



AMERICAN **BAR** ASSOCIATION

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Center for Human Rights

**Submission by the American Bar Association, Center for Human Rights (ABA\_CHR)  
in respect of the third periodic cycle of the Universal Periodic Review (UPR) of the  
United Republic of Tanzania,  
39<sup>th</sup> Session of the UPR Working Group (Oct - Nov 2021)**

This submission was prepared by the American Bar Association, Center for Human Rights and reflects its views. It has not been approved by the House of Delegates or the Board of Governors of the American Bar Association and therefore should not be construed as representing the policy of the American Bar Association as a whole. Further, nothing in this report should be considered as legal advice in a specific case.

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# Republic of Tanzania Universal Periodic Review Submission

## I. Introduction

1. The American Bar Association, Center for Human Rights (the Center) submits this information in respect of the third cycle of the Universal Periodic Review (UPR) of the United Republic of Tanzania. Established in 1878, the American Bar Association (ABA) is the largest voluntary association of lawyers and legal professionals in the world. The ABA Center for Human Rights promotes and protects human rights worldwide—mobilizing lawyers to help threatened advocates; rallying thought leaders on vital issues; and holding abusive governments accountable.

## II. Developments since the last review

2. During the second cycle, the United Republic of Tanzania (Tanzania) fully accepted 131 of the 227 recommendations it received, and partly accepted 94 recommendations.<sup>1</sup> Those accepted included ratification of the Convention Against Torture<sup>2</sup>, human rights training and accountability for violations by law enforcement officers<sup>3</sup>, improving prison conditions,<sup>4</sup> and the functioning of the justice system<sup>5</sup>, and protection of the rights to freedom of expression, association and assembly.<sup>6</sup> Recommendations not accepted were those calling for facilitation of the work of the independent and pluralistic media,<sup>7</sup> and amendments to the Cybercrime, Statistics<sup>8</sup>, and Access to Information Acts, as well as the Media Services Bill.<sup>9</sup>
3. To date the country has not ratified the Convention Against Torture. Failure to respect, protect and promote freedom of expression, association, and assembly remain a concern, as does the abuse of the criminal justice system and continued overcrowding of prisons particularly in light of the COVID-19 pandemic.

## III. The human rights situation in Tanzania

4. The human rights situation in Tanzania under the leadership of the late President Magufuli notably deteriorated in the period since the country's last UPR cycle. Of particular concern for the Center has been the enactment of laws and misuse of the criminal justice system to restrict fundamental rights. Tanzania has enacted laws restricting freedom of expression and the media, and the functioning of non-governmental organizations (NGOs).<sup>10</sup> Human rights defenders (HRDs) and others who were critical of former President Magufuli and his government including lawyers<sup>11</sup>, journalists<sup>12</sup>, opposition politicians<sup>13</sup> and artists<sup>14</sup>, were subjected to harassment, intimidation, persecution, disappearance, arbitrary arrest, and sometimes politically motivated prosecutions. The situation worsened during the COVID-19 pandemic, with the government initially denying the existence of the pandemic and suppressing any information related to the status of the pandemic in the country.<sup>15</sup> The October 2020 general elections, which saw former President Magufuli retain power, were also marred<sup>16</sup> with reports of the pre-election and post-election violence and suppression of civil and political rights.

