

TANZANIA HUMAN RIGHTS REPORT 2022

The Journey of Criminal
Justice Reforms to
Safeguard Human Rights

**NOT FOR
SALE**



**PART ONE: TANZANIA MAINLAND
LEGAL AND HUMAN RIGHTS
CENTRE (LHRC)**



**PART TWO: ZANZIBAR
THE ZANZIBAR FIGHTING AGAINST
YOUTH CHALLENGES ORGANIZATION
(ZAFAYCO)**



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**PART ONE: MAINLAND TANZANIA
LEGAL AND HUMAN RIGHTS
CENTRE (LHRC)**

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Dr. Anna Aloys Henga (Advocate)
LHRC Executive Director



LIST OF ABBREVIATIONS

ACHPR	African Charter on Human and Peoples Rights
ACRWC	African Charter on the Rights and Welfare of the Child
ACERWC	African Committee of Experts on the Rights and Welfare of the Child
AIDS	Acquired Immune Deficiency Syndrome
CAG	Controller and Auditor General
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CCM	Chama cha Mapinduzi
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention on the Elimination of all Forms of Racial Discrimination
CHRAGG	Commission for Human Rights and Good Governance
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CVAWG	Cyber Violence against Women and Girls
CSOs	Civil Society Organizations
DC	District Commissioner
DPP	Director of Public Prosecutions
FGM	Female Genital Mutilation
H.E.	His/Her Excellency
HIV	Human Immunodeficiency Virus
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
IPH	Intimate Partner Homicide
IPV	Intimate Partner Violence
LGAs	Local Government Authorities
LHRC	Legal and Human Rights Centre
MDG	Millennium Development Goal
MoCGWSG	Ministry of Community Development, Gender, Women and Special Groups



MPs	Members of Parliament
NBS	National Bureau of Statistics
NEA	National Elections Act
NEC	National Electoral Commission
NEMC	National Environmental Management Council
NCII	Non-consensual intimate image
PCCB	Prevention and Combating of Corruption Bureau
PCCA	Prevention and Combating of Corruption Act
PLHIV	Persons living with HIV/AIDS
PWAs	Persons with Albinism
PWDs	Persons with Disabilities
RC	Regional Commissioner
SDG	Sustainable Development Goal
THRDC	Tanzania Human Rights Defenders Coalition
TLS	Tanganyika Law Society
TPS	Tanzania Prisons Services
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNGA	United Nations General Assembly
UNESCO	United Nations Educational, Scientific and Cultural Organization
UPR	Universal Periodic Review
URT	United Republic of Tanzania
VAC	Violence against Children
VAM	Violence against Men
VAW	Violence against Women
VAWC	Violence against Women and Children
WEO	Ward Executive Officer





ABOUT LHRC

The Legal and Human Rights Centre (LHRC) is a private, autonomous, voluntary non-governmental, non-partisan and non-profit sharing organization envisioning a just and equitable society. LHRC was established in 1995 and its operations mainly focus on Mainland Tanzania, with specific interventions in Zanzibar. It has four offices, two in Dar-es-Salaam, one in Arusha and another in Dodoma. The Head Office is located at the Justice Lugakingira House in Kijitonyama Area Dar-es-Salaam.

Vision: The LHRC envisages a just and equitable society, in which the three arms of the State, as well as non-state actors, practice accountability, transparency and there is the rule of law; and where there is public awareness, respect and engagement for human rights and good governance, where justice and respect for human dignity are reality.

Mission: To empower the public, promote, reinforce, and safeguard human rights and good governance in Tanzania through legal and civic education and information; sound legal research and advice; monitoring and following-up on human rights violations; and advocacy for reforms of policies, laws and practices in conformity with international human rights standards.

LHRC's Values: Integrity; Equality; Transparency; Accountability; Professionalism; and Voluntarism and Volunteerism.



MAJOR DEVELOPMENTS IN 2022

More calls for criminal justice system reform.

Adoption of the National Action Plan to Combat Trafficking in Persons 2021-2024

Establishment of anti-human trafficking child protection task force.

National census successfully conducted across Tanzania.

The tozo (mobile levy) saga rocks the nation and raises human rights concerns.

Water shortages and power outages impacting enjoyment of socio-economic rights

Introduction of Plea Bargaining Guidelines.

CAG investigation of plea bargaining.

Government plans for review of education policy.

Formation of the presidential taskforce on multiparty democracy.

High Court judgement on the right of prisoners and remandees to vote, which is constitutionally guaranteed.

Decision of the African Committee of Experts on the Rights and Welfare of the Child on forced pregnancy testing and expulsion from schools when found pregnant or married.

Commencement of process to amend the Media Services Act, 2016.

Formation of a 12-member committee to investigate the performance of criminal justice institutions in the country, including advising on the best way to improve the performance of Tanzania's criminal system.

Enactment of the Personal Data Protection Act, 2022.

Calls to lift ban on political rallies.

Lifting of bans on media outlets.

Introduction of the new Wage Order of 2022.

Recommendation by presidential taskforce on multiparty democracy of presidential election results to be challenged in Supreme Court, once such court has been established.



KEY HIGHLIGHTS IN 2022

1	Intimate Partner Homicide (IPH)	<ul style="list-style-type: none"> ■ IPH, caused by intimate partner violence (IPV), has become a serious concern, with implications on the right to life, right to health, right to personal security, and freedom from violence. ■ Majority of IPV incidents motivated by jealousy. ■ Women constitute the majority of victims (over 90%).
2	Press Freedom	<ul style="list-style-type: none"> ■ Hope for press freedom as media environment is perceived to be improving and fewer press freedom violations reported. ■ However, restrictive laws and regulations not yet amended. ■ Despite the perceived improvement in the media environment, Tanzania only jumped one place in the World Press Freedom Index 2022, but score dropped slightly .
3	Economic violence against women	<ul style="list-style-type: none"> ■ Concerns over rural women's access to, use of and control over land. ■ Property grabbing from women and older persons also a concern. ■ Withholding access to money also common in rural areas ■ Eviction of widows from marital home a common practice, especially in semi-urban and rural areas. Forced eviction and property grabbing are serious concerns for widows and their children. ■ Denial of women's and girls' inheritance and property rights. ■ Legal reforms needed to safeguard their property and inheritance rights.
4	Criminal justice	<ul style="list-style-type: none"> ■ Calls for reform of Tanzania's criminal justice system continued to be made by government and non-government stakeholders, including H.E. President Samia Suluhu Hassan. ■ Formation of criminal justice reforms committee a step in the right direction. ■ However, immediate and concrete action, including legal reforms, needed as accused persons continue to suffer because of challenges such as delays in investigations, lengthy detention, frequent adjournment of cases, and delays in disposal of cases. ■ Poor prison conditions also a concern. ■ Incarcerated women disproportionately affected by poor prison conditions.



5	Violence against the elderly	<ul style="list-style-type: none"> ■ The elderly targeted, attacked, and killed over witchcraft suspicion, property, and other reasons, including by own children. ■ Elderly men and women subjected to different acts of physical, sexual, psychological, and economic violence. ■ More incidents of violence against the elderly reported in 2022, causing them to live in fear, especially in rural areas, and raising concerns over their personal security.
6	Mental health	<ul style="list-style-type: none"> ■ Mental health cited as a big concern by medical professionals in 2022. ■ Mental health patients have been increasing in the past five years. ■ Mental health a major cause of increasing trends of citizens committing suicides countrywide. ■ Males and youth constitute the majority of suicide victims.
7	Violence against children	<ul style="list-style-type: none"> ■ Violence a biggest threat to children's rights. ■ Sexual violence, especially rape and sodomy, the most common form of violence against children (VAC). ■ Physical violence also becoming a big concern, with parents/guardians mentioned as main perpetrators – with burning hands and other parts of body a preferred form of punishment. ■ Majority of community members perceiving VAC to be a serious problem in the community. ■ Child sexual abuse in religious settings also becoming a serious concern.
8	Political participation	<ul style="list-style-type: none"> ■ Measures to improve multiparty democracy a positive for political participation. ■ Need for reforms to safeguard political participation as we head towards the 2025 general elections. ■ Amendment of electoral laws to ensure equal participation of women, youth, and PWDs in politics and representation in decision making important. ■ Need for legal reforms to address legal barriers to women's political participation, including gender gaps in electoral laws. ■ Right to vote for prisoners and remandees defended by Judiciary. ■ Recent Kenya elections provide key lessons for Tanzania, including challenging of presidential election results, independence of the Judiciary, transparency, independence and integrity of electoral management bodies (EMBs), parallel vote tallying/tabulation, and need for a new, people-centred Constitution.



9	Quality education and health services	<ul style="list-style-type: none"> ■ Stakeholder concerns over quality of education and calls for review of education system. ■ Budgetary constraints a biggest challenge in provision of quality education and health services, as budgetary allocations are below international minimum standards. ■ Shortages of human resources and facilities also a big concern for realization of health and education rights.
10	Economic empowerment of women, youth & PWDs	<ul style="list-style-type: none"> ■ Economic empowerment crucial in fighting GBV and safeguarding socio-economic rights, including rights to work and adequate standard of living. ■ Economic empowerment of women, youth, and PWDs through 10% loans granted by LGAs creating positive impact, including self-employment and improved livelihoods. ■ CAG identified several issues and challenges, including non-payment and recovery of loans, failure of LGAs to set aside funds for the revolving fund, provision of loans to unqualified groups, disregard of procedure in provision of loans, and inadequate capacity of CDOs to manage loans. Political interference also a challenge.
11	Corruption, Embezzlement, Accountability and Development	<ul style="list-style-type: none"> ■ Recent CAG reports have highlighted various flaws and gross financial irregularities in public spending, pointing to corruption and related offences. ■ Corruption, fraud, and embezzlement indicators include misuse of public resources by overpaying for goods and/or services; mismanagement of public funds; abuse of position; payments to ghost workers; payments to ghost contractors; receipt of below standard goods and services; lack of receipts for payments; payments without contract; payments without actual delivery of services or goods; and disregarding laid-down public procurement guidelines



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EXECUTIVE SUMMARY

Introduction

This is the 21st report to be produced by LHRC since 2002. The report discusses the situation of human rights in Tanzania for the year 2022, covering both Mainland Tanzania (Part One) and Zanzibar (Part Two). This executive summary mainly covers the situation of human rights in Mainland Tanzania but makes specific comparisons to the situation in Zanzibar.

The report assesses the situation of human rights in Tanzania in line with international human rights standards and covers all three generations of human rights, namely: civil and political rights; economic, social, and cultural rights; and collective rights. These categories of human rights are covered in separate chapters, but there are other chapters that cover contextual overview, rights of vulnerable groups, human rights mechanisms, status of implementation of recommendations made in previous reports, and conclusion and recommendations.

Information and data used to prepare this report was obtained from primary and secondary sources. Primary data were mainly obtained through human rights survey, conducted in 20 regions across Mainland Tanzania;³ LHRC's engagement with beneficiaries of its programmes, especially legal aid and human rights monitoring programmes, also generated important primary data used in this report. Secondary data were obtained through review of various credible sources, including reports, speeches, and statements by government and non-government actors and institutions. LHRC's media survey also provided an important data source for this report, enabling triangulation of data, and laying a foundation for further research.

Based on the assessment of human rights issues vis-à-vis international human rights standards, LHRC observed that the overall situation of human rights slightly improved in 2022 compared to the previous year of 2021. Like it was the case in 2021, in the year 2022 the most reported and documented human rights issues were violations of civil and political rights. Children constituted the majority of victims of reported and documented incidents of human rights violations (47%), followed by women (33%), elderly (10%), and PWDs (4%).

³ Dar es Salaam, Pwani, Mtwara, Morogoro, Dodoma, Tabora, Singida, Tanga, Kilimanjaro, Arusha, Iringa, Mbeya, Njombe, Kagera, Mwanza, Mara, Geita, Rukwa, Kigoma, & Katavi.



Below are some key findings on the situation of human rights in Mainland Tanzania for the year 2022.

Key Findings

1. Civil & Political Rights

In 2022, the situation of civil and political rights slightly improved compared to the year 2021. Several contributing factors are discussed in this report, key among them being improved media environment, proposed lifting of political rallies ban, and Government's plans over criminal justice reforms.

Right to Life

In 2022, key right to life issues and violations in Mainland Tanzania included mob violence, witchcraft-motivated killings, extrajudicial killings, death penalty, and intimate partner homicide (IPH).

Mob violence continued to be one of the key issues affecting right to life and incidents of such violence are more prevalent in Mainland Tanzania, accounting for over 95% of all incidents. Through media survey and human rights monitoring, LHRC documented at least 40 incidents of mob violence in 2022, which are 18 more than those documented in 2021. These incidents, usually constitute only a small fraction of those documented by police.

Extrajudicial killings documented by LHRC increased by one incident in 2022. LHRC documented 10

incidents, reported in Kigoma, Mtwara, Kilimanjaro, Morogoro, Tabora, and Lindi Regions, perpetrated by people's militia officers, game wardens, and police officers. The situation of such killings and other misconducts by law enforcement officers underlines the need for establishment of an independent civilian oversight body that would help to restore or enhance public trust and confidence, enhance integrity of law enforcement officers, and strengthen accountability. On the other hand, in 2022 LHRC also documented at least eight (8) incidents of violence against law enforcement officers, in which seven law enforcement officers, all male, were killed and one left seriously injured.

Witchcraft-motivated killings, especially of so called 'witches,' continue to be a problem in different parts of Mainland Tanzania. In 2022, LHRC documented at least 17 incidents of witchcraft-motivated killings, reported in Morogoro, Shinyanga, Mwanza, Kilimanjaro, Tabora, and Njombe Regions, 19 less than those documented in 2022. Majority of the victims (52%) were female, and one of the victims was a person with albinism. Witchdoctors were found to be at the centre of most witchcraft-motivated killings, accused of fueling such killings. In recent years, LHRC has observed that incidents of **attack and killing**



of persons with albinism (PWAs) are re-emerging. The brutal killing of a child with albinism in Tabora in 2021 was followed by another killing of a man, Joseph Mathias (50), who bled to death after his hand was cut, in Mwanza in 2022. This calls for deliberate and immediate actions to enhance protection of PWAs.

Death penalty, which violates the right to life and amounts to a cruel, degrading and inhuman punishment, continued to be imposed in 2022. In the period of 2020 to 2022, LHRC documented a total of 98 death sentences, whereby 91 convicts (93%) were male and 7(7%) were female. In 2022, LHRC documented 44 death sentences, increasing from 24 in 2021. Out of the 44 death sentences imposed, 41 were for male convicts and 3 for female convicts. On a positive note, in 2022, more countries around the world (125), voted in favour of the United Nations General Assembly (UNGA) resolution on moratorium on the use of the death penalty. Three more African countries, Central African Republic, Equatorial Guinea, and Zambia also abolished death penalty in 2022. The African Court on Human and Peoples' Rights also ruled, in the case of Marthine Christian @ Msuguri v. United Republic of Tanzania, that mandatory death penalty violated his right to life.

Intimate partner homicide (IPH) continued to be a key right to life issue in 2022. During this reporting period, LHRC documented 33 incidents of IPH, which are 2 less than those documented in 2021. These incidents were reported in Geita, Dodoma, Lindi, Mbeya, Singida, Mwanza, Shinyanga, Katavi, Mtwara, Dar es Salaam, Ruvuma, Mara, Morogoro, Rukwa, Songwe, and Manyara Regions. Among the 33 victims, 2 were male and 31 were female. 52% of the incidents were said to be motivated by jealousy.

Disappearances: In 2022, there were no updates on the disappearances of various people, including that of a journalist, Azory Gwanda, who disappeared under mysterious circumstances in Pwani Region in November 2017; Ben Saanane, a political activist, who disappeared in 2016; and Simon Kanguye, former Chairperson of Kibondo District Council, who disappeared in 2017.

Road accidents continued to be a right to life concern, mainly due to negligence on the part of drivers of vehicles. They continued to claim lives of loved ones, including breadwinners and children, as well as leaving survivors with permanent injuries and disabilities. In November 2022, police reported that road accidents in Tanzania had increased by 0.8% in the period of January to November 2022, compared to the same period in 2021.



Freedom of Expression

In 2022, key freedom of expression issues and violations in Mainland Tanzania included existence of restrictive laws and regulations, Government intention to amend freedom of expression laws, government lifting of ban on four media outlets, and arrest and harassment of journalists.

- Laws and regulations containing provisions which arbitrarily restrict freedom of expression, such as the Media Services Act of 2016, Cybercrimes Act of 2015, and Online Content Regulations of 2020, were yet to be amended as of 31st December 2022. Stakeholders continued to call for amendment of the laws. Presidential taskforce on multiparty democracy also recommended amendment of the Media Services Act and the Minister Information, Communication and Information Technology disclosed that the Media Services Act of 2016 and the Access to Information Act of 2016, and their regulations, were being reviewed.
- In July 2022, media stakeholders recommended journalists to form their own body to regulate their conduct (self-regulation) to guarantee minimal state interference in the media.
- Media stakeholders also praised President Samia Suluhu Hassan for improving press freedom,

contributed by the government's decision to lift bans imposed on four newspapers in 2016 and 2017, namely Tanzania Daima, Mawio, Mwanahalisi and Mseto.

- Press freedom violations continued to be reported. LHRC documented at least 10 reported incidents.
- Despite the perceived improvement in the media environment, Tanzania only jumped one place in the World Press Freedom Index 2022, from 124th position in 2021 to 123rd position in 2022, out of 180 countries that were assessed.

Freedoms of Assembly and Association

In 2022, key freedoms of assembly and association issues and violations in Mainland Tanzania included existing restrictive laws and regulations, intensified calls to amend such laws, and ban on political rallies. Laws that contain provisions which arbitrarily restrict or interfere with freedoms of assembly and association, such as the Political Parties Act, the Basic Rights and Duties Enforcement Act (BRADEA), and the Non-Governmental Organizations Act, were yet to be amended to bring them in line with international human rights standards. Various stakeholders and the presidential taskforce on multiparty democracy called for amendment of the Political Parties Act and lifting of the ban on political



rallies.

Rights to Equality before the Law and Effective Remedy

Despite action by the Government and the Judiciary to promote and protect the rights to equality before the law and effective remedy, several challenges persisted in 2022. Key issues and challenges included laws that hinder effective enjoyment of the right to equality before the law, including the right to fair trial; barriers to access to justice, including shortage of judicial staff, delays in investigations, and duration of cases; and criminal justice challenges, including lengthy detention of remandees in prisons, delays investigations, frequent adjournment of cases, prison and police cell overcrowding, plea bargaining, and prompt presentation of accused persons in court.

- Community members who participated in the human rights survey had their say on barriers to access to justice. Corruption was identified as the biggest barrier to access to justice, scoring 82%, followed by lengthy court proceedings (54%), low awareness about laws (54%), costs of legal representation (37%), cumbersome legal procedures (30%), and court proximity (25%).
- Delays in investigations and determination of cases and frequent adjournment of cases

in court of law were also said to be a big barrier to access to justice during interviews with stakeholders and community members in surveyed regions.

- Lack of police stations in some of the areas was also mentioned as a barrier to access to justice by some interviewed respondents in regions such as Mbeya, Njombe, Kagera, and Katavi.
- Some of the interviewed respondents in surveyed regions also lamented limited access to legal aid, even in districts where there are legal aid providers. This was revealed in 14 out of the 20 regions (70%) that were surveyed, including Kigoma, Geita, Katavi, Kilimanjaro, and Mbeya.
- In terms of trust of justice delivery and dispute settlement institutions, religious leaders received the highest percentage (70%), followed by family meeting (60%), NGOs/Legal aid providers (59%), and village chairperson (41%). These were followed by traditional leaders (39%), courts of law (38%), ward tribunal (29%), and police (19%).
- Despite challenges in the formal justice system, over half of the respondents (57%), indicated that they would prefer the judicial option, which means going to courts of law and tribunals.
- Challenges in use of ICT technologies in administration



of criminal justice, including inadequate infrastructure and lack of stable internet, also continued to affect rights of accused persons.

- In criminal justice, in July 2022, the President formed a 12-member committee to probe the performance of criminal justice institutions, led by the Former Chief Justice, Hon. Mohamed Othman Chande.
- A recent special audit report by the Controller and Auditor General (CAG), has shown that one of the reasons for the delays in police investigations is non-compliance with the timeframe for criminal investigation set in the Police Force and Auxiliary Service (Police General Orders) 2021, which is one year for capital offenses and six months for other offenses. Other reasons for delays in police investigations include delays in obtaining results from experts conducting examination; delays caused by geographical location of a crime, where crimes are committed in remote areas; inadequate management of human resources to support investigation activity; and insufficient resources to support investigation.
- Other key criminal justice challenges highlighted in the CAG audit report include inadequate capacity to conduct criminal investigation;

frequent adjournment of cases, largely caused by incomplete investigation (60%); delays in disposal of criminal cases; inadequate management of case files during investigation and absence of prosecution timeframe; shortage of state attorneys at the National Prosecutions Services (NPS); and gaps in monitoring and evaluation of justice delivery organs and coordination.

Right to Liberty and Personal Security

In 2022, key right to liberty and personal security issues and violations in Mainland Tanzania included arbitrary arrests and detentions, lack of police presence in some wards across Mainland Tanzania, concerns over safety and security following wave of killings and attacks; fabricated cases; delays in investigations; denial of bail; and digital safety and security.

Arbitrary arrest and detention

deprive people of their liberty. In 2022, LHRC documented at least twelve incidents of arbitrary arrests and detention through human rights monitoring, media survey, and human rights survey, four more than those documented in 2021. Victims included six journalists and one member of an opposition political party.

Lack of police presence in some



of the wards in Mainland Tanzania continues to pose a challenge in realization of the right to liberty and personal security. In April 2022, the Minister of Home Affairs, Hon. Hamad Yusuf Masauni, disclosed that Tanzania is facing shortage of 470 Grade B police stations. Some of the residents in Mtapenda Ward in Nsimbo District, Katavi Region, who participated in the human rights survey also lamented crime increase due to lack of police station.

Personal security was also put to test by wave of killings and attacks, including by youth crime gangs popularly known as the 'Panya Road' in Dar es Salaam, 'Panya Kaloa' in Dodoma and 'Panya Teleza' in Pwani. The criminal gangs caused havoc in these regions by breaking into homes, attacking, and robbing people, using machetes as their main weapon of choice. Police reported that they arrested over 150 members of the gangs. Prior to the terror of the youth crime gangs, the country was alarmed by the wave of killings in January 2022. LHRC documented at least 20 killing incidents in this month alone, including brutal killing of three women in Mwanza after they were raped. On 1st February 2022, the Government, through the Ministry of Home Affairs, announced that it had formed a committee to look into the wave of killings and provide findings within 21 days.

In 2022, Government leaders, including the President, continued to be vocal about **trumped-up charges and delays in conducting investigations.** In November 2022, President Samia Suluhu Hassan disclosed that most of the remandees in prisons are victims of trumped-up charges. Earlier, in August 2022, the Tanzania Police Force stated that 1,844 fabricated cases had been dismissed in courts of law as a measure to reduce prison overcrowding. The report on 20 years of the Commission for Human Rights and Good Governance (CHRAGG), released by the national human rights institution in September 2022, also shows that trumped-up charges and delays in police investigation are among the big challenges in administration of criminal justice in Tanzania.

In 2022, human trafficking also continued to be a threat to right to liberty and personal security. In April 2022, the Minister of Home Affairs, Hon. Hamad Yussuf Masauni, disclosed that for the financial year 2021/2022, his ministry had rescued 182 victims of human trafficking, of whom 171 were rescued within Tanzania and the remaining 11 in Iraq and Kenya. Through media survey and human rights monitoring, LHRC documented at least twelve incidents of human trafficking, reported in Mbeya, Singida, Dar es Salaam, and Dodoma Regions, eight less than those documented in



2021. However, LHRC documented further 83 incidents of human trafficking through the human rights survey, reported in regions such as Kigoma, Dodoma, Rukwa, Mbeya, Katavi, Morogoro, and Dar es Salaam. On a positive note, in 2022, the Government was praised for the overall progress demonstrated in combatting trafficking in persons, passed its 2021-2024 National Action Plan to Combat Trafficking in Persons and made notable amendments to the 2008 Anti-Trafficking in Persons Act. In July 2022, the Minister of Constitutional and Legal Affairs, Hon. Damas Ndumbaro, launched the Anti-Human Trafficking Child Protection Task Force (AHTCP-TF).

Awareness about **digital safety and security** is low. Only 15% of the survey respondents said they were either very well informed or well informed about digital safety and security and only 10% said they were very well informed or well informed about digital safety and security laws. When asked about most common form of digital attack, majority of them (46%) mentioned money theft, followed by 22% who said it is verbal abuse, 19% who mentioned cyberbullying, and 7% who mentioned identity theft. Nearly half (44%) of the respondents also said cyberbullying is a serious problem in the community, especially in urban areas.

- Women and children are more vulnerable to cyber-attacks,

especially cyberviolence and identity theft.

- 45% of survey respondents said they use birth or age in their passwords, which leaves them more vulnerable to digital attackers or hackers, while 46% also indicated that they use the same password for multiple accounts, majority of them (70%) youths. The main reason for doing this is to easily remember the password. In Mtwara, the survey found that some people enlist the help of strangers, including stationery workers, to create email accounts, open social media accounts, and create passwords, which jeopardizes their digital safety and security.

Right to Take Part in Governance

In 2022, key right to take part in governance issues and violations in Mainland Tanzania included legal barriers hindering effective participation in governance; calls to improve multiparty democracy; and right to vote for prisoners and remandees.

Over the years, the Government has taken various legal and institutional measures to enhance political participation, including affirmative action. However, several barriers were found to hinder effective realization of the right to stand in election and participate in political life. These barriers are found in

the Constitution of the United Republic of Tanzania of 1977 and electoral laws, including the Political Parties Act, Cap. 258 (R.E 2019). For instance, the Constitution does not recognize private or independent candidates, and prohibits challenging presidential election results in court. Amendments made in the Political Parties Act have further impacted the right to freely participate in political life, given the excessive and intrusive powers of the Registrar of Political Parties. For women, gender-blind electoral laws pose a big challenge for them to effectively realize their right to participate in public affairs. On a positive note, in 2022 the President formed a multiparty democracy taskforce, which made various recommendations to improve democracy in Tanzania, including presidential election results to be challenged in Supreme Court, once such court has been established; Political Parties Act to be amended to compel political parties to adopt gender and inclusion policies; and Constitutions of political parties to incorporate gender equality and GBV provisions.

In 2022, the right to vote for prisoners and remandees was also put on the spotlight, when the High Court of Tanzania ruled that provision of section 11(1)(c) of the National Elections Act constitutes a blanket restriction on right to vote for prisoners and remandees and

declared it unconstitutional.

Freedom from Torture and Inhuman or Degrading Treatment

In 2022, LHRC documented at least 44 incidents of torture and/or inhuman or degrading treatment, 3 less than those documented in 2021. These incidents include torture of accused persons under custody of law enforcement officers (detainees) and child torture. The incidents were reported in regions such as Mwanza, Dar es Salaam, Shinyanga, Geita, Mara, and Iringa.

Freedom from Violence

Different forms of violence perpetrated against women, children, men, PWDs and the elderly in 2022, infringed their right to freedom from violence. Women and children constituted the overwhelming majority of victims of different forms of violence, especially sexual violence and physical violence. Just over half of (56%) of the incidents of violence against women (VAW) documented by LHRC through media survey and human rights monitoring were acts of physical and emotional violence, while 81% of documented incidents of violence against children (VAC) were acts of sexual violence. In 2022, LHRC also documented at least 9 incidents of violence against men (VAM), two more than those documented in 2021. Further, LHRC documented at least 12 incidents of violence against PWDs and 24

incidents of violence against the elderly.

Right to Privacy

In November 2022, Tanzania joined neighbouring countries Kenya, Uganda, and Rwanda in enacting data protection law. The Personal Data Protection Act was enacted to strengthen protection of personal data and provide remedy in case of breach, hence safeguarding rights to privacy and personal security. Before the law was enacted, personal data rights stakeholders, including CSOs, analysed the bill and provided comments. However, only 4% of the 57 comments provided were accepted, while another 4% were partially accepted. Several issues of concern regarding the law have also been raised, including: vague and ambiguous terms and phrases susceptible to abuse by authorities; broad language and unclear terms; independence and impartiality of the Data Protection Commission; powers of the Chairperson and the Commission as a whole; duties and accountability of data collectors and data processors; gender gaps in the law; registration requirements; rights to be heard and appeal; and severe punishment.

2. Economic, Social, & Cultural Rights

In 2022, the situation of economic, social, and cultural rights slightly improved compared to the year 2021, especially in terms of

budgetary allocation for key social service sectors, provision of fee-free education, employment of new workers in key sectors, and setting new minimum wages. However, several challenges continued to hinder effective realisation of these rights, key among them being budgetary constraints; delays in disbursement of funds; partial disbursement of funds; poor working conditions; unemployment; shortages of workers; shortages of equipment, tools, and facilities; discrimination in employment; and different forms of violence, especially against children, women, and PWDs.

Right to Education

Government continued to take various measures to ensure progressive realisation of the right to education, including implementation of the fee-free education policy and construction of new classrooms. However, various challenges persisted and continued to hinder effective realization and enjoyment of the right to education, including quality of education; proximity of schools; budget allocation; shortages of classrooms, teachers, toilets, and other learning and teaching facilities and tools; violence against schoolchildren; child labour; child pregnancy; child marriage; and lack of parental support in education.

- Various challenges, including unsatisfactory working



environment for teachers, inadequate funding, shortage of teachers, shortage of classrooms, proximity of schools, outdated curricula, and starvation and malnutrition, are among key barriers to quality education in Tanzania.

- Focus issues also affect the learning environment for schoolchildren. Hunger is one of the key focus issues for schoolchildren in Tanzania. Videogame addition among boys has also been said to affect their focus in learning, especially in urban areas. For girls, menstrual hygiene concern affects their focus in learning.
- In 2022, education stakeholders continued to express concerns over language of instruction (LOI), which affects quality of education, as the debate over using Swahili or English Languages as LOI went on.
- The 2014 Education and Training Policy (ETP) has gaps, hence needs to be reviewed.
- Budget allocated for the education sector still falls short of international standards. Budget allocated by the Government on education sector for the financial year 2022/23 is equivalent to 13.7% of the overall budget, falling short of the 20% international standard, which is instrumental in achieving SDG 4.
- Delays and partial disbursement of funds also affect enjoyment of

right to quality education.

- In 2022, some children were subjected to all forms of violence, namely sexual violence, physical violence, psychological violence, and economic violence, which hinder or affect effective realization of their right to education.
- Child marriage and child/teenage pregnancy continued to cut short dreams of many girls to realize their right to education. Dreams of attaining a good education for a better future for girls also continue to be threatened by the problem child marriage, which is compounded by the Government's reluctance to amend the Law of Marriage Act of 1971 to prohibit such marriage to safeguard girls' rights and welfare.

Right to Health

In 2022, the Government continued to facilitate progressive realisation of the right to health, including by hiring new health workers, construction of health facilities, procurement and distribution of essential medicines and medical supplies. However, several issues continued to affect enjoyment of this fundamental right, including budgetary constraints; shortage of healthcare workers; mental health and suicide; violence against women and girls; shortage of equipment, medicines, and medical supplies; and sexual and reproductive health



challenges.

- Tanzania has committed to set at least 15% of national budget for the health sector under the Abuja Declaration. However, in the past five financial years (2018/19 to 2022/23), the budget for the health sector has averaged 5.84%.
- Despite government efforts to improve availability of health workers, shortage of healthcare workers continues to be a big challenge in Mainland Tanzania.
- Lack of health insurance coverage is also big concern for the majority of Tanzanians. However, introduction of the universal health insurance bill in 2022 brought hope for the public, but a lot of work still needs to be done to enact a good law.
- In 2022, mental health was one of the widely discussed issues in Mainland Tanzania, with stakeholders expressing concerns over the state of mental health among citizens. In July 2022, Dr. Omary Obuguyu from the Ministry of Health revealed that mental health patients have been increasing in the past five years.
- Psychologists and social development experts in Mwanza pointed out mental health as a major cause of increasing trends of citizens committing suicides countrywide. In 2022, LHRC documented 35 suicide

incidents through media survey and human rights monitoring, decreasing from 45 in 2021. Analysis of the suicide incidents showed that majority of the victims (83%), were male, increasing from 76% in 2021. Female victims only constituted 17% of the victims, half of them children. Reasons for committing suicide included: family quarrel, salary suspension, debt, jealousy, parental scolding, heartbreak, accusation of crime, missing items, and losing money.

- Various sexual and reproductive health challenges, including access to quality maternal healthcare and violence against women and girls, also continued to affect enjoyment of the right to health.

Right to Water

Despite the efforts to ensure progressive realization of the right to water, in some parts of Mainland Tanzania some people could not effectively realize this fundamental right because of various challenges, including insufficient budget allocated for the water sub-sector; water leakages and loss; lack of or limited access to clean water, especially in rural areas; water rationing; and negative impacts of climate change.

Right to Work

In 2022, key right to work issues and violations in Mainland Tanzania



included adoption of a new Wage Order; shortage of workers in key sectors; and labour rights violations, especially in the business sector.

- Introduction of the long-awaited new Wage Order of 2022 was a positive development in terms of safeguarding labour rights. The biggest winners were domestic workers employed by diplomats and big businessmen, who saw their minimum wages increase by 67%, followed by domestic workers employed by entitled officers (54%), employees in broadcasting and mass media, postal and courier services (50%), domestic workers other than those employed by diplomats and big businessmen and entitled officers who are not residing in the household of the employer (50%), other domestic workers (50%), employees in small companies in the energy sector (50%), employees in inland (ground) transport services (50%), employees in the mining sector for primary mining licences (50%), employees in the mining sector for dealer licences (50%), employees in trade and industry services (50%), and employees in other sectors not mentioned in the Wage Order.
- In 2022, LHRC observed that labour rights violations continued to be a big human rights concern, especially in the business sector. Common labour rights violations included

denial of overtime pay; being overworked and underpaid; discrimination; delayed wage payments; workplace violence; non-remittance of social security contributions; denial of annual leave; unfair termination of employment; and lack of occupational health and safety training.

- For workers in sectors such as education and health in public institutions, poor working conditions were also cited as a right to work challenge in some areas, especially rural areas.

Right to Own Property

In 2022, key right to own property issues and violations in Mainland Tanzania included land conflicts/disputes; property grabbing from women and elderly people; women's access to land; and land dispute resolution.

Human rights survey respondents were asked about their satisfaction with protection of property rights, whereby majority of them (48%), said they were only moderately satisfied, followed by a quarter who said they were satisfied, and 18% who indicated they were dissatisfied. Just over a half (52%) of them also mentioned boundary disputes as the most common disputes, followed by 18% who said it is the disputes between farmers and pastoralists, and 16% who said it is community members versus



investors.

In 2022, LHRC observed various key land issues in the course of providing legal aid services to indigent persons across Mainland Tanzania. These issues include low awareness about land issues and laws among community members, low or lack of awareness about amendments made in the Land Dispute Courts Act [Cap 216] among members of ward tribunals, and political interference in determination of land disputes. LHRC's legal aid data for the year 2022 also showed that land disputes constituted the majority of disputes brought by legal aid clients (41%), followed by employment (22%), and family disputes (18%).

In 2022, through media survey and human rights monitoring, LHRC documented at least nine land disputes/conflicts, reported in Arusha, Lindi, Kilimanjaro, Kigoma, Singida, and Morogoro. LHRC also documented at least 13 incidents of property grabbing from women and older persons, reported in regions such as Kilimanjaro, Njombe, Tanga, and Kigoma.

In most rural communities, women are still denied the right to own land, while men have final say in their access and use of land and being in total control. Limited access to agricultural land affects their economic empowerment and food security, including access to

financial services and the ability to seek and obtain credit. Women's low ownership of land is fuelled by discriminatory inheritance practices and discriminatory social norms that restrict women's access to land ownership are primarily held by men and poorer individuals with a low educational background.

Right to Adequate Standard of Living

In 2022, key issues and violations affecting right to adequate standard of living in Mainland Tanzania included food security, compounded by climate change impact; access to nutritious food; food affordability; access to adequate housing; and security of tenure.

- Food insecurity in Mainland Tanzania is driven primarily by a prolonged dry spell and erratic rainfall that has contributed to failure in crop and livestock production and has negatively affected pasture and water availability.
- Climate change was identified as a significant risk affecting agriculture, food and nutrition security in Tanzania.
- Majority of households in Tanzania find it difficult to afford nutritious diets. However, Tanzania is making progress to meet global nutrition targets, according to the 2022 Global Nutrition Report. The Tanzania Demographic and Health Survey and Malaria Indicator



Survey 2022 has also revealed that children under 5 who are stunted has decreased steadily from 48% in 1999 to 30% in 2022.

- In 2022, rising food prices threatened the right to food, as power and water rationing compounded the problem.
- Agriculture stakeholders expressed concerns over budget allocation for the agricultural sector, which is below the 2014 AU Malabo Declaration standards, as well as over disbursement of funds.
- Access to adequate housing also remains a challenge for some Tanzanians in both urban and rural areas. Women and other vulnerable groups are disproportionately affected by lack of adequate housing. Women's access to adequate housing is compromised by various factors, including denial of inheritance rights, fuelled by discriminatory customs and traditions; property grabbing; and limited access to and control over land.

Right to Social Security

Despite government measures to safeguard the right to social security, including through establishment of social security schemes, provision of loans to economic groups, and implementation of the Tanzania Social Action Fund (TASAF) social protection programme, majority of Tanzanians remain uncovered by

social security, especially those in the informal sector.

3. Collective Rights

In 2022, key issues affecting other human rights also affected collective rights, including the right to development.

Right to Development

In 2022, key right to development issues in Mainland Tanzania included human rights violations, especially of civil and political rights, and challenges in provision of social and judicial services, including budgetary constraints and shortages of human resources. Corruption, which is the greatest obstacle to economic and social development, also continued to hinder effective realization of the right to development. Positives included economic growth, improved media environment, and increased budget for the agriculture sector, including for irrigation farming.

Right to Enjoy and Benefit from Natural Resources

Despite the efforts to boost enjoyment of the right to enjoy and benefit from natural resources, key challenges persist, including corruption, tax incentives, tax avoidance, and tax evasion, especially in the extractive sector. Consequently, community members in most resource-rich areas remain poor.



Right to Clean and Healthy Environment

In 2022, community members who participated in LHRC's survey on business and human rights, conducted in 14 regions of Mainland Tanzania, cited air pollution as the most common environmental pollution (40.5%) in their community, followed by land pollution (27%), water pollution (21.7%), and noise pollution (10.8%). Through this survey, LHRC documented 37 incidents of environmental pollution, including reported pollution of Mara River in Mara Region, which was a subject of huge public debate.

4. Rights of Vulnerable Groups

In 2022, vulnerable groups, including women, children, and persons with disabilities (PWDs), continued enjoying their various human rights, as guaranteed under the Constitution of the United Republic of Tanzania of 1977 and international human rights standards. However, some of them were subjected to various human rights violations, including gender-based violence and discrimination.

Women's Rights

In 2022, gender-based violence (GBV) continued to be a big threat to women's rights in Tanzania. Incidents of different forms and acts of violence were reported and documented in all regions across Mainland Tanzania, including

physical, psychological, sexual, and economic violence.

- In 2022, police in various regions reported that GBV incidents were on the rise.
- Through media survey and human rights monitoring, LHRC documented at least 108 incidents of violence against women (VAW), reported in regions such as Pwani, Kilimanjaro, Dar es Salaam, Mara, Mtwara, Rukwa, Songwe, Geita, Dodoma, and Kigoma Regions. 56% of these incidents were acts of physical and emotional violence, followed by sexual violence (28%), and economic violence (16%).
- Nearly a half of the community members who participated in the human rights survey (44%) perceived VAW to be a serious problem in their community, followed by just over a quarter (29%) who said it is a problem, and a quarter who said it is a moderate problem.
- In 2022 various stakeholders expressed concern over cyber violence against women and called for incorporation of online gender-based violence in the new National Plan of Action to End Violence against Women and Children (NPA-VAWC).
- **Intimate partner violence and homicide:** In Tanzania, nearly half of women (48%) have survived intimate partner violence (IPV) in their lifetime, and one in



four women has experienced IPV over the last 12 months. In recent years, IPV has caused many incidents of intimate partner homicide (IPH). LHRC documented 33 incidents of IPH in 2022, which are 2 less than those documented in 2021. 94% of the victims were female and majority of the incidents (52%) were motivated by jealousy.

- LHRC also documented at least 73 other incidents of physical and psychological VAW, including physical IPV, through human rights monitoring and media survey. Reported acts of physical and psychological violence perpetrated against women included beatings, cutting of body parts, being attacked with a machete, biting ears, being attacked with a hammer, inserting a sharp object in a woman's private parts, and being subjected to female genital mutilation (FGM).
- **Sexual violence:** LHRC documented at least 30 incidents of sexual VAW, through media survey and human rights monitoring, constituting 28% of the documented VAW incidents. These incidents include rape, sexual harassment, sexual corruption, and marital sodomy. LHRC also documented an additional 406 incidents through the Human Rights Survey 2022, including acts of rape, gang-rape, sexual harassment, and

sextortion.

- **Economic violence:** In 2022, LHRC documented 17 incidents of economic violence against women, through media survey and human rights monitoring. The incidents include denial of inheritance, property grabbing, and withholding access to money. LHRC also documented additional 350 incidents through the Human Rights Survey 2022.
- In 2022, LHRC also documented at least 21 incidents of eviction of widows from marital home through human rights monitoring and human rights survey, which are 2 less than those documented in 2021.
- **Violence against women in politics (VAWP):** 45 out of 48 interviewed women in politics (94%) said VAWP is a serious problem in the community, while the remaining 6% said it is only a moderate problem. Nearly all of them mentioned sexual violence as the most common form of VAWP. In most surveyed regions sextortion was identified as the biggest challenge facing women in politics. Some of the respondents mentioned that in some cases women themselves offer sex bribe to party leaders so that they can be nominated or helped with election. Perpetrators of VAWP also employ the tactic of character assassination to discredit female political aspirants



and candidates. Threats and character assassination were mentioned as common acts of VAWP, especially in regions such as Tabora, Arusha, Singida, Geita, Kigoma, Katavi, and Tanga.

- **Key drivers of VAW** include normalization and tolerance of physical VAW in marriage; poverty and lack of financial independence among women; witchcraft beliefs; and customs and traditions. A wide social acceptance of VAW has perpetuated violence and is strongly associated with higher prevalence of IPV. Almost half of the population in Tanzania (49%) believes that a husband is justified in hitting or beating his wife if she burns food (13%), goes out without telling him (29%), neglects the children (39%) or argues with him (37%). 59% also said hitting or beating is justified when wife cheats on husband.
- **Women's political participation:** In 2022, women's effective political participation continued to be hindered by several barriers, including gender gaps in electoral laws, including the Constitution of the United Republic of Tanzania of 1977; violence against women in politics (VAWP); and lack of adequate support from political parties and exclusion in decision-making within party structures. The presidential taskforce on multiparty democracy in

Tanzania, led by Prof. Rwekaza Mukandala, recommended amendment of the political party law to make it mandatory for every political party to develop and adopt a gender and inclusion policy.

- **Women's economic empowerment programmes,** including the 4% women's loan granted by the Local Government Authorities (LGAs), continued to benefit women in different parts of Tanzania. They benefited them in various ways, including helping them to generate income to sustain their families, improving livelihoods, and expanding their businesses. However, several challenges affect the programmes, including non-repayment or slow repayment of the loans and political interference in loan provision.
- **Safety and security of women:** According to the 2022 Social Institutions and Gender Index (SIGI) Tanzania Report, more women than men fear walking alone at night in their neighbourhoods because they fear violence specifically. 45% of women cited fears of physical assault, being robbed, kidnapping, rape, being sexually harassed, verbal assault and obscene words, and exhibitionism. More specifically, 33% of women said they fear being robbed, 28% mentioned



fear of being physically assaulted and a quarter (25%) said they fear being raped. Additionally, LHRC found that some women are attacked and sometimes killed because of property; some elderly women are attacked and/or killed over witchcraft suspicion or for witchcraft purposes; and in Singida, women may be targeted for their breasts and private parts.

Children's Rights

For the year 2022, key issues affecting children's rights included: sexual violence; physical and psychological violence; child labour and exploitation; child trafficking; child marriage; and predicament of child pregnancy. Violence against children (VAC) continued to be a big threat to children's rights and welfare.

Through media survey and human rights monitoring, in 2022 LHRC documented at least 350 incidents of VAC, reported across Mainland Tanzania. Sexual VAC accounted for the overwhelming majority of incidents (81%), followed by physical and emotional violence (18%). A quarter (25%) of the victims were under the age of 10 years and boys (78%) constituted the majority of sodomy victims.

Just over half of community members who participated in the human rights survey (51%) perceived

VAC to be a serious problem in the community, followed by just over a quarter (27%), who felt it is a problem, and 20% who said it is only a moderate problem. Majority of interviewed respondents, including social welfare officers, expressed concern over alarming rate of child rape and sodomy incidents.

In all surveyed regions, SWOs, CDOs, paralegals, and local NGO officials expressed concerns over child sodomy incidents, especially in schools, where child-on-child sexual abuse was reported by teachers to be a problem.

Over 5000 child rape cases and 1000 child sodomy cases were reported in the period of January to September 2022.

Sexual abuse of boys: Community members usually do not look at boys as victims of sexual abuse, largely due to problematic beliefs about masculinity. In 2021, LHRC documented at least 34 incidents of sexual abuse of boys in the form of sodomy. In 2022, the number of incidents rose to 166, equivalent to 78% of all documented child sodomy incidents.

Child sexual abuse in religious settings: In the past five years (2017 – 2021), LHRC has documented at least nine incidents of child sexual abuse in religious settings. At least 16 other incidents of clerics committing



sexual abuse outside religious settings were also documented during this period, including sexually abusing their own children. This suggests that they were also more likely to have abused more children in religious settings. However, due to the culture of secrecy and protection of clerics in such settings, it is feared that many incidents go unreported.

Physical violence against children:

In 2022, physical and psychological violence constituted 18% of the VAC incidents documented by LHRC through media survey and human rights monitoring. Acts included beating, strangulation, burning hands, being torched, being buried alive, being poisoned, and being attacked with a weapon. Parents constituted the majority of perpetrators of physical VAC.

Child neglect and abandonment:

In 2022, through human rights monitoring and media survey, LHRC documented 67 incidents of child neglect, reported in regions such as Tanga, Morogoro, Lindi, Mtwara, Kilimanjaro, Tabora, Geita, and Simiyu, which are 43 more incidents than those documented in 2021. LHRC also documented over 700 child neglect cases through the human rights survey across 20 regions of Mainland Tanzania.

Child labour and exploitation:

Through human rights monitoring, in 2022 LHRC documented at least

10 incidents of child labour, reported in Mbeya, Geita, and Shinyanga Regions. Most of the children were said to be working in mines and farms. Further 53 incidents were documented through the human rights survey.

Child marriage:

In 2022, stakeholders, including child rights advocates, continued to call for legal reforms to prohibit child marriage. However, the Law of Marriage Act of 1971 is yet to be amended to abolish child marriage by setting 18 as minimum age of marriage for both men and women, in line with the 2019 Court of Appeal Decision in the Rebecca Gyumi case. In 2022, LHRC documented 16 incidents of child marriage through media survey and human rights monitoring, decreasing from 37 incidents in 2021. During this reporting period, it was also reported that parents in some regions were telling their female children to fail in their national examinations so that they can marry them. High rates of social acceptance of child marriage and bride price were also said to contribute to the persistence of child marriage in Tanzania.

Child/teenage pregnancy:

In 2022, incidents of child pregnancy continued to be widely reported in different regions across Mainland Tanzania.

On September 15, 2022, the African



Committee of Experts on the Rights and Welfare of the Child (ACERWC) issued this decision on mandatory pregnancy testing and of schoolgirls and the expulsion of pregnant and married girls from schools, concluding that by doing so Tanzania had violated various girls' rights guaranteed under the African Charter on the Rights and Welfare of the Child. Violated rights included protection against cruel, inhuman, and degrading treatment; right to education; right to non-discrimination; protection against harmful practices; right to privacy; and right to health. The Committee also found violation of the principle of best interests of the child.

Additionally, the Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 has revealed that 22% of women aged 15 to 19 years have ever been pregnant, 16% have had a live birth, 2% have had a pregnancy loss, and 6% are currently pregnant. Percentage of women aged 15 to 19 years who have ever been pregnant is higher in rural areas (24.9%) compared to urban areas (16.4%). In terms of regions, percentage of women aged 15 – 19 who have ever been pregnant is highest in Songwe (44.7%), followed by Ruvuma (37.2%), Katavi (34.4%), Mara (31.1%), Rukwa (29.6%), Tabora (29.1%), Manyara (28.8%), Geita (28.4%), Morogoro (28.0%), and Mtwara (25.7%).

Child trafficking: In recent years, child trafficking, particularly child labour trafficking and child sex trafficking, have been the most common forms of human trafficking in Tanzania. Eight (8) out of twelve (12) incidents of human trafficking documented by LHRC through media survey and human rights monitoring in 2022 were child trafficking. Through human rights survey, LHRC also documented additional 62 incidents of child trafficking, reported in regions such as Kigoma, Singida, Njombe, and Dar es Salaam.

Rights of Persons with Disabilities

In 2022, key issues affecting the rights of PWDs included promotion and protection of their rights; access to employment and economic opportunities, including discrimination in employment; stigma and discrimination, including of children with disabilities; different forms of violence, especially physical violence; and access to health services and buildings.

In 2022, incidents of stigma and discrimination against PWDs were reported in regions such as Njombe, Kilimanjaro, Dar es Salaam, Dodoma, Arusha, Katavi, Rukwa, Mbeya, Iringa, and Morogoro. Social isolation, including of children with disabilities, was said to be a major challenge. Survey on business and human rights found that some employers do not like hiring PWDs



because they 'are not as effective as persons without disability. During this reporting period, LHRC documented at least 12 incidents of violence against PWDs, including PWAs and children with disabilities. Acts of violence included rape, physical attack, verbal abuse, isolation, and denial of education.

In March 2022, women with disabilities in the country called on the government to improve health services and help the group obtain high quality maternal healthcare services in various facilities.

Rights of the Elderly

In 2022, key issues affecting the rights of the elderly in Tanzania included different forms of violence, threatening their safety and welfare; access to health services; killings, and social protection.

In 2022, stakeholders continued to call for enactment of the law for protection of rights of the elderly, following in the footsteps of Zanzibar. Among other things, the law should recognize the right to universal pension for older people.

LHRC documented at least 24 incidents of violence against the elderly, increasing from 16 documented in 2021. Elderly men and women were subjected to different acts of physical, sexual, psychological, and economic violence, including rape, beatings,

neglect, being attacked with sharp objects, and being deprived of property.

Older persons are not only attacked, but also killed. LHRC documented at least 8 incidents of parents killed by their own children, 3 more than those documented in 2020 and 2021 combined.

Lack of adequate social protection is also a big concern for the elderly. According to HelpAge International, just 4% of older people in Tanzania receive a pension, forcing them to take on difficult tasks such as farming, which is physically too demanding to them.

Youth Rights

In 2022, LHRC observed that youth are most concerned about 1. Employment 2. Quality of education 3. Health 4. Discrimination & violence 5. Participation in decision-making.

5. Human Rights Mechanisms

National Human Rights Mechanisms

The national human rights mechanisms in Tanzania include the Commission for Human Rights and Good Governance (CHRAGG), the Prevention and Combating of Corruption Bureau (PCCB), the Judiciary, the National Prosecutions Service (NPS), the Tanzania Police Force (TPF) and the Tanzania Prisons Services (TPS). Despite their efforts to promote and protect human rights in Tanzania,



these mechanisms continued to be faced with various challenges, including shortage of staff; delays in investigations and disposal of cases; corruption; capacity gaps, especially in criminal investigation; gaps in monitoring and evaluation; budgetary constraints; and poor working conditions.

Regional and International Human Rights Mechanisms

Key issues regarding regional and international human rights mechanisms in Tanzania include withdrawal of Tanzania of access of individuals and NGOs to the African Court on Human and Peoples' Rights and non-implementation of recommendations made by the mechanisms, and non-enforcement of judgements delivered by the judicial mechanisms.

Tanzania's Universal Periodic Review (UPR)

In 2021, Tanzania's human rights record was yet again examined by the UN Human Rights Council's Universal Periodic Review (UPR) Working Group. In March 2022, the Working Group released its report on the outcome of Tanzania's Universal Periodic Review, which showed that Tanzania has accepted to implement 187 recommendations (20 with partial support) and has noted 65 recommendations. The percentage of supported recommendations increased from 43% in 2021 to 66% in 2022, while the number of noted

recommendations decreased from 52% in 2021 to 26% in 2022.

6. Implementation of Recommendations of Previous Human Rights Reports

In 2022, the percentage of implemented recommendations stood at 35%, increasing from 31% in 2021. Percentage of partially implemented recommendations also increased from 37% in 2021 to 38% in 2022, while the percentage of recommendations not implemented decreased from 29% in 2021 to 26% in 2022.

Key Recommendations

- Legal reforms, including in the criminal justice system
 - Laws which need to be amended to safeguard human rights in line with international human rights standards include: Cybercrimes Act, 2015; Media Services Act, 2016; Online Content Regulations, 2020; Basic Rights and Duties Enforcement Act (BRADEA); customary laws (to safeguard women's inheritance and property rights); all electoral laws (to address gender gaps/gender equality issues and mainstream gender to enhance women's political participation); and the Political Parties Act, to safeguard rights of political



- parties, especially freedoms of association and assembly.
- Government and non-government actors and individuals to refrain from arbitrary interference with human rights, especially civil and political rights
 - A new constitution is desirable to enhance protection of human rights in conformity with international human rights standards
 - Ratification of key human rights instruments yet to be ratified
 - These include: the African Charter on Democracy Elections and Governance (ACDEG), 2007; Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984; and the African Union Road Safety Charter, adopted in 2016.
 - Enforcement of laws, regulations, rules, and policies to safeguard human rights
 - Enactment of laws to protect vulnerable groups
 - This includes an elderly rights law and domestic violence/ GBV law.
 - Increasing budgets for key sectors such as health and education in line with Tanzania's international commitments.
 - Ensuring accountability of law enforcement officers when they violate human rights
 - Formation of an independent police oversight body is important in this regard.
 - Learning through state practice
 - Addressing challenges faced by national human rights mechanisms
 - Increasing public awareness on human rights issues
 - Collaborative efforts to safeguard the rights of PWAs
 - Setting aside adequate resources/budget for the implementation of the National Plan of Action to End Violence Against Women and Children
 - Review of education system and curricula to address gaps and improve quality of education
 - Fast-tracking introduction of pensions for older people and universal health insurance



CHAPTER 1: INTRODUCTION

1.1. Contextual Overview

1.1.1. Historical Overview

By the 10th Century, Tanganyika (now known as Mainland Tanzania), had interacted with other parts of the world. The Bantu-speaking people of Tanganyika were then living with traders from Asia and the Arab world, before the Portuguese came in the 15th Century. In 1880s there was scramble for and partition of Africa in Berlin, Germany. Following this scramble and partition, Tanganyika was placed under the German colonial rule in 1885 but was later taken over by the British after the First World War. After the Second World War, Tanganyika was declared by the United Nations as a trust territory, with the British maintaining control until 1961 when Tanganyika gained its independence. It was the British who named the territory Tanganyika in 1920. It was during the interaction between the natives of Tanganyika (especially along the coast) and Zanzibar with the Arab traders who settled among the natives of the coast that the Swahili culture was developed. Slave trade, to cater for workers in Sultan's plantations in Zanzibar and labour in Europe and America, was prevalent during the reigns and presence of the Arabs and the Portuguese, most notably the East African Long-Distance Trade.

The German colonial rule, which blatantly disregarded human rights of the natives, was met with stiff resistance, leading to uprisings, most notably from the chiefdoms under Chief Mirambo of the Nyamwezi Tribe, Chief Mkwawa of the Hehe, Mangi Meli of the Chagga and Abushiri of Pangani. In 1905, the German colonial administration faced another uprising, popularly known as the *Majimaji* Uprising which continued for two years up to 1907. The uprising was led by a traditional and spiritual leader called Kinjekitile Ngwale. The uprising involved different tribes in southern and eastern Tanganyika. It was believed that Kinjekitile Ngwale could turn bullets into water, hence the phrase "Majimaji Uprising" (*maji* is a Swahili word meaning water).

The British did not fare much better in terms of protection and respect of



human rights of the natives, hence the struggle for independence began, seeking to realize the right to self-determination. Struggle for independence was led by the Tanganyika African National Union (TANU) party, born in 1954; and formerly known as Tanganyika African Association (TAA), established in 1929. The struggle intensified in 1950s and during this time there were other parties, such as the United Tanganyika Party (UTP) and the African National Congress (ANC). TANU's Julius Kambarage Nyerere, who became the father of the nation, peacefully led Tanganyika to independence in 1961, and he became the first Prime Minister. The Independence Constitution was adopted and it was thus the first constitution of Tanganyika. The Governor General was still representing the Queen of England as Head of State until 1962 when Tanganyika became a republic and Nyerere its first president. The second constitution, the Republican Constitution, was adopted, making the President the head of state, head of government, commander in chief of the army and part of parliament, without whose assent a bill could not become law. In 1964, Tanganyika merged with the neighboring Zanzibar to form Tanzania. Zanzibar had gained its independence from Britain in 1963 and overthrown the Sultan of Zanzibar (from Oman) in January 1964.




The third constitution, the Union Constitution, was born, establishing a two-government union led by TANU in Mainland Tanzania (Tanganyika) and Afro-Shirazi Party (ASP) in Zanzibar. In 1965, the Interim Constitution was adopted, bringing an end to multipartyism and declaring TANU as the sole political party in Mainland Tanzania and ASP for Zanzibar. The Constitution was enacted by an ordinary Act of Parliament, contrary to principles of constitutionalism and people participation. In 1977, TANU and ASP merged to form Chama cha Mapinduzi (CCM), which proposed and enacted the Permanent Constitution, which is still in use to date, the Constitution of the United Republic of Tanzania 1977. Tanzania remained a one-party state until 1992 when multi-party-political system was re-introduced through constitutional amendments.

Like many African States, post-colonial Tanzania did not prioritize human rights, seeing them as 'delaying' economic development. Process of economic development was considered to be one that did not necessarily promote or respect human rights. But the constitutional amendments of 1984, which saw incorporation of the Bill of Rights into the Constitution of Tanzania, gave a new hope of human right-based approach to development and increased protection of human rights in Tanzania. This was a remarkable achievement, a long struggle demanding for its inclusion.



1.1.2. Geography and Population

The Population of the country is rapidly growing, at the rate of 3.2 per annum.⁴ The 2022 population and housing census revealed that Tanzania's population is currently 61,741,120, of whom 51% are female and 49% are male.⁵ 96.9% of the population resides in Mainland Tanzania, while the remaining 3.1% resides in Zanzibar. Majority of the country's population resides in rural areas, where the number of households found is high compared to urban areas.

Tanzania Population 2022	
	 31,687,990
	 30,053,130
Mainland Tanzania	59,851,347
Tanzania Zanzibar	1,889,773
TOTAL	61,741,120

The country's literacy rate is 71 percent, which suggests that education has improved in terms of provision and accessibility in line with the Sustainable Development Goals (SDGs) on education and the Development Vision 2025. The country has attained gross enrolment in Primary Schools, 94.6 percent, whereby the number of girls enrolled in primary schools has vastly increased compared to the situation in early 1960s up to 1990s.

1.1.3. Economic Situation

Save for the Covid19 pandemic years of 2020 and 2021, Tanzania has enjoyed gradual economic growth. In July 2020, Tanzania reached a milestone in terms of economic growth after graduating from a low-income to lowed-middle-income country.⁶ In 2020, Real Growth Domestic Product (GDP)

⁴ See JAMHURI YA MUUNGANO WA TANZANIA, *SENSA YA WATU NA MAKAZI YA MWAKA 2022: MATOKEO YA MWANZO, OKTOBA 2022*, at <https://www.nbs.go.tz/nbs/takwimu/Census2022/matokeomwanzooktoba2022.pdf>.

⁵ Ibid.

⁶ See Umar Serajuddin & Nada Hamadeh "New World Bank country classifications by income level: 2020-2021" World Bank Blogs, 01 July 2020 at <https://blogs.worldbank.org/opendata/new-world-bank-country-classifications-income-level-2020-2021>, accessed 29 October 2020; FURTHER AFRICA "World Bank promotes Tanzania to middle income status" 3 July 2020 at <https://furtherafrica.com/2020/07/03/>



Growth decreased to 4.8%, from 7.0% in 2019. However, the economy has been getting back on track, enjoying increased Real GDP of 4.90%⁷ in 2021 and further 5.2% by the end of 3rd quarter in 2022,⁸ slightly lower than 5.5 percent in the corresponding quarter in 2021. Main growth drivers were transport and storage, agriculture, mining and quarrying, and construction.⁹ Transport and storage contributed the most to the GDP (14.2%), followed by agriculture (12.4%), and mining (9.8%).¹⁰

1.1.4. Political and Governance Systems

Political Background

Since 1962, Tanzania has been governed by six presidents, namely: the late Julius Kambarage Nyerere (1962-1985), Ali Hassan Mwinyi (1985-1995), the late Benjamin William Mkapa (1995-2005), Dr. Jakaya Mrisho Kikwete (2005-2015), the late Dr. John Pombe Magufuli (2015-2021), and Samia Suluhu Hassan (2021 to date).

Governance System

The Tanzanian governing structure comprises of the Executive, the Legislature and the Judiciary, established under Article 4 of the Constitution of the United Republic of Tanzania of 1977.

The Executive

The Executive arm of the state is composed of the President, who is the Head of State, Head of Government and the Commander in Chief of the Armed Forces, and the cabinet.¹¹ The Government of the United Republic of Tanzania is in charge of all union matters and all matters of Mainland Tanzania.¹² The Cabinet includes the Vice-President, the Prime Minister, the President of Zanzibar and all ministers. The Vice-President assists the President with all union matters. Zanzibar has a semi-autonomous government that has the power over non-union matters in the Isles. Details

world-bank-promotes-tanzania-to-middle-income-status / , accessed 29 October 2020.

7 See African Development Bank Group, Tanzania Economic Outlook, at <https://www.afdb.org/en/countries-east-africa-tanzania/tanzania-economic-outlook>.

8 See Bank of Tanzania, Selected Economic Indicators, at <https://www.bot.go.tz/#>.

9 See BANK OF TANZANIA, *ECONOMIC BULLETIN FOR THE QUARTER ENDING DECEMBER 2022*, VOL. LIV NO. 4, at <https://www.bot.go.tz/Publications/Filter/2>.

10 Ibid.

11 Article 33 of the Constitution of the United Republic of Tanzania 1977.

12 Ibid, Article 34.



on Zanzibar are provided in Part Two of this report.

The Legislature

The Parliament of the United Republic of Tanzania consists of two parts: the President and the National Assembly. The National Assembly consists of Members of Parliament (MPs). The President as part of the Parliament performs his authority for that purpose as vested by the Constitution of the United Republic of Tanzania. The National Assembly is the principle organ of the United Republic with the authority to oversee and advise the Government and all its institutions/agencies in discharging their respective duties or responsibilities.

The Parliament is vested with legislative powers in relation to all Union Matters and in relation to all other matters concerning Mainland Tanzania. Legislative powers on matters which are not Union Matters are vested in the House of RepresentativeS (please refer to Part Two of this report for detailed information on Zanzibar). The laws passed by the National Assembly shall apply also in Zanzibar if they address specifically designated union matters and have been presented to the Zanzibar House of Representatives by the responsible minister.¹³

The majority of MPs are elected members from their constituencies.¹⁴ Other members are of the special seats category, appointed by political parties depending on basis of proportion of votes won on Parliamentary election.¹⁵ The President also has power to appoint 10 members of his choice, while five members come from elected members of the House of Representative.¹⁶ The Attorney General of Tanzania is a Member of Parliament by virtue of his/her office.¹⁷ The term of office for Members of Parliament is five (5) years.

The Zanzibar House of Representatives has jurisdiction over all non-union matters, that is, matters that do not pertain to foreign affairs, citizenship, higher education, and other matters set out by the Constitution as under the power of the entire Union.¹⁸ The House of Representative has powers to enact laws for Zanzibar on non-union matters without the approval of the union government. The term of office for the Zanzibar President and House of Representatives is also five (5) years. The relationship between Zanzibar

¹³ Ibid, Article 64; and Article 132 (1) and (2) of the Constitution of the Revolutionary Government of Zanzibar 1984,

¹⁴ Article 68(1) (a) of the Constitution of the United Republic of Tanzania 1977.

¹⁵ Ibid, Article 68 (1) (b).

¹⁶ Ibid, Article 68(1) (c).

¹⁷ Ibid. Article 68(1) (d).

¹⁸ The House of Representatives is established under Section 63 and 64 of the Constitution of Zanzibar of 1984. It consists of: elected members from the Constituents; nominated members by the President of Zanzibar, female members (special seats 30% of all elected members) appointed by political parties and represented in the House of Representatives, Regional Commissioners; and the Attorney General of Zanzibar. The matters that are considered to be union matters are set out in the Constitution of the United Republic of Tanzania, 1977 at the 1st Schedule.



and the Mainland Tanzania is a relatively unique system of government. More information about Zanzibar can be found in Part Two of this report.

The Judiciary

The Judiciary is a constitutional organ and an arm of the State. The Judiciary is the authority with final decision in dispensation of justice in the United Republic of Tanzania.¹⁹ Tanzania's legal system is based on English common law, whereby judicial functions are administered by various courts established in accordance with the law.²⁰ The judicial hierarchy in Mainland Tanzania (in descending order) consists of the following courts: the Court of Appeal, which is the highest court in the country; the High Court of Tanzania; Resident Magistrates Courts; District Courts; and Primary Courts. The adjudicators in the Court of Appeal and High Court are Judges while in other courts are magistrates.

Judges are appointed by the President, in consultation with the Judicial Service Commission of Tanzania.²¹ Magistrates are appointed directly by the Commission.²² The High Court of Tanzania has divisions dealing with land, labour and commercial matters. In 2016, the Corruption and Economic and Organised Crime Control Act of 1984 was amended to establish the Corruption and Economic Crimes Court Division of the High Court (*Mahakama ya Mafisadi*).²³

Tanzania also has a court martial process (military tribunal) meant to deal with cases related to armed forces personnel.²⁴ There is also a special constitutional court, which is an *ad hoc* court with a sole function of interpretation of the *Constitution of the United Republic of Tanzania, 1977*, over dispute between the Government of the United Republic of Tanzania and the Revolutionary Government of Zanzibar.²⁵ The Constitutional Court is composed of members, half of which appointed by the Government of the United Republic of Tanzania and the other half by the Revolutionary Government of Zanzibar. Tribunals have also been established under various laws to adjudicate on other matters, including labour, taxes and land issues.²⁶

19 Article 107(A) of the Constitution of United Republic of Tanzania, 1977.

20 See Articles 108, 114 and 117 of the Constitution of the United Republic of Tanzania of 1977; provisions of the Magistrates Court Act, Cap 11, [R.E. 2002].

21 Articles 109 and 118 of the Constitution of the United Republic of Tanzania of 1977.

22 Ibid, Article 113(1).

23 Section 3 of the Economic and Organized Crimes Control Act, 1984.

24 Court Martial, including general court martial, disciplinary court martial and standing court martial, are governed by the provisions of the National Defence Act, Cap. 192, [R.E. 2002].

25 Article 125 and 126 of the Constitution of the United Republic of Tanzania, 1977.

26 Labour Institutions Act 2004 provides for establishment of institutions to adjudicate labour disputes in Tanzania. The Tax Revenue Appeals Act, Cap 408 of [R.E 2006] provides for establishment of Tax Revenue Appeals Board and the Tax Revenue Tribunal to adjudicate tax issues. Land matters are



Zanzibar has its own judicial system consisting of (in descending order): the Court of Appeal of Tanzania; the High Court of Zanzibar; Regional and District Magistrate Courts; Primary Courts; *Kadhi* Appeal Courts; and *Kadhi* Courts. These courts have jurisdiction over cases arising in Zanzibar that involve non-union matters.²⁷ The High Court of Zanzibar is the highest court for matters originating from *Kadhi* Courts and the interpretation of the Constitution of Zanzibar. However, the appeal process for a case originating from a magistrate court is slightly different, as some of the cases may be appealed to the High Court of Zanzibar and then appealed again to the Court of Appeal of Tanzania.

1.2. Report Preparation, Objectives, and Structure

1.2.1. Report Preparation & Objectives

This report discusses the situation of human rights in Tanzania for the period of January to December 2022, looking at key human rights issues for the year in question. The report highlights positives in human rights protection, gaps in human rights protection, and incidents of human rights violations. The report is also meant to be used as an advocacy tool, seeking to provide evidence to support advocacy, inform the duty bearers and rights holders about relevant human rights standards, remind duty bears of their human rights obligations, promote behaviour change in the society and provide key data on human rights issues to inform interventions by government and non-governmental actors. This report is also a tool for raising awareness and promoting understanding of human rights and human rights issues, and act as a starting point in human rights-related research, identifying legal and human rights issues for further research.

1.2.2. Sources of Data

This report is informed by at least ten data sources, categorized as primary data and secondary data.

1.2.2.1. Primary Data

Primary data was mainly obtained through the Human Rights Survey 2022, LHRC's engagement with beneficiaries of its programmes, legal aid data, and human rights monitoring. The human rights survey was conducted

adjudicated by tribunals established under the Court (Land Disputes Settlements) Act, 2002.

²⁷ There are 22 union matters, originally there were only 11 union matters. The Court of Appeal is one of the union matters listed in the First Schedule of the Constitution of Tanzania 1977. Other union matters include foreign affairs, security, police, citizenship, immigration, foreign trade, higher education, aviation and statistics.



in 20 regions of Mainland Tanzania.²⁸ The main objective of the survey was to collect data to inform LHRC's assessment of human rights situation in Tanzania.

Seven themes were covered in the survey, namely: digital safety and security; violence against women and children (VAWC); violence against women in politics (VAWP); access to justice; youth rights and challenges; land property rights; and loans for women, persons with disabilities (PWDs) and youths. Targeted respondents were community members; social welfare officers (SWOs); community development officers (CDOs); youth; women, youth and PWDs groups; legal aid providers; digital safety and security experts/ICT experts; NGOs/CBOs, including youth organizations; and women politicians/leaders. Cluster sampling was employed in region sampling, while purposive and random sampling techniques were inclusively used to identify respondents. A total of 2,619 people were reached in line with sampling determination made using Raosoft Calculator.

Table 1: #Respondents reached by type – Human Rights Survey 2022

Respondents/Interviewees	Target	Reach
Community members	1,500	1,497
Social welfare officers	60	42
Community development officers	60	47
Youth	300	350
Women, youth and PWDs groups	300	289
Legal aid providers	60	55
Digital safety and security experts/ICT experts	40	33
NGOs/CBOs	300	258
Women in politics	10	48
TOTAL	2,630	2,619

Source: Field data, 2022

²⁸ Dar es Salaam, Pwani, Mtwara, Morogoro, Dodoma, Tabora, Singida, Tanga, Kilimanjaro, Arusha, Iringa, Mbeya, Njombe, Kagera, Mwanza, Mara, Geita, Rukwa, Kigoma, & Katavi. At least 3 districts visited in each region.





Figure 1: % Respondents by sex

Source: Field data, 2022

Both qualitative and quantitative approaches were employed to gather relevant data, using questionnaire, interview, key informant interview, focus group discussion (FGD), and observation methods. A total of 17 experienced research assistants (9 male, 8 female) were engaged and deployed by LHRC to assist with data collection. Prior to commencement of fieldwork, the research assistants underwent a two-day training, which also covered ethical considerations and quality assurance. Data collected during fieldwork was analysed using the Statistical Package for Social Scientists (SPSS) analysis software and LHRC-RMS, establishing frequencies and key variables. These data were further analysed and transformed into tables and figures by using Microsoft Excel and Microsoft Word. Qualitative data were grouped and analysed based on the various themes developed.

