

Submission to the Universal Periodic Review of the United Republic of Tanzania

Human Rights Watch

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Introduction

This submission highlights Human Rights Watch's concerns about Tanzania's compliance with its international human rights obligations since its last Universal Periodic Review (UPR) in 2016.

It focuses on attacks on the political opposition, press freedom and freedom of expression, and the rights of sexual and gender minorities, women, girls, refugees, children, and people with disabilities. It is based primarily on research conducted by Human Rights Watch.

Attacks on the Political Opposition

During its second UPR cycle, Tanzania supported recommendations aimed at ensuring free and fair elections (134.98, 134.99). Since 2016, however, opposition party members in Tanzania have faced multiple arbitrary arrests and abusive prosecutions, at times for publicly criticizing the government.

In July 2017, police arrested Halima Mdee, a member of the opposition political party Chadema. Authorities charged her with using "obscene, abusive or insulting language" for her remarks during a press conference in which she had been critical of the president's decision to ban pregnant girls from public schools.² In February 2018, authorities charged nine opposition party members, including the chairperson of Chadema, Freeman Mbowe, with sedition, incitement of violence, and holding an illegal rally.³

In 2019, Parliament amended the Political Parties Act to restrict the space in which political parties can independently operate by giving the registrar of political parties wide powers to deregister parties and imposing prison sentences for conducting unauthorized civil education.⁴

In the lead-up to the 2020 elections, the authorities arrested several opposition members. On June 23, 2020, police arrested Zitto Kabwe of the opposition party ACT Wazalendo and seven other opposition members during an internal meeting of their party in Kilwa. On October 12, police arrested, beat and sexually assaulted opposition parliamentary candidate Catherine Ruge in the Serengeti district. On November 17, authorities in Zanzibar released opposition party ACT Wazalendo's deputy secretary general, Nassor Mazrui, after he and other party members spent 23 days in detention. ACT Wazalendo officials said that they were denied access to their party members who had been detained. On November 1, the police arrested the Chadema chairperson, Freeman Mbowe, and party members Godbless Lema and Boniface Jacob. On November 2, the police arrested and later released opposition presidential candidate Tundu Lissu.

https://www.reuters.com/article/us-tanzania-politics/tanzania-mps-grant-government-sweeping-powers-over-political-parties-idUSKCN1PO0IA.

¹ All paragraph cites are to the United Nations General Assembly, Human Rights Council, Report of the Working Group on the Universal Periodic Review: United Repubanzania, A/HRC/33/12 (July 2016). Recommendations accepted by Tanzania can be found here: https://www.upr-info.org/sites/default/files/document/tanzania_united_republic_of/session_25_-_may_2016/recommendations_and_pledges_tanzania_2016.pdf.

² "Tanzanian MP arrested for insulting 'problematic' Magufuli," *Daily Monitor*, July 5, 2017, https://www.monitor.co.ug/News/World/Tanzanian-MP-Magufuli-Halima-Mdee/688340-4001976-yb5urqz/index.html (accessed June 19, 2019).

 ³ "Six Tanzanian opposition leaders charged with sedition," Reuters, March 28, 2018, https://www.reuters.com/article/us-tanzania-politics/six-tanzanian-opposition-leaders-charged-with-sedition-idUSKBN1H4286 (accessed August 30, 2019).
 ⁴ The Political Parties (Amendment) Act, 2019, http://www.sol.udsm.ac.tz/images/Mypdf/Politicalparties.pdf; Fumbuka Ng'wanakilala, "Tanzania MPs grant government sweeping powers over political parties," Reuters, January 30, 2019,

Tanzania should:

- Remove unnecessary restrictions on political parties and party members to independently operate in Tanzania, including by amending the Political Parties Act.
- Effectively investigate and discipline or prosecute, as appropriate, government officials implicated in abuses against the rights of opposition politicians and their supporters.

Attacks on Press Freedom and Freedom of Expression

Tanzania previously supported recommendations to investigate attacks against journalists and address concerns on interference with freedom of expression (134.95, 134.96). The government has cracked down on media and civil society groups and individuals critical of the government by passing new legislation and enforcing existing laws that repress independent reporting and restrict the work of media and nongovernmental organizations.

