

Policy Brief to addressing Unlawful Arrests and Disappearances in Tanzania: Ensuring Accountability and Adherence to Legal Procedures

1. Introduction

Legal and Human Rights Centre (LHRC) issues this policy brief to advocate for improved legal, policy and practice environment against unlawful arrest and disappearance of people in the United Republic of Tanzania. The brief comes in the period of increasing incidents which lead to violation of human rights as reported by the organization and through various media channels. The overall expectation of the organization is the adoption of the recommendations provided for curbing those incidents to support flourishing and enjoyment of human rights by all people.

2. Issue Overview

Unlawful arrests and forced disappearances have become an alarming concern in Tanzania, and the increasing incidents of unlawful arrests which led to the abduction of people by unknown assailants who camouflaged in police force conduct and appearance indicate a loophole in the full execution of police force mandate in Tanzania. There are repeated cases of arrests conducted by some police officers without following the proper legal procedure laid down by the Criminal Procedure Act, 1985, such conduct attracted abductors to use the same practice purporting to be police officers. It is unclear to distinguish arrests conducted by police and those by abductors, this maximizes fear and lack of public trust towards the Police Force.

The Presidential Commission on Criminal Justice Report reveals that there is a challenge of the presence of multiple institutions with arresting authority, which has also been criticized by citizens, making it difficult to identify the institution that arrested their relative and where they are being held. Additionally, the existence of numerous arresting bodies with detention facilities has been interpreted by society as one of the reasons for individuals disappearing while in the custody of state agencies.^[1]

¹ Presidential Commission on Criminal Justice Summary Report, 2023 at page 3.

It is Noteworthy to highlight that, there are cases where individuals were abducted under such circumstances have disappeared permanently, such incidents include the arrests disappearance of Dioniz Kipanya, Deusdedith Soka, and others, whose whereabouts remain unknown.^[2] There insufficient of transparency in investigations and public communication cemented the public mistrust in law enforcement institutions, undermining the rule of law and eroding citizens' sense of safety.

3. Key Concern

Abductions and unlawful arrests are frequently conducted without warrants or proper legal justification, contravening Tanzanian laws and international human rights obligations. The issue of forced disappearance is often attributed to police actions, creating a climate of fear and suspicion. Clearly, unlawful arrest and abduction have severe consequences for individuals, families, communities, and society at large. The effects extend to families and communities, where emotional distress and uncertainty about the victim's safety could lead to immense grief and anxiety.

4. Causes

Weak oversight mechanisms within police operations have limited the accountability of law enforcement officers. Political interference in police affairs has also been identified as a potential driver of such abuses, with the misuse of police authority occasionally linked to political suppression. Inadequate training in lawful arrest procedures and human rights has further compounded the issue. Moreover, the absence of effective public engagement and transparent communication channels has left families and communities affected without recourse or closure.

5. Legal and Policy Framework

The Constitution of the United Republic of Tanzania, 1977^[3] provides protection from arbitrary detention. Part II of the Criminal Procedure Act^[4] outlines the legal requirements for arrests and detention.

² <https://panafricanvisions.com/2024/08/tanzania-faces-outcry-over-abduction-of-chadema-activist-and-widespread-human-rights-concerns/> [Accessed on 20th November 2024].

³ Article 15 of the Constitution of the United Republic of Tanzania, 1977.

⁴ Section 11 to 33 of the Criminal Procedure Act, Cap. 20 [R.E 2022].

At the international level, Tanzania is a state party to the International Covenant on Civil and Political Rights (ICCPR), which prohibits arbitrary arrest and enforced disappearances. However, gaps remain in enforcing these provisions effectively.

6. Recommendations

1. Tanzania should strengthen accountability mechanisms by establishing an independent oversight body to monitor police conduct, investigate complaints, and take disciplinary action against officers who contravene the law during the execution of their duties.
2. Taking deliberate action to ratify and domesticate the International Convention for the Protection of All Persons from Enforced Disappearance.
3. The Ministry of Home Affairs to provide a comprehensive investigation report to public on all cases of unlawful arrest, detention, abduction, killings and abduction.
4. Enhancing police training and capacity is another critical step. Comprehensive programs should be developed to educate officers on lawful arrest procedures, human rights, and ethical law enforcement practices. Training should also emphasize public engagement and accountability.
5. Fostering police and community dialogues to encourage mutual accountability and collaboration in revealing unlawful arrest, detention and abduction.
6. Creation of independent Holding accountable all perpetrators of unlawful arrest, detention, abduction and killings through the creation of an independent commission on inquiry.
7. Strengthening victims and whistleblower protection by establishing independent mechanisms to enable citizens to report misconduct without fear of retaliation.
8. The establishment of public accessible registry of arrests can improve transparency and accountability while providing a record of police activities.

7. Implementation Plan

In the short term, immediate efforts should focus on sensitizing police officers on lawful arrest procedures and human rights. Legislative processes to criminalize enforced disappearances should also commence. Medium-term measures include establishing an independent oversight mechanism and initiating comprehensive training programs for law enforcement officers.

In the long term, transparency measures, community-police dialogues, and technological oversight tools should be institutionalized to ensure sustained reforms.

8. Conclusion

Unlawful arrests and disappearances undermine Tanzania's commitment to Human Rights and the rule of law. Addressing these issues requires a comprehensive approach that reinforces accountability, transparency, and community engagement. By implementing these recommendations, Tanzania can restore public trust in law enforcement, enhance citizen safety, and strengthen its democratic governance.