Through her network of human rights monitors in all regions of Mainland Tanzania, LHRC was able to generate valuable primary data that have also informed this report, including data for regions not covered by the Human Rights Survey 2022. Legal aid data is also an important data source, especially on issues around economic and social rights, such as property and land rights issues.

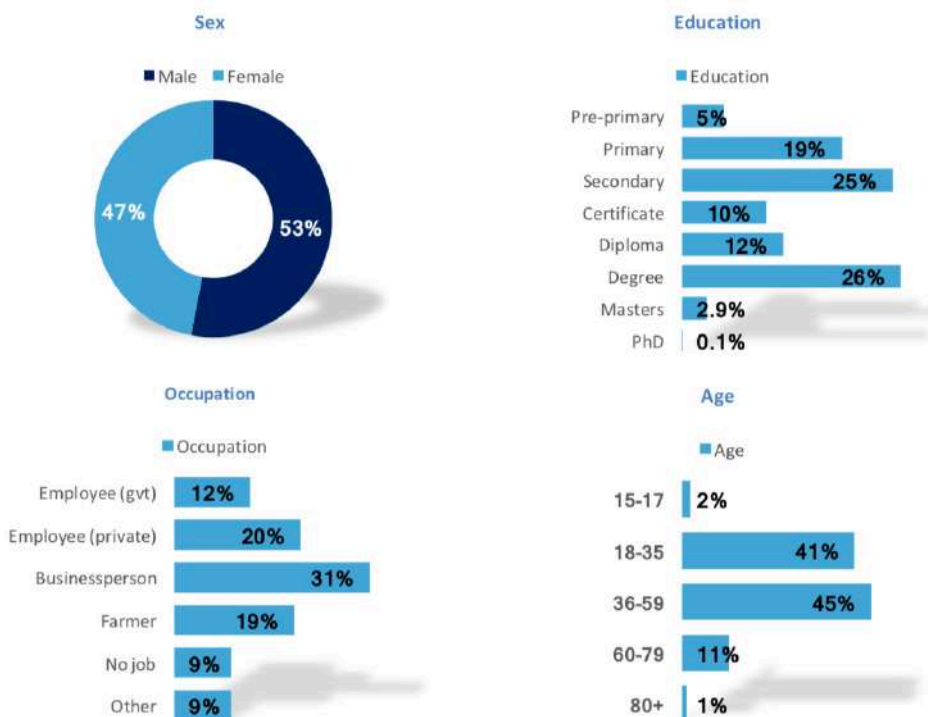
1.2.2.2. Secondary Data

Secondary data was obtained through review of various credible sources, including reports and statements by government and non-government actors. The data sources include government reports, including parliamentary reports; budget speeches; ministry reports; reports by law



enforcement organs; reports and speeches by the Judiciary; and police data/crime statistics. Further, the report has benefited a lot from previous LHRC reports; reports by local and international CSOs; domestic, regional, and international human rights instruments; and decisions of regional and international human rights bodies. LHRC's media survey also provided an important data source for this report and enabled triangulation of data and laid a foundation for further research.

1.2.3. Demographic Characteristics of Respondents



1.2.4. Report Structure

Chapter 1: Introduction	Provides a short contextual overview of Tanzania and highlights report preparation, objectives and structure
Chapter 2: Civil and Political Rights	Covers situation of key civil and political rights, including freedoms of association, assembly, and expression; rights to equality before the law and effective remedy; and right to life
Chapter 3: Economic, Social, and Cultural Rights	Covers economic, social, and cultural rights, including right to work, right to education, right to health, right to clean and safe water, right to property, right to adequate standard of living, and right to social security
Chapter 4: Collective Rights	Looks at and discusses realisation of rights to development, right to benefit from natural resources, and right to clean and healthy environment.
Chapter 5: Rights of Vulnerable Groups	Covers rights of vulnerable groups, including women, children, PWDs, and the elderly.
Chapter 6: Human Rights Mechanisms	Looks at human rights mechanisms at domestic, regional and international levels and discusses their role in human rights protection.
Chapter 7: Implementation of Recommendations	Assesses the status of implementation of the recommendations made in the previous human rights reports.
Chapter 8: Conclusion and Recommendations	Provides general conclusion and recommendations to enhance promotion and protection of human rights in Tanzania.

1.2.5. Overview of Human Rights Situation in 2022

Verdict on the overall human rights situation

Based on the assessment of human rights issues vis-à-vis international human rights standards, LHRC observed that the overall situation of human rights slightly improved in 2022 compared to the previous year of 2021. This was mainly attributed to the positives in promotion and protection of civil

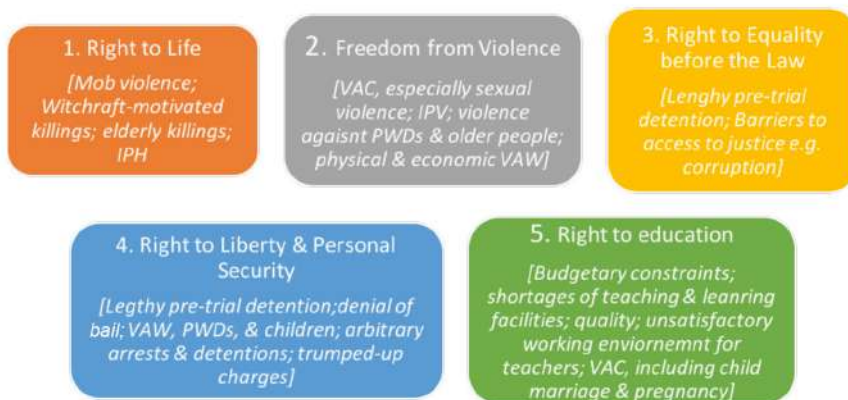


and political rights, including lifting of bans on media outlets, plans of lifting of ban on political rallies, and plans to reform the criminal justice system. Other positives included the adoption of the new Wage Order of 2022, replacing the Wage Order of 2013, and introduction of the universal health coverage (UHC) bill. These positives have implications on fundamental rights such as right to equality before the law; right to liberty and personal security; freedoms of expression, assembly and association; and right to work.

Most reported and documented human rights issues

Like it was the case in 2021, in the year 2022 the most reported and documented human rights issues were violations of civil and political rights, including freedom from violence. Different forms of violence against women, children, PWDs, and the elderly were the most reported issues and incidents. These contributed to intimate partner homicides, witchcraft-motivated killings, denial of property and inheritance rights, and physical and psychological harm. Criminal justice issues were also widely reported, debated, and discussed as many accused persons continue to languish in prisons because of deficiencies in the criminal justice system. Right to education was also on the spotlight in 2022, with stakeholders raising concerns over quality of education, greatly affected by budgetary constraints and unsatisfactory learning and teaching environment, especially in public schools.

5 Most violated human rights in 2022



Other key human rights issues

Other key human rights issues for the year 2022 included violations of rights of journalists, mob violence, witchcraft-motivated killings, IPV and IPH, violations of fair trial rights (especially due to lengthy pre-trial detention), human and child trafficking, child neglect, child labour and exploitation, child marriage, privacy and personal security, FGM, and violations of property and inheritance rights of women (including widows).

Most mentioned regions in the report

Regions mentioned the most in this report in terms of human rights issues and incidents of human rights violations include: 1. Singida (179); 2. Kigoma (163); 3. Geita (140); 4. Dar es Salaam (139); 5. Njombe (124); 6. Dodoma (120); 7. Katavi (118); 8. Mara (114); 9. Mbeya (113); 10. Mtwara (112); 11. Tanga (108); 12. Iringa (106); 13. Kilimanjaro (103); 14. Arusha (100); 15. Shinyanga (86); and 16. Mwanza (81). In terms of zones, Lake Zone regions were mentioned the most (482), followed by Central Zone (432), Southern Highlands (397), Northern Zone (338), Western Zone (332), and Eastern Zone (331).

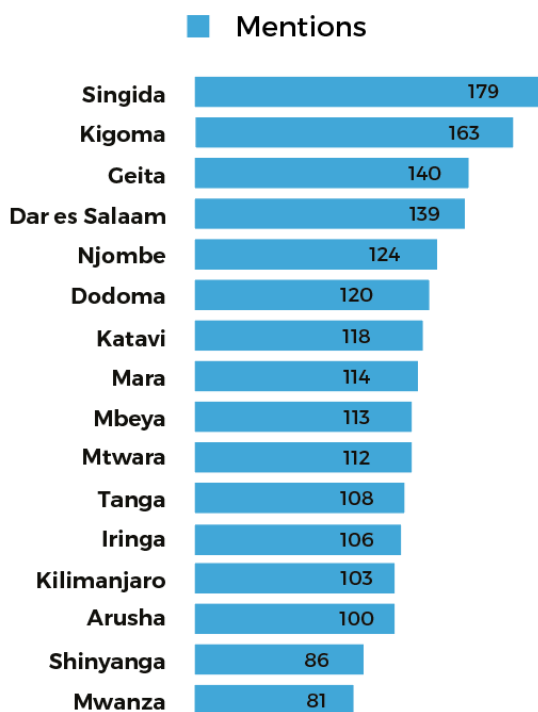


Figure 2: Most mentioned regions in THRR 2022



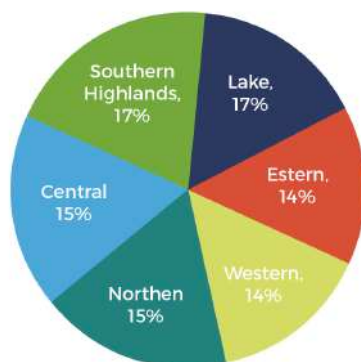


Figure 3: %Mentions of regions in THRR 2022 per zone

Regions to watch

Regions to watch in 2023 include Arusha, Dar es Salaam, Dodoma, Singida, Katavi, Geita, Mwanza, Njombe, Mara, and Kigoma.

	Region	Major Issue(s)
1	Arusha	GBV/VAW; VAC, especially sexual violence (rape & sodomy); labour rights violations; child/family neglect/abandonment; personal security.
2	Dar es Salaam	GBV/VAW; VAC, especially sexual violence (rape & sodomy); IPV; mob violence; labour rights violations; sextortion; human trafficking; child labour & exploitation; lengthy pre-trial detention; shortage of health workers; personal security.
3	Dodoma	IPV; FGM; child/family neglect/abandonment; VAC; human trafficking; labour rights violations; shortage of health workers; personal security.
4	Singida	GBV, VAW; VAC, especially sexual violence (rape & sodomy); marital rape & sodomy; child/family neglect/abandonment; labour rights violations.
5	Katavi	GBV/VAW; VAC; IPV; witchcraft-motivated killings; mob violence; child marriage; child pregnancy; child/family neglect/abandonment; inheritance and property rights violations (women & girls); violence against the elderly; shortage of health workers.



6	Geita	child/family neglect/abandonment; VAW; VAC; labour rights violations; child labour & exploitation; inheritance and property rights violations (women & girls); personal security.
7	Mwanza	GBV/VAW; IPV; VAW; VAC; witchcraft-motivated killings; violence against the elderly.
8	Njombe	GBV/VAW; witchcraft-motivated killings; child/family neglect/abandonment; VAAC; inheritance and property rights violations (women & girls); violence against the elderly; personal security.
9	Mara	GBV/VAW; VAC; FGM; labour rights violations; economic VAW; IPV; IPH; personal security.
10	Kigoma	GBV/VAW; VAC; human trafficking; child labour & exploitation; child pregnancy; child/family neglect/abandonment.

Victims of human rights violations

Based on LHRC’s human rights monitoring data, children constituted the majority of victims of reported and documented incidents of human rights violations (47%), followed by women (33%), elderly (10%), and PWDs (4%). The remaining 6% were other victims.

■ Human rights violations victims

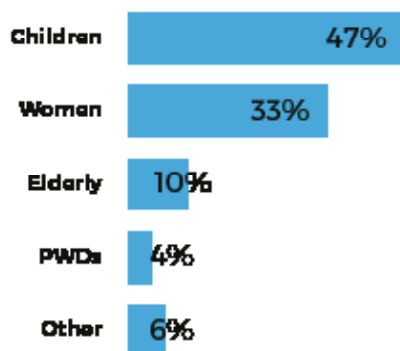


Figure 4: Victims of human rights violations based on reported incidents documented by LHRC in 2022

Source: Human Rights Monitoring 2022



CHAPTER 2: CIVIL AND POLITICAL RIGHTS

Civil and political rights are rights that protect peoples' freedoms from infringement by governments, institutions and private individuals. These rights involve citizens' participation in the establishment of a government and participation in political life; and protect individuals' freedoms from interference by state actors, promote participation in civil society, and are essential component of democracy. These rights are protected and guaranteed under international²⁹ and regional³⁰ human rights instruments, as well as the Constitution of the United Republic of Tanzania of 1977.³¹

This chapter discusses the situation of civil and political rights in Mainland Tanzania in 2022, looking at violations, issues, and positive developments. The focus is on the right to life, freedom of expression, rights to equality before the law and effective remedy, right to liberty and personal security, freedoms of assembly and association, freedom from violence, right to take part in governance, and freedom from torture and inhuman or degrading treatment. Other civil and political rights are also briefly discussed in relation to these rights.

In 2022, the situation of civil and political rights slightly improved compared to the year 2021. Several contributing factors are discussed in this report, key among them being improved media environment, lifting of political rallies ban, and Government's plans over criminal justice reforms.

29 Key instruments include the Universal Declaration of Human Rights (UDHR) of 1948; the International Covenant on Civil and Political Rights (ICCPR) of 1966; UN Convention on the Rights of Persons with Disabilities (CRPD) of 2006; the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) of 1979; the UN Convention on the Rights of the Child of 1989; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) of 1984.

30 Including the African Charter on Human and Peoples' Rights (ACHPR/Banjul Charter) of 1981; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (popularly known as the Maputo Protocol) of 2003; the African Charter on the Rights and Welfare of the Child (ACRWC) of 1990; African Charter on Democracy, Elections and Governance of 2007; SADC Protocol on Gender and Development of 2008; and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa of 2018.

31 The Constitution contains the bill of rights, which guarantees fundamental human rights such as right to life, freedom of expression, freedom of assembly, right to liberty and personal security, and right to take part in governance.



2.1. Right to Life

About the right.

- Most fundamental human right and enshrined in all major human rights treaties.
- Imposes upon States the duty to: abstain from arbitrarily killing individuals; take appropriate care in the planning and conduct of an operation; carry out an effective official investigation when individuals have been killed or 'disappeared': take 'reasonable' measures to protect individuals whose lives are in danger because of criminal acts of other individuals; take adequate measures to protect the lives of individuals held in state custody; and ensure provision of effective remedy where it has been found complicit in right to life violation.

In 2022, key right to life issues and violations in Mainland Tanzania included mob violence, witchcraft-motivated killings, extrajudicial killings, death penalty, and intimate partner homicide (IPH).

2.1.1. Mob Violence

In 2022, mob violence continued to be one of the key issues affecting right to life. Police data show that incidents of mob violence in Tanzania are more prevalent in Mainland Tanzania, accounting for over 95% of all incidents. In 2021, a total of 473 mob violence incidents were documented in the whole of Tanzania, increasing from 443 in 2020.

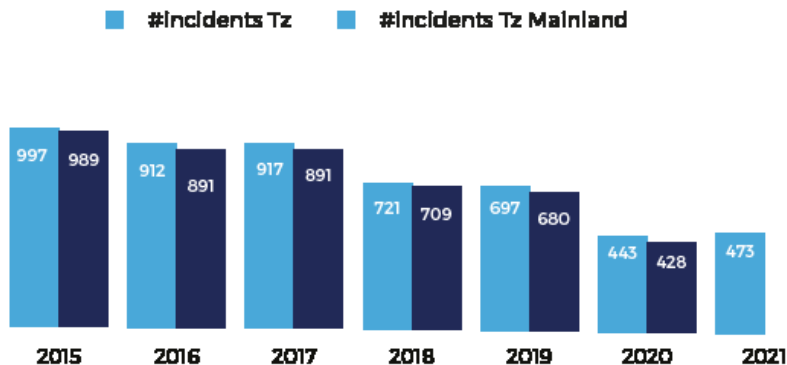


Figure 5: #Mob violence killings in Tanzania, 2015 to 2021
Source: Tanzania Police Force Data



Through media survey and human rights monitoring, LHRC documented at least 40 incidents of mob violence in 2022, which are 18 more than those documented in 2021. These incidents, which constitute only a small fraction of those usually documented by police, were reported in regions such as Dar es Salaam, Kigoma, Kilimanjaro, Lindi, Shinyanga, Pwani, and Ruvuma. Majority of victims were killed because of theft accusations and all of them were male, which is typical. However, witchcraft suspicion is also coming into the picture as one of the reasons for mob violence. For instance, in one of the incidents, reported in Ruvuma, 78-year-old Jonas Komba was attacked by angry villagers in Mahanje Village, located in Madaba District, for allegedly being responsible for the death of his son.³²

Table 2: Some of the reported incidents of mob violence documented by LHRC – January to December 2022

Description	Source
Kigoma: Police in Kigoma arrested 15 people, including a village chairperson, for killing two people accused of raping three women in Kagerankanda Village in Kisulu District.	HABARILEO Newspaper 9 Mar 2022
Kilimanjaro: An angry mob in Siha District attacked and killed Safarini Mrema (39), after accusing him of cutting a leg of his neighbour’s cow. It was reported that the victim was enraged when he found his neighbour’s cows in his farm.	HABARILEO Newspaper 18 Sep 2022
Kilimanjaro: A suspected robber was attacked with stones and killed by angry community members in Moshi District, after allegedly attempting to steal a motorcycle, cash, and mobile phone.	Nipashe Newspaper 29 Oct 2022
Lindi: Imamu Halfani Kigogo (38), resident of Hingawali Village in Lindi District, was brutally attacked with machetes and killed by an angry mob over lover’s jealousy. The incident occurred on 17 th March 2022.	Nipashe Newspaper 29 Oct 2022

³² LHRC Human Rights Monitoring Data 2022.



<p>Shinyanga: Three people were attacked and killed by unknown people and angry mobs in Shinyanga. In the first incident, Nyinda Village Chairperson, Kabula Ngasa (60), was attacked with machetes and killed by unknown people. In the second incident, an angry mob in Mwamala Vilalge in Shinyanga District burned to death Simbili Izengo (33) and Kashinje Malulu (32) for allegedly stealing cows.</p>	<p>Nipashe Newspaper 3 Aug 2022</p>
<p>Pwani: Police in Pwani Region arrested 21 people for beating and killing Ali Msonde (24), resident of Bagamoyo District, after accusing him of stealing cows.</p>	<p>HABARILEO Newspaper 20 Aug 2022</p>

Source: Media Survey, 2022

LHRC's View & Call: Mob violence continues to be a key human rights issue and is contributed by citizens' lack of trust and confidence in the criminal justice system, mainly due to perception of corruption within law enforcement organs, and ignorance about criminal law, especially on the issue of bail. Criminal justice reforms are therefore needed to enhance trust and confidence in the justice delivery institutions and reduce incidents of mob violence. Nevertheless, LHRC calls upon community members to refrain from taking matters into their own hands and NGOs and other stakeholders to continue raising awareness about how the criminal justice system works as well as the dangers of this practice of mob violence.

2.1.2. Extrajudicial Killings and Violence against Law Enforcement Officials

2.1.2.1. Extrajudicial Killings

The primary duty of law enforcement officials³³ is to protect and safeguard the lives of people. These obligations are well stipulated in regional and international human rights instruments, which also call for police use of force to be necessary, proportional, and lawful (reasonable use of force). These principles of necessity, proportionality and legality are echoed in the United Nations Code of Conduct for Law Enforcement Officials of 1979, which provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of

³³ The term "law enforcement officials", includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention.



their duty.³⁴ When law enforcement officials fail to adhere to the three key principles highlighted above, resulting into deaths of civilians or suspected criminals, they commit extrajudicial killings.

Incidents of Extrajudicial Killings documented by LHRC in 2022

In Tanzania, law enforcement officers include police officers, prison officers, wildlife officers, people's militia officers, and *sungusungu* officers. In 2022, some of these officers were implicated in extrajudicial killings in different parts of Mainland Tanzania. LHRC documented ten (10) incidents of extrajudicial killings, one more than those documented in 2021. These were reported in Kigoma, Mtwara, Kilimanjaro, Morogoro, Tabora, and Lindi Regions. All victims were male and four of them were children, the youngest aged 14 years. Perpetrators included people's militia officers, game wardens, and police officers.

Table 3: #Incidents of extrajudicial killings documented by LHRC – January to December 2022

Description	Source
Kigoma: A man, Juma Ramadhani, was reportedly killed after police fired shots during unrest with football fans of Mwandiga FC and Kipamba FC in Kigoma. Excessive use of force by the law enforcement officials was reportedly blamed for the death of the man by onlookers, and ACT-Wazalendo (opposition political party) called for inquiry into the incident.	Nipashe Newspaper 16 Mar 2022
Mtwara: Seven police officers were arrested in Mtwara in March 2022 for killing a businessperson, Mussa Hamisi (25).	HABARILEO Newspaper 9 Mar 2022
Mwanza: Ibrahim Shakiru (16) was reportedly subjected to excessive beating by people's militia officers, causing his death. It was reported that the officers, in collaboration with teachers at Kirumba Secondary School, beat him to death on 22 nd October 2022 after finding him near the school with a machete.	Mwananchi Newspaper 30 Oct 2022
Kilimanjaro: A child was reportedly shot dead by TANAPA game wardens.	Mwananchi Newspaper 10 Jul 2022

³⁴ See Article 3 of the Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly in resolution 34/169 of 17 December 1979 at New York, at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>, accessed 10th December 2021.



Kilimanjaro: Peoples' militia officers and a ward executive officer reportedly excessively beat a 14-year-old child, accused of stealing shoes, causing his death. The incident occurred on 17 th July 2022.	Mwananchi Newspaper 21 Jul 2022
Kilimanjaro: A 17-year-old child, resident of Mwanga District, was reportedly shot and killed by a game warden from the Mkomazi National Park for allegedly guiding and grazing livestock into the national park.	Mwananchi Newspaper 23 Jul 2022
Morogoro: Koba Ndalw (23), resident of Kilosa District, reportedly died while under police custody due to beatings in February 2022.	Human Rights Monitoring
Tabora; Jacob Elias, a suspected thief, reportedly died the day after he was released from police custody in Tabora in February 2022.	Human Rights Monitoring
Lindi: Three prison officers at Liwale Prison in Lindi Region were arrested and taken to court for killing a prisoner, Ally Abdallah Ngarumbala.	ITV 20 Jul 2022
Kilimanjaro: In September 2022, it was reported that Ulirki Sabas(47), resident of Kirongo Chini in Rombo District, died after being beaten while under police custody. He had been arrested for sleeping with a student. The deceased's relatives pleaded for President Samia's intervention.	Mwananchi Newspaper (online) 17 Sep 2022

Source: Media Survey & Human Rights Monitoring, 2022

Killing of a Businessperson in Mtwara and Subsequent Death of a Police Officer while in Police Custody

One of the killing incidents which caught the eye of the public and human rights stakeholders is the killing of Mussa Hamis (25), a businessman based in Mtwara Region. The incident occurred on 23rd January 2022 and according to the mother of the victim, Hawa Ally, her son was into the mining business and was arrested after returning from exchanging foreign currency.³⁵

Arrest and Detention of Police Officers Implicated in the Killing of the Businessman

The killing of Mussa Hamis (25), resident of Ruponda Village in Nachingwea District in Lindi Region, was met with condemnation by different stakeholders, including LHRC.³⁶ His killing led to the arrest of seven (7)

³⁵ "Machosi ya damu" Mwananchi Newspaper, 27 January 2022 [<https://www.mwananchi.co.tz/mw/habari/kitaifa/machosi-ya-damu-3696900>]

³⁶ Press statement by LHRC: Condemning the Violent Killings Reported in Different Parts of Tanzania, 27 January 2022 [www.humanrights.or.tz]



police officers in connection with the incident. According to the Mtwara Regional Police Commander, *ACP* Marck Njera, the arrested police officers were: *Police Superintendent* Gilbert Kalanje (District Head of Investigation Unit), *ASP* Charles Onyanga (Officer Commanding Station – Mtwara Police Station), *ASP* Nicholas Kisinza, *CID* John Msuya Mganga (Mtwara Region Criminal Intelligence Officer), *Assistant Inspector of Police* Marco Mbuta (Chief of Mtwara Police Dispensary), *Inspector of Police* Shirazi Mkupa, and *Corporal* Salimu Juma Mbalu.³⁷ Prior to these arrests, police revealed that they had arrested another police officer, *ASP* Grayson Mahembe, in connection with the killing, bringing a total of police officers implicated in the killing to eight.

Reports say that the victim was killed after demanding the police officers, who had arrested him, to give him back his Tshs. 33 million³⁸ that they took from him during a search conducted on 5th January 2022. According to the reports, police officers reacted by beating him to death and then dumped his body in a village in Mtwara District.³⁹

The Prime Minister of the United Republic of Tanzania, Hon. Kassim Majaliwa, formed the special committee to probe into the killings in Mtwara. The committee, which was given seven days, finished its assignment and presented the report, but as of December 2022, the report was yet to be made public.⁴⁰

The Death of the Police Officer: Suicide or Extrajudicial Killing?

On 22nd January 2022, reports emerged that *ASP* Grayson Mahembe, one of the police officers implicated in the killing of the businessman in Mtwara, had committed suicide in police cell.⁴¹ In the wake of the news about the death of *ASP* Grayson Mahembe, his father issued a statement during a press conference, alleging foul play in his late son's death. According to the father, there were several things which were not done properly and raised suspicion. For instance, he claimed that a relative of the family who was in Mtwara around the period his son was detained at a police station, was not taken to the crime scene, instead he was taken to a mortuary at

37 "SEVEN POLICE OFFICERS CHARGED WITH MURDER IN THE DEATH OF A BUSINESS" DAILY NEWS Newspaper, 25 January 2022 [<https://www.habarileo.co.tz/habari/2022-01-2561f05d379bb07.aspx>]

38 Other reports suggest it was Tshs. 70 million.

39 "Polisi aliyefanya mauaji ajinyonga kwa deki" EATV, 26th January 2022 [<https://www.eatv.tv/sw/node/72151>]

40 See "PM forms probe team on Mtwara, Kilindi killings" Africa Press, 5 Feb 2022, at <https://www.africa-press.net/tanzania/all-news/pm-forms-probe-team-on-mtwara-kilindi-killings>; "Taarifa ya uchunguzi mauaji Mtwara, Kilindi yatua kwa Waziri Mkuu" Mwananchi Newspaper (digital), 26 Feb 2022, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/taarifa-ya-uchunguzi-mauaji-mtwara-kilindi-yatua-kwa-waziri-mkuu-3730566>.

41 "Machizi ya damu" Mwananchi Newspaper [online], 27 January 2022 [<https://www.mwananchi.co.tz/mw/habari/kitaifa/machizi-ya-damu-3696900>]; "Polisi aliyefanya mauaji ajinyonga kwa deki" EATV, 26th January 2022 [<https://www.eatv.tv/sw/node/72151>]



Ligula Hospital, where he found the body. He also alleged that his son was killed because he mentioned the names of senior police officers who were also responsible for the killing incident. He also expressed doubts over the manner of his son's death, given the alleged inconsistencies in statements made by police officers regarding how the deceased police officer had hanged himself. Further, the father of the deceased officer lamented not being given the pictures of his son taken from the crime scene and his son not receiving a proper burial as a police officer.

The father of the late *ASP* Grayson Mahembe, urged the authorities to investigate the circumstances of his son's death, calling for the intervention of the Inspector General of Police (IGP), the Minister of Home Affairs, and if possible, the President of the United Republic of Tanzania, H.E Samia Suluhu Hassan.⁴² He felt that his son was killed because he 'told the truth' and mentioned senior officers who were involved in the killing of the businessman in Mtwara.⁴³

Police Statement on the Death of the Police Officer and Allegations made by His Family

Following allegations of foul play in the death of *ASP* Grayson Mahembe, the police issued a statement dated 31st January 2022.⁴⁴ In the statement, police refuted several claims made by the late *ASP* Grayson Mahembe's father, a retired military officer. For instance, the police force claimed that Grayson Mahembe and his colleagues put greed before their duty and colluded to kill the businessman, in violation to their oath to serve and protect the Constitution and the law. He confessed everything when he was interrogated and took the investigating team to the area where they had dumped the body of Mussa Hamis, and his statement corroborated evidence the police had already obtained. Additionally, the police statement also indicated that:

- Grayson Mahembe and other suspected police officers had to be put into different holding cells to preserve the evidence that had been gathered by then, until he was found dead after hanging;
- After Grayson Mahembe was found dead, all procedures of investigation were followed, including taking pictures. The pictures show all the signs of a person who has committed suicide by hanging;

⁴² See "EXCLUSIVE: BABA WA ASKARI ALIYEJINYONGA MAHABUSU AFUNGUKA "UKWELI UMEMPONZA" Millard Ayo, 29 January 2022 [<https://www.youtube.com/watch?v=MXGxcGqk4-c>]

⁴³ Ibid.

⁴⁴ JESHI LA POLISI TANZANIA, TAARIFA KWA VYOMBO VYA HABARI, 31/01/2022.



- The body of Grayson Mahembe was subjected to a postmortem examination and the doctor who performed the examination concluded that the deceased had indeed committed suicide by hanging (postmortem examination report is available);
- Regarding burial of the late Grayson Mahembe, officers who die by committing suicide do not die heroically and are therefore not entitled to a military funeral, but all other funeral procedures were followed, including assisting the deceased's family to take the body where they wanted it buried.

The official police statement therefore refuted the claims made by the late Grayson Mahembe's family and reiterated that the former *ASP* had committed suicide by hanging.

Questions Over Death of the Police Officer and a Suitable Solution: The case for an Independent Police Oversight Body

As discussed above, there has been a tug of war between the police force and the family of the late *ASP* Grayson Mahembe regarding the circumstances of his death. While the police reiterate that the former *ASP* hanged himself while in a police holding cell, the family feels that there was a foul play and lack of transparency, and that the deceased became the victim of 'his own truth.' There is a feeling among the public that oversight of the police should not just be internally, given possibilities of bias and lack of transparency. An external and independent police oversight body is therefore desirable.

In its various Tanzania Human Rights Reports,⁴⁵ LHRC has reiterated the need to have in place an independent police oversight body to address and investigate cases such as extrajudicial killings and other misconducts by law enforcement officials and has also engaged the Ministry of Constitutional and Legal Affairs over this matter. This is one of the recommendations which is yet to be taken aboard by the Government.⁴⁶

The independent oversight body shall investigate and hold accountable police and other law enforcement officials in case of misconducts, including accusations of extrajudicial killings. We can borrow a leaf from Kenya and South Africa, which have both put in place independent civilian police oversight bodies.⁴⁷ The police oversight bodies in the two countries are

⁴⁵ Including the 2016, 2019, and 2020 reports.

⁴⁶ See LHRC (2021). Tanzania Human Rights Report 2020. [www.humanrights.or.tz]

⁴⁷ See Hope, Kempe. (2019). Civilian oversight of the police: The case of Kenya. *The Police Journal: Theory, Practice and Principles*. 93. 0032258X1986072. 10.1177/0032258X19860727.



summarized in table 4 below.⁴⁸

Table 4: Independent police oversight bodies in Kenya and South Africa

Police Oversight Bodies in Kenya and South Africa [External]		
KENYA		
Oversight Body	Establishment	Mandate
Independent Policing Oversight Authority (IPOA)	Established through an Act of Parliament to provide for civilian oversight over the work of the police in Kenya	<p>IPOA Act mandates the Authority to undertake the following key functions:</p> <ul style="list-style-type: none"> ■ To investigate deaths and serious injuries caused by police action. ■ To investigate police misconduct. ■ To monitor, review and audit investigations and actions by internal affairs unit of the police. ■ To conduct inspections of police premises. ■ To monitor and investigate policing operations and deployment. ■ To review the functioning of the internal disciplinary process. ■ Reporting.
SOUTH AFRICA		
Oversight Body	Establishment	Mandate

⁴⁸ Source: AFRICAN POLICING CIVILIAN OVERSIGHT FORUM (APCOF) [<https://apcof.org/country-data/kenya/>] & [[HTTPS://APCOF.ORG/COUNTRY-DATA/SOUTH-AFRICA/](https://APCOF.ORG/COUNTRY-DATA/SOUTH-AFRICA/)]



<p>Civilian Secretariat of Police (CSP) & Interdependent Police Investigative Directorate (IPID)</p>	<p>The Constitution provides for the establishment of the Civilian Secretariat of Police and for an independent police complaints body to investigate allegations of misconduct and abuse by its members.</p>	<p>Mandate includes:</p> <ul style="list-style-type: none"> ■ To investigate complaints involving the police as well as any deaths that occur as a result of police action or while a person is in police custody.
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Extrajudicial killings and the death of *ASP* Grayson Mahembe, while in police custody, reinforce the need to have in place a police oversight body that is independent, to check on the conduct of law enforcement officials, including police officers. This will help to address complaints about lack of transparency and possible bias by and negative perceptions towards the internal oversight mechanisms. This is also in line with the principles of natural justice, which suggest that no one should be a judge in their own case.

Coroner Court

There is a law in place which establishes coroner court in Tanzania⁴⁹ which is not popular and not used. A coroner court is a legal tribunal that investigates sudden, unexpected, or unexplained deaths. The purpose of a coroner court is to determine the cause and circumstances of a person's death, and to establish whether any further investigation or action is required.

In some countries, such as the United Kingdom, coroner courts are presided over by a coroner who is usually a legally qualified medical doctor. The coroner will gather evidence from witnesses and experts and may order a post-mortem examination to be carried out in order to establish the cause of death.

The findings of a coroner court can have important implications for the family of the deceased, as well as for any individuals or organizations that

⁴⁹ Section 3 Inquest Act Cap 24 (RE 2019)



may be implicated in the circumstances of the death. For example, if the death was found to be caused by neglect or criminal activity, the coroner may recommend that charges be brought against the responsible parties. Despite the tag of war between the family of the late Greyson Mehembe and police there was no coroner court which was involved to clear the air and establish the cause of death. This could have been alternative means to clear the police from alleged foul play.

Trends on Extrajudicial Killings

In the past seven years (2016 to 2022), LHRC has documented at least **43 reported incidents** of extrajudicial killings, perpetrated by law enforcement officials, including police officers, game wardens, and members of the people's militia (*mgambo*).⁵⁰ The incidents represent an average of 6 incidents each year, with the years 2017, 2021, and 2022 recording the highest number of extrajudicial killing allegations, each with 9 reported incidents.

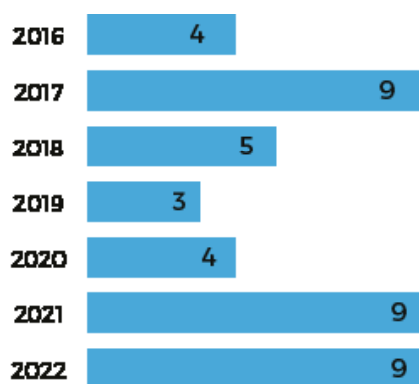


Figure 6: #Reported incidents of extrajudicial killings documented by LHRC (2016 – 2022)

In the period of 2016 to 2022, incidents of extrajudicial killings that were documented by LHRC were reported in Tabora, Mbeya, Dar es Salaam, Kilimanjaro, Geita, Pwani, Mara, Mbeya, Tanga, Arusha, Shinyanga, Kigoma, Mtwara, Morogoro, Lindi, Songwe, and Dodoma Regions. Perpetrators were police officers, game wardens, people's militia officers, forest guards, and prison wardens. In some cases of extrajudicial killings, justice was perceived to be done, characterized by open court proceedings against perpetrators

⁵⁰ See LHRC's Tanzania Human Rights Reports of 2016, 2017, 2018, 2019, & 2020 [www.humanrights.or.tz]



of such killings. However, in most cases, and as is the case in most other African countries, justice has not been perceived to be done, usually due to lack of transparency and a general feeling among the public that ‘police are protecting their own.’ One of the notable cases of extrajudicial killings is the case against Christopher Bageni, a former superintendent of police, who was accused of killing three businessmen and a taxi driver in 2006 and sentenced to death by the High Court in 2016.⁵¹ His attempts to appeal against the death sentence in 2019 and 2021 were unsuccessful.⁵² In another 2016 case, a police officer, Pacifius Simon, was found guilty and sentenced to 15 years in prison for killing a journalist, Daudi Mwangosi, in 2012.

LHRC’s call: Law enforcement officials, including police officers, to refrain from using excessive force when apprehending criminal suspects and when such suspects are under their custody, in line with domestic and international standards, including Tanzania Police General Orders, Peoples’ Militia Act, and the United Nations Code of Conduct for Law Enforcement Officials. An independent civilian police oversight body is also desirable to investigate incidents or allegations of extrajudicial killings.

The case for police oversight body

According to the United Nations Office on Drugs and Crime (UNODC), key elements of effective police accountability system include fair and effective procedures and policies to deal with misconduct, including both disciplinary and criminal codes, adequate investigative capacity, procedures for punishment and appeal procedures.⁵³ There should also be an independent body to oversee such procedures.⁵⁴

Why the oversight body?

There are a number of good reasons why a police oversight body is needed in Tanzania, key among them being:⁵⁵

⁵¹ LHRC (2017). *Tanzania Human Rights Report 2016*. [www.humanrights.or.tz]

⁵² James Magai “Bageni’s attempt to appeal against death sentence hits a brick wall” *The Citizen Newspaper*, 11 June 2021 [https://www.thecitizen.co.tz/tanzania/news/bageni-s-attempt-to-appeal-against-death-sentence-hits-a-brick-wall-3433610]

⁵³ UNODC, *Handbook on police accountability, oversight and integrity*, Criminal Justice Handbook Series, United Nations, New York, 2011, at https://www.unodc.org/pdf/criminal_justice/Handbook_on_Police_Accountability_Oversight_and_Integrity.pdf.

⁵⁴ Ibid.

⁵⁵ Handbook on police accountability, oversight and integrity (*supra*); African Policing Civilian Oversight Forum (APCOF), *An Audit of Police Oversight in Africa*, African Minds for the African Police Oversight Forum, 2008, at https://apcof.org/wp-content/uploads/2016/05/Audit-of-Police-Oversight-in-Africa-pdf.



- **Restoring or enhancing public trust and confidence:** Establishing a system of civilian oversight enhances police accountability and integrity and can help the police and other law enforcement organs restore or enhance public trust, which is a prerequisite for effective policing. Accepting civilian oversight shall show that the police are prepared to be scrutinized not only by ministries, the Judiciary, and the Parliament, but also by civil society and independent oversight bodies. External oversight is essential for the community to **perceive** that police are effectively held to account for their operations and actions, as well as misconduct, in a transparent and fair way.
- **Principles of natural justice:** Principles of natural justice require fair treatment for a person aggrieved by a conduct of another.⁵⁶ One of the key principles is known as the rule against bias, which states that a man cannot be a judge on his own case (*nemo iudex in causa sua*).⁵⁷ In some cases it is crucial that police do not investigate their immediate colleagues in order to avoid any conflict of interest. This is also important to ensure that the investigation is seen by the public as unbiased and impartial.
- **Preventing police misconduct and a culture of impunity:** Oversight bodies help, as external checks and balances, to ensure that police perform their functions to a high standard and held responsible when they fail to do so. Community members are also more likely to file a complaint with an oversight body rather than at a police station. Lack of complaint may lead to impunity for the offender and creation of such culture in the longer term.
- **Fear:** Members of the public may feel reluctant to file a complaint about the police with the police themselves. This may lead to absence of a complaint, and consequently an investigation is unlikely to be initiated and the victim getting **remedy**. It is therefore important that in addition to ensuring that community members can file a complaint directly with the police, they can also do so with an independent body. This serves to protect them from being intimidated by the police.
- **Learning opportunity:** If people do not complain to an authority they are comfortable with about police misconduct, the police miss a potential learning opportunity that could help in improvement in services.
- **Complementing internal mechanisms:** External oversight is complementary to internal mechanisms, such that it can reinforce them and sustain police managers in their efforts to enhance police integrity and performance. This is because internal mechanisms can

⁵⁶ See LEXFORTI, *The Principles of Natural Justice: Duty to Act Fairly*, 24 Oct 2022, at <https://lexforti.com/legal-news/principles-of-natural-justice/>.

⁵⁷ *Ibid*; LexisNexis, *What does Natural justice mean?*, at <https://www.lexisnexis.co.uk/legal/glossary/natural-justice#:~:text=These%20principles%20include%20the%20duty,an%20appeal%20against%20a%20decision..>



only be as effective as the commitment of police managers to tackling misconduct, as in different parts of the world, it has been found that such managers are often reluctant to expose large-scale misconduct because of its overall effect to the image of the police force. The internal mechanisms are less credible because of a widespread belief that police managers shall protect their own. On the other hand, external mechanisms are likely to be more **credible in the eyes of the public**, are more likely to be unbiased, and procedures and findings are more **accessible** to the public.

How should the independent oversight body be?

Key features of a civilian oversight body should include:⁵⁸

- Equal representation of men and women in the independent oversight body. This shall help to increase public confidence and responsiveness, ensuring both men and women perceive the body positively.
- Oversight body should itself be subjected to rigorous oversight, hence accountable and reporting to the Parliament. The independent body itself must therefore also be scrutinized.
- The body should be informed of all complaints about police misconduct filed directly with the police.
- Powers of the oversight body should include receiving and investigating complaints.
- The body must also have power to start an investigation on its own initiative, without a complaint having been made.
- Since the oversight body also seeks to complement internal mechanisms, it should work very closely with the police in performing its functions.
- The body should have power to intervene and/or repeat an investigation if not satisfactorily performed by the police.
- The body should also have the capacity to make recommendations for structural change to enable the police prevent recurrence of misconduct and have power to recommend further penal or disciplinary action.
- The independent oversight body does not need to have powers to prosecute, sentence, or discipline the subject of the investigation. Instead, it can recommend penalties to police commanders or refer a case for criminal prosecution.

⁵⁸ Handbook on police accountability, oversight and integrity (supra); Jonny Byrne & William Priestley (September 2015), Report On Police Oversight in the Council of Europe Countries, Council of Europe, Updated February 2017 by William Priestley, at <https://rm.coe.int/policy-oversight-mechanisms-in-the-coe-member-states/16807175dd>; Republic of Kenya, Independent Police Oversight Authority (IPOA), Performance Report: January – June 2021, at <http://www.parliament.go.ke/sites/default/files/2022-03/Report%20of%20Independent%20Policing%20Oversight%20Authority%20on%20Performance%20for%20January%20-%20June%202021.pdf>.



- Oversight should be extended to all law enforcement officials with ‘policing’ powers, especially of arrest and detention, including members of the peoples’ militia (*mgambo*) and native vigilante groups (*sungusungu*).
- The national human rights institution (in Tanzania’s case the Commission for Human Rights and Good Governance) and civil society should be represented in the body.
- The oversight body should be established by its own law to ensure independence and have its own budget. Its mandate shall be clearly set out in a constitutional or legislative text.
- There should be a fair and transparent process of appointing members and staff of the oversight body. All of them should be appointed on merit.
- There should be a fixed time period for membership in the oversight body and strict procedures for removal of members.
- Members of the body should have or gain sound understanding of policing.
- The oversight body should also be able to address the general public and the media about its work and functions.
- The oversight body may also provide counselling and psychosocial support to victims.
- Additionally, the oversight body should have mandate to inspect detention facilities and law enforcement premises.

LHRC’s View: External civilian oversight of police actions and operations can play a big role in enhancing police integrity and strengthening police accountability. LHRC understands that having in place such a body is desirable and we can start with legal and policy reforms. There are also opportunities to learn from countries that have in place such mechanisms, including Kenya and South Africa, and see what we can do, in consideration of our context. LHRC and other criminal justice and human rights stakeholders would be ready to provide assistance needed to make this dream a reality, as part of the current initiatives to reform the criminal justice system in Tanzania.

2.1.2.2. Violence against Law Enforcement Officials

During this reporting period, LHRC also documented at least seven (7) incidents of violence against law enforcement officials, in which seven, all male, were killed and one left seriously injured. The incidents were reported in Kilimanjaro, Katavi, and Morogoro Regions. In Kilimanjaro, in September 2022, police were looking for a murder suspect who attacked a police



officer with a machete while resisting arrest before fleeing his home.⁵⁹ In Katavi, police apprehended three people in February 2022, suspected to be notorious poachers, for allegedly killing a game warden, James Chacha (46).⁶⁰ In Morogoro, six officers from the Tanzania Forest Service Agency (TFS) were reportedly killed by mobs while performing their duties in the past year.⁶¹

LHRC’s call: Community members must refrain from attacking law enforcement officials, as this behaviour is illegal and violates their rights as human beings. The Commission for Human Rights and Good Governance should also collaborate with other stakeholders to raise public awareness on this matter as a measure of preventing violence against law enforcement officials.

2.1.3. Witchcraft-motivated Killings and Violence against PWAs

2.1.3.1. Witchcraft-motivated Killings

Killings motivated by belief in witchcraft, especially of so called ‘witches,’ continue to be a problem in different parts of Mainland Tanzania. Police crime statistics show that the reported incidents increased from 112 in 2020 to 155 in 2021.

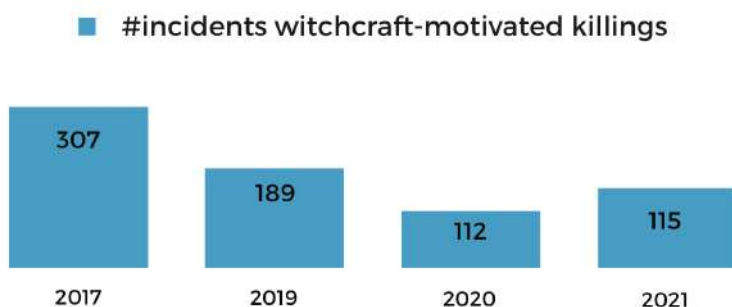


Figure 7: #Incidents of witchcraft-suspicion killings recorded by police – 2017 to 2021

Source: Tanzania Police Force Data

⁵⁹ Bahati Chume “Polisi akatwa panga akikamata mtuhumiwa” Mwananchi Newspaper, 2 Oct 2022.

⁶⁰ “Katavi Police nabs three suspected poachers for murder” DAILYNEWS Newspaper, 25 Feb 2022.

⁶¹ Frank Kaundula “Askari sita wa TFS wauawa 2022” Nipashe Newspaper, 22 Dec 2022.



Through human rights monitoring and media survey, LHRC documented at least 17 incidents of witchcraft-motivated killings, reported in Morogoro, Shinyanga, Mwanza, Kilimanjaro, Tabora, and Njombe Regions. These are 19 incidents less than those documented in 2021. 52% of the victims were female, and 48% male, including a person with albinism.

The incidents include 5 people killed because they were allegedly witches, killing of a person with albinism, and a child who was killed by being buried alive. There was also an incident in Njombe, where a witchdoctor killed two clients when they went back to him to question the potion he had made to help them become rich. Some of these incidents are summarized in table 5 below.

Table 5: Some of the reported incidents of witchcraft-motivated killings documented by LHRC – Jan to Dec 2022

Description	Source
Morogoro: Two people, including a 76-year-old woman, Kija Nkenda, were killed over witchcraft allegation and property dispute on 5 th September 2022 at their home in Itete Village in Malinyi District.	Nipashe Newspaper 7 Oct 2022
Dar es Salaam: More than seven witchcraft-motivated killings were reported at police stations in different parts of Mainland Tanzania in the period of January to September 2022, including the killing of Sophia Dotto (66), an elderly woman and resident of Kazuni Village in Shinyanga, over witchcraft suspicion.	Mwananchi Newspaper 25 Sep 2022
Shinyanga: Shinyanga Elders Council condemned killings of the elderly motivated by witchcraft allegations and belief, following the brutal killing of Sophia Dotto (66), an elderly woman and resident of Kazuni Village in Shinyanga, who was killed over witchcraft suspicion.	Nipashe Newspaper 26 Sep 2022
Mwanza: Police arrested three people in connection with the killing of a person with albinism, Joseph Mathias, who bled to death after his hand was cut-off with a sharp object.	Mwananchi Newspaper 7 Nov 2022
Kilimanjaro: A man and his wife, Paul Mushi (70) and Felista Mariki Mushi (65), residents of Mamushi Kati Village in Moshi District, were reportedly brutally attacked with a machete and killed by one of the husband’s relatives, Jonas Mushi (26) over witchcraft allegation. The incident occurred on 19 th July 2022.	Mwananchi Newspaper 21 Jul 2022
Tabora: Six members of the same family were killed in a fire in August 2022 after a witchdoctor set their house on fire as part of ‘treating’ them to remove bad luck and ‘the mysterious fire’ that had been haunting them.	Mwananchi Newspaper 22 Dec 2022



Mwanza: Three people were brought before the Resident Magistrate Court in Mwanza, charged with killing a child by burying him alive. Among them were Zawadi Masaga, the child's mother, and Musa Mazura, a witchdoctor. The incident occurred on 13th November 2022.

Nipashe
Newspaper
29 Dec 2022

Witchdoctors were at the centre of most witchcraft-motivated killings in 2022, accused of fueling such killings. In Shinyanga, police disclosed in September 2022 that the practice of divination (popularly called *ramli* by the natives) by witchdoctors is one of the causes of violence against people, especially senior citizens, in the community. The Regional Police Commander called upon the witchdoctors to stop the practice, following the killing of one senior citizen, who was killed over witchcraft suspicion after a witchcraft doctor had read the 'divining board'.⁶²

2.1.3.2. Violence against PWAs

In recent years, attacks and killings of persons with albinism (PWAs) have re-emerged. In 2021, brutal killing of a child with albinism, aged around 4 to 7 years, was reported in Tabora Region. In 2022, LHRC documented another incident of attack and killing of Joseph Mathias (50), whose hand was cut by unknown assailants, causing him to bleed to death. The incident occurred in Kwimba District, Mwanza Region. In a joint press conference with Tanzania Albinism Society (TAS), LHRC condemned the brutal killing of Joseph Mathias and urged the society to discourage and not embrace all harmful traditional beliefs that contribute to the increase in the attacks against PWAs and recognize that they are human beings like others.⁶³ TAS Chairperson, Musa Kabimba, called upon the Government to develop long-term strategies of combating attacks and killings of PWAs.⁶⁴ The TAS Chairperson also called for protection and safety of PWAs to be a permanent agenda during meetings of regional and district safety and security committees, as well as for the Government to adopt the national plan of action for PWAs, which was finalized in 2020.⁶⁵

LHRC's Call: A special taskforce, composed of the representatives from the Tanzania Police Force, Ministry of Home Affairs, Ministry of Constitutional and Legal Affairs, Ministry of Community Development, Gender, Women and Special Groups, the Commission for Human Rights and Good Governance (CHRAGG), and CSOs should be formed to probe into attacks and killings of

62 "Polisi: Ramli chonganishi chanzo matukio ya ukatili" Nipashe Newspaper 19 Sep 2022.

63 "LHRC urges public to shun harmful traditional beliefs" The Guardian Newspaper, 8 Nov 2022.

64 Ibid.

65 Francisca Emmanuel "Albino wataka usalama wao iwe ajenda ya kudumu" HABARILEO Newspaper 11 Nov 2022.



PWAs and create long-term strategies for their protection.

2.1.4. Death Penalty

Tanzania’s penal laws, both in Mainland Tanzania and Zanzibar, include a death sentence as one of the punishments for commitment of crimes, including murder. Nevertheless, Tanzania continues to be one of the countries which are abolitionist in practice, as the last recorded execution was in 1994 under the then President, H.E. Ali Hassan Mwinyi. No execution warrants were signed by the late H.E President Benjamin William Mkapa, H.E Dr. Jakaya Mrisho Kikwete, and the late H.E John Pombe Magufuli. The late Magufuli commuted nearly all death sentences to life imprisonment in the year 2020. However, by December 2021, LHRC had documented at least 24 new death sentences imposed by courts of law, as the penal laws continue to allow imposition of death penalty.

In 2022, LHRC documented at least 44 death sentences, imposed by the High Court of Tanzania in Tabora, Ruvuma, Geita, Morogoro, Rukwa, Dar es Salaam, Mwanza, Njombe, Dodoma, and Manyara. These are 20 death sentences more than those documented in 2021. The sentences are summarized in the table 6 below.

Table 6: #Death sentences documented by LHRC in 2022

Description	Source
Tabora: Five people, including four convicted of killing two police officers in Urambo District, were sentenced to death by hanging. The four convicts sentenced to deaths were Shedrack Rushikama, Sylvesta Kingwendu, Abel Benedict, and Ramadhani Manywele. The other convict received the punishment for killing his wife because of jealousy.	Nipashe Newspaper 18 Sep 2022
Tabora & Ruvuma: High Court of Tanzania sentenced to death by hanging six people in Tabora and Ruvuma Regions. Those sentenced in Tabora were Mussa Masanilo, Mhoja Shija, Regina Kashinje, Elizabeth Masanja Shina and Biria Masanja, who were found guilty of killing husband of a woman with albinism who prevented them from cutting the hand of his wife. The other one, sentenced in Ruvuma, was Orestus Mbawala (51), who was found guilty of killing a teacher.	Mwananchi Newspaper 1 Oct 2022
Ruvuma: A military officer from the Tanzania military (JWTZ), Sargent Batsin Sanga, was sentenced to death by hanging for killing his ex-wife and a fellow military officer.	Mwananchi Newspaper 4 Oct 2022



<p>Geita: High Court of Tanzania in Mwanza, sitting in Geita, sentenced to death by hanging a resident of Sengerema District, John Paschal (25), after finding him guilty of killing a <i>bodaboda</i> driver in 2016.</p>	<p>Nipashe Newspaper 19 Oct 2022</p>
<p>Morogoro: High Court of Tanzania in Morogoro sentenced three people to death by hanging after convicting them of killing a military officer.</p>	<p>Nipashe Newspaper 22 Sep 2022</p>
<p>Rukwa: High Court of Tanzania in Rukwa sentenced to death a witchdoctor, James Kapyela (57), after convicting him of killing two children aged 7 and 4 in 2019.</p>	<p>Nipashe Newspaper 27 Oct 2022</p>
<p>Dar es Salaam: The Kisutu Resident Magistrate's Court in Dar es Salaam sentenced two people to be hanged to death after being found guilty of intentionally killing Gervas Mgonja. The convicts are Hamidu Mbegu (40) and Amiri Chiwaka (28), both residents of Dar es Salaam. They committed the offence in 2016.</p>	<p>DAILY NEWS Newspaper 19 Nov 2022</p>
<p>Mwanza: High Court of Tanzania in Mwanza sentenced to death by hanging three businessmen after finding them guilty of killing one Philemon Kimaro by stabbing him and stealing his Tshs. 80,000 and a mobile phone in April 2019. The businessmen are Daud Jacob Mathias, Pastory Malaba, and Anthony Dominic.</p>	<p>The Guardian Newspaper 23 Nov 2022</p>
<p>Geita: High Court of Tanzania in Mwanza sentenced to death by hanging Damian Andrea (62) after finding him guilty of shooting and killing a businessperson, Samweli Sangoma.</p>	<p>Nipashe Newspaper 20 Jun 2022</p>
<p>Tabora: High Court of Tanzania in Tabora sentenced to death by hanging four people after finding them guilty of murder. They are Samweli Maganga, Selemani Said, Paulo Maganga and Juma Doradi.</p>	<p>HABARILEO Newspaper 1 May 2022</p>
<p>Njombe: High Court of Tanzania in Iringa, sitting in Njombe, sentenced to death by hanging Eliasi Jackson Mwenda (31), Hussein Khamisi (31) and Orestus Mbawala (51) after they were convicted of killing James Kayengesa, resident of Makambako district in the region.</p>	<p>Mwananchi Newspaper 7 Jul 2022</p>
<p>Dodoma: High Court of Tanzania in Dodoma sentenced to death by hanging January Haule (42) for killing two people in the region.</p>	<p>Nipashe Newspaper 12 Apr 2022</p>
<p>Tabora: High Court of Tanzania in Tabora sentenced Haruna Ndayanze to death after finding him guilty of killing a child after finding out the child's mother, his lover, was HIV positive.</p>	<p>Human Rights Monitoring 2022</p>



<p>Manyara: High Court of Tanzania in Manyara sentenced to death by hanging Shamswadini John (35), resident of Hanang District, after convicting him of murdering his wife, Asia John (25) and their 9-year-old child.</p>	<p>Human Rights Monitoring 2022</p>
<p>Dar es Salaam: High Court of Tanzania in Dar es Salaam sentenced 11 people, including two Burundians, to death by hanging after them guilty of killing a wildlife activist from South Africa, Wayne Lotter.</p>	<p>Human Rights Monitoring 2022</p>

Source: Media Survey & Human Rights Monitoring 2022

In the period of 2020 to 2022, LHRC documented a total of 98 death sentences, whereby 91 convicts (93%) were male, while 7(7%) were female. In 2022, out of the 44 death sentences imposed, 41 were for male convicts and 3 for female convicts.

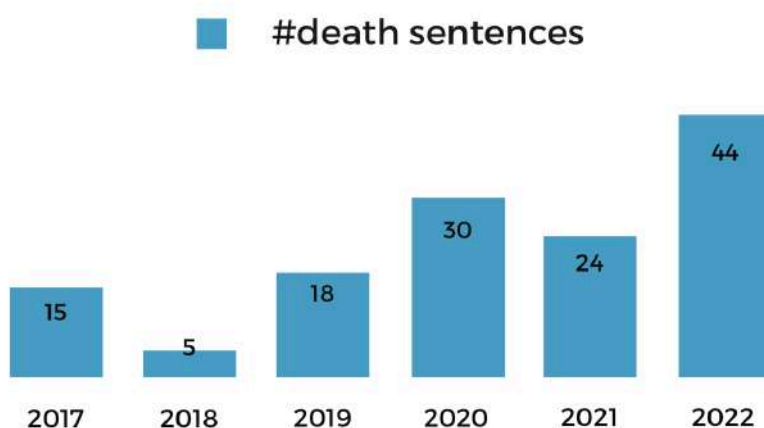


Figure 8: #Death sentences documented by LHRC – 2017 to 2022

Source: Media survey & Human Rights Monitoring 2022

More death sentences are imposed because the law allows death penalty and crimes punishable by death continue to occur. This also shows that death penalty has failed to deter crime and protect the society, which are one of the major arguments of its proponents.



The Case against Death Penalty

- Death penalty is a cruel and inhuman punishment, in violation of right to life.
- Worldwide, innocent people are too often sentenced to death: For instance, in the United States of America, since 1973, over 156 people have been released from death row in 26 states because of innocence and at least one person is exonerated for every 10 that are executed.⁶⁶ In countries like Tanzania, challenges in conducting effective investigations and other aspects of criminal justice warrant increased risks of innocent persons being sentenced to death.
- Death penalty is always irrevocable – forever depriving an individual of the opportunity to benefit from new evidence or new laws that might warrant the reversal of a conviction, or the setting aside of a death sentence.⁶⁷ **Death penalty is irreversible!**
- More than 70% of the world's countries have abolished capital punishment in law or practice.⁶⁸ These include countries which have experienced massacres such as Guinea Bissau, Djibouti, South Africa (used to be known as world capital of murders), Senegal, Rwanda (genocide), Burundi, Togo, Gabon, and Congo-Brazzaville.
- In many countries, including the U.S.A, death penalty has failed to deter crime. The death penalty is therefore not a viable form of crime control.
- Permanent imprisonment is severe enough to deter any rational person from committing a violent crime.
- Courts in neighbouring countries such as Kenya, Malawi, and Uganda have declared death penalty unconstitutional.
- Opposing the death penalty does not indicate a lack of sympathy for murder victims. On the contrary, murder demonstrates a lack of respect for human life.
- A society that respects life does not deliberately kill human beings.
- A death sentence is often imposed on less privileged individuals who do not have sufficient access to effective legal representation.⁶⁹ 'If you are poor, the chances of being sentenced to death are immensely higher than if you are rich. This turns it into a class-based form of discrimination in most countries, thus making it the equivalent of an arbitrary killing.'⁷⁰

66 See ACLU, THE CASE AGAINST THE DEATH PENALTY, at <https://www.aclu.org/other/case-against-death-penalty>.

67 Ibid.

68 See Death Penalty Information Center website at <https://deathpenaltyinfo.org/policy-issues/international>.

69 Office of the UN High Commissioner for Human Rights (OHCHR), *Moving Away from the Death Penalty: Lessons from National Experiences*, at https://www.ohchr.org/sites/default/files/Lists/MeetingsNY/Attachments/27/moving_away_from_death_penalty_web.pdf.

70 Office of the UN High Commissioner for Human Rights (OHCHR), *Death penalty disproportionately*



Growing support for a key resolution for the establishment of moratorium on the use of death penalty

On 15th December 2022, the United Nations General Assembly (UNGA) adopted the 9th resolution for a moratorium⁷¹ on the use of the death penalty.⁷² 125 UN member states, close to two-thirds of the UN membership, voted to adopt the ninth resolution on a moratorium on the use of the death penalty, while 37 voted against the proposal and 22, including Tanzania, abstained at the vote.

Support for the UNGA resolution has increased since it was last adopted in December 2020.⁷³ Several states changed their vote positively compared to December 2020, including Ghana, Liberia and Myanmar, which voted in favour after abstaining at the UNGA plenary in 2020.⁷⁴ In 2020, the resolution was adopted with a record 123 votes in favour, 38 against, 24 abstentions and eight absent.⁷⁵ The number of States voting in favour of moratorium has increased from 106 in 2008 to 125 in 2022,⁷⁶ an increase of 18%.

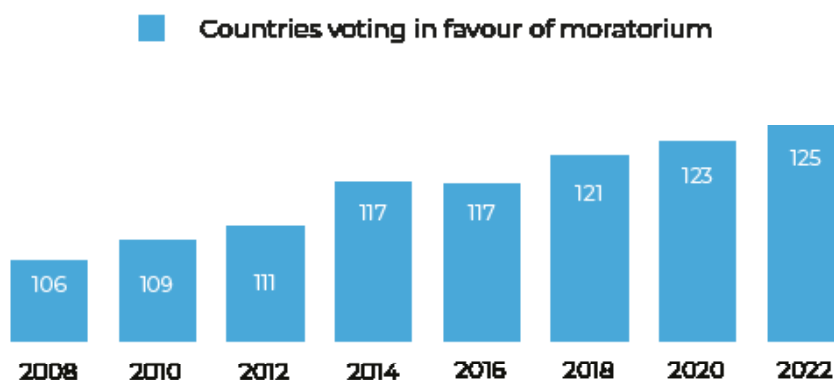


Figure 9: # Countries voting in favour of UNGA resolution on moratorium on the use of the death penalty

Source: World Coalition against the Death Penalty, 2022

affects the poor, UN rights experts warn, 10 October 2017, at <https://www.ohchr.org/en/press-releases/2017/10/death-penalty-disproportionately-affects-poor-un-rights-experts-warn>.

71 A moratorium is temporary suspension of executions and, more rarely, of death sentences.

72 See World Coalition against the Death Penalty, *Helping the World Achieve a Moratorium on Executions*, 20 December 2022, at <https://worldcoalition.org/campagne/helping-the-world-achieve-a-moratorium-on-executions/>.

73 Voting is conducted every two years.

74 See Amnesty International, *Death Penalty: Support for UN Call for Moratorium on Executions Continues to Grow*, Amnesty International Public Statement, 19 December 2022, at <https://www.amnesty.org/en/documents/act50/6323/2022/en/>.

75 World Coalition against the Death Penalty, *Helping the World Achieve a Moratorium on Executions* (supra).

76 Ibid.



African Court's Ruling on Mandatory Death Penalty in 2022

On 1st December 2022, the African Court on Human and People's Rights ruled in the case of **Marthine Christian @ Msuguri v. United Republic of Tanzania**⁷⁷ that (1) mandatory death penalty violated his right to life; (2) undue delay in the trial violated his right to be tried within a reasonable time; and (3) undue delay in his trial and the length of time he was confined on death row constituted cruel and inhuman treatment. This is one of the cases challenging the mandatory death before the African Court which the Applicant enjoyed the service of LHRC.

LHRC's View: Death penalty violates the right to life and amounts to a cruel, degrading, and inhuman punishment under the Convention against Torture (CAT).⁷⁸ Imposition of this kind of punishment has not made much impact in terms of deterrence of crime, which is why there is a global movement towards the abolition of the death penalty. There have also been cases in various parts of the world whereby death row inmates were executed only to be determined later that they were wrongly convicted, but then the execution cannot be reversed.

LHRC's Call: Being an abolitionist state in practice, Tanzania should join a global movement against death penalty and abolish it altogether. Only about 53 countries in the world have retained death penalty and execute death row inmates, while 29 are abolitionist in practice,⁷⁹ including Tanzania. Neighbouring countries like Rwanda, Malawi, and Mozambique are among the at least 112 countries in the world that have abolished death penalty,⁸⁰ and Tanzania can take a step further and do the same. In July 2021, **Sierra Leone** made history by becoming the 110th country in the world to abolish the death penalty for all crimes, through the unanimous passing of the Abolition of the Death Penalty Act 2021 in Parliament.⁸¹ It became the latest African country to abolish death penalty after our neighbours **Malawi** in April 2021.⁸² In 2022, Papua New Guinea, the Central African Republic, Equatorial Guinea, and Zambia abolished the death penalty for all crimes.⁸³

77 The African Court on Human and Peoples Rights Application No. 052/2016

78 The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the "Torture Convention") was adopted by the General Assembly of the United Nations on 10 December 1984 (resolution 39/46). The Convention entered into force on 26 June 1987 after it had been ratified by 20 States.

79 See Death Penalty Information Center "Abolitionist and Retentionist Countries" at <https://deathpenaltyinfo.org/policy-issues/international/abolitionist-and-retentionist-countries>.

80 Amnesty International, Death Penalty 2021: Facts and Figures, at 24 May 2022, at <https://www.amnesty.org/en/latest/news/2022/05/death-penalty-2021-facts-and-figures/>; and Death Penalty Information Center, Countries That Have Abolished the Death Penalty Since 1976, at <https://deathpenaltyinfo.org/policy-issues/international/countries-that-have-abolished-the-death-penalty-since-1976>.

81 See University of Oxford Faculty of Law "Sierra Leone abolishes the death penalty" at <https://www.law.ox.ac.uk/news/2021-07-27-sierra-leone-abolishes-death-penalty-0>, accessed 20 January 2021.

82 Ibid.

83 Countries That Have Abolished the Death Penalty Since 1976 (*supra*).



In Zambia, on 23rd December 2022, President Hakainde Hichilema signed into law Penal Code (Amendment) Bill number 25, which bans the death penalty and the offence of criminal defamation of the president, making Zambia the 25th African State to abolish the death penalty.⁸⁴ Additionally, LHRC calls upon the United Republic of Tanzania to vote in favour of the moratorium on the use of death penalty resolution for the upcoming session of 2024.

2.1.5. Intimate Partner Violence and Intimate Partner Homicide

Overview

Intimate partner violence (IPV) refers to physical, sexual, or psychological harm by a current or former partner or spouse.⁸⁵ According to the World Health Organization (WHO), women bear the overwhelming global burden of IPV, which is one of the most common forms of violence against women.⁸⁶ It includes physical, sexual, and emotional abuse and controlling behaviours by an intimate partner and occurs in all settings. Intimate partner homicide (IPH) is an extreme outcome of IPV.

Trends & Reported Incidents: 2019 to 2022

In Tanzania, IPV, resulting into IPH, has become a serious concern, with implications on the right to life, right to health, right to personal security, and freedom from violence. Women continue to be the major victims of IPV and IPH. In the period of 2019 to 2021, LHRC has documented 79 incidents of IPH, majority of them motivated by jealousy.

In 2022, LHRC documented 33 incidents of IPH, 2 less than those documented in 2021. These incidents were reported in Geita, Dodoma, Lindi, Mbeya, Singida, Mwanza, Shinyanga, Katavi, Mtwara, Mbeya, Dar es Salaam, Ruvuma, Mara, Morogoro, Rukwa, Songwe, and Manyara Regions. Among the 33 victims, 2 were male and 31 were female. At least 17 out of 33 killings were motivated by jealousy (52%). Out of the 33 incidents, 8 (24%) were murder-suicides, whereby 8 male perpetrators committed suicide (most of them by hanging) after killing their female partners. The youngest

84 See Bronwyn Dudley "Zambia is the 25th African State to Abolish the Death Penalty" World Coalition against the Death Penalty, 6 January 2023, at <https://worldcoalition.org/2023/01/06/zambia-abolishes-the-death-penalty/>.

85 See CDC "Intimate Partner Violence" at <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html>, accessed 20 January 2022.

86 See WHO "Intimate partner violence" at https://apps.who.int/iris/bitstream/handle/10665/77432/WHO_RHR_12.36_eng.pdf, accessed 20 January 2022.



victim was 16 years old, as was the youngest perpetrator, both victims of child marriage and married to each other. The oldest perpetrator was 60 years old.

In Dodoma, police disclosed that they had started raising awareness about romantic relationships, mainly targeting youth, as a way of curbing IPV and IPH.⁸⁷

Table 7: Some of the reported incidents of IPH documented by LHRC in 2022

Description	Source
Geita: Mashaka Jeremia, resident of Geita Town, killed his wife, Amina Hassan, by stabbing her with a knife on different parts of her body. It was reported that he often beat his wife. The incident was witnessed by their 15-year-old child.	Mwananchi Newspaper 4 Sep 2022
Dodoma: Julius Gervas (26), stabbed and killed his girlfriend, Winfrida Michael (24), a student at St. John's University of Tanzania, because of jealousy. The incident occurred on 7 th September 2022.	Nipashe Newspaper 10 Sep 2022
Mbeya: Tabu Masegela (55), resident of Ilundo Village in Rungwe District, was accused of killing her husband, Aron Mwanjisi (65), after accusing him of squandering family money on other women. The incident occurred on 10 th September 2022.	HABARILEO Newspaper 13 Sep 2022
Dodoma: Police in Dodoma arrested a former police officer, Peter Mwakipesile (45), resident of Kikiyu area in Dodoma City, for killing his wife, Aisha Ramadhani (39), because of jealousy. It was reported that the husband was extremely jealous of his wife and often beat her, including for coming home late.	Mwananchi Newspaper 7 Sep 2022
Singida: Anton Lugulu (41), resident of Singida Municipality, killed his wife, Tatu Rashid (38), because of jealousy, before committing suicide by hanging. The incident occurred on 18 th October 2022.	HABARILEO Newspaper 20 Oct 2022
Shinyanga: Madirisha Kanyalu (60), resident of Bulambila Village in Shinyanga District, reportedly committed suicide by drowning after killing his wife, Evodia Nyerere (27) and their 11-month-old baby, because of jealousy. The husband had accused his wife of having affairs with other men.	Nipashe Newspaper 4 Mar 2022
Mara: Happy Nyasuma (18), resident of Iseresere Village in Serengeti District, reportedly killed her husband by slashing his throat because he was not her choice.	Nipashe Newspaper 21 Apr 2022

⁸⁷ Augusta Njoi "Polisi washtuka mauaji ya wapenzi" Nipashe Newspaper, 10 Sep 2022.