The 2016 Media Services Act gives government agencies broad powers to censor the media and limit independent journalism and creates overbroad and vague offenses that are open to abuse by the government, such as the publication of statements that threaten "the interests of public order" or "public morality." The law also gives broad oversight to the director of information services, including the power to arbitrarily suspend or cancel newspaper licenses. ⁶

The Tanzanian government has banned or suspended newspapers and radio stations, raided them, or fined them for publishing or broadcasting content that is critical of the government. In 2017, the Department of Information Services under the Ministry of Information, Culture, Arts and Sports banned four newspapers. In February 2019, the same authorities suspended *The Citizen* for seven days for publishing articles about US Senator Bob Menendez raising concerns about civil liberties in Tanzania, and another reporting that the Tanzania shilling was falling against the US dollar. 8

In July 2020, amendments to the Electronic and Postal Communications (Online Content) Regulations provided criminal penalties for publishing online "content against the State and public order," or calling for demonstrations, or that "promotes or favors what would raise sedition, hatred or racism," and "promoting homosexuality," or for publishing "information with regards to the outbreak of a deadly or contagious disease" without government approval. Violators may be fined or sentenced to a year in prison.⁹

The authorities restricted mobile phone and online communications ahead of the October 2020 elections, restricting access to internet and social media networks.

⁵ UN Human Rights Committee, General Comment No. 34, September 12, 2011, https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf.

⁶ Committee to Protect Journalists, "East African court rules that Tanzania's Media Services Act violates press freedom," March 28, 2019, https://cpj.org/2019/03/east-african-court-rules-that-tanzanias-media-serv.php.

⁷ Legal and Human Rights Centre, "Human Rights Situation Report. January – June 2018," August 2018, https://www.humanrights.or.tz/assets/images/upload/files/Mid-Year%20Human%20Rights%20Report%202018(2).pdf (accessed June 19, 2019), p. 33.

⁸ "Tanzania Authorities Cite Bias in Banning of Major English Newspaper. Suspension of The Citizen Latest in Series of Attacks on Freedom of Expression," Human Rights Watch news release, March 6, 2019, https://www.hrw.org/news/2019/03/06/tanzania-authorities-cite-bias-banning-major-english-newspaper.

⁹ The Electronic and Postal Communications (Online Content) Regulations, 2020, July 17, 2020, https://www.tcra.go.tz/document/The%20Electronic%20and%20Postal%20Communications%20(Online%20Content)%20Regulations,%202020, art. 4(2).

Authorities have beaten and arrested journalists while covering events. On August 8, 2018, police detained overnight and repeatedly kicked journalist Sitta Tumma in Tarime district in north Tanzania, as he reported on police dispersing an opposition rally.¹⁰ In May 2017 police arrested and later released without charge 10 journalists covering the deaths of 35 people killed in a bus crash in Arusha.¹¹

Tanzanian authorities have failed to conduct adequate investigations into the abductions and enforced disappearances of at least two journalists: Zanzibar-based Salma Said, whom unidentified men in March 2016 abducted, beat and threatened to kill two days before the re-run of Zanzibar's presidential elections¹²; and freelance journalist Azory Gwanda, who in November 2017, was reported missing after he was picked up from his home in Kibiti by unidentified people in a white vehicle, and remains missing. Gwanda had been investigating a spate of unresolved killings in the southern Pwani region.¹³

Tanzania should:

- Conduct credible and transparent investigations into abductions and enforced disappearances of journalists and prosecute perpetrators.
- Amend the Media Services Act of 2016 to comply with international standards.

Attacks on Freedom of Association

Tanzania previously accepted recommendations to respect the rights to association, as well as peaceful assembly and expression (134.97, 134.98). Tanzanian authorities have since deregistered and raided civil society organizations for expressing controversial views, challenging government positions, or working with marginalized groups.

In June 2020, in Zanzibar, the registrar summoned Hamid Muhammad Ali, director of the AIDS Initiative, Youth Empowerment and Development Organization, an LGBT rights group, to a meeting in which officials questioned him and informed him that his organization's registration was being suspended for "promoting homosexuality." On August 10, the minister for regional administration, local government, and special departments cancelled the group's nongovernmental organization license for going against the "religious and social values" of Zanzibar.