### A. Use of restrictive laws to suppress rights to freedom of expression and freedom of association

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5. Broad provisions of restrictive laws have been misused or enacted to suspend or ban media houses and civil society organisations, restrict political and other gatherings, block public interest litigation, and suppress dissent, including through the arbitrary arrests and detention of HRDs without the option of bail.<sup>17</sup>
  - (i) Freedom of expression and access to information
6. **The Cybercrimes Act** continued to be a concern due to its use to arbitrarily arrest and detain social media advocates and radio hosts for exercising their freedom of expression rights. It criminalizes, among other acts, publication of “false, deceptive, misleading or inaccurate information,” provides criminal sanctions for defamation<sup>18</sup>, and applies to all forms of social media, including private communications via WhatsApp. In November 2017, a human rights advocate was convicted of “publication of false information” under this law for referring to Zanzibar as a colony of mainland Tanzania in a Facebook post.<sup>19</sup> The conviction was later overturned by the High Court<sup>20</sup>, but only after the rights advocate was arrested and detained for 26 days at various detention centers.<sup>21</sup>
7. Similar provisions also exist under the **Media Service Act**, the **Electronic and Postal Communications (Online Content) Regulations**, and the **Electronic and Postal Communications (Radio and Television Broadcasting Content) Regulations**, which were routinely used to target HRDs.<sup>22</sup> These regulations restrict online, radio and television content, through vague and overly broad provisions such as requiring the upholding of national sovereignty, national unity, national interest, as well as penalizing publication of false news.<sup>23</sup> These laws allow for the imposition of disproportionate penalties, including hefty fines, and the suspension and closure of media houses based on seemingly arbitrary grounds. The Online Content Regulations further require bloggers to register and pay license fees of up to 2.1 million Tanzania Shillings (more than USD 900)<sup>24</sup>, and permit surveillance of cybercafés without judicial oversight.<sup>25</sup>
8. The above pieces of legislation have been misused to suspend or shutdown independent media houses, especially those critical of the government. In September 2019, the authorities used the regulations to suspend Kwanza Online TV for six months and fine two other online stations, Watetezi TV and Ayo TV.<sup>26</sup> Kwanza Online TV was again suspended for 11 months in July 2020 under the same set of regulations for sharing a social media post on the country’s COVID-19 situation.<sup>27</sup> Other similar cases included the revocation, effective June 2020, of the license of the Tanzania Daima newspaper<sup>28</sup>, and fines against Star Media Tanzania Limited, and two others for disseminating “false and misleading information about Tanzania’s stance on Covid-19”.<sup>29</sup>
9. The above-mentioned laws and regulations run counter to international human rights laws and standards, in particular, the requirement that laws criminalizing defamation and publication of false news should be repealed.<sup>30</sup> In March 2019, the East African Court of Justice also found that the provisions of **the Media Service Act**<sup>31</sup> on content restrictions, requirements for accreditation for journalists, criminal defamation, false news and rumours, seditious statements, as well as imports and media content<sup>32</sup> were vague, unclear and imprecise, and violated the principles of the East African Treaty.<sup>33</sup> It called on the government to amend these provisions, which it has not done to date.
10. Despite the 2019 amendments to the **Statistics Act**,<sup>34</sup> which removed criminal liability for publishing non-official statistics, the Act continues to be used to suppress access to information. The State still controls the dissemination of statistical information through

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the National Bureau of Statistics that has the right to challenge interpretation of statistics through the Statistics Technical Committee.<sup>35</sup> This has been of particular concern during the COVID-19 pandemic with the authorities suppressing access to information.<sup>36</sup>

### (ii) Freedom of association

11. In 2019, amendments were made to the **NGO Act**<sup>37</sup> and the **Political Parties Act**<sup>38</sup> that increased government powers to deregister NGOs<sup>39</sup> and political parties<sup>40</sup>, as well as to demand information from political parties and suspend party members.<sup>41</sup> The NGO Act further requires re-registration of NGOs.<sup>42</sup> These requirements run contrary to regional and international best practices that encourage minimum interference in internal governance of associations<sup>43</sup>; the position that associations should only be suspended or deregistered for serious crimes and by a court of law<sup>44</sup>; and that there should be no mandatory re-registration of associations.<sup>45</sup>
12. Subsequent NGO regulations introduced in 2020 in mainland Tanzania and the Political Parties Act also gave wide powers and discretion to prevent a wide range of NGO activity<sup>46</sup>, including capacity building training or civic education to political parties.<sup>47</sup> The provisions of the Acts have been used to prevent groups from carrying out trainings on human rights and other civic concerns. For example, in May 2020, the office of the Registrar of NGOs reportedly accused Inclusive Development for Citizens (IDC Tanzania) of “participating in or associating itself with political activities contrary to the NGO Act.<sup>48</sup> It was given 30 days to respond and was suspended indefinitely on June 24.<sup>49</sup> At the time, IDC Tanzania was advocating actively for the return of pregnant schoolgirls to formal education, contrary to the government’s official policy.<sup>50</sup>
13. Ahead of the October 2020 elections, several other civil society organisations were de-registered or had their bank accounts arbitrarily suspended.<sup>51</sup>

## Recommendations

### The ABA Center for Human Rights recommends that Tanzania:

- **Decriminalize defamation and false news and amend other provisions of laws that violate the rights to freedom of expression and association. In particular, the following domestic laws must be reviewed: Cybercrimes Act, Media Service Act, Electronic and Postal Communications (Online Content) Regulations, Statistics Act, NGO Act and the Political Parties Act.**