Katavi: Emmanuel Jerome (32), a secondary school teacher, strangled his wife to death at a guest house before committing suicide by hanging. The incident occurred on 27 th July 2022.	Nipashe Newspaper 29 Jul 2022
Singida: Police in Singida reported that Thomas Augustino, resident of Kyengege Village in Iramba District, killed his wife, Beatrice Hamisi, because of jealousy. The husband then committed suicide by hanging. The incident occurred on 25 th April 2022.	HABARILEO Newspaper 28 Apr 2022
Dar es Salaam: Juma Sugaje, resident of Ukonga area in Dar es Salaam, was accused of killing his wife, Sara Chitemo, following a family dispute over money (Tshs. 900,000).	Human Rights Monitoring 2022
Rukwa: Police in Rukwa arrested a 42-year-old man, resident of Kanyalakata Village, for flogging to death his wife, Albetina Mazwile (42).	Human Rights Monitoring 2022
Songwe: Police in Songwe arrested a 16-year-old child, Shukrani Kamwela, for killing his also 16-year-old pregnant 'wife,' Subira Kibona, in January 2022.	Human Rights Monitoring 2022
Mtwara: In August 2022, police in Mtwara disclosed that 8 women had been killed in Masasi District, 5 of whom were killed by their partners because of jealousy.	Human Rights Monitoring 2022

Source: Media Survey & Human Rights Monitoring 2022

Most of the IPH incidents were reported in Eastern Zone (11), followed by the Lake Zone (7), with these two zones accounting for over 50% of the incidents. The Central Zone (6) has also been a hotspot for IPV and IPH in recent years. Previously, most of the incidents were reported in the Lake Zone. This shows that these incidents do not necessarily occur in specific zones, but rather a problem across Mainland Tanzania.



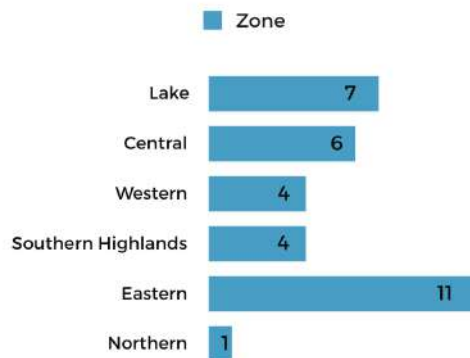


Figure 10: Distribution of IPV incidents documented by LHRC in 2022 by zone

Mtwara Region recorded most IPV incidents (6), followed by Dar es Salaam (4), Shinyanga (3), Dodoma (3), Katavi (3), and Mwanza (2).

LHRC's View: IPV and IPH present a serious threat to right to life, right to health, right to liberty and personal security, and freedom from violence. The number of reported cases is worrying and there are fears that there might be more unreported cases. LHRC has also observed that IPV is common among youth and adult groups.

LHRC's Call: All stakeholders, both government and non-government, need to come together and develop strategies to enhance protection of women and men from IPV and domestic violence. Enactment of anti-GBV or domestic violence law to enhance protection for survivors and potential survivors would be a good starting point, since it has been established that most of the violence occurs at home. Another strategy would be conducting awareness-raising and education campaigns on IPV and impact of such violence at personal/individual, family, community, and national levels. Religious and traditional leaders also have a big role to play in speaking against all forms of violence, including IPV. Also, the Government should take into consideration the implementation of the UPR recommendations touching on women's rights and violence issued during the 3rd cycle of the United Nations Human Rights Council UPR process.

2.1.6. Disappearances: Still no answers

Under international human rights law, States have a duty to carry out



an effective official investigation when individuals have been killed or 'disappeared.'⁸⁸ This is one of the obligations that arises out of the right to life, requiring States to carry out an 'effective' official investigation by an appropriate and impartial body when there is a case of disappearance in circumstances that may involve a violation of the right to life.⁸⁹

In 2022, there were still no answers from the State regarding disappearances of various people in the past six years, including that of a journalist, Azory Gwanda, who disappeared under mysterious circumstances in Pwani Region in November 2017. Others include Ben Saanane, an opposition political activist, who was abducted by unknown people in 2016, and Simon Kanguye, former Chairperson of Kibondo District Council, who disappeared in 2017.

In 2021, LHRC documented at least 12 cases of people who were reportedly taken away by unknown people and disappeared in Lindi and Dar es Salaam Regions. In January 2022, it was reported in Dar es Salaam that five young men, were reported missing since Boxing Day in December 2021, namely Tawfiq Mohamed, Seif Swala, Edwin Kunambi, Hemed Abass and Rajabu Mdoe.⁹⁰ By April 2022, they had not been found, and by December, LHRC had not received any updates on their whereabouts.

LHRC's Call: The Tanzania Police Force to conduct effective investigation into these and other disappearances and provide regular updates to the public and families of the missing persons, as well as bringing perpetrators to justice. It is also important for families to know what happened to their loved ones to get closure.

2.1.7. Road Accidents

2.1.7.1. Overview

Road accidents become a human rights issue when negligence is involved in terms of drivers of vehicles and quality of roads. Road safety is an essential human right linked to the right to life. Because of these accidents, communities bear the burden after losing their loved ones, including breadwinners and children, and the poorer section of the community is more vulnerable as passengers of public transport and pedestrians. Those who survive the accidents, including *bodaboda* drivers, are left with permanent

⁸⁸ Sepulveda, M. M., Van, B. T., Gudmundsdottir, G. D., & Chamoun, C. (2004). Universal and regional human rights protection: Cases and commentaries. Ciudad Colon: University for Peace.

⁸⁹ Ibid.

⁹⁰ LHRC Human Rights Monitoring & Media Survey 2022.



injuries and disabilities, hence becoming less productive. Families of the victims of road accidents become more vulnerable to poverty, and this also affects poverty reduction initiatives at individual, family, and national levels.

2.1.7.2. Reported incidents

In recent years, efforts by the Police Force and other stakeholders had resulted into a significant reduction of road accidents and resulting fatalities, especially in the period of 2016 to 2019. In 2020, the Tanzania Police Force reported a total of 1,933 road accidents, which resulted into 1,384 deaths, while in 2021, the number of road accidents decreased to 1,864 (3.6%) and resulting deaths also decreased to 1,368 (1.2%). However, in 2022, police data show that 955 road accidents occurred in the period of January to June 2022 alone, increasing from 858 in comparison with the same period in 2021, equivalent to a 11.3% increase.⁹¹ Resulting deaths also increased from 469 in January to June 2021 to 527 in January to June 2022 (12.4% increase).⁹² The Inspector General of Police (IGP), disclosed that the increase in the number of road accidents was mainly attributed to human error due to over speeding, dangerous overtaking, and negligence by drivers.

By November 2022, it was reported that a total of 886 people had died as victims of 1,422 road accidents which occurred in the period of January to November 2022, while 573 were injured. The road accidents are equivalent to 0.8% more than those which were reported during the same period in 2021.⁹³

91 A/INS Frank Lukwaro "OPERESHENI, MISAKO YAONGEZA TAKWIMU ZA UHALIFU NCHINI" Jarida la Polisi (Mtandaoni), Toleo Maalum 02, Septemba 2022, at <https://www.polisi.go.tz/jarida/>.

92 Ibid.

93 Asifiwe Mbembela "Ajali za Barabarani Zilivyoteketeza Maisha ya Watanzania 2022" The Chanzo Initiative, 14 December 2022, at <https://thechanzo.com/2022/12/14/ajali-za-barabarani-zilivyoteketeza-maisha-ya-watanzania-2022/>.



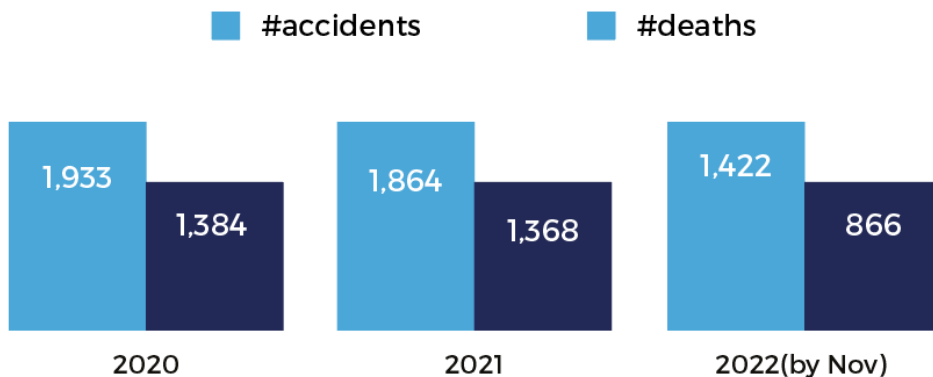


Figure 11: #Road accidents and resulting deaths in Tanzania, 2020 to 2022

Source: Police Force Data, 2022

2.1.7.3. Trucks and road accidents

Trucks were at the centre of many incidents which caused deaths of many people. For instance, LHRC documented at least 9 road accidents involving trucks which had broken down, experienced brake failure, had a container fell off, or were dangerously overtaking.⁹⁴ These accidents alone resulted into 60 deaths and 69 injuries.⁹⁵ For instance, in February 2022, five people who were in a *bajaj* tricycle were killed when a lorry collided with the tricycle while dangerously overtaking in Mafinga District, Iringa Region.⁹⁶ In Morogoro, it was reported in March 2022, that two people died after their bus hit a truck during night hours. It was reported that the truck had broken down and was left on the road without any warning signs. Additionally, 17 other people in the bus were injured.⁹⁷ In the same month, Prof. Honest Ngowi, a renowned economics professor, and his driver, Innocent Mringi, were tragically killed in a road accident, in Pwani Region, when a container fell off a lorry and landed on their car.⁹⁸ In April 2022, six people were killed in a road accident in Monduli District, Arusha Region, after their car was hit by a lorry. Four others were injured.⁹⁹

⁹⁴ LHRC Media Survey 2022.

⁹⁵ Ibid.

⁹⁶ Mary Sanyiwa "Watano wafa bajaji ikigongana na lori Mafinga" Mwananchi Newspaper (online), 2 Feb 2022, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/watano-wafa-bajaji-ikigongana-na-lori-mafinga-3703400>.

⁹⁷ Idda Mushi "Ajali nyingine yaua wawili yajeruhi 17" Nipashe Newspaper, 21 Mar 2022.

⁹⁸ Alex Nelson Malanga & Jacob Mosenda "Ngowi death: Road safety wake-up call" The Citizen Newspaper (online), 29 Mar 2022.

⁹⁹ "Ajali barabarani yaua sita, wanne wajeruhiwa" Mwananchi Newspaper, 21 Apr 2022.





Picture 1: Condition of a car Prof. Honest Ngowi was driving in after a lorry container fell on it in Pwani Region – March 2022

Picture credit: The Citizen Newspaper (29 Mar 2022)

In August 2022, it was reported that 19 people died in Mbeya after a lorry carrying sand crashed into three other cars, including a passenger bus.¹⁰⁰ In November 2022, another road accident occurred in Dar es Salaam, in which a primary school teacher died and two others, including her husband, were injured after a brake failure caused a lorry to crash into their vehicle at Tegeta Wazo area in the city.¹⁰¹ In December, a lorry carrying bricks experienced brake failure and killed 3 people in Mwanza City after crashing into at least four cars, leaving 18 others injured.¹⁰²

2.1.7.4. Over speeding, reckless driving, and drink-driving

Over speeding, reckless driving, and drink driving were said to be responsible for most road accidents. For instance, in August 2022, six people were killed in Singida when their over speeding car overturned.¹⁰³ In September, five

¹⁰⁰ "Lori lagonga magari matatu, 19 wafariki" HABARILEO Newspaper, 17 Aug 2022.

¹⁰¹ Beatrice Shayo "Ajali magari 7 ilivyokatisha maisha ya mwalimu na kumjeruhi mume wake" Nipashe Newspaper, 12 Nov 2022.

¹⁰² "AJALI MBAYA! LORI LAGONGA MAGARI 4 MWANZA, WATU KADHAA WAHOFIWA KUPOTEZA MAISHA...." Global TV Online, 1 Dec 2022, at <https://www.youtube.com/watch?v=8DfiOLeWxXk>.

¹⁰³ "Mwendo mkali wasababisha ajali, sita wafa" HABARILEO Newspaper, 12 Aug 2022.



people were killed in Shinyanga, and 54 others injured after a bus collided with a lorry at Ibadakuli area in Shinyanga Municipality. Over speeding by the bus driver was said to be the cause of the accident, ignoring repeated calls by the passengers to slow down. Among those injured were 4 children, who were left with permanent disability after the accident left them with broken legs.¹⁰⁴ In October, five people were killed in Mbeya while 31 others were injured in an accident involving two buses, which collided in Kyela District. Driver of the smaller bus (Coaster) was said to cause the accident by over speeding and dangerously overtaking.¹⁰⁵

Earlier in June 2022, the traffic police department disclosed that government vehicles were involved in at least 11.5% of road accidents in the period of November 2021 to June 2022, and in 9.3% of all road accidents in the whole of 2021.¹⁰⁶ In September, the department also stated that 90% of road accidents are caused by human error, including drink driving and driving defective vehicles.¹⁰⁷ A total of 494 drivers were arrested for drink driving in April and May 2022 alone.¹⁰⁸

2.1.7.5. Family members perishing in road accidents

Road accidents cause great suffering to families, especially dependants of the victims, including children, affecting enjoyment of other human rights. Many family members perish in road accidents, especially those travelling together as family. For instance, in July 2022, eight people, including five members of the same family died in a road accident involving a lorry and saloon car which occurred at Busiri area along the Rusahunga to Nyakahura Road in Biharamulo District in Kagera.¹⁰⁹ In December 2022, a newlywed couple was killed in a tragic accident in Morogoro, after the saloon car they were driving collided with a lorry. This followed another accident which claimed the lives of newlyweds in Iringa just five days earlier.¹¹⁰

2.1.7.6. Impact of road accidents

At family level, road accidents rob families of breadwinners and loved ones, leaving husbands without wives, wives without husbands, parents without children, and children without parents. This may severely impact family ties, reduce family income, create family conflicts, and cause divorce or separation, as victims of road accidents and their families suffer socially, psychologically,

104 Marco Maduhu ""Ajali ya basi, fuso ilivyoua watu watano, kujeruhi 54" Nipashe Newspaper, 4 Sep 2022.

105 Hawa Mathias ""Jinamizi vifo ajalini laendelea kuweka kambi nchini" Mwananchi Newspaper, 12 Oct 2022.

106 Augusta Njoji ""Ajali 1,700 zaripotiwa barabarani miezi minane" Nipashe Newspaper, 2 Sep 2022.

107 Fatuma Athumani ""Ajali nyingi za barabarani ni makosa ya kibinadamu" Nipashe Newspaper, 2 Sep 2022.

108 "MADEREVA 494 WALILEWA" Millard Ayo, 15 May 2022, at <https://twitter.com/millardayo/status/1525797644152578048?lang=en>.

109 "Samia grieves for Mtwaru's School Bus Crash Victims" The Guardian Newspaper, 27 Jul 2022.

110 "Ajali zatikisa familia" Mwananchi Newspaper, 28 Dec 2022.



and economically.¹¹¹ Women and children are disproportionately affected by road accidents.

Road accidents also leave loved ones in disability, sometimes permanent, affecting their ability to work and earn a living. This affects efforts to reduce household poverty. A survey conducted in South Korea in 2013 showed the impact of road crashes on household income, unemployment, home ownership, divorce rate, and income gaps for surviving victims of road-crashes.¹¹² For instance, the survey found that a large number of people lose their jobs after traffic crashes; it takes longer for victims of road crashes to find jobs; and there are huge income gaps between victims of traffic crashes and non-victims.¹¹³

At community and national levels, road accidents take away experts, professionals, and producers, who play a crucial role in economy and development. Globally, economic costs of road accidents may cost up to 5% of GDP in many countries.¹¹⁴ Road accidents therefore increase the government expenditure in unproductive ways, including in the health sector, where hospitals are overburdened with victims of road accidents requiring operation. For instance, in March 2022, the Minister of Health, Hon. Umyy Mwalimu, revealed that the Muhimbili Orthopaedic Institute (MOI) at MNH receives 300 to 400 road accident victims each month, equal to 10 to 15 each day. Most of the victims fall in the age category of 20 to 45 years. She mentioned that the health sector is overwhelmed with the costs for treatment of the victims, with surgery costing as much as Tshs. 2 million per road accident victim.¹¹⁵ Most of the patients are victims of motorcycle accidents, and majority of them end up with permanent disability.¹¹⁶

LHRC's View: Road accidents remain a big problem in Tanzania, despite efforts and overall decline in recent years. Many lives are lost, and even more others are injured and left with disability, creating a huge impact on the community and the national development. Human error in the form of reckless driving, drinking driving, and dangerous overtaking have been responsible for most road accidents. LHRC has also observed sleep

111 See M. Makuu, *Socio-economic Consequences of Road Traffic Accidents to the Victims and their Families in Dar es Salaam Tanzania*, AJOL, Vol. 25 No. 2 (2018), at <https://www.ajol.info/index.php/huria/article/view/187646>.

112 See Nak Moon Sung & Mauricio Ríos, *Road crashes have more impact on poverty than you probably thought*, World Bank Blogs, 25 February 2015, at <https://blogs.worldbank.org/transport/road-crashes-have-more-impact-poverty-you-probably-thought>.

113 Ibid.

114 Ibid.

115 Nipashe Newspaper, 22 Mar 2022.

116 Ibid.



deprivation among inter-regional bus and truck drivers to be another contributing factor, as they are usually overworked and given tight deadlines, hence deprived of much-needed rest,¹¹⁷ affecting focus on the road.

LHRC's Call: The Tanzania Police Force and other stakeholders such as road agencies to intensify efforts to ensure road safety and prevent road accidents, including through public awareness programmes, as well as combating corruption in the road transport sub-sector. Proper implementation of road use and safety laws, including the Road Traffic Act, is also important in preventing and further reducing road accidents in Tanzania. Owners of transportation vehicles should also be encouraged and required to refrain from putting unnecessary pressure on bus and truck drivers, and community members must be encouraged and reminded from time to time to abide by the road use laws and regulations and refrain from practices and behaviour that cause road accidents, such as drink-driving, speeding, reckless overtaking and not wearing seat belt. Additionally, Tanzania should ratify the African Union Road Safety Charter, adopted in 2016.

2.1.8. Key Recommendations

- The Tanzania Police Force to promptly respond to mob violence and witchcraft-related killings and ensure the perpetrators are brought to justice.
- Being a de facto abolitionist state, the Government, through the Ministry of Constitutional and Legal Affairs, to declare a state of moratorium and improve death row conditions and prepare to abolish death penalty.
- The Government, through the Ministry of Constitutional and Legal Affairs, to ratify and domesticate the African Union Road Safety Charter, adopted in 2016.

¹¹⁷ See LHRC (2022), Human Rights and Business Report 2021/22, at www.humanrights.or.tz.



2.2. Freedom of Expression

About the right

- Defined as **freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of their choice.**
- One of the participation rights - rights essential for enjoyment of the right to participate in governance - others being freedom of assembly and freedom of association. It is essential for good governance and democracy strengthening.
- Includes press/media freedom, right to information and freedom of opinion.

In 2022, key freedom of expression issues and violations in Mainland Tanzania included existence of restrictive laws and regulations, Government intention to amend freedom of expression laws, government lifting of ban on four media outlets, and arrest and harassment of journalists.

2.2.1. Laws Restricting Freedom of Expression: Calls for Amendment Gaining Momentum

Restrictive Freedom of Expression Laws

Various laws governing freedom of expression, including press freedom, continued to exist in 2022. These laws include the Media Services Act of 2016, the Cybercrimes Act of 2015,¹¹⁸ and the Electronic and Postal Communications (Online Content) Regulations of 2020.¹¹⁹ The laws have

118 For instance, provisions providing for: publication false information (s. 16); lack of clear definition of key terms, phrases and offences (e.g. misleading information, "inaccurate information,"); offences and severe punishments (Part II); extensive search and seizure powers for Law enforcement officials (s. 31 & ss. 32, 33, 34, & 35); and intentionally and unlawfully receiving unauthorised computer data (s. 7 (2) (b)).

119 For instance, words/phrases such as "hate speech", "use of disparaging or abusive words", "cultural sensitivities", "content that causes annoyance", "bad language", "hate propaganda", and "content likely to mislead or deceive the public", are not clearly defined and/or highly subjective, leaving loopholes for arbitrary restrictions on freedom of expression. Most of these words/phrases are contained in Regulation 3 and the Third Schedule of the Online Content Regulations, 2020 on prohibited content. There are also sweeping powers for TCRA under Regulations 7, 8, and 19; unfair burden on content providers to moderate and filter content and identify source of content under Regulation 9, which infringes right to privacy and affects whistleblower protection; licensing requirements for bloggers, which according to the African Commission on Human and Peoples' Rights, "...may negatively impact the ability of users to gain affordable access to the Internet, which goes against States' commitment to protect the right of every individual to receive information, as well as the right to express and disseminate one's opinion within the law which is provided under Article 9 of the African Charter on Human and Peoples' Rights."; Severe and uniform punishment for failure to comply with regulations (Regulation 21(1)); and criminalization of defamation.



been faulted for containing provisions which arbitrarily infringe on freedom of expression. They fail to meet international standards on freedom of expression, particularly the tests for restrictions of this fundamental human right and have created an environment of increased self-censorship within the media landscape as well as fear of severe punishment for breaching them, which includes jail terms and hefty fines. Some of these laws have also been found to contravene the Constitution of the United Republic of Tanzania of 1977 and regional and international human rights conventions. For instance, in 2019, the East African Court of Justice (EACJ) found various provisions in 16 sections within the Media Services Act to be in violation of basic fundamental and operational principles of the East African Community set out in Articles 6(d) and 7(2) of the Treaty for the Establishment of the East African Community.¹²⁰ The EACJ directed the Government to make relevant amendments to ensure the law conforms to international human rights standards. However, 3 years later, the law is yet to be amended to safeguard freedom of expression.

Laws such as the Cybercrimes Act 2015 and the Online Content Regulations 2020 restrict freedom of expression online. Freedom of expression in the digital world is essential in ensuring people stay informed about various issues and exposing individuals and institutions so that they can be held accountable. Digital platforms have also become essential in conducting advocacy and raising awareness.

Calls and Action to Amend Restrictive Laws

In 2022, media and freedom of expression stakeholders continued to raise their voices to call for amendment of restrictive laws. Hopes for amendment of Media Services Act of 2016 increased when a presidential taskforce formed to probe on multiparty democracy in Tanzania also recommended amendment of the law and the information minister announced that some of the laws were under review. The taskforce, led by Prof. Rwekaza Mukandala, looked at press freedom in relation to multiparty politics in Tanzania. The report by the taskforce, released in October 2022, recommended amendment of the law to curb powers of the Director of Tanzania Information Services to ban or suspend media outlets.¹²¹ The report

¹²⁰ Sections in the Media Services Act of 2016 found to violate freedom of expression and EAC Treaty: 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.

¹²¹ See *Jamhuri ya Muungano wa Tanzania, KIKOSI KAZI CHA MHESHIMIWA RAIS WA JAMHURI YA MUUNGANO WA TANZANIA KILICHOFANYIA KAZI MASUALA YANAYOHUSU DEMOKRASIA YA VYAMA VINGI VYA SIASA NCHINI*, Ripoti ya Kikosi Kazi, Oktoba 2022, p. 166, at http://idc-tz.org/files/documents/1666622289_gGXo0VblDWDy.pdf.



also recommends amendment of all freedom of expression laws to safeguard press freedom. Additionally, the taskforce also recommended journalists to form their own body to regulate their conduct (self-regulation).¹²² This shall guarantee minimal state interference in the media.¹²³

In May 2022, Hon. Nape Nnauye, Minister Information, Communication and Information Technology, disclosed that the Media Services Act of 2016 and the Access to Information Act of 2016, and their regulations, were being reviewed by media stakeholders ahead of amendment.¹²⁴ In the same month, H.E President Samia Suluhu Hassan reiterated that dialogues to improve media environment shall continue to take place even as the Government was reviewing restrictive press freedom laws.¹²⁵

In July 2022, media stakeholders recommended journalists to form their own body to regulate their conduct (self-regulation) to guarantee minimal state interference in the media.¹²⁶ In August, the Executive Secretary of the Media Council of Tanzania (MCT), Kajubi Mukajanga, cautioned that while President Samia Suluhu Hassan deserves praise for initiating changes to improve media environment, media stakeholders should press for amendments of laws.¹²⁷ He also indicated that incidents of press freedom violations documented by MCT in the period of January to July 2022 declined compared to the same period in 2021.¹²⁸ In the same month, the Director of Tanzania Women Media Association of Zanzibar (TAMWA) said self-censorship is a still a big problem in the media sector, resulting into feeding the public half-truths.¹²⁹

LHRC's View: Restrictive laws and regulations have played a big role in reducing civic space in Tanzania. The restrictions imposed by these laws have largely failed to meet the three-part test under the International Covenant on Civil and Political Rights (ICCPR) of 1966, as well as other international and regional human rights instruments. Three-part test is applied by regional and international courts throughout the world¹³⁰ to

122 Ibid.

123 Ibid; See also "Sheria zinazoratibu uhuru wa habari ziboreshwe" HABARILEO Newspaper, 22 Oct 2022.

124 Nipashe Newspaper, 3 May 2022.

125 DAILYNEWS Newspaper, 4 May 2022.

126 "Msinyamaze Kwa Sheria zinazoumiza" Mwananchi Newspaper, 22 Jul 2022.

127 "Media should press for amendments of restrictive laws or else.." Media Watch, Newsletter of the Media Council of Tanzania, Issue No. 218, August 2022.

128 Ibid.

129 Shiffaa Said Hassan "Stakeholders tout self-regulation, diverse sources" Media Watch, Newsletter of the Media Council of Tanzania, Issue No. 218, August 2022.

130 For example, UN Human Rights Committee, *Malcom Ross v. Canada*, Communication No. 736/1997 (2000), par. 11.1; ACHPR, *Declaration of Principles on Freedom of Expression in Africa*, 32nd Session, 17-23 October 2002: Banjul, The Gambia, Article II.2; ACHPR, *Monim Elgak, Osman Hummeida and Amir Suliman (represented by FIDH and OMCT) v. Sudan*, Communication No. 379/09 (2015), par. 114; *Supra*. IACtHR, *Advisory Opinion OC-5/85*, par. 44; ECOWAS, *Supplementary Act A/SA.../6/10 on a uniform legal framework*



establish whether a restriction on the right to free expression is justified, and was used by the East African Court of Justice in the case of *Burundi Journalists Union v. The Attorney General of the Republic of Burundi*.¹³¹ It is a cumulative test and can be formulated in the following terms:

1. First, any limitation to freedom of expression must be “provided by law.” In other words, the limitation must be part of a statute, and must be clear and accessible to citizens so they can foresee what is prohibited.
2. Second, the objective or purpose of the law was pressing and substantial. In other words, the law must be promulgated to meet an objective or aim that is important to society.
3. Finally, the law is proportionate relative to the objective or aim that it seeks to achieve. This requires that the law be rationally connected to the objective or aim, that the effects of the law be proportionate to the objective or aim, and the right to freedom of expression be limited as little as possible.¹³²

Where a legal provision fails to meet any one of these 3 criteria cumulatively, it will violate the right to freedom of expression and press freedom.

LHRC’s Call: The Government and the Parliament to facilitate amendment of the Media Services Act of 2016 in line with the judgement of the East African Court of Justice of March 2019, to safeguard freedom of expression in Tanzania. Other laws hindering effective realization of freedom of expression should also be reviewed and amended in line with international standards of freedom expression. Additionally, the Ministry of Information, Communication and Information Technology should review the Media and Broadcasting Policy of 2003, as it is outdated and not fit for purpose in the current technological context. Moreover, the Government should take into consideration the implementation of the UPR recommendations issued during the 3rd cycle of the United Nations Human Rights Council UPR process in relation to freedom of expression.

2.2.2. Ban and suspension of media outlets: Bans Lifted for Various Media Outlets

The good news in 2022 was that bans that had been imposed on four newspapers in 2016 and 2017 were lifted. The four (4) newspapers are *Tanzania Daima*, *Mawio*, *Mwanahalisi* and *Mseto*. They were banned for allegedly

on freedom of expression and right to information in West Africa, 38th Session (January 2010), Art. 7.

131 See *Burundi Journalists Union v. the Attorney General of the Republic of Burundi*, Reference No. 7 of 2013, at <https://www.eacj.org/?cases=burundi-journalists-union-vs-the-attorney-general-of-the-republic-of-burundi>.

132 *Supra.*, *Burundi Journalists Union*, par. 85-86.



committing offences under the restrictive Media Services Act of 2016.¹³³ Save for the *Tanzania Daima*, the rest of the newspapers successfully went to court, but the government was yet to implement court decisions until the decision to lift bans¹³⁴

2.2.3. Arrests, harassment, intimidation, and detention of journalists

In August 2022, MCT disclosed that it had documented 10 incidents of press freedom violations in the period of January to July 2022, which are 4 less than those documented in the same period in 2021.¹³⁵ The violations included three incidents of suspension of media outlets, one incident of harassment, three arrests, denial of information, and two incidents of threats against journalists.¹³⁶ By December 2022, it was reported that 17 press violations had been documented, decreasing from 25 in 2021.¹³⁷

In February 2022, it was also reported that six journalists were allegedly arrested by game wardens within the Ngorongoro Conservation Area Authority (NCAA), inspected, and interrogated for more than two hours.¹³⁸ The journalists were Janeth Mushi (Mwananchi Newspaper), Profit Mmanga (Wasafi TV), Allan Isaack (Nipashe Newspaper), Apolo Benjaamin (Daily News Newspaper), Amina Ngahewa (Mwananchi Newspaper), and Julias Sagati (Star TV).¹³⁹

2.2.4. Punishment for media outlets

In 2022, LHRC documented at least one incident of punishment for media outlets based on contravention of restrictive Online Content Regulations of 2020. ZamaMpya TV (online) was slapped with a fine of Tshs. 2,000,000 by the Tanzania Communications Regulatory Authority (TCRA) for breaching the regressive Regulations, because they published comments of an artist criticising the Government's imposition of what he called unjustified mobile phone transaction levy imposed on citizens and calling for the Government to scrap the levy.¹⁴⁰

133 "Tanzania: Victory for media freedom as ban on four newspapers lifted" Amnesty International, 11 Feb 2022, at <https://www.theguardian.com/global-development/2023/jan/09/tanzania-press-freedom-violations-president-suluhu#:~:text=Last%20year%2C%2017%20%E2%80%9Cpress%20violations,2021%20and%2041%20in%202020.>; "Serikali yafungua milango" Mwananchi Newspaper, 11 Feb 2022.

134 See Global Freedom of Expression, *Mseto v. Attorney General*, at <https://globalfreedomofexpression.columbia.edu/cases/mseto-v-attorney-general/>.

135 "Media should press for amendments of restrictive laws or else." Media Watch, Newsletter of the Media Council of Tanzania, Issue No. 218, August 2022.

136 Ibid.

137 "Hopes rise for press freedom in Tanzania as number of censured journalists falls" The Guardian Newspaper (online), 9 Jan 2022, at <https://www.theguardian.com/global-development/2023/jan/09/tanzania-press-freedom-violations-president-suluhu#:~:text=Last%20year%2C%2017%20%E2%80%9Cpress%20violations,2021%20and%2041%20in%202020.>

138 Mussa Juma "Mongella, wanaharakati waingilia kati kukamatwa waandishi Ngorongoro" 6 Feb 2022, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/mongella-wanaharakati-waingilia-kati-kukamatwa-waandishi-ngorongoro-3707354>.

139 Ibid.

140 Muyonga Jumanne "TCRA yaitoza faini Sh2 milioni Zama Mpya TV Online"



2.2.5. Government Commended for Improved Press Environment

In 2022, the media fraternity praised President Samia Suluhu Hassan for improving press freedom. In March 2022, the Chairperson of the Media Institute of Southern Africa – Tanzania Chapter (MISA-TAN), Salome Kitomari, said there were improvements in press freedom, contributed by the government's decision to lift bans imposed on media outlets, paving way to constructive criticism.¹⁴¹ This view was also shared by MCT, which welcomed the improvement but also insisted on positive amendment of press freedom laws to guarantee the freedom.¹⁴² Other stakeholders also indicated that even people feel more comfortable to share their views or give comments to journalists compared to the situation in the past.¹⁴³

2.2.6. Amendment of the Electronic & Postal Communication (Online Content) Regulations 2020

The Minister for Information, Communication and Information Technology amended the Electronic and Postal Communications (Online Content) Regulations, GN. No. 538 of 2020 via GN No. 136 of 2022 which came into force on 18 March 2022. The Amendments introduce two categories of licence as opposed to the previous Regulations which had four categories. It is worth noting that the old categories of Online Content Licences were Online Content for News Content, Education Content, Religious Content and Entertainment Content. In the Amendments, the categories have been reduced to only two, namely Online Media Service Category A which includes online content services; and Online Media Services Category B which includes content aggregation.

The Amendments define online media services as online content services provided for the purpose of news and current affairs in a manner similar to, or in a manner that resembles service providers licensed under the Act. An online content aggregator has been defined as a content service provider who collects content from different sources and packs the content into baskets of channels for the purpose of being accessed by users for free or upon payment of a prescribed fee.

The Amendments exempt mainstream media licensees from obtaining

Mwananchi Newspaper (online), 9 Sep 2022, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/tcra-yaitoza-faini-sh2-milioni-zama-mpya-tv-online-3943500>.

141 George Helahela "Media fraternity commend improved freedom of the press" The Citizen Newspaper, 19 Mar 2022.

142 "Media should press for amendments of restrictive laws or else.." Media Watch, Newsletter of the Media Council of Tanzania, Issue No. 218, August 2022.

143 "Media fraternity commend improved freedom of the press" (supra).




Online Media Services Licences for simulcasting or re-publication of contents through the internet. This is the positive amendment which LHRC commends as a good move on the part of the Government.

2.2.7. Performance in the World Press Freedom Index

Despite the perceived improvement in the media environment, Tanzania only jumped one place in the World Press Freedom Index 2022. In the index report, prepared by Reporters Without Borders (RSF), Tanzania climbed from 124th position in 2021 to 123rd position in 2022, out of 180 countries that were assessed.¹⁴⁴ This is nevertheless a positive development, as previously the country had been dropping steadily in the rankings since 2016, falling over 50 places, more than any other country.¹⁴⁵ Despite the jump in the rankings, the score dropped slightly from 59.31 in 2021 to 48.28 in 2022. RSF raises concerns over lack of concrete and immediate action by the Government in amending restrictive laws so far, despite initial hopeful signs brought by the President, and the influence politicians have on many media outlets, which undermines editorial independence and results in biased coverage.¹⁴⁶

Table 8: Tanzania’s rank and score in press freedom in 2022

Tanzania	WPF Index	Rank	Score
	World Press Freedom Index 2022	123/180	48.28
	World Press Freedom Index 2021	124/180	59.31

Source: RSF World Press Freedom Index 2022

144 See RSF, World Press Freedom Index 2022: Tanzania, at <https://rsf.org/en/country/tanzania>.

145 See RSF, Tanzanian cartoonist detained over cartoon of president, 7 October 2021

at <https://rsf.org/en/news/tanzania-suspends-newspaper-one-month>.

146 RSF, World Press Freedom Index 2022: Tanzania (supra).



2.2.8. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs, to amend Media Services Act of 2016 in line with the decision/ judgement of the East African Court of Justice of 2019.
- The Government, through the Ministry of Constitutional and Legal Affairs, to amend the Online Content Regulations 2020 to bring them in line with international human rights standards.
- The Government, through the Ministry of Constitutional and Legal Affairs, to amend the Access to Information Act and the Cybercrimes Act to bring them in line with international human rights standards.

2.3. Freedoms of Assembly and Association

About the right

- Freedom of assembly ensures people can gather and meet, both in public and private, and peacefully hold meeting and engage in peaceful protest.
- Freedom of association ensures one the right to form and participate in association, either formally or informally. It covers any form of organized groups and professional organizations like political parties, trade unions, public associations, and non-governmental organisations. It involves an ability to seek and receive resources for organization for peaceful promotion and respect of human rights.
- The only restrictions allowed are those prescribed by law and necessary in a democratic society in the interests of national security or public safety, public order, protection of public health or morals or protection of the rights and freedoms of others, according to ICCPR (necessity, legality & proportionality).

In 2022, key freedoms of assembly and association issues and violations in Mainland Tanzania included existing restrictive laws and regulations, intensified calls to amend such laws, and ban on political rallies.

2.3.1. Laws Restricting Freedoms of Assembly and Association

There are several laws that govern freedoms of assembly and association in Tanzania that have been deemed to arbitrarily restrict such fundamental freedoms. These laws include the Political Parties Act, as amended in 2019, and the Basic Rights and Duties Enforcement Act (BRADEA), which



was amended in 2020.¹⁴⁷ They contain provisions which do not conform to international standards on freedoms of assembly and association, particularly the tests of necessity, legality, and proportionality.¹⁴⁸

Among other things, the Political Parties Act has mainly been faulted for granting excessive and intrusive powers to the Registrar of Political Parties.¹⁴⁹ NGOs have also expressed concerns over some of the provisions in the NGOs Act, which include excessive powers of the Registrar of NGOs and reporting requirements.¹⁵⁰ BRADEA has gravely limited the ability of civil society and individuals to defend the rights of vulnerable individuals, groups, and communities by curtailing public interest litigation, which forms part of freedom of association.¹⁵¹

LHRC's View: Since 2019, LHRC and other human rights stakeholders have been making repeated calls for these laws to be reviewed and brought in line with international standards on freedoms of assembly and association. However, the laws are yet to be amended to safeguard these fundamental rights.

LHRC's Call: The Government to take measures to review and amend Political Parties Act, BRADEA, and NGOs Act to bring them in line with international human rights standards and the Constitution of the United Republic of Tanzania of 1977.

2.3.2. Calls to Amend the Political Parties Act: Report of the Presidential Taskforce on Multiparty Democracy

In 2022, various stakeholders, including LHRC, continued to make calls for amendment of the Political Parties Act to check provisions which hinder effective enjoyment of multiparty democracy and realization of the freedoms of assembly and association of political parties. These calls were

¹⁴⁷ By preventing NGOs from filing cases on behalf of citizens, BRADEA, interferes with freedom of association of NGOs.

¹⁴⁸ Under the International Covenant on Civil and Political Rights (ICCPR) of 1966 and other key human rights standards such as the African Charter on Human and Peoples' Rights of 1981 and the Guidelines on Freedom of Association and Assembly in Africa, published by African Commission on Human and Peoples' Rights on 10th November 2017.

¹⁴⁹ See Analysis of the Political Parties (Amendment) Act, 2018 by Twaweza East Africa, Legal and Human Rights Centre (LHRC), Tanganyika Law Society (TLS), Media Council of Tanzania (MCT), Waandishi wa Habari za Maendeleo Zanzibar (WAHAMAZA) and Centre for Strategic Litigation, Submitted to the Parliamentary Committee on Legal and Constitutional Affairs on January 17 2019 at <https://www.humanrights.or.tz/assets/images/upload/files/JointAnalysis%2BPreamble-FINAL17012019.pdf>, accessed 6th March 2020

¹⁵⁰ See the Consolidated Analysis of the Written Laws (Miscellaneous Amendments) (No.3) Act, 2019 Bill by Centre for Strategic Litigation, Change Tanzania, Jamii Forums, HakiElimu, Legal and Human Rights Centre, Policy Forum, Save the Children, Tanzania Human Rights Defenders Coalition, Tanzania Women Lawyers Association, TIBA, Twaweza, at <https://www.twaweza.org/uploads/files/Amendments%20Consolidated%20Analysis%20Final%20-%2023June2019.pdf>, accessed 3rd March 2020.

¹⁵¹ See Mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, REFERENCE: OL TZA 2/2020, 24 June 2020 at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25391>, accessed 30 October 2020.



also echoed in the report by the presidential taskforce that probed into the situation of multiparty democracy in Tanzania. According to the taskforce report, stakeholders who were reached indicated that the Political Parties Act needs to be amended and the taskforce recommended the same, as well as review and amendment of the Police Force and Auxiliary Services Act (Cap 322).¹⁵²

2.3.3. Calls to Lift Ban on Political Rallies

In 2022, opposition political parties and other democracy and human rights stakeholders continued lamenting the ban on political rallies, which was imposed in 2016.¹⁵³ The ban had no justification under international human standards as well as the Constitution of the United Republic of Tanzania, 1977, which guarantees freedoms of assembly and association. However, there were signs that President Samia would lift the ban after she opened doors to engagement with opposition political parties, including holding dialogues and meetings with high profile leaders of the main opposition party (CHADEMA), Tundu Lissu and Freeman Mbowe. Among the issues reportedly discussed during those meetings was the ban on political rallies.¹⁵⁴ Lifting of the ban was also one of the recommendations made by the presidential taskforce on multiparty democracy, in their report released in October 2022.¹⁵⁵ The taskforce also recommended non-interference with internal party meetings.¹⁵⁶

2.3.4. Complaints of Arbitrary Restriction of Freedom of Assembly of Political Parties

In 2022, the main complaints of arbitrary restriction of freedom of assembly of political parties documented by LHRC were on excessive and intrusive powers of the Registrar of Political Parties and ban on political rallies. These were made repeatedly made by opposition leaders, including CHADEMA's Freeman Mbowe and Tundu Lissu.¹⁵⁷

¹⁵² Ripoti ya Kikosi Kazi (*supra*), p. 28.

¹⁵³ Naomi Achien'g "LHRC calls on government to lift ban on political rallies" 19 Aug 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/lhrc-calls-on-government-to-lift-ban-on-political-rallies-3919934>.

¹⁵⁴ See "Tanzania:Mkutano wa Rais Samia na Lissu umepokelewa vipi?" BBC News Swahili, 17 Feb 2022, at <https://www.bbc.com/swahili/habari-60416710>.

¹⁵⁵ Ripoti ya Kikosi Kazi (*supra*), p. 28.

¹⁵⁶ *Ibid.*

¹⁵⁷ See Fortune Francis "VIDEO: Chadema wasisitiza kuanza mikutano ya hadhara" 18 Dec 2022, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/video-chadema-wasisitiza-kuanza-mikutano-ya-hadhara-4059314>.



2.3.5. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs, to amend the Political Parties Act to bring it in line with international human rights standards.
- The Government to lift ban on political rallies organized and conducted by political parties.
- The Government, through the Ministry of Constitutional and Legal Affairs, to ratify the African Charter on Democracy Elections and Governance (ACDEG) of 2007.

2.4. Rights to Equality before the Law and Effective Remedy

About the right

- Right to equality before the law requires all persons to be treated equally before the law, without discrimination, regardless of wealth, social status, or political power. All laws should be applied equally to everyone.
- Equality before the law includes access to justice, presumption of innocence, right to legal representation, right to fair trial, and right to effective remedy.
- Right to effective remedy includes bringing perpetrators to justice and providing reparation to victims. It is closely associated to the right to fair trial.

In 2022, key issues and violations affecting the rights to equality before the law and effective remedy in Mainland Tanzania included government action to improve access to justice; restrictive laws; barriers to access to justice, including shortage of judicial staff, delays in investigations, and duration of cases; and criminal justice challenges, including lengthy detention of remandees in prisons, delays in investigations, frequent adjournment of cases, prison and police cell overcrowding, plea bargaining, and prompt presentation of accused persons in court.

2.4.1. Access to Justice: Key Issues and Challenges

Access to justice means access to **formal** or **informal** institutions that are tasked with delivery of justice such as courts and tribunals. This access enables people whose rights are violated or jeopardized to seek remedy from these institutions, where their grievances can be heard and determined. Access to justice is a key component of rule of law and the international



community has recognized **“the right to equal access to justice for all”** and committed itself to **“taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid.”**¹⁵⁸

2.4.1.1. Action to Improve Access to Justice

In 2022, the Government and the Judiciary continued to take various measures to improve access to justice, including construction and renovation of court buildings, implementation of mobile courts programme, use of ICT to enhance access to justice, translation of laws into Swahili, provision of legal aid, and provision of legal education.

Construction and renovation of court buildings

In April 2022, the Minister of Constitutional and Legal Affairs, Hon. Damas Ndumbaro, disclosed that the various projects of the Judiciary continued to be implemented in 2022, including completion of construction of court buildings in regions such as Katavi, Lindi, and Dodoma.¹⁵⁹ He also added that there was ongoing constructions of court buildings such as Resident Magistrate Courts in Tabora and Songwe and District Courts in Nanyumbu (Mtwara), Namtumbo (Ruvuma) Same (Kilimanjaro), Sikonge (Tabora), Busega (Simiyu), Kyerwa (Kagera), Gairo (Morogoro), Tanganyika (Katavi), and Nyang'hwale (Geita) Districts.¹⁶⁰ In November 2022, The Chief Justice, Prof. Ibrahim Hamis Juma, launched Same and Mwanga District Courts in Kilimanjaro.¹⁶¹

Mobile courts programme

The mobile courts programme was introduced to bring judicial services closer to the people. In February 2022, the Chief Justice of Tanzania, Prof. Ibrahim Hamis Juma, stated that 866 cases were heard by mobile courts in 2021.¹⁶²

Use of ICT to enhance access to justice

The Judiciary continued to integrate information and communication

158 See Para 14 of the Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels, Resolution adopted by the General Assembly A/RES/67/1, Sixty-seventh session, 30 November 2012, available at <https://www.un.org/ruleoflaw/files/A-RES-67-1.pdf>, accessed 29th February 2020.

159 See HOTUBA YA WAZIRI WA KATIBA NA SHERIA, MHESHIMIWA DKT. DAMAS DANIEL NDUMBARO (MB), WAKATI AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA WIZARA KWA MWAKA WA FEDHA 2022/2023, at [https://www.sheria.go.tz/uploads/speeches/docs/sw1652253918-HOTUBA%20YA%20BAJETI%20YA%20WIZARA%20YA%20KATIBA%20NA%20SHERIA%20KWA%20MWAKA%20WA%20FEDHA%202022%20-%202023%20\(2\).pdf](https://www.sheria.go.tz/uploads/speeches/docs/sw1652253918-HOTUBA%20YA%20BAJETI%20YA%20WIZARA%20YA%20KATIBA%20NA%20SHERIA%20KWA%20MWAKA%20WA%20FEDHA%202022%20-%202023%20(2).pdf).

160 Ibid.

161 “CJ to launch Mwanga, Same district courts” The Guardian Newspaper, 15 Nov 2022.

162 See HOTUBA YA JAJI MKUU PROF. IBRAHIM HAMIS JUMA SIKU YA SHERIA NCHINI, DODOMA, TAREHE 2 FEBRUARI, 2022, at <https://media.tanzilii.org/files/speeches/2022-02/HOTUBA%20YA%20MHE.%20JAJI%20MKUU%20PROF.%20IBRAHIM%20HAMISI%20JUMA-%20SIKU%20YA%20SHERIA%20TAREHE%2002.02.2022-.pdf>.



technology (ICT) within the judicial system to enhance access to justice. For instance, it was reported that by March 2022, the Judiciary had introduced and operationalised the ‘Sema na Mahakama’ mobile application, which enables smartphone users to file complaints at any court, make recommendations, provide feedback on Judiciary work, and track complaints.¹⁶³

Translation of laws into Swahili

In April 2022, the Government disclosed that 214 laws had been translated into Swahili in the form of first draft in the period of July 2021 to March 2022.¹⁶⁴

Provision of legal aid and education

The Government continued facilitating provision of legal aid, including through registration of 15 legal aid providers and 56 paralegals in the period of July 2021 to March 2022.¹⁶⁵ During the same period, the Ministry of Constitutional and Legal Affairs collaborated with the Judiciary to establish legal aid desks at 6 integrated justice centres in Dar es Salaam (Kinondoni and Temeke Districts), Arusha, Dodoma, Morogoro, and Mwanza Regions, and one stop centre Temeke Dar es Salaam, to enhance access to legal aid for people visiting the centres.¹⁶⁶

2.4.1.2. Barriers to Access to Justice

Community perceptions on barriers to access to justice

During the human rights survey conducted in 20 regions of Mainland Tanzania, community members who participated were asked about barriers to access to justice. As was the case during the previous survey, corruption was identified as the biggest barrier to access to justice, scoring 82%. In the previous survey, corruption led with 79%. Lengthy court proceedings and low awareness also scored above 50%, followed by cumbersome legal procedures (30%), court proximity (25%), and language of the court (25%).

¹⁶³ HOTUBA YA WAZIRI WA KATIBA NA SHERIA (*supra*).

¹⁶⁴ HOTUBA YA WAZIRI WA KATIBA NA SHERIA (*supra*).

¹⁶⁵ HOTUBA YA WAZIRI WA KATIBA NA SHERIA (*supra*).

¹⁶⁶ Ibid.



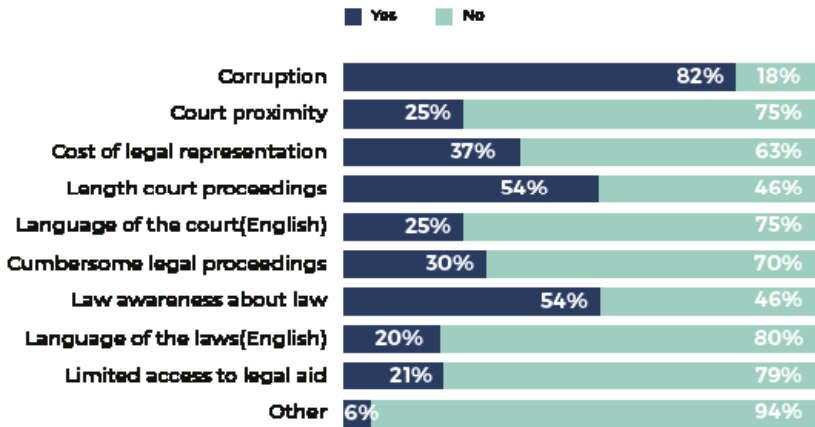


Figure 12: %Responses on barriers to access to justice (N=1,497)

Source: Field data, 2022

Corruption

As indicated above, corruption was identified as the biggest barrier to access to justice in 2022. Community members who responded to the survey were also asked how big of a problem corruption is in accessing justice. Majority of respondents, 42.5%, said it is a serious problem, followed by just over a third, who said it is a problem. Only less than a quarter of the respondents (22.5%) believed corruption is either a moderate problem, minor problem, or not at all a problem which points to the magnitude of the problem.

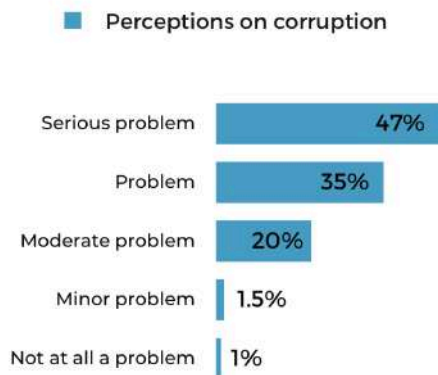


Figure 13: Community perceptions on corruption (N=1,497)

Source: Field data, 2022



In terms of regional variations, percentage of respondents who perceived corruption to be a serious problem and a problem was highest in Kigoma (92%), followed by Pwani (91%), Mbeya (90%), Mtwara (88%), and Kagera (87%). Percentage was lowest in Morogoro (51%), followed by Katavi (53%), Iringa (53%), Dodoma (63%), and Rukwa (67%).

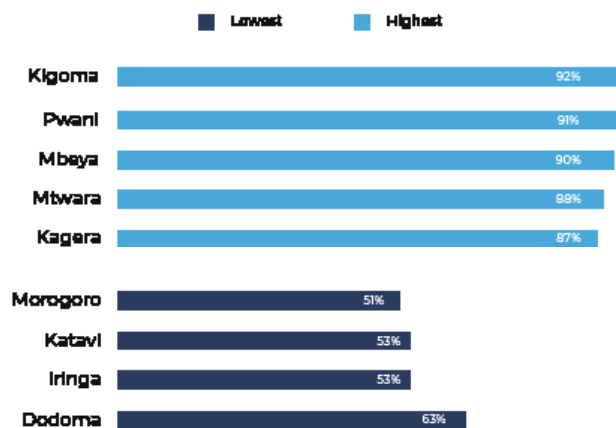


Figure 14: %Responses on corruption being a serious problem/problem by region (5 highest & lowest)

Source: Field data, 2022

Other regions scored between 67% and 87%, including Tabora (79%), Singida (81%), Tanga (81%), Kilimanjaro (78%), Arusha (77%), Njombe (73%), and Mwanza (85%). This shows that majority of community members in nearly all regions perceived corruption to be a serious issue in the justice system.

Qualitative data obtained in the surveyed regions also indicate the magnitude of the problem. For instance, in Singida, some of the interviewed community members claimed that corruption is pervasive in boards, tribunals, primary courts, and district courts, accusing people with financial means of bribing justice actors such as police and judicial officers to bend justice.¹⁶⁷ One community member in Singida had this to say about court clerks:

¹⁶⁷ LHRC Human Rights Survey 2022: Singida Field Report.



'...I once had a case in court and a court clerk indicated that I should make 'facilitation payment' to guarantee speedy trial.'

Community member, Manyoni – Singida

Some of the community members and paralegals in Singida also expressed their disappointment with some of the police officers, who demand bribes to provide police services.¹⁶⁸ One of them said three quarters of community members in Manyoni District do not trust the police because of corruption, threats, harassment, and foul language, which also contribute to fear in reporting GBV-related cases. Another one said is normal for a police officer to ask 'if you have money' when reporting a stolen item. In July 2022, it was reported in the region that two police officers at Misigiri Police Station in Iramba District, had refused to work on a missing person case (Stella Jingu) until relatives pay them Tshs. 45,000.¹⁶⁹ In regions such as Iringa, Rukwa, and Kilimanjaro, lower ranking police officers were said to be more corrupt compared to higher ones.

Court officials in courts of law, especially primary and district courts, were also accused of corruption by majority of respondents in all surveyed regions, including Tanga, Njombe, Katavi, Arusha, Pwani, Dar es Salaam, Kagera, and Mtwara. For instance, in Tanga, a resident of Tanga Municipality claimed that it is very difficult to get justice in court if one has no money, because of corruption.¹⁷⁰ In Arusha, a lawyer in Arusha City said that corruption is more prevalent in lower courts, especially Primary and District Courts, which are the ones easily accessible by majority of citizens.¹⁷¹ In Njombe, an elderly woman in Makete District lamented being a victim of court corruption, saying:

"I had to pay a Tshs. 50,000 bribe in court to get justice for my Tshs. 300,000 which was stolen.."

Community member, Makete – Njombe

Police and courts of law have also been identified among the most corrupt institutions in the most recent national governance and corruption survey conducted by the Prevention and Combating of Corruption Bureau

¹⁶⁸ Ibid.

¹⁶⁹ Tobias Mwanakatwe "Polisi wadaiwa kukataa kufanya uchunguzi" Nipashe Newspaper (online), 3 Jul 2022, at <https://www.ippmedia.com/sw/habari/polisi-wadaiwa-kukataa-kufanya-uchunguzi>.

¹⁷⁰ LHRC Human Rights Survey 2022: Tanga Field Report.

¹⁷¹ LHRC Human Rights Survey 2022; Arusha Field Report.



(PCCB).¹⁷² The report discusses institutions perceived to be most corrupt, with the Police Force earning the first spot (45.6%), followed by health institutions (17.9%), Judiciary (11.9%), and Tanzania Revenue Authority (6.1%).¹⁷³

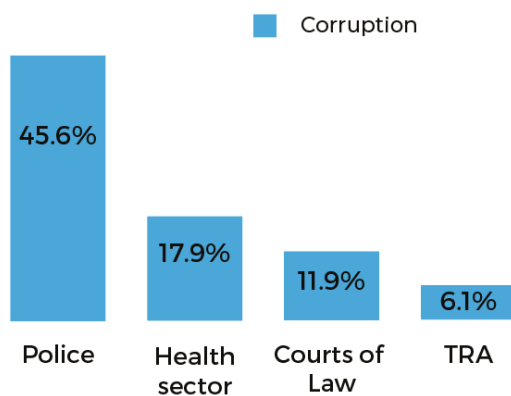


Figure 15: Government institutions leading in corruption

Source: PCCB (2020)

Delays and frequent adjournment of cases

Delays in investigations and determination of cases and frequent adjournment of cases in court of law were also said to be big barriers to access to justice during interviews with stakeholders and community members in surveyed regions. This situation discourages community members from following up on cases and causing some to give up.

‘Cases get adjourned without sufficient and good cause, causing waste of money by making trips to courts only for the case to be adjourned frequently.’

Community member, Singida MC – Singida

Court proximity and availability

Community members in some parts of the regions that were surveyed

¹⁷² Prevention and Combating of Corruption Bureau, *National Governance and Corruption Survey*, Volume 1: Analysis of Main Findings, Conclusions and Recommendations, September, 2020, at <https://www.pccb.go.tz/wp-content/uploads/2022/07/NGACS-2020-Vol-1-Analysis-of-Main-Findings-Conclusions-and-Recommendations.pdf>.

¹⁷³ “Takukuru yataja taasisi nne vinara wa rushwa” Mwananchi Newspaper, 13 Oct 2022.



indicated that they find it difficult to access courts of law due to distance. When asked which courts are available in their district, majority of them (65%) mentioned both District and Primary Courts, followed by Primary Court only (13%).¹⁷⁴ They were then asked how far the courts were from their areas of residence, whereby majority of them (25%) mentioned 0 to 5 kms, followed by 23% who said the courts are 11 to 15 kms away. 15% of the respondents said they have to walk or travel for 21 kms or more to reach courts of law, majority of them (75%) residing in rural areas.

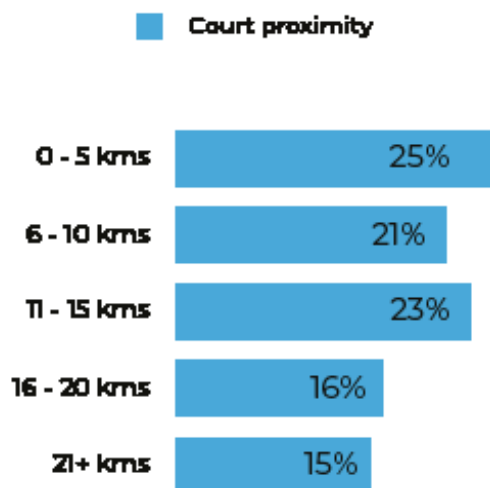


Figure 16: %Responses on court proximity (N=1,497)

Source: Field data, 2022

Some of the interviewed community members and paralegals in nearly all regions, especially in rural areas, also expressed concerns over distance from their residences to courts of law, including in regions such as Tanga, Iringa, Katavi, Mbeya, Njombe, and Kigoma Regions. In Iringa, available courts in Kilolo District were said to be inadequate to serve all 24 wards, which are also very scattered. Some of the interviewed community members in the district said the geographical setup of the district makes it very difficult for people to easily access courts of law.¹⁷⁵ In Katavi, it was revealed that there was no District Court in Nsimbo District and there was only one Primary Court, located in Katumba Ward, and some of the community members said they have to walk more than 15kms to reach the court. A community

¹⁷⁴ LHRC Human Rights Survey 2022: Field Data.

¹⁷⁵ LHRC Human Rights Survey 2022: Iringa Field Report.



development officer in the district said:

'...we don't have a District Court here, there is only one Primary Court, located in Katumba Ward, which is far from other wards. This presents a big challenge in terms of accessing court services.'

CDO, Nsimbo – Katavi

In Tanga, some community members in Lushoto District also lamented the distance to court, making it difficult for them to access court services. One of the residents in the district stated that some residents of remote villages must walk or travel for up to 50kms to reach courts, and some of them cannot afford the transport costs, hence give up on seeking justice.¹⁷⁶

In November 2022, the Chief Justice of Tanzania, Prof. Ibrahim Juma, disclosed that 28 of 139 districts in Mainland Tanzania lack district courts, hence people must travel long distances to access the courts in neighbouring districts.¹⁷⁷ He also added that only 37 District Courts had their own court buildings, while others have been accommodated in local government authority, District Commissioner office, and other buildings.¹⁷⁸

Lack of police stations

Lack of police stations in some of the areas in surveyed regions was also mentioned as a barrier to access to justice by some interviewed respondents in regions such as Mbeya, Njombe, Kagera, and Katavi. For instance, in Isyesye Ward in Mbeya District, one of the residents said there was no police station in their ward, hence they rely on the nearby police station, which is in Ilombo Ward.¹⁷⁹ In Njombe, it was disclosed that there were only nine police stations serving 40 wards of Makete and Ludewa Districts.¹⁸⁰ In Katavi, one of the villagers in Mtapenda Ward, Nsimbo District, stated that the nearest police station was more than 10kms away, making it difficult for villagers to report crimes and incidents.¹⁸¹

Laws that restrict access to justice

176 LHRC Human Rights Survey 2022: Tanga Field Report.

177 See Tiganya Vincent "WILAYA 28 HAZINA MAHAKAMA KATIKA MAENEO YAO: PROF. JUMA" Judiciary of Tanzania, 16 Nov 2022, at <https://www.judiciary.go.tz/web/index.php?r=posts%2Fwebview&id=1736>.

178 Ibid.

179 LHRC Human Rights Survey 2022: Mbeya Field Report.

180 LHRC Human Rights Survey 2022: Njombe Field Report.

181 LHRC Human Rights Survey 2022: Katavi Field Report.



Some laws have also been identified as restrictive to access to justice, by containing provisions that create a barrier in accessing justice. These laws include the Constitution of the United Republic of Tanzania of 1977 and the Basic Rights and Duties Enforcement Act (BRADEA). BRADEA was amended in 2020, introducing a provision which requires a person to have been personally affected in order to file an application for human rights violation before the High Court of Tanzania.¹⁸² This amendment prevents CSOs from filing cases on behalf of victims of human rights violations (public interest litigations) and limits their role of promoting and enhancing access to justice. The Constitution does not allow results of presidential election to be challenged in a court of law, which curtails access to remedy for aggrieved presidential candidates, contrary to international human rights standards. The African Court on Human and Peoples' Rights has also found this to constitute violation of Articles 2 and 7(1) (a) of the African Charter on Human and Peoples Rights in the case of *Jebra Kambole v United Republic of Tanzania*.¹⁸³

In September 2022, the former Chief Justice, Hon. Mohamed Chande Othman, lauded Kenya's judicial process, citing the role of its Constitution in guiding elections, adding that Tanzania should borrow a leaf on how the neighbouring country allows presidential results to be challenged in court.¹⁸⁴ He said, "A key lesson that one can draw from the conduct of the case and the electoral process is the opportunity of access to justice provided under Article 140(1) of the Kenyan Constitution."¹⁸⁵

Access to legal aid

When asked whether there were any NGOs providing legal aid in their district, majority of community members who participated in the Human Rights Survey 2022 (58%) said there were such NGOs, followed by 30% who indicated they did not know. Only 12% said there were no legal aid providers in their districts.

182 Section 4 of BRADEA as amended under Part II of the Written Laws (Miscellaneous Amendments) (No.3) Act, 2020.

183 See JUDGMENT SUMMARY, JEBRA KAMBOLE V. UNITED REPUBLIC OF TANZANIA, APPLICATION NO. 018/2018 JUDGMENT ON MERITS AND REPARATIONS, 15 JULY 2020 at https://en.african-court.org/images/Cases/Judgment/Application_018-2018_-Jebra_Kambole_v_Tanzania_-_Judgment_Summary.pdf, accessed 30 October 2020.

184 "Retired CJ's Kenya report" The Citizen Newspaper, 7 Sep 2022.

185 Ibid.



■ Yes ■ No ■ Don't Know

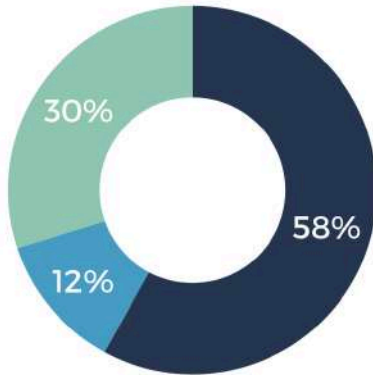


Figure 17: %Responses on availability of NGOs providing legal aid at district level (N=1,497)

Source: Field data, 2022

Respondents who said there were legal aid providers in their districts were then asked about the proximity of the legal aid NGOs. Majority of them (24%), said the NGOs are 6 to 10 kms away from where they reside, followed by 23% who mentioned 0 to 5 kms, and 21% said they have to travel more than 21 kms to reach legal aid providers.

■ Proximity of legal aid providers

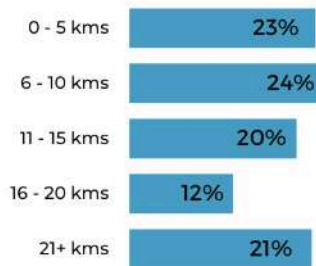


Figure 18: %Responses on approximate distance from resident to legal aid providers (N=868)

Source: Field data, 2022



Some of the interviewed respondents in surveyed regions also lamented limited access to legal aid, even in districts where there were legal aid providers. This was revealed in 14 out of the 20 regions that were surveyed, including Kigoma, Geita, Katavi, Kilimanjaro, and Mbeya. In Katavi, shortage of paralegal organizations was said to be a big challenge, compounded by the fact that some of the available few are not active.¹⁸⁶ In Tanganyika District, located in the region, a paralegal from *Tanganyika Pamoja Tuzungumze* stated that paralegal centres in the region are faced with various challenges in legal aid provision, including lack of funds and remoteness of some areas.¹⁸⁷

'Most of the paralegal offices in Katavi have been closed due to lack of sufficient funds to enable them to provide legal aid services. There is therefore shortage of legal aid providers.'

Director at *Tanganyika Pamoja Tuzungumze*, Tanganyika – Katavi

In Geita, a lawyer mentioned that not knowing where to get legal assistance is one of the barriers to access to justice in the region. He noted that most people first go to the politicians and local leaders to seek justice, wasting valuable time in the process and failing to comply with the procedural laws and law of limitation in actions of civil proceedings, consequently failing to get any remedy.¹⁸⁸

LHRC's View: Women are disproportionately affected by limited access to legal aid services, especially those residing in rural areas. This is contributed by customs and traditions that marginalize them and the fact that majority of legal aid providers are male, which means some women may be uncomfortable sharing intimate information with a male legal aid provider.

LHRC's Call: CSOs and other legal aid providers need to concentrate their legal aid interventions in rural areas and make deliberate efforts to reach rural women.

The use of ICT technologies in courts

In Tanzania, the Judiciary has taken several measures to digitalize the administration of justice through the integration of ICT, including e-filing of cases, e-payment, e-notification, e-decisions, e-publication, e-reports, and

¹⁸⁶ LHRC Human Rights Survey 2022: Katavi Field Report.

¹⁸⁷ Ibid.

¹⁸⁸ LHRC Human Rights Survey 2022: Geita Field Report.



video and teleconference.¹⁸⁹ A policy brief prepared by the *Africa Judges and Jurists Forum* (AJJF)¹⁹⁰ in June 2021,¹⁹¹ noted that while a digital transformation within court systems across the world has potential to create broader access to court data and enhance access to justice, the train of court digital transformation has left many people in Southern Africa behind. According to AJJF, the digital transformation has perpetuated the digital inequality that already exists between the rich and the poor, between men and women, between minorities and other groups in the society as well as within the society at large.

LHRC's View: While the use of ICT technologies in Tanzanian courts is commendable in terms of enhancing access to justice, it comes with several challenges which may cause miscarriage of justice, especially in criminal justice. These challenges include power outages, lack of access to stable internet, and inadequate infrastructure, including shortage of televisions and computers. Most courts and prisons in Tanzania, especially in rural and semi-urban areas are still not well equipped to effectively adopt and use ICT technologies to administer justice, considering that even in Dar es Salaam some of the courts and prisons are experiencing the challenges highlighted above. Other risks, such as vulnerability to hacking and lack of technical knowhow, also need to be considered and safeguards put in place.

LHRC's Call: Integration of ICT, including the videoconferencing technology, in the administration of justice in Tanzania to proceed in consideration to the concerns over the use of the technology. A great attention should be paid to installing **safeguards** recommended by different stakeholders above, including the International Commission of Jurists (ICJ), **to protect trial rights.** For the case of Tanzania, it is also important to address some of the challenges highlighted by the Africa Judges and Jurists Forum (AJJF), especially the internet connectivity problem. As pointed out by the ICJ, the right of any person to be physically present for his or her initial appearance before the judicial authority following arrest or detention on criminal charges should be fully respected, including in situations of crisis or emergency such as the COVID-19 pandemic. In particular, national laws

¹⁸⁹ Judiciary of the United Republic of Tanzania, COMPREHENSIVE PERFORMANCE REPORT OF THE JUDICIAL FUNCTIONS – 2020, at <https://media.tanzlii.org/files/guidelines/2021-12/comprehensive-performance-report-a5.pdf>.

¹⁹⁰ A network of judges and jurists across the continent. The membership of AJJF is inspired by the imperative to promote the rule of law in the context of Africa's development. The Headquarters of AJJF are based in South Africa. The Forum works with governments, Inter-governmental entities, non-governmental formations, and the private sector.

¹⁹¹ Africa Judges and Jurists Forum (AJJF), DIGITAL TRANSFORMATION OF COURT PROCESS IN SOUTHERN AFRICA: A HUMAN RIGHTS APPROACH, A Policy Brief, June 2021, at <https://africajurists.org/wp-content/uploads/2021/publications/21.06-Digital-Transformation-of-Court-Processes-in-Southern-Africa-AJJF-Final.pdf>.



and rules should not permit, and in practice courts and other authorities should not proceed with, such hearings in which an accused is denied the right to be physically present for the hearing and is instead forced to participate only by means of a video link or similar technology without his **freely given and fully informed consent**.¹⁹² Additionally, any time that videoconferencing or similar technologies are used as a substitute for physical presence, authorities must ensure that any individual party or accused that is deprived of liberty has **access to legal counsel before, during and after the hearings**, including a secure and confidential means of communication between the lawyer and client.¹⁹³

Trust in justice delivery and dispute resolution institutions

Community members who participated in the Human Rights Survey 2022, were asked to what extent they trust some of the key institutions in delivering justice or resolving disputes, namely courts of law, village chairperson office, land council/tribunal, religious leaders, police, NGOs/ legal aid providers, family meeting, and traditional leaders. In terms of trusting and trusting a lot, religious leaders received the highest percentage (70%), followed by family meeting (60%), NGOs/Legal aid providers (59%), and village chairperson (41%). In terms of not trusting and not at all trusting, majority of respondents (52%), indicated that they do not trust the police, followed by courts of law (41%), tribunal (38%), and village chairperson (38%).

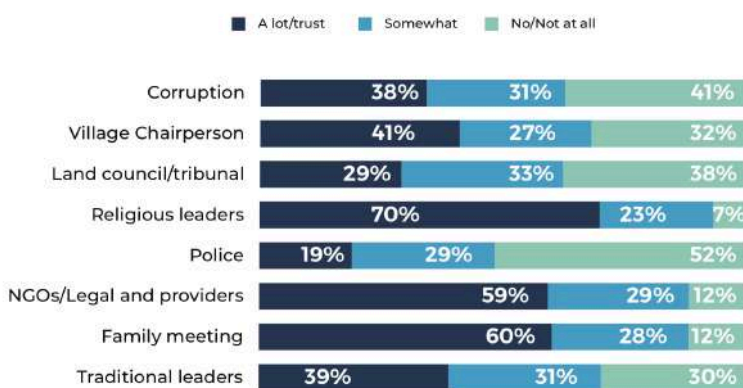


Figure 19: %Responses on trusting institutions that can deliver justice or resolve a dispute

192 International Commission of Jurists (ICJ), *Videoconferencing, Courts and Covid19: Recommendations Based on International Standards*, November 2020, at https://www.unodc.org/res/ji/import/guide/icj_videoconferencing/icj_videoconferencing.pdf.

193 Ibid.



Survey participants were also asked whether they prefer to seek justice or resolve disputes through judicial or non-judicial mechanisms. Despite challenges in the formal justice system, over half of the respondents (57%), indicated that they would prefer the judicial option, which means going to courts of law and tribunals.¹⁹⁴ The remaining 43% said they prefer the non-judicial option.¹⁹⁵ The percentage of those who prefer judicial option was higher among men (63%) than women (47%), pointing to issues with women's access to formal justice. In terms of location, percentage of respondents who would choose the judicial option was higher in urban areas (59%) than rural areas (44%).