In October 2017 police raided a meeting co-hosted by Community Health and Education Support and Advocacy (CHESA), a prominent group working to protect the health and human rights of LGBT people, and the South Africa-based Initiative for Strategic Litigation in Africa on the right to health in Tanzania. During the 2017 raid, police arrested 12 lawyers and activists participating in the meeting on spurious charges of "promoting homosexuality." While detaining them, police threatened to subject the lawyers and activists to forced anal examinations. Police then released them on October 26, after nine days in jail. In August 2019, the NGO registration board deregistered CHESA, claiming that they were promoting "unethical acts.".

In December 2016 and September 2017, police raided meetings on health and human rights hosted by the Open Society Initiative for East Africa (OSIEA) and by Bridge Initiatives Organization (BIO), a group

¹⁰ Human Rights Watch interview, September 11, 2018; "Opposition MP Matiko held for 'unlawful assembly' in Tarime," *IPP Media*, August 10, 2018, https://www.ippmedia.com/en/news/opposition-mp-matiko-held-%E2%80%98unlawful-assembly%E2%80%99-tarime.

¹¹ "Tanzania bus crash: Dozens of pupils killed in Arusha," *Al Jazeera*, May 7, 2017, https://www.aljazeera.com/news/2017/05/tanzania-bus-crash-dozens-pupils-killed-arusha-170506141134295.html.

^{12 &}quot;Tanzanian journalist abducted, beaten for Zanzibar election coverage," Committee to Protect Journalists, March 22, 2016,

[&]quot;https://cpj.org/2016/03/tanzanian-journalist-abducted-beaten-for-zanzibar-.php.

¹³ Legal and Human Rights Centre, "Human Rights Situation Report. January – June 2018," 34, August 2018,

https://www.humanrights.or.tz/assets/images/upload/files/Mid-Year%20Human%20Rights%20Report%202018(2).pdf.

based in Zanzibar that provides HIV prevention services to key populations.

Authorities have also targeted staff of organizations working on mining issues. On July 12, 2017, police arrested two members of the Tanzanian organization Actions for Democracy and Local Governance (ADLG) in the Shinyanga region, northern Tanzania, as they conducted a capacity-building workshop for local government officials working in mining areas, addressing how local communities can benefit from mining. Prosecutors charged them with "disobedience of statutory duty" under section 123 of the penal code, alleging that the two were operating outside the scope of their organization's mandate and the NGO law.¹³ Four months later, the Kishapu district court dismissed the charges against them.

Tanzania should:

- End politically motivated deregistrations of nongovernmental organizations
- Ensure any regulations on NGOs are consistent with the rights to freedom of association, expression and peaceful assembly.

Discrimination, Arbitrary Arrest and Torture and Ill-Treatment on Grounds of Sexual Orientation and Gender Identity

While Tanzania did not accept recommendations to decriminalize consensual adult same-sex conduct, its inaction on these recommendations places it in violation of its international human rights obligations. Tanzanian law punishes consensual adult same-sex conduct with up to life in prison. Since 2016, the government has persecuted lesbian, gay, bisexual and transgender (LGBT) people through waves of arbitrary arrests, threats, attacks on civil society, and violations of the right to health, leading some LGBT people to flee their homes, including to seek asylum abroad. Human Rights Watch has documented numerous arbitrary arrests of LGBT people for attending meetings, gathering at bars or simply walking down the street.

In December 2016, Tanzania, for the first time known to Human Rights Watch, began subjecting people accused of homosexuality to forced anal examinations, degrading treatment that may in some cases amount to torture. The examinations, which have the purported objective of finding "proof" of homosexual conduct, sometimes involve doctors or other medical personnel forcibly inserting their

¹⁴ For authoritative guidance on the protection afforded by international human rights law against discrimination based on sexual orientation and gender identity, see "Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity" (2006), http://yogyakartaprinciples.org/principles-en/.