### B. Misuse of non-bailable laws

14. Tanzanian laws provide for non-bailable offences.<sup>52</sup> The authorities have particularly used non-bailable offences such as “money-laundering” to subject government critics and other individuals to prolonged pre-trial detention. In July 2019, freelance investigative journalist Erick Kabendera was arrested and detained<sup>53</sup> and subsequently charged with organised crime, money laundering, and tax evasion.<sup>54</sup> Kabendera had regularly reported on Tanzania’s human rights record<sup>55</sup> and on alleged government corruption. On the basis of the money laundering charge, bail was automatically denied without an individualized assessment of the circumstances. Kabendera was held in pre-trial detention for seven months, with his case postponed over 10 times, before being

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released in February 2020 on a plea bargain.<sup>56</sup>

15. In December 2019, Tito Magoti, a human rights lawyer, as well as Theodory Giyani, an Information Technology expert, were reportedly abducted before the police later acknowledged they were in police custody.<sup>57</sup> After initially being questioned over their use of social media and association with known government critics, they were both charged with organised crime and money laundering.<sup>58</sup> As a result, they were automatically denied bail<sup>59</sup> and were held in detention for over a year. Their case was postponed over 26 times before being released on a plea bargain.<sup>60</sup> Their prolonged detention was thus tantamount to punishment without conviction, in violation of the presumption of innocence.<sup>61</sup>
16. Tanzania's laws which automatically deny accused persons the right to bail for certain crimes, violates international law.<sup>62</sup> An accused must only be detained pending trial in exceptional cases that meet the principles of legality, necessity, and proportionality, taking into account all the circumstances and based on an individualized determination.<sup>63</sup>

## C. Rights of arrested persons and enforced disappearances

17. Law enforcement officers repeatedly arrested individuals without warrants, sometimes in a manner amounting to an abduction and/or disappearance. Accused persons have been arrested by plainclothes officers, picked up by unmarked vehicles, and/or held incommunicado in violation of the right to access to a lawyer and to inform their family of their place of detention. In addition to the case of Magoti and Giyani noted above, who were disappeared in police custody for four days,<sup>64</sup> opposition leader, Zitto Kabwe was also arrested in 2019 and reportedly held in incommunicado detention for at least three days. Immediately after the October 2020 elections, scores of opposition members were reportedly arrested and held in incommunicado detention without charge.<sup>65</sup> For example, opposition leaders Nassor Mazrui and Ayoub Bakari were arrested in Zanzibar on charges of terrorism and forcibly disappeared for 21 and 20 days, respectively.<sup>66</sup>
18. There are several other cases of enforced disappearances by suspected State agents that have created an atmosphere of fear in Tanzania particularly for those who are vocal critics of the government. Investigative journalist Azory Gwanda who was disappeared in November 2017, remains missing.<sup>67</sup> At the time of his abduction he was reportedly investigating mysterious killings in his community.<sup>68</sup> No one has been held accountable for Azory's disappearance.

## Recommendations

The ABA Center for Human Rights recommends that Tanzania:

- **Repeal all provisions, including the Criminal Procedure Act that provides for non-bailable offences and instead ensure that an accused person can only be denied bail in exceptional circumstances based on an individualized determination of the case.**<sup>69</sup>
- **In line with previous recommendations from the 2<sup>nd</sup> UPR cycle, ensure law enforcement officials take necessary human rights training<sup>70</sup> and strengthen accountability measures for law enforcement officers.**<sup>71</sup>
- **Discontinue arrests executed by unidentified police officers in unmarked vehicles, and end the practice of holding detainees for more than 48 hours**

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before presenting them before a court of law.

- **Respect and protect due process and fair trial rights, including the right to be immediately informed of reasons of arrest, right to a lawyer and the right to a speedy trial.**
- **Ratify and implement the Convention against Torture and the Convention for the Protection of All Persons from Enforced Disappearance.**
- **Carry out immediate and impartial investigations into cases of disappearances carried out by suspected State and non-State actors and hold perpetrators to account. Authorities must make information regarding the progress of ongoing cases and any prosecutions publicly available, especially to the victims' families or legal representatives.**
- **Release all persons detained without sufficient legal basis, including political prisoners and others detained for simply expressing dissenting views.<sup>72</sup>**
- **In light of COVID-19, engage with the World Health Organization and undertake further efforts to decongest overcrowded prisons and limit pre-trial detention periods.**
- **Compensate individuals such as Tito Magoti, Theodory Giyani and Eric Kabendera, who were arbitrarily detained.**