Withdrawal of African Court Declaration

In 2019, Tanzania withdrew access of individuals and CSOs to the African Court on Human and Peoples' Rights, after issuing a notice of withdrawal.¹⁹⁶ According to the notice, the withdrawal decision was reached after the Declaration had been implemented contrary to the reservations submitted by Tanzania when making its Declaration.¹⁹⁷ The withdrawal means limited access to justice (remedy) for Tanzanians, when not satisfied with decisions of internal judicial mechanisms. In October 2022, the African Court on Human and People's Rights said it was optimistic Tanzania will reverse its withdrawal from the Declaration, once again allowing CSOs and individuals to file cases before the Court.¹⁹⁸

2.4.2. Criminal Justice: Key Issues and Challenges

2.4.2.1. Calls for Reform of Tanzania's Criminal Justice System

In 2022, calls for reform of Tanzania's criminal justice system continued to be made by government and non-government stakeholders, including H.E. President Samia Suluhu Hassan. In July 2022, the President formed a 12-member committee to probe into the performance of criminal justice institutions¹⁹⁹ in the country, including advising her on the best way to

194 LHRC Human Rights Survey 2022: Field data (N=1,497).

195 Ibid.

196 See NOTICE OF WITHDRAWAL OF THE DECLARATION MADE UNDER ARTICLE 34(6) OF THE PROTOCOL TO THE AFRICAN CHARTER ON THE ESTABLISHMENT OF AN AFRICAN COURT ON HUMAN AND PEOPLE'S RIGHTS at <https://www.southernafricalitigationcentre.org/wp-content/uploads/2019/12/Tanzania-Withdrawal-Article-36-4-African-Court.pdf>.

197 Ibid.

198 Zephania Ubwani "African court hopeful Tanzania will reverse Declaration standing" The Citizen Newspaper, 13 Oct 2022.

199 Including National Prosecution services (NPS), the Prevention and Combating of Corruption Bureau (PCCB), the Prisons and the Drug Control and Enforcement Authority (DCEA).



improve the performance of Tanzania's criminal system.²⁰⁰ She directed the committee, led by the Former Chief Justice, Hon. Mohamed Othman Chande, to start with the Tanzania Police Force, before moving on to other institutions.²⁰¹ The President's continued calls for criminal justice reforms since she assumed power in March 2021 have earned praise from human rights and criminal justice stakeholders, including NGOs such as LHRC and Tanzania Women Lawyers Association (TAWLA); the national human rights institution (CHRAGG); and one of the opposition political parties, ACT-Wazalendo.²⁰²

Amendment of the Criminal Procedure Act

In 2022, the Government positively amended the Criminal Procedure Act, 1985 through *the Written Laws (Miscellaneous Amendments) Act No. 1, 2022*. The amendments:

- Prohibit the immediate arrest of a person once acquitted by the Director of Public Prosecution (DPP) by entering "Nolle Prosequi" (will no longer prosecute).
- Impose conditions for non-prosecution until investigation is completed.
- Provide clarification on provisions related to plea bargaining, this can bring justice, fair compensation, and punishment.
- Enable and call for establishment of proper procedures for appointment of court assessor unlike the earlier stand where there was no proper procedure of their appointment which was based on the ruling party affiliation.

Following these amendments, the DPP issued guidelines to govern the best practice for entering the plea-bargaining agreement. The guidelines ensure better protection of the rights of accused person compared to previous status where there was no hope of having the DDP plea bargaining guidelines. They further provide for the right to legal aid for accused persons who want to enter a plea-bargaining agreement in prison. Some of these changes were recommended by LHRC in its 2021 study on bailable and non-bailable offences.

200 See Bethsheba Wambura "Samia forms committee to investigate performance of security forces" The Citizen Newspaper (online), 20 Jul 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/samia-forms-committee-to-investigate-performance-of-security-forces-3886174>; "Samia forms 12-member committee to probe criminal justice system" Africa Press, 20 Jul 2022, at <https://www.africa-press.net/tanzania/all-news/samia-forms-12-member-committee-to-probe-criminal-justice-system>.

201 See "Rais Samia ageukia vyombo vya haki nchini" Mtanzania Newspaper (online), 20 Jul 2022, at <https://mtanzania.co.tz/rais-samia-ageukia-vyombo-vya-haki-nchini/>.

202 "Samia earns kudos for standing up for justice" Africa Press, 2 Sep 2022, at <https://www.africa-press.net/tanzania/all-news/samia-earns-kudos-for-standing-up-for-justice>.



President Samia's directives on reforming criminal justice

Since coming on power, President Samia has been vocal on various criminal justice issues, including lengthy detention of remandees, fabrication of cases, corruption, and delays in investigation and disposal of cases. She has given various directives to improve criminal justice, including within the Tanzania Police Force and the Judiciary. LHRC commends the President for her political will in this regard and calls for her government to continue taking action to improve the criminal justice system to safeguard human rights, including making relevant legal and policy reforms.

LHRC Recognition



2.4.2.2. Delays in Investigations

Delays in investigations have been blamed for undue delay in criminal justice delivery. Prolonged investigation has now become a big thorn in the criminal justice system, contributing to violation of the rights of accused persons, including the right to equality before the law and right to liberty and personal security. A recent special audit report by the Controller and Auditor General (CAG), looking at the performance of the criminal justice in Tanzania, highlights various factors which contribute to delays in investigations by the Directorate of Criminal Investigation within the Tanzania Police Force (TPF). According to the audit report, one of the reasons for the delays in police investigations is non-compliance with the timeframe for criminal investigation set in the Police Force and Auxiliary Service (Police General Orders) 2021, which is one year for capital offenses and six months for other offenses²⁰³. However, the CAG has criticized the timeframe for being unrealistic and general, noting that the timelines were not based on well-established detailed study with an assessment of time taken for each activity in the investigation process and suggesting that there should be different timelines for different types of crimes depending on the nature of such crimes.²⁰⁴

203 UNITED REPUBLIC OF TANZANIA, NATIONAL AUDIT OFFICE, PERFORMANCE AUDIT REPORT ON THE CRIMINAL JUSTICE SYSTEM IN TANZANIA, CONTROLLER AND AUDITOR GENERAL, MARCH 2022, p. 53 at <https://www.nao.go.tz/reports/view/performance-audit-report-on-the-management-of-backlog-of-cases-by-the-justice-system>.

204 Ibid.



Other reasons for delays in police investigations include delays in obtaining results from experts conducting examination; delays caused by geographical location of a crime, where crimes are committed in remote areas; inadequate management of human resources to support investigation activity; and insufficient resources to support investigation.²⁰⁵ The CAG report shows that the Police Force relies on entities such as the Government Chemist Laboratory Authority, mobile network companies, Tanzania Revenue Authority (TRA), and financial institutions (usually banks) to support investigation and collect evidence, but the entities usually delay in providing relevant information. For instance, the government chemist laboratory averages a delay of 47 days, while mobile network operators take at least a month to provide data needed to support investigation. In Mbeya, the CAG audit report shows that in one case it took 366 days (a year) to obtain a test result for a sample submitted by police to the government chemist, contributing to the delay in completing investigation.²⁰⁶

Regarding inadequate management of human resources, the CAG report indicates that allocation of human resources within the Directorate of Criminal Investigation has not considered key factors such as workload, crime rate, and population.²⁰⁷ For instance, in Dar es Salaam, the CAG audit found that the standard annual number of crimes per investigator is 47, but one crime investigator in the region deals with an average of 79 crimes per year.²⁰⁸ This problem is compounded by the problem of insufficient resources to support investigation, such as vehicles, computers and stationaries, largely contributed by inadequate disbursement of the budget.²⁰⁹ The maximum percentage of approved budget for the financial years 2016/17 to 2020/21 is only 13.3%, which is not adequate and thus limiting police investigators in conducting investigations.²¹⁰

LHRC's View: Existence of an independent civilian oversight body, discussed in detail under sub-chapter 2.1 above, could also help to address issues of delays in conducting investigations, as well as other challenges such as lack of effective coordination and capacity to conduct criminal investigation.

2.4.2.3. Inadequate Capacity to Conduct Criminal Investigation

205 CAG Criminal Justice System Audit Report (*supra*), p. 53-57.

206 *Ibid.*, p. 55.

207 CAG Criminal Justice System Audit Report (*supra*), p. 57.

208 *Ibid.*

209 *Ibid.*

210 CAG Criminal Justice System Audit Report (*supra*), p. 57.



Gaps in competence in criminal investigation is also among key issues affecting criminal investigations in Tanzania. According to the performance audit report on the criminal justice system in Tanzania, released in March 2022, in the period of financial years 2018/19 to 2020/21, criminal investigators did not adequately attend further advanced and specialized training to improve their investigative skills, with the number of those who had not attended higher than those who had attended.²¹¹ Dodoma and Mwanza Regions were found to have a relatively higher number of untrained police investigators compared to other regions, with the former having approximately 80% of investigators not attending the trainings.²¹² Lack of training needs assessment has also affected planning, budgeting, and setting training priorities within the Directorate of Criminal Investigation.²¹³

LHRC's View: Police trainings are very important, and they need to be conducted regularly. In August 2022, the President recognized the problem of lack of training and disclosed that the Government had allocated Tshs. 11 billion for police trainings.²¹⁴ LHRC hopes that the funds shall be disbursed in full to ensure the trainings are effectively conducted.

2.4.2.4. Lengthy Detention of Remandees in Prisons

Under International human rights law, pretrial detention must comply with the principles of **legality**, **necessity**, and **proportionality**, and when not fully complied with, detention becomes excessive.²¹⁵ There must be a reasonable suspicion that a person has committed the crime and such detention is **necessary** and **proportionate** to prevent such person from absconding, committing another crime/offence, or interfering with the course of justice.²¹⁶ But even then, pre-trial detention is expected to be **the exception** and **not the rule (last resort measure)**,²¹⁷ given its severe and often irreversible negative impact and in line with international human rights standards applicable in criminal justice.²¹⁸ More importantly, **pre-trial**

211 CAG Criminal Justice System Audit Report (*supra*), p. 58.

212 Ibid.

213 Ibid.

214 See Government statement at <https://issamichuzi.blogspot.com/2022/08/rais-samia-aagiza-upelelezi-ufanyike.html>.

215 Penal Reform International (PRI) & Association for the Prevention of Torture (APT), *Pre-trial detention: Factsheet*, Detention Monitoring Tool, 2nd ed. 2015.

216 Ibid.

217 See Penal Reform International, *Pre-trial Detention: Key Facts*, at <https://www.penalreform.org/issues/pre-trial-justice/key-facts/>.

218 Key references in this regard are: International Covenant on Civil and Political Rights (ICCPR), 1966; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 1988; UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, 2012; UN Standard Minimum Rules for Non-custodial Measures (Tokyo Rules), 1990; Revised UN Standard Minimum Rules for the Treatment of Prisoners (1955); UN Basic Principles on the Role of Lawyers, 1990; UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules), 2010; UN International Convention for the Protection of All Persons from Enforced Disappearance, 2007; and Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (Luanda Guidelines), adopted by the African Commission on Human and Peoples' Rights in May 2014.



detention should only be applied for the shortest possible time and suspects are entitled to a trial ‘within a reasonable time’.²¹⁹ Regional and international human rights mechanisms have found detention of four to twelve years to constitute prolonged detention and not a trial ‘within a reasonable time,’ in violation of key human rights conventions such as the International Covenant on Civil and Political Rights (ICCPR) of 1966 and the African Charter on Human and Peoples’ Rights (Banjul Charter) of 1981.²²⁰ But in Tanzania, it has become normal for accused persons to be detained in prison for up to 12 years awaiting hearing before the High Court of Tanzania.²²¹ This is not justice and is unacceptable.

Encouraging signs that things shall change for the better have been there in the past two years. For instance, in August 2021, H.E. President Samia Suluhu Hassan directed the Tanzania Police Force to address the challenge of prolonged remanding of persons accused or suspected of committing a crime.²²² In August 2022, the President directed the Director of Criminal Investigations (DCI), Ramadhani Kingai, to ensure that accused persons are not remanded until investigation has been conducted and there is sufficient evidence against them.²²³ She also mentioned that cases involving 1,840 suspects had been dropped due to a lack of evidence and the Government is bearing unnecessary financial burden because of such cases.²²⁴ The recent CAG performance audit report on the criminal justice system in Tanzania has also indicated that the Government is incurring high costs to maintain remanded persons, as well as losing revenue that could have been generated if the remanded accused persons had been free and working,²²⁵ instead of languishing in prisons. This and other negative impacts of excessive pretrial detention have been well documented, summarized in table 9 below.

Table 9: Negative impact of excessive pretrial detention

219 Penal Reform International, *Pre-trial Detention: Key Facts* (supra).

220 See Fillastre, *Bizouarn v. Bolivia*, Communication No. 336/1988, U.N. Doc. CCPR/C/43/D/336/1988 at 96 (1991), at <http://hrlibrary.umn.edu/undocs/html/dec336.htm>; Achutan (on behalf of Banda) and Amnesty International (on behalf of Orton and Vera Chirwa) v. Malawi, African Commission on Human and Peoples’ Rights, Comm. Nos. 64/92, 68/92, and 78/92 (1995) at <http://hrlibrary.umn.edu/africa/comcases/64-92b.html>; and Alhassan Abubakar v. Ghana, Communication 103/93, at file:///C:/Users/fwazambi/Downloads/achpr20_103_93_eng.pdf.

221 See LHRC (2022), *Tanzania Human Rights Report 2021*, at www.humanrights.or.tz.

222 See “Samia criticizes prolonged remanding of alleged criminals” *The Chanzo Initiative*, 25 August 2021, at <https://thechanzo.com/2021/08/25/samia-criticizes-prolonged-remanding-of-alleged-criminals/>, accessed 20th January 2022.

223 See “RAIS SAMIA AAGIZA UPELELEZI UFANYIKE KABLA YA KUWEKWA MAHABUSU” *Michuzi Blog*, 30 Aug 2022, at <https://issamichuzi.blogspot.com/2022/08/rais-samia-aagiza-upelelezi-ufanyike.html>.

224 Ibid.

225 CAG Criminal Justice System Audit Report (supra), p. 2.



Level	Impact
Individual	<ul style="list-style-type: none"> ■ Infringement of fundamental rights, especially the right to fair trial, right to be presumed innocent until proven guilty, right to liberty and personal security, right to private and family life, right to work, and freedom from torture and inhuman treatment. ■ Loss of liberty/freedom. ■ Miscarriage of justice – justice delayed is justice denied! ■ Torture. ■ Corruption. ■ Spread of disease. ■ Guilty plea to escape from overcrowded, unhygienic, chaotic, and violent environment. ■ Greater risk of long-term unemployment ■ Loss of social security contributions ■ Suicidal tendency/behaviour. ■ Education interruption. ■ Job training interruption. ■ Limitation of lifetime earning potential. ■ Stigma. ■ Anxiety/depression. ■ Lack of social protection/security. ■ Long-term unemployment or underemployment.
Family	<ul style="list-style-type: none"> ■ Family break-up/disruption. ■ Loss of breadwinner/family caretaker. ■ Family, including children, having to find work to make up for lost income. ■ Selling family belongings/property to support detainee. ■ Nervous breakdown and loss of hope. ■ Pushing family towards poverty/abject poverty. ■ Disrupting education and damaging income potential of children. ■ Eviction from family home e.g. due to lack of rent. ■ Depression and anxiety, including among children.
Community & State	<ul style="list-style-type: none"> ■ Undermining rule of law. ■ Furthering corruption. ■ Lost human potential (wasted human potential) and productivity. ■ Loss of workforce and professionals. ■ Spread of communicable diseases. ■ Increased expense (direct costs) for the State. ■ Reduced revenue (indirect costs) for the State. ■ Fewer resources for other programmes (opportunity costs). ■ Spread of diseases. ■ Overcrowding of detention facilities. ■ Loss of faith in the justice system. ■ Miscarriage of justice.



LHRC's View: Long delays associated with criminal trials in Tanzania constitute violations of Articles 9 (1), (3) & (4) and 14(3)(c) of ICCPR. They also violate Articles 13(6)(a) & (b) 15(1) of the Constitution of the United Republic of Tanzania of 1977. Lengthy pre-trial detention of remandees is a serious challenge in Tanzania, contributing to prison overcrowding and violation of fundamental rights of accused persons, including the right to equality before the law, the right to liberty and personal security, and the right to work.

LHRC's Call: The Government to make the relevant reforms in the criminal justice system to eliminate excessive pretrial detention and reduce the use of pretrial detention. It is also in the interests of protecting the rights of accused persons, especially those who are victims of fabricated charges, for the Government to ensure there is an enforced maximum limit for pretrial detention, including for capital offences, and cases are filed after investigation is completed. The law should also provide clarity as to who is responsible for ensuring that custody time limits are met and clearly stipulate the process that should be followed in situations where such limits have been exceeded.

2.4.2.5.Frequent Adjournments of Cases

Frequent adjournment of cases is one of the biggest factors behind delays in criminal trials in Tanzania. This is also one of the reasons for huge backlog of cases in courts of law, occasioning miscarriage of justice. The recent CAG audit report on criminal justice system shows that on average, the highest frequency of case adjournment at Resident Magistrate Court level was 68 times, at District Court level was 48 times, and at High Court level was 31 times. The extreme scenario was observed in Dodoma where there was a case at the Dodoma Resident Magistrate's Court which was adjourned for 101 times before completion.

Table 10: Frequency of case adjournment at different court levels

SN	Court	Highest Frequency of Case Adjournment	Lowest Frequency of Case Adjournment
Case adjournment frequency for High Courts			
1	Dodoma	30	2
2	Mwanza	30	2



3	Mbeya	35	2
4	Arusha	22	2
5	Dar es Salaam	39	2
Average		31	2
Case adjournment frequency for Resident Magistrate Court			
1	Arusha RM	47	2
2	Kisutu RM	69	2
3	Mbeya RM	63	2
4	Gieta RM	61	2
5	Dodoma RM	101	2
Average		68	2
Case adjournment frequency for District Court			
1	Babati	39	2
2	Ilala	67	2
3	Mbeya	20	2
4	Sengerema	51	2
5	Dodoma	65	2
Average		48	2

Source: CAG Criminal Justice System Audit Report 2022

Various factors have been said to contribute to frequent adjournments of cases in courts of law in Tanzania. Key among them are incomplete investigations, inadequate update of status or progress of the case by state attorneys, and weak coordination within the National Prosecutions Services (NPS) and regional offices.²²⁶

²²⁶ CAG Criminal Justice System Audit Report (*supra*), p. 44.



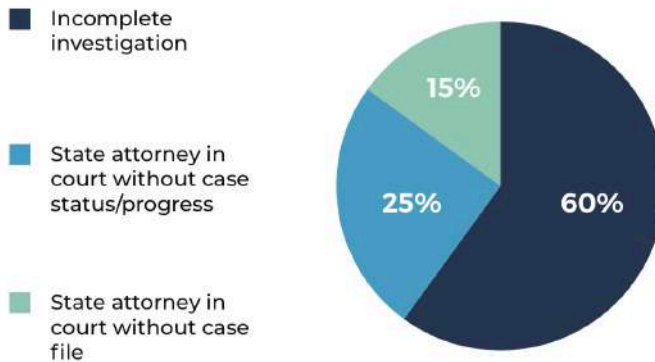


Figure 20: Reasons for case adjournment in courts of law in Tanzania

Source: CAG Criminal Justice System Audit Report 2022

2.4.2.6. Delays in Disposal of Criminal Cases

Delays in criminal justice administration may also occur at the court of law level, where there are delays in disposal of cases, especially criminal cases, which usually take long to be completed. Like delays in investigations, delays in disposal of criminal cases jeopardize fundamental rights of an accused person, including the right to a fair trial and right to be tried within a reasonable time. Recent performance audit of the criminal justice system has revealed that the Judiciary of Tanzania did not manage to timely achieve a 100% disposition of filed criminal case sessions as planned, based on the Judiciary Strategic Plan of 2016/2017 to 2020/2021.²²⁷ This was said to be caused by the procedural requirement of scheduling criminal sessions, which includes submission of sessions calendar and budget to the Chief Justice for approval.

According to the Judiciary Functions Strategic Plan 2015/16 to 2020/21 and the current Judiciary Strategic Plan 2020/21 - 2024/25, the maximum duration for disposition of a case for the Court of Appeal and the High Court is 24 months, while for the Resident Magistrate Court and District Court it is 12 months.²²⁸ For the Primary Court, the timeframe for case disposal is only 6 months.²²⁹ When cases exceed these limits they are considered

²²⁷ CAG Criminal Justice System Audit Report (*supra*), p. 25.

²²⁸ Ibid, p. 4; United Republic of Tanzania, Judiciary of Tanzania, Judiciary Strategic Plan 2020/21 - 2024/25, at <https://media.tanzlii.org/files/guidelines/2021-12/b5-judiciary-strategic-plan-202021-202425-editted.pdf>.

²²⁹ Ibid.



backlog.²³⁰ However, compliance with these timeframes has proven to be a challenge, with many cases taking over a year to be disposed, while some may take 7 years and above, as shown in table 11 below.

Table 11: Time taken for completion of criminal sessions (2015/16 to 2020/21)

Time Range (years)	Number of cases per each High Court				
	Dar es Salaam	Arusha	Mwanza	Dodoma	Mbeya
0-2	117	75	93	119	63
3-4	50	88	259	141	67
5-6	101	65	188	154	83
7 and above	32	1	36	5	7

Source: CAG Criminal Justice System Audit Report 2022

The CAG report on the criminal justice system in Tanzania has also highlighted ineffectiveness in scheduling and conducting criminal sessions, questioning the discretionary power of the Chief Justice in calling for criminal sessions, which defeats the purpose of expediting disposition of criminal sessions. In reviewing the performance of the Judiciary in the period of 2015/16 to 2020/21, the CAG found that some of the instituted criminal cases in High Court took up to 4 years before being called for the first trial session after plea taking.²³¹ 11% of the case files reviewed by the CAG showed that it took 49 months for the criminal sessions to be scheduled into first session, while for the majority of cases (39%), it took 13 to 24 months (1 to 2 years), followed by those which took 25 to 36 months (27%). Only 12% of the criminal sessions took a year or less before being scheduled into first session, while the remaining 11% took 37 to 48 months. Failure to complete cases on established time has resulted into accumulation of criminal sessions, including in subordinate courts granted extended jurisdiction, and **overstay of accused persons in prison**.²³²

Other factors contributing to delays in disposal of criminal cases include incomplete investigations, which has been said to be the leading cause;

²³⁰ Ibid.

²³¹ CAG Criminal Justice System Audit Report (*supra*), p. 28.

²³² Ibid, p. 31.



unbalanced ratio of prosecutors and magistrates, whereby there are more magistrates than prosecutors, contrary to the standard ratio of one magistrate for one prosecutor; and inadequate handling of witnesses, whereby cases are sometimes adjourned because of absence of witnesses in court.²³³ Witness budget has also been insufficient, creating a challenge for both the Judiciary and National Prosecutions Services (NPS).

Uneven distribution of caseload among magistrates, inadequate funding for subordinate courts granted extended jurisdiction, and non-implementation of recommendations to improve criminal justice delivery made by magistrates, have also been identified as challenges in timely disposal of criminal cases.²³⁴

The Judiciary has also been faulted for not adequately involving stakeholders such as NPS, the Director of Criminal Investigations (DCI), the Prevention and Combating of Corruption Bureau (PCCB), and the Police Force and Government Chemist Laboratory Authority (GCLA) in setting disposition targets.²³⁵

2.4.2.7. Inadequate Management of Case Files during Investigation and Absence of Prosecution Timeframe

The performance audit report on the criminal justice system released by the CAG in March 2022 showed that there is inadequate coordination between NPS and the Tanzania Police Force (TPF), which provide state attorneys and investigators respectively.²³⁶ The audit included review of 297 case files at NPS (2015/16 to 2020/21), whereby 78% of them were found to be missing substantial attachments such as charge sheet, police case file (PCF), and investigation diary. This means that only less than a quarter of the reviewed files had all important documents, which is alarming. Absence of such documents means state attorneys going to court without PCF and not being able to provide updates on investigations, consequently **contributing to frequent adjournment of cases** and case backlog.²³⁷ Poor police documentation system was also said to contribute to absence of investigation diary. Other factors include weak handling of documents at NPS and tracing of files manually, which is time consuming and slows down case disposition rate.²³⁸

233 Ibid.

234 CAG Criminal Justice System Audit Report (*supra*), p. 33.

235 Ibid.

236 CAG Criminal Justice System Audit Report (*supra*), p. 41.

237 Ibid.

238 Ibid.



Absence of prosecution timeframe has also been identified as a problem in the criminal justice system. According to the CAG report, NPS has not set a timeframe for prosecuting criminal cases, creating the problem of lack of accountability, and contributing to delays in disposal of cases²³⁹

2.4.2.8.Shortage of State Attorneys at the National Prosecution Service (NPS)

Shortage of staff is a big problem in Tanzania's criminal justice system, especially within TPF, the Judiciary, and NPS. The performance audit report on the criminal justice system shows that NPS had only 661 out of the required 5,890 state attorneys, meaning there was a shortage of 5,229 attorneys, equivalent to 89%. This is a very big deficit, affecting efficiency in disposition of criminal cases, and contributes to delays in justice delivery. Under such circumstances it is also difficult to attain the ratio of one judge or magistrate per prosecutor, which is the best practice.²⁴⁰ Some courts were also found to lack state attorneys, leaving the prosecution to be done by police prosecutors.²⁴¹

Lack of training for prosecutors has also been found to be a challenge within NPS, considering advancement in science and technology. According to the CAG criminal justice system audit report, NPS had not conducted training needs assessment in the period of 2018 to 2021, having no documents showing gaps in skills which would help in planning, budgeting, and setting of training priorities.²⁴² Lack of training and capacity building for the available prosecutors has also been attributed to their inadequate number, making it difficult for them to get adequate time for training due high workload.²⁴³ Consequently, NPS is faced with shortage of prosecutors with requisite expertise and experience to guarantee effective case disposal.

2.4.2.9.Gaps in Monitoring and Evaluation of Justice Delivery Organs and Coordination

The recent CAG audit on Tanzania's criminal justice system has also found loopholes in monitoring and evaluation of the justice delivery organs, which is the responsibility of the Ministry of Constitutional and Legal Affairs (MoCLA). According to the CAG report, MoCLA did not avail any M&E report within the audit scope period of 2016/17 to 2020/21. Reasons for deficiency in conducting M&E include lack of assessment of key performance indicators in MoCLA reports, absence of specific M&E plan for administration of

239 CAG Criminal Justice System Audit Report (*supra*), p. 46.

240 *Ibid.*

241 *Ibid.*

242 CAG Criminal Justice System Audit Report (*supra*), p. 51.

243 *Ibid.*



justice, and lack of prioritization of monitoring function for the component of administration of justice.²⁴⁴ The report also shows that MoCLA has not made adequate efforts to improve efficiency in case administration in the criminal justice system within the audit period, including not conducting frequent meetings with relevant stakeholders in administration of justice and not having an established follow-up system for tracking or following-up implementation recommendations to improve administration of justice. This is contributed by shortage of staff within the responsible ministry department, as during the audit there were only 3 out of required 14 staff members, equivalent to 79% shortage. The report further highlights inadequate coordination of stakeholders as another challenge within the ministry.²⁴⁵

LHRC's Call: MoCLA to address gaps in monitoring and evaluation of the justice delivery organs and strengthen coordination, as a measure to improve the criminal justice system.

2.4.2.10. Plea Bargaining: CAG Investigation and Plea-Bargaining Guidelines

In 2019, Tanzania introduced plea bargaining in its criminal justice system via the Written Laws (Miscellaneous Amendments (No. 4) Act of 2019, amending the Criminal Procedure Act (Cap 20). Consequently, accused persons can now enter plea agreements²⁴⁶ with the Director of Public Prosecution (DPP), with either party allowed to initiate the plea-bargaining after notifying the court. In 2021, LHRC's analysis of the plea-bargaining system concluded that the system has its advantages and disadvantages and is different in practice compared to other trial waver systems. While the system is credited for ensuring speedy disposal of cases and reducing pre-trial detention, and being less costly, it is associated with various concerns which may affect the rights of the accused person.²⁴⁷ These concerns include: **coercion of accused persons; misuse of power due to the leverage enjoyed by the prosecutor; reducing the role and influence of magistrates and judges; and the risk of accused persons pleading guilty for crimes they did not commit.**²⁴⁸

In October 2022, it was reported that the CAG, Charles Kichere, was conducting audit on the money collected through the plea-bargaining

244 CAG Criminal Justice System Audit Report (*supra*), p. 65.

245 Ibid.

246 An agreement entered into between the prosecution and the accused in a criminal trial in accordance with sections 194A, 194B and 194C of the Criminal Procedure Act (Cap 20).

247 See LHRC (2022), Tanzania Human Rights Report 2021, at www.humanrights.or.tz.

248 Ibid.



arrangement.²⁴⁹ The audit comes following complaints about the plea-bargaining arrangement being plagued by corruption and embezzlement.²⁵⁰ The CAG disclosed that the report would be ready and submitted to President Samia Suluhu Hassan in March 2023.²⁵¹

Earlier, in June 2022, the National Prosecutions Services (NPS) introduced the Plea-Bargaining Guidelines.²⁵² The Guidelines cover various issues, including persons who may initiate plea bargaining; general principles; factors to consider before accepting an offer for plea bargaining; contents of plea agreement; and duties of public prosecutor to court during plea bargaining process.²⁵³

LHRC's View & Call: Introduction of the Plea-Bargaining Guidelines is a good development in terms of improving the practice of plea bargaining. However, some concerns, as highlighted above, persist. To mitigate these risks, LHRC insists, among others, on judicial oversight, such that magistrates and judges also participate in the negotiations to safeguard the rights of the accused person.

2.4.3. Key Recommendations

- The Judiciary and the Prevention and Combating of Corruption Bureau (PCCB) to closely work together to address corruption within the justice system in order to improve public trust and confidence in the criminal justice system and safeguard the right to access to justice and effective remedy.
- The Government, through the Ministry of Constitutional and Legal Affairs, to make legal reforms in the criminal justice system address various challenges, including lengthy pre-trial detention. The law should clearly set the maximum limit for pretrial detention and clearly stipulate the process that should be followed in situations where such limits have been exceeded.
- The Government, through the Ministry of Constitutional and Legal Affairs, to enact a law establishing an independent civilian police oversight body to ensure and promote accountability in law enforcement.

249 See "CAG: We're Investigating Plea Bargaining, Report Out In March 2023" The Chanzo Initiative, 13 Oct 2022, at <https://thechanzo.com/2022/10/13/cag-were-investigating-plea-bargaining-report-out-in-march-2023/>.

250 Juma Isihaka & Daniel Mjema "Wakati uchunguzi wa fedha za plea bargaining ukiendelea...Waliokamuliwa waliamsha dude," Mwananchi Newspaper, 15 Oct 2022.

251 Ibid.

252 United Republic of Tanzania, National Prosecutions Services, PLEA BARGAINING GUIDELINES, June 2022, at https://media.tanzlii.org/files/guidelines/2022-07/PLEA%20BARGAINING%20GUIDELINES_0.pdf.

253 Ibid.



2.5. Right to Liberty and Personal Security

About the right

- Requires persons not to be subjected to arrest and detention (deprivation of liberty) and entails two distinct rights: the right to liberty of the person and the right to personal security.
- Includes freedom from arbitrary arrest and detention, right to personal security and right to bail.
- Does not grant complete freedom from arrest or detention. However, deprivation of liberty is only justified if it is in accordance with the law (principle of legality) and not arbitrary. Other key principles in this regard are necessity and proportionality.
- Right to personal security creates an obligation on the Government of Tanzania to ensure that reasonable and appropriate measures are taken to protect detained and non-detained persons.

In 2022, key right to liberty and personal security issues and violations in Mainland Tanzania included arbitrary arrests and detentions; lack of police presence in some wards across Mainland Tanzania; concerns over safety and security following wave of killings and attacks; fabricated cases; delays in investigations; denial of bail; human trafficking; and digital safety and security.

2.5.1. Digital Safety and Security

Overview

In the digital world we are currently living in, which is a product of advancement in science and technology, digital safety and security is important in safeguarding various fundamental human rights, including the right to privacy, freedom of expression, and right to personal security. It is important in protecting online identity, data, and other assets.²⁵⁴

LHRC's Human Rights Survey 2022 included a theme on digital safety and security. Respondents were asked several questions regarding digital safety and security, particularly those who own digital devices, which include

²⁵⁴ "What is Digital Security: Overview, Types, and Applications Explained" Simplilearn, 6 Jan 2023, at <https://www.simplilearn.com/what-is-digital-security-article#:~:text=Digital%20security%20is%20the%20collective,biometrics%2C%20and%20secured%20personal%20devices.>



desktops, laptops, tablets, and smartphones. They were asked about how well informed they feel about digital safety and security; awareness about digital safety and security laws; cyber-attacks they have experienced or witnessed; common forms of digital attack; and password use and sharing.

Awareness about digital safety and security

83% of community members who responded to the survey said they were using one or two of common digital devices, a smartphone or a computer.²⁵⁵ When asked how well informed they feel about digital safety and security, only 15% of the respondents said they were either very well informed or well informed. Just above a half of them (55%) said they were either not informed or not at all informed about digital safety and security.

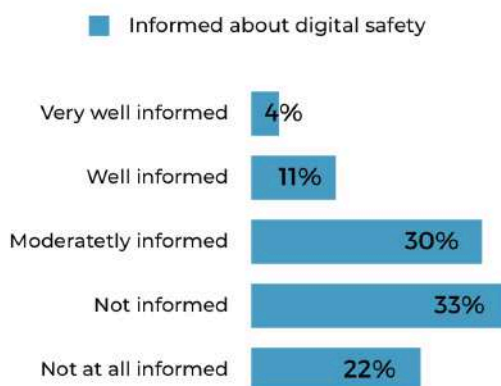


Figure 21: %Responses on how well-informed community members feel about digital safety and security (N=1,497)

Source: Field data, 2022

Awareness about digital safety and security was observed to be lowest in regions such as Mtwara, Njombe, Mara, Geita, Kigoma, Katavi, and Rukwa, where 70% and above of the respondents said they were not informed/not at all informed.²⁵⁶ Percentage of respondents who said they were not informed about digital safety and security was also higher in rural areas (75%) than urban areas (35%).

255 LHRC Human Rights Survey 2022: Field Data (N=1,497).

256 LHRC Human Rights Survey 2022: Field Data (N=1,497).



'If you take 10 youth and ask them about their awareness of digital safety and security, you may only find 2 or 3 who are aware. This is because there is general lack of public awareness about these issues and we do not talk enough about them in our current context.'

ICT expert - Kigoma MC, Kigoma

'More than 40% of citizens in Chunya District do not care about the safety of their information in online platforms, putting themselves at risk of becoming victims of cyber-attacks, including identity theft.'

ICT expert, - Chunya, Mbeya

Currently, there are more than 30 million internet users in Tanzania,²⁵⁷ of whom at least 90% access the internet through their mobile phones.²⁵⁸ This means at least half of the population are internet users, hence using digital devices such as smartphones and computers. Low awareness about digital safety and security makes these Tanzanians move vulnerable to digital attacks and violation of digital and human rights. These digital attacks include malware attack, password attack, phishing attack, and identity theft.

Awareness about digital safety and security laws

Survey respondents were also asked about their awareness about digital safety and security laws. Overwhelming majority of them (64%) said they were not informed/not at all informed about digital safety and security laws, followed by just over a quarter (26%) who said they were moderately aware. Only 10% of the respondents said they were very well informed/well informed.

²⁵⁷ See Tanzania Communication Regulatory Authority (TCRA), COMMUNICATION STATISTICS, A Report for a Quarter ending September 2022, at https://www.tcra.go.tz/uploads/text-editor/files/1st%20Quarter%20Statistics%20Report%20for%202022-REVISED%20FINAL%201.11.2022_1667386587.pdf.

²⁵⁸ "Tanzania Internet Penetration Reach 50% in March 2021, Data Traffic Up by 25%" TanzaniaInvest, 25 May 2022, at <https://www.tanzaniainvest.com/telecoms/internet-users-data-traffic-march-2021>.



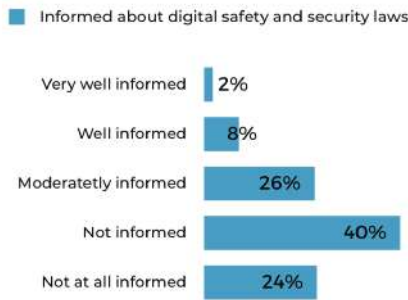


Figure 22: %Responses on how well-informed community members feel about digital safety and security laws (N=1,497)

Source: Field data, 2022

Cyber-attacks experienced or witnessed and common forms of digital attack

Regarding experiencing or witnessing any cyber-attack, majority of the respondents (81%) said they had experienced or witnessed such attack. When asked about most common form of digital attack, majority of them (46%) mentioned money theft, followed by 22% who said it is verbal abuse, 19% who mentioned cyberbullying, and 7% who said identity theft. The remaining 6% mentioned other attacks, which include malware attack and phishing attack, which are common but not known by many people due to their low awareness about digital safety and security.

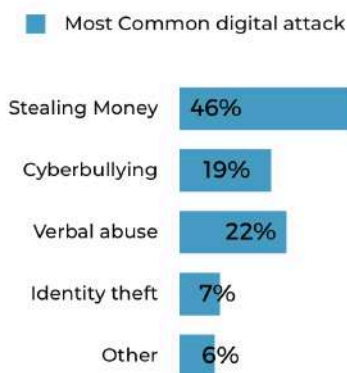


Figure 23: %Responses of community members on the most common form of digital attack (N=1,167)

Source: Field data, 2022



Community members who responded to the survey were also asked specifically about the problem of cyberbullying, whereby majority of them (44%), acknowledged that it is a serious problem/problem, followed by 32% who felt it is a moderate problem. Only 24% said it is only a minor problem or not at all a problem.

'Most common forms of cyber-attacks include stealing money, non-consensual image abuse, and identity theft.'

ICT expert, Geita DC, Geita

Women and children are more vulnerable to cyber-attacks, especially cyberviolence and identity theft. Research by the World Health Organization (WHO) has shown that despite the relatively new and growing phenomenon of internet connectivity, it is estimated that one in ten women have already experienced a form of cyber violence since the age of 15.²⁵⁹ Some of the interviewed survey respondents stated that women and children are vulnerable to cyberbullying and cyber harassment, which are common forms of cyberviolence.

'Cyberbullying and verbal abuse are common in social media platforms, usually perpetrated against women. Children also have online presence nowadays, putting them at risk of different forms of cyber violence, as they do not know the dangers of social media and the internet.'

ICT expert, Arusha CC, Arusha

Password use and sharing

45% of the survey respondents said they use birth or age in their passwords, which leaves them more vulnerable to digital attackers or hackers. 46% also indicated that they use the same password for multiple accounts, majority of them (70%) youths. This puts them at greater risk of being hacked in their various accounts.

²⁵⁹ See European Institute of Gender Equality (EIGE), Cyber violence against women, at <https://eige.europa.eu/gender-based-violence/cyber-violence-against-women>.





Figure 24: % Respondents who use same password for multiple accounts (N=1,138)

Source: Field data, 2022

'I use my birthday as a password because it is easy to rememberi..'

Community member – Nyang'hwale DC, Geita

When asked whether they share passwords with relatives or friends, only a third of respondents (34%) of the respondents said they do, while the remaining two thirds said they do not.

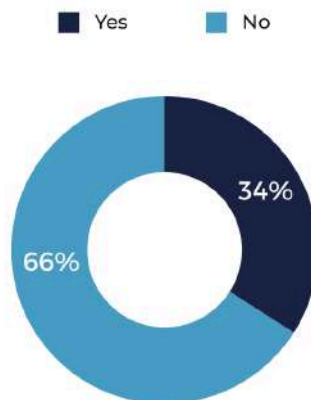


Figure 25: % Responses on sharing password with relatives or friends (N=1,138)

Source: Field data, 2022



In terms of age category, percentage of those who said they share passwords, including for bank cards, was higher among the elderly or senior citizens (65%) than other groups. The study also found that women are more likely to share their passwords with friends and relatives than men.

In Singida, one of the interviewed community members said he must share his passwords with family and relatives because, in life, an emergency can happen anywhere and at any time, hence the need to easily access his mobile money accounts.²⁶⁰ In Mtwara, a stationery owner in Tandahimba District revealed that he helps many people create email accounts, open social media accounts, and create passwords for them. He also indicated that there is a register that records the emails and passwords of his clients, in case they forget details, including passwords.²⁶¹

'We receive many people who don't know how create email accounts or even read their emails. They usually bring their smartphones, and we help them create G-mail accounts and set passwords. We also help clients install social media applications, opening social media accounts, and creating passwords. In case they log off and have forgotten their passwords, we have a register of all client emails and passwords.'

Stationery owner - Tandahimba, Mtwara

'I have given my mobile money password to all my children and grandchildren because they help me to withdraw some money.'

Community member – Geita DC, Geita

LHRC View: In today's world, access to internet and use of digital platforms has become a necessity for economic development and essential for realization of human rights. Digital platforms therefore need to be safe for everyone, including women and children, and protection of fundamental human rights, including freedom of expression, freedom from violence, and right to liberty and personal security, need to be extended to digital platforms.

LHRC's Call: The Government, through the Ministry of Constitutional and Legal Affairs, Ministry of Information, Communication and Information Technology, and the national human rights institution (CHRAGG), should increase public awareness programmes on digital safety and security.

²⁶⁰ LHRC Human Rights Survey 2022: Singida Field Report.

²⁶¹ LHRC Human Rights Survey 2022: Mtwara Field Report.



2.5.2. Personal security concerns of people in Dar es Salaam and other parts of the country: The Panya Road Saga

In 2022, criminal gangs of youths caused havoc in several regions of Mainland Tanzania by breaking into homes, attacking, and robbing people. Their weapon of choice is machetes, which they use to attack people, causing serious bodily harm and occasionally deaths. The most popular of the gangs is the '*Panya Road*' gang, which was operating in Dar es Salaam Region. Other gangs that reportedly caused havoc were '*Panya Kaloa*' in Dodoma and '*Panya Teleza*' in Pwani. In Dar es Salaam, residents expressed concerns over their safety following incidents of the '*Panya Road*' gang terrorizing streets in various places during the night hours, breaking into homes, assaulting, and robbing people.²⁶² The terror caused by the gang in various parts of the city prompted a special police operation, which saw arrest of 31 gang members in May 2022. Among the places the gang terrorized in May is Mtongani area in Kunduchi Ward, where they assaulted 19 people with machetes and robbed them. Similar incidents were reported in Chanika and Tabata. In September 2022, police reported that they had arrested over 135 suspected members of the gang in four days and seized various stolen items, including 23 televisions.²⁶³

In Dodoma, in June 2022, police reportedly arrested 20 young men believed to be members of a criminal gang called '*Panya Kaloa*,' which had been assaulting and robbing people in some areas of the city.²⁶⁴ In Pwani, in August 2022, the Regional Commissioner, Aboubakar Kunenge, called for police action against a criminal gang calling themselves '*Panya Teleza*,' which had been causing unrest by attacking and robbing people.²⁶⁵

2.5.3. Wave of Killings in Early 2022 Jeopardizing Right to Personal Security

The year 2022 started with a wave of reported killings in different parts of Tanzania, which had a negative implication on promotion and protection of right to life and right to liberty and personal security. In the period of January alone, LHRC documented at least 20 killing incidents, reported in the regions of Mtwara, Rukwa, Njombe, Katavi, Mwanza, Dodoma, Ruvuma, Dar es Salaam, and Mara.²⁶⁶ The incidents include brutal killing of three women in Mwanza after they were raped, killing of a woman and her

262 See "Polisi wawanasa 30 Watuhumiwa Panya Road" HABARILEO Newspaper, 8 May 2022;

"Panya Road Wavamia mtaa, wapora, wajeruhi" Nipashe Newspaper, 3 May 2022.

263 "Over 135 suspected 'Panya Road' criminals arrested in Dar" The Citizen Newspaper (online), 19 September 2022, <https://www.thecitizen.co.tz/tanzania/news/national/over-135-suspected-panya-road-criminals-arrested-in-dar-3954110>.

264 "Panya Kaloa wadaiwa kukaba na kupora" Nipashe Newspaper, 20 Jun 2022.

265 "RC Amuagiza RPC awadhibiti panya teleza" HABARILEO Newspaper 14 Aug 2022.

266 Press statement by LHRC: Condemning the Violent Killings Reported in Different Parts of Tanzania, 27 January 2022 [www.humanrights.or.tz]



two children in Rukwa, and killing of a businessman in Mtwara, who was reportedly killed by police officers.²⁶⁷

On 1st February 2022, the Minister of Home Affairs, Hon. Hamad Masauni, revealed that a total of 176 killings had been recorded by police in the period of January 2021 to January 2022.²⁶⁸ Main reasons for such killings were cited as lust for property, jealousy, revenge, witchcraft suspicion, land disputes, alcoholism, and mob violence.²⁶⁹

A press statement issued by LHRC condemned the wave of killings reported in different parts of the country and called for the Government to take measures to enhance protection of right to life and right to liberty and personal security.²⁷⁰ During the press conference, LHRC Executive Director, Ms. Anna Henga, remarked that the killings constitute violation of fundamental human rights, especially the right to life and right to personal security. Religious leaders also voiced their concerns over the killings and called for collaborative efforts between the Government and religious leaders to address the root causes of the killings.²⁷¹

The government response on the killings was investigation and prosecution of perpetrators of the killings, through the Tanzania Police Force and the Judiciary. On 1st February 2022, the Government, through the Ministry of Home Affairs, announced that it had formed a committee to look into the wave of killings and provide findings within 21 days.

267 Ibid

268 Sifa Lubasi "WATUHUMIWA 150 WA MAUAJI WADAKWA" HABARILEO Newspaper, 1 February 2022 [<https://habarileo.co.tz/habari/2022-02-0161f8c5cbd8576.aspx>]; "Matukio 176 ya Mauaji Yaripotiwa Ndani ya Mwaka Mmoja" TanzaniaWeb, 2 February 2022 [<https://www.tanzaniaweb.com/TanzaniaHomePage/NewsArchive/Matukio-176-ya-Mauaji-Yaripotiwa-Ndani-ya-Mwaka-Mmoja-590959>].

269 Ibid.

270 Press statement by LHRC: Condemning the Violent Killings Reported in Different Parts of Tanzania, 27 January 2022 [www.humanrights.or.tz].

271 Rosemary Mirondo "Religious leaders, LHRC voice concerns of increasing spate of brutal killings" 28 January 2022 [<https://www.thecitizen.co.tz/tanzania/news/religious-leaders-lhrc-voice-concerns-of-increasing-spate-of-brutal-killings-3697486>].





Naziri Masauni afunguka kuhusu mauaji yanayotokea nchini

Hon. Hamad Masauni, Minister of Home Affairs, aired his concerns over killings in Tanzania in January 2022

In March 2022, police in Mtwara arrested two people suspected of killing three *bodaboda* drivers in February 2022.²⁷² In August 2022, bodies of three people were found inside sacks dumped by unknown people in Kwastemba Village in Kilindi District.²⁷³ Onlookers said they saw a suspicious white *Land Cruiser* around the area, suspected to have been used to carry the bodies.²⁷⁴

2.5.4. Lack of Police Presence in some Wards: A Threat to Personal Security

Lack of police presence in some of the wards in Mainland Tanzania continues to pose a challenge in realization of the right to liberty and personal security. In 2021, the former Inspector General Police (IGP) of Tanzania, Simon Sirro, acknowledged that there was 1 police officer for every 2,000 civilians in Tanzania, instead of the recommended ratio of 1 police officer for every 450 civilians.²⁷⁵ As of December 2020, regions which were leading for shortage of police officers, based on the police to civilian ratio, were Simiyu (1:3,465), Tabora (1:2,768); Geita (1:2,457), Songwe (1,2,417), and Kigoma (1:2,342).²⁷⁶

In April 2022, the Minister of Home Affairs, Hon. Hamad Yusuf Masauni,

272 Sijawa Omary "Polisi yanasa wanaotuhumiwa kuaa madereva wa bodaboda" HABARILEO Newspaper, 20 Mar 2022.

273 "Miili ya watu yaokotwa ikiwa kwenye viroba" Nipashe Newspaper, 17 Aug 2022.

274 Ibid.

275 See LHRC (2022), Tanzania Human Rights Report 2022, at www.humanrights.or.tz.

276 Jeshi la Polisi Tanzania & Ofisi ya Taifa ya Takwimu, TAKWIMU ZA HALI YA UHALIFU NA MATUKIO YA USALAMA BARABARANI, Januari – Disemba 2020.



disclosed that Tanzania is facing shortage of 470 Grade B police stations.²⁷⁷ He noted that there are currently 93 police stations, while the required number is 563 stations.²⁷⁸ In some of the regions, residents have been making contributions to help build police stations. For instance, in September 2022, it was reported that residents of Majalila Village in Tanganyika District contributed Tshs. 11 million and building materials to facilitate construction of a police station.²⁷⁹ The Human Rights Survey 2022 conducted in the region also revealed that some of the wards lacked police stations, making it difficult for access police services.²⁸⁰ Some of the residents in Mtapenda Ward in Nsimbo District, Katavi Region, lamented crime surge due to lack of police station.²⁸¹

2.5.5. Arbitrary arrests and detention

International human rights standards and domestic laws require a person to be informed, at the time of arrest, of the reasons for his arrest and charges against them.²⁸² Accused person must also not be discriminated against, must be allowed to communicate with family, and presumed innocent until proven guilty in court.²⁸³ Reasonable force should also be used during arrest, no more necessary to prevent escape.²⁸⁴

In 2022, LHRC documented at least twelve incidents of arbitrary arrests and detention through human rights monitoring, media survey, and human rights survey. These incidents are four more than those documented in 2021. The incidents include arrest and detention of journalists and a member of opposition party. In February 2022, it was also reported that six journalists were arrested by wildlife officers within the Ngorongoro Conservation Area Authority (NCAA), in the course of work, and inspected and interrogated for more than two hours.²⁸⁵

In July 2022, the youth wing of the CHADEMA political party (BAVICHA) bemoaned arbitrary arrest and detention of one of its members, Twaha Mwaipaya, who was arrested and held in police custody in Dar es Salaam

277 See Habel Chidawali "Tanzania ina upungufu wa vituo vya polisi 470" Mwananchi Newspaper (online), 5 Apr 2022, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/tanzania-ina-upungufu-wa-vituo-vya-polisi-470-3771932>;

278 Ibid.

279 Neema Hussein "Kijiji chachangia fedha ujenzi kito cha polisi" Nipashe Newspaper 28 Sep 2022.

280 LHRC Human Rights Survey 2022: Katavi Field Report.

281 Ibid.

282 See Article 9(2) of ICCPR of 1966; Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers..

283 See ICCPR and BODY OF PRINCIPLES FOR THE PROTECTION OF ALL PERSONS UNDER ANY FORM OF DETENTION OR IMPRISONMENT, adopted by the UN General Assembly in resolution 43/173 on 9 December 1988 at New York.

284 Ibid; Section 12 of the Criminal Procedure Act, CAP 20.

285 Mussa Juma "Mongella, wanaharakati waingilia kati kukamatwa waandishi Ngorongoro" 6 Feb 2022, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/mongella-wanaharakati-waingilia-kati-kukamatwa-waandishi-ngorongoro-3707354>.



for five days before he was released on bail. His relatives complained about initially not being told where he was held, making them move from one police station to another in search of him.²⁸⁶ In Katavi, some of the residents of Kasulu District who participated in the human rights survey, including a paralegal, bemoaned accused persons being held in police custody for more than 24 hours and denied bail.²⁸⁷

2.5.6. Right to bail

Right to bail is essential in safeguarding the right to liberty and the principle of presumption of innocence. In Mainland Tanzania, the list of non-bailable offences is comprised of murder, treason, armed robbery, defilement, trafficking in narcotic drugs, dealing in narcotic drugs contrary to the law, terrorism, money laundering, and human trafficking.²⁸⁸ Major economic crimes which are non-bailable are narcotic drug, terrorism, and money laundering.²⁸⁹

Non-bailable offences

In 2022, the debate over automatic denial of bail continued to take place among criminal justice stakeholders. In July 2022, it was reported that the Government was in the process of amending the Criminal Procedure Act to deny bail for the rape offence. This follows an investigation by the National Prosecutions Office (NPS) which showed that some rape suspects tend to jump bail or tamper with investigation by colluding victims' families.²⁹⁰

LHRC's View: An automatic denial of bail for 'non-bailable offences' contravenes international human rights standards. In light of various existing challenges in our criminal justice system, LHRC believes that the High Court should be granted mandate to decide if bail should be granted on a case-by-case basis.

LHRC's Call: Like it is the case in countries such as Kenya, Malawi, Uganda, and Zambia, the High Court should be granted powers to hear and determine bail for non-bailable offences on case-by-case basis. The prosecution should have the burden of showing that there are compelling reasons for not releasing the accused person. Mandatory or automatic bail denial should thus not be provided in law, hence the need to amend section 148(5) of the Criminal Procedure Act.

286 "Ukamataji kimyakimya wa polisi waibua maswali" Nipashe Newspaper, 8 Jul 2022.

287 LHRC Human Rights Survey 2022: Kigoma Field Report.

288 See section 148(5)(a) the Criminal Procedure Act, 1985; section 29(1) of the Drug Control and Enforcement Act, 2015; and Section 36(4) of the Economic and Organised Crime Control Act.

289 148(5)(a) of the Criminal Procedure Act.

290 "Makosa ya Ubakaji kukosa Dhamana" Nipashe Newspaper, 22 Jul 2022.



Reported incidents of denial of bail

Through media survey, human rights survey, and human rights monitoring, LHRC documented 18 incidents of denial of police bail, reported in regions such as Dar es Salaam, Mara, Manyara, Pwani, Mbeya, Kagera, and Kigoma. These are eight incidents more than those documented in 2021. However, these may just be a small fraction of actual number of incidents, as many go unreported. In Kagera, four men accused of trespass were arrested in Muleba District and were not granted bail until LHRC intervened.²⁹¹ In Kigoma, paralegals and other community members who participated in the human rights survey bemoaned the behaviour of some police officers demanding bribe before they grant bail.²⁹²

Report on 20 years of the Commission for Human Rights and Good Governance (CHRAGG), released by the national human rights institution in September 2022, also identifies denial of police bail as one of key human rights challenges in Tanzania. According to the report, there has been a tendency of police officers denying accused persons bail even for bailable offences, in accordance with the law.²⁹³ Some of the accused persons also remain in police custody due to difficult bail conditions.²⁹⁴

LHRC's View: Right to bail is a constitutional right and essential for realization of the right to liberty and personal security. Posting bail is important for an accused person because it gives them an opportunity to seek legal counsel for their case. It is also essential in safeguarding the right to be presumed innocent until proven guilty. As such, arbitrary denial of bail should be discouraged.

LHRC's Call: Tanzania Police Force to ensure bail is timely issued for all bailable offences in line with the Criminal Procedure Act. Regular checks on police officers are needed to address denial of police bail.

2.5.7. Trumped-up charges and delays in conducting investigations

Trumped-up charges and delays in conducting investigations have been key human rights concerns in the administration of criminal justice. Government leaders, including the President, have been vocal about these

291 LHRC Human Rights Monitoring 2022.

292 LHRC Human Rights Survey 2022: Kigoma Field Report.

293 See JAMHURI YA MUUNGANO WA TANZANIA TUME YA HAKI ZA BINADAMU NA UTAWALA BORA, TAARIFA YA MIAKA ISHIRINI YA TUME YA HAKI ZA BINADAMU NA UTAWALA BORA 2001-2021, Septemba, 2022, p. 41, at <https://www.chragg.go.tz/uploads/documents/sw-1665407606-MIAKA%2020%20FINAL.pdf>.

294 Ibid.



problems in recent years. For instance, in 2021, H.E President Samia Suluhu expressed concerns over various criminal justice challenges, including trumped-up charges, and urged the Police Force to take measures to eradicate this problem.²⁹⁵

In August 2022, the Tanzania Police Force stated that 1,844 fabricated cases had been dismissed in courts of law as a measure to reduce prison overcrowding. This followed prison visits in collaboration with the Director of Public Prosecutions (DPP), where they met with remandees, including those who claimed their cases had been fabricated.²⁹⁶ In September 2022, Said Abbas (52), who was arraigned before the Kisutu Resident Magistrate Court in Dar es Salaam, told the court that the murder charge against him had been fabricated by the police. He claimed that one of the police officers suspected him of having an affair with his lover, Magreth Mwanga, hence arrested and tortured him, before charging him with murder.²⁹⁷ In November 2022, President Samia Suluhu Hassan disclosed that most of the remandees in prisons are victims of trumped-up charges.²⁹⁸ The report on 20 years of the Commission for Human Rights and Good Governance (CHRAGG), released by the national human rights institution in September 2022, also shows that trumped-up charges and delays in police investigation are among the big challenges in the administration of criminal justice in Tanzania.²⁹⁹

In Njombe, community members who participated in the human rights survey accused some police officers of fabricating cases against them.³⁰⁰ LHRC documented at least five such cases reported by the community members in Njombe DC (3), Makete (1), and Ludewa (2). One of the respondents said he was slapped with a rape charge by a police officer because of a woman they were both dating.³⁰¹

2.5.8. Human trafficking

2.5.8.1. Overview

Trafficking in persons has been defined as “the recruitment, transportation,

295 See LHRC (2022). Tanzania Human Rights Report 2021, at www.humanrights.or.tz.

296 HABARILEO Newspaper, 31 Aug 2022.

297 Nipashe Newspaper, 12 Sep 2022.

298 “MAHABUSU WENGI KESI ZAO NI ZA KUBAMBIKWA” RAIS SAMIA, BizTV Tanzania, at <https://www.youtube.com/watch?v=sQ9OQHKVUDY>.

299 TAARIFA YA MIAKA ISHIRINI YA TUME YA HAKI ZA BINADAMU NA UTAWALA BORA 2001-2021 (*supra*), p. 41.

300 LHRC Human Rights Survey 2022: Njombe Field Report.

301 Ibid.



transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”³⁰² According to the United Nations (UN), human trafficking is generally understood to refer to the process through which individuals are placed or maintained in an exploitative situation for economic gain.³⁰³ Trafficking can occur within a country or may involve movement across borders. Women, men, and children are trafficked for a range of purposes, including forced and exploitative labour in factories, farms and private households, sexual exploitation, and forced marriage. States are required to adopt legislative and other measures to criminalize human trafficking.³⁰⁴

Human trafficking is a threat to the right to liberty and personal security. It also a threat to other rights and freedoms such as right to life, right to non-discrimination, freedom from slavery, freedom from torture, freedom from violence, freedom of association, freedom of movement, right to health, right to just and favourable conditions of work, right to adequate standard of living, and right to social security.³⁰⁵

Children constitute the majority of human trafficking victims in Sub-Saharan Africa (60%), especially in West Africa, while Southern African and East African countries tend to detect more adults than children.³⁰⁶ Majority of detected victims in Sub-Saharan Africa are trafficked for the purpose of forced labour.³⁰⁷

In Tanzania, efforts to combat human trafficking include ratification and domestication of key international human rights instruments, including the United Convention on Transnational Organized Crime (UNTOC), 2000

302 See Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000 at <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>.

303 See The Office of the United Nations High Commissioner for Human Rights, Human Rights and Human Trafficking, Fact Sheet No. 36 at https://www.ohchr.org/Documents/Publications/FS36_en.pdf, accessed 15 October 2020.

304 See Article 5(1) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000.

305 Ibid.

306 Global Report on Trafficking in Persons 2020 (supra).

307 Ibid.



and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000. The Protocol was domesticated through the Anti-Trafficking in Persons Act, No. 6 of 2008, which criminalizes trafficking in persons. There is also in place the National Anti-Trafficking in Persons Action Plan (2018 - 2021), whose general objective is to contribute towards the improvement of preventive measures and response services in combating trafficking in persons.³⁰⁸

2.5.8.2. Key elements of human trafficking

According to the United Nations Office on Drugs and Crime (UNODC), there are three key elements of human trafficking, namely an **act, means** used to commit an act, and **purpose** (reason for the act). The elements are summarized in picture 2 below.



Picture 2: Key elements of human trafficking

Source: UNODC³⁰⁹

2.5.8.3. Situation of human trafficking in Tanzania

Police and government data

The most recent data on human trafficking in Tanzania published by the Tanzania Police Force shows that in the period of 2016 to 2020, a total of 151 incidents of human trafficking were reported. These include 19 incidents

308 See The United Republic of Tanzania, National Anti-Trafficking in Persons Action Plan (2018 - 2021), at https://www.unodc.org/documents/southernafrica/Publications/CriminalJusticeIntegrity/TraffickinginPersons/Tanzania_THE_NATIONAL_ACTION_PLAN_20182021.pdf, accessed 16 October 2020.

309 See UNODC Human Trafficking Key Elements Factsheet at https://www.unodc.org/documents/e4j/Secondary/Human_Trafficking_11_Key_elements_of_human_trafficking.pdf.



reported in 2020, which are one more than those reported in 2019. However, opinions of the majority of respondents to the Human Rights Survey 2021 show that there are many incidents of human trafficking which go unreported, and this is not only for Tanzania but globally.

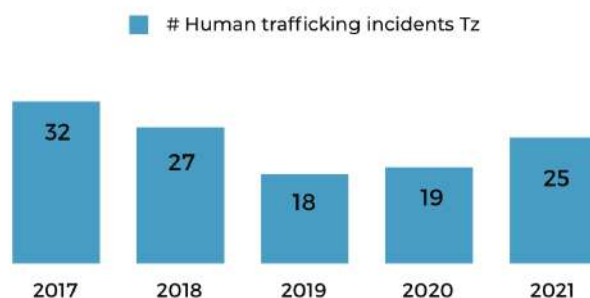


Figure 26: Incidents of human trafficking recorded by police, 2017 to 2021

Source: NBS's Tanzania in Figures 2021

In April 2022, the Minister of Home Affairs, Hon. Hamad Yussuf Masauni, disclosed that for the financial year 2021/2022, his ministry had rescued 182 victims of human trafficking, of whom 171 were rescued within Tanzania and the remaining 11 in Iraq and Kenya.³¹⁰ They were trafficked for labour, begging, and sex. He added that 153 of the victims, equivalent to 84%, were below the age of 18 years, meaning they were children.³¹¹ 11 human trafficking cases, involving 33 accused persons, were also filed during the period.³¹² The ministry also reported to have coordinated reintegration of 70 victims with their families.³¹³

Reported incidents of human trafficking documented by LHRC

Through media survey and human rights monitoring, LHRC documented at least twelve incidents of human trafficking, reported in Mbeya, Singida, Dar es Salaam, and Dodoma Regions. These are eight incidents less than those documented in 2021. In Mbeya, a Community Development Officer in the District (DCDO) in Chunya District revealed during an interview that children from regions such as Songwe, Rukwa, and Shinyanga are trafficked for labour in the district, especially in gold mining.³¹⁴ In Singida,

310 See HOTUBA YA WAZIRI WA MAMBO YA NDANI YA NCHI MHE. MHANDISI HAMAD YUSSUF MASAUNI (MB), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2022/2023, para 199, at <https://www.parliament.go.tz/uploads/budgetspeeches/1651748002-HOTUBA%20YA%20MAKADIRIO%20YA%20MAPATO%20NA%20MATUMIZI%20KWA%20MWAKA%202022-23%20DODOMA%2004%20MEI%202022%20FINAL%20PRNT.pdf>.

311 Ibid.

312 Ibid, para 200.

313 Ibid.

314 Human Rights and Business Survey 2022: Mbeya Field Report.



LHRC intervened to rescue two children, who had been trafficked to Pwani Region for labour.³¹⁵ LHRC did the same in Dar es Salaam, intervening together with another human rights organization, to rescue a girl trafficked for the purpose of domestic work from Mpwapwa District in Dodoma and help her return to school in Mpwapwa District.³¹⁶

Though human rights survey conducted in 20 regions of Mainland Tanzania, LHRC documented further 83 incidents of human trafficking, reported in regions such as Kigoma, Dodoma, Rukwa, Mbeya, Katavi, Morogoro, and Dar es Salaam.

Human Trafficking Prevalence and Popular Destinations

In Tanzania, most of the trafficking is conducted internally, within the borders. Through human rights monitoring and human rights surveys conducted in 2021 and 2022, LHRC has identified several regions in which human trafficking is prevalent. The regions are Dodoma, Dar es Salaam, Tanga, Mwanza, Kigoma, Kagera, Geita, Singida, Arusha, Manyara, Shinyanga, Simiyu, Lindi, Mtwara, and some regions in Zanzibar. Internally, popular destinations for victims of human trafficking are urban areas, especially regions such as Dar es Salaam, Dodoma, Arusha, Mwanza, and Mbeya, as well as some regions in Zanzibar.

In December 2022, a senior officer at the Anti-Trafficking Secretariat (ATS), Ahmad Mwidadi, mentioned eight countries which are popular destinations for trafficking of Tanzanian women and girls for sex.³¹⁷ The countries include Oman, India, Italia, Thailand, Indonesia, Turkey, Iraq and Kenya. He also mentioned that some persons with disabilities (PWDs) are trafficked for the purpose of begging.

National Action Plan to Combat Trafficking in Persons 2021-2024 and Progress in Combating Human Trafficking

In 2022, the Government passed its 2021-2024 National Action Plan to Combat Trafficking in Persons and made notable amendments to the 2008 Anti-Trafficking in Persons Act.³¹⁸ This is a key achievement, as Tanzania made a significant progress in efforts to combat human trafficking, earning an upgrade to Tier Two in the 2022 Trafficking in Persons (TIP) Country Report

³¹⁵ LHRC Human Rights Monitoring 2022.

³¹⁶ Ibid.

³¹⁷ Francisca Emmanuel "Nchi nane zatajwa mabinti wanakotumikishwa kingono" HABARILEO Newspaper, 19 Dec 2022.

³¹⁸ "Tanzania upgraded in human trafficking control ranking" The Citizen Newspaper (online), 23 Jul 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/-tanzania-upgraded-in-human-trafficking-control-ranking-3889714>.



for the United Republic of Tanzania prepared by the U.S. State Department's Office to Monitor and Combat Trafficking in Persons.³¹⁹ The Government was praised for the overall progress demonstrated in combatting trafficking in persons compared to previous reporting periods, recognizing the key roles of the Anti-Trafficking Secretariat, law enforcement, social welfare, and justice sector entities, civil society organizations and key partners.³²⁰ Key advancements made in this regard include investigating significantly more trafficking cases, convicting more traffickers, identifying more victims, and coordinating with local and international organizations to enhance training for government officials.³²¹

The TIP report also highlights areas which need improvement in the fight against human trafficking. These include respecting due process of the law; seeking significant prison terms for convicted traffickers, as majority of them receive lenient sentencing; increasing protective services for victim-witnesses participating in the criminal justice process; expanding the provision of services to victims in partnership with NGOs; allocating increased financial and personnel resources for the Anti-Trafficking Committee and Anti-Trafficking Secretariat; and adopting and enforcing the 2008 anti-trafficking law in Zanzibar.³²² The report also recommends increased protection of Tanzanian trafficking victims abroad, including migrant workers.

Lack of screening for trafficking indicators has also been said to be a challenge, leading to deportation, detention, and arrest of potential trafficking victims, including children, for alleged prostitution or immigration violations.³²³ The Government has also been criticised for not reporting any efforts to hold fraudulent recruitment agencies criminally accountable for facilitating human trafficking.³²⁴

Anti-Child Trafficking Taskforce

In July 2022, the Minister of Constitutional and Legal Affairs, Hon. Damas Ndumbaro, launched the Anti-Human Trafficking Child Protection Task Force (AHTCP-TF).³²⁵ The task force, which shall be under the National

319 See U.S Embassy in Tanzania, *TANZANIA UPGRADED TO TIER 2 IN 2022 TRAFFICKING IN PERSONS REPORT*, 20 Jul 2022, at <https://tz.usembassy.gov/tanzania-upgraded-to-tier-2-in-2022-trafficking-in-persons-report/>.

320 Ibid.

321 Ibid.

322 *TANZANIA UPGRADED TO TIER 2 IN 2022 TRAFFICKING IN PERSONS REPORT* (*supra*).

323 See U.S Department of State, *TRAFFICKING IN PERSONS REPORT, JULY 2022*, p. 535 at <https://www.state.gov/wp-content/uploads/2022/10/20221020-2022-TIP-Report.pdf>.

324 Ibid.

325 See "KIKOSI KAZI CHA ULINZI KWA WATOTO DHIDI YA BIASHARA HARAMU YA USAFIRISHAJI WA BINADAMU CHAZINDULIWA," Ofisi ya Taifa ya Mashtaka (NPS), 22 Jul 2022, at <https://www.nps.go.tz/news/kikosi-kazi-cha-ulinzi-kwa-watoto-dhidi-ya-biashara-haramu-ya-usafirishaji-wa-binadamu-chazinduliwa>.



Prosecutions Services (NPS), was established as part of the Serious Organised Crime (SOC) Programme, implemented by the United Republic of Tanzania and the Revolutionary Government of Tanzania.³²⁶

LHRC's View: Children are the most vulnerable members of the society and are very vulnerable to the trickery and deception of human traffickers. This is because they are easy to deceive and manipulate, given their age. It is important to identify areas and hotspots for human trafficking so that preventive measures can be taken and human traffickers and those who assist them are brought to justice.

LHRC's Call: The Government, especially through the Ministry of Home Affairs, to collaborate with other stakeholders to strengthen anti-human trafficking measures in regions where children are most trafficked from, such as Dodoma, Iringa, Mbeya, Manyara, Singida, Kilimanjaro, and Tanga Regions.

2.5.9. Key Recommendations

- The Police Force to ensure police officers refrain from conducting arbitrary arrests and arbitrarily detaining accused persons instead of sending them to court within a specified period of time (usually 24 hours) as required by the law, in order to promote the right to liberty. Police officers implicated in this behaviour should be held accountable.
- The Police Force to ensure police officers refrain from fabricating cases against innocent civilians; and those responsible should be charged with malicious prosecution.
- Tanzania Police Force to ensure bail is timely issued for all bailable offences in line with the Criminal Procedure Act. Regular checks on police officers are needed to address denial of police bail.

³²⁶ Hadija Jumanne “Serikali yazindua kikosi cha ulinzi kwa Watoto” Mwananchi Newspaper (online), 21 Jul 2022, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/serikali-yazindua-kikosi-cha-ulinzi-kwa-watoto-3887834>.



2.6. Right to Take Part in Governance

About the right

- Means the right to participate freely in the government of one's country, either directly or through chosen representatives.
- Also known as a right to take part in public affairs or right to participate in the government.
- Includes the right to vote and stand for election.

In 2022, key right to take part in governance issues and violations in Mainland Tanzania included legal barriers hindering effective participation in governance; calls to improve multiparty democracy; and right to vote for prisoners and remandees.

2.6.1. Legal barriers to Realising the Right to Take Part in Governance

Several legal barriers to realising the right to take part in governance continue to exist. These barriers are found in the Constitution of the United Republic of Tanzania of 1977 and electoral laws, including the Political Parties Act, Cap. 258 (R.E 2019).

In the Constitution of Tanzania, one of the key concerns is the issue of private or independent candidates. The Constitution does not allow a person to contest in presidential, parliamentary or local government elections unless they are a member of a political party.³²⁷ In June 2013, the African Court of Human and Peoples' Rights held that the freedom of every citizen to participate freely in government either directly or through a representative is "not meant to be enjoyed only in association with some other individuals or groups of individuals such as political parties".³²⁸ The Court found that Tanzania's prohibition on independent candidates was neither permitted by Article 27(2) (limitations on individual rights) of the Charter nor proportionate to the "alleged aim of fostering national unity and solidarity" put forth by Tanzania. The African Court directed Tanzania "to take constitutional, legislative and all other necessary measures within a reasonable time to remedy the violations found by the Court and to inform the Court of the measures taken."³²⁹ However, the measures were yet to be taken as of 31st December 2022.