¹⁵ "Hamad Masauni: Waziri ataka wapenzi wa jinsia moja kukamatwa Zanzibar," BBC News Online, September 20, 2019, https://www.bbc.com/swahili/habari-49773733; KTV TZ Online, "'POLISI KAMATENI WANAOJIHUSISHA NA USHOGA ZANZIBAR' – MASAUNI," posted September 21, 2019, video clip, YouTube, https://www.youtube.com/watch?v=8CCOsQw3UbQ.

¹⁶ Human Rights Watch, "If We Don't Get Services, We Will Die": Tanzania's Anti-LGBT Crackdown and the Right to Health, February 3, 2020, https://www.hrw.org/report/2020/02/03/if-we-dont-get-services-we-will-die/tanzanias-anti-lgbt-crackdown-and-right#7581; Human Rights Watch, "Treat Us Like Human Beings": Discrimination against Sex Workers, Sexual and Gender Minorities, and People Who Use Drugs in Tanzania, June 18, 2013, https://www.hrw.org/report/2013/06/18/treat-us-human-beings/discrimination-against-sex-workers-sexual-and-gender.

fingers, or other objects, into the anus of the accused.¹⁷

The Tanzanian government has also prevented LGBT people from accessing health care. Since 2016, the Ministry of Health has banned community-based organizations from providing HIV and public health services, including peer education and HIV testing, to men who have sex with men (MSM) and other groups considered to be key populations in the global fight against HIV, including sex workers and people who inject drugs, based on the pretext that such organizations are engaged in the "promotion of homosexuality." The Health Ministry banned nongovernmental organizations from distributing water-based lubricant, an essential HIV prevention tool. The ministry threatened to deregister organizations that do not obey the directive. 19

In February 2017, the Health Ministry closed more than 30 drop-in centers that provided HIV testing, treatment, counselling, and other services to LGBT people and key populations. The ministry asserted that these health centers were involved in "homosexuality promotional activities." ²⁰

Tanzania should:

- Prohibit all forced anal examinations in the context of prosecutions for consensual same-sex conduct
- Instruct police on the mainland and in Zanzibar to end arrests based on sexual orientation, gender identity, and gender expression and to stop raiding meetings and workshops organized by LGBT rights and health advocates.
- Allow civil society organizations that work to protect the rights and health of LGBT people to operate freely.
- Take the following measures to protect LGBT Tanzanians' access to health care:
 - o Issue a directive reversing the ban on distribution of lubricant.
 - Allow nongovernmental organizations and community-based organizations to reopen drop-in centers providing HIV services and other health services to LGBT people and other key populations.
 - Reverse the prohibition on community-based organizations conducting HIV education and outreach targeting men who have sex with men and other key populations.
- Repeal laws that discriminate on the grounds of sexual orientation.

Abuses and Discrimination Against Girls and Women

During its second UPR cycle, Tanzania accepted recommendations to fight discrimination against women and girls, including in access to education (e.g. 134.12, 134.40, 134.117). Tanzania prohibits pregnant girls, teenage mothers, and girls forced to marry from completing primary and secondary education in

¹⁷ Human Rights Watch telephone interview with victim of forced anal exam, April 27, 2017.

¹⁸ United Republic of Tanzania, Ministry of Health, Community Development, Gender, Elderly and Children, "Statement by the Minister for Health, Community Development, Gender, Elderly and Children. Hon. Ummy Mwalimu on Key Population HIV Services in Tanzania, 27th October, 2016." On file with Human Rights Watch; also available at https://m.facebook.com/afyatz/posts/1230922863594845.

¹⁹ The statement was posted on Mwalimu's personal Facebook page at https://www.facebook.com/Ummy-Ally-Mwalimu-1694185450859688/?fref=ts and was accessed by Human Rights Watch on repeated occasions in July and August 2016. It is no longer available to the public. A screenshot of the post is on file with Human Rights Watch.

