households and other entities, giving rise to a number of health concerns. The enforcement (or non-enforcement) of conflicting laws has often led to struggles between different Government departments, thus undermining their effectiveness. As a result access to the right information, participation and justice in environmental matters is lacking. The UNCT commends the Government of Tanzania for the ongoing review of the National Environment Policy (1997), which provides a framework for addressing environmental challenges and mainstreaming environmental considerations into decision-making and urges that dissemination of information on policy and law be undertaken.

Mining Industry and Human Rights Concerns

58. It is estimated that there are over 630,000 artisanal miners active in the gold-mining sector. Most small scale miners use mercury as the common medium in the final process of extraction and separation of gold from the crushed ore. The extraction processes exposes the small-scale miners directly to mercury liquid and vapour. The vented mercury evaporating from the mercury-gold amalgam poses an environmental as well as a health hazard to the people involved in the process. This also affects bodies of water within the vicinity of the areas. The Government has been working,⁵⁰ through its agencies with various UN and other development partners to address some of the issues related to mercury pollution, the UNCT urge that awareness campaigns be undertaken to ensure protection of the rights of and informed action by the small scale miners.

Refugees

59. As of July 2015, Tanzania hosted approximately 177,343 refugees (mainly from the Democratic Republic of Congo⁵¹ and Burundi⁵²) and 2150 asylum-seekers. Approximately 52 per cent of these are female and 58 per cent children under 18 years of age.

60. The UNCT commends the Government of Tanzania in their exceptional stance on hosting refugees; it also calls on the Government to grant refugees the *right to work and relax restrictions on freedom of movement*. Under Tanzanian law, refugees in Tanzania are currently required to stay in areas designated by the Government for the use of refugees, and to apply for special permits should they wish to leave those

⁵⁰ The key Government agencies include the Vice President's Office – Division of Environment, National Environment Management Council (also under the VPO), PMORALG, Ministry of Water, Ministry of Industry and Trade, the Government Chemist Laboratory Agency under the Ministry of Health and the Ministry of Energy and Minerals.

⁵¹ There are 61,461 refugees from the Democratic Republic of Congo hosted in Nyarugusu Refugee Camp in north-western Tanzania (many of whom fled in 1996). Newly arriving Congolese asylum-seekers must go to Nyarugusu Camp and await individual refugee status determination procedures through the NEC. Given continued insecurity in eastern DRC, the potential for voluntary repatriation of more than 61,000 Congolese refugees in Nyarugusu is not envisaged.

⁵² In April 2015, the President of Burundi announced his intention to run for a third term, which resulted in violence claiming the lives mainly of opposition activists and an influx of refugees into neighboring countries, including Tanzania. More than 85,000 persons had arrived Nyarugusu Camp in Tanzania as of 31 July 2015, and there are new arrivals on a daily basis. These asylum-seekers are expected to benefit from a grant of *prima facie* refugee status, which will become official once notice is published in the Government Gazette. These new arrivals are staying in Nyarugusu Refugee Camp along with the existing Congolese population. In addition, there are 34,313 Burundian refugees, 22,227 self-settled Burundian refugees who have been living in villages in Kigoma since arriving in Tanzania in 1972, 8,836 Burundian refugees residing in the Old Settlements and who have not yet been naturalized and 2,661 Burundian refugees who were already living in Nyarugusu Camp.

areas for any reason and for any duration. Leaving the camp without a permit leaves refugees vulnerable to arrest as irregular migrants. The UNCT also welcomes the Tanzania Government's efforts on the under-five birth registration strategy as implemented by the Registration Insolvency and Trusteeship Agency (RITA). The decentralized nature of its implementation is welcomed, as it will ensure that more children receive vital documentation. Without birth registration or birth certificates, Tanzanian and refugee children are at risk of statelessness. Refugee children, due to their family's displacement, are the more vulnerable. Without a birth certificate, children may have difficulty accessing vital services such as health care or education and may in future affect other rights such as access to employment and the right to vote.