³²⁷ See for example Articles 67(1)(b) and 39(1)(c) of the Constitution of Tanzania, 1977.

³²⁸ See African Court of Human and Peoples' Rights, *Tanganyika Law Society et al. v. The United Republic of Tanzania*, App. Nos 09/2011 and 11/2011, Judgment of 14 June 2013, para 4.

³²⁹ *Ibid.*



Another key issue in the Constitution of Tanzania that relates to the right to take part in governance is the prohibition of challenging presidential election results in a court of law. According to the Constitution, no court of law is allowed to inquire into election of a candidate when such candidate has been declared by the electoral commission (NEC) to have been duly elected.³³⁰ In July 2020, the African Court on Human and Peoples' Rights (the African Court) delivered its judgement in the case of *Jebra Kambole v United Republic of Tanzania*.³³¹ The Court found that Article 41(7) of the Constitution of the United Republic of Tanzania, 1977 violates Articles 2 and 7(1) (a) of the Banjul Charter. The Court directed Tanzania to submit a report within twelve (12) months of the judgment, on the measures taken to implement the terms of the judgment. However, like in the other case above, no measures have been taken thus far to rectify the situation.

For the Political Parties Act, the amendments made in the law have been faulted by stakeholders within and outside Tanzania for giving the Registrar of political parties excessive and intrusive powers over political parties and failing to conform to international standards on freedom of association. The amendments have therefore negatively impacted the right to take part in governance by limiting freedom of association of political parties. Amendments need to be made to bring the law in conformity with international human rights standards.

For women, gender-blind electoral laws pose a big challenge for them to effectively realise their right to participate in public affairs. These laws are highlighted in Chapter Five below.

2.6.2. Measures to Improve Multiparty Democracy in Tanzania: Presidential Taskforce Report

The report on multiparty democracy in Tanzania by the presidential taskforce, released in October 2022, discussed various issues touching on the right to take part in governance in Tanzania and made relevant recommendations.³³² The issues include the electoral system; independence

³³⁰ Article 41(7) of the Constitution of Tanzania

³³¹ See JUDGMENT SUMMARY, JEBRA KAMBOLE V. UNITED REPUBLIC OF TANZANIA, APPLICATION NO. 018/2018 JUDGMENT ON MERITS AND REPARATIONS, 15 JULY 2020 at https://en.african-court.org/images/Cases/Judgment/Application_018-2018_-Jebra_Kambole_v_Tanzania_-_Judgment_Summary.pdf, accessed 30 October 2020.

³³² Jamhuri ya Muungano wa Tanzania, KIKOSI KAZI CHA MHESHIMIWA RAIS WA JAMHURI YA MUUNGANO WA TANZANIA KILICHOFANYIA KAZI MASUALA YANAYOHUSU DEMOKRASIA YA VYAMA VINGI VYA SIASA NCHINI, Ripoti ya Kikosi Kazi, Oktoba 2022, at http://idc-tz.org/files/documents/1666622289_gGXo0VbIDWDy.pdf.



of the electoral commission; challenging presidential election results in court; participation of women, PWDs, and youth in politics, democracy, and elections; civic education; and corruption.³³³

Electoral system

Key issues & opinions

- Three types of electoral systems, namely: First Past the Post (FPTP), Proportional Representation (PR), and Mixed Electoral System.
- Tanzania currently using the Mixed Electoral System, combining FPTP for presidential, parliamentary and councillorship elections and PR systems for appointment of special seats MPs and councillors.
- Tanzania should use PR system for all elections to boost women's representation in political leadership.
- Tanzania should continue with current electoral system because it guarantees strong Government and Parliament.
- Presidential candidate should get more than 50% of votes to win election.

Task force recommendations

- Tanzania should continue with current electoral system (Mixed Electoral System) for presidential, parliamentary and councillorship elections.
- In presidential election, candidate should get more than 50% of votes to win.
- PR systems for appointment of special seats MPs and councillors should continue.

Independence of the electoral commission

Key issues & opinions

- Constitution provides for autonomy of the Electoral Commission (NEC) and guarantees judicial immunity.
- NEC should not be obliged to comply with orders or directions of any person or any government department or the views of any political party.
- It should be possible to challenge NEC conduct and decisions in courts

³³³ Ibid.



of law to strengthen good governance and accountability among NEC staff, as well as promote public trust in the body and electoral management.

- Concern over NEC members being presidential appointees. President should not appoint NEC members.
- NEC members should continue to be presidential appointees.
- There should be a selection panel for NEC commissioners which shall select and forward the names of qualified candidates for the positions of NEC members to the President.

Task force recommendations

- NEC should not be obliged to comply with orders or directions of any person or any government department or the views of any political party.
- It should be permitted to challenge NEC conduct and decisions in the Supreme Court once such court has been established.
- Selection Panel for NEC Members should be established, which shall select and forward the names of qualified candidates for the positions of NEC members to the President for appointment.
- List of selected potential NEC members should have 4 more names than those required to fill positions.
- At least two members of the Selection Panel for NEC Commissioners should be female.
- NEC Chairperson should be directly appointed by President and must be a High Court Judge or Justice of Appeal (current or retired).
- Selection Panel for NEC Members should be composed of: Chief Justice of the United Republic of Tanzania (Chairperson), Chief Justice of Zanzibar (Vice Chairperson), Commissioner of Ethics Secretariat of Mainland Tanzania, Chairperson of Ethics Secretariat of Zanzibar, Chairperson of the Commission for Human Rights and Good Governance, and two other members appointed by the Chief Justice of the United Republic of Tanzania upon recommendations by the Tanganyika Law Society (TLS) and Zanzibar Law Society (ZLS).

Challenging presidential election results in court

Key issues & opinions

- Current constitution prohibits challenging of presidential election results in court.



- Various established commissions, including 1991 Justice Nyalali Commission, and Judge Warioba's Commission, have in the past recommended constitutional amendment to allow presidential results to be challenged in court.
- Stakeholders: Laws should be amended to allow results to be challenged in court by aggrieved party, like it is the case in parliamentary and councillorship elections,

Task force recommendations

- Presidential election results should be able to be challenged in Supreme Court once such court has been established.

Participation of women in politics, democracy, and elections

Key issues & opinions

- Special seats arrangement for women MPs and councillors should be scrapped because it denies women a chance to elect fellow women or the female leaders they want.
- Special seats arrangement should only be for PWDs.
- Private candidacy should be allowed for MP and councillorship seats to enable women without political parties contest and get elected.
- Marginalization, discrimination, and violence against women within political parties.
- Equal representation of men and women in political party leadership and candidate selection.
- Gender equality in political leadership yet to be achieved.
- Political party constitutions should contain gender equality and GBV provisions.
- There should be a programme to empower women to contest elections.
- Need to improve gender parity in Political Parties Council.
- Officer of Registrar of Political Parties to establish gender desk to address gender issues within political parties.
- Amendment of Political Parties Act to increase women's participation in decision-making within political parties, at least 1/3 to 50%, at all levels.
- Political parties to develop and adopt gender and inclusion policies.
- Political parties to develop gender equality strategy.
- Adopt Proportional Representation (PR) electoral system to promote gender equality.
- Legal requirement to achieve gender balance in decision-making



within political parties.

- Special seats arrangement should be limited to a total of 10 years, so that others can also get an opportunity to grow in politics and leadership.

Task force recommendations

- Political Parties Act should be amended to compel political parties to adopt gender and inclusion policies, representation of men and women in decision-making within political parties to be at least 40%.
- Constitutions of political parties to incorporate gender equality and GBV provisions.
- Each political party to establish a programme of empowerment female members to contest in elections and promote gender-equality.
- Office of the Registrar of Political Parties to establish a gender desk to address gender issues within political parties.
- Special seats arrangement should continue, but there should be a 10-year term limit for special seats MPs and councillors, so that other women can also get an opportunity to grow in politics and leadership.
- Each party to adopt a strategy of increasing the number of female candidates.
- Each party to develop guidelines for selection of candidates and election of party leaders, including candidates for special seats.
- Increase the number of female members within the Political Parties Council.
- Special seats MPs to be called National MPs and special seats councillors to be called District Councillors, because they were indirectly appointed by voters at national and district levels.
- National MPs should also benefit from the Constituency Development Fund (CDF).

Participation of PWDs and youth in politics, democracy, and elections

Key issues & opinions

- Low participation of PWDs in politics, democracy, and leadership.
- Lack of special seats for PWDs in parliament and councillorship.
- 5% of special seats in parliament should be reserved for PWDs.
- Establish programmes and adopt strategies to enhance participation of PWDs in politics and democratic process.
- Political parties to set aside 10% of annual income for PWDs capacity building.



- Improve environment for participation of PWDs in politics and elections by eradicating discrimination, stigma, and corruption and putting in place relevant infrastructure.
- Amendment of the Political Parties Act to require all political parties to establish PWDs wings, and this should be one of the conditions for registration of parties.
- Political parties should adopt disability inclusion policies.
- Commissions, including 1999 Kisanga Commission, have proposed special seats for PWDs in the past.
- Youth constitute the majority of MPs and have also been appointed to various other positions within the Government.
- Significant efforts have been made to promote youth participation in politics, democracy, and elections.

Task force recommendations

- Amendment of electoral laws to ensure equal participation of PWDs in politics and representation in decision making.
- Political parties to create a friendly environment to enable PWDs participate in political activities freely.
- Special seats for PWDs should be introduced, in consideration of gender equality.
- Political Parties Act should be amended to require political parties to have braille copies of their constitutions and other key documents and sign language experts to be made available during party AGM, prohibit discrimination of PWDs, party constitution to incorporate a provision which requires political party to establish a special programme for empowerment of PWDs to enhance participation in politics, democracy, and leadership within an outside party.
- Political parties, media, and other stakeholders to conduct public awareness programmes on rights of PWDs.
- Government should continue to promote youth participation in politics, democracy, and elections.

Civic education

Key issues & opinions

- Provision of civic education and voter education
- Voter education should be provided continuously, not just when elections approach.



- Voter education should be part of the civic education.
- Government should allow more institutions to provide civic education.
- Political parties, religious institutions and NGOs should be allowed to provide civic education in line with government guidelines.
- Political parties should provide civic education to members.
- A national organ should be established to coordinate provision of civic education.
- Voter education should be incorporated into school curricula to be part of civics subject.

Task force recommendations

- Government to prepare national guidelines for provision of civic education.
- Civic education, including voter education, to be taught at all levels of school.
- Voter education to be provided continuously, not just during election periods.
- Government and other stakeholders to collaborate and intensify provision of civic education, including voter education.

Corruption

Key issues & opinions

- Prevention and Combating of Corruption Bureau (PCCB) should intensify efforts to educate the public about different types of corruption and their impacts.
- Severe punishment for individuals accused of corruption.
- PCCB should be an autonomous body and not under the President, like Serious Fraud Office in the United Kingdom and IGG in Uganda.
- Political candidates implicated in corruption should be disqualified.
- Constitutions of political parties should include provisions on combating corruption.
- There should be transparency in conducting party affairs to prevent corruption.
- Citizens do not understand consequences of corruption in elections.



Task force recommendations

- New Constitution of the United Republic of Tanzania should include a provision on prohibiting corruption.
- Political Parties Act should be amended to require political parties to include a provision within their constitutions of disqualifying a candidate implicated in corruption, Registrar of Political Parties to develop guidelines for monitoring candidate selection and election of leaders within political parties, and each party to develop code of ethics, which, among other things, require members to refrain from corruption, and stipulate punishment.
- Amendment of Election Expenses Act to criminalize offences stipulated in the law and punish individual candidate instead of their party.
- Law of Evidence Act to be amended to recognize and accept circumstantial evidence in corruption cases.
- Elections Act to be amended to disqualify for 10 consecutive years from contesting an election a candidate found guilty of engaging in corruption.
- Whistle-blower and Witness Protection Act to be amended to increase protection for whistle-blowers.
- Prevention and Combating of Corruption Act should be amended to provide severe punishment for sexual corruption.
- School curricula should include a specific module on corruption.
- Enhance use of ICT to expose corruption.

2.6.3. Right to Vote for Prisoners and Remandees: The Tito Magoti & John Tulia Case Judgement

Brief Facts and Issues for Determination

Petitioners, Tito Elia Magoti and John Boniface Tulia, were challenging the restrictions imposed on prisoners and remandees awaiting trial to register and vote in general elections.³³⁴ They were specifically challenging provisions of section 11(1)(c) of the National Elections Act for being inconsistent with and contravening Article 5(2)(c) of the Constitution of the United Republic of Tanzania of 1977. This was the main issue which the court determined.

³³⁴ See *Tito Elia Magoti & John Boniface Tulia vs National Electoral Commission, The Attorney General, Commission for Human Rights and Good Governance, & Tanzania Prison Service*, High Court of Tanzania, Miscellaneous Civil Cause No. 3 of 2022, Judgement, 15/11/2022 & 19/12/2022, at <https://media.tanzlii.org/files/judgments/tzhc/2022/15383/2022-tzhc-15383.pdf>; James Magai "Court rules denying inmates voting rights is unconstitutional" *The Citizen Newspaper* (online), 23 Dec 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/court-rules-denying-inmates-voting-rights-is-unconstitutional--4064570>.



Arguments of the Parties

The petitioners asserted that:

- There is no restriction or disqualification for citizens of Tanzania who are in remand prison awaiting trial to be registered as voters and exercise their right to vote.
- The Constitution has granted to every adult citizen of Tanzania, including those remanded or imprisoned, a right to participate in election and vote.
- Section 11(1)(c) of the National Elections Act does not restrict a right to vote in respect of remandees, but rather restricts right to vote for persons serving death sentence and any person serving a prison sentence exceeding six months.
- The Parliament exceeded its mandate and erroneously enacted into the National Elections Act an unconstitutional section 11(1)(c) of the National Elections Act.
- In line with international human rights standards, right to vote is universal and should not be applied in a discriminative manner.
- If framers of the Constitution intended for right to vote to be restricted to all prisoners, they would have clearly stated so.
- Petitioners were unlawfully denied their constitutional right to vote in the 2020 General Elections.
- The Court should declare section 11(1)(c) of the National Elections Act void for being inconsistent with Article 5(2)(c) and 64(5) of the Constitution.

Respondents argued that:

- The National Electoral Commission (NEC), which is the first respondent, has been throughout affording all eligible citizens their right to vote in accordance with the law.
- Petitioners misconstrued and misinterpreted Article 64(5) of the Constitution, because the provision does not grant the Court power to declare void and of no effect any statutory enactment that is inconsistent with the Constitution.
- Section 11(1)(c) of the National Elections Act is not inconsistent with Article 5(2)(c) of the Constitution because the provision clarifies the imposed conditions which restrict citizens from exercising the right to vote because of death sentence or sentence of imprisonment beyond six months.
- NEC has never restricted eligible citizens, who are remandees, to



exercise their right to vote as long as they abide by section 13(1) and (6) of the National Elections Act.

Conclusions and Decision of the Court

- The practice of denying remandees above the age of 18 years their constitutional right to vote is not backed by a law or rule.
- Framers of the Constitution did not intend for any person sentenced to a certain period of time for any type of offence to automatically lose their constitutional right to vote. The lawmaker should have provided a list of specific offences which disqualify one from voting instead of a minimum term of imprisonment, which is decided at the discretion of the court for offences for which minimum sentences have not been prescribed by law.
- Provision of section 11(1)(c) of the National Elections Act constitutes a blanket restriction on right to vote for prisoners and remandees, even those arrested and detained for civil offences. It does not specify whether it applies to criminal offences or even civil offences, hence too general, and also irrational, and inconsistent with the Constitution.
- Section 11(1)(c) of the National Elections Act declared unconstitutional for contravening Article 5(1) of the Constitution and is therefore void.

LHRC's View: Right to vote is a key component of the right to take part in governance. The judgement by the High Court is a crucial step towards further safeguarding this fundamental right to vote, including for prisoners and remandees, as guaranteed under the Constitution of the United Republic of Tanzania of 1977 and regional and international human rights standards.

2.6.4. Kenya Elections and Key Lessons for Tanzania

2.6.4.1. Overview

Kenya held general elections in August 2022, which saw William Ruto emerge the winner of the presidential election.³³⁵ Ruto, from UDA party, won by 50.49%, closely followed by Raila Odinga from AZIMIO, with 48.85% of the votes.³³⁶ Aggrieved by the results, Raila Odinga filed petition challenging

³³⁵ Dickens Olewe "Kenya elections 2022: Win or lose, why Raila Odinga's election challenge matters" 22 Aug 2022, at <https://www.bbc.com/news/world-africa-62599219>.

³³⁶ See Nation "Kenya Elections 2022" at <https://elections.nation.africa/>.



William Ruto's win.³³⁷ He was seeking 23 reliefs, including an order for inspection of the Independent Electoral and Boundaries Commission (IEBC) servers and scrutiny of the rejected and spoiled votes, as well as an order for scrutiny and forensic audit of the Kenya Integrated Elections Management System (Kiems) kits, IEBC website and portal and the returns of the presidential election.³³⁸ He was also seeking election rerun.³³⁹ Eventually, in September 2022, the Supreme Court of Kenya upheld the election of William Samoei Ruto as Kenya's fifth president after declaring that there was no concrete evidence of irregularities to cast doubt on Ruto's win and annul the election.³⁴⁰

2.6.4.2.Key Lessons

Several key lessons can be derived from the 2022 Kenya General Elections, similar to those of Malawi's history-making presidential elections of 2019 and 2020. Six key lessons can be drawn from the elections:

Transparency

One of the key features and positives of the elections in Kenya was the transparency that Kenya's Independent Electoral and Boundaries Commission (IEBC) showed, especially by quickly scanning and posting copies of results forms from polling stations and constituencies on its website.³⁴¹ This was done very quickly and people in Kenya and beyond could easily access the results, allowing political candidates, media outlets, citizens, and other election stakeholders to see the primary data. This is something we can borrow in Tanzania, as we head towards the 2025 general elections. This shall significantly reduce complaints of foul play that have marred previous elections in Tanzania.

Independence and integrity of Electoral Management Bodies (EMBs)

Like the Malawi 2019 and 2020 elections, the 2022 Kenya General elections also present a key lesson for electoral management bodies (EMBs), including Tanzania's National Electoral Commission (NEC), especially following the

337 Joseph Wangui "Raila Odinga files petition challenging William Ruto's win" The EastAfrican Newspaper (online), 22 Aug 2022, at <https://www.theeastafrican.co.ke/tea/news/east-africa/raila-odinga-files-petition-challenging-william-ruto-win-3922462>.

338 Ibid.

339 Ibid.

340 Joseph Wangui & Brian Wasuna "Ruto is President of Kenya, court confirms election win" The Citizen Newspaper (online), 5 Sep 2022, at <https://www.thecitizen.co.tz/tanzania/news/ruto-is-president-of-kenya-court-confirms-election-win-3937594>.

341 Aly Verjee "Three Early Lessons from Kenya's Elections" United States Institute of Peace, 18 Aug 2022, at <https://www.usip.org/publications/2022/08/three-early-lessons-kenyas-elections>.



2020 general elections which were marred by various irregularities.³⁴² EMBs have a big role to play in ensuring elections are free, fair, and peaceful. The management of democratic elections requires independent and non-partisan EMBs that are free from any kind of political bias. Effective and well-run EMBs can guarantee free and fair elections and ensure a State does not incur costs of re-run elections and risk post-electoral violence. It is therefore a good time to make relevant legal and institutional reforms to ensure NEC is ready for the 2025 elections in Tanzania and ensure such elections are free and fair.

Challenging presidential results in court

Constitution of Kenya of 2010 allows an aggrieved party to challenge presidential election results, which is why Raila Odinga was able to go to the Supreme Court of Kenya to challenge presidential election results which declared William Ruto the winner. Tanzania should also follow suit and ensure the Constitution allows the same. As the African Court on Human and People's Rights held in the *Jebra Kambole presidential results case*,³⁴³ challenging presidential results is in line with international human rights standards. The Court noted that among the key elements of the right to a fair hearing, as guaranteed under Article 7 of the Banjul Charter, is the right of access to a court for adjudication of one's grievances and the right to appeal against any decision rendered in the process. Having found the provision of the Constitution of Tanzania to be in violation of the Banjul Charter, the Court ordered Tanzania to take all necessary constitutional and legislative measures, within a reasonable time, to ensure that article 41(7) of its Constitution is amended and aligned with the provisions of the Banjul Charter to eliminate, among others, any violation of Articles 2 and 7(1) (a) of the Charter.

In September 2022, Chief Justice (retd.) Mohamed Chande Othman called for Tanzania not to fear constitutional reforms to allow challenging of presidential election results in court, like in the Constitution of Kenya.³⁴⁴ He said that allowing this would strengthen democracy and promote transparency and rule of law. He also cited other countries in Africa whose constitutions allow such results to be challenged in court, namely South Africa, Malawi, and Uganda.

³⁴² See LHRC (2021), Tanzania Human Rights Report 2020, LHRC [www.humanrights.or.tz]

³⁴³ See JUDGMENT SUMMARY, *JEBRA KAMBOLE V. UNITED REPUBLIC OF TANZANIA*, APPLICATION NO. 018/2018 JUDGMENT ON MERITS AND REPARATIONS, 15 JULY 2020 at https://en.african-court.org/images/Cases/Judgment/Application_018-2018_-Jebra_Kambole_v_Tanzania_-_Judgment_Summary.pdf, accessed 30 October 2020.

³⁴⁴ Mwananchi Newspaper, 7 Sep 2022.



Independence and role of the Judiciary in safeguarding electoral justice

The Judiciary of Kenya has played a key role in strengthening democracy and access to justice in Kenya's elections in the past 10 years. During this period, the Supreme Court of Kenya has demonstrated resilience and commitment to ensure proper administration of justice, not bowing to any pressure from political and other figures in the country. In the 2022 general elections, the Supreme Court determined the petition filed by Raila Odinga challenging the presidential election results without any pressure or interference, as it was the case in 2017, whereby the Supreme Court annulled the election and ordered a rerun due to illegalities and irregularities.

Parallel vote tallying/tabulation

Another key feature of the 2022 Kenya elections was parallel vote tabulation. Parallel vote tallying (PVT) is a process of independent tabulation or quick count polling station results to verify election results. Kenya's Independent Electoral and Boundaries Commission (IEBC) allowed citizens and the media to conduct their own tabulations, creating a sense of transparency and enabling citizens to analyse the integrity of the electoral process, especially voting and counting, and accuracy of results.

A new, people-centred Constitution

Kenya's progress in democracy gained momentum when it adopted a new Constitution in 2010. Tanzania also needs a new Constitution to spearhead changes and safeguard the right to take part in governance. In September 2022, political analysts and politicians said Tanzania must learn from her neighbour, Kenya, by adopting a new constitution through which a system of checks and balances rooted in the three pillars of the State shall be created.³⁴⁵ Some of them said the constitutional reform should proceed from where the Warioba Commission ended. They also commented that private candidates should be allowed, like in Kenya, while also pointing out need for reforms in the Judiciary and electoral management bodies.

345 The Citizen Newspaper, 6 Sep 2022.



2.6.5. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs, to ratify the African Charter on Democracy Elections and Governance (ACDEG) of 2007.
- The Government, through the Ministry of Constitutional and Legal Affairs, to take legal and administrative measures to safeguard the right to take part in governance, including allowing independent candidates and creation of an independent and inclusive electoral body.
- The Government, through the Ministry of Constitutional and Legal Affairs, to make legal reforms to safeguard the right to access to justice for presidential candidates and political parties by allowing presidential results to be challenged in court in line with the judgment of the African Court on Human and Peoples' Rights.

2.7. Freedom from Torture and Inhuman or Degrading Treatment

About the right

- Occurs when someone deliberately causes very serious and cruel suffering (physical or mental) to another person.
- Any act inflicting severe pain to obtain information, confession or to intimidate or punish by a public official or any person in official capacity.
- Includes the act of a law enforcement official intentionally and purposefully inflicts pain or suffering on an individual who is powerless and unable to escape or resist arrest,

In 2022, key issues and violations affecting freedom from torture and inhuman or degrading treatment in Mainland Tanzania included non-ratification of the Convention against Torture and incidents of torture of accused persons under police custody and child torture.

2.7.1. The Convention Against Torture (CAT)

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) was adopted in 1984 to protect people from various acts of torture and cruel, inhuman or degrading treatment. The convention prohibits torture and imposes various obligations upon States to combat torture. Among the obligations is to take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under State's jurisdiction.³⁴⁶ However, Tanzania is yet to ratify this

³⁴⁶ Article 2(1) of CAT.



important human rights convention. Ratification of this convention is particularly important for safeguarding the rights of detainees.

2.7.2. Reported Torture Incidents

In 2022, LHRC documented at least 44 incidents of torture and/or inhuman or degrading treatment, 3 less than those documented in 2021. These incidents include torture of accused persons under custody of law enforcement officers (detainees) and child torture. The incidents were reported in regions such as Mwanza, Dar es Salaam, Shinyanga, Geita, Mara, and Iringa.

2.7.2.1. Torture of adults under custody of law enforcement officers

In April 2022, Ward councilors in Kahama District in Shinyanga lamented the tendency of people's militia officers working for the Tanzania Forest Services Agency (TFS) of attacking with machetes people found with forest produce.³⁴⁷

In June 2022, police officers in Mwanza were accused of torturing 12 criminal suspects by beating them with machetes and electric wires during interrogations. It was also reported that suspects had been held for 19 days without being taken to court, were denied bail, and even denied medical attention to treat their wounds.³⁴⁸

In August 2022, Police Spokesperson, SACP David Misime, told the media that the Police Force had taken action against a police officer whose video of beating a handcuffed accused person trended on social media.³⁴⁹

In September 2022, the Commission for Human Rights and Good Governance (CHRAGG), released a report on its 20 years of service.³⁵⁰ According to the report, one of the key human rights concerns in administration of criminal justice is torture of accused persons while in police custody. Acts of torture include beatings, humiliation, and subjecting suspects to other violent and degrading or inhuman acts as a way of compelling them to confess to crimes.³⁵¹

2.7.2.2. Child torture

The African Charter on the Rights and Welfare of the Child requires States,

347 "Mgambo watuhumiwa kukata watu mapanga" Nipashe Newspaper, 21 Apr 2022.

348 "Kumi na mbili wadaiwa kuteswa wakihojiwa na polisi" Mwananchi Newsapepr, 22 Jun 2022.

349 "Askari 'aliyetrend' akimpiga mtuhumiwa achukuliwa hatua" HABARILEO Newspaper, 24 Aug 2022.

350 TAARIFA YA MIAKA ISHIRINI YA TUME YA HAKI ZA BINADAMU NA UTAWALA BORA 2001-2021 (*supra*).

351 Ibid.



including Tanzania, to take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect, or maltreatment including sexual abuse.³⁵² Domestically, the Law of the Child Act (LCA),³⁵³ provides for the ‘Protection from torture and degrading treatment.’³⁵⁴ According to the LCA, “a person shall not subject a child to torture, or other cruel, inhuman punishment or degrading treatment, including any cultural practice which dehumanizes or is injurious to the physical and mental well-being of a child.”³⁵⁵ It also provides that correction of a child is not justifiable if it is unreasonable in kind or in degree according to the age, physical and mental condition of the child and no correction is justifiable if the child is by reason of tender age or otherwise incapable of understanding the purposes of the correction.³⁵⁶

In 2022, LHRC documented at least 14 incidents of child torture, nearly all of them perpetrated by parents, including mothers and stepfathers. The most common act of child torture was burning of hands, discussed in detail in Chapter Five below.

2.7.3. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs, to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) to safeguard freedom from torture.
- The Commission for Human Rights and Good Governance (CHRAGG) to collaborate with CSOs to promote and protect civil and political rights, including freedom from torture.
- Religious leaders and traditional leaders to use their platforms to speak against violations of civil rights, especially right to life, freedom of expression and freedom from torture, as a way of promoting these rights.

³⁵² Article 16(1) of the African Charter on the Rights and Welfare of the Child.

³⁵³ CAP. 13 R.E. 2019.

³⁵⁴ Article 13 of the Law of the Child Act, [CAP. 13 R.E. 2019].

³⁵⁵ Ibid, Article 13(1).

³⁵⁶ Ibid, Article 13(2).



2.8. Freedom from Violence

About the right

- Means protection of everyone from all forms of violence, whether physical, sexual, economic, or psychological/emotional.
- Freedom from violence is implied in and closely linked to right to life, freedom from torture and degrading treatment, freedom from discrimination and the right to safety and security. These fundamental human rights are protected and guaranteed under all major international and regional human rights instruments.

Maputo protocol requires States Parties to “ensure the **right of elderly women to freedom from violence**, including sexual abuse, discrimination based on age and the right to be treated with dignity.”³⁵⁷ Maputo Protocol also requires States Parties to “ensure the **right of women with disabilities to freedom from violence**, including sexual abuse, discrimination based on disability and the right to be treated with dignity.”

For children, freedom from violence is implied under the UN Convention on the Rights of the Child (CRC), which requires States Parties to take all appropriate measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation.³⁵⁸ Additionally, the Committee on the Rights of the Child, established under the CRC, has recognized the **right of the child to freedom from all forms of violence**.³⁵⁹

2.8.1. Violence against women

Through media survey and human rights monitoring, LHRC documented at least 108 violence against women (VAW) incidents in 2022, reported in regions such as Pwani, Kilimanjaro, Dar es Salaam, Mara, Mtwara, Rukwa, Songwe, Geita, Dodoma, and Kigoma Regions. 56% of these incidents were acts of physical and emotional violence, followed by sexual violence (28%), and economic violence (16%).

³⁵⁷ Article 22(b) of the Maputo Protocol.

³⁵⁸ Article 19(1) of CRC.

³⁵⁹ See Committee on the Rights of the Child, The right of the child to freedom from all forms of violence, General comment No. 13 (2011), at <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsqIkirKQZLK2M58RF%2F5F0vFKtnY3RFBX0eVOrGEVYuIm9CsHNwh1HrjED9fVmGn%2BaZ1TGy6vH1Iek6kukGyB%2FFCGBbSOP0uwpKf24vcxkEnv>.



2.8.2. Violence against Children

In 2022, violence against children (VAC) continued to be the biggest threat to children's rights. Based on LHRC's assessment of reported incidents of VAW, sexual violence continued to be the most common form of VAC. Through media survey and human rights monitoring, in 2022 LHRC documented at least 350 incidents of VAC, reported across Mainland Tanzania. Sexual VAC accounted for the overwhelming majority of the incidents (81%), followed by physical and emotional violence (18%). 1% of the reported incidents were acts of economic VAC, including denial of education.

Police statistics on VAC show that in the period of 2017 to 2021, a total of 70,997 incidents of VAC were reported at police stations, averaging 14,199 each year, 1,183 incidents each month, and 39 incidents each day.

2.8.3. Violence against Men

While violence is usually perpetrated against women and children, men can also be victims of violence,³⁶⁰ especially in domestic settings. Globally, domestic violence is often seen as women suffering violence at the hands of their male partners and unfortunately men who are abused by their partners are usually ignored by the community, law, and the police. In a male-dominated society, men feel that it is shameful to be beaten by a woman and hence rarely or do not report the violence.³⁶¹ Most of the existing literature also discuss domestic violence in relation to women.³⁶² However, men also suffer verbal, physical, emotional/psychological, and sexual abuse.³⁶³

In 2022, LHRC documented at least 9 incidents of violence against men (VAM), two more than those documented in 2021. However, more incidents of violence against men are believed to have occurred. Fear of being seen or perceived to be weak and turning into a laughingstock continued to be a key factor behind men not reporting acts of violence they suffer, especially at the hands of their spouses or intimate partners.

Acts of VAM, reported in regions such as Katavi, Shinyanga, Geita, Dar es Salaam, Ruvuma, and Arusha in 2022, included beatings, denial of sex, verbal abuse, and being attacked with sharp object. For instance, in Katavi, Wende Emmanuel John (30), resident of Sibwesa Village in Tanganyika

360 Kolbe, V., & Büttner, A. (2020). Domestic Violence Against Men-Prevalence and Risk Factors. *Deutsches Arzteblatt international*, 117(31-32), 534-541. <https://doi.org/10.3238/arztebl.2020.0534>; Deshpande S. Sociocultural and Legal Aspects of Violence Against Men. *Journal of Psychosexual Health*. 2019;1(3-4):246-249. doi:10.1177/2631831819894176

361 Deshpande S. Sociocultural and Legal Aspects of Violence Against Men. *Journal of Psychosexual Health*. 2019;1(3-4):246-249. doi:10.1177/2631831819894176

362 Ibid,

363 Ibid.



District, attacked her husband, Dotto Enosi (35) with a machete, cutting part of his head open. She then committed suicide fearing that she had killed him. They had a dispute after the husband accused her of not engaging in farming activities.³⁶⁴ In Shinyanga, Gembe Singu (32), resident of Mwamakalinga Village in Shinyanga District, was left severely injured after his lover, Leticia Elisia (40), bit his tongue during sexual intercourse.³⁶⁵

In Geita, some men accused their wives of committing acts of violence against them and reported them at the police gender and children desk in the region. Common acts of violence include beating and denial of sex.³⁶⁶ In Geita, Helena Mchauru (40) was arrested by police for cutting her husband's left testicle while asleep.³⁶⁷

2.8.4. Violence against PWDs

PWDs are more vulnerable to violence compared to other vulnerable groups in the community. In 2022, LHRC documented at least 12 incidents of violence against PWDs, including PWAs and children with disabilities. Acts of violence included rape, physical attack, verbal abuse, isolation, and denial of education.

2.8.5. Violence against the Elderly

In 2022, LHRC documented at least 24 incidents of violence against the elderly, increasing from 16 documented in 2021. But it should be noted that this could just be a small fraction of the actual number of incidents reported, considering the problem of non-reporting of different forms of violence against older people. Elderly men and women were subjected to different acts of physical, sexual, psychological, and economic violence, including rape, beatings, neglect, being attacked with sharp objects, and being deprived of property.

³⁶⁴ "Amcharanga mapanga mume kisha kujinyonga" Nipashe Newspaper, 22 Mar 2022.

³⁶⁵ LHRC Human Rights Monitoring 2022.

³⁶⁶ Renatus Masuguliko "Wanaume wanaopgiwa na wake watoa kilo" Nipashe Newspaper, 7 Mar 2022.

³⁶⁷ LHRC Human Rights Monitoring 2022.



2.8.6. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs, to ensure enactment of a specific and comprehensive law on gender-based violence as the current legislations do not adequately address gender-based violence issues.
- CSOs and FBOs to use their platforms to speak against and raise awareness about gender-based violence, including intimate partner violence, and their impacts on human rights.
- Community members to collaborate with authorities, including the police, to expose incidents of different forms of violence and ensure perpetrators of such violence are brought to justice.

2.9. Right to Privacy

Privacy is a fundamental human right. Protecting privacy in the modern era is essential to effective and good democratic governance.³⁶⁸ This right is also essential in enjoyment of other fundamental human rights, including freedoms of expression and association. It is guaranteed under various international and regional human rights instruments, including the Universal Declaration of Human Rights, 1948; the International Covenant on Civil and Political Rights, 1966; and the African Charter on Human and Peoples' Rights, 1981. In Tanzania, **'Every person is entitled to respect and protection of his person, the privacy of his own person, his family and of his matrimonial life, and respect personal and protection of his residence and private communications.'**³⁶⁹

2.9.1. Personal Data Protection Act

2.9.1.1. Introduction

In September 2022, the Minister of Information, Communication and Information Technology, Hon. Nape Nnauye, announced that his ministry would table a bill on personal data protection in Parliament for debate. The bill proposed the enactment of the Personal Data Protection Act, which was passed in November 2022.³⁷⁰ This is a positive move on safeguarding rights to privacy and personal security, guaranteed under the Constitution of the

³⁶⁸ See Privacy International, *Analysis of Kenya's Data Protection Act, 2019*, January 2020, at https://privacyinternational.org/sites/default/files/2020-02/Analysis%20of%20Kenya%20Data%20Protection%20Act%2C%202019_Jan2020.pdf.

³⁶⁹ Article 16(1) of the Constitution of the United Republic of Tanzania, 1977.

³⁷⁰ "Data privacy rights advance in Tanzania under new law, but obstacles remain" Advox, 16 Dec 2022, at <https://globalvoices.org/2022/12/16/data-privacy-rights-advance-in-tanzania-under-new-law-but-obstacles-remain/>.



United Republic of Tanzania of 1977 and regional and international human rights instruments. Tanzania now joins neighbouring countries such as Kenya, Uganda, and Rwanda in having in place a data protection law.³⁷¹ The Act applies to both public and private institutions with the responsibility to collect and process personal data in Tanzania. The main objective of the law is to strengthen protection of personal and provide remedy in case of breach.

The law has is divided into several key parts, covering application of the Act; key interpretations; objectives of the law; data protection authorities; registration of data collectors and processors; data collection, use, disclosure, and retention; data transfer; rights of data subject; and complaints and penalties.³⁷²

One of the benefits of this law in enhancing protection of personal data of Tanzanians and other people residing in the country and safeguarding rights to privacy and personal security. The law also provides for rights of data subjects in relation to personal data held by any entity.

2.9.1.2. Stakeholder Comments on the Personal Data Protection Bill

In 2022, personal data rights stakeholders, including CSOs, provided their comments on the Personal Data Protection Bill. LHRC conducted analysis of the bill in collaboration with six other stakeholders, namely Jamii Forums (JF), Tanganyika Law Society (TLS), Tanzania Mobile Network Operators Association (TAMNOA), Tanzania Bankers Association (TBA), Twaweza, Tanzania Human Rights Defenders (THRDC), and Multichoice Tanzania.³⁷³ The comments touched on issues such composition, powers, and functions of the data protection commission; structure; rights of data subject; and definitions of key terms. The comments were then submitted to the responsible parliamentary committee. However, only 4% of the 57 comments provided were accepted, while another 4% were partially accepted.

³⁷¹ Ibid.

³⁷² See CLYDE & CO, *Tanzania: The Personal Data Protection Act of 2022*, at [https://www.clydeco.com/en/insights/2023/02/tanzania-personal-data-protection-act-of-2022#:~:text=The%20Personal%20Data%20Protection%20Act%20No.%20of%202022%20\(the,United%20Republic%20of%20Tanzania%2C%201977](https://www.clydeco.com/en/insights/2023/02/tanzania-personal-data-protection-act-of-2022#:~:text=The%20Personal%20Data%20Protection%20Act%20No.%20of%202022%20(the,United%20Republic%20of%20Tanzania%2C%201977).

³⁷³ JamiiForums, LHRC, TLS, TAMNOA, Twaweza, TBA, & Multichoice Tanzania, *UCHAMBUIZI WA BAADA YA UWASILISHAJI WA MAONI YA WADAU KUHUSU MSWADA WA SHERIA YA ULINZI WA TAARIFA BINAFSI, 2022*, Desemba 20, 2022.



■ Accepted ■ Partially Accepted ■ Not Accepted

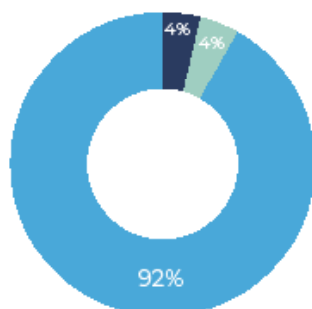


Figure 27: Status of comments on personal data protection bill made by stakeholders

2.9.1.3. Key issues of human rights concern in the data protection law

Stakeholders have raised various issues of concern regarding the Personal Data Protection Act, including: vague and ambiguous terms and phrases susceptible to abuse by authorities; broad language and unclear terms; rights of the data subject; independence and impartiality of the Data Protection Commission; term limit and reappointment of the Director General; powers of the Chairperson and the Commission as a whole; duties and accountability of data collectors and data processors; gender gaps in the law; registration requirements; rights to be heard and appeal; and severe punishment.³⁷⁴

Vague and ambiguous terms and phrases susceptible to abuse by authorities

Some words and phrases used in some of the provisions are vague or ambiguous, hence may be abused by authorities. For instance, the word 'processing' is used to define data collector, instead of the word 'collecting'.³⁷⁵ There are also terms such as 'public interest' and 'national security' which are not clearly defined.

Broad language and unclear terms

Some of the phrases and words are either broad or unclear. For instance,

³⁷⁴ Ibid.

³⁷⁵ See Section 3 of the Personal Data Protection Act, 2022, at <https://www.parliament.go.tz/polis/uploads/bills/acts/1674563159-Act%20No.%2011%20SHERIA%20YA%20ULINZI%20WA%20TAARIFA%20BINAFSI,%202022.pdf>.



the word court under the interpretation section is not clearly defined.³⁷⁶ It should specifically mention the courts with jurisdiction over data protection matters, such as Primary Court, District Court, Resident Magistrate Court, High Court or Court of Appeal.

Rights of the data subject

Stakeholders have also observed inadequate protection of rights of data subject in the personal data protection law. They have called for the rights to be clearly stipulated because the essence of the law is to protect such rights. Right of data subject to a copy of personal data held by another party is not stipulated.

Independence and impartiality of the Personal Data Protection Commission

There is no provision within the data protection law which guarantees independence and impartiality of the commission. There should be such as a provision, as recommended by stakeholders, like it is the case in Kenya's The Data Protection Act, 2019.³⁷⁷

Stakeholders have also expressed concerns over presidential appointment of the Commission's Director General.³⁷⁸ They have recommended the director to be recruited by the Board and the President through a competitive process, akin to the recruitment process in Kenya,³⁷⁹ so that they can work independently. The Board invites applications from qualified candidates, interviews them, and nominates three qualified applicants in the order of merit. The President then appoints one of the three qualified applicants to be Director General.

Additionally, stakeholders have recommended the commission to be ideally called Personal Data and Privacy Commission, adding the word 'privacy' to the name.

Term limit and reappointment of the Director General

The data protection law stipulates that the Director General of the Commission shall hold office for a term of 5 years and is eligible for reappointment.³⁸⁰ Stakeholders have recommended instead for the Director General to hold office for 6 years and not be eligible for

³⁷⁶ See Section 3 of the Personal Data Protection Act, 2022.

³⁷⁷ See Section 8(3) of Kenya's The Data Protection Act, 2019, at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/109333/135597/F752512879/KEN109333.pdf>.

³⁷⁸ See Section 11(1) of the Personal Data Protection Act, 2022.

³⁷⁹ See Section 6 of Kenya's The Data Protection Act, 2019.

³⁸⁰ Section 12 of the Personal Data Protection Act, 2022.



reappointment, as is the case for the Data Commissioner in Kenya.³⁸¹ Stakeholders have also recommended incorporation of a provision on vacancy in the office of the Director General, which is currently missing in the law. For instance, the office should be declared vacant if director dies, resigns from office, has committed a gross misconduct, is convicted of certain offences, or is incompetent.

Powers of the Director General and the Commission as a whole

Stakeholders have observed that in some instances, the Director General and the Commission as a whole have been granted too much power, subject to abuse. For instance, the Commission is given powers to cancel registration of data collectors and data processors.³⁸² Stakeholders have expressed concern over this and instead proposed conditions for cancellation to be clearly stipulated in the law instead of regulations. Alternatively, stakeholders have recommended removal of powers of cancellation of registration.

The Commission is also given powers to interrogate any person and confiscate any property containing personal data in any building.³⁸³ These powers are intrusive and unchecked. Stakeholders have recommended this to be done after the Commission has secured a court permit. Additionally, the law suggests that the Commission can even go above the law to get any information required 'without regard to any other laws',³⁸⁴ which is contrary to the Constitution of the United Republic of Tanzania of 1977. Stakeholders have recommended such provision to be repealed.

Duties and accountability of data collectors, processors, and controllers

Analysis of the data protection law has shown that some provisions have failed to mention either of data collectors, processors, or controllers. For instance, under the interpretation section, data controllers are missing in the definition of code of ethics.³⁸⁵ Data controllers should also abide by code of ethics and held accountable when they do not. The definition of 'recipient' only mentions data collectors, leaving out data processors and controllers. Data controllers are also not mentioned under Section 5 of the Personal Data Protection Act, which only mentions data collectors and processors, and Section 7, which only mentions data collectors and processors in relation to the commission's function of overseeing the implementation of the law. Under Section 27, the data processor is not mentioned. Data processors are

381 See Section 7(2) of Kenya's The Data Protection Act, 2019.

382 Section 18 of the Personal Data Protection Act, 2022.

383 Section 42(1)(d) of the Personal Data Protection Act, 2022.

384 Section 42(3) of the Personal Data Protection Act, 2022.

385 See Section 3 of the Personal Data Protection Act, 2022.



also not mentioned under Section 37, which provides for right to remedy for data subject. Furthermore, data processors and controllers are not mentioned under Section 60, which provides for unlawful disclosure of personal data.

One of the functions of the commission under the data protection law is to conduct research and monitor technological advancements relating to data processing.³⁸⁶ Stakeholders have recommended doing the same for data collection and control.

Gender gaps and composition of commission board in the law

The data protection law has established the board of the Personal Data Protection Commission, composed of seven members.³⁸⁷ However, there is no provision on consideration of gender parity in appointment of members of the board. Stakeholders have recommended incorporation of gender equality provisions. They have also recommended the board be composed of:

- Representative from the Office of the Attorney General
- Representative from telecommunication companies
- Representative from Tanzania Bankers Association
- Representative from the Tanganyika Law Society (TLS)
- Representative from Internet Service Providers (ISP)
- Representative from digital innovators

Registration requirements

One of the functions of the commission is to register data collectors and data processors.³⁸⁸ Stakeholders have expressed concern over registration of all data collectors and processors, as it may cause unnecessary delays and affect businesses. Instead, it has been recommended that the commission develops some guidelines on the type of data controllers and processors who must be registered. A leaf can be borrowed from Kenya's data protection law, which requires the Data Commissioner to prescribe thresholds required for mandatory registration of data controllers and data processors and consider factors such as the nature of the industry, volumes of data processed, and whether sensitive personal data is being processed.³⁸⁹ There should not be mandatory registration for all data collectors and processors.

³⁸⁶ Section 7(f) of the Personal Data Protection Act, 2022.

³⁸⁷ Section 8(1) of the Personal Data Protection Act, 2022.

³⁸⁸ Section 7(b) of the Personal Data Protection Act, 2022.

³⁸⁹ See Section 18(2) of Kenya's The Data Protection Act, 2019.



Stakeholders have also recommended that instead of focusing on registration, the commission should instead look to establish and maintain a register of data controllers and data processors, as is the case in Kenya.³⁹⁰

Rights to be heard and appeal

The provisions of Section 14 of the personal data protection law, on registration of data collectors and processors, have been observed to miss the rights to be heard and appeal, contrary to the principles of natural justice and right to equality before the law. There is no remedy for refusal of registration application, save for avenue to appeal to the responsible minister in writing. Under Section 42(2), giving the parties to a dispute an opportunity to be heard is regarded as a privilege of the Commission, instead of the right of the parties. There is also no room for the parties to settle the dispute themselves, if they wish to. This will reduce investigation and hearing costs to be incurred by the Commission.

Severe punishment

Another key concern with the data protection law is severe punishment imposed for breaching provisions of the law. Under Section 47, the Commission may impose a fine of up to 100 million for breaching the provisions.

Other concerns and recommendations

Under Section 30(3), the Minister responsible for data has been given broad powers over processing of sensitive personal data, at the expense of the data subject. Section 30(1) requires consent of data subject in writing before processing of personal data, not considering electronic means of granting consent. Section 38 of the law fails to mention the timeframe for data collector or data processor to remove personal data in case of breach, as directed by the Commission. Stakeholders have also recommended the days for completion of investigation of complaints under section 39 to be reduced from 90 to 60 days.

Stakeholders have further recommended:

- Incorporation of provisions on data protection impact assessment
- A provision on conflict of law regarding personal data, with the current law prevailing in such circumstances.
- The law to contain clear anonymity-related provisions.

³⁹⁰ See Section 8(b) of Kenya's The Data Protection Act, 2019.



- Commission to develop standard template for creating data collection, processing, and controlling policy.
- Right of transmission for data subject to clearly be stipulated in the law.
- Provision on exceptions for the data controller not to erase personal data.
- Provision requiring data controller to inform data collector, data processor and others about the data subject's request for erasing of personal data.
- Date for commencing application and implementation of the law to be stipulated.

2.9.2. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs, to review the Personal Data Protection Act to address key concerns raised by stakeholders.
- The Commission for Human Rights and Good Governance (CHRAGG) to collaborate with CSOs to raise awareness about personal data protection and the data protection law.
- Community members to make efforts to seek information about the data protection law.

2.10. Relevant SDGs, TDV 2025, and Agenda 2063 Targets

Tanzania's achievement of these 2030 Sustainable Development Goals (SDGs), Tanzania Development Vision 2025 (TDV 2025), and Agenda 2063: The Africa We Want, depends on progress made in realization of civil and political rights:

Key SDGs and TDV 2025 Targets relating to Civil and Political Rights

SDGs	
	<p><u>SDG 5 GENDER EQUALITY</u>: Achieve Gender Equality and Empower All Women and Girls.</p> <p><u>SDG 10 REDUCED INEQUALITIES</u>: Reduce Inequality Within and Among Countries.</p> <p><u>SDG16 PEACE, JUSTICE AND STRONG INSTITUTIONS</u>: Promote Peaceful and Inclusive Societies for Sustainable Development, Provided Access to Justice for All and Build Effective, Accountable and Inclusive Institutions At All Levels.</p>



<p>TDV 2025</p>	<p><u>Peace, Stability and Unity</u> <u>Good Governance</u></p> <ul style="list-style-type: none"> ■ Desirable moral and cultural uprightness. ■ Strong adherence to and respect for the rule of law
<p>Agenda 2063: The Africa We Want.</p>	<p>ASPIRATION 2: An integrated continent, politically united, based on the ideals of Pan-Africanism and the vision of Africa's Renaissance ASPIRATION 3: An African of good governance, democracy, respect for human rights, justice and the rule of law ASPIRATION 4: A peaceful and secure Africa</p>



CHAPTER 3: ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Economic, social and cultural rights are guaranteed under various regional and international human rights instruments, most notably the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966, ratified by Tanzania in 1976.³⁹¹ Under these instruments, including treaties, States are duty bound to support provision of entitlements to the basic needs such as education, food, public health care, housing, and other social goods to the maximum of the available resources.³⁹² Right to education, right to health, right to social security, right to food, right to clean water and sanitation, and the right to adequate standard of living are commonly identified as the entitlements upon which States should accord their citizens with for the purpose of improving and maintaining their social lives.

Domestically, economic, and social rights, such as right to work, right to health, and right to own property, are also enshrined in the Constitution of the United Republic of Tanzania of 1977.³⁹³ These rights are also provided for under key pieces of legislation, including land, education, and labour laws and regulations.

In 2022, the situation of economic, social, and cultural rights slightly improved compared to the year 2021, especially due to increase in budgetary allocation for key social services sectors, provision of fee-free education, employment of new workers in key sectors, and introduction of new minimum wages. However, several challenges continued to hinder effective realisation of these rights, key among them being budgetary constraints; delays in disbursement of funds; partial disbursement of funds; poor working conditions; unemployment; shortages of workers; shortages of equipment, tools, and facilities; discrimination in employment; and different forms of violence, especially against children, women, and PWDs.

391 See Article 2(1) of ICESCR; See also Universal Declaration of Human Rights (UDHR), 1948; Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), 1979; Convention on the Rights of the Child (CRC), 1989; Articles 15, 16(1) and 17(1) of African Charter on Human and Peoples' Rights (ACHPR); Articles 12(1), 14 15 and 16 of Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol); and Articles 11 and 14 of African Charter on the Rights and Welfare of the Child (ACRWC).

392 Dawood, A. et al (2017) *Social and Economic Rights*, International Institute for Democracy and Electoral Assistance (IDEA) 2nd Ed, Stockholm Sweden.

393 See for example Articles 22, 23 and 24 of the Constitution of the United Republic of Tanzania, 1977.



3.1. Right to Education

About the right

- Means access to quality education, which is available, accessible, acceptable, and adaptable.
- Is a basic human right for all and is important for everyone to make the most of their lives and essential for effective realization of all other human rights, including the right to take part in governance.

In 2022, key right to education issues and violations in Mainland Tanzania included quality of education; proximity of schools; budget allocation; shortages of classrooms, teachers, toilets, and other learning and teaching facilities and tools; violence against schoolchildren; child labour; child pregnancy; child marriage; and lack of parental support in education.

3.1.1. Government Action

In 2022, the Government continued to take various measures to ensure progressive realization of the right to education. The measures include implementing the fee-free education policy, constructing and renovating classrooms, facilitating training for teachers, and employment of new teachers. For instance, in April 2022, H.E President Samia Suluhu Hassan granted permission to employ 9,800 primary and secondary teachers and 7,612 health workers.³⁹⁴ In June 2022, the Minister of President's Office – Regional Administration and Local Government (PO-RALG), Hon. Innocent Bashungwa, announced that a total of 165,948 people had applied for the jobs (70,780 female and 95,168 male). In the education sector, a total of 6,876 were successful applicants, of which 3,217 were female (46.8%) and 3,659 were male (53.2%), including 42 (0.61%) who were persons with disabilities (PWDs).³⁹⁵

In April 2022, the Minister of Education, Science and Technology, Hon. Prof. Adolf Faustine Mkenda, disclosed in his budget speech that in the period of 2021/22, the Government completed construction of 33 schools (9 primary and 24 secondary) and facilitated construction of 3,283 classrooms, 112 dormitories, 10 teacher officers, and 8,096 toilet holes.³⁹⁶ Earlier, in March

³⁹⁴ See TAARIFA KWA UMMA KUHUSU AJIRA MPYA ZA UALIMU NA KADA ZA AFYA (Statement by Minister of PO-RALG, Hon. Innocent Bashungwa), at <https://www.tamisemi.go.tz/storage/app/media/uploaded-files/TAARIFA%20KWA%20UMMA%20KUHUSU%20AJIRA%20JUNI%202022.pdf>.

³⁹⁵ Ibid.

³⁹⁶ See HOTUBA YA WAZIRI WA ELIMU, SAYANSI NA TEKNOLOJIA PROF. ADOLF FAUSTINE MKENDA (MB), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2022/23, at <https://www.moe.go.tz/index.php/sw/article/hotuba-ya-bajeti-ya-wyesti-mwaka-2022-23>.



2022, it was reported that the Singida District Council in Singida Region built a dormitory worth Tshs. 80 million to accommodate children with special needs.³⁹⁷

Government action to ensure progressive realization of the right to education also included provision of loans to higher education students. In April 2022, the Government announced that it had provided loans worth Tshs. 569 billion to 148,581 students in the financial year of 2021/22.³⁹⁸

In September 2022, the Deputy Minister for Education, Omary Kipanga, reportedly informed the Parliament that the Education and Training Policy (ETP) 2014 is being reviewed to meet the current and future education demands, with the first proposed draft expected to come out by December 2022.³⁹⁹

Yusuph Pangoma: A teacher bringing art and creativity in education

Yusuph Mohammed, popularly known as Yusuph Pangoma, is a primary school teacher based in Mara Region. LHRC would like to recognize his innovative style of teaching and the passion he has shown for his work. He brings art and creativity in education, helping students to learn better and enjoy learning. He notes that this makes the learning more interesting, comfortable, and memorable for students. It also makes students look forward to the next class, because they will learn, and it will be great fun as well.⁴⁰⁰ In September 2022 he was awarded a Certificate of Appreciation by the Tanzania Teachers Union in recognition of his effort in the profession.⁴⁰¹

LHRC Recognition



3.1.2. Quality of Education and Focus Issues in Children

3.1.2.1. Quality of education concerns

In 2022, stakeholders continued to express concerns over Tanzania's

397 HABARILEO Newspaper, 9 Mar 2022.

398 HOTUBA YA WAZIRI WA ELIMU, SAYANSI NA TEKNOLOJIA (*supra*).

399 "Education policy under review" DAILYNEWS Newspaer, 23 Sep 2022.

400 Shimbo Pastor "Young teacher's style inspiring rural pupils" The Citizen Newspaper (online), 27 Sep 2022, at <https://www.thecitizen.co.tz/tanzania/magazines/success/-young-teacher-s-style-inspiring-rural-pupils-3963704>.

401 Ibid.



education system and quality of education. Various challenges, including unsatisfactory working environment for teachers, inadequate funding, shortage of teachers, shortage of classrooms, proximity of schools, outdated curricula, and starvation and malnutrition, are among key barriers to quality education in Tanzania. These challenges are further discussed below.

Poor quality of education provided in some schools, especially public schools, has been said to contribute to some students not being able to read and write. For instance, in January 2022, it was reported in Mtwara Region that 19,178 pupils in standard two to four did not reach minimum proficiency in reading, writing, and handling simple mathematics (numeracy).⁴⁰²

In September 2022, it was reported that Mara Region was ranked fifth in the number of children completing standard seven without knowing how to read and write.⁴⁰³ 350,000 pupils in the region reportedly did not pass their standard seven national examinations in the past five years.⁴⁰⁴

In November 2022, it was reported that 1,566 out of 56,763 standard four pupils in Mbeya, equivalent to 4%, were not able to read, write and do simple mathematics (arithmetic), including counting and using simple numerical concepts such as addition, subtraction, multiplication, and division.⁴⁰⁵ Majority of the pupils were said to be from Mbeya, Mbarali, and Chunya Districts, and contributing factors include lack of meals in schools, lack of parental support, quality of teaching, and shortage of teachers, especially in rural areas.⁴⁰⁶

Quality of education is also affected by teacher absenteeism, compounding the problem of teacher shortage. In October 2022, the Deputy Minister of President's Office – Regional Administration and Local Government, Hon. Dr. Festo Dugange, revealed that teacher absenteeism constituted 66.5% of disciplinary complaints against teachers.⁴⁰⁷

3.1.2.2. Focus issues in children

According to UNICEF, over 600 million children and adolescents

402 "Wanafunzi 19,178 wa shule za msingi hawajui kusoma, kuandika na kuhesabu mkoani Mtwara" The Chanzo Initiative, 6 Jan 2022, at https://web.facebook.com/theChanzo/videos/wanafunzi-19178-wa-shule-za-msingi-hawajui-kusoma-kuandika-na-kuhesabu-mkoani-mt/626535635164963/?_rdc=1&_rdr.

403 "Mkoa wa Mara washika nafasi ya 5 kwa wanafunzi wasiojua kusoma na kuandika" <https://www.jamiiforums.com/threads/mkoa-wa-mara-washika-nafasi-ya-5-kwa-wanafunzi-wasiojua-kusoma-na-kuandika.2020511/>.

404 Ibid.

405 Hawa Mathias "Wanafunzi 1,566 Mbeya hawajui kusoma na kuandika" Mwananchi Newspaper (online), 26 Nov 2022, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/wanafunzi-1-566-mbeya-hawajui-kusoma-na-kuandika-4034126>.

406 Ibid.

407 Magnus Mahenge "Walimu wengi watoro" HABARILEO Newspaper, 19 Oct 2022.



worldwide are unable to attain minimum proficiency levels in reading and mathematics, even though two thirds of them are in school.⁴⁰⁸ This means too many schoolchildren, including in Sub-Saharan Africa, are struggling to learn at school. One of the contributing factors is focus issues in children, which include hunger and malnutrition, playing video games, family environment, household tasks, not getting proper sleep or adequate time to rest, excessive screen-time, (especially prior to going to bed), television, and social media. These issues contribute to lack of focus in learning for schoolchildren, compromising their ability to concentrate in class.

Hunger is one of the biggest focus issues for schoolchildren in different parts of the world. For instance, in the United Kingdom, a survey of teachers conducted in 2022 revealed a dramatic rise of children arriving in school hungry in the last six months, prompting some of them to steal food to eat, including from lunchboxes of fellow schoolchildren.⁴⁰⁹ More than 80% of teachers reported increase in the number of children going to school hungry in the past six months, affecting their learning environment. About 88% of children going to school hungry showed excessive tiredness at school, 84% were said to be easily distracted, and 74% exhibited disruptive behaviour.⁴¹⁰ Lack of meals in schools is also a key challenge in education in most African countries, Tanzania inclusive.

It is difficult to learn while hungry

In 2022, lack of food at schools was reported to be a challenge in various regions of Mainland Tanzania, including Songwe, Kilimanjaro, and Singida. In Songwe, it was reported in October 2022 that lack of food at pre-primary, primary and secondary schools in Songwe District was identified as one of the factors contributing to poor school performance.⁴¹¹ Anna Samiry, a teacher, said children from poor households find it difficult to learn and perform well on empty stomachs, and added that parents are reluctant to contribute food. Food insecurity for schoolchildren was therefore said to be a challenge. In Kilimanjaro, Moshi Municipal Council adopted a bylaw which makes it mandatory for parents to contribute funds for food for their children at school.⁴¹² Punishment for failure to make the contribution is a jail term of not less than one year and not more than two years or fine of

408 See UNICEF, *Education*, at <https://www.unicef.org/education>.

409 See David Cohen "Children come into class hungry and they can't concentrate, say teachers" Evening Standard Newspaper (online), 18 Oct 2022, at <https://www.standard.co.uk/news/london/children-arriving-school-hungry-risen-dramatically-survation-study-b1033452.html>; CHEFS IN SCHOOLS "PRESS RELEASE: SHOCKING RESEARCH REVEALS THE IMPACT OF HUNGER IN SCHOOLS, 80% OF TEACHERS SAY CHILD HUNGER IS AN ISSUE" 18 Oct 2022, at <https://chefsinschools.org.uk/press-release-shocking-research-reveals-the-impact-of-hunger-in-schools-80-of-teachers-say-child-hunger-is-an-issue/>.

410 Ibid.

411 Baraka Mesa "Ukosefu chakula shule waathiri ufaulu Songwe" HABARILEO Newspaper, 5 Oct 2022.

412 HABARILEO Newspaper, 1 Aug 2022.



not less than Tshs. 200,000 but not more than Tshs. 1,000,000. In Singida, lack of parental willingness to contribute for school meals (lunch) was cited as a challenge for many public schools in the region.⁴¹³ An education officer in Singida Municipality revealed that meals are not provided at 66.1% of primary and secondary schools and that only 33.9% of primary schools provide meals.

Videogame addiction compromising ability to focus on learning

In 2022, videogame addiction among schoolboys was reported to be a challenge in Dar es Salaam and various other regions, as revealed by *Mwananchi* Newspaper in March 2022.⁴¹⁴ Parents in Dar es Salaam and various other regions complained about the amount of time their children spend playing video games, especially PlayStation (PS). They called for the Government to either close all PS centres or set a specific amount of time they are to be open. Asha Ramadhani, resident of Yombo area in Dar es Salaam, said the Government should strongly intervene because too much videogaming was eating their children's time for studying and doing homework. She said her standard-six son goes to play the games for hours a day, sometimes returning as late as 10:00pm. Joyce James, resident of Tabata in the city, faces a similar predicament with her son, who is a standard five pupil. She said he has become addicted to the games, such that he steals money at home to go and play them. She added that he sometimes misses meals or does not take them on time.⁴¹⁵

In Morogoro, Zainabu Sanga, a teacher, mentioned that the children pick bad habits at the local videogaming centres as they meet with other children with different habits. In Arusha, Fatuma Mlay, resident of Majengo area, mentioned that some children do not concentrate with schooling at all because of videogames and some of them skip school from time to time.⁴¹⁶

3.1.2.3. Language of Instruction in Education: The debate Goes On

For many years, dating back to 1960s, there has been a debate in Tanzania over a proper language of instruction (LOI) in Tanzanian schools, dividing the nation into those who are pro-English and those who are pro-Swahili. It is clear, however, that the LOI plays a crucial role in determining the quality of education, as a vehicle through which education is delivered.⁴¹⁷ Currently,

413 HABARILEO Newspaper, 22 Apr 2022.

414 "Michezo ya 'PS' yawaliza wazazi" *Mwananchi* Newspaper, 20 Mar 2022.

415 Ibid.

416 Ibid.

417 Martha Qorro, Does Language of Instruction Affect Quality of Education?, *HakiElimu*, Working Paper 8, 2006, at <https://hakielimu.or.tz/download/does-language-of-instruction-affect-quality-of-education/?wpdmdl=8873&ref>



the education policy provides for use of both Swahili and English as LOIs, with the former preferred for teaching at primary school level (especially for public schools), and the latter used in teaching from secondary to university levels, except for Grade A teaching certificate college, where the LOI is Swahili.

Proponents of Swahili as the LOI claim that the issue of LOI has been ignored for a long time and created a negative impact on the quality of education. The use of Swahili, the language which both teachers and students understand very well, instead of English, is important in terms of enabling them to discuss, debate, ask and answer questions, and ask for clarifications.⁴¹⁸ According to them, studies have shown that most students and teachers in secondary schools struggle with using English as the LOI, causing only a handful of students to take part in active learning.⁴¹⁹ An argument has also been made that teachers who specialized in subjects other than English in secondary schools fail to be competent in English as the LOI.

On the other hand, those who argue in favour of English as the LOI, including Dr. Michael Kadege from the University of Dar es Salaam, argue that English is as difficult as Swahili, hence not really making it difficult for students to perform well academically.⁴²⁰ He adds that one may find that even those who argue for use of Swahili as the LOI prefer to study abroad and take their children to English medium schools, and that using Swahili as the only LOI would require massive investment in education.⁴²¹ Dr. Amos Magembe, an education specialist, notes that the use of English as the LOI better prepares youth for employment abroad and in international organizations and that given the choice, most parents would prefer to send their children to private schools, where English is the main LOI.⁴²²

English LOI proponents further point out that English is the most important language in international communication, trade, and commercial transactions. However, Prof. Martha Qorro, a communication and linguistics expert at the University of Dar es Salaam, has criticized this viewpoint for failing to differentiate between 'teaching English' and 'teaching in English.'

resh=640ceb1887c3a1678568216&ind=1618213846882&filename=wp_06_8_does_lang_instruc_fct_qual_edu_en.pdf.

418 Ibid.

419 *Does Language of Instruction Affect Quality of Education?* (supra).

420 "Tanzania education experts differ on medium of instruction" The Citizen Newspaper (online), 1 Aug 2018, at <https://www.thecitizen.co.tz/tanzania/news/national/swahili-or-english-tanzania-education-experts-differ-on-medium-of-instruction-2649760>.

421 Ibid.

422 "When will the language of instruction debate end?" The Citizen Newspaper (online), 21 Jun 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/when-will-the-language-of-instruction-debate-end--3854834>.



She argues that this argument is actually a good reason to teach English, and not teach in English.⁴²³

According to *HakeElimu*, a proponent of Swahili Language as LOI, the statements in the 2014 Education and Training Policy on the use of both Kiswahili and English as the LOI across school levels contribute to misinterpretation in implementation.⁴²⁴ They have faulted the policy for regarding English as the second language, assuming that learners know the language, which is not the case, also noting that the current use of English as LOI in all levels has resulted into poor learning and teaching of the language. They recommend that the policy to clearly state the LOI for each level of education and acknowledge English as a Foreign Language (EFL) and not a second Language (ESL) and thus guide how it should be adequately taught from early grades. It further recommended that Swahili Language is used as LOI for civic education at all levels of education and English Language to be taught at all levels regardless of subject combinations.⁴²⁵

3.1.2.4. Gaps in the 2014 Education and Training Policy

In 2021, *HakiElimu* conducted a critical analysis of the Education and Training Policy (ETP) of 2014, highlighting some key issues and providing some recommendations.⁴²⁶ The analysis sought to prepare a document that would inform the Government's plan to review the ETP.

Education stakeholders have expressed concern that the ETP does not meet the current demands of education and training in the country required to strengthen economic, social, scientific, and technological transformation. It has also been criticized for its inability to address challenges related to access to educational opportunities and quality of education and training in the country while at the same time developing adequate and competent human resources to transform and sustain the country's development.

According to the *HakiElimu* analysis, one of the major weaknesses of the ETP 2014 in terms of content is that the policy may not have been an outcome of adequate research evidence conducted for each education subsector from pre-primary to higher education. There is a concern that the policymaking was opinion-based instead of being evidence-based. Other key issues and

⁴²³ *Does Language of Instruction Affect Quality of Education?* (*supra*).

⁴²⁴ The Education We Want: A Critical Analysis of Education and Training Policy (ETP) 2014, Issues, and Recommendations, April 2021, at <https://www.policyforum-tz.org/sites/default/files/2022-02/The%20Education%20We%20Want.pdf>.

⁴²⁵ *Ibid.*

⁴²⁶ The Education We Want: A Critical Analysis of Education and Training Policy (ETP) 2014 (*supra*).



gaps in the policy include:

- ETP containing statements that are not clear and prone to misinterpretation, including relating to provision of fee-free education by assuming that educational costs are limited to fees only and not putting clear the cost-sharing policy between parents and the Government. For instance, for some parents believe that fee-free means everything is to be covered by the Government.
- ETP not being incremental by not adequately considering some or all aspects of the previous four policies.
- ETP being too general on responsibilities for education stakeholders. For instance, it does not assign responsibilities to specific education stakeholders, such as the Government education agencies and institutions responsible for curriculum design, implementation, and evaluation.
- ETP placing little emphasis on adult and non-formal education.
- ETP not being adequately supported by the legal framework.
- ETP lacking focus on separate education subsectors/levels.⁴²⁷
- ETP overlying on quantitative evidence to report the success of implementing past education policies instead of reporting tools.
- ETP lacking methodological evaluation framework and implementation strategies.
- ETP placing little emphasis on health, physical education, and sports.
- ETP placing more emphasis on centralization rather than decentralization of power in decision-making and education provision.
- ETP not providing national goals in education and specific objectives for the different levels of education from pre-primary schooling to higher education.
- ETP lacking comprehensive coverage of aspects for improving education quality.
- ETP focusing on top-down school inspection and not putting clear the framework for quality assurance in teacher education, higher education, technical, vocational, and adult and non-formal education.
- ETP not giving due consideration to the role of teachers in curriculum construction in schools.
- ETP reverting to Single Textbook Policy as opposed to Multiple Textbook Policy. The former is said to limit supply of adequate and high-quality educational materials relevant to the world of growing and dynamic knowledge and constraining teachers and students in opportunities

⁴²⁷ ETP has failed to separate the contents for different education levels from pre-primary to the highest level because the document was an outcome of merging of four national policies namely: Education and Training Policy (ETP 1995), Technical Education and Training Policy (1996), The National Higher Education Policy (1999), The National ICT Policy for Basic Education (2007). This merging watered down the quality of the Policy.



to access a variety of challenging and sometimes contradictory or opposing ideas.

- ETP emphasizing on the dominance of the Government in the production and purchase of educational materials, a policy which is less sustainable since it had provided little success in the past.
- ETP not providing strategies to reduce a high book-pupil ratio in primary and secondary schools to the planned 1:1.⁴²⁸
- ETP lacking strategies for moving to online access to teaching and learning materials (textbooks, reference books, teaching aids, subject syllabi, teachers' guide, etc.) for both teachers and students in all levels of education.
- ETP not providing policy framework and strategies for establishment of libraries in basic education.
- ETP not having specific policy strategies to eliminate gender inequity in the teaching of science and mathematics subjects in primary and secondary schools and higher and technical education institutions.
- ETP lacking specific policy objectives, statements, and strategies to guide teacher recruitment, training, deployment, and retaining or motivation as the major human resource in the education sector.
- ETP not considering teacher retention or motivation as a policy issue in Tanzania and not having a clear policy on the training, recruitment, deployment, and retaining or motivation of school librarians and laboratory technicians.
- ETP lacking a strategy for making financial resources equitable, predictable, and sustainable.