²⁰ Amy Fallon, "People With HIV Are Panicking Due To Tanzania's Crackdown On Gays," NPR, March 5, 2017, https://www.npr.org/sections/goatsandsoda/2017/03/15/518155924/people-with-hiv-are-panicking-due-to-tanzanias-crackdown-on-gays. The Health Ministry has repeatedly claimed its own government health centers will provide service to LGBT people and key populations, free of discrimination. But Human Rights Watch research has found that discrimination on the basis of sexual orientation and gender identity in these centers is rampant. Human Rights Watch, "If We Don't Get Services, We Will Die": Tanzania's Anti-LGBT Crackdown and the Right to Health, February 3, 2020, https://www.hrw.org/report/2020/02/03/if-we-dont-get-services-we-will-die/tanzanias-anti-lgbt-crackdown-and-right#7581.

public schools, affecting a large number of adolescent girls.²¹ The expulsion of pregnant students from public schools is permitted under Tanzania's education regulations.²² Schools regularly conduct pregnancy tests and expel students found to be pregnant. Estimates show that between 5,500 to 8,000 girls could be affected on annual basis.²³

On June 22, 2017, the late President John Magufuli stated, "As long as I'm president, no pregnant students will be allowed to return to school." In January 2018, police in Tandahimba district, Mtwara region, arrested five girls between ages 16 and 19 for being pregnant, following orders from the district's commissioner.²⁴ In February 2020 Dodoma District Commissioner Patrobas Katambi ordered mandatory pregnancy testing of all schoolgirls every three months, and stated that the names of girls identified as pregnant would be publicly announced after compulsory testing. He also ordered government officials to report cases to the police.²⁵

Tanzania should:

- End the expulsion of girls from schools, and adopt a national policy to ensure pregnant students and adolescent mothers are able to study in public schools alongside other students.
- Take steps to eliminate stigma, discrimination and exclusion against pregnant girls and adolescent mothers, including in schools.
- Implement legal, policy and practical measures to end child marriage.

Abuses Against Refugees and Asylum Seekers

As of January 2021, Tanzania hosted nearly 150,000 Burundian refugees in three camps near the border. Since 2017, Human Rights Watch has documented both coerced and forced returns, or refoulement, of Burundian refugees and asylum seekers, in addition to other government abuses. Between October 2019 and August 2020, Tanzanian police and intelligence services forcibly disappeared, tortured, and arbitrarily detained at least 11 Burundian refugees and asylum seekers, forcibly returning eight of them to Burundi in August. As of March 2021, these eight remained in detention in Burundi where they are facing trial. Tanzanian police also arrested and forcibly disappeared at least seven other Burundians from Mtendeli Nduta refugee 2020. and camps since January

A 2019 agreement between Tanzania and Burundi announced that all the refugees were to return "whether voluntarily or not." During 2019, Human Rights Watch found that the fear of violence and arbitrary arrest, deportation threats by officials, and deteriorating conditions in refugee camps had driven many Burundians in Tanzania out of the country. In October 2019, Tanzanian authorities unlawfully coerced more than 200 unregistered asylum seekers into returning to Burundi by threatening

²¹ Human Rights Watch, "I Had a Dream to Finish School": Barriers to Secondary Education in Tanzania, February 2017, https://www.hrw.org/report/2017/02/14/i-had-dream-finish-school/barriers-secondary-education-tanzania#dc2fa8.

²² Ministry of Education, Science and Technology, Education (Expulsion and Exclusion of Pupils from Schools) Regulations, art.4 (b)-(c).

²³ Center for Reproductive Rights, "Center for Reproductive Rights and the Legal and Human Rights Centre file a complaint challenging the expulsion and exclusion of pregnant school girls in Tanzania," June 17, 2019, https://reproductiverights.org/press-room/complaint-challengingexpulsion-of-pregnant-girls-in-tanzania. World Bank, "Factsheet: Tanzania Secondary Education Quality Improvement Program (SEQUIP)," March 21, 2020, https://www.worldbank.org/en/news/factsheet/2020/03/31/tanzania-secondary-education-quality-improvement-program-sequip

⁽accessed February 3, 2021).

24 Mary Sanyiwa, "District Commissioner orders arrest of 55 pregnant schoolgirls," *The Citizen*, December 27, 2017, https://www.thecitizen.co.tz/News/DC-orders-arrest-pregnant-schoolgirls/1840340-4242606-12itq4h/index.html (accessed February 10, 2020). Africa News, "Tanzania arrests pregnant schoolgirls, hunting for men responsible," January 8, 2018, https://www.africanews.com/2018/01/08/tanzania-arrests-pregnant-schoolgirls-hunting-for-men-responsible/.