### D. Laws limiting access to Justice

19. In June 2020, changes were made to the **Basic Rights and Duties Enforcement Act**<sup>73</sup>, which limited standing for filing lawsuits challenging laws or official acts on the basis that they violate rights guaranteed in the Constitution, to persons who have been affected by an alleged violation.<sup>74</sup> This provision drastically limits the opportunities for public interest litigation and runs counter to a previous decision by Tanzania's High Court holding that those bringing complaints for such violations do not have to be personally affected by the alleged violation.<sup>75</sup> It potentially violates the right of access to a remedy as provided for under several human rights treaties including the ICCPR.<sup>76</sup> The amendment further provides that lawsuits cannot be brought directly against the President, Vice-President, Prime Minister, Speaker, Deputy Speaker or Chief Justice, but instead must be brought against the Attorney General.<sup>77</sup> This too potentially violates the right of access to justice and undermines the ability to hold the government accountable.

### E. Independence of the legal profession

20. The current reporting period has seen concerns regarding political interference with the independence of the legal profession. In February 2017, the then-Minister of Constitutional and Legal Affairs threatened to ban the Tanganyika Law Society (TLS) in a televised interview, on the basis that it was engaging in political activities.<sup>78</sup> The government then circulated a proposal for new regulations for the legal profession, which raised concerns that the regulations would undermine the independence of TLS and the profession in whole, particularly as they would potentially be used to disbar lawyers in retaliation for them representing clients opposed to government policy or for expressing views critical of the executive or judiciary.<sup>79</sup> The regulations were passed into law in March 2018.<sup>80</sup>

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21. In 2020, several lawyers who have been publicly vocal in their criticism of then President Magufuli's government or have engaged in litigation against the government, have been summoned for disciplinary hearings under the Advocate's Act. In September 2020, following a year-long suspension, lawyer Fatma Karume was disbarred in relation to language used in a constitutional case challenging the appointment of Professor Kilangi as the Attorney General by President Magufuli.<sup>81</sup> The disciplinary committee also raised issue with her public criticism of members of the judiciary and the Attorney General on social media. In terms of international standards, disbarment and other forms of disciplinary measures against lawyers for misconduct should not be carried out by a politicised body or for political motives.<sup>82</sup> Disbarment should only be used in the most serious cases of violations of professional ethics and standards.<sup>83</sup> Her disbarment which seems to have been used as a targeting mechanism, violated her right to freedom of expression and rights as a lawyer to, "take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights."<sup>84</sup> Furthermore, governments are required to ensure that lawyers do not face retaliation for any action taken in accordance with recognized professional duties, standards and ethics.<sup>85</sup>
22. Two other lawyers, Jebra Kambole and Edson Kilatu are currently facing disciplinary hearings following a complaint lodged by the Attorney General in relation to comments they allegedly made on their social media pages, criticising the judiciary.<sup>86</sup>
23. Earlier in August 2017, the offices of IMMMA Advocates were bombed.<sup>87</sup> In September 2017, Tundu Lissu, the then president of TLS and member of the CHADEMA political party, was shot by unknown assailants in an apparent assassination attack. These attacks and more, are believed to be related to the legal representation of clients in cases against the government or the political views of the lawyers or law firms.<sup>88</sup> To date, no one has been held accountable for the attacks.

### Recommendations

#### The ABA Center for Human Rights recommends that Tanzania:

- **Repeal recent changes to the Basic Rights and Duties Enforcement Act including those that limit the ability of civil society organizations and others to file lawsuits over rights violations on behalf of victims.**
- **Refrain from interfering with the internal affairs of the Tanganyika Law Society and repeal legal provisions that are contrary to international best practices for the independence of the legal profession.**
- **Ensure that lawyers are not arbitrarily targeted for representing certain clients, engaging in litigation against the government and for exercising their fundamental freedoms like other citizens. Disbarred human rights lawyer, Fatma Karume must be reinstated and disciplinary proceedings against lawyers Jebra Kambole and Edson Kilatu must be dropped.**
- **Ensure that the power to censure lawyers for misconduct, admit them to the roll, and disbar them is in the hands of an independent, impartial body, free of politicization.**
- **Urgently appoint an independent authority to investigate and publicise the findings of the shooting of Mr Lissu, and other attacks against the legal profession, ensuring that those found to be responsible are held accountable.**