HakiElimu has made several recommendations to develop a better policy on education and training in Tanzania, including:

- Identifying and including consistently overall national goals in education.
- Avoiding universal policy statements as presented in the ETP (2014) that assume that the statements apply to all education subsectors (levels) from pre-primary to higher education since these are different contexts.
- Amending the education laws, including the Education Act of 1978 to preside the implementation of new or revised ETP.
- Enactment of separate laws for each subsector or level of education, for example, basic education, compulsory education, higher education, teacher education and vocational education.
- Involving major education stakeholders such as teachers, parents,

⁴²⁸ According to the Basic Education Statistics (URT, 2018) and the ETP document, the current book-pupil ratio is 1:3 in primary schools and 1:4-9 in secondary schools, which are high for effective teaching and learning.



private sectors, and think tanks because their involvement empowers them to own and implement the policy.

- Putting emphasis on bottom-up approach instead of the top-down approach in policymaking and formulation.
- Clarifying terminologies and statements in the ETP for implementation in various educational institutions.
- Establishing a National Qualifications Body/Authority.
- Collecting data and research evidence from each education subsector from pre-primary to higher education through partnerships with the public and private sector.
- Recruiting policy experts at all levels responsible for policy interpretation and implementation.
- Introducing additional one year for pre-primary education because early childhood education forms a basis for and has positive consequences on later learning.
- The policy to clearly state the LOI for each level of education.
- The policy to acknowledge English as a Foreign Language (EFL) and not a second Language (ESL) and thus guide how it should be adequately taught from early grades.
- Discouraging primary boarding schools because they tear away children from family care before boys and girls have attained adolescence age.
- Decentralizing some aspects of the Curriculum and make them tailor made according the region, district, or school, as to address the learners' actual needs.
- Policy to stipulate Curriculum content for the levels of education.
- Developing a solid system to enable the Government to coordinate the publish activities, vet and evaluate the textbooks that will be approved to be used in schools.
- Supporting separate policy that directs how textbooks are produced, evaluated, selected, printed, sold, and distributed.
- Policy to define the required qualifications and experience for someone to become a writer of educational/school textbooks.
- Revisiting the current assessment and evaluation methods to meet the competence-based requirements.
- Downgrading examinations to reduce fear, inferiority, and superiority and allow students to demonstrate what they have learned through continuous assessments.
- Designing grading system that will cluster students with similar capabilities in one group or grade.
- The entire education sector to be supervised by the Ministry of Education, Science, and Technology only.



- Making pre-primary education compulsory and provide children with food that meets their nutrition needs.
- Introducing teacher motivation as a policy issue and a special bonus for promotions outside the regular periodical rise to improve teachers' promotion.
- Developing separate policies on marginalized children, those with special needs, and those with disabilities to capture their specific needs in inclusive education settings.
- Providing a framework for the promotion, establishment, equipping, management, maintenance, and development of school libraries.

LHRC's View: There is need to review the 2014 Education and Training Policy and make relevant legal and policy reforms to safeguard right to education at all levels of education. LHRC welcomes the Government's decision to review the policy and is hopeful that all education and human rights stakeholders shall be adequately involved in the review process.

LHRC's Call: The review of the 2014 Education and Training Policy should take into consideration various recommendations provided by *HakiElimu*, as highlighted above.

3.1.3. Budgetary Allocation and Disbursement

In recent years, the Government has made efforts to increase budget allocation for the education sector. For instance, the budget has increased from 3.8 trillion for the financial year 2015/16 to 5.26 trillion for the financial year 2021/22.⁴²⁹ Despite this progress, the budgets allocated have been insufficient and failing to meet the international standard of committing up to 20% of total budget on education.⁴³⁰ This commitment was made in 2015 by 184 States around the world, including Tanzania, vital in achieving SDG 4 targets by 2030. Stakeholders have argued, and rightly so, that we need more budget to cope with student inflation following the introduction of free education policy from pre-school to form four.⁴³¹

429 See GOVERNMENT BUDGET FOR FINANCIAL YEAR 2015/16: CITIZENS' BUDGET EDITION, Issued by Ministry of Finance in collaboration with Policy Forum, at https://www.cabri-sbo.org/uploads/bia/tanzania_2015_formulation_external_citizens'_budget_ministry_of_finance_eac_sadc_english_1.pdf; THE CITIZENS' BUDGET A SIMPLIFIED VERSION OF THE GOVERNMENT BUDGET FOR THE FINANCIAL YEAR 2021/2022, Issued by Ministry of Finance in collaboration with Policy Forum, at https://policyforum-tz.org/sites/default/files/2021-10/The%20Citizens%20Budget%20for%20the%20Financial%20year%202021_21%20FINAL.pdf.

430 See Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4 Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all, at <https://unesdoc.unesco.org/ark:/48223/pf0000245656>. See also Legal and Human rights center(2020): Human rights protection and the Threats posed by COVID19 in Tanzania, Legal and Human rights center, Dar es salaam, Tanzania.

431 "Education Stakeholders Call for Improved Budget to Boost Quality" The Chanzo Initiative, 29 May 2022, at <https://thechanzo.com/2022/05/29/education-stakeholders-call-for-improved-budget-to-boost-quality/>.



In 2022, the budget allocated by the Government on education sector for the financial year 2022/23 was Tshs. 5.7 trillion.⁴³² This is equivalent to 13.7% of the overall budget, hence still falling short of the 20% international standard, which is instrumental in achieving SDG 4.

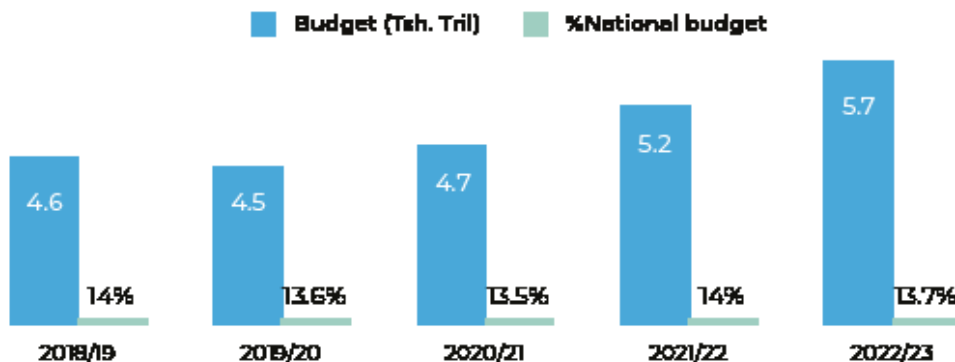


Figure 28: Budget allocation for the education sector for the financial years 2018/19 to 2022/23 and percentages of national budgets

Education stakeholders argued in 2022 that the budget allocated for the education sector in the financial year 2022/23 is not sufficient to address government priorities, including improving education quality, and continued to raise concerns over the capitation grants of Tshs. 10,000 per primary school student and Tshs. 25,000 per secondary school student, which are unrealistic given the current standards of living.⁴³³ They called for the Government to revisit the grants and raise the grant rates to Tshs. 23,000 and Tshs. 57,000 per primary and secondary school students respectively.⁴³⁴

Over the years, stakeholders have also expressed concern over delayed and partial disbursement of budget funds.⁴³⁵ However, for the financial year 2021/22, the Ministry of Education, Science and Technology disclosed that

432 See CITIZEN'S BUDGET BOOK: A SIMPLIFIED VERSION OF THE GOVERNMENT BUDGET FOR THE FINANCIAL YEAR 2022/23, Issued by Ministry of Finance in collaboration with Policy Forum, at https://www.mof.go.tz/uploads/documents/en-1660656080-Citizen%20Budget%202022_23%20English.pdf.

433 "Education Stakeholders Call for Improved Budget to Boost Quality" (*supra*).

434 Ibid.

435 See Policy Forum, Challenges of Education Sector Budget "A missed Opportunity to Transform Education Sector," Policy Brief 2:2013, at <https://www.policyforum-tz.org/sites/default/files/Educationbrief.pdf>; Tanzania Education Network (TENMET), REPORT ON EDUCATION BUDGET ANALYSIS IN TANZANIA 2016/17 – 2020/21, July 2021, at <https://campaignforeducation.org/images/downloads/t2/1784/education-budget-analysis-final.pdf>.



by April 2022, it had received 96% of the funds allocated for development expenditure,⁴³⁶ increasing from 74% for the financial year 2020/21.⁴³⁷

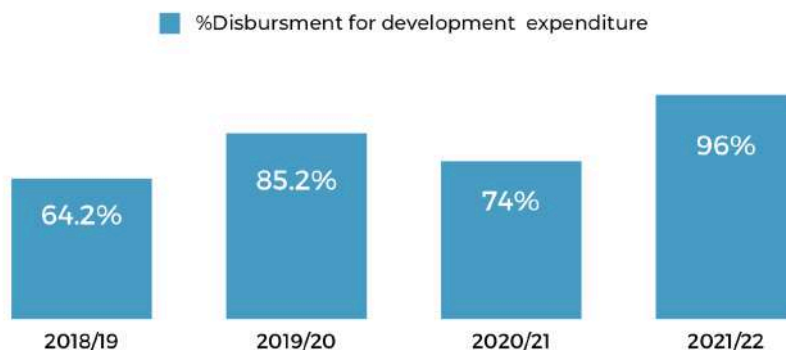


Figure 29: %Disbursement of funds allocated for development expenditure for education ministry for the financial years 2018/19 to 2021/22

Source: Education ministry budget speeches – 2018/19 to 2021/22

In his report on the performance of Local Government Authorities (LGAs) for the financial year 2020/21, released in March 2022, the CAG has also weighed on the issue of disbursement of capitation grants. According to the report, during this financial year the Ministry of Education, Science and Technology disbursed Tshs. 4.25 billion less than the required amount in 25 LGAs.⁴³⁸

3.1.4. Other Key Issues and Challenges

3.1.4.1. Proximity of Schools

Walking long distance to school negatively affects learning and performance among students,⁴³⁹ and this is a big problem in African countries, including

436 See HOTUBA YA WAZIRI WA ELIMU, SAYANSI NA TEKNOLOJIA PROF. ADOLF FAUSTINE MKENDA (MB), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2022/23, at <https://www.moe.go.tz/index.php/sw/article/hotuba-ya-bajeti-ya-wyest-mwaka-2022-23>.

437 See HOTUBA YA WAZIRI WA ELIMU, SAYANSI NA TEKNOLOJIA MHESHIMIWA PROF. JOYCE LAZARO NDALICHAKO (MB) AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2021/22, at <https://www.moe.go.tz/en/download/elimu-bulletin-toleo-maalum>.

438 See JAMHURI YA MUUNGANO WA TANZANIA, OFISI YA TAIFA YA UKAGUZI, RIPOTI YA MDHIBITI NA MKAGUZI MKUU WA HESABU ZA SERIKALI YA MAMLAKA ZA SERIKALI ZA MITAA, MACHI 2022, p. 112, at https://www.nao.go.tz/uploads/reports/RIPOTI_YA_UKAGUZI_WA_SERIKALI_ZA_MITAA_MWAKA_2020_21.pdf. (CAG LGAs 2020/21 report).

439 See Human Rights Watch, (2017). I had a dream to finish school: Barriers to secondary education in Tanzania, at <https://www.hrw.org/report/2017/02/14/i-had-dream-finish-school/barriers-secondary-education-tanzania>.



Tanzania, especially in rural areas. Some of the walks are not only long, but dangerous, leaving children exposed to various vulnerabilities, including sexual violence perpetrated by strangers; abductions for child trafficking; dangerous animals, especially for those residing in remote rural areas; and harsh weather conditions. Girls are disproportionately affected by long distances, and are more vulnerable to different forms of violence along the way.

Walking long distances to reach school also affects students' concentration in class, because they must wake up early than usual, occasionally or often arrive at school late, and some of them even arrive on empty stomach. Consequently, problems of irregular attendance and school dropout arise.

In 2022, LHRC documented at least two incidents of children walking long distance to reach school, reported in Songwe and Katavi Regions. In November 2022, it was disclosed that schoolchildren in Ngwala Ward, Songwe District, had to walk for up to 46 kilometres to get to school, prompting district authorities and parents to commence construction of a secondary school.⁴⁴⁰ It was reported that two classrooms, costing Tshs. 20 million, had been constructed.

In Katavi, a social welfare officer told LHRC human rights survey team that some children, aged around 6 to 9 years, in the region have been dropping out of school due to long distance they have to walk to reach school, usually more than 10kms.⁴⁴¹ The survey team came across a school child aged 8 years who had to rest along the way from school after walking a long distance.

'Some children have to walk long distances to reach school. Even an adult would not be able to cope with walking such long distances every day. Consequently, some children drop out of school because they can't walk such long distances.'

SWO, Katavi

⁴⁴⁰ Mary Mwaisenyé "Shule ya umbali wa kilomita 46 yawatesa wakazi wa Ngwala" Mwananchi Newspaper, 8 Nov 2022.

⁴⁴¹ LHRC Human Rights Survey 2022: Katavi Field Report.





Picture 3: A school child, aged 8 years, found resting after walking a long distance from school (left) and a schoolgirl (right) walking back home with her shirt over her head to protect herself from the sun in Katavi Region

Source: Field data, 2022

3.1.4.2. Shortages of Classrooms, Teachers, Toilets, and Other Learning and Teaching Facilities and Tools

In 2022, the quality of education, especially that provided in public schools, continued to be affected by shortages of classrooms, teachers, toilets, and other learning facilities and tools. The CAG report on performance of LGAs, released in March 2022, showed that there were shortages of 516,642 learning and teaching facilities and tools in primary schools and 136,278 in secondary schools in 77 LGAs, including classrooms, teacher houses, teacher offices, toilets, chairs, and tables.⁴⁴²

Table 12: Availability and shortage of learning and teaching facilities in 77 LGAs

Primary Schools				
N	Facilities	Required	Available	Shortage
1	Classrooms	124,268	49,533	74,735

⁴⁴² CAG LGAs 2020/21 report (*supra*), p. 113.



2	Teacher Houses	90,742	17,607	73,135
3	Teacher Offices	9,730	4,618	5,112
4	Chairs	150,833	84,944	65,889
5	Tables	632,062	446,222	185,840
6	Toilet Holes	178,547	66,616	111,931
TOTAL		1,186,182	669,540	516,642
Secondary Schools				
	Facilities	Required	Available	Shortage
1	Classrooms	16,319	13,250	3,069
2	Teacher Houses	22,103	4,011	18,092
3	Teacher Offices	2,044	637	1,407
4	Chairs	249,274	204,437	44,837
5	Tables	359,324	302,161	57,163
7	Toilet Holes - Students	29,096	17,600	11,496
8	Toilet Holes - Teachers	762	548	214
TOTAL		678,922	542,644	136,278

Source: CAG LGAs 2020/21 report

From the table above, it can be observed that, overall, shortage of education facilities was higher in primary schools (44%) than secondary schools (20%).⁴⁴³ This means more investment is needed in primary schools compared to secondary schools. For primary schools, shortage of teacher houses accumulated the largest percentage (81%), followed by toilet holes (63%), classrooms (60%), teacher offices (53%), chairs (44%), and tables (29%). For secondary schools, shortage of teacher houses also accumulated the largest percentage (82%), followed by teacher offices (69%), toilet holes for students (40%), toilet holes for teachers (28%), classrooms (19%), chairs (18%), and lastly tables (16%).⁴⁴⁴

Shortage of classrooms

Significant progress has been made since the Covid19 outbreak to address the problem of shortage of classrooms. Many classrooms have been

⁴⁴³ Writer's own analysis.

⁴⁴⁴ Ibid.



constructed since 2020, but schools in some areas of the country continue to experience shortage of classrooms. In 2022, LHRC documented reports of shortage of classrooms made in regions such as Iringa, Geita, Kilimanjaro, Manyara, Rukwa, Shinyanga, Mtwara, and Dodoma.

In Iringa, the administration of Kalenga Secondary School in Iringa District said it was forced to divide classes into two (two in one) due to shortage of classrooms at the school.⁴⁴⁵ In Manyara, in November 2022 it was reported that more than Tshs. 700 million was needed to address shortage of more than 9,000 classrooms to accommodate 27,000 primary school pupils in Kiteto District.⁴⁴⁶

In Rukwa, in March 2022, it was reported that some of the pupils at Makazi Mapya Primary School had to learn outside classrooms due to shortage of 13 classrooms.⁴⁴⁷ In Shinyanga, it was reported in August 2022 that primary schools in Kahama Municipal Council were facing shortage of 1,097 classrooms (58%).⁴⁴⁸ In December 2022, the President's Office - Regional Administration and Local Government (PO-RALG) and National Examinations Council of Tanzania (NECTA) statistics indicated that there was a deficit of 4,341 classrooms, presenting a challenge for students about to start secondary school.⁴⁴⁹

Some classrooms at schools in some of the regions were also said to be in dilapidated condition, presenting danger to students and teachers and creating a difficult learning environment. For instance, in Geita, in September 2022, it was reported that safety of 1,200 pupils at Hamulumo Primary School in Sengerema District was jeopardized by the depilated infrastructure at the school, including classrooms.⁴⁵⁰ Walls of 7 out of 11 classrooms were said to have cracks, some of which were big.⁴⁵¹ In Kilimanjaro, it was reported in September 2022 that teachers at Uhuru Primary School in Moshi Municipality bemoaned dilapidated state and shortage of classrooms.⁴⁵² They said the school was facing shortage of six classrooms, prompting them to combine some of the classes.⁴⁵³ In the same month, it was reported in Mtwara that teachers, parents and pupils bemoaned the dilapidated state of some of

445 Bakari Kiango "Sekondari yataja sababu darasa moja kutumika mara mbili" Mwananchi Newspaper, 9 Mar 2022.

446 Joseph Lyimo "Wilaya ya Kiteto yapungukiwa madawati 9,000" Mwananchi Newspaper, 15 Nov 2022.

447 Mussa Mwangoka "Wanafunzi wanasomea nje kwa kukosa madarasa" Mwananchi Newspaper, 11 Mar 2022.

448 "Wanafunzi 200 wanasoma darasa moja" Nipashe Newspaper, 24 Sep 2022.

449 Baraka Loshilaa "Kidato cha kwanza mwaka 2023 na upungufu wa madarasa 4,341" Mwananchi Newspaper, 27 Dec 2022.

450 Daniel Makaka "Usalama wa watoto 1,200 hatarini" Mwananchi Newspaper, 9 Sep 2022.

451 Ibid.

452 Anjela Mhando "Ubovu shule wahatarisha usalama wa wanafunzi" Nipashe Newspaper, 30 Sep 2022.

453 Ibid.



the classrooms and other buildings at Mkalapa Primary School.⁴⁵⁴ One of the teachers said the situation becomes worse during the rainy season.

In Morogoro, human rights survey found there was shortage of classrooms at Chamwino B, Kambarage, and Jitegemee Primary Schools.⁴⁵⁵ For instance, at Jitegemee Primary School it was found that there were only 5 classrooms to accommodate 1,081 pupils. Consequently, the pupils were divided into batches and taking turns in using the classrooms, the first batch entering class from 8:00am to 11:00am and the second from 11:00am to 04:00pm.

Shortage of teachers and lack of on-job teacher training

The problem of shortage of teachers in Tanzania has been compounded by significant increase in enrollment following the introduction of fee-free education in 2016. In September 2022, it was reported that there is shortage of 68,220 primary school teachers in the country, based on the estimates provided by the most recent BEST statistics produced by PO-RALG.⁴⁵⁶ According to the report, the situation is worse in 2,098 schools where one teacher usually teachers 100 or more pupils, while the standard ratio is one teacher for 45 pupils. Some of the schools have as few as one or two teachers.⁴⁵⁷

In May 2022, it was reported that demand for primary and secondary school teachers stood at 437,623 but only 259,808 were available, equivalent to a 40.6% deficit.⁴⁵⁸ Reported government plan to hire more teachers would reportedly address less than 5% of the deficit.⁴⁵⁹ Education stakeholders proposed hiring of more teachers each year to address the gaps.

In 2022, education stakeholders also pointed out the problem of lack of on-job teacher training. They noted that 80% of teachers had not attended such training in the past five years, as indicated in the CAG reports, due to lack of sufficient budget.⁴⁶⁰

In his report on the performance of local government authorities (LGAs) for the financial year 2020/21, released in March 2022, the CAG indicated that shortage of teachers was observed in 48 LGAs that were audited. According to his findings, there were only 23,881 primary school teachers out of the

454 Mwanamkasi Jumbe "Uchakavu wa shule watishia maisha ya walimu, wanafunzi" Mwananchi Newspaper, 24 Sep 2022.

455 LHRC Human Rights Survey 2022: Morogoro Field Report.

456 Aurea Simtowe "Hii hapa dawa ya uhaba wa walimu" Mwananchi Newspaper, 6 Sep 2022.

457 Ibid.

458 "Education Stakeholders Call for Improved Budget to Boost Quality" (*supra*).

459 Ibid.

460 "Education Stakeholders Call for Improved Budget to Boost Quality" (*supra*).



required 40,458, equivalent to a deficit of 41%.⁴⁶¹ Factors contributing to this situation include teachers seeking transfer to urban areas due to poor working environment and new teachers not reporting for work in rural areas.⁴⁶² Consequently, attaining the goal of the ratio of 1 teacher for 45 students by end of 2022 has been deemed to be an impossible task for many public schools in Mainland Tanzania, especially those located rural areas.

Shortage of toilets and toilet holes

As indicated in the CAG report above, shortage of toilets and toilet holes is still a big problem in many public schools in Mainland Tanzania. Some of the available toilets are also characterized by extremely poor hygiene, while others are dilapidated, prompting fears of structure collapse. This situation affects the learning environment, including causing poor concentration in class. Lack of proper school toilets threatens health, education, and safety of schoolchildren.⁴⁶³

In 2022, LHRC documented reports of shortages of toilets and toilet holes reported in various regions, including Tabora, Dodoma, Dar es Salaam, and Shinyanga. For instance, in May 2022, it was reported in Tabora that Mwanzugi Primary School in Igunga District was faced with a challenge of shortage of 84 toilet holes for pupils.⁴⁶⁴ In August 2022, it was reported in Dodoma that Kiboriani Primary School, located in Kiboriani Village, Mpwapwa District, was faced with various challenges, including acute shortage of toilet holes and dilapidated state of school buildings and teacher houses.⁴⁶⁵ 19 toilet holes were said to be needed at the schools to accommodate 420 pupils.⁴⁶⁶ In the same month, it was reported in Shinyanga that primary schools in Kahama Municipal Council faced shortage of 1,097 classrooms (58%) and 3,725 toilet holes.⁴⁶⁷ In Dar es Salaam, shortage of toilet holes was reported at Mashujaa Primary and Secondary Schools.⁴⁶⁸

In Morogoro, human rights survey found there was shortage of toilet holes at Chamwino B and Kambarage Primary Schools.⁴⁶⁹ For instance, at the latter there were only 11 toilet holes (6 for girls and 5 for boys) to serve 1,662

461 CAG LGAs 2020/21 report (*supra*), p. 114.

462 Ibid.

463 Naimul Karim "A lack of school toilets is putting 620 million children in danger. Here's what needs to be done" World Economic Forum & Thomson Reuters Foundation, 19 Nov 2018, at <https://www.weforum.org/agenda/2018/11/lack-of-school-toilets-puts-620-mln-children-in-danger-report/>.

464 "Karatasi zinapotumika mbadala wa maji chooni" Mwananchi Newspaper, 2 May 2022.

465 "Shule yenye mazingira hatarishi kwa wanafunzi, walimu na elimu" Nipashe Newspaper 7 Aug 2022.

466 Ibid.

467 "Wanafunzi 200 wanasoma darasa moja" Nipashe Newspaper, 12 Aug 2022.

468 LHRC Human Rights Monitoring 2022.

469 LHRC Human Rights Survey 2022: Morogoro Field Report.



pupils, while at the former there only 8 toilet holes (4 for girls and 4 for boys) to serve 1,058 pupils. This is way beyond the recommended maximum toilet hole to pupil ratio of 1:40 for girls and 1:50 for boys.⁴⁷⁰ The available toilets were also not free from excreta and stagnant urine, contrary to the National Guideline for Water, Sanitation and Hygiene for Tanzania Schools of 2016.⁴⁷¹



Picture 4: Condition of toilets at Kambarage and Jitegemee Primary Schools in Morogoro

Source: Field data, 2022

In some schools in Dar es Salaam, Morogoro, Katavi, Mbeya, and Pwani, toilets at some schools were said to be in dilapidated condition, dirty, and not child friendly.⁴⁷² Some toilets were said to lack lockable doors to ensure privacy for users. Non-availability of toilet holes for children with disabilities was also said to be a big challenge.⁴⁷³

Shortage of textbooks

The CAG LGAs report for the financial year 2020/21, released in March 2022, shows that Ministry of Education, Science and Technology had not distributed 4,855,737 books worth Tshs. 19.42 billion in 22 LGAs.⁴⁷⁴ According to the report, the ministry is required to use 40% of the capitation grants to buy and distribute books in primary schools. However, out of the required 6,323,566 books, the ministry had only distributed 1,467,829 books, equivalent

⁴⁷⁰ See the NATIONAL GUIDELINE FOR WATER, SANITATION ANDHYGIENE FOR TANZANIA SCHOOLS, July 2016, at <https://www.wateraid.org/tz/sites/g/files/jkxooof361/files/national-guidelines-for-wash-in-schools.pdf>.

⁴⁷¹ Ibid.

⁴⁷² LHRC Human Rights Monitoring 2022.

⁴⁷³ Ibid.

⁴⁷⁴ CAG LGAs 2020/21 report (*supra*), p. 110.



to 23% of the target.⁴⁷⁵ The CAG attributed this situation to inadequate efforts on the part of the ministry to ensure the required books are purchased and distributed as per the government circular on capitation grants.⁴⁷⁶ The most affected LGA was Babati District Council in Manyara Region, which required 130,488 books but did not receive a single one, followed by Buchosa District Council (Mwanza), which received 717,173 books less; Tarime District Council (Mara), which received 645,352 books less; Kinondoni Municipal Council (Dar es Salaam), which received 501,337 less books; and Dodoma City Council (Dodoma), which received 445,239 books less.⁴⁷⁷ Shortage of textbooks has also been attributed to overreliance on the capitation grants as the only source of financing textbooks.⁴⁷⁸ The Education and Training Policy (ETP) needs to provide policy strategies for producing, distributing, and financing school educational materials that encourage active learning and collaboration or social learning.⁴⁷⁹

Shortage of other learning facilities and tools

In 2022, LHRC documented reports of shortages of other learning facilities, including shortages of desks, laboratories, and ICT facilities. These reports were made in Lindi, Shinyanga, and Dar es Salaam Regions.

In Lindi, it was reported in September 2022 that 24,260 out of 265,488 students in various primary and secondary schools in the region were sitting on the floor in class due to shortage of desks at their respective schools.⁴⁸⁰ The schools include Kivinje, Namangale, Kaloleni, Uhuru, and Kibukuta.⁴⁸¹ In the same month, it was reported in Shinyanga that secondary schools in Kahama Municipality were faced with shortage of 6,000 desks to accommodate students who had completed primary education.⁴⁸²

Shortage of laboratories and laboratory equipment in schools, especially secondary schools, continues to be a challenge in some schools. In August 2022, it was reported that according to the BEST educational statistics reports released by the government, secondary schools are faced with shortage of 6,177 laboratories, equivalent to 50%, to facilitate teaching of Biology, Chemistry and Physics subjects.⁴⁸³

475 Ibid.

476 Ibid, p. 111.

477 CAG LGAs 2020/21 report (*supra*), p. 111.

478 The Education We Want: A Critical Analysis of Education and Training Policy (ETP) 2014 (*supra*).

479 Ibid.

480 Said Hamdani "Wanafunzi 24,000 hawana madawati" Nipashe Newspaper 10 Sep 2022.

481 Ibid.

482 Shaban Njia "Wanafunzi hatarini kukosa madawati 6,000 sekondari" Nipashe Newspaper, 29 Sep 2022.

483 "Uhaba wa maabara unavyotishia ushindani wa wahitimu nchini" Mwananchi Newspaer, 10 Aug 2022.



Integration of ICT in teaching and learning in Tanzania is not without its challenges, largely contributed by shortage of ICT facilities, leading to high student-to-computer ratio. In May 2022, the Government revealed that public schools are faced with shortage of ICT equipment, as an average of 371 pupils and students have to share one ICT tool.⁴⁸⁴

In Morogoro, human rights survey found shortage of desks at Chamwino B, Kambarage, and Jitegemee Primary Schools.⁴⁸⁵ This makes for a difficult teaching and learning environment.

3.1.4.3. Violence against Children in School and Other Settings

As discussed in detail in Chapter Five of this report, violence is one of the biggest challenges children face, including in school settings. Children are subjected to all forms of violence, namely sexual violence, physical violence, psychological violence, and economic violence, which hinder or affect effective realization of their right to education.

In school settings, teachers, especially male teachers, are among the major perpetrators of violence against children, especially sexual violence. Through media survey and human rights monitoring, LHRC documented at least five incidents of teachers accused of sexual violence against their female students. However, it should be noted that many such incidents go unreported, sometimes to ‘protect school reputation.’

In October 2022, the Teachers’ Service Commission (TSC) announced that in the period of March 2021 to September 2022 it had fired 919 teachers for disciplinary issues.⁴⁸⁶ Some of them were fired for indulging in sexual relationships with their students.⁴⁸⁷ In the same month, the Deputy Minister of President’s Office – Regional Administration and Local Government, Hon. Dr. Festo Dugange, disclosed that 328 teachers were accused of engaging in sexual relationships with students.⁴⁸⁸ In December, Rukwa Regional Commissioner, Queen Sendiga, warned teachers against indulging in sexual relationships with students.⁴⁸⁹

3.1.4.4. Corporal Punishment

Corporal punishment in schools is another form of violence against children that has been discouraged for being inhumane and detrimental

484 “371 pupils share one ICT tool, government data reveals challenges” The Citizen Newspaper, 5 May 2022.

485 LHRC Human Rights Survey 2022: Morogoro Field Report.

486 “Walimu 919 nchini wafukuzwa kazi” Nipashe Newspaer, 29 Oct 2022.

487 Ibid.

488 Magnus Mahenge “Walimu wengi watoro” HABARILEO Newspaper, 19 Oct 2022.

489 Gurian Adolf “Sendiga awaonya walimu kufanya ngono na wanafunzi” Nipashe Newspaper 28 Dec 2022.



to a productive learning environment.⁴⁹⁰ Despite being contrary to the country obligations under various international and regional human rights instruments, corporal punishment is legal in Tanzania, provided for under the Education Act and the Education (Corporal Punishment) Regulations, 2002. Corporal punishment may be administered where there is a serious breach of school code of discipline or grave offence committed whether within or outside the school which is deemed by the school to have brought or capable of bringing the school into disrepute.⁴⁹¹ The punishment is administered by the head of the school, but he/she is allowed to delegate this to another teacher in writing. The maximum number of strokes that can be administered is four and considerations of gravity of the offence, age, health, and sex of the pupil or the student offender should be made.⁴⁹²

The nation remains divided over the use of corporal punishment, as some want the practice to continue⁴⁹³ while others indicate that it needs to be abolished. Some education stakeholders, including LHRC and *HakiElimu*, have called for adoption of alternative punishments, which are not cruel.⁴⁹⁴

In 2022, corporal punishment continued to be administered by teachers in various parts of the country. One of the key obstacles in addressing this form of violence against children is the legal framework, which allows the practice. Another key challenge is the social context, characterized by majority of Tanzanians, including community leaders, parents, and teachers, who strongly believe that corporal punishment is necessary when teaching children, in both school and home settings.⁴⁹⁵ In any case, LHRC has observed that the guidelines for imposing corporal are usually not followed by teachers, sometimes leading to devastating consequences, including deaths of students. For instance, in August 2018, it was reported that a 13-year-old student at Kibeta Primary School in Bukoba Municipality, Kagera Region was severely beaten to death by his teacher, Mr. Respicius Mtazangira, upon being accused of stealing another teacher's handbag.⁴⁹⁶ In 2021, another child (9), a pupil at Ziimbili Primary School in Dar es Salaam,

490 See Human Rights Watch, "Corporal Punishment in Schools and Its Effect on Academic Success" Joint HRW / ACLU Statement, 15 April 2010, at <https://www.hrw.org/news/2010/04/15/corporal-punishment-schools-and-its-effect-academic-success-joint-hrw/aclu>; UNICEF, Corporal punishment is harming our children, 18 October 2022, at <https://www.unicef.org/tanzania/stories/corporal-punishment-harming-our-children>.

491 HakiElimu, *Litigating the Right to Education in Tanzania: Legal, Political, and Social Considerations and Potential Applications*, February 2011, at https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/HakiElimu_Litigating_the_Right_to_Education_in_Tanzania_2011.pdf.

492 Ibid.

493 See Mtasiga Paul, Impact of Corporal Punishment on Students' Discipline in Tanzania: The Case of Selected Secondary Schools in Bukombe District, Tengeru Community Development Journal ISSN 1821-9853(Print) ISSN 2665-0584(online) Vol. 7, No.2, 2020, at <https://tcd.ac.tz/wp-content/uploads/2022/05/Mtasigazya.pdf>.

494 LHRC (2019), Tanzania Human Rights Report 2018, at www.humanrights.or.tz; HakiElimu, *Litigating the Right to Education in Tanzania: Legal, Political, and Social Considerations and Potential Applications* (supra).

495 Ibid.

496 LHRC (2019), Tanzania Human Rights Report 2018 (supra).



reportedly died a few days after being caned by her Mathematics teacher for allegedly failing to accurately read the mathematical table.⁴⁹⁷ In October 2022, another incident was reported in Mtwara, whereby Amina Ally, (16) reportedly died after being caned by a teacher for allegedly failing to correctly answer a question.⁴⁹⁸

LHRC's View: Corporal punishment constitutes an act of violence against children and amounts to cruel treatment. It also contravenes Tanzania's international human rights obligations.

LHRC's Call: The Government to amend the Education Act and Law of the Child Act to abolish corporal punishment and replace it with alternatives to corporal punishment.

3.1.4.5. Child Pregnancy and Child Marriage

Child/teenage pregnancy and child marriage hinder girls from effectively realizing their right to education. Child pregnancy is the biggest factor behind girls' school dropout in Tanzania.

Through media survey and human rights monitoring, LHRC documented over 6,000 reported child pregnancy incidents, reported in various regions, including Kigoma, Pwani, Mwanza, Katavi, Rukwa, and Arusha. LHRC's assessment concluded that Kigoma continues to record the biggest number of reported cases of child/teen pregnancy.

In 2021, LHRC documented 37 incidents of child marriage through media survey and human rights monitoring. In 2022, the number of documented incidents decreased to 16, reported in various regions across Mainland Tanzania, including Mara, Katavi, Shinyanga, Dodoma, and Arusha Regions. Dreams of many girls of attaining a good education and creating a better life in the future continue to be shattered by child marriage, which is fueled by the Government's reluctance to amend the Law of Marriage Act of 1971 to prohibit such marriage to safeguard girls' rights and welfare.

3.1.4.6. Child Labour Affecting Children's Education

Child labour robs children time to learn in school, causing some of them to underperform and others dropping out of school altogether. One of the causes of child labour is poverty, which has remained rampant in some

⁴⁹⁷ See "MWANAFUNZI AFARIKI BAADA YA KUCHAPWA NA MWALIMU WA HISABATI? "BABA NAKUFA" MillardAyo, at <https://www.youtube.com/watch?v=on3SzAVdIAo>.

⁴⁹⁸ See "Mwanafunzi afariki akidaiwa kupigwa na Mwalimu" EATV (online), 21 Dec 2022, at <https://www.eatv.tv/news/current-affairs/mwanafunzi-afariki-akidaiwa-kupigwa-na-mwalimu>.



parts of Tanzania, especially in resource-rich areas, leaving many children quitting classes to engage in income-generating activities.⁴⁹⁹

In September 2022, a survey conducted by *The Citizen* Newspaper in Nyang'wale and Chato Districts revealed that poverty in the region still drives many pupils to money generating activities at tender age. In one of the primary schools in Chato District, the head teacher explained that more than 50 pupils drop out yearly due to poverty where teens employ themselves in fishing and agricultural activities.⁵⁰⁰

Through human rights monitoring, in 2022 LHRC documented at least 10 incidents of child labour, reported in Mbeya, Geita, and Shinyanga Regions. Most of the children were said to be working in mines and farms.⁵⁰¹ LHRC documented 53 more incidents through the Human Rights Survey 2022, reported and observed in more than half of the surveyed regions, including in Katavi, Kigoma, Geita, Njombe, Mbeya, and Iringa.

3.1.4.7. Parents Rooting for their Children to Fail Exams

In 2022, some parents were accused of telling and encouraging their children to deliberately fail in their examinations. LHRC documented such reports made in Songwe, Geita, Njombe, Katavi and Shinyanga Regions. LHRC found that girls are mainly asked to fail so that they can get married.

In Songwe, in March 2022, reports emerged in Songwe District that some women in Ilasilo Village were telling their female children to deliberately underperform in school and fail their examinations, with the view of marrying them off in exchange for property.⁵⁰² Earlier in February 2022, a 14-year-old child, Elizabeth Samweli, resident of Songambebe Village in Shinyanga District, filed a complaint against her father at the Village Executive Office for refusing to take her to start secondary school.⁵⁰³

In October 2022, some the parents in Makete District, Njombe Region, were reportedly threatening and ordering their children to fail their national standard seven exams, with some of them telling their children that if they pass then they (the parents) shall die.⁵⁰⁴ In the same month, a standard-seven pupil at Shahende Primary School in Geita District, Geita Region, was

499 "Resource-rich Geita and the problem of school dropouts" *The Citizen* Newspaper, 11 Sep 2022.

500 Ibid.

501 LHRC Human Rights Monitoring 2022.

502 Nebard Msokwa "Wanawake wadaiwa kushawishi watoto wasifanye vizuri shuleni" *Nipashe* Newspaper 16 Mar 2022.

503 "Mtoto amshaki baba kwa kukataa kumpeleka kidato cha kwanza" *HABARILEO* Newspaper, 10 Feb 2022.

504 Elizabeth John "Wazazi wadaiwa kutisha watoto wasifaulu mithani" *Nipshe* Newspaper, 20 Oct 2022.



reportedly left in great bodily pain and unable to continue doing national examinations after his mother burned his hands.⁵⁰⁵ While the mother claimed she did so because the son had stolen Tshs. 30,000, the head teacher said the child had told him she did so because she did not want him to do the national examinations, but he went to the first exam. Feeling betrayed, the mother decided to punish the child by burning his hands. The headteacher also stated that there has been a tendency of parents in the village demanding their children to deliberately fail their national exams so that they stay at home and help them in their economic activities.⁵⁰⁶

'We were alarmed when we saw that performance of some of the brighter students was dropping day by day. We decided to call a meeting with parents, Village Executive Officer, and Ward Executive Officer. That is when it was revealed that some parents were telling their children that they would die if the children passed their examinations. .'

Teacher - Njombe

'Some parents are forcing their children to fail their examinations so that they can marry them or make them work to take care of the family.'

PECO NGO worker – Nsimbo, Katavi

LHRC's View: The growing tendency of parents asking their children to deliberately fail their examinations is more prevalent in rural areas and is mainly contributed by poverty and lack of awareness on importance of education among parents. Child marriage and child labour are also contributing factors.

LHRC's Call: Government stakeholders, led by the Ministry of Education, Science, and Technology, to collaborate with CSOs in raising public awareness on the importance of education, especially in rural areas.

3.1.4.8. Menstrual Hygiene Concern for Schoolgirls

Menstrual hygiene facilities are important in keeping girls in schools. In recent years, studies have shown that most schools in Tanzania lack sufficient WASH facilities in terms of water, privacy, and adequate waste disposal.⁵⁰⁷ Consequently, girls are forced to miss class, stay at home during

⁵⁰⁵ Yohana Shida "Aunguzwa mikono, ashindwa kufanya mtihani la 7" HABARILEO Newspaper, 7 oct 2022; Rehema Matowo "Mwalimu afichua sababu mwanafunzi kujeruhiwa" Mwananchi Newspaper, 7 Oct 2022.

⁵⁰⁶ Ibid.

⁵⁰⁷ See TAWASANET, Study Report: Improvement of Menstrual Hygiene Management in Schools



days of heavy flow and miss school altogether during menstruation.⁵⁰⁸ Limited access to menstrual hygiene facilities therefore affects girls' academic performance. Lack of or limited access to menstrual sanitary pads significantly affects girls' education and girls may miss up to four classes each month during their menses if they do not have meaningful access to menstrual hygiene facilities.⁵⁰⁹

In 2022, LHRC documented at least one report of menstrual hygiene challenge among schoolgirls, reported in Geita Region. In March, 2022, it was reported that most schools in the region lacked changing rooms for girls, which presents a big challenge for schoolgirls, adding to the challenge of menstrual hygiene facilities at schools.⁵¹⁰ It was reported that at some schools girls use headteacher office as makeshift-changing room, but not all of them are comfortable with that, hence others decide to skip school during menstrual period.⁵¹¹

LHRC's Call: The Ministry of Education, Science, and Technology to take steps to improve menstrual hygiene in schools, especially public schools. The Government should also remove tax on sanitary pads, which was re-introduced in 2019.

3.1.4.9. Truancy and School Dropout

Truancy and school dropout are among the major factors for children not to effectively realize their right to education in Tanzania. In 2022, LHRC documented reports of truancy and school dropout in regions such as Pwani, Mbeya, and Dodoma. For instance, in March 2022 Pwani Regional Commissioner, Aboubakar Kunenge, stated that 2,454 of the standard seven pupils who had passed their national examinations had not reported to their respective secondary schools by March 18th 2022, and directed that legal action is taken against their parents.⁵¹² In Tabora, it was reported in April that, 4,408 out of 8, 137 students who were enrolled in Urambo District (more than 50%) did not graduate.⁵¹³

However, in 2022, it was reported that LGAs in some regions such as Dodoma and Mbeya had made efforts to ensure children who dropped out

in Tanzania, at <http://www.tawasenet.or.tz/files/TAWASANET%20MHM%20Study%20Report%20-%202015.pdf>, accessed 7th March 2019; See also Fact Sheet, Menstrual Hygiene Management (MHM) to school girls at <http://www.tawasenet.or.tz/files/Fact%20Sheet%20MHM%20Tanzania.pdf>.

508 Ibid.

509 See The World Bank "Keeping Tanzania's Girls in School: Investing in Menstrual Hygiene" 12 December 2019, at <https://www.worldbank.org/en/news/feature/2018/12/12/keeping-tanzanias-girls-in-school-investing-in-menstrual-hygiene>, accessed 7th March 2020.

510 Rehema Matowo "Wanafunzi wahitaji vyumba kujisitiri wakati wa hedhi" Mwananchi Newspaper, 5 Mar 2022.

511 Ibid.

512 HABARILEO Newspaper, 25 Mar 2022.

513 "Maelfu wakatisha masomo" Nipashe Newspaper, 25 Apr 2022.



of school return to school. For instance, the President's Office – Regional Administration and Local Government (PO-RALG) stated in April that 909 students who had stopped attending school for different reasons had returned to school to continue their education journey.⁵¹⁴ In May 2022, Mbeya Regional Commissioner, Juma Omela, said 178 children who had stopped attending school in the region for different reasons were returned to school to continue with their studies.⁵¹⁵

In his report on performance of LGAs, released in March 2022, the CAG indicated that pregnancy is the major reason for girls' school dropout, which is contributed by factors such long distance from home to school and family environment. As discussed above, parental pressure is another reason for school dropout, usually because of poverty and to subject children to child marriage and child labour. LHRC has also observed that some children may opt to drop out of school due to poor learning environment, characterized by various challenges highlighted above, including shortages of classrooms and desks. Other key factors include parental apathy and lack of concern towards their children's education, divorce and family separation.

3.1.5. Key Recommendations

- The Government, through the Ministry of Finance and Planning, to increase budgetary allocation for the education sector in line with international standards and ensure full and timely disbursement of funds.
- The Ministry of Education, Science and Technology to address challenges faced by teachers to ensure they work in favourable conditions, as a key measure in improving quality of education and achieving key targets under Sustainable Development Goal (SDG) 4 and the Tanzania Development Vision 2025.
- The Ministry of Education, Science and Technology to collaborate with the Ministry of Community Development, Gender, Women and Special Groups to the devise strategies of preventing violence against children perpetrated in school settings, including by teachers.

⁵¹⁴ Nipashe Newspaper, 2 Apr 2022.

⁵¹⁵ "Vijana 178 walioacha masomo warudishwa shuleni"



3.2. Right to Health

About the right

- Means right to the highest attainable standard of health.
- Core components are availability, accessibility, acceptability, and quality.
- Achieving this right is both central to, and dependent upon, the realisation of other human rights, to food, housing, work, education, information, and participation.

In 2022, key right to health issues and violations in Mainland Tanzania included budgetary constraints; shortage of healthcare workers; mental health and suicide; violence against women and girls; shortage of equipment, medicines, and medical supplies; and sexual and reproductive health challenges.

3.2.1. Government Action

Efforts made by the Government in ensuring progressive realization of the right to health in 2022 included hiring of new health workers, construction of health facilities, procurement and distribution of essential medicines and medical supplies, provision of mobile health services, and Covid19 vaccination. For instance, in September 2022 the Government told the Parliament that it had completed construction of buildings at 85% of 555 dispensaries in various towns and municipal councils across the country in the financial year 2021/22.⁵¹⁶ In this month, the Government also tabled a bill before the Parliament, seeking provision of universal health coverage.⁵¹⁷ In October 2022, it was also reported that 400 patients had been attended through MOI Mobile Clinic stationed at the Cardinal Rugamwa Hospital in Ukonga, Dar es Salaam.⁵¹⁸

In April 2022, the President granted permission to hire new 7,612 health workers.⁵¹⁹ In June 2022, the Minister of PO-RALG, Hon. Innocent Bashungwa, announced that 6,876 applicants, of whom 3,217 (46.8%) were female and 3,659 (53.2%) were male, met the required qualifications, including 42 PWDs (0.61%).⁵²⁰ He also stated that 736 positions were not filled because the applicants lacked required qualifications, including dentists (50), dental

516 "Over 85 per cent of dispensaries completed" DAILYNEWS Newspaper 17 Sep 2022.

517 "Universal health coverage Bill set for Bunge tabling" The Citizen Newspaper, 12 Sep 2022.

518 "Kiliniiki tembezi ya MOI yawatibu 400" Nipashe Newspaper, 15 Oct 2022.

519 See TAARIFA KWA UMMA KUHUSU AJIRA MPYA ZA UALIMU NA KADA ZA AFYA (Statement by Minister of PO-RALG, Hon. Innocent Bashungwa), at <https://www.tamisemi.go.tz/storage/app/media/uploaded-files/TAARIFA%20KWA%20UMMA%20KUHUSU%20AJIRA%20JUNI%202022.pdf>

520 Ibid.



therapists (43), and radiologists (86).⁵²¹

3.2.2. Budgetary Allocation and Completion of Health Projects

Budgetary Allocation and Disbursement

In the past five financial years (2018/19 to 2022/23), the budget for the health sector has averaged 5.84%, exceeding 5% only once during the financial year 2019/20. This does not constitute even half of the international standard set under the Abuja declaration, which requires setting at least 15% of national budget for the health sector.⁵²² For the year 2021/2022, the budget allocated for the sector was 2.02 trillion, equivalent to 5.5% of the total government budget. For the financial year 2022/23, the budget fell to 2.1 trillion, equivalent to 5.1% of the total government budget.⁵²³

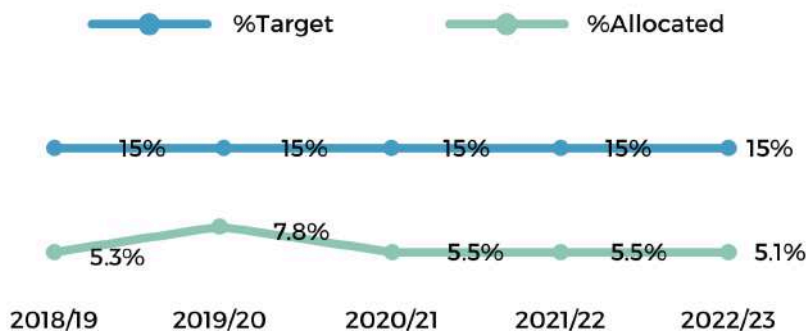


Figure 30: % Government budget allocation in the health sector vis-à-vis required target 2018/19 to 2022/23

Like in the education sector, health stakeholders have also expressed concern over disbursement of funds in the health sector.⁵²⁴ For instance, for the financial year 2021/22, the only 54% of the budget for development expenditure was disbursed by March 2022.⁵²⁵

521 Ibid.

522 See the Abuja Declaration on HIV / AIDS, Tuberculosis and other related Infectious Diseases, 2001 at <https://au.int/sites/default/files/pages/32894-file-2001-abuja-declaration.pdf>.

523 See CITIZEN'S BUDGET BOOK: A SIMPLIFIED VERISION OF THE GOVERNMENT BUDGET FOR THE FINANCIAL YEAR 2022 / 23, Issued by Ministry of Finance in collaboration with Policy Forum, at https://www.mof.go.tz/uploads/documents/en-1660656080-Citizen%20Budget%202022_23%20English.pdf.

524 See UNICEF, HEALTH BUDGET BRIEF 2020: MAINLAND TANZANIA, at <https://www.unicef.org/esa/media/8416/file/UNICEF-Tanzania-Mainland-2020-Health-Budget-Brief-revised.pdf>; See also CAG LGAs 2020 / 21 report (*supra*), p. 120.

525 See HOTUBA YA WAZIRI WA AFYA MHE. UMMY ALLY MWALIMU (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA AFYA KWA MWAKA



LHRC's View & Call: To meet international standards and realize key health-related targets, the Government must strive to significantly improve budget allocation for the health sector. Addressing loopholes in revenue collection, including 'generous' tax incentives, can be a good start in increasing revenue to facilitate better provision of health services. The Government should also ensure funds for the health sector are disbursed in full and timely, to facilitate provision of quality health services.

Completion of health projects

Budgetary constraints and delays in disbursement of funds emerged as key issues affecting completion of health projects in 2022. Consequently, residents in affected areas continued to experience difficulties in accessing quality health services. CAG audit report on performance of LGAs, released in March 2022, revealed delays in completion of construction of buildings of district hospitals, health centres, and dispensaries in 54 audited LGAs, which had received a total of Tshs. 31.10 billion.⁵²⁶ Some of the construction projects exceeded deadline by 3 months up to 3 years.⁵²⁷ They were implemented in various regions, including Geita, Kilimanjaro, Mwanza, Katavi, Kigoma, Rukwa, Tanga, Morogoro, Pwani, Mbeya, Simiyu, Tabora, Dodoma, and Singida.⁵²⁸ Reasons for the delays included delays in disbursement of funds by the Ministry of Finance and Planning, delays in supply of construction materials, and insufficient budget allocation for the construction projects.⁵²⁹ Eight LGAs⁵³⁰ were also found to have delayed in commencing construction of health centres by up to six months since funds were disbursed, totalling 2.65 billion.⁵³¹ Because of these delays, the CAG fears that the Government may not be able to attain the targets of establishing health centres in each district by 2025, as per the Tanzania Development Vision 2025.⁵³²

Completed health projects not in use

CAG audit report on performance of LGAs also revealed health projects worth Tshs. 3.98 billion which were not being used in 20 LGAs. The projects include operating rooms, mortuaries, wards, dispensaries, and health centres.⁵³³ The CAG indicated that there were unused completed health centres in the 20 LGAs⁵³⁴ in Singida, Mwanza, Ruvuma, Morogoro, Lindi,

2022/23, at <https://www.orci.or.tz/hotuba-ya-bajeti-ya-wizara-ya-afya-2022-2023/>.

526 CAG LGAs 2020/21 report (*supra*), p. 119.

527 *Ibid.*

528 *Ibid.*

529 CAG LGAs 2020/21 report (*supra*), p. 120.

530 Mbarali, Malinyi, Wang'ing'ombe, Kasulu, Buchosa, Mbozi, Iringa, and Rorya District Councils.

531 *Ibid.*, p. 121.

532 *Ibid.*

533 CAG LGAs 2020/21 report (*supra*), p. 123.

534 Iramba, Busega, Songea, Namtumbo, Morogoro, Newala, Maswa, Igunga, Kibaha, Buchosa, Kalambo,



Simiyu, Tabora, Pwani, Rukwa, Iringa, Kagera, Kigoma, and Tanga Regions.

3.2.3. Other Key Issues and Challenges

3.2.3.1. Proximity of Health Facilities

In 2022, proximity of health facilities was cited as a challenge in some regions of Mainland Tanzania, especially in rural areas. For instance, in September 2022 it was reported in Shinyanga Region that residents of Msalala, Ushetu, and Kahama Councils bemoaned lack of medical supplies at three new health centres, which has rendered the centres unable to start providing health services.⁵³⁵ Consequently, some of them indicated that they have to walk up to 20 kms to reach Kahama Municipal Hospital for medical services, including surgery, and some pregnant women give birth along the way to hospital. They said the fare to the hospital ranges from Tshs. 4000 during the day to Tshs. 15,000 at night, which most people cannot afford.⁵³⁶

Women, especially pregnant women, tend to suffer more due to lack of health services nearby. For instance, in September 2022, it was reported in Shinyanga Region that pregnant women in Mwashanga Village, located in Lyakubande Ward, Shinyanga District, bemoaned difficulties in accessing maternal health services due to lack of a dispensary and dilapidated road infrastructure.⁵³⁷ They said that the situation gets worse during rainy seasons as the road becomes impassable, making it difficult to get to the hospital 5kms away. As a result, some pregnant women end up giving birth along the way, sometimes in the rice farms.⁵³⁸ A similar situation was reported in Mbeya Region in October 2022, whereby some pregnant women in Mwala Village, located in Ilembo Ward, Mbeya District, were said to sometimes give birth along the way to health centres due to poor and dilapidated road infrastructure.⁵³⁹

3.2.3.2. Shortage of Healthcare Workers

Despite government efforts to improve availability of health workers, shortage of healthcare workers continues to be a big challenge in Mainland Tanzania. During this reporting period, shortages of healthcare workers

Kilolo, Kyerwa, Kasulu, Handeni, Kibaha Town, Kigoma Ujiji, Mkuranga, Kibondo, and Kaliua.

535 Shaban Njia "Vituo vya afya vyashindwa kutoa huduma madai kukosa vifaa tiba" Nipashe Newspaper 13 Sep 2022.

536 Ibid.

537 Marco Maduhu "Wajawazito watoa kilio cha ubovu wa barabara" Nipashe Newspaper, 12 Sep 2022.

538 Ibid.

539 Nebart Msokwa "Ubovu wa barabara wasababisha wajawazito kujifungua njiani" Nipashe Newspaper, 7 Oct 2022.



were reported in various health facilities across the country, including the Muhimbili National Hospital (MNH). In April 2022, CAG report indicated 40% shortage of health workers at the hospital, including in key department such as maternity ward and ICU.⁵⁴⁰

In September 2022, it was reported that Tanzania is facing a critical shortage of 101 oral and dental health practitioners, thwarting the country's goal of providing quality oral healthcare. Dr. Baraka Nsabo, the National Oral Health Coordinator at the Ministry of Health, said in Dar es Salaam that the country's demand stands at 171.⁵⁴¹ He said out of 70 oral and dental practitioners available, 68 are in Dar es Salaam and the remaining are in Morogoro and Dodoma Regions. He further stated that out of 9,726 health centres countrywide, only 597 offer oral health services, making the services offered to be 6.3%. Also, the country has only 404 dental therapists out of 2,500 demanded in order to offer quality oral healthcare services.⁵⁴²

In October 2022, the Medical Laboratory Scientists Association of Tanzania (MeLSAT) and the President's Office – Regional Administration and Local Government (PO-RALG) acknowledged that there is a serious shortage of qualified laboratory professionals, which stands at 60%.⁵⁴³

In Katavi, it was reported in October 2022 that there was a serious shortage of health workers at Mtakuja Health Centre in Kapalala Ward, Nsimbo District. There were only three workers, including a doctor and nurse.⁵⁴⁴ In December 2022, it was reported in Mwanza Region that Magu District Council was faced with shortage of 486 health workers.⁵⁴⁵

Several factors are responsible for shortage of health workers. The most obvious one is the inability of the Government to hire more health workers, due to budgetary constraints. Many graduate medical doctors are usually not recruited to work in public health facilities.⁵⁴⁶

Another reason for health worker shortage is the various challenges that health workers face in Tanzania, significantly related to poor working conditions, lack of resources and equipment, which drive some staff,

540 Kelvin Matandiko "Walilia ajira kwa wataalamu wa maabara" Mwananchi Newspaper, 7 Oct 2022.

541 See The Guardian Newspaper, 8 Sep 2022.

542 Ibid.

543 Kelvin Matandiko "Walilia ajira kwa wataalamu wa maabara" Mwananchi Newspaper, 7 Oct 2022.

544 LHRC Human Rights Survey 2022: Katavi Field Report.

545 Vitus Audax "Uhaba watumishi wa afya waitesa H'shauri ya Magu" Nipashe Newspaper, 30 Dec 2022.

546 "Half of young doctors to quit by 2025: report" The Citizen Newspaper (online), 20 Mar 2017 (updated 15 Apr 2021), at <https://www.thecitizen.co.tz/tanzania/news/national/half-of-young-doctors-to-quit-by-2025-report-2583678>.



especially highly trained ones, to seek private or third sector employment or to move outside the country.⁵⁴⁷ A recent study conducted by the Muhimbili University of Health and Allied Sciences (MUHAS) has shown that shortage of clinical health workforce in Tanzania is contributed by migration of medical doctors from clinical practice in the public sector to non-clinical practice in the private sector, due to challenges such as poor work environment, heavy workload due to shortage of clinicians and underfunded public health sector.⁵⁴⁸ Individual-level drivers include age, area of specialization, marital status, and empathy to patients. At district level, especially in rural areas, retention of medical doctors is faced with various challenges, including unfavourable working conditions, including poor working environment, and lack of assurance of career progression.⁵⁴⁹ Some doctors said that there is more creativity in the private sector and a friendlier working environment than the public sector where they had been practicing.⁵⁵⁰

Migration of health professionals to other countries also contributes to shortage of health workers, especially doctors and specialists, due to various pull and push factors. Pull factors include better remuneration and working environment, job satisfaction, and prospects for further education.⁵⁵¹ Push factors include lack of education opportunities, poor working environment, poor infrastructure, and lack of diagnostic equipment.⁵⁵²

3.2.3.3. Shortage of Equipment, Medicines, and Medical Supplies

Shortage of equipment, medicines, and medical supplies continued to be a concern in effective realisation of the right to health in 2022. For instance, in March 2022, it was reported that Ihumwa Dispensary in Dodoma was faced with shortage of mattresses in the maternity ward.⁵⁵³ The Medical Officer Incharge at the dispensary, Aisha Abubakary, said the ward is too small to accommodate all women expecting to give birth and those who have just given birth, hence those who have given birth are usually released before the stipulated 24 to 48 hours to make space for others. This is also contributed by the fact that there are only two mattresses, while average of

547 Shemdoe, A., Mbaruku, G., Dillip, A. et al. Explaining retention of healthcare workers in Tanzania: moving on, coming to 'look, see and go', or stay?. *Hum Resour Health* 14, 2 (2016). <https://doi.org/10.1186/s12960-016-0098-7>.

548 Temu, E., Frumence, G., & Siril, N. (2020). Exodus of Clinicians from Public Sector to Non-Clinical Practice in Private Sector in Dar es Salaam Tanzania; Exploring the Drivers. *Tanzania Medical Journal*, 31(2), 45–58. <https://doi.org/10.4314/tmj.v31i2.378>.

549 Sirili, N., Frumence, G., Kiwara, A. et al. Retention of medical doctors at the district level: a qualitative study of experiences from Tanzania. *BMC Health Serv Res* 18, 260 (2018). <https://doi.org/10.1186/s12913-018-3059-0>.

550 Ibid.

551 Adinan Juma, Allen G. Kangalawe, Elizabeth Dalrymple, Tiwonge Kanyenda (2012). Case Study #9-11, "Brain Drain of Health Professionals in Tanzania". In: Per Pinstrup-Andersen and Fuzhi Cheng (editors), "Food Policy for Developing Countries: Case Studies." 19 pp.

552 Ibid.

553 Paul Mabeja "Zahanati yakabiliwa uhaba wa magodoro" *Nipashe Newspaper* 16 Mar 2022.



four women give birth at the dispensary every day.⁵⁵⁴

Improving access to medicines is essential in achieving Sustainable Development Goals (SDGs) relating to reducing children mortality, improving maternal health, and combating HIV/AIDS, malaria, and other diseases.⁵⁵⁵ Access to essential medicines therefore forms an indispensable part of the right to the highest attainable standard of health and is closely connected to other human rights, such as the right to life.⁵⁵⁶

3.2.3.4. Existence of expired medicines and medical equipment

Apart from the challenge of shortage of medicines and medical supplies, especially in rural areas, there is also a challenge of expired medicines and medical equipment, which if they fall into unscrupulous hands may lead to serious health complications among unsuspecting members of the public. In 2022, CAG report on LGAs revealed presence of expired medicines worth Tshs. 3.49 billion in 46 LGAs.⁵⁵⁷ This situation was said to be contributed by receiving medicines with short expiry dates from the Medical Stores Department (MSD) and lack of a system of using medicines which arrive first before moving on to new batches.⁵⁵⁸ Consumption of expired medicines is detrimental to human health and constitutes violation of the right to health.⁵⁵⁹

LHRC's Call: The Ministry of Health and the Tanzania Medicines and Medical Devices Authority (TMDA) to ensure expired medicines proven to be detrimental to health of patients are not used. MSD should also ensure most of the drugs that are procured have long expiry dates and medicines which arrive first are used before moving on to new batches. Additionally, health facilities should improve their procurement practice, follow modern inventory management practices, and ensure health professionals strictly follow national and international treatment guidelines and monitor the rational use of medications.⁵⁶⁰

3.2.3.5. Health Insurance and Universal Health Coverage

Sustainable Development Goal number 3 seeks to ensure good health and

⁵⁵⁴ Ibid.

⁵⁵⁵ UNGA, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, A/61/338, 13 September 2006, p. 11, para 40, at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N06/519/97/PDF/N0651997.pdf?OpenElement>.

⁵⁵⁶ Ibid.

⁵⁵⁷ CAG LGAs 2020/21 report (*supra*), p. 123.

⁵⁵⁸ Ibid.

⁵⁵⁹ Ebrahim AJ, Teni FS, Yimenu DK. Unused and Expired Medications: Are They a Threat? A Facility-Based Cross-Sectional Study. *Journal of Primary Care & Community Health*. 2019;10. doi:10.1177/2150132719847857.

⁵⁶⁰ Ibid.



well-being by ensuring healthy lives and promoting well-being for all at all ages. One of its targets is to achieve universal health coverage, including financial risk protection, access to quality essential healthcare services, and access to safe, effective, quality, and affordable essential medicines and vaccines for all. Health insurance is a safety net as it provides social protection in case one sustains a serious injury or becomes ill and ensures that everyone has access to health services and medicines. The situation of health insurance coverage in Tanzania is critical, with just over a third of Tanzanians covered by health insurance.⁵⁶¹

The long-awaited universal health insurance bill made headlines in 2022. In September 2022, the Government tabled the Universal Health Insurance (UHI) Bill 2022 in Parliament providing for compulsory conditions for people to register in insurance schemes in order to secure several social services. The Bill also recognizes the Tanzania Insurance Regulatory Authority (TIRA) as the overall regulator mandated to oversee insurance schemes and quality of provided healthcare services.⁵⁶²

In October 2022, economists reportedly applauded the steps towards Universal Health Coverage. However, they have questioned sustainability of the proposed contribution model, calling for the Government to invest more cash instead of only utilizing contributions as the main cover.⁵⁶³ In December, some of the stakeholders warned against making health insurance contributions voluntary, saying it would cripple the health insurance scheme.⁵⁶⁴

LHRC's Call: The Parliament to involve all health rights stakeholders, including CSOs, in the process of adopting the universal healthcare insurance system, taking into consideration their concerns and recommendations, and employing a human rights-based approach (HRBA). Additionally, the Government also to speed up the process and introduce UHI in order to further safeguard the right to health for all.

3.2.3.6. Mental Health and Suicides

Mental Health Concerns

In 2022, mental health was one of the widely discussed issues in Tanzania,

561 Amani, P.J., Hurtig, A.K., Frumence, G. *et al.* Health insurance and health system (un) responsiveness: a qualitative study with elderly in rural Tanzania. *BMC Health Serv Res* **21**, 1140 (2021). <https://doi.org/10.1186/s12913-021-07144-2>; International Trade Administration, Tanzania - Country Commercial Guide: *Healthcare*, 14 December 2022, at <https://www.trade.gov/country-commercial-guides/tanzania-healthcare>.

562 Louis Kolumbia "Universal health insurance Bill comes with strict rules" *The Citizen Newspaper*, 24 Sep 2022.

563 "Experts question health cover fees" *The Citizen Newspaper*, 9 Oct 2022.

564 Herieth Makweta "Wadau wataka ulazima bima ya afya" *Mwananchi Newspaper*, 26 Dec 2022.



with stakeholders expressing concerns over the state of mental health among citizens. Currently, at least 7 million Tanzanians are suffering from mental health complications, with the Dar es Salaam Region leading in this regard.⁵⁶⁵

In July 2022, Dr. Omary Obuguyu from the Ministry of Health revealed that mental health patients have been increasing in the past five years.⁵⁶⁶ He noted that 357,799 patients were receiving treatment in 2018, rising to 380,000 in 2019 and there were more than 500,000 in 2020.⁵⁶⁷ In August, Mirembe Hospital, a national mental health hospital based in Dodoma, launched community outreach to promote public awareness on mental health issues amid statistics showing that one in every seven children could potentially experience a mental disorder.⁵⁶⁸ The campaign covers residential areas, schools and workplaces.

In September, psychologists and social development experts in Mwanza pointed out mental health as a major cause of increasing trends of citizens committing suicides countrywide.⁵⁶⁹ They said mental health is mostly associated with depression, relationship break up, loneliness, drug use, and economic hardship. In the same month, a psychiatrist at the Muhimbili National Hospital, Dr. Isaac Lema, stated that horror films and modern lifestyles are among the major contributing factors for mental health problems and children and youth aged 12 to 25 years committing suicide or murder.⁵⁷⁰

In October 2022, it was reported that 30 to 70 out-patients are received and treated every day at the Mirembe National Mental Health Hospital in Dodoma.⁵⁷¹ In the same month, Dk. Isaac Lema, a psychiatrist at the Muhimbili National Hospital, said that 1 out of 4 people in Tanzania has a mental health problem.⁵⁷² Mirembe National Mental Health Hospital also revealed in October 2022 that men constitute the majority of patients at the hospital, majority of them aged 20 to 45 years.⁵⁷³ Reluctance of most men to

565 Ramadhan Hassan "Watanzania Milioni 7 wana matatizo ya akili, Dar kinara" Mtanzania Digital, 10 Oct 2021, at <https://mtanzania.co.tz/watanzania-milioni-7-wana-matatizo-ya-akili-dar-kinara/>; "WAZIRI UMMY AWATAKA WATAALAMU KUJADILI KUONGEZWA KWA HUDUMA ZA AFYA YA AKILI KATIKA MFUKO WA BIMA YA AFYA." Wizara ya Afya, at <https://www.moh.go.tz/news-single/waziri-ummy-awataka-wataalamu-kujadili-kuongezwa-kwa-huduma-za-afya-ya-akili-katika-mfuko-wa-bima-ya-afya>.

566 "Ongezeko la wagonjwa wa afya ya akili" Mwananchi Newspaper, 16 Jul 2022.

567 Ibid.

568 "Mirembe launches mental health community outreach" The Citizen Newspaper, 3 Aug 2022.

569 Ally Mayala "Mental health education crucial in mitigating suicide" DAILYNEWS Newspaper, 13 Sep 2022.

570 Anna Mwikola "Mitandao, filamu zachangia wimbi kujiuua, kuuu" HABARILEO Newspaper, 11 Sep 2022.

571 "TISHIO AFYA YA AKILI" Nipashe Newspaper, 7 Oct 2022.

572 "Bingwa Muhimbili: Kila watu 4, mmoja ana tatizo afya ya akili" Nipashe Newspaper, 10 Oct 2022.

573 Renatha Msungu "Wanaume wanaongoza takwimu kuhudhuria Hospitali Mirembe" Nipashe Newspaper, 14 Oct 2022.



speaking about their problems was said to be a contributing factor.⁵⁷⁴

Reported Suicide Incidents

In Tanzania, suicide has been a key mental health concern in recent years. More and more incidents of suicide have been reported in recent years, averaging over 150 cases per year in the period of 2016 to 2019. In 2022, LHRC documented 35 suicide incidents through media survey and human rights monitoring, decreasing from 45 in 2021. These incidents were reported in 18 regions, including Katavi, Dodoma, Tabora, Kilimanjaro, Dar es Salaam, Arusha, Iringa, Mwanza, Shinyanga, Geita, Mbeya, Kigoma, and Tanga Regions. Some of the reported incidents are summarized in Table 13 below.

Table 13: Some of the reported suicide incidents documented by LHRC in 2022

Incident	Report Date
Dodoma: Air Force military officer, Sergeant William Giriango (40), reportedly committed suicide by hanging, using his belt, in a rest house in Dodoma.	8 Sep 2022
Tabora: A census clerk committed suicide in Tabora Municipality.	18 Sep 2022
Arusha: Johari Tarimo (32), resident of Ndatu Village in Arumeru District, reportedly committed suicide because of her Tshs. 1.1 million VICOBA debt.	18 Sep 2022
Mwanza: Jestu Machibya (34), resident of Nyashoshi Village in Magu District, killed his ex-wife, his 75-year-old father, and then committed suicide by hanging.	8 Oct 2022
Shinyanga: An 11-year-old standard five pupil at Ndala 'A' Primary School in Shinyanga Municipality committed suicide by hanging at home.	29 Oct 2022
Katavi: Anicet John (32), resident of Mtakuja Village in Mlele District, committed suicide by hanging after killing his wife, Jeniviva Timotheo (29). The incident occurred on 2 nd March 2022.	5 Mar 2022
Kigoma: Two children in Kigoma and Uvinza Districts committed suicide because their parents scolded and punished them for not going to school.	3 Apr 2022
Arusha: Francis Juma (20) committed suicide after his fiancé broke up with him.	19 Jul 2022

⁵⁷⁴ Ibid.



Singida: 70-year-old man, Hamisi Mdonko, resident of Mtundulu Village in Ikungi District, committed suicide after being accused of defiling his grandchild.	19 Jul 2022
Njombe: A standard six pupil (12) at Maleutsi Primary School in Makete District committed suicide by hanging on 18 th August 2022 after coming back home and finding his radio and school uniforms had burned.	21 Aug 2022
Mwanza: Swadika Abasi (50), a groom, committed suicide by hanging in his home a few hours before getting married on 17 th December 2022.	25 Dec 2022
Tanga: Boniphace Levo (26), resident of Mbomole Village in Muheza District, committed suicide on Christmas eve because of jealousy towards his wife.	27 Dec 2022

Source: Media Survey 2022 & Human Rights Monitoring 2022

In September 2022, Dr. Minael Urio, a psychiatrist at the Mirembe National Mental Health Hospital, called upon the Government to amend the law so that people who attempt suicide are not taken to court and sentenced to jail, instead they should be remitted to the hospital for treatment.⁵⁷⁵

Incidents by sex

Analysis of suicide incidents documented by LHRC in 2022 showed that majority of the victims (83%), were male, increasing from 76% in 2022. Females only constituted 17% of the victims, half of them being children.

⁵⁷⁵ Renatha Msungu "Daktari: Wanaojaribu kujuia wasishtakiwe" Nipashe Newspaper, 13 Sep 2022.



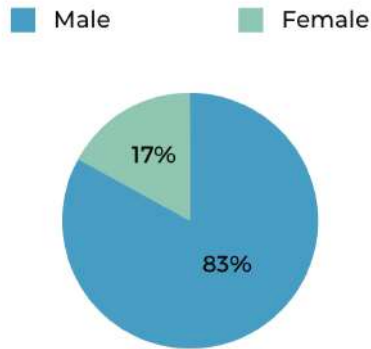


Figure 31: %Suicide victims by sex

Source: Media Survey 2022 & Human Rights Monitoring 2022

Incidents by zone

In terms of zone, majority of the incidents were reported in the Lake Zone (29%), followed by Central Zone (20%), Western Zone (17%), and Northern Zone (14%).