²⁵ Human Rights Watch unofficial translation of statement by Patrobas Katambi, Dodoma District Commissioner, on February 29, 2020. Transcript on file with Human Rights Watch.

to withhold their legal status. While over 125,000 Burundians have returned from Tanzania to Burundi since 2017 under an official repatriation agreement, the UN refugee agency, UNHCR, has stated that it "does not promote returns to Burundi."

Tanzania should:

- Investigate all reported abuses against Burundian refugees and asylum seekers, including
 arbitrary detention, enforced disappearances, torture, extortion, and refoulement to Burundi;
 appropriately prosecute anyone responsible for abuses; and instruct all relevant government
 officials and state security forces to ensure the abuses immediately cease.
- Inform UNHCR immediately of the arrest and detention of any Burundian refugees and asylum seekers and the reasons for their arrest, and allow UNHCR access to all refugees and asylum seekers prior to initiating any expulsion or return proceedings to properly verify that their decision to return to Burundi is voluntary.

Corporal Punishment and Humiliating Treatment in Schools

Despite Tanzania accepting recommendations to eradicate violence against children (134.71), Human Rights Watch found that the use of corporal punishment is a routine and sometimes brutal part of many students' school day. School officials and teachers frequently resort to insulting students and beating them with bamboo and wooden sticks, and hitting girls on breasts and buttocks. Tanzania has national regulations that permit corporal punishment for "serious breaches of school discipline," and "grave offences committed...inside or outside the school...deemed by the school authority to have brought or [sic] capable of bringing the school into disrepute."²⁶

In August 2019, the President's Office for Regional Administration and Local Government banned teachers in the lower grades of primary school from entering classrooms with canes.²⁷ At time of writing, the government had not taken further steps to ban corporal punishment in schools.²⁸

Tanzania should:

- Take steps towards officially banning corporal punishment in schools and in other environments.
- Implement measures to hold teachers, school officials, and government authorities accountable for committing violence against students, including humiliating and degrading treatment.
- Conduct training for teachers on non-violent classroom management and positive discipline pedagogies.

Shackling of People with Intellectual and Psychosocial Disabilities

Tanzania committed to implementing recommendations on protecting the rights of persons with disabilities (134.119, 134.120). People with intellectual and psychosocial disabilities (mental health conditions) in Tanzania can be shackled—chained or locked in confined spaces—for weeks, months or even years.²⁸ Many are held in sheds, cages, or animal shelters and are forced to eat, sleep, urinate, and

²⁶ Education (Corporal Punishment) Regulations, reg. 3 (1).

²⁷ Ofisi Ya Rais Tawala Za Mikoa na Serikali za Mitaa (Tamisemi), Official announcement on Facebook page, August 2, 2019. Copies of the announcement on file with Human Rights Watch.

²⁸ See Global Initiative to End Corporal Punishment of Children, "Country Report for the United Republic of Tanzania," March 2020, https://endcorporalpunishment.org/reports-on-every-state-and-territory/united-republic-of-tanzania/.

defecate in the same tiny area. This inhumane practice exists due to inadequate support and mental health services as well as widespread beliefs that stigmatize people with intellectual or psychosocial disabilities.²⁸

In the absence of support services, families often struggle to cope and feel they have no choice but to shackle relatives with intellectual or psychosocial disabilities.²⁸ In 2017 in Nyarugusu refugee camp, Malaki, a boy with an intellectual disability, was chained to a pole by his family to ensure he remained safe in his home.²⁸

Tanzania should:

- Ban shackling in law and in policy.
- Develop a time-bound plan to shift progressively to voluntary community-based support services, including mental health and independent living services.
- Create and implement a de-institutionalization policy and a time-bound action plan for deinstitutionalization, based on the values of equality, independence, and inclusion for persons with disabilities.
- Comprehensively investigate state and private institutions in which people with intellectual or psychosocial disabilities are chained or arbitrarily detained.
- Conduct public information campaigns to raise awareness about mental health conditions and the rights of people with disabilities, in collaboration with organizations of persons with disabilities.