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- <sup>1</sup> Report of the Human Rights Council on its thirty third session, A/HRC/33/2, 22 April 2020, para. 667. Available at: <https://undocs.org/en/A/HRC/33/2> (accessed January 22, 2021)
- <sup>2</sup> Recommendations by 134.1 by Chile, 134.2 by Philippines, 134.3 by Mozambique, and 134.4 by Ukraine. Report of the Working Group on the Universal Periodic Review\* United Republic of Tanzania, A/HRC/33/12, 14 July 2016. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/209/44/PDF/G1620944.pdf?OpenElement> or <https://www.ohchr.org/EN/HRBodies/UPR/Pages/TZIndex.aspx> (accessed January 22, 2021)
- <sup>3</sup> Report of the Working Group on the Universal Periodic Review\* United Republic of Tanzania, A/HRC/33/12, Ibid, Recommendations 134.32 by Egypt, 134.33 by Mauritius, and Recommendation 134.90 by South Africa.
- <sup>4</sup> Report of the Working Group on the Universal Periodic Review\* United Republic of Tanzania, A/HRC/33/12, Ibid, Recommendations 134.89 by Egypt and 134.90 by South Africa.
- <sup>5</sup> Report of the Working Group on the Universal Periodic Review\* United Republic of Tanzania, A/HRC/33/12, Ibid, Recommendations 134.88 by Brazil, 134.91 by France, and 134.92 by Spain.
- <sup>6</sup> Report of the Working Group on the Universal Periodic Review\* United Republic of Tanzania, A/HRC/33/12, Ibid, Recommendations 134.96 by Australia
- <sup>7</sup> Report of the Human Rights Council on its thirty third session, Ibid, para. 662.
- <sup>8</sup> Report of the Human Rights Council on its thirty third session, Ibid, para. 661.
- <sup>9</sup> Report of the Human Rights Council on its thirty third session, Ibid, para 663.
- <sup>10</sup> Civil Rights Defenders, Urgent call to end the deteriorating human rights situation in Tanzania, May 13, 2019, available at <https://crd.org/2019/05/13/urgent-call-to-end-the-deteriorating-human-rights-situation-in-tanzania/>. The letter was signed by 38 regional and international organisations and addressed to the U.N Human Rights Council.
- <sup>11</sup> Lawyers for Lawyers, Joint statement: suspension of Fatma Karume, March 16, 2020, available at <https://lawyersforlawyers.org/en/joint-statement-suspension-of-fatma-karume/>.
- <sup>12</sup> Amnesty International, Tanzania: Authorities must end crackdown on journalists reporting on Covid-19, April 21, 2020, available at <https://www.amnesty.org/en/latest/news/2020/04/tanzania-authorities-must-end-crackdown-on-journalists-reporting-on-covid19/>.
- <sup>13</sup> Reuters, Tanzanian opposition lawmakers found guilty of making seditious statements, March 10, 2020, available at <https://www.reuters.com/article/us-tanzania-politics/tanzanian-opposition-lawmakers-found-guilty-of-making-seditious-statements-idUSKBN20X2O8>.
- <sup>14</sup> Amnesty International, Tanzania: Charges against comedian for laughing must be thrown out, July 8, 2020, available at BBC News, <https://www.amnesty.org/en/latest/news/2020/07/tanzania-charges-against-comedian-for-laughing-must-be-thrown-out/>. See also BBC, Tanzanian Idris Sultan ‘held’ for Magufuli face-swap, October 31, 2019, available at <https://www.bbc.com/news/world-africa-50249600>.
- <sup>15</sup> Abdi Latif Dahir, “Tanzania’s President Says Country Is Virus Free. Others Warn of Disaster,” New York Times, August 4, 2020, available at: <https://www.nytimes.com/2020/08/04/world/africa/tanzania-coronavirus-president.html>. See also The AfricaReport, Tanzania: Doctors urge Magufuli’s government to take Covid seriously, February 10, 2021, available at <https://www.theafricareport.com/62785/tanzania-doctors-urge-magufulis-government-to-take-covid-seriously/>.
- <sup>16</sup> Human Rights Watch, Tanzania: Repression mars national elections, November 23, 2020, available at <https://www.hrw.org/news/2020/11/23/tanzania-repression-mars-national-elections>.
- <sup>17</sup> These include the Electronic and Postal Communications (Online Content) Regulations; Media Services Act; Cybercrimes Act; Political Parties Amendment Act; and the Written laws (Miscellaneous Amendments (No 3) Act of 2019. See: Open letter to Tanzanian President John Magufuli over rapid decline in human rights, May 10, 2020, available at <https://www.frontlinedefenders.org/en/statement-report/open-letter-tanzanian-president-john-magufuli-over-rapid-decline-human-rights>.
- <sup>18</sup> Section 16 of the Cybercrime Act, 2015.
- <sup>19</sup> Frontline Defenders, Judicial harassment of human rights defenders, Bob Chacha Wangwe, March 27, 2020, available at <https://www.frontlinedefenders.org/en/case/judicial-harassment-human-rights-defender-bob-chacha-wangwe>.
- <sup>20</sup> Human Rights Watch, Report: As long as I am quiet, I am safe, October 28, 2019, available at <https://www.hrw.org/report/2019/10/28/long-i-am-quiet-i-am-safe/threats-independent-media-and-civil-society-tanzania#>. Wangwe’s conviction was overturned on the grounds that the court had not properly determined elements of the offense.
- <sup>21</sup> Audrey Wabwire, “Witness: When the Law is Unjust in Tanzania,” Human Rights Watch, October 28, 2019, <https://www.hrw.org/news/2019/10/28/witness-when-law-unjust-tanzania> ; and “Judicial Harassment of Human Rights Defender Bob Chacha Wangwe,” Frontline Defenders, <https://www.frontlinedefenders.org/en/case/judicial-harassment-human-rights-defender-bob-chacha-wangwe>.
- <sup>22</sup> The Electronic and Postal Communications (Online Content) Regulations, 2018 and the Electronic and Postal Communications (Radio and Television Broadcasting Content) Regulations. Amended in 2020. Both available at: <https://www.tcra.go.tz/regulations> (accessed February 9, 2021).
- <sup>23</sup> See Regulation 7 (1)(a), (b) and 12 (1) of the Online Content Regulations, and Regulations 11(1)(a) and 15(2)(b) and (c) of the Radio and Television Broadcasting Content Regulation.
- <sup>24</sup> Regulation 6(1) of the Electronic and Postal Communications (Online Content) Regulations.
- <sup>25</sup> Regulation 13.
- <sup>26</sup> RSF, Tanzania slaps harsh sanctions on three online TV channels, September 30, 2019, available at <https://rsf.org/en/news/tanzania-slaps-harsh-sanctions-three-online-tv-channels>.
- <sup>27</sup> American Bar Association, Center for Human Rights, Tanzania: Report on the Arbitrary Suspension of Kwanza Online TV for Sharing Information Related to the COVID-19 Pandemic, October 22, 2020, [https://www.americanbar.org/groups/human\\_rights/reports/tanzania--report-on-the-arbitrary-suspension-of-kwanza-online-tv/](https://www.americanbar.org/groups/human_rights/reports/tanzania--report-on-the-arbitrary-suspension-of-kwanza-online-tv/) (accessed February 2, 2021).

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<sup>28</sup> Committee to Protect Journalist, Tanzanian government revokes license of Tanzania Daima newspaper, June 26, 2020,

available at: <https://cpj.org/2020/06/tanzanian-government-revokes-license-of-tanzania-daima-newspaper/>.

<sup>29</sup> Covid-19: Media fined for broadcasting against Tanzania's stance, The Citizen, April 4, 2020, <https://www.thecitizen.co.tz/news/Covid-19--Media-fined-for-/1840340-5514540-ujukruz/index.html> (accessed February 1, 2021)

<sup>30</sup> Principle 22 of the Declaration of Principles on Freedom of Expression and Access to Information in Africa. See also: "Fake News", Disinformation and Propaganda, FOM.GAL/3/17 of 3 March 2017, para. 2.b. Available at: <https://www.osce.org/files/f/documents/6/8/302796.pdf>

<sup>31</sup> Landmark ruling from the East African Court of Justice upholding media freedom, altadvisory Africa, <https://altadvisory.africa/2019/04/15/landmark-ruling-from-the-east-african-court-of-justice-upholding-media-freedom/#:~:text=On%2028%20March%202019%2C%20the,freedom%20to%20freedom%20of%20expression>. (accessed January 27, 2021). See also East Africa Court of Justice Rules Tanzania Media Law Violates Press Freedom ( March 28, 2019), April 24, 2019, available at <https://www.asil.org/ILIB/east-african-court-justice-rules-tanzanian-media-law-violates-press-freedom-march-28-2019>.

<sup>32</sup> Sections 7(3)(a), (b), (c), (f), (g), (h), (i) and (j); sections 19, 20 and 21; sections 35, 36, 37, 38, 39 and 40; sections 50 and 54; sections 52 and 53; and sections 58 and 59 of the Media Service Act

<sup>33</sup> In particular, the principles of "good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and peoples, rights..." found in Articles 6(d) and 7(2) of the East African Community Treaty.

<sup>34</sup> The Statistics Act, [Cap 351 R.E 2019], accessible at: <https://www.nbs.go.tz/index.php/en/about-us/policies-and-legislations/acts/522-the-statistics-act-cap-351-r-e-2019> (accessed February 9, 2021)

<sup>35</sup> Sections 25 and 27 of the Statistics Act, Ibid.

<sup>36</sup> See for example, Tanzania: Report on the Arbitrary Suspension of Kwanza Online TV for Sharing Information Related to the COVID-19 Pandemic, ABA Center for Human Rights, Ibid and Covid-19: Media fined for broadcasting against Tanzania's stance, The Citizen, Ibid.

<sup>37</sup> Amended through the Written Laws Miscellaneous Amendments Act No. 3 of 2019

<sup>38</sup> Political Parties (Amendment) Act No.1 of 2019. Available at: <https://tanzlii.org/tz/legislation/act/2019/1-0> (accessed February 9, 2021).

<sup>39</sup> Section 8A of the NGOs Act

<sup>40</sup> Section 8C of the Political Parties Amendment Act in relation to suspension and 8E and 10B relates to deregistration.

<sup>41</sup> Section 11E of the Political Parties Amendment Act.

<sup>42</sup> Section 17(3) of the NGOs Act) which imposes a limit of not more than ten years for the Certificate of Registration of an NGO.

<sup>43</sup> Guidelines on Freedom of Association and Assembly in Africa, 31; Report of the Special Rapporteur on freedom of assembly and association, A/HRC/20/27, para. 64, 96 and 97; and ILO Compilation of decisions 2018, 563.

<sup>44</sup> Guidelines on Freedom of Association and Assembly in Africa, 56 and 58; and Report of the Special Rapporteur on freedom of assembly and association, A/HRC/20/27, para. 100.

<sup>45</sup> Guidelines on Freedom of Association and Assembly in Africa, 17; and Report of the Special Rapporteur on freedom of assembly and association, A/HRC/20/27, para. 62.

<sup>46</sup> Guidelines of coordinating Non-Governmental Organization, 18 June 2020.

<sup>47</sup> The Political Parties (Amendment) Act, 2019, Section 5A effectively requires permission from the Registrar of Political Parties for any capacity building training or civic education to political parties

<sup>48</sup> Section 29 of the NGO Amendment Act of 2019

<sup>49</sup> Tanzania: Freedoms Threatened Ahead of Elections, Human Rights Watch, September 2, 2020, <https://www.hrw.org/news/2020/09/02/tanzania-freedoms-threatened-ahead-elections> (accessed February 5, 2021).

<sup>50</sup> Ibid.

<sup>51</sup> For example, a coalition of 160 organisations had their bank accounts frozen for reportedly signing agreements with donors without consulting the Treasury department or the NGOs Registrar. See Tanzania Election Watch, Final observation report the general elections held in Tanzania on October 28, 2020, available at <https://tanzaniaelectionswatch.org/download/tanzania-elections-watch-final-report/>.

<sup>52</sup> See section 148(5)(a) of the Criminal Procedure Act and section 29(1) of the Drug Control and Enforcement Act, 2015. There is also provision for section 36(4) of the Economic and Organised Crime Control Act to make an economic offence unailable.

<sup>53</sup> Tanzania: Free arrested journalist immediately and unconditionally, Amnesty International, 30 July 2019, <https://www.amnesty.org/en/latest/news/2019/07/tanzania-free-arrested-journalist-immediately-and-unconditionally/> (accessed February 9, 2021).

<sup>54</sup> Tanzania: Drop trumped-up charges against journalist, Amnesty International, 16 August 2019, <https://www.amnesty.org/en/latest/news/2019/08/tanzania-drop-trumped-up-charges-against-journalist/> (accessed February 9, 2021).

<sup>55</sup> Amnesty International, Tanzania: Another Journalist Arrested to Silence Dissent: Erick Kabendera, September 30, 2019, available at <https://www.amnesty.org/en/documents/afr56/1099/2019/en/>.

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<sup>57</sup> American Bar Association, Center for Human Rights, Tanzania: Preliminary Analysis of the Criminal Case Against Tito Magoti and Theodory Giyani, July 28, 2020, [https://www.americanbar.org/groups/human\\_rights/reports/tanzania--preliminary-analysis-of-the-criminal-case-against-tito/](https://www.americanbar.org/groups/human_rights/reports/tanzania--preliminary-analysis-of-the-criminal-case-against-tito/) (accessed February 1, 2021).

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<sup>58</sup> DefendDefenders, Joint Letter: Urgent request for intervention in the case of Human Rights defender, Tito Elia Magoti,

January 10, 2020, available at <https://defenddefenders.org/joint-letter-urgent-request-for-intervention-in-the-case-of-human-rights-defender-tito-elia-magoti/>.

<sup>59</sup> American Bar Association, Center for Human Rights, Tanzania: Preliminary Analysis of the Criminal Case Against Tito Magoti and Theodory Giyani, July 28, 2020, [https://www.americanbar.org/groups/human\\_rights/reports/tanzania--preliminary-analysis-of-the-criminal-case-against-tito/](https://www.americanbar.org/groups/human_rights/reports/tanzania--preliminary-analysis-of-the-criminal-case-against-tito/) (accessed February 1, 2021).

<sup>60</sup> Tanzanian Rights Activist Free After Two Years In Jail, AFP, January 6, 2021, <https://www.capitalfm.co.ke/news/2021/01/tanzanian-rights-activist-free-after-two-years-in-jail/> (accessed February 1, 2021).

<sup>61</sup> In *Cagas v. the Philippines*, the U.N. Human Rights Committee concluded that there was a violation of the petitioner's right to be presumed innocent under Article 14(2) of the ICCPR when she was denied bail and detained for years pending trial. The Committee noted that an "excessive period of preventive detention . . . does affect the right to be presumed innocent and therefore reveals a violation of Article 14 (2) [of the ICCPR]." *Cagas et al v the Philippines*, HRC, UN Doc. CCPR/C/73/D/788/1997 (2001) §7.3 (in a case where detainee was held for 9 years).

<sup>62</sup> American Bar Association, Center for Human Rights, A legal Analysis of Tanzania's Anti- Money Laundering Laws under Regional and International Human Rights Law, May 12, 2021, available at [https://www.americanbar.org/groups/human\\_rights/reports/tanzania--a-legal-analysis-of-tanzania-s-anti-money-laundering-l/](https://www.americanbar.org/groups/human_rights/reports/tanzania--a-legal-analysis-of-tanzania-s-anti-money-laundering-l/).

<sup>63</sup> Article 9(3) of the ICCPR, Principle M(1)(e) of the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, DOC/OS(XXX)247. Adopted May 29, 2003; 7 of the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa. Adopted March 09, 2015; Human Rights Committee, *Cosme Ignacio Marino Demonte v. Argentina* communication No. 2424/2014, para 11.4, HRC general comment No. 35 (2014) on liberty and security of person; African Commission on Human and Peoples' Rights Communication 275/03: Article 19 / Eritrea, para. 92; and *Paulo v Tanzania* (merits) (2018) 2 AfCLR 446, para.61

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<sup>66</sup> Tanzania: Killings, arbitrary detention and torture of opposition members in aftermath of elections, Amnesty International, November 20, 2020, <https://www.amnesty.org/en/latest/news/2020/11/tanzania-killings-arbitrary-detention-and-torture-of-opposition-members-in-aftermath-of-elections/> (accessed February 1, 2021)/

<sup>67</sup> Committee to Protect Journalists, Azory Gwanda Missing, available at <https://cpj.org/data/people/azory-gwanda/>

<sup>68</sup> Ibid.

<sup>69</sup> General Comment No. 32, Article 14: Right to Equality Before the Courts and Tribunals and to a fair Trial, U.N. Doc CCPR/C/CG/32 (2007).

<sup>70</sup> Report of the Working Group on the Universal Periodic Review\* United Republic of Tanzania, A/HRC/33/12, Recommendations 134.32 by Egypt, 134.33 by Mauritius.

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<sup>74</sup> Section 7(b)(2) of the Written Laws Amendments Act

<sup>75</sup> See *Legal and Human Rights Center v. Mizengo Peter Pinda and the Attorney General*;

<sup>76</sup> Article 2 of the International Covenant on Civil and Political Rights. UN General Assembly, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171. See also Article 8 of the Universal Declaration of Human Rights UN General Assembly, 10 December 1948, 217 A (III).

<sup>77</sup> Amendments to the Chapter 310 of the Law Reform (Fatal accidents and miscellaneous provisions) Act and to the Chapter 3 of the Basic Rights and Duties Enforcement Act

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