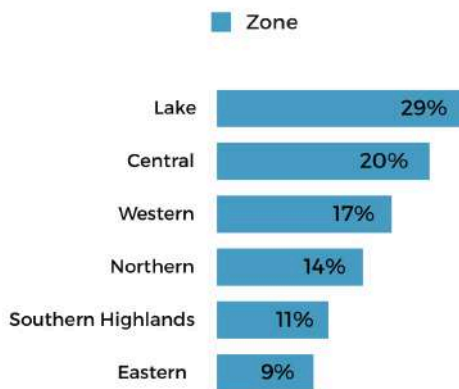


Figure 32: %Suicide incidents by zone

Source: Media Survey 2022 & Human Rights Monitoring 2022

Incidents by age

Majority of the suicide victims (40%) were youth (18 to 35 years), followed by



adults in the age category of 36 to 59 (31%), and children (23%). The youngest victim was 6 years old, while the oldest was 70 years old.

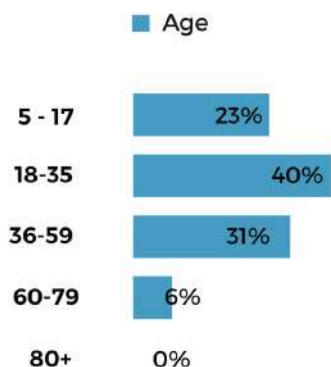


Figure 33: %Suicide incidents by age

Source: Media Survey 2022 & Human Rights Monitoring 2022

Reasons for committing suicide

In 2022, people reportedly committed suicide for different reasons. These reasons included: family quarrel, salary suspension, debt, jealousy, parental scolding, heartbreak, accusation of crime, missing items, and losing money.

3.2.3.7. Sexual and Reproductive Health

Overview

According to the World Health Organization (WHO), sexual and reproductive health and rights **encompass efforts to eliminate preventable maternal and neonatal mortality and morbidity, to ensure quality sexual and reproductive health services, including contraceptive services, and to address sexually transmitted infections (STI) and cervical cancer, violence against women and girls, and sexual and reproductive health needs of adolescents.**⁵⁷⁶ Sexual and reproductive health is recognized as a human right in various international human rights instruments.⁵⁷⁷ In Africa,

⁵⁷⁶ See WHO, *Sexual and reproductive health and rights: a global development, health, and human rights priority*, at https://www.who.int/reproductivehealth/publications/gender_rights/srh-rights-comment/en/#:~:text=Sexual%20and%20reproductive%20health%20and%20rights%20encompass%20efforts%20to%20eliminate,and%20cervical%20cancer%2C%20violence%20against.

⁵⁷⁷ Including the Beijing Declaration and Platform for Action in 1995; the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), 1979; the Protocol to the African Charter on Human and Peoples' Rights



the Maputo Protocol and SADC Protocol on Gender and Development specifically recognize the **health and reproductive rights** of women and girls.⁵⁷⁸ Under the Maputo Protocol, States, including Tanzania, are required to take various measures to ensure realization of health and reproductive rights, including providing adequate, affordable, and accessible health services and establishing and strengthening existing pre-natal, delivery, and post-natal health and nutritional services for women during pregnancy and while they are breast-feeding.⁵⁷⁹

Given the interrelated nature of human rights, women's sexual and reproductive health is related to various other human rights apart from the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.⁵⁸⁰ These rights include right to life, freedom from torture, the right to privacy, the right to education, and right to non-discrimination.⁵⁸¹ Women are entitled to reproductive healthcare services, and goods and facilities that are: available in adequate numbers; accessible physically and economically; accessible without discrimination; and of good quality.⁵⁸² Violations of women's sexual and reproductive health and rights may therefore occur if there are no easily accessible quality health services, including maternal healthcare services. They may also occur due to early or child marriage and female genital mutilation (FGM).

Maternal health

Maternal health, which simply means health of women during pregnancy, childbirth, and the postnatal period, is essential in reduction of child and maternal mortality.⁵⁸³ Access to quality maternal healthcare is an important component of the right to health and essential for women's realization of other human rights, including and especially right to life.

According to the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, maternal mortality in different parts of the world is caused by three main types of delays (three delays model), which are interrelated:

on the Rights of Women in Africa (Maputo Protocol), 2003; and the SADC Protocol on Gender and Development, 2008.

578 Article 14 of Maputo Protocol & Articles 11 and 26 of SADC Gender Protocol.

579 Article 14(2) of Maputo Protocol.

580 See United Nations Office of the High Commissioner for Human Rights, *Sexual and reproductive health and rights*: OHCHR and women's human rights and gender equality, at <https://www.ohchr.org/en/women/sexual-and-reproductive-health-and-rights>.

581 Ibid.

582 Ibid; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (supra).

583 Icelandic Human Rights Centre, *RIGHT TO MATERNAL, CHILD AND REPRODUCTIVE HEALTH*, at <https://www.humanrights.is/en/human-rights-education-project/comparative-analysis-of-selected-case-law-achpr-iachr-echr-hrc/the-right-to-health/right-to-maternal-child-and-reproductive-health>.



- One: delay in deciding to seek appropriate medical help for an obstetric emergency (for reasons of cost, lack of recognition of an emergency, poor education, lack of access to information, and gender inequality);
- Two: delay in reaching an appropriate facility (for reasons of distance, infrastructure, and transport); and
- Three: delay in receiving adequate care when a facility is reached (e.g. because there are shortages in staff, or because electricity, water or medical supplies are not available).⁵⁸⁴

In 2022, women’s effective realisation of the right to quality maternal healthcare was hindered by several factors, including shortage and proximity of health facilities; shortage of equipment, medicines, and medical supplies; shortage of health workers; and different forms of violence against women and children.

Violations of women’s right to maternal health were reported in regions such as Shinyanga and Mbeya. For instance, in August 2022, it was reported in Shinyanga Region that ward councillors in Kahama Municipality bemoaned pregnant women being charged Tshs. 150,000 for delivery at the Kahama Municipal Hospital, causing those who cannot afford the fee to deliver at home or with support of a witchdoctor.⁵⁸⁵ In the same month, it was also reported in the region that pregnant women in Mwashanga Village, located in Lyakubande Ward, Shinyanga District, bemoaned difficulties in accessing maternal health services due to lack of a dispensary and dilapidated road infrastructure.⁵⁸⁶ They said that the situation gets worse during rainy seasons as the road becomes impassable, making it difficult to get to the hospital 5kms away. As a result, some pregnant women end up giving birth along the way, sometimes in the rice farms.⁵⁸⁷

Women are also disproportionately affected by poor road infrastructure. For instance, in Mbeya, it was reported in October 2022 that some pregnant women in Mwala Village, located in Ilembo Ward, Mbeya District, sometimes give birth along the way to health centres due to poor and dilapidated road infrastructure.⁵⁸⁸

Access to quality maternal health services is even harder for women with disabilities. In March 2022, women with disabilities in the country called

⁵⁸⁴ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (*supra*), p. 7.

⁵⁸⁵ “Madiwani walamika wajawazito kutozwa fedha” Nipashe Newspaper, 8 Aug 2022.

⁵⁸⁶ Marco Maduhu “Wajawazito watoa kilio cha ubovu wa barabara” Nipashe Newspaper, 12 Sep 2022.

⁵⁸⁷ Ibid.

⁵⁸⁸ Nebart Msokwa “Ubovu wa barabara wasababisha wajawazito kujifungua njiani” Nipashe Newspaper, 7 oct 2022.



on the government to improve health services and help the group obtain high quality maternal healthcare services in various facilities.⁵⁸⁹ Tanzania Federation of Disabled People's Organization (SHIVYAWATA) Chairperson, Nuru Awadhi, said government intervention is needed because pregnant women with disabilities experience challenges during the labour and delivery process. The group made the statement when briefing journalists on the National Day for Women with Disabilities that was held on 23rd March 2022 in Dar es Salaam. She also mentioned the challenge of beds used by women with disabilities during labour, which are not friendly; maternity care providers not having relevant knowledge and skills to attend women with disabilities; and stigma and discrimination of pregnant women with disabilities. SHIVYAWATA called on the Government to allocate special beds for pregnant women with disabilities in hospitals and allow them to get assistance of sign language interpreters, since most healthcare professionals lack knowledge about disabilities.

Under the Maputo Protocol, States Parties, including Tanzania, are required to ensure that the right to health of women, including sexual and reproductive health is respected and promoted, including the right to control their fertility and the right to decide whether to have children, the number of children and the spacing of children.⁵⁹⁰ In 2022, LHRC also observed through human rights survey that in some regions, especially in rural areas, most women do not have a say over the number of and spacing of children. In Geita and Dodoma, some of the interviewed SWOs and NGO workers said women, especially in rural areas, are afraid of losing their husbands to other women if they do not have as many babies as the husbands want.⁵⁹¹

Violence against women and girls

Violence against women and girls jeopardize and violate women's sexual and reproductive health rights, including maternal health right. In 2022, some women and girls were subjected to different forms of violence which led to violation of their sexual and reproductive health rights, especially physical violence and sexual violence, including acts of rape, sodomy (including marital sodomy), and FGM. Reported incidents of violence against women and girls are discussed in detail in Chapter Five below.

Adolescent sexual and reproductive health

Adolescent sexual and reproductive health means adolescents are

⁵⁸⁹ Beatrice Philemon "Women with disabilities call on govt to improve health services" The Guardian Newspaper, 16 Mar 2022.

⁵⁹⁰ Article 14(1) of the Maputo Protocol.

⁵⁹¹ LHRC Human Rights Survey 2022: Geita and Dodoma Field Reports.



guaranteed physical and emotional wellbeing, including ability to remain free from unwanted pregnancy, unsafe abortion, STIs (including HIV/AIDS), and all forms of sexual violence and coercion.⁵⁹²

In Tanzania, adolescents and youth, remain very vulnerable to HIV, unwanted teen pregnancy, and different forms of violence. Girls are subjected to different forms of sexual violence and coerced into unwanted sex or marriage, including by teachers and parents, while boys are more vulnerable to sodomy. These challenges, which hinder effective realization of adolescent sexual and reproductive health rights, are discussed in detail in Chapter Five below.

3.2.4. Key Recommendations

- The Government, through the Ministry of Finance and Planning, to increase budgetary allocation for the health sector in line with international standards and ensure full and timely disbursement of funds.
- Members of the public to report violations of their economic, social, and cultural rights to relevant authorities, including violations of right to health.
- The Parliament to involve all health rights stakeholders, including CSOs, in the process of adopting the universal healthcare insurance system, taking into consideration their concerns and recommendations, and employing a human rights-based approach (HRBA).

3.3. Right to Clean and Safe Water

About the right

- Means the right of everyone to sufficient, safe, acceptable, and physically accessible and affordable water for personal and domestic uses.
- The human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity.”

⁵⁹² See Adolescent and Youth Reproductive Health: 1. Introduction to Adolescent and Youth Reproductive Health (AYRH), at <https://www.open.edu/openlearncreate/mod/oucontent/view.php?id=62&printable=1#:~:text=Adolescent%20sexual%20and%20reproductive%20health%20refers%20to%20the%20physical%20and,of%20sexual%20violence%20and%20coercion..>



In 2022, key challenges that hindered effective realisation of the right to water included insufficient budget allocated for the water sub-sector; water leakages and loss; lack of or limited access to clean water in some parts of the country, especially in rural areas; water rationing; and climate change.

3.3.1. Government Action

In 2022, government action to ensure progressive realization of the right to clean and safe water included implementation of various water projects, especially in rural areas, to increase access to water; management and development of water resources; improving and expanding water supply systems and construction of new ones; and coordination of National Multi-Sectoral Water Resources Management Forum, bringing together different water stakeholders and experts. For instance, in May 2022, the Minister of Water, Hon. Jumaa Hamidu Aweso, disclosed that implementation of water supply projects in rural areas led to increased access to clean and safe water in rural areas from 72.3% in March 2021 to 74.5% in April 2022.⁵⁹³ In urban areas, the minister said water access also increased slightly from 86% in March 2021, to 86.5% in April 2022.

3.3.2. Budgetary Allocation

In recent years, water stakeholders have expressed concerns over budgetary allocation of the water sector, which has been the least funded among the government's priority sectors, which include education, agriculture, health, infrastructure, and energy.⁵⁹⁴ In the past five financial years, the budgets for the water sub-sector have constituted around 3% or less of the national budget, and stakeholders have proposed the budget to be raised to at least 5.5% of the national budget, to enable the sub-sector achieve national targets.⁵⁹⁵

There have also been concerns of disbursement of funds.⁵⁹⁶ For instance, for the financial years 2014/15 to 2018/19, budget allocated for Ministry of Water totalled Tshs. 3.3 trillion, but only 39% of the budget was received and spent by the ministry as of June 2019.⁵⁹⁷

593 See WIZARA YA MAJI, HOTUBA YA WAZIRI WA MAJI MHE. JUMAA HAMIDU AWESO (MB), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA MAJI KWA MWAKA 2022/23, Mei 2022, p. 8 at <https://www.maji.go.tz/speeches>.

594 See TAWASANET (2020), Connecting County's Investment efforts on Water, Sanitation and Hygiene (WASH) Services to Social and Economic Returns: The Water Sector Budget Analysis (FY 2014/15-2018/19), at <http://www.tawasanet.or.tz/files/The%20Water%20Sector%20Budget%20Analysis.pdf>; Lukas Kwezi, The water sector budget: How much is enough?: A review of the Tanzanian water sector budget for 2021/22, IRC, 31 May 2021, at <https://www.ircwash.org/blog/water-sector-budget-how-much-enough>; UNICEF, WASH BUDGET BRIEF 2020:MAINLAND TANZANIA, at <https://www.unicef.org/esa/media/8431/file/UNICEF-Tanzania-Mainland-2020-WASH-Budget-Brief-revised.pdf>.

595 TAWASANET (2020) report (*supra*).

596 Ibid.

597 TAWASANET (2020) report (*supra*).



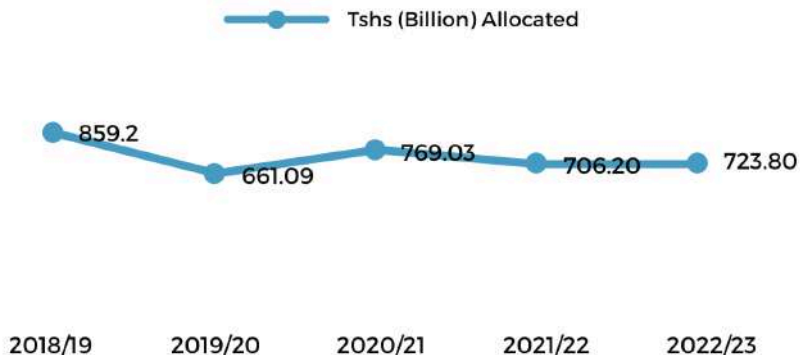


Figure 34: Budget allocation for the water sub-sector – 2018/19 to 2022/23

As indicated in Figure 34 above, for the financial year 2022/23, the budget allocation for the water sub-sector was Tshs. 723.8 billion.⁵⁹⁸ This is equivalent to only 1.7% of the national budget, decreasing from 1.9% for the financial year 2021/22. Budget allocation has also decreased from Tshs. 859.2 billion in the financial year 2018/19 to Tshs. 723.80 billion in the financial year 2022/23, equivalent to 8.6% decline.

Insufficient budget allocated for water sector

Insufficient budget presents a challenge in ensuring progressive realisation of right to water and sanitation, which is essential for human life with dignity, and a key factor for realisation of the right to adequate standard of living. International standards require Tanzania to spend between 0.64 % to 1.4 % of its GDP on the provision of safe water, sanitation, and water resource management, a target that has not been reached since 2016.⁵⁹⁹

Budget deficit for the water sub-sector has also been affecting budgets for its components. One of the components which has been mostly affected is that of sanitation.⁶⁰⁰ For instance, in the budget for the financial year 2021/22, only 13% of the budget was allocated to support sanitation and water resources management activities.⁶⁰¹

⁵⁹⁸ See CITIZENS' BUDGET BOOK: A SIMPLIFIED VERSION OF THE GOVERNMENT BUDGET FOR THE FINANCIAL YEAR 2022/23, Issued by the Ministry of Finance in collaboration with Policy Forum, at https://www.mof.go.tz/uploads/documents/en-1660656080-Citizen%20Budget%202022_23%20English.pdf.

⁵⁹⁹ See TAWASANET (2019) No-one left behind: Putting the water Sector to Work for Inclusive Growth and Sustainable Industrialization, Water Sector Equity Report 2019.

⁶⁰⁰ UNICEF, WASH BUDGET BRIEF 2020: MAINLAND TANZANIA (*supra*).

⁶⁰¹ Lukas Kwezi, *The water sector budget: How much is enough?* (*supra*).



In 2022, the Minister of Water said insufficient budget allocated for water projects made it difficult to implement large-scale water projects, including dam projects.⁶⁰² This resulted into delays in implementation of such projects as the Government attempted to secure more funding.

3.3.3. Other Key Issues and Challenges

In 2022, the water sub-sector was found to be faced with various other challenges, which contributed to hindering effective provision of clean and safe water. The challenges include:

Water rationing and lack of or limited access to water

Water rationing in different parts of the country in 2022 presented a big challenge in realizing the right to clean water and sanitation.⁶⁰³ In Dar es Salaam and Pwani, some of the residents bemoaned lack of access to clean and safe water, sometimes going for more than a week without water access. In Kisopwa Village, located in Kisarawe District in Pwani Region, residents said they had not had access to clean and safe water for 18 years now.⁶⁰⁴ One of the residents, Juma Said, reportedly divorced his wife because of spending many hours fetching water in distant places and returning home late.⁶⁰⁵

In May 2022, it was reported in Shinyanga that some of the residents of Mwanase Ward in Msalala District lamented lack of access to clean and safe water. They claimed to have to share some few water sources, including wells, with livestock.⁶⁰⁶

Marginal improvement of water access and growing population

Despite the reported improvement of water access in rural and urban areas, such improvement has been marginal. For instance, it was reported that water access in rural areas increased from 70.2% in 2019/20 to 72.3% in 2020/21, and in urban areas there was an increase from 84% to 86%, which constitute only an annual increment of no more than 2%.⁶⁰⁷ As indicate above, for the financial year 2021/22 water access in rural areas only increased by 2.2% and in urban areas 0.5%. Population growth is a key factor in this marginal increase, hence the need for investments in the water sub-sector to keep pace.⁶⁰⁸

602 HOTUBA YA WAZIRI WA MAJI MHE. JUMAA HAMIDU AWESO (MB), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA MAJI KWA MWAKA 2022/23, p. 76 (*supra*).

603 "Mgawo wa maji watikisa mijini, vijijini" Mwananchi Newspaper, 4 Oct 2022.

604 Nasara Abdallah "Maumivu kusaka maji yanavyoathiri familia" Mwananchi Newspaper, 29 Oct 2022.

605 Ibid.

606 "Kukosekana maji kulivyo wakala wa magonjwa wa mlipuko vijijini" Nipashe Newspaper, 5 May 2022.

607 Lukas Kwezi, *The water sector budget: How much is enough?* (*supra*).

608 Ibid.



In August 2022, some residents of Mto wa Mbu in Monduli District, Arusha Region, reportedly protested against long running shortage of water, carrying empty buckets in front of the Minister of Water, Juma Aweso.⁶⁰⁹ In the same month, it was reported in Mtwara that some residents of Kitaya Ward in Nanyamba District lamented lack of clean and safe water and asked the Government to help them in this regard.⁶¹⁰ In Mwanza, it was reported that some residents of Nyamagana District were faced with serious shortage of water, forced to wake up at midnight to queue for water far away from home and others having to dig holes under rocks in search of water.⁶¹¹

In Dar es Salaam, some of the residents in Luguruni area in Ubungo District, also marched to the Office of the District Commissioner to protest against water rationing, which had seen them without access to tap water for three months.⁶¹² The protestors, including women, carried empty buckets on their heads while singing and demanding water.⁶¹³ Small-scale traders in Dar es Salaam and Mwanza cities were also said to be among those hit the hardest by water rationing, which was compounded by power rationing.⁶¹⁴

Some residents in Dar es Salaam complained that their water budgets had tripled since the water rationing started. For instance, a resident of Goba area in the region said he had bought 1000 litres of water for Tshs. 50,000 while he previously got 3,000 litres for the same amount.⁶¹⁵

Water, sanitation and hygiene (WASH) concerns at health facilities

In September 2022, it was reported that lack of clean water and sanitation is one of the biggest challenges at healthcare facilities at council level. The President of the Tanzania Nurses Association (TANNA), Alexander Baluhya, said availability of clean water, sanitation and hygiene in healthcare facilities in the country is currently not satisfactory, especially at council level.⁶¹⁶ This puts both healthcare providers and patients' health at stake due to reported higher risk of disease prevalence.

Water leakages and Loss

Water leakages was among key challenges which faced the water sector in

609 The Guardian Newspaper, 1 Aug 2022.

610 "Waomba maji yafike katika vijiji vyao" HABARILEO Newspaper, 2 Aug 2022.

611 The Guardian Newspaper, 15 Aug 2022.

612 LHRC Human Rights Monitoring 2022.

613 Ibid.

614 Hadija Said and Rahma Salum "mall-scale Traders Hit Hardest By Ongoing Water, Power Rationing in Tanzania" The Chanzo Initiative, 17 Nov 2022, at <https://thechanzo.com/2022/11/17/small-scale-traders-hit-hardest-by-ongoing-water-power-rationing-in-tanzania/>.

615 LHRC Human Rights Monitoring 2022.

616 Maliki Muunguja "Water plays crucial role in economic development" The Citizen Newspaper, 19 Sep 2022.



2022. The Minister of Water pointed out that for the financial year 2021/22, water loss stood at 36.2%, which is above the acceptable international standard of 20%.⁶¹⁷ Reasons for water leakages and loss included infrastructure being in dilapidated condition (characterized, among others, by weakened iron pipes), bypass and illegal water connection, vandalism of water equipment, and tampering with water meters.

Shortage of experts in water sector

In May 2022, the Minister of Water revealed in his ministry budget speech for the financial year 2022/23 that his ministry was facing shortage of experts. He noted that there were 9,207 water sector workers, while the required number is 10,276, hence a deficit of 1,069 experts.⁶¹⁸

Climate change

In 2022, climate change was identified as another factor behind water-related challenges, affecting rainfall, causing floods, and contributing to water sources drying up.⁶¹⁹ Women and girls are disproportionately affected by the adverse impacts of climate change,⁶²⁰ including lack of or limited access to water.

3.3.4. Key Recommendations

- The Government, through the Ministry of Finance and Planning, to increase budgetary allocation for the water sector in line with international standards and ensure full and timely disbursement of funds.
- The Government, through the Ministry of Finance and Planning, to increase funding for the water projects, especially for rural areas, in a bid to improve accessibility and quality of water, which is essential to the Government's industrialisation drive.
- Members of the public to protect public infrastructure and refrain from the habit of damaging them, especially water infrastructure. They also have a duty to report incidents of damage to the infrastructure.

617 HOTUBA YA WAZIRI WA MAJI MHE. JUMAA HAMIDU AWESO (MB), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA MAJI KWA MWAKA 2022/23, p. 76 (*supra*).

618 Ibid.

619 HOTUBA YA WAZIRI WA MAJI MHE. JUMAA HAMIDU AWESO (MB), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA MAJI KWA MWAKA 2022/23, p. 78 (*supra*).

620 Climate change impacts to be covered in detail in Tanzania Human Rights Report 2023.



3.4. Right to Work

About the right

- Means right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- Is a foundation for life with dignity.
- It gives an individual an opportunity to gain a living by work they freely choose or accept.

In 2022, key right to work issues and violations in Mainland Tanzania included adoption of a new wage order; shortage of workers in key sectors; and labour rights violations, especially in the business sector.

3.4.1. Government Action

3.4.1.1. New Wage Order of 2022

In December 2022, the Prime Minister's Office Labour, Youth, Employment and Persons with Disability (PMO-LYED) published a new Wage Order, the Wage Order of 2022, which was to become operational starting 1st January 2023.⁶²¹ Up until then, the Wage Order which was in use was the Wage Order of 2013. The law requires review after every 3 years,⁶²² so this is good news for employees in the private sector, who have had to wait nine years to see increase in minimum wages. Comparison between the previous and current Wage Orders is made in Table 14 below. Employers paying higher rates of wages and providing more favourable terms and conditions of employment than the prescribed wages, at the commencement of the New Wage Order, are required to continue to pay such higher wages and provide more favourable terms and conditions of employment, should the employee continue working for the same employer.⁶²³

621 Jacob Mosenda & Daniel Mjema "Mixed reaction over minimum wage in the private sector" The Citizen Newspaper, 3 Dec 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/mixed-reaction-over-minimum-wage-in-the-private-sector-4041974>.

622 Regulation 8 of the Labour Institutions (General) Regulations 2017 (GN 45 2017).

623 See CLYDE & CO, Introduction of the New Wage Order, January 2023, at <https://cdn.clydeco.com/clyde/clyde/media/insight-files/introduction-of-the-new-wage-order-tanzania-230125.pdf>; Section 6 of the Wage Order 2023.



Table 14: Comparison of the 2013 and 2022 Wage Orders

N	Sector	Minimum Wages in Tshs (Monthly)			
		Wage Order 2013	Wage Order 2022	#Increase	%Increase
1	Agricultural services	100,000	140,000	40,000	40
2	Health Services	132,000	195,000	63,000	48
3	Communication Services				
	Telecommunication services	400,000	500,000	100,000	25
	Broadcasting and mass media, postal and courier services	150,000	225,000	75,000	50
4	Domestic and Hospitality Services				
	Domestic workers employed by diplomats and big businessmen	150,000	250,000	100,000	67
	Domestic workers employed by entitled officers	130,000	200,000	70,000	54
	Domestic workers other than those employed by diplomats and big businessmen and entitled officers who are not residing in the household of the employer	80,000	120,000	40,000	50
	Other domestic workers not specified in (a), (b), and (c) above	40,000	60,000	20,000	50
	Large and tourist hotels	250,000	300,000	50,000	20
	Medium hotels	150,000	180,000	30,000	20
	Restaurants, guest houses and bars	130,000	150,000	20,000	15



N	Sector	Minimum Wages in Tshs (Monthly)			
		Wage Order 2013	Wage Order 2022	#Increase	%Increase
5	Private Security Services				
	International and large companies	150,000	222,000	72,000	48
	Small companies	100,000	148,000	48,000	48
6	Energy Services				
	International companies	400,000	592,000	192,000	48
	Small companies	150,000	225,000	75,000	50
7	Transport Services				
	Aviation services	300,000	390,000	90,000	30
	Clearing and forwarding	300,000	360,000	60,000	20
	Inland (ground) transport services	200,000	300,000	100,000	50
8	Construction Services				
	Contractors class I	325,000	420,000	95,000	29
	Contractors class II-IV	280,000	360,000	80,000	29
	Contractors class V-VII	250,000	320,000	70,000	28
9	Mining Services				
	Mining and prospecting licences	400,000	500,000	100,000	25
	Primary mining licences	200,000	300,000	100,000	50
	Dealer licences	300,000	450,000	150,000	50
	Broker Licences	200,000	250,000	50,000	25
10	Private School Services (Nursery, Primary, and Secondary)	140,000	207,000	67,000	48



N	Sector	Minimum Wages in Tshs (Monthly)			
		Wage Order 2013	Wage Order 2022	#Increase	%Increase
11	Trade, Industry and Commercial Services				
	Trade and industry	100,000	150,000	50,000	50
	Financial institutions	400,000	592,000	192,000	48
12	Fishing and Marine	200,000	238,000	38,000	19
13	Other sectors not mentioned in the Wage Order	100,000	150,000	50,000	50

Source: Wage Orders 2013 & 2022 and writer's own analysis

In terms of the changes made in the new Wage Order, the biggest winners were domestic workers employed by diplomats and big businessmen, who saw their minimum wages increase by 67%, followed by domestic workers employed by entitled officers (54%), employees in broadcasting and mass media, postal and courier services (50%), domestic workers other than those employed by diplomats and big businessmen and entitled officers who are not residing in the household of the employer (50%), other domestic workers (50%), employees in small companies in the energy sector (50%), employees in inland (ground) transport services (50%), employees in the mining sector for primary mining licences (50%), employees in the mining sector for dealer licences (50%), employees in trade and industry services (50%), and employees in other sectors not mentioned in the Wage Order (50%). There are also employees with a 48% increase in minimum wages, namely those in the health services, private security services, and energy services (international companies),



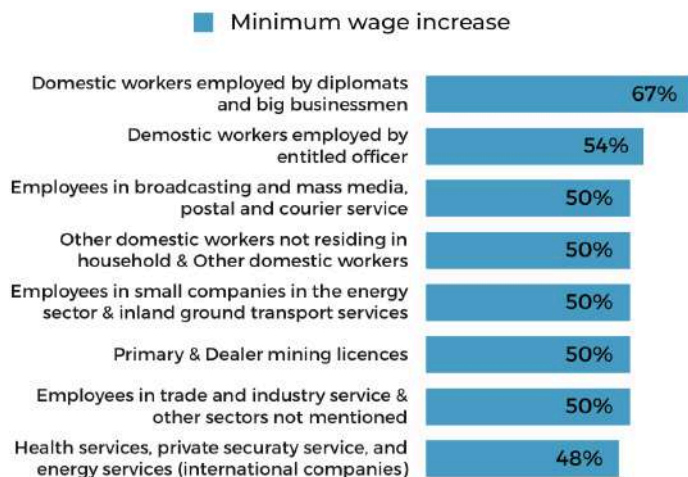


Figure 35: Top % minimum wage increases (48 – 67%) in the Wage Order 2023

Lowest wage increases in minimum wages (30% and below), were for employees at restaurants, guest houses, and bars (15%), in fishing and marine services (19%), large and tourist hotels (20%), medium hotels (20%), clearing and forwarding services (20%), telecommunication services (25%), mining and prospecting licences (25%), broker licences (25%), construction services (28 – 29%), and aviation services (30%).

LHRC's View: LHRC commends the Government's effort in introducing the new Wage Order, which has been one of the key recommendations in her human rights reports since 2016. This is good news for workers in the private sector, who have not seen an increase in minimum wages in 9 years, while the costs of living have not remained the same. Introduction of the new minimum wages is a step in the new direction, regardless of whether they are commensurate with the current costs of living.

LHRC's Call: Government, through PMO-LYED, to ensure effective implementation of the new Wage Order in the private sector. The Government should also ensure timely review of Wage Order (every three years) so that we can get the new Wage Order in 2025.

3.4.2. Violations of Labour and Human Rights of Workers in the Business Sector

In 2022, LHRC observed that labour rights violations continued to be a big



human rights concern, especially in the business sector. LHRC's Human Rights and Business Survey 2022 conducted in 14 regions of Mainland Tanzania shows that business compliance with labour laws and standards continues to be a concern, despite some notable improvements in some of the standards, such as provision of employment contracts and granting of leaves. Grievances include not being provided with (written) employment contracts, being overworked, and not paid overtime, poor remuneration, poor working environment, denial of leave, violation of freedom of association, and workplace violence and harassment (including sexual violence and harassment). The survey found that labour-related grievances were mostly aired by workers in the manufacturing, hospitality, private security, and transportation sectors.

Some of the key findings relating to labour rights violations in the business sector include:⁶²⁴

- **Denial of overtime pay:** Nearly all survey respondents claimed to have worked overtime at some point, and when asked whether they are usually paid for overtime, only 42% said they are, increasing from 38% in the previous survey.
- **Overworked:** Working long hours is still a big problem, especially in private security, hospitality, manufacturing, and transportation sectors. Some of the workers said they were even made to work on weekends and holidays.
- **Underpaid:** Employers in some of the surveyed regions such as Morogoro, Dodoma, Mara, Tanga, and Mtwara were accused of paying workers below the minimum wage. Majority of victims of this include hotel workers, bar tenders, security guards, and drivers.
- **Discrimination:** The survey also found that most women get lower-paying jobs, including as cleaners and receptionists in the hospitality industry.
- **Delayed wage payments:** Approximately half of the interviewed respondents said they have experienced delays in payment of their salaries. Claims of delayed salaries were especially made at some of the workplaces in 11 out of 14 surveyed regions (79%).
- **Workplace violence:** 31.3% of respondents mentioned intimidation/threats and/or bullying as common forms of violence, while 21.3% mentioned sexual violence.
- **Non-remittance of social security contributions:** Some of the interviewed workers complained about non-remittance of social

⁶²⁴ See LHRC(2022), Human Rights and Business Report 2021 / 22, at www.humanrights.or.tz.



security contributions by their employers, especially in Dar es Salaam, Pwani, Morogoro, Mwanza, Shinyanga, Geita, Mara, Iringa, Arusha, and Mtwara.

- **Denial of annual leave:** Only half of the survey respondents (51%) said they are granted annual leave at their workplaces, increasing slightly from 48% in the previous survey. Among the respondents who said they are granted annual leave at their workplaces, only nearly a half (46.8%) expressed that they took leave in the past year. Among those who took leave in the past year, female workers accounted for 46% and male workers accounted for 56%.
- **Unfair termination of employment:** Some of the workers at some of the surveyed workplaces were reportedly unfairly dismissed for reasons such pregnancy, joining trade unions, demanding employment contract, refusing sexual advances, demanding better pay, and sustaining injury at workplace and demanding compensation. It was generally observed that some employers disregard termination procedures. Unfair termination of employment cases constituted the majority of cases at the Commission for Mediation and Arbitration (CMA) and LHRC legal aid clinic in Dar es Salaam.
- **Occupational health and safety:** Only 54% of workers said they had received occupational health and safety training.
- **Availability of personal protective equipment (PPE):** When asked about availability of PPE and whether they were sufficient, only 26.9% of respondents said they are available and sufficient, decreasing from 39% in the previous survey. 26.8% felt they were available and somewhat sufficient, increasing from 24% in the previous survey.

In September 2022, the Deputy Minister of the Prime Minister's Office (Labour, Youth, Employment & Persons with Disabilities), Hon. Patrobas Katambi, revealed during a session in Parliament that the Government seeks to continue enforcing the requirements under labour laws, including provision of employment contracts.⁶²⁵ He noted that the Government has directed all bus and truck owners to provide employment contracts to their drivers by 30th August 2022.

Through human rights monitoring and legal aid programmes, LHRC documented at least 50 incidents of labour rights violations in the period of January to June 2022 alone, including cases of unfair termination of employment, non-payment of salary, and non-remittance of social security contributions.⁶²⁶

⁶²⁵ "Serikali yaonya ajira bila mkataba" Nipashe Newspaper, 20 Sep 2022.

⁶²⁶ LHRC Human Rights Monitoring and Legal Aid Data, 2022.



LHRC's View: Given the interrelated nature of human rights, violation of labour rights or rights of workers, does not only violate the right to work, but may also lead to violations of other human rights, including right to adequate standard of living, right to health, right to education, right to equality before the law, and right to liberty and personal security.

3.4.3. Overworking Workers and Impact on Human Rights

In the business sector, LHRC has observed that overworking workers can have serious consequences for human rights, including the right to adequate rest. Inadequate rest for workers contributes to sleep deprivation, increases stress, increases risk of health complications, contributes to workplace injuries, and negatively affects family life. Some of the road accidents are also ascribed to long working hours among bus and truck drivers.

In the public sector, shortages of workers in key sectors such education, health, and justice, also means poor delivery of services, because the available workers have to work beyond normal working hours to keep up with service provision. This results into delivery of poor services and violations of fundamental rights such as right to quality health services, right to quality education, right to a fair trial, and right to liberty and personal security.

3.4.4. Other Key Issues and Challenges

3.4.4.1. Labour Rights of Domestic Workers and Women

In 2022, labour rights of domestic workers re-emerged as an issue of concern. In December 2022, domestic workers called for their employers to respect their labour and human rights, including being treated with dignity, granted leave, afforded adequate rest, not being overworked, and granted employment contract. Tanzanian Conservation, Hotels, Domestic and Allied Workers' Union (CHODAWU) official in Dodoma, Rehema Juma, said some domestic workers suffer abuse from their employers and are made to work long hours, contrary to labour laws.⁶²⁷ She added that most of them are also discriminated against and kicked out when they get pregnant.

For women, one of the key labour rights issues is sexual corruption in the job market, especially in the private sector. Recent surveys conducted by LHRC have shown that young women are usually asked for sex bribes to get jobs or promotion, including in the media industry.⁶²⁸ Overall, women's labour force participation is high, at least 80%, compared to men's 87%; and like

⁶²⁷ Ramadhan Hassan "Wafanyakazi majumbani waomba mambo matano" Mwananchi Newspaper, 19 Dec 2022.

⁶²⁸ LHRC(2022), Tanzania Human Rights Report 2021, at www.humanrights.or.tz.



men, most of them are employed in the agricultural sector.⁶²⁹ The gender gap in labour force participation is wider among young men and women, reaching 29%. In the non-agricultural sectors, women are more likely to work in the wholesale and retail sector and accommodation and food services, where they are overrepresented, while men are more likely to work in the manufacturing, construction, and transportation sectors, where they are overrepresented. Women are also more likely than men to work as unpaid family workers or own-account workers, with their work often involving vulnerable and informal arrangements with limited social protection and characterized by lack of formal contracts and low access to benefits such as maternity leave.⁶³⁰ Discriminatory social norms are a key driver of women's limited access to the labour market, affecting their job status and positions.⁶³¹ Some social norms ascribe certain types of professions to women, such as a bar or restaurant attendant, perpetuating labour segregation. For instance, 47% and 52% of the respondents of the Social Institutions and Gender Index (SIGI), believe that being a taxi driver and working in construction are jobs more appropriate for men respectively.⁶³² The SIGI report, released in 2022, also shows that married men and young women with low levels of education and from poor households are more likely to hold discriminatory norms that curtail women's access to labour.⁶³³

3.4.4.2. Poor Working Conditions

LHRC's most recent Human Rights and Business Survey, conducted in 2022, also revealed poor working environment to be a key challenge at the majority of workplaces in the business sector, facing issues such as unclean work environment, lack of motivation, lack of healthy work-life balance, intimidation for demanding labour rights, and stress and harassment.

In the public sector, teachers continued to be among the workers faced with difficult working conditions, characterized by shortages of facilities such as classrooms and teacher houses, while some of them continued to be overwhelmed with the number of students they have to teach, largely contributed by shortage of teachers. As discussed above, healthcare workers, especially in rural areas, are also faced with the challenge of poor working conditions. In the business sector working conditions for traders and small-scale businesspersons in Dar es Salaam and some other regions were largely affected by power and water rationing. Residents in regions

629 OECD (2022), *SIGI Country Report for Tanzania, Social Institutions and Gender Index*, OECD Publishing, Paris, <https://doi.org/10.1787/06621e57-en>.

630 Ibid.

631 *SIGI Country Report for Tanzania (supra)*.

632 Ibid.

633 Ibid.



such as Dar es Salaam and Mwanza lamented frequent power and water cuts, which were often unannounced, making it difficult for them to do their businesses to make ends meet.⁶³⁴ Among those affected were butchers, barbers, and food vendors.⁶³⁵ For instance, in Mwanza, one butcher said he had to dispose meat worth Tshs. 96,000 after it spoiled in the fridge because of power cut. In Dar es Salaam, some traders complained about the price for a 20-litre gallon of water increasing from Tshs. 200 to Tshs. 1500 due to water rationing in some areas of the city.⁶³⁶ LHRC also documented complaints about difficult working conditions for small-scale traders caused by power rationing in Kilimanjaro Region, mostly made by traders engaged in photocopy and printing business.⁶³⁷

3.4.4.3. Awareness about Labour Laws and Rights

In 2022, low awareness about labour laws and rights continued to affect effective realization of the right to work. LHRC's Human Rights and Business Survey, conducted in 14 regions of Mainland Tanzania in 2022, revealed that only 22.3% of the respondents employed in the business sector were aware of comparison labour laws and regulations. This is a slight improvement in comparisons with the previous survey, whereby only 12% of the workers claimed they had a good knowledge of labour laws and regulations. Regarding awareness about labour rights, 71% of the workers said they were aware of their basic labour rights, significantly increasing from 52% in the previous survey. Interestingly, less than a third among them could correctly mention at least three labour rights. Lack of awareness about labour laws and rights is a key concern for both men and women.

LHRC's Call: The Commission for Human Rights and Good Governance (CHRAGG) and the CSOs to intensify efforts to raise public awareness on labour laws and rights, including through campaigns and media programmes.

3.4.4.4. Youth and Employment

In 2022, unemployment⁶³⁸ and underemployment continued among the key challenges facing youth, including in Tanzania. These challenges are said to be contributed by lack of employability skills among higher

634 Hadija Said & Rahma Salum "Small-scale Traders Hit Hardest By Ongoing Water, Power Rationing in Tanzania" The Chanzo Initiative, 17 Nov 2022, at <https://thechanzo.com/2022/11/17/small-scale-traders-hit-hardest-by-ongoing-water-power-rationing-in-tanzania/>.

635 Ibid.

636 Ibid.

637 LHRC Human Rights Monitoring 2022; LHRC Human Rights Survey 2022: Kilimanjaro Field Report.

638 According to the Integrated Labour Force Survey 2020/21, youth unemployment has increased from 7.9% in 2014 to 78.5% in 2020/21 (7.5% in Mainland Tanzania in 2014 to 8% in 2020/21).



education graduates. Lack of jobs makes it difficult for youth to realize other human rights and live a life with dignity, driving them more towards poverty and crime. Youth, especially young women, are also faced with several challenges when seeking employment and in the workplaces, including sextortion, sexual harassment, and other forms of violence against women. The issue of youth and employment is further discussed in Chapter Five below.

3.4.5. Key Recommendations

- Government, through the Prime Minister's Office Labour, Youth, Employment and Persons with Disability (PMO-LYED), to ensure effective implementation of labour laws and regulations, especially in the business sector, to safeguard labour rights of workers.
- Government, through the Prime Minister's Office Labour, Youth, Employment and Persons with Disability (PMO-LYED), to ensure effective implementation of the new Wage Order in the business sector.
- CSOs to collaborate with the Prime Minister's Office Labour, Employment, Youth and Persons with Disability to regularly raise public awareness about labour laws, rights and duties.

3.5. Right to Own Property

About the right

- Means everyone has the right to own property alone as well as in association with others, and no one shall be arbitrarily deprived of his property.
- Somewhat complex human right, subjected to more qualifications and limitations than any other human right.
- Essential right and has implications for other human rights, including right to work, right to education and right to adequate housing.

In Tanzania, land is the most important property. All land in Tanzania is public land and is vested in the President as trustee for and on behalf of



all the citizens of Tanzania.⁶³⁹ Village land is regulated by the Village Land Act, CAP 114 [RE 2019], and includes communal land.⁶⁴⁰ All other land is regulated by the Land Act, CAP 113 [RE 2019].

Land is very essential for Tanzanians, forming a base for them to enjoy other human rights, including right to life and right to adequate standard of living. Land is even more important for Tanzanians since the country is still heavily dependent on agriculture. Land is therefore a prerequisite for sustainable development, helping to increase agricultural productivity and food security.⁶⁴¹

In 2022, key right to own property issues and violations in Mainland Tanzania included land conflicts/disputes; property grabbing from women and elderly people; women's access to land; and land dispute resolution.

3.5.1. Government Action

In 2022, government efforts to ensuring progressive realization of property rights included land dispute resolution in different parts of Tanzania. For instance, in March 2022, the Minister of Foreign Affairs and East African Cooperation, Hon. Dr. Stergomena Tax, revealed that the ministry had resolved 74 land disputes in the past year in the some regions in Mainland Tanzania and Zanzibar.⁶⁴² The regions include Arusha, Dar es Salaam, Dodoma, Kagera, Kigoma, Lindi, Mara, Morogoro, Mwanza, Njombe, Pwani, Rukwa, Ruvuma, Shinyanga, Singida, and Tabora. In the same month, the Ministry of Lands, Housing and Human Settlement Development revealed that in the past year it had resolved 745 land disputes through a special programme called 'Funguka na Waziri'.⁶⁴³ The ministry also continued with registration and provision of land titles and certificates in various parts of Mainland Tanzania, as well as raising public awareness on land issues.⁶⁴⁴ Further, the ministry oversaw establishment of 20 new district land and housing tribunals, bringing the total to 80.⁶⁴⁵ However there is still a shortage of 59 tribunals across Mainland Tanzania,⁶⁴⁶ equivalent to 42%. A call centre (**0739 646 885**) has also been established and has started operations,

639 Section 4(1) of the Land, CAP 113 [RE 2019].

640 Section 13(1) of the Village Land Act, CAP 114 [RE 2019].

641 See LANDLINKS "Why Land Matters for the Sustainable Development Goals" at <https://land-links.org/2015/11/why-land-matters-for-the-sustainable-development-goals/>, accessed 20th August 2022.

642 Noor Shina "Wizara ya Ulinzi yashughulikia migogoro 74 ya ardhi nchini" Mwananchi Newspaper, 16 Mar 2022.

643 "Wizara yatatua migogoro 745 ya ardhi mwaka mmoja" HABARILEO Newspaper, 9 Mar 2022.

644 See JAMHURI YA MUUNGANO WA TANZANIA, HOTUBA YA WAZIRI WA ARDHI, NYUMBA NA MAENDELEO YA MAKAZI, MHESHIMIWA DKT. ANGEL INE S. L. MABULA (MB), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MA TUMIZI YA WIZARA KWA MWAKA 2022/23, at <https://www.lands.go.tz/uploads/documents/en/1653553970-HOTUBA%20YA%20WIZARA%20YA%20ARDHI,%20NYUMBA%20NA%20MAENDELEO%20YA%20MAKAZI%202022.23.pdf>.

645 Ibid.

646 HOTUBA YA WAZIRI WA ARDHI, NYUMBA NA MAENDELEO YA MAKAZI (*supra*).



through which the ministry received 3,947 complaints by May 2022.⁶⁴⁷

3.5.2. Land and Property Rights: Perceptions of Community Members and LHRC's Observations

In the Human Rights Survey 2022 community members were asked to give their views on protection of property rights, access to land, situation of land disputes, common types of land disputes, and effectiveness of ward tribunals.

Protection of property rights

When asked how satisfied they were with protection of property rights, majority of respondents (48%), said they were only moderately satisfied, followed by a quarter who said they were satisfied, and 18% who indicated they were dissatisfied. Overall, only 30% of the respondents said they were satisfied, including 5% who said they were very satisfied, which is less than a third.

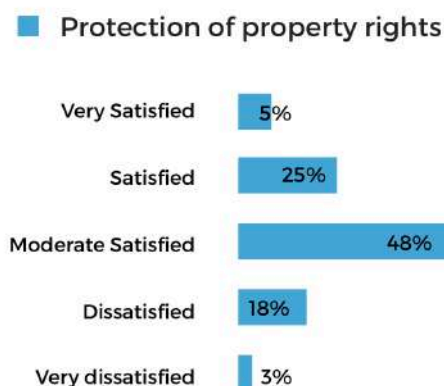


Figure 36: % Responses on satisfaction with protection of property rights (N = 1,497)

Source: Field data, 2022

Access to land

Regarding access to land, the biggest concern for the majority of respondents (38%) was that land is very expensive, hence not easily accessible. Nearly

⁶⁴⁷ Ibid.



a quarter of respondents (24%) said it is easy to acquire land, while 23% lamented land acquisition procedures, saying it is not easy to acquire land.

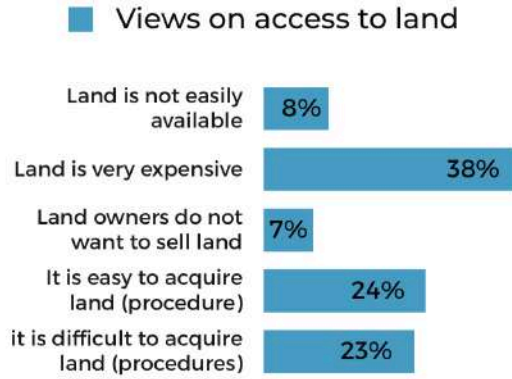


Figure 37: % Responses of community members on access to land (N = 1,497)

Source: Field data, 2022

Situation of land disputes in the community

Community members were also asked about the situation of land disputes in their respective communities. Majority, nearly half of them (49%), said there were land disputes in their communities, but only a few, followed by over a third (37%), who said there were many land disputes in their community.

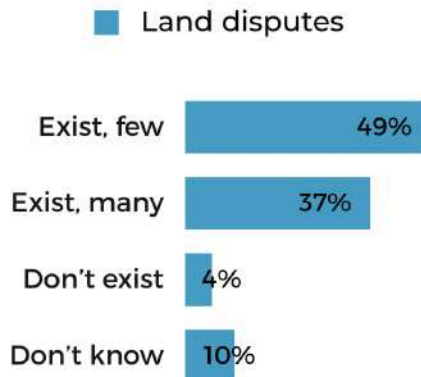


Figure 38: % Responses on existence of land disputes (N = 1,497)

Source: Field data, 2022



Common types of land disputes in the community

Community members also had their say on common land disputes occurring in the community. Majority of them, just over a half (52%), mentioned boundary disputes as most common, followed by 18% who said is the disputes between farmers and pastoralists, and 16% who said it is community members versus investors. The remaining 14% said it was other types of land disputes.

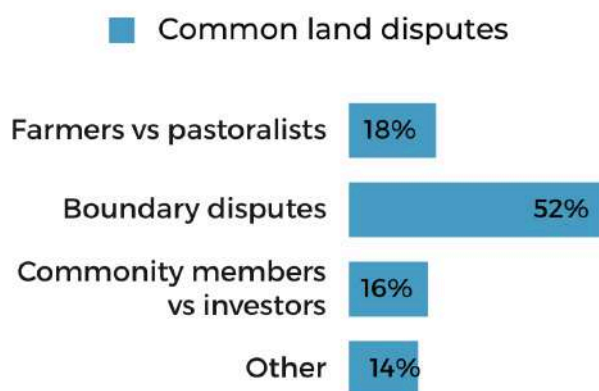


Figure 39: % Responses on common land disputes (N = 1,497)

Source: Field data, 2022

Effectiveness of ward tribunals

Effectiveness of ward tribunals was questioned by majority of community members who responded to the survey. Majority of them (46%) deemed them to be ineffective, including 16% who said they were very ineffective. Only 17% deemed the tribunals to be effective in dealing with land disputes, including 4% who believed they were very effective.



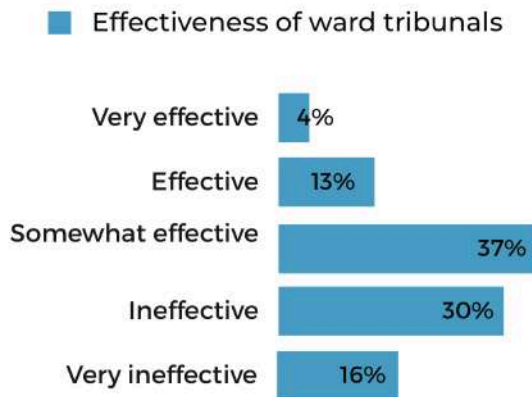


Figure 40: % Responses on effectiveness of ward tribunals (N = 1,497)

Source: Field data, 2022

Interviewed community members, including paralegals, in regions such as Dodoma, Singida, Tanga, Njombe Geita, and Kigoma, pointed out capacity gaps among members of ward tribunals. They claimed that most of them have little knowledge on land laws and issues, lack training, and some take bribes. They also lamented the tribunals taking too long to settle disputes. In Kigoma, some of the interviewed respondents concluded that ward tribunals were generally ill-equipped to handle most land disputes, contributed by limited knowledge and shortage of working tools and facilities.⁶⁴⁸ Some of the respondents in Singida, Njombe, Geita, and Kigoma Regions pointed out that members of ward tribunals need capacity building and regular training as they do not possess adequate knowledge about land laws and land dispute settlement.⁶⁴⁹

Key land issues observed by LHRC in 2022

In 2022, LHRC observed various key land issues in the course of providing legal aid services to indigent persons across Mainland Tanzania. These issues include low awareness about land issues and laws among community members, low or lack of awareness about amendments made in the Land Dispute Courts Act [Cap 216] among members of ward tribunals, and political interference in determination of land disputes.

In 2021, the Land Dispute Courts Act [Cap 216] was amended under Section

648 LHRC Human Rights Survey 2022: Kigoma Field Report.

649 LHRC Human Rights Survey 2022: Singida, Njombe, Geita, and Kigoma Field Reports.



13 of the law to strip powers of the ward tribunals to determine land disputes. Instead, ward tribunals are now only allowed to conduct mediation and reconciliation and refer the parties to disputes to the District Land and Housing Tribunal when this has failed.⁶⁵⁰ However, LHRC has observed that most members of ward tribunals are not well informed or aware of the legal changes that have been made and continue with the previous practice, including telling parties to appeal within 45 days to District Land and Housing Tribunal and causing panic among parties. Some ward tribunals also force parties to a land dispute to reconcile, which is contrary to the law. Some ward tribunal members are also not skilled in or capable of drafting the certificate of failure to reconcile, contributing to cases being struck out by District Land and Housing Tribunals and consequently delaying justice.⁶⁵¹

Regarding political interference in land dispute resolution, LHRC has observed that political and administrative authorities such as District Commissioners (DCs), District Administrative Secretaries (DASs), Regional Commissioners (RCs), and Regional Administrative Secretaries (RASs) tend to interfere with land dispute resolution by institutions given that mandate by the law. This has been found to do more damage than good, resulting into miscarriage of justice and loss of property rights.⁶⁵²

LHRC's Call: The Government, through the Ministry of Lands, Housing and Human Settlements Development, to ensure ward tribunal members are adequately and regularly trained on land laws, land dispute settlement, and legal amendments. Political and administrative authorities should also refrain from interfering with land dispute settlement to avoid miscarriage and delay of justice.

3.5.3. Land Disputes and Conflicts

3.5.3.1. The Loliondo Land Dispute Saga

In January 2022, reports of planned eviction of the Maasai population in Loliondo Division within Ngorongoro District, located in Arusha Region emerged. In June 2022, the Government started the eviction process in the division, relocating them to Msomera in Tanga Region.

Maasai Case for Ancestral Land and Reaction to Removal from Land Maasai claim of forceful eviction, resulting into loss of ancestral land

In 2022 it was widely reported in various media and other reports that the

⁶⁵⁰ LHRC Legal Aid Report 2022.

⁶⁵¹ Ibid.

⁶⁵² LHRC Legal Aid Report (*supra*).



removal of the Maasai people in Loliondo amounted to forceful eviction, forcing them to cut ties with their ancestral land.⁶⁵³ Some of the reports went as far as claiming that the Maasai pastoralists have legal recognition of this land and any attempts to evict them are unlawful, unjust and discriminatory under national law and the international human rights obligations and commitments of the Government of Tanzania.⁶⁵⁴ Displacement of 70,000 Maasai people as well as loss of ancestral land/cultural heritage were raised as key concerns.⁶⁵⁵ Some of the Maasai community members also cited inability to effectively engage in the same economic activities in new lands that are far away from their ancestral lands. They reportedly raised concerns over loss of livelihoods and extinction of the Maasai way of life.⁶⁵⁶

Maasai claim of lack of meaningful participation/consultation

Some Maasai people and representatives reportedly claimed that there was no meaningful participation of the Maasai community before their removal process commenced, accusing the Government of not making genuine efforts to consult them.⁶⁵⁷ For instance, in June 2022, it was reported that the Maasai people had submitted reports to the Government authorities a month earlier to discuss the contested area, but the authorities moved ahead with the demarcation of the area without the locals being afforded the opportunity to respond.⁶⁵⁸ Other reports suggested that the authorities were unwilling to negotiate, claiming that the purported tourism and conservation benefits justify their decisions.⁶⁵⁹

Claims of disregard of injunction imposed by the East African Court of Justice

Numerous reports also indicated claims of the Government disregarding injunction imposed by the East African Court of Justice (EACJ) in 2018.⁶⁶⁰ It

653 ICCA "Alert: Maasai in Tanzania are being forcefully evicted from their ancestral lands" at <https://www.iccaconsortium.org/index.php/2022/06/12/tanzania-maasai-loliondo-ngorongoro-conservation-eviction/>, accessed 20th August 2022; IWGIA, 70,000 Maasai in Loliondo, Tanzania, face another forceful eviction, 26 January 2022, at [HTTPS://WWW.IWGIA.ORG/EN/NEWS/4597-MAASAI-LOLIONDO-TANZANIA-FORCEFUL-EVICTION.HTML](https://www.iwgia.org/en/news/4597-maasai-loliondo-tanzania-forceful-eviction.html); IWGIA & IPRI, URGENT ALERT: Around 70,000 Maasai in Loliondo, Tanzania, face another forceful eviction, gross violation of human rights and breach of Rule of Law, 26 January 2022, at https://iprights.org/images/resources/downloadables/IWGIA_IPRI_Urgent_Alert_Loliondo_Tanzania_Jan_2022_ENG.pdf.

654 IWGIA, 70,000 Maasai in Loliondo, Tanzania, face another forceful eviction (supra).

655 CIVICUS LENS, TANZANIA: MAASAI PEOPLE RESIST FORCED EVICTIONS, 13 July 2022, at <https://lens.civicus.org/tanzania-maasai-people-resist-forced-evictions/>.

656 Ibid.

657 UN Office of the High Commissioner for Human Rights, Tanzania: UN experts warn of escalating violence amidst plans to forcibly evict Maasai from ancestral lands, Press Release, 15 June 2022, at <https://www.ohchr.org/en/press-releases/2022/06/tanzania-un-experts-warn-escalating-violence-amidst-plans-forcibly-evict>.

658 Lucas Yamat & Pablo Manzano, *Loliondo evictions: bad for people, conservation and pastoralism* (supra).

659 CIVICUS LENS, TANZANIA: MAASAI PEOPLE RESIST FORCED EVICTIONS, 13 July 2022, at <https://lens.civicus.org/tanzania-maasai-people-resist-forced-evictions/>.

660 "Loliondo land saga in new controversy" The Citizen Newspaper (supra); Laurel Sutherland "Tanzania, siding with UAE firm, plans to evict Maasai from ancestral lands" MONGABAY, 18 February 2022, at <https://news.mongabay.com/2022/02/tanzania-siding-with-uae-firm-plans-to-evict-maasai-from-ancestral-lands/>; CIVICUS LENS, TANZANIA: MAASAI PEOPLE RESIST FORCED EVICTIONS, 13 July 2022, at <https://lens.civicus.org/tanzania-maasai-people-resist-forced-evictions/>; Amnesty International "Tanzania: Halt brutal security operation in Loliondo"



has been reported that in 2018, the EACJ granted an injunction prohibiting the Tanzanian Government from evicting Maasai communities from 1,500 square kilometers (580 square miles) of ancestral, legally registered land in the Loliondo division. The injunction placed a temporary block on relocation, pending a final court decision.

Maasai protests

Maasai protests were widely reported on mainstream and social media.⁶⁶¹ There were videos and images which showed scenes of a Maasai community gathering to protest against the demarcation exercise in defense of their ancestral rights to the lands.⁶⁶²

Conservation argument questioned

Some of the critics of the Government's relocation stance also poked holes on the conserving the environment argument. Some of them branded the conservation argument a thinly veiled justification, given the primary motivations of foreign investment and hunting operations,⁶⁶³ while others argued that the "eviction" is not the answer to conserving the environment and that wild ecosystems do not exist in isolation.⁶⁶⁴

Response of international actors, including the UN

International actors and stakeholders, including the United Nations (UN), also expressed concerns over the situation in Ngorongoro. On 15th June 2022, the United Nations (UN) human rights experts issued a statement on the Loliondo saga, expressing concerns over human rights violations and highlighting violation of the free, prior and informed consent, as required under international human rights law and standards.⁶⁶⁵ The experts also stated that it seemed impossible to guarantee that the relocation exercise did not amount to forced evictions and arbitrary displacement under international law.⁶⁶⁶ Their statement further indicated that they were "concerned at Tanzania's plans to displace close to 150,000 Maasai from the Ngorongoro Conservation Area and Loliondo without their free, prior and informed consent, as required under international human rights law

at <https://www.amnesty.org/en/latest/news/2022/06/tanzania-halt-brutal-security-operation-in-loliondo/>.

661 "Loliondo land saga in new controversy" The Citizen Newspaper (online), 11 June 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/loliondo-land-saga-in-new-controversy-3845480>; ICCA "Alert: Maasai in Tanzania are being forcefully evicted from their ancestral lands" at <https://www.iccaconsortium.org/index.php/2022/06/12/tanzania-maasai-loliondo-ngorongoro-conservation-eviction/>.

662 Ibid.

663 ICCA Consortium "Alert: Maasai in Tanzania are being forcefully evicted from their ancestral lands" at <https://www.iccaconsortium.org/index.php/2022/06/12/tanzania-maasai-loliondo-ngorongoro-conservation-eviction/>.

664 Lucas Yamat & Pablo Manzano, *Loliondo evictions: bad for people, conservation and pastoralism* (supra).

665 UN Office of the High Commissioner for Human Rights, Tanzania: UN experts warn of escalating violence amidst plans to forcibly evict Maasai from ancestral lands, Press Release, 15 June 2022, at <https://www.ohchr.org/en/press-releases/2022/06/tanzania-un-experts-warn-escalating-violence-amidst-plans-forcibly-evict>.

666 Ibid.



and standards. They called upon the Government “to immediately halt plans for relocation of the people living in Loliondo and the Ngorongoro Conservation Area and begin consultations with the Maasai Indigenous Peoples, including direct contact with the Ngorongoro Pastoral Council, to jointly define current challenges to environmental conservation and best avenues to resolve them, while maintaining a human rights-based approach to conservation.” They also urged the Tanzanian authorities to demonstrate transparency by accepting requests for external scrutiny, including responding to country visit requests by the UN Special Rapporteur on the Right to Adequate Housing and the UN Special Rapporteur on the Rights of Indigenous Peoples.⁶⁶⁷

Amnesty International, an international human rights advocacy NGO, called for the Government to halt demarcation and security operation in Loliondo and “ensure there are sufficient remedies offered to all affected persons and investigate the appalling violence.”⁶⁶⁸ It also called on Tanzanian authorities to end the security operation and suspend any land acquisition plans until the community has given their free, prior and informed consent in genuine consultations.⁶⁶⁹ Other actors urged the Government to consider the community proposals and recommendations outlined in their reports, to ensure the interests of nature conservation and livelihoods are balanced.⁶⁷⁰

Some of the Maasai people reportedly happy with relocation

Various local media outlets reported that some of the Maasai people happily relocated to Tanga given the promise of better life and social services.⁶⁷¹ Educational and health facilities were reportedly built, in addition to provision of houses and farm or grazing land, to make life more amenable in Msomera.⁶⁷²

Government’s Position

Relocation, not eviction - essential for conservation

Throughout this saga, the Government has maintained its position that what has been happening in Loliondo division is not eviction, but rather relocation for purposes of conservation.⁶⁷³ The Prime Minister, Hon.

667 Ibid.

668 Amnesty International “Tanzania: Halt brutal security operation in Loliondo” at <https://www.amnesty.org/en/latest/news/2022/06/tanzania-halt-brutal-security-operation-in-loliondo/>.

669 Ibid.

670 Lucas Yamat & Pablo Manzano, *Loliondo evictions: bad for people, conservation and pastoralism* (supra).

671 Damas Kanyabwoya “Why It’s Important for Government to Allow Free Flow of Information in the Ongoing Ngorongoro Saga” The Chanzo Initiative, 14 June 2022, at <https://thechanzo.com/2022/06/14/why-its-important-for-government-to-allow-free-flow-of-information-in-the-ongoing-ngorongoro-saga/>.

672 Ibid.

673 “Loliondo land saga in new controversy” The Citizen Newspaper (online), 11 June 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/loliondo-land-saga-in-new-controversy-3845480>.



Kassim Majaliwa, reiterated that the Government was planting beacons to demarcate the 1,500 square kilometre conservation area in Loliondo from the part allocated for human activities.⁶⁷⁴ The Government has also maintained that relocation of the Maasai pastoralists seeks to achieve conservation for the best interests of the nation at large, amid growing populations of people and livestock.⁶⁷⁵

Better life awaits in Tanga

There have been reports by the Government and various media sources of investment done by the Government in Msomera Village in Tanga, to facilitate smooth relocation of the Maasai people removed from Ngorongoro District.⁶⁷⁶ On 26th June 2022, it was reported by one media outlet that more than 200 people had been moved to the village, located 600 kms away from their ancestral land in Loliondo division. Among the measures taken by the Government in Msomera was construction of houses and infrastructure, as well as renovation of schools.⁶⁷⁷ The government plan in the area also included provision of better social services and grazing land. For locals in Msomera, the government investment in their ‘backward place’ to facilitate arrival of the Maasai people was seen as a blessing and a welcome development.

People with bad intentions spreading lies

The Government also accused some people with bad intentions, including activists, of “spreading lies and misleading information” about the situation in Ngorongoro, especially Loliondo.⁶⁷⁸ In June, the Prime Minister debunked a video clip and images circulating on social media depicting a confrontation between the indigenous Maasai pastoralists and the police, and the Speaker of the National Assembly, Hon. Tulia Ackson (MP), urged the government to take action against people “spreading lies” about the situation in Ngorongoro.⁶⁷⁹ She suggested that the Loliondo saga was part of an ‘economic war’ against Tanzania by other countries.⁶⁸⁰

LHRC’s View: Whether investment-related or not, the Loliondo land

674 Ibid.

675 Lucas Yamat & Pablo Manzano, *Loliondo evictions: bad for people, conservation and pastoralism* (supra); “Tanzania spends millions to move, build new life in Tanga for Loliondo Maasai” The East African Newspaper (online), 26 June 2022, at <https://www.theeastafrican.co.ke/tea/news/east-africa/tanzania-relocates-loliondo-maasai-to-tanga-3860046>.

676 “Tanzania spends millions to move, build new life in Tanga for Loliondo Maasai” The East African Newspaper (online), 26 June 2022, *ibid*.

677 Ibid.

678 “Loliondo land saga in new controversy” The Citizen Newspaper (supra); Damas Kanyabwoya “Why It’s Important for Government to Allow Free Flow of Information in the Ongoing Ngorongoro Saga” The Chanzo Initiative, 14 June 2022, at <https://thechanzo.com/2022/06/14/why-its-important-for-government-to-allow-free-flow-of-information-in-the-ongoing-ngorongoro-saga/>.

679 Ibid.

680 Ibid.



saga benefits no one and it is imperative that all voices are heard so that an amicable solution is found. The principle of Free, Prior, Informed Consent (FPIC) is very important to guarantee meaningful participation and consultation of community members in case of land acquisition for investment and other purposes. In LHC's view, the Government did not make enough efforts to adhere to this principle, something it should consider doing better in this and other future cases of land acquisition. It is imperative that the Government works with civil society, conservationists, human rights experts, and communities to plan management and utilization of natural resources in Loliondo and other contested areas in Tanzania to safeguard human rights and prevent future land disputes and conflicts. The human rights-based approach to land acquisition requires consideration of views and concerns of community members, and in this case balancing the need for conservation and the needs of affected communities. The human-rights based approach to development also requires Governments to refrain from and prevent human rights violations while conducting operations.

3.5.3.2. Other Land Disputes/Conflicts

In 2022, through media survey and human rights monitoring, LHRC documented at least eight other land disputes/conflicts, reported in regions such as Lindi, Kilimanjaro, Kigoma, Singida, and Morogoro. For instance, in July 2022, nine farmers were reportedly injured in Siha District during a conflict between farmers and Maasai pastoralists from Longido, Arusha.⁶⁸¹ The conflict allegedly erupted after the pastoralists grazed their livestock in the West Kilimanjaro plantations, destroying approximately 1,800 acres in the process.⁶⁸² The spate of violent clashes between pastoralists and farmers in Siha District prompted the Kilimanjaro Regional Commissioner to convene meetings of regional and district safety and security committees.⁶⁸³

In Lindi, it was reported in November 2022, that some of the village chairpersons, village executive officers (VEOs) and ward executive officers (WEOs) were implicated in land corruption, fuelling conflicts between farmers and pastoralists in the region.⁶⁸⁴ Some of the residents of Ngunichile Ward in Nachingwea District and Ngumbu Ward in Liwale District claimed that some of the pastoralists are known to bribe the village leaders to get things their way, contributing to unrest with farmers and even killings.⁶⁸⁵

681 "Mapigano yateruhi tisa Kilimanjaro" Mwananchi Newspaper, 11 Jul 2022.

682 Ibid.

683 The Citizen Newspaper, 11 Jul 2022.

684 Mwanja Ibadi "Watendaji vijiji watajwa tatizo" Mwananchi Newspaper, 19 Nov 2022.

685 Ibid.



LHRC's legal aid data for the year 2022 also showed that land disputes constituted the majority of disputes brought by legal aid clients (41%), followed by employment (22%), and family disputes (18%).⁶⁸⁶

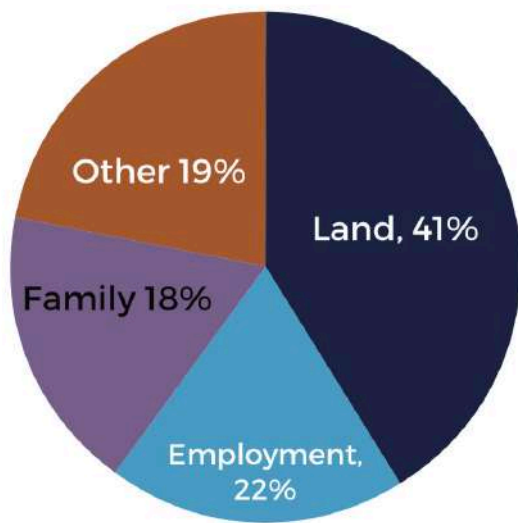


Figure 41: LHRC legal aid cases by type of dispute, 2022

Source: LHRC Legal Aid Data, 2022

Majority of complainants in the land disputes received by LHRC in 2022 were men (66%), while women constituted just over a third of the complainants (34%). This attests to gender issues in land acquisition, ownership, and control, which are further discussed in Chapter Five below.

3.5.4. Property Rights Violations

Among the property rights violations documented by LHRC in 2022 were property grabbing from women and older persons, usually by in-laws, relatives, and children.

3.5.4.1. Property Grabbing from Women and Older Persons

In 2022, LHRC documented at least 13 incidents of property grabbing from women and older persons, reported in regions such as Kilimanjaro, Njombe, Tanga, and Kigoma. For instance, in Njombe it was reported that in Ivalalila Village, Makete District, one man beat his sister to death so that

⁶⁸⁶ LHRC legal Aid Report 2022.



he can have all the property (farm) to himself.⁶⁸⁷ It was reported that he did so because he no longer wanted to share the property with his sister. Other incidents of property grabbing from women and older persons are discussed in Chapter Five below.

3.5.4.2. Women's Access to, Use of, and Control over Land

In Tanzania, 33% of women are said to own agricultural land compared to 47% of men, which is equivalent to a gender gap of 14%. In rural areas, where agriculture is the primary source of employment, the gender gap reaches 17%.⁶⁸⁸

Concerns over rural women's access to, use of and control over land continued to be expressed in 2022. In most rural communities, women are still denied the right to own land, with men having final say in their access and use of land and being in total control. This concern was raised in the Human Rights Survey 2022 in nearly all regions that were visited, especially in rural and semi-urban areas. These regions include Kagera, Mara, Mwanza, Kigoma, Tanga, Singida, Dodoma, Geita, and Katavi.

'Women struggle to own property, especially once their husbands die. They are usually kicked out of the land once 40 days have passed since the deaths of their husbands. Access to dispute settlement mechanisms is also a challenge and contributing factor...'

NGO worker – Nsimbo, Katavi

In March 2022, it was disclosed that even though both men and women engage in agricultural activities, statistics show that the agriculture sector is female-intensive, whereby more than 80% of women engage in agriculture.⁶⁸⁹ Therefore, secure land access to women is important due to the role they play in agriculture, which is the mainstay of the economy and food security in the country. Denying women access to, use of, and control over land constitutes economic violence against them, and this matter is discussed in detail in Chapter Five below.

The 2022 Social Institutions and Gender Index (SIGI) for Tanzania shows

687 LHRC Human Rights Monitoring 2022.

688 OECD (2022), SIGI Country Report for Tanzania, Social Institutions and Gender Index, OECD Publishing, Paris, <https://doi.org/10.1787/06621e57-en>.

689 Rose George "Importance of grassroot land governance systems in enabling rural women's access to land in Tanzania" DAILYNEWS Newspaper, 7 Mar 2022.



that women's low ownership of and limited access to agricultural land affects their economic empowerment and food security, including access to financial services and the ability to seek and obtain credit.⁶⁹⁰ The index findings further show that women's low ownership of land is fuelled by discriminatory inheritance practices and discriminatory social norms that restrict women's access to land ownership are primarily held by men and poorer individuals with a low educational background.⁶⁹¹

3.5.5. Key Recommendations

- CSOs to collaborate with relevant government ministries, including the Ministry of Community Development, Gender, Women and Special Groups and Ministry of Lands, Housing and Human Settlements Development, to promote and protect economic rights, including through advocating for increased protection of property rights for women and conducting awareness-raising sessions and campaigns.
- Members of the public to report violations of their economic, social, and cultural rights to relevant authorities, including the Ministry of Lands, Housing and Human Settlements Development and the Commission for Human Rights and Good Governance (CHRAGG).
- Members of the public to seek knowledge and access information about their economic, social, and cultural rights, including right to own property and popular versions on laws relating to this right prepared by government and no-government actors, including CSOs.

3.6. Right to Adequate Standard of Living

About the right

- According to the Universal Declaration of Human Rights (UDHR) of 1948 and the International Covenant on Civil and Political Rights (ICCPR) of 1966, everyone has a right to a standard of living adequate for the health of himself and his family.
- Includes right to adequate food and right to shelter.
- States have a duty to take appropriate steps to ensure realization of the right to adequate standard of living, including right to adequate food and right to shelter/housing.

Right to Food

⁶⁹⁰ *SIGI Country Report for Tanzania (supra)*.

⁶⁹¹ *Ibid.*



Like other social rights, right to food is realized progressively and is accomplished when every man, woman, and child, alone or in a community with others, has physical and economic access, at all times, to adequate food or the means for its procurement. This right is essential for realization of other human rights. Key elements of right to adequate food include **availability of food, food safety, acceptability, and accessibility**.⁶⁹² Availability of food means food is available in quantity and quality required to satisfy the dietary needs of people and can be moved from where it is produced to markets, while food safety means food should be protected from substances that may contaminate it. Acceptability means food should be accepted within the community or culture; and accessibility, both economic and physical, means people should be able to meet financial costs of acquiring food and the food is accessible to everyone, including disadvantaged groups such as children and persons with disabilities (PWDs).

Right to Adequate Housing

The right to adequate housing is essential for enjoyment of all economic, social, and cultural rights. This right is enshrined in major human rights instruments adopted by the United Nations, including ICESCR, UDHR, CEDAW, CERD and CRPD. Elements of the right to adequate housing include **security of tenure, affordability, habitability, accessibility, location, and cultural adequacy**.⁶⁹³ The right is closely connected to rights to health, water and sanitation.

In 2022, key issues and violations affecting right to adequate standard of living in Mainland Tanzania included food security; access to nutritious food; food affordability; access to adequate housing; and security of tenure.

3.6.1. Government Action

In 2022, government action to facilitate realization of the right to adequate standard of living included implementation of the Tanzania Social Action Fund (TASAF) cash transfers programme to address basic needs of poverty (food, clothing, shelter) among the poor. For instance, in December 2022, TASAF granted Tshs. 886,275 to 38 poor households in Mangombela Village

692 See UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant), 12 May 1999, available at: <http://www.refworld.org/docid/4538838c11.htm>; See also Icelandic Human Rights Centre, Right to An Adequate Standard of Living, at <http://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/substantive-human-rights/the-right-to-an-adequate-standard-of-living>.

693 See UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), 13 December 1991, E/1992/23, available at: <http://www.refworld.org/docid/47a7079a1.html> [accessed 19 December 2017]; UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, 20 May 1997, E/1998/22, available at: <http://www.refworld.org/docid/47a70799d.html> [accessed 19 December 2017].



and Tshs. 1,090,373 to 54 households in Bungu B Village, both located in Kibiti District, Pwani Region.⁶⁹⁴ In the same month TASAF announced that first batch of 173,076 TASAF beneficiaries would graduate from the programme in January 2023 after attaining improved livelihood, economic, and financial status, and 223,418 more beneficiaries were lined up for graduation in September 2023.⁶⁹⁵

In terms of right to food, government action included implementation of the National Multisectoral Nutrition Action Plan – NMNAP (2020/2021 – 2025/2026) through the Nutrition Sensitive Agriculture Action Plan – NSAAP, to boost access to nutritious food, including at schools; implementation of the Guidelines for Gender Mainstreaming in Agriculture; and implementation of various agricultural projects, including irrigation farming.⁶⁹⁶

To improve adequate housing, government action in 2022 included construction of low-cost houses in regions such as Dar es Salaam, Arusha, Rukwa, and Dodoma.⁶⁹⁷ For instance, the ministry responsible for housing disclosed that in the financial year 2021/22 it was continuing with construction of 101 low-cost houses in Chamwino District, Dodoma Region.⁶⁹⁸



694 See Jamhuri ya Muungano wa Tanzania Ofisi ya Rais Tawala za Mikoa na Serekali za Mitaa HALMASHAURI YA WILAYA YA KIBITI, MSAADA WA TASAF KWA KAYA MASKINI, 6 Dec 2022, at <https://kibitidc.go.tz/new/msaada-wa-tasaf-kwa-kaya-maskini>.

695 Nelly Mtema “Over 170,000 TASAF beneficiaries set for graduation next month” DAILYNEWS Newspaper (online), 22 Dec 2022, at <https://dailynews.co.tz/over-170000-tasaf-beneficiaries-set-for-graduation-next-month/>.

696 See HOTUBA YA WAZIRI WA KILIMO, MHESHIMIWA HUSSEIN MOHAMED BASHE (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA KILIMO KWA MWAKA 2022/2023, at <https://www.nirc.go.tz/publications/hotuba-wizara-kilimo-2022-2023>.

697 See JAMHURI YA MUUNGANO WA TANZANIA, HOTUBA YA WAZIRI WA ARDHI, NYUMBA NA MAENDELEO YA MAKAZI, MHESHIMIWA DKT. ANGELINE S.L. MABULA (MB), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA WIZARA KWA MWAKA 2022/23, at <https://www.lands.go.tz/uploads/documents/en/1653553970-HOTUBA%20YA%20WIZARA%20YA%20ARDHI,%20NYUMBA%20NA%20MAENDELEO%20YA%20MAKAZI%202022.23.pdf>.

698 Ibid, para 100.



Picture 5: Low-cost houses constructed in Sumbawanga-Rukwa

Picture source: Ministry responsible for housing budget speech 2022/23

On the other hand, in 2022, effective realization of the right to food was compromised by several issues, including food security, access to nutritious food, and rising food prices.⁶⁹⁹

3.6.2. Food security: Threat of food insecurity, compounded by climate change impact

Currently, Tanzania remains very much dependent on rainfed agriculture. Consequently, erratic rainfall situation in the past ten years has gradually affected agricultural production and threaten food security.⁷⁰⁰ An analysis conducted by Integrated Food Security Phase Classification (IPC)⁷⁰¹ in 28 district councils of Mainland Tanzania revealed that food insecurity is driven primarily by a prolonged dry spell and erratic rainfall that has contributed to failure in crop and livestock production and has negatively affected pasture and water availability.⁷⁰² According to analysis findings, crop pests and livestock diseases in the 2021/22 planting season led to decreased production in both the *Masika* and *Msimu* harvest. Additionally, high prices of staple food, compounded by limited casual labour opportunities were also driving acute food insecurity.⁷⁰³

699 See World Food Programme, Tanzania Country Brief, December 2020, at https://docs.wfp.org/api/documents/WFP-0000123042/download/?_ga=2.42566317.968835604.1611986772-1108408858.1611986772

700 See Idara ya Usalama wa Chakula – Wizara ya Kilimo na Idara ya Uratibu Maafa – Ofisi ya Waziri Mkuu, *Taarifa ya Tathmini ya Kina ya Hali ya Usalama wa Chakula na Lishe Nchini*, Januari 2020 at <https://www.kilimo.go.tz/index.php/en/resources/view/taarifa-ya-tathmini-ya-kina-ya-hali-ya-usalama-wa-chakula-na-lishe-nchini>.

701 An innovative multi-partner initiative for improving food security and nutrition analysis and decision-making. By using the IPC classification and analytical approach, Governments, UN Agencies, NGOs, civil society and other relevant actors, work together to determine the severity and magnitude of acute and chronic food insecurity, and acute malnutrition situations in a country, according to internationally recognised scientific standards.

702 See IPC, TANZANIA: PERSISTENT DRY SPELLS AND CROP PESTS DRIVE FOOD INSECURITY IN MAINLAND TANZANIA, 30 Dec 2022, at <https://reliefweb.int/report/united-republic-tanzania/tanzania-acute-food-insecurity-situation-october-2022-february-2023-and-march-may-2023>.

703 Ibid.

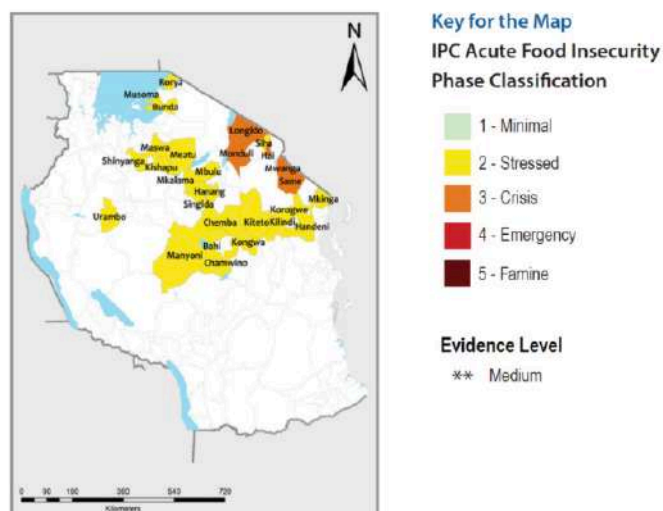




Source: IPC, 2022

IPC revealed that during the period of analysis (October 2022 - February 2023), about 964,000 people (11% of a population of 8.7 million people in 28 analysed district councils of Mainland Tanzania) were estimated to be experiencing high levels of acute food insecurity (IPC Phase 3+). An estimated 18,000 people are classified in IPC Phase 4 (Emergency), while about 946,000 people (11% of the population analysed) are classified in IPC Phase 3 (Crisis). Around 2.7 million people, representing 31% of the population analysed are classified in IPC Phase 2 (Stressed).⁷⁰⁴

Current Acute Food Insecurity (Oct 2022 – Feb 2023)



Source: IPC, 2022

704 Ibid.



However, for the projected period of analysis (March – May 2023), the number of people facing high levels of acute food insecurity are expected to decrease from 964,000 to about 839,000, due to anticipation of improved soil moisture for crop growth and some good harvest from *Vuli* and *Msimu*.⁷⁰⁵ Increased rainfall is also expected to lead to increased production of food crops, contributing to increased food stocks at household level and access.⁷⁰⁶

Other key issues which affect food production and by extension food security in Tanzania include use of inadequate tools and technology in food production, lack of adequate investment in irrigation farming, and adverse effects of climate change.

Climate change and food insecurity

Climate change has been identified as a significant risk affecting agriculture, food and nutrition security in Tanzania.⁷⁰⁷ Tanzania has received praise for making significant efforts to integrate climate change adaptation and mitigation into agriculture, food and nutrition security policies and frameworks.⁷⁰⁸ However, most sector policies have been found to not adequately integrate climate change adaptation and mitigation strategies, which is a significant limitation in strengthening climate change action.⁷⁰⁹ There are also challenges of financing initiatives being more project rather than programme-based, hence creating sustainability issues; and climate change institutional initiatives being often top-down and donor-driven, with limited impact at local level.⁷¹⁰

In October 2022, the Government granted 300 tons of maize to residents in Monduli District in Arusha Region to rescue them from hunger caused by drought, a consequence of climate change, which affected crop production.⁷¹¹ In November, the Government did the same in Ikungi District, Singida Region, providing 100 tons of maize to be sold to citizens at Tshs. 830 per kilogramme.⁷¹²

3.6.3. Access to nutritious food

Access to nutritious food is also key issue affecting food security in Africa,

705 IPC food insecurity report (supra).

706 Ibid.

707 See Amwata D, Tumbo M, Mungai C, Radeny M, Solomon D. 2020. Review of policies and frameworks on climate change, agriculture, food and nutrition security in Tanzania. CCAFS Info Note. Wageningen, Netherlands: CGIAR Research Program on Climate Change, Agriculture and Food Security (CCAFS), at <https://reliefweb.int/report/united-republic-tanzania/review-policies-and-frameworks-climate-change-agriculture-food-and>.

708 Ibid.

709 Review of policies and frameworks on climate change, agriculture, food and nutrition security in Tanzania (supra).

710 Ibid.

711 Bertha Ismail "Serikali yatoa tani 300 za mahindi kuwanusuru wananchi Monduli" 24 Oct 2022, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/serikali-yatoa-tani-300-za-mahindi-kuwanusuru-wananchi-monduli-3996584>.

712 "UHABA WA CHAKULA, TANI100 KUFIKIA WANANCHI SINGIDA" ITV News, 8 Nov 2022.



including Tanzania, especially for the most vulnerable and marginalized members of the society. According to the World Food Programme (WFP), given the poverty and food poverty situation, majority of households in Tanzania find it difficult to afford nutritious diets, contributing to malnutrition.⁷¹³

Government effort to boost access to nutritious food

In May 2022, the Minister of Agriculture, Hon. Hussein Mohamed Bashe, acknowledged the challenge of access to nutritious food for some households, leading to childhood stunting, anaemia, and childhood wasting.⁷¹⁴ He also noted that the Government was conducting various public awareness programmes to promote healthy eating among children and adults, including television and radio programmes.⁷¹⁵

Tanzania's progress in meeting global nutrition targets

However, Tanzania is making progress to meet global nutrition targets, according to the 2022 Global Nutrition Report.⁷¹⁶ For instance, some progress has been made towards achieving the target of reducing anaemia among women of reproductive age, with 38.9% of women aged 15 to 49 years now affected; some progress has been made towards achieving the low birth weight target with 10.5% of infants having a low weight at birth; and the country is 'on course' for the exclusive breastfeeding target, with 57.8% of infants aged 0 to 5 months exclusively breastfed.⁷¹⁷ Additionally, some progress has also been made towards achieving the target for stunting, but 31.8% of children under 5 years of age are still affected, which is higher than the average for the Africa region (30.7%). In terms of wasting, Tanzania is said to be 'on course' for the target for wasting, with 3.5% of children under 5 years of age affected, which is lower than the average for the Africa region (6.0%).⁷¹⁸

Access to nutritious food: Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Findings

The Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 has revealed that 30% of children under age five are stunted (short for

713 See World Food Programme, Tanzania Country Brief, December 2020, at https://docs.wfp.org/api/documents/WFP-0000123042/download/?_ga=2.42566317.968835604.1611986772-1108408858.1611986772.

714 HOTUBA YA WAZIRI WA KILIMO, MHESHIMIWA HUSSEIN MOHAMED BASHE (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA KILIMO KWA MWAKA 2022/2023, <https://www.nirc.go.tz/publications/hotuba-wizara-kilimo-2022-2023>.

715 Ibid.

716 See Global Nutrition Report, United Republic of Tanzania, at <https://globalnutritionreport.org/resources/nutrition-profiles/africa/eastern-africa/united-republic-tanzania/>.

717 Ibid.

718 Ibid.



their age) and 9% are severely stunted.⁷¹⁹ 3% of children under age five are wasted (thin for their height), while 4% are overweight. Additionally, 12% of children under age five are underweight, and 3% are severely underweight. However, the percentage of children under 5 who are stunted has decreased steadily from 48% in 1999 to 30% in 2022. Little change has been observed over time in terms of percentage of children who are wasted or overweight.⁷²⁰

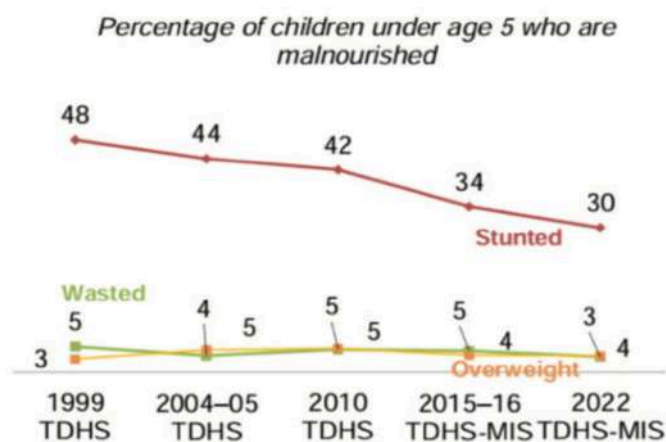


Figure 42: Trends in nutritional status of children

Source: TDHS 2022

3.6.4. Other Key Issues and Challenges

3.6.4.1. Rising food prices

In Tanzania, high and increasing prices of food and essential non-food commodities as well as low income and limited casual labour opportunities have been said to contribute to reduced food access.⁷²¹ In 2022, rising food prices threatened the right to food, as power and water rationing

⁷¹⁹ Ministry of Health (MoH) [Mainland Tanzania], Ministry of Health (MoH) [Zanzibar], National Bureau of Statistics (NBS), Office of the Chief Government Statistician (OCGS), and ICF. 2023 Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Key Indicators Report. Dodoma, Tanzania, and Rockville, Maryland, USA: MoH, NBS, OCGS, and ICF.

⁷²⁰ Ibid.

⁷²¹ IPC food insecurity analysis report (*supra*).



compounded the problem. Tanzanians in different parts of the country, including Dar es Salaam, Arusha, Mwanza, Dodoma, and Mbeya, bemoaned high rise in prices of food items, including rice and cooking oil.⁷²² This makes it difficult to realize their right to adequate standard of living, particularly right to food.

The Bank of Tanzania’s Monthly Economic Review Report, released in November 2022, showed that food inflation (food and non-alcoholic beverages), increased to 9.1 percent in October 2022 from 8.3 percent recorded in the preceding month and 3.9 in October 2021.⁷²³ According to the report, much of the increase emanated from prices of maize flour, rice, beans, dry sardines, soya, and cassava. Higher demand for main food crops from neighbouring countries largely contributed to the food price increase.⁷²⁴

Table 15: Wholesale Prices of Selected Food Crops (Tshs per 100kg)

Food Crop	Oct 2021	Jul 2022	Aug 2022	Sep 2022	Oct 222
Maize	48,171.5	87,383.7	89,039.6	95,931.3	101,815.4
Rice	151,867.8	203,934.3	209,787.6	234,490.0	261,418.8
Beans	172,065.5	191,557.8	206,861.5	232,832.9	266,555.5
Sorghum	95,606.6	119,093.8	127,012.4	123,391.7	127,772.1
Round potatoes	63,162.7	81,742.6	82,522.6	82,155.4	82,942.3
Finger millet	157,704.8	166,342.5	164,468.7	164,700.5	173,680.5

Source: BoT, 2022

3.6.4.2. Budget for the agriculture sector

Agriculture sector plays a significant role in Tanzania’s economy in terms of its contribution to the gross domestic product (GDP). It also remains the biggest employer, constituting over two thirds of the working population. However, the sector has been experiencing the challenge of underbudgeting, consequently affecting food production. Agricultural

⁷²² Mwananchi Newspaper, 25 Mar 2022.

⁷²³ BANK OF TANZANIA, MONTHLY ECONOMIC REVIEW, November 2022

<https://www.bot.go.tz/Publications/Regular/Monthly%20Economic%20Review/en/2022120811270209.pdf>.

⁷²⁴ Ibid.



stakeholders have been lamenting less budget share, despite its significant contribution to the economy and livelihood.⁷²⁵ For instance, in the period of five years, covering financial years 2016/17 to 2020/21, the Government reportedly located less than 6% of its budget in agriculture, contrary to the 2014 AU Malabo Declaration,⁷²⁶ which requires allocation of at least 10% of

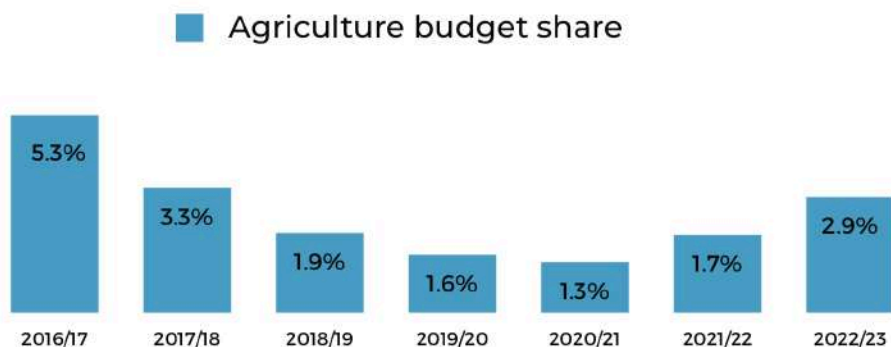


Figure 43: Agriculture budget share trends (2016/17 – 2022/23)

Source: Ministry of Finance and Planning & Policy Forum

Agriculture stakeholders have also expressed concerns over disbursement of budget allocated for the agricultural sector. For instance, on average, between 2016/17 and 2019/20, 66% of the sector’s overall budget was approved to support development projects, but only 40% was disbursed.⁷²⁸ This has affected efforts to ensure progressive realization of the right to adequate standard of living, particularly right to food.

For the financial year 2022/23, the Government allocated 1.2 trillion for the agriculture sector, including livestock and fisheries.⁷²⁹ This includes Tshs. 300 billion for the the construction of irrigation infrastructure in 25 new schemes totaling 53,234 hectares and Tshs. 268.9 billion for development projects including 100.6 billion shillings to subsidize fertilizer price, and

725 See Policy Forum, ANSAF, ActionAid & CODEFSA, 2020/21 Analysis of the Agriculture Budget: A Call for Improved Financing of the Sector, Brief 2:20, at <https://www.policyforum-tz.org/sites/default/files/2021-03/2020%20and%202021%20Analysis%20of%20the%20Agriculture%20Budget.%20A%20call%20for%20Improved%20Financing%20of%20the%20Sector.pdf>.

726 Ibid.

727 See Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods, at <https://archives.au.int/handle/123456789/5527#:~:text=The%20Malabo%20declaration%20made%20by,Transforming%20Africa's%20Agriculture%20for%20Shared>.

728 2020/21 Analysis of the Agriculture Budget (supra)..

729 See CITIZEN’S BUDGET BOOK: A SIMPLIFIED VERSION OF THE GOVERNMENT BUDGET FOR THE FINANCIAL YEAR 2022/23, Issued by Ministry of Finance in collaboration with Policy Forum, at https://www.mof.go.tz/uploads/documents/en-1660656080-Citizen%20Budget%202022_23%20English.pdf.



Tshs. 3 billion for youth block farming.⁷³⁰ This budget allocation represents a significant improvement compared to the 630.4 billion shillings allocated for the previous financial year of 2021/22.⁷³¹

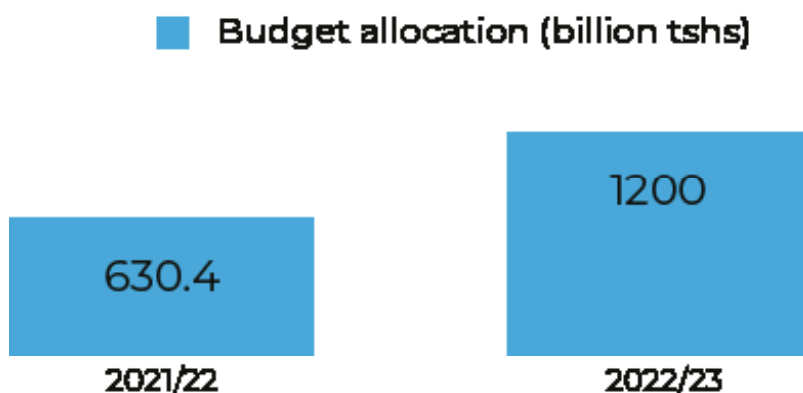


Figure 44: Budget allocation for the agricultural sector – 2021/22 & 2022/23

Source: Ministry of Finance and Planning & Policy Forum

Budget for irrigation projects has also increased from 48.2 billion shillings during the financial year 2021/22 to 300 billion shillings in the financial year 2022/23. This presents hope for agriculture in terms of increasing investment in irrigation farming as a mitigation for climate change impacts.

In May 2022, the proposed budget for the agriculture sector was greeted with great enthusiasm by the Agriculture Council of Tanzania (ACT).⁷³² ACT Chairperson, Jacqueline Mkindi, said she was happy that the Government had addressed historical injustice on the agriculture sector and if entirely implemented, the budget would help to improve productivity, reduce farming cost, open up potential markets, and empower farmers.⁷³³ She also commended the Government for increasing funding for irrigation infrastructures.

⁷³⁰ Ibid.

⁷³¹ THE CITIZENS' BUDGET: A SIMPLIFIED VERSION OF THE GOVERNMENT BUDGET FOR THE FINANCIAL YEAR 2021/2022, Issued by Ministry of Finance in collaboration with Policy Forum, at https://www.mof.go.tz/uploads/documents/en-1646133327-The%20Citizens%20Budget%20for%20the%20Financial%20year%202021_21%20FINAL.pdf.

⁷³² "Agriculture budget offers ray of hope for farmers" The Citizen Newspaper (online), 24 May 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/agriculture-budget-offers-ray-of-hope-for-farmers-3825374>.

⁷³³ Ibid.



3.6.4.3. Access to adequate housing

In Tanzania, access to adequate housing remains a challenge in both urban and rural areas. Many people still live in houses which are not decent and where they can easily access basic social services, especially the 26.4% of the people who are experiencing basic needs poverty.⁷³⁴ Due to poverty, they cannot afford to build or access adequate housing. As a result, progress in achieving the SDG 11 target of ensuring access for all to adequate, safe, and affordable housing and basic services and upgrade slums by 2030, has been slow.

Rapid urbanization, population growth, urban-rural migration, and income poverty are among the key factors behind lack of adequate housing.⁷³⁵ Rapid urbanization has brought about increased demand for affordable housing and housing finance, but many lower and middle-income families continue to struggle to get the funds to build decent houses, especially at this period where the prices of construction materials have significantly increased. Consequently, they have to do with living in poor or unfinished houses or renting without much hope for getting money to build their own.⁷³⁶

Low quality and indecent houses are still common in most parts of rural areas and some parts of urban areas, especially where low-income population resides. Poor quality construction materials and poor construction skills present adequate housing challenge in rural areas.⁷³⁷ For urban population, key adequate housing challenges include lack of surveyed plots for individual homebuilders; high cost of building materials; lack of coordinated system to provide housing to the fast growing population of urban dwellers; rapid population growth, leading to overcrowding; poor conditions of service infrastructure and basic services; and increased number of unemployed youths in overcrowded squatter areas.⁷³⁸

Natural disasters also contribute to lack of adequate housing. For instance,

⁷³⁴ See United Republic of Tanzania, National Bureau of Statistics, 2021 Tanzania in Figures, at <https://www.nbs.go.tz/index.php/en/tanzania-in-figures/784-tanzania-in-figures-2021>.

⁷³⁵ See Habitat for Humanity, The housing need in Tanzania, at <https://www.habitat.org/where-we-build/tanzania#:~:text=The%20housing%20need%20in%20Tanzania%20is%20estimated%20to%20be%203,city%20of%20Dar%20es%20Salaam.>; Kaseru Nick Oyoo “The housing crisis in urban Tanzania” The Citizen Newspaper (online), 13 Sep 2022, at <https://www.thecitizen.co.tz/tanzania/oped/-the-housing-crisis-in-urban-tanzania-3947406>.

⁷³⁶ World Bank, Making Housing Affordable and Accessible in Tanzania, 7 Jul 20221, at <https://www.worldbank.org/en/news/feature/2021/07/07/making-housing-affordable-and-accessible-in-tanzania>; Kwanama Elias M, THE PRESENT HOUSING CHALLENGE IN TANZANIA AND EFFORTS TOWARDS PROVISION OF AFFORDABLE HOUSING, Paper Presented at the 28th National Conference of the Institution of Engineers Tanzania 2015, 3 – 4 December 2015, Julius Nyerere International Convention Centre, Dar es Salaam, Tanzania, at https://warwick.ac.uk/fac/sci/eng/elith/publications/all_publications/elith-z04.pdf.

⁷³⁷ THE PRESENT HOUSING CHALLENGE IN TANZANIA AND EFFORTS

TOWARDS PROVISION OF AFFORDABLE HOUSING (*supra*).

⁷³⁸ Ibid.



in May 2022, it was reported that 1,500 people in Kyela District were left homeless after heavy floods washed away their houses and belongings.⁷³⁹

Women and other vulnerable groups disproportionately affected by lack of adequate housing

Housing must be accessible to everyone, including disadvantaged groups. Women's access to adequate housing is compromised by various factors, including denial of inheritance rights, fuelled by discriminatory customs and traditions; property grabbing; and limited access to and control over land. Widow eviction is a key challenge for women, especially in rural areas, leaving them and their children homeless and violating their right to shelter/adequate housing. **Homelessness** constitutes a serious deprivation of access to housing and an extreme form of social exclusion, discrimination and loss of dignity.⁷⁴⁰

In 2021, LHRC documented at least 23 incidents of eviction of women from their marital homes and least 48 incidents of denial of inheritance, reported in different parts of Mainland Tanzania, including Mwanza, Mara, Mbeya, Rukwa, Kilimanjaro, Manyara, and Lindi Regions. Majority of denial of inheritance cases (70%) concerned widows who were prevented from inheriting their late husbands' property and left homeless. In 2022, LHRC documented at least 21 incidents of eviction of widows from marital home through human rights monitoring and human rights survey, which are 2 less than those documented in 2021.

Various practices such as fraudulent mortgages by spouses, whereby in some cases husbands secretly take loans or even sell houses; lack of legal knowledge; and limited access to justice, including due to corruption; also lead to violation of the right to adequate housing among women. Other legal, cultural, economic, and institutional barriers which hinder women's access to adequate housing include discriminatory inheritance laws, GBV, entrenched patriarchal norms with respect to titling and land, gender-based housing discrimination, failure to regulate landlord-tenant relationships adequately, and forced evictions.⁷⁴¹

Women are especially disproportionately impacted by inadequate housing

⁷³⁹ The Guardian Newspaper, 5 May 2022.

⁷⁴⁰ Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Balakrishnan Rajagopal (A/77/190) [EN/AR/RU/ZH], at <https://reliefweb.int/report/world/report-special-rapporteur-adequate-housing-component-right-adequate-standard-living-and-right-non-discrimination-context-balakrishnan-rajagopal-a77190-enarruzh>.

⁷⁴¹ Hughes, Katherine C. and Wickeri, Elisabeth, A Home in the City: Women's Struggle to Secure Adequate Housing in Urban Tanzania (May 15, 2011). Available at SSRN: <https://ssrn.com/abstract=1842388> or <http://dx.doi.org/10.2139/ssrn.1842388>.



in terms of heightened health and safety concerns, poor quality of housing and unavailability of building materials, and severe lack of infrastructure and basic services, especially clean and safe water.⁷⁴² Those living in informal settlements, where there is lack of effective policing and toilets are outside, are at greater risk of becoming victims of crime, including rape. This also compromises their right to liberty and personal security as well as right to privacy due when accessing toilet services. Overcrowding in such settlements also affects children in terms of lack of adequate space to play and having to live with their parents in one-room houses, where sometimes they are even forced to **'experience the sex their parents have.'**

Customary laws in Tanzania also continue to be a big threat to women's and girls' right to own property, right to inheritance, and by extension right to adequate housing. This is contributed by inheritance following the patrilineal side and perception that a girl and woman shall get married to 'outsiders,' hence there is a threat of losing land to the 'outsiders' or members of a different clan should women and girls be allowed to inherit. Widows become more vulnerable under such laws because they are not allowed to inherit, undermining their efforts to maintain housing in both rural and urban areas. Widows who refuse to be 'inherited' by their deceased husband's brother are usually kicked out of their marital homes.

Lack of shelter facilities also presents a big challenge for women running away from domestic violence. Worldwide, lack of shelter facilities forces up to 30% of women who have fled domestic violence to return to their homes and thus violence.⁷⁴³ This is where they face the dilemma and hard choice of either tolerating abuse or become homeless.⁷⁴⁴

Unemployment among women and low-paying jobs also undermine women's ability to secure adequate housing. LHRC's Human Rights and Business Report 2021/22 shows that discrimination in the job market is still a big challenge for women in Tanzania and even for those who are employed, majority of them face the challenge of mainly getting low-paying jobs and other challenges such as sexual corruption and job insecurity when they get pregnant (maternity discrimination).

Another key challenge facing women and children in terms of adequate housing is when **husbands and fathers do not write wills**. LHRC's Tanzania Human Rights Report 2021 shows that 89% of community members do not write wills (nearly 9 out of 10), which are very important to secure

742 Ibid.

743 A Home in the City: Women's Struggle to Secure Adequate Housing in Urban Tanzania (*supra*).

744 Ibid.



and safeguard property and inheritance rights, which are prerequisite to adequate housing.

LHRC's View: Adequate housing is essential for effective realization of other human rights. However, lack of adequate housing remains a big challenge for many people, in both rural and urban areas. Women, children, and other vulnerable groups are disproportionately affected by lack of adequate housing.

LHRC's Call: The Government, through the Ministry of Lands, Housing, and Settlements Development, to intensify efforts to ensure access to adequate housing. Collaborative and multi-sectoral efforts are needed to address adequate housing challenges. Discriminatory inheritance laws should be reformed to safeguard women's and girls' property and adequate housing rights.

3.6.4.4. Security of tenure

Security of tenure is the cornerstone of the right to adequate housing. This is because secure tenure protects people against arbitrary eviction, harassment, and other threats. Most informal settlements and communities lack legal security of tenure. Security of tenure is a key issue for all dwellers, particularly women. Women who are particularly vulnerable include those experiencing domestic violence and have to flee their homes and women who do not have title to their homes or lands and can therefore be easily removed, especially upon marriage dissolution or death of a spouse. Security of tenure is key to protect against arbitrary eviction, especially for women in marriage and widows. As discussed above and further in Chapter Five below, security of tenure is still a key concern for women in Tanzania, hence threatening their right to adequate housing.

3.6.4.5. TASAF and Adequate Standard of Living: Field Survey Findings

In 2022, LHRC received some few complaints regarding the TASAF programme, which is essential for improving adequate living among the poor and marginalized members of the community. These complaints were made in Mtwara and Mbeya Regions. In Mtwara, some of interviewed community members said their relatives, who are beneficiaries, had not received funds for nearly 3 months.⁷⁴⁵ In Mbeya, some community members also complained about the funds, claiming to receive less than they signed for.⁷⁴⁶

⁷⁴⁵ LHRC Human Rights Survey 2022: Mtwara Field Report.

⁷⁴⁶ LHRC Human Rights Survey 2022: Mbeya Field Report.





Picture 6: Community Members attending TASSAF's Meeting at Isyesye Ward, Mbeya City – October 2022

Source: Field data, 2022

3.6.5. Key Recommendations

- The Government, through the Ministry of Lands, Housing, and Settlements Development, to intensify efforts to ensure access to adequate housing. Collaborative and multi-sectoral efforts are needed to address adequate housing challenges.
- The Government, through the Ministry of Constitutional and Legal Affairs, to make legal reforms to safeguard women's and girls' property and adequate housing rights, including by addressing discriminatory inheritance laws.
- CSOs to raise public awareness on food security and adequate housing, as well as key issues and challenges.



3.7. Right to Social Security

About the right

- Essential in guaranteeing the material conditions for an adequate standard of living.
- Plays an important role in reducing and alleviating poverty, preventing social exclusion, and promoting social inclusion.
- Is recognized in numerous human rights instruments including the Universal Declaration of Human Rights (art. 22) and the International Covenant on Economic, Social and Cultural Rights (arts. 9 and 10).
- Also provided for under Article 11 of the Convention on the Elimination of All forms of Discrimination against Women; Article 26 of the Convention on the Rights of the Child; and Article 28 of the Convention on the Rights of Persons with Disabilities.

The right to social security encompasses the right to access and maintain benefits without discrimination in order to secure protection from: **a lack of work-related income** caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; **unaffordable health care**; and **insufficient family support**, particularly for children and adult dependents.⁷⁴⁷

Key elements of the right to social security

According to the Office of the High Commissioner for Human Rights (OHCHR), essential aspects of the right to social security in all situations are:⁷⁴⁸

Availability: A social security system needs to be in place under domestic law to ensure that benefits are effectively administered and supervised.

Adequacy: Benefits, whether in cash or in kind, must be sufficient in quantity and duration so that everyone may realize his or her rights to family protection and assistance, a reasonable standard of living and access to health care.

⁷⁴⁷ See Office of the High Commissioner for Human Rights (OHCHR), *About the right to social security and human rights*: OHCHR and the right to social security, at <https://www.ohchr.org/en/social-security/about-right-social-security-and-human-rights#:~:text=The%20right%20to%20social%20security%20encompasses%20the%20right%20to%20access,unaffordable%20health%20care%3B%20and>.

⁷⁴⁸ See Office of the High Commissioner for Human Rights (OHCHR), *OHCHR and the right to social security*, at <https://www.ohchr.org/en/social-security>; Office of the High Commissioner for Human Rights (OHCHR), *OHCHR's overview on the right to social security/social protection*, at <https://www.ohchr.org/sites/default/files/documents/issues/socialsecurity/2022-10-07/One-pager-social-protection-Socialsecurity.pdf>.



Affordability: Costs and charges associated with contributions to social security must be economical for all and must not compromise the realization of other Covenant rights.

Accessibility: A social security system should cover all persons, especially those belonging to the most disadvantaged and marginalized groups, without discrimination. Benefits should also be physically accessible.

Gender-sensitive: Social protection measures should be gender-responsive and take into account the disproportionate burden of unpaid care work that society places on women. The unpaid care work women perform throughout their life obstructs their ability to access formal employment and therefore contributory social security or decent wages, endangering their right to an adequate standard of living across their life cycle.

Tanzania's social security system

In Tanzania, social security covers a wider variety of public and private measures to ensure provision of benefits in the event of the individuals' earning power permanently ceasing, being interrupted, never developing, being unable to avoid poverty, or being exercised only at an acceptable social cost.⁷⁴⁹ Social security in the country is governed by various laws and policies, most notably the Social Security Act⁷⁵⁰ and the National Social Security Policy of 2003.⁷⁵¹ In 2019, amendment of the Social Security Act gave the Prime Minister's Office – Labour Youth and Persons with Disability (PMO-LYED) mandate to supervise the social security sector.⁷⁵² Social protection systems are divided into two broad categories, namely: a formal system made of contributory social security schemes; and an informal system covering old age and other disadvantaged groups.⁷⁵³

Previously, there were various formal social security schemes in Tanzania, namely the National Social Security Fund (NSSF), the Public Service Pension Fund (PSPF), Parastatal Pension Fund (PPF), the Local Authorities Provident Fund (LAPF), and the National Health Insurance Fund (NHIF).⁷⁵⁴ Currently in Tanzania, there are three main contributory social security schemes, namely the National Social Security Fund (NSSF), the Public Service Social Security Fund (PSSSF) and the National Health Insurance Fund (NHIF). Under NSSF,

⁷⁴⁹ See the United Republic of Tanzania, Ministry of Labour, Youth Development and Sports, *The National Social Security Policy*, January 2003, at <http://www.tccia.com/tccia/legal/policy/socialsecuritypolicy.pdf>.

⁷⁵⁰ [Cap 50, R.E 2018].

⁷⁵¹ The general objective of the National Social Security Policy is to ensure that every citizen is protected against economic and social distress resulting from substantial loss in income due to various contingencies.

⁷⁵² Section 5 (1) of the Social Security Act (Miscellaneous amendments No. 6 of 2019).

⁷⁵³ The United Republic of Tanzania, Law Reform Commission of Tanzania, *Report of the Review of the Legal Framework on Elderly Social Care in Tanzania*, August 2017, at <https://www.lrc.tz/uploads/documents/sw-1605811133-Final%20Report%20%20ELDERLY%20SOCIAL%20CARE%20-%20Agosti,10%20%202017%20submitted%20to%20Minister.pdf>.

⁷⁵⁴ *The National Social Security Policy* (supra).



20% of employee's monthly wages is contributed to the fund, whereby the employee contributes 10% and the employer contributes the remaining 10%, but the employer may opt to contribute more.⁷⁵⁵

3.7.1. Government Action

The Government of Tanzania has taken various measures to safeguard the right to social security. These include introduction of legal and policy frameworks on social protection, including the Social Security Act and the National Social Security Policy; establishment of contributory social security schemes; introduction of Local Government Authority (LGA) revolving fund, which allocates 10% of revenue as loans for women, youth, and persons with disabilities; establishment of Women Development Fund; and provision of free healthcare services through the National Health Policy. The Government has also established the Tanzania Social Action Fund (TASAF), which is currently implementing a four-year Productive Social Safety Net II (PSSN II) which will be in operation from 2020 – 2023.⁷⁵⁶ PSSN II seeks to improve access to income-earning opportunities and socio-economic services for targeted households while enhancing and protecting the human capital of their children.⁷⁵⁷ It provides cash transfers to poor and vulnerable households, enabling them to reduce poverty.⁷⁵⁸

3.7.2. Key Issues and Challenges

Key issues and challenges in relation to provision of social protection in Tanzania include:

Coverage of social security

Limited coverage is the one of the major social security challenges in Tanzania. Only people employed in the formal sector, who are very few, are covered by social security schemes.⁷⁵⁹ This leaves the majority of the labourers in the informal sector more vulnerable, including women and persons with disabilities (PWDs). The informal system of social security, covering old age and disadvantaged groups is characterized by a large coverage, estimated at about 80%, and minimal effectiveness.⁷⁶⁰

Lack of pension for older persons

Currently, in Mainland Tanzania, there is no provision of universal pension to older persons. However, in Zanzibar the situation is different, as in April

⁷⁵⁵ Section 12 of the National Social Security Fund Act [Cap. 50 R.E 2018].

⁷⁵⁶ See The United Republic of Tanzania President's Office - State House, Tanzania Social Action Fund, PSSN II, at <https://www.tasaf.go.tz/pages/pssn-ii>.

⁷⁵⁷ Ibid.

⁷⁵⁸

⁷⁵⁹ *The National Social Security Policy (supra)*.

⁷⁶⁰ *Report of the Review of the Legal Framework on Elderly Social Care in Tanzania (supra)*.



2016 the Revolutionary Government of Zanzibar made history when it implemented the Zanzibar Universal Pension Scheme (ZUPS). Reports show that the scheme, which entitles all Zanzibari residents aged 70 and above to a monthly social pension, has improved the lives of older people in Zanzibar and made a positive impact on their wider households.⁷⁶¹ According to the International Labour Organization (ILO) and *Help Age International*, one of the lessons learned through the ZUPS is that universal social protection for older persons is feasible and can be financed by governments of low and middle income countries.⁷⁶²

Collapse of the traditional social security structures

Socio-economic developments that have taken place over the years in Tanzania have come at a price in terms of disintegration of the kinship or family-based social support systems. Economic and life hardships have made it more difficult for individuals and families to provide assistance to each other in the event of crisis or need, and the problem in Tanzania, like in many other countries, has been exacerbated by the negative impacts of Covid19 and climate change.

Low levels of income

This is another key challenge affecting social protection in Tanzania. Many people have low income, which makes it difficult for them to meet their daily needs and take care of family as well as save for the future. Again, in recent years, this problem has been compounded by the Covid19 pandemic, which has caused loss of jobs and significant reduction of income.

Access to quality health services and nutritious food for the elderly

The Government has taken various measures to ensure provision of quality health services for the elderly, including provision of free and accessible health services under the National Health Policy. However, in practice many older persons continue to have limited access to such services, and some are denied free health services, while proximity of health facilities also poses a challenge.⁷⁶³ Majority of the elderly also do not have access to adequate food and nutritious food, making them more vulnerable to malnutrition and ill-health.⁷⁶⁴ Food and security is essential for the health and survival of the elderly.

761 See Revolutionary Government of Zanzibar, Economic and Social Research Foundation (ESRF) & HelpAge International, *Impact Evaluation of the Zanzibar Universal Pension Scheme*, December 2019, at <https://www.helpage.org/silo/files/impact-evaluation-of-the-zanzibar-universal-pension-scheme.pdf>.

762 See ILO et al, *Universal Social Protection: The Universal Pension Scheme in Zanzibar*, at <https://www.social-protection.org/gimi/gess/RessourcePDF.action?id=53967>; See also Report of the Review of the Legal Framework on Elderly Social Care in Tanzania (supra).

763 Report of the Review of the Legal Framework on Elderly Social Care in Tanzania (supra).

764 Ibid.



Youth not taking care of the elderly

According to the Law Reform Commission of Tanzania (LRCT), urbanization and movement of youth from rural to urban areas has left the elderly living in the rural areas lonely and unprotected, with most youth, knowingly or unknowingly, neglecting their responsibility of taking care of their elderly parents.⁷⁶⁵ This is contributed by moral decay and lack of a legal obligation for youth to take care of their elderly parents.⁷⁶⁶

Maternity benefits and job security for women giving birth in the business sector

LHRC's Human Rights and Business Survey conducted in 2022 showed that some women employed at industries and companies in the business sector are faced with the challenge of pregnancy and maternity discrimination.⁷⁶⁷ Allegations of denial of maternity leave and incidents of maternity discrimination were made and reported by some of the interviewed respondents in Dar es Salaam, Pwani, Morogoro, Mwanza, Geita, Iringa, and Mtwara. Some of the respondents in Morogoro, Mwanza, and Iringa, also reported that some fellow female workers had lost their jobs because of pregnancy.⁷⁶⁸

Submission of employees' social security contributions

LHRC's Human Rights and Business Survey conducted in 2022 showed that the main issue of concern regarding social security for workers employed in industries and companies in the business sector was non-submission of social security contributions by their employers. Complaints were made at some of the surveyed workplaces in 10 out of 14 surveyed regions, namely Dar es Salaam, Pwani, Morogoro, Mwanza, Shinyanga, Geita, Mara, Iringa, Arusha and Mtwara.⁷⁶⁹ In July 2022, the Deputy Minister of State, Prime Minister's Office-Labour, Youth, Employment and Persons with Disability, Hon. Patrobas Katambi, spoke out against non-remittance of social security contributions by some employers in the county.⁷⁷⁰ He called upon the employers to comply with the social security laws by ensuring social security contributions are submitted timely. He noted that it is illegal to delay or postpone the contributions. He also promised to visit various business enterprises to check on compliance with the obligation to remit social security contributions.⁷⁷¹

⁷⁶⁵ Report of the Review of the Legal Framework on Elderly Social Care in Tanzania (*supra*).

⁷⁶⁶ *Ibid.*

⁷⁶⁷ See LHRC (2022), Human Rights and Business Report 2021/22, at www.humanrights.or.tz.

⁷⁶⁸ *Ibid.*

⁷⁶⁹ LHRC Human Rights and Business Report 2021/22 (*supra*).

⁷⁷⁰ Hilda Mhagama "REMIT CONTRIBUTIONS TO SOCIAL SECURITY FUNDS, EMPLOYERS URGED" *DAILYNEWS* Newspaper (Online), 14 July 2022, at <https://dailynews.co.tz/news/2022-07-1362cee35c55a16.aspx>.

⁷⁷¹ *Ibid.*



LHRC's Call: The Government, through the Prime Minister's Office-Labour, Youth, Employment and Persons with Disability, to ensure effective implementation of social security laws and ensure employers remit monthly social security contributions.

3.7.3. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs and Ministry of Health, to fast-track enactment of the universal health insurance law.
- The Government, through the Ministry of Constitutional and Legal Affairs and Prime Minister's Office-Labour, Youth, Employment and Persons with Disability, to ensure social security laws are enforced and employers not remitting social security contributions are held accountable.
- Community members to make efforts to join various formal and informal social security schemes.

3.8. Relevant SDGs, TDV 2025, and Agenda 2063 Targets

Tanzania's achievement of these 2030 SDGs, TDV 2025, and Agenda 2063, depends on progress made in realization of economic, social, and cultural rights:



Key SDGs and TDV 2025 Targets relating to Economic, Social, and Cultural Rights	
SDGs	<p><u>SDG1 NO POVERTY</u>: End Poverty in All Its Forms Everywhere.</p> <p><u>SDG2 ZERO HUNGER</u>: End Hunger, Achieve Food Security and Improved Nutrition and Promote Sustainable Agriculture.</p> <p><u>SDG3 GOOD HEALTH AND WELL-BEING</u>: Ensure Healthy Lives and Promote Well-Being for All At All Ages.</p> <p><u>SDG4 QUALITY EDUCATION</u>: Ensure Inclusive and Equitable Quality Education and Promote Lifelong Learning Opportunities for All.</p> <p><u>SDG 5 GENDER EQUALITY</u>: Achieve Gender Equality and Empower All Women and Girls.</p> <p><u>SDG6 CLEAN WATER AND SANITATION</u>: Ensure Availability and Sustainable Management of Water and Sanitation for All</p> <p><u>SDG8 DECENT WORK AND ECONOMIC GROWTH</u>: Promote Sustained, Inclusive and Sustainable Economic Growth, Full and Productive Employment and Decent Work for All.</p> <p><u>SDG11 SUSTAINABLE CITIES AND COMMUNITIES</u>: Make Cities and Human Settlements Inclusive, Safe, Resilient and Sustainable</p>
TDV 2025	<p><u>High Quality Livelihood</u></p> <ul style="list-style-type: none"> ■ Food self-sufficiency and food security. ■ Universal primary education, the eradication of illiteracy and the attainment of a level of tertiary education and training that is commensurate with a critical mass of high-quality human resources required to effectively respond and master the development challenges at all levels. ■ Gender equality and the empowerment of women in all socio-economic and political relations and cultures. ■ Access to quality primary health care for all. ■ Access to quality reproductive health services for all individuals of appropriate ages. ■ Reduced infant and maternal mortality ■ Universal access to safe water. ■ Absence of abject poverty <p><u>A Well Educated and Learning Society</u> <u>Peace, Stability and Unity</u></p>
Agenda 2063: The Africa We Want	<p>ASPIRATION 1: A prosperous Africa based on inclusive growth and sustainable development</p> <p>ASPIRATION 3: An African of good governance, democracy, respect for human rights, justice and the rule of law</p> <p>ASPIRATION 5: An Africa with a strong cultural identity, common heritage, values, and ethics</p>



CHAPTER 4: COLLECTIVE RIGHTS

Collective rights are the rights that belong to the group of people as opposed to individual rights. An individual enjoys collective rights as part of a group. Collective rights include the right to self-determination, right to clean and safe environment, the right to enjoy and benefit from natural resources, right to peace and right to development. These rights are enshrined in various international human rights instruments including the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966; the African Charter on Human and People's Rights (ACHPR) of 1981 and the United Nations Charter of 1945. For a right to be recognised as a collective right, the holder of the right should be collective or affirm the collective identity of groups in society, the exercise of the right pertains to a legally protected collective good, the interest of a right is of a collective nature.⁷⁷²

4.1. Right to Development

About the right

- An inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural, and political development, in which all human rights and fundamental freedoms can be fully realized. It is both an individual and a collective right. It belongs to all individuals and all peoples.
- Key elements of this right are: people-centred development; a human rights-based approach; participation; equity; non-discrimination; and self-determination.
- Rule of law, good governance, participation of people, and respect for human rights are key for realization of the right to development.

In 2022, key right to development issues in Mainland Tanzania included human rights violations, especially of civil and political rights; and challenges

⁷⁷² Andrea, N. (2018) *Collective Rights: In The United Nations Declaration On The Rights of Peasants And Other People Working In Rural Areas*, Fian International available at https://www.fian.org/fileadmin/media/publications_2018/Reports_and_guidelines/droits_collectifs_UK_web.pdf, accessed on 18th March 2019.



in provision of social and judicial services, including budgetary constraints and shortages of human resources.

4.1.1. Political Development

To ensure realization of the right to development States, including Tanzania, are required to take steps to eliminate obstacles to development resulting from failure to observe civil and political rights.⁷⁷³

4.1.1.1. Positives

In 2022, one of the things that boosted political development were signs and hopes that the Government would lift the ban on political rallies, which had lasted at least six years.

4.1.1.2. Obstacles

As discussed in Chapter Two above, in 2022, key obstacles in realization of civil and political rights included arbitrary restrictions on freedoms of expression, assembly, and association in existing laws and regulations; different acts and forms of violence; barriers to access to justice, including challenges in the criminal justice system; and arbitrary arrests and detentions. For women, realization of political development is hindered by various challenges, such as gender discrimination, including in politics and leadership; and discriminatory customs and traditions. Gender gaps have been observed in the legal and policy frameworks on political participation.

4.1.2. Economic and Social Development

To ensure realization of the right to development, States, including Tanzania, are required to take steps to eliminate obstacles to development resulting from failure to observe economic social and cultural rights.⁷⁷⁴ Social development requires effective realisation of key social rights such as right to education, right to health, right to water and right to adequate standard of living.⁷⁷⁵

4.1.2.1. Positives

Save for the Covid19 pandemic years of 2020 and 2021, Tanzania has enjoyed gradual economic growth. In July 2020, Tanzania reached a milestone in terms of economic growth after graduating from a low-income to lowed-

⁷⁷³ Article 6(3) of the Declaration on the Right to Development.

⁷⁷⁴ Article 6(3) of the Declaration on the Right to Development.

⁷⁷⁵ See Article 8 (1) of the Declaration on the Right to Development.



middle-income country.⁷⁷⁶ In 2020, Real Growth Domestic Product (GDP) Growth decreased to 4.8%, from 7.0% in 2019. However, the economy has been getting back on track, enjoying increased Real GDP of 4.90%⁷⁷⁷ in 2021 and further 5.2% by the end of 3rd quarter in 2022.⁷⁷⁸

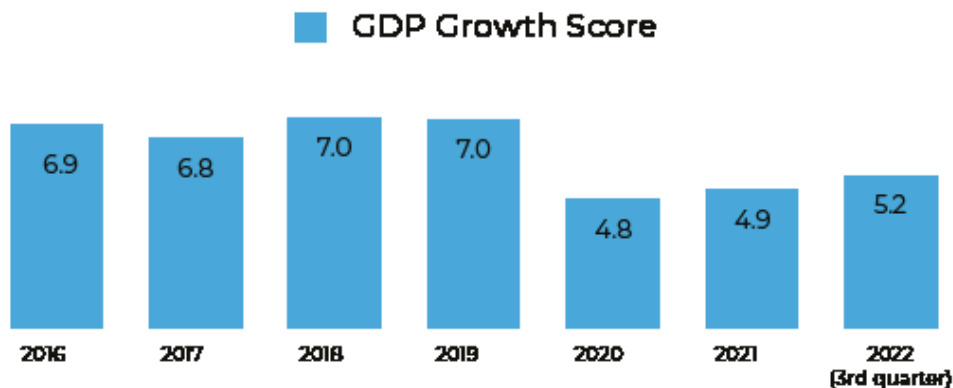


Figure 45: Real GDP Growth Tanzania

Source: Bank of Tanzania (BoT) 2016-2022

Apart from economic growth, there were also some positives in enjoyment of economic and social rights, as discussed in Chapter Three above, including increased budget for the agriculture sector, including for irrigation farming.

4.1.2.2. Obstacles

As discussed in Chapter Three above, in 2022, key obstacles in realization of economic and social rights included inadequate budgets for key sectors such as education, health, and agriculture; violence against women and children; limited access to clean and safe water; non-availability of adequate WASH facilities in some parts of the country, including in schools, homes, and health centres; shortage of workers in public service delivery sectors; shortages of facilities and equipment; and corruption. For women and girls, apart from violence, key obstacles to economic and social development include denial of education and denial of inheritance and property rights. For youth, unemployment remains the biggest barrier to economic and

⁷⁷⁶ See Umar Serajuddin & Nada Hamadeh “New World Bank country classifications by income level: 2020-2021” World Bank Blogs, 01 July 2020 at <https://blogs.worldbank.org/opendata/new-world-bank-country-classifications-income-level-2020-2021>, accessed 29 October 2020; FURTHER AFRICA “World Bank promotes Tanzania to middle income status” 3 July 2020 at <https://furtherafrica.com/2020/07/03/world-bank-promotes-tanzania-to-middle-income-status/>, accessed 29 October 2020.

⁷⁷⁷ See African Development Bank Group, Tanzania Economic Outlook, at <https://www.afdb.org/en/countries-east-africa-tanzania/tanzania-economic-outlook>.

⁷⁷⁸ See Bank of Tanzania, *Selected Economic Indicators*, at <https://www.bot.go.tz/#>.



social development. Corruption and mismanagement of public funds were also found to be detrimental to enjoyment of economic and social rights in 2022.

4.1.2.3. Human development

According to the United Nations Development Programme (UNDP), human development or the human development approach, is about expanding the richness of human life, rather than simply the richness of the economy in which human beings live.⁷⁷⁹ It is an approach that is focused on people and their opportunities and choices.⁷⁸⁰ The essential components of human development are people, opportunities, and choice.

- People: human development focuses on improving the lives people lead rather than assuming that economic growth will lead, automatically, to greater wellbeing for all. Income growth is seen as a means to development, rather than an end in itself.
- Opportunities: human development is about giving people more freedom to live lives they value. In effect this means developing people's abilities and giving them a chance to use them. For example, educating a girl would build her skills, but it is of little use if she is denied access to jobs, or does not have the right skills for the local labour market.⁷⁸¹
- Choice: human development is, fundamentally, about more choice. It is about providing people with opportunities, not insisting that they make use of them. No one can guarantee human happiness, and the choices people make are their own concern.

Human Development Index (HDI)

The Human Development Index (HDI) is a summary measure of average achievement in key dimensions of human development: a long and healthy life, being knowledgeable and having a decent standard of living.⁷⁸² It simplifies and captures only part of what human development entails. It does not reflect on factors such as inequalities, poverty, human security, and empowerment.

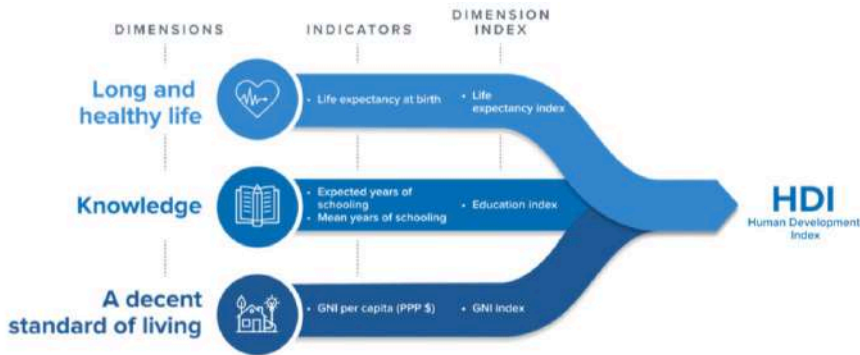
⁷⁷⁹ See UNDP, WHAT IS HUMAN DEVELOPMENT?, at <https://hdr.undp.org/about/human-development#:~:text=Human%20development%20%E2%80%93%20or%20the%20human,and%20their%20opportunities%20and%20choices..>

⁷⁸⁰ Ibid.

⁷⁸¹ Three foundations for human development are to live a long, healthy and creative life, to be knowledgeable, and to have access to resources needed for a decent standard of living.

⁷⁸² See UNDP, Human Development Index (HDI), at <https://hdr.undp.org/data-center/human-development-index#/indicies/HDI>.





In Tanzania, impressive economic growth in the past ten years has not significantly translated into human development, as the pace of poverty reduction remains slow. Consequently, Tanzania has remained within the category of countries with low human development in the HDI. Nevertheless, a slight progress has been observed in terms of both rank and value in the index for the year 2021/22. In 2020, Tanzania was ranked 163rd with HDI value of 0.529,⁷⁸³ while in 2021/22, it was ranked 160th with HDI value of 0.549.⁷⁸⁴



Figure 46: Tanzania’s performance in the HDI Index 2021/22

783 UNDP, *The next frontier: Human development and the Anthropocene*, Human Development Report 2020, at <https://hdr.undp.org/system/files/documents/hdr2020pdf.pdf>.

784 UNDP, *Uncertain Times, Unsettled Lives: Shaping our Future in a Transforming World*, Human Development Report 2021/22, at https://hdr.undp.org/system/files/documents/global-report-document/hdr2021-22pdf_1.pdf.



4.1.3. Taxation and Development

According to the United Nations (UN), mobilization and effective use of domestic resources are central to the pursuit of sustainable development. Taxation is a powerful tool to help finance achievements of the Sustainable Development Goals (SDGs), and it can also spur inclusive and sustainable development in other ways.⁷⁸⁵ Fiscal policies can simultaneously mobilize resources, reduce inequalities, and promote sustainable consumption and production patterns.⁷⁸⁶

4.1.3.1. The Mobile and Bank Transaction Levies Saga: Human Rights Perspective

Introduction

In June 2021, the Parliament enacted the Finance Act, No. 3 of 2021, which among other things amended the National Payment Systems Act (CAP 437).⁷⁸⁷ Amendment of this law saw the introduction of a new levy in mobile money transactions. The levy is chargeable on every mobile money transaction, ranging from Tshs. 10 to 10,000.⁷⁸⁸ According to the Government the levy collected through mobile money transactions is meant to support implementation of development projects. The levy served to increase revenue to finance the national budget for the financial year 2021/22. The levy started to be charged on 15th July 2021. In July 2022, the Government introduced another levy, the bank transactions levy, which also caused a public outcry among bank users.

Public Reaction to Introduction of the Levies

Various stakeholders and other members of the public reacted differently to the introduction of the levies. Various media outlets reported criticism of the introduced mobile levy by members of the public, owing to significant increase in costs among the estimated 26 million people who use mobile money.⁷⁸⁹ Users of mobile money, including MPESA, TIGOPESA, AIRTEL MONEY, HALOPESA, and EZYPESA lamented increased costs associated with mobile money transactions. Consequently, it was reported that introduction of the mobile levy caused a significant reduction in mobile money transactions, as telecommunication companies, including

⁷⁸⁵ United Nations Department of Economic and Social Affairs, *Taxation and the SDGs*, <https://www.un.org/development/desa/financing/what-we-do/ECOSOC/tax-committee/thematic-areas/taxation-and-sdgs>.

⁷⁸⁶ Ibid.

⁷⁸⁷ See the Finance Act, No. 3 of 2021, at <https://www.parliament.go.tz/polis/uploads/bills/acts/1645197404-ACT%20NO.%203%20THE%20FINANCE%20ACT-%202021%20%20FINAL.pdf>.

⁷⁸⁸ Ibid, section 33 [introducing section 46A of the National Payment Systems Act (CAP 437)]

⁷⁸⁹ Priya Sippy "Tanzania's new mobile money tax is a blow to the booming sector" QUARTZAFRICA 5 August 2021, at <https://qz.com/africa/2042851/tanzanias-new-mobile-money-tax-is-hurting-businesses-and-people/>;



Vodacom,⁷⁹⁰ announced their revenues dropping within a month since the levy was operationalized.⁷⁹¹ Mobile money agents in different parts of the country also reported getting lower commissions due to significant decrease in mobile money transactions. Preference of paying in cash was also reported, affecting business growth, startups, and online business.

Following a widespread public outcry, in September 2021, the Government slashed the mobile money transaction levy by 30%.⁷⁹² The Government also announced that it was holding talks with telecom companies that provide mobile money services to reduce their rates charged on mobile money transactions by 10%.⁷⁹³ In July 2022, it was reported that the Government had further reduced the mobile money levy by 43%.⁷⁹⁴ This was achieved through the enactment of the Finance Act, No. 5 of 2022, which further amended the National Payment Systems Act (CAP 437).⁷⁹⁵ The Finance Act reduced the maximum levy rate from Tshs. 10,000 to 4,000.⁷⁹⁶ This move by the Government was a welcome development among community members, as the levy reduction gave consumers a sigh of relief and boosted use of mobile money services, considering the key role mobile money services play in driving provision of financial services to the under-served, especially women and people living in rural areas.⁷⁹⁷ Nevertheless, a lecturer University of Dar es Salaam suggested that the Tshs. 4000 maximum levy rate should be further reduced to Tshs. 500 to give citizens relief as they experience difficult times, characterized by increased fuel, food, and other commodity prices.⁷⁹⁸

However, the introduction of the new bank transaction levy was seen as a setback by some stakeholders, including tax and economy experts. Some experts pointed out that the levy deductions hurt people, including

790 The number of MPESA customers reportedly dropped by 17% between June and September 2021.

791 Ibid; Steve Esselaar "What happens when you raise taxes on mobile money? The case of Tanzania." RIS, 4 February 2022, at <https://researchichtsolutions.com/home/weekly-digest-for-4feb-2022/>.

792 Vaughan O'grady "Tanzania reduces mobile money transaction levy" DEVELOPING TELECOMS, 2 September 2021, at <https://developingtelecoms.com/telecom-business/telecom-regulation/11829-tanzania-reduces-mobile-money-transaction-levy.html>; Ephraim Bahemu "Serikali yapunguza tozo kwa asilimia 30" Mwananchi Newspaper (online) 31 August 2021, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/serikali-yapunguza-tozo-kwa-asilimia-30-3533096>.

793 Vaughan O'grady "Tanzania reduces mobile money transaction levy" DEVELOPING TELECOMS, 2 September 2021;

794 Caroline Mbugua "The Reduction of Mobile Money Levy in Tanzania" GSMA, 4 July 2022, at <https://www.gsma.com/subsaharanafrika/the-reduction-of-mobile-money-levy-in-tanzania>; Kizito Makoye "Tanzania slashes controversial mobile money levy" AA, 22 June 2022, at <https://www.aa.com.tr/en/africa/tanzania-slashes-controversial-mobile-money-levy/2619506>.

795 See the Finance Act, No. 5 of 2022, at https://www.tra.go.tz/Images/THE_FINANCE_ACT_2022.pdf.

796 Ibid, section 89.

797 See NATIONAL FINANCIAL INCLUSION FRAMEWORK, 2018 – 2022, p. 16, at <https://www.fsd.tz/wp-content/uploads/2019/01/National-Financial-Inclusion-Framework-NFIF-2018-2022.pdf>.

798 Julius Mnganga "Experts poke holes into the new bank levies" The Citizen Newspaper (online), 22 August 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/experts-poke-holes-into-the-new-bank-levies-3922250>.



businesspersons, as they become too much, and might prompt people to resort to avoiding taking their money to banks (choosing cash economy as an alternative).⁷⁹⁹

Stakeholders, including CSOs, Members of Parliament (MPs), and tax experts, expressed concerns over the introduction of mobile money and bank levies, with some of them equating the levy to double taxation while others said it is even more than that when you consider other taxes, including PAYE.⁸⁰⁰ Others, including ACT Wazalendo's Zitto Kabwe (MP) warned about impact of the levy on financial inclusion and damaging long-term economic development for short-term financial gain.⁸⁰¹ On her part, LHRC went further to file a case in court opposing new levies (with respect to mobile money transaction levy).

Human Rights Concerns Arising from the Levies

From a human rights perspective several issues arise from the introduction of mobile money and bank transaction levies.

1. Taxation as a Human Rights Issue

While there may be a difference between a tax and a levy, they both seek to achieve the same thing in the context of Tanzania, which is supporting implementation of development projects. As such, levies charged on bank and mobile money transactions can be considered to be 'taxes,' which are essential for the Government to raise revenue and safeguard progressive realization of socio-economic rights, such as right to health, right to education, and right to clean and safer water, as well as realization of the collective right of the right to development. It is there sensible to consider the introduction of mobile money and bank transaction levies as a human rights issue.

2. Non-Compliance with the Human Rights Based Approach to Taxation

A human rights-based approach (HRBA) to development is desirable to improve the socio-economic welfare of individuals and groups. For the case of taxation, HRBA requires fiscal policymakers to take into account a number of practical elements when designing and implementing a fiscal

799 Ibid; "Taking Stock of Govt's Latest Levy on Bank Withdrawals" The CHANZO, 19 August 2022, at <https://thechanzo.com/2022/08/19/taking-stock-of-govts-latest-levy-on-bank-withdrawals/>.

800 Julius Mnganga "Experts poke holes into the new bank levies" The Citizen Newspaper (online), 22 August 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/experts-poke-holes-into-the-new-bank-levies-3922250>.

801 "Taking Stock of Govt's Latest Levy on Bank Withdrawals" The CHANZO, 19 August 2022, at <https://thechanzo.com/2022/08/19/taking-stock-of-govts-latest-levy-on-bank-withdrawals/>.



framework, including and most notably transparency, participation, and accountability. All stakeholders, including civil society and the wider public must have access to full and timely information regarding the design and implementation of tax law and policy, and there has to be public participation before, during, and after the design and implementation. This means non-involvement or exclusion of civil society and the wider public is not in line with the HRBA to taxation and development. LHRC is concerned that there was no HRBA to the introduction of the levies, owing to lack of meaningful participation and ownership on the part of the community members.

3. Disruption of Business Environment

Numerous reports and projections of how the introduced levies disrupted and would disrupt business environment were made in 2022. This has a huge impact on enjoyment of socio-economic rights, especially the right to adequate standard of living, and by extension efforts to reduce poverty and effectively implement the National Financial Inclusion Framework, 2018 – 2022.

Conclusion & Recommendations

While the Government's intention in introducing the mobile money and bank transaction levies was good, not applying a human rights-based approach to the introduction of the levies provided a setback and caused a public outrage and confusion, amid the increased costs of living and economic hardships in the wake of the Covid19 pandemic. LHRC provides the following recommendations:

- The Government to sit with stakeholders and experts to devise ways of expanding our narrow tax base as opposed to introducing levies which may have long-term negative impact and hurt community members and businesses.
- The Government to consider the recommendations made by the CAG in recent reports regarding tax exemptions and incentives and take measures to reduce them as a way of boosting revenue collection.
- The Government to employ a human-rights-based approach to taxation, which includes meaningful participation of Tanzanians in decision-making.
- The Government to ensure and increase transparency in taxation and hold accountable those responsible for mismanagement of public funds, as revealed in CAG reports, so as to boost public confidence in management of public funds.



4.1.4. Corruption, Embezzlement, Accountability and Development

Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a government's ability to provide basic services, feeding inequality and injustice, and discouraging foreign investment and aid.

- Kofi Annan, former United Nations Secretary-General, 31 October 2003

Corruption is the single greatest obstacle to economic and social development around the world.⁸⁰² It results in the loss of enormous amounts of limited public resources.⁸⁰³ The right to a society free of corruption is therefore a basic human right, essential in enjoyment of other human rights,⁸⁰⁴ including the right to development. Corruption also has disproportionate impact on women, since they comprise the majority of the poor in the society, hence more susceptible to the negative impacts of corruption.⁸⁰⁵

In Tanzania, the Prevention and Combating of Corruption Act,⁸⁰⁶ provides a list of corruption and related offences, which include procurement corruption, embezzlement and misappropriation, corrupt transactions in contracts, and diversion.⁸⁰⁷

Recent CAG reports have highlighted various flaws and gross financial irregularities in public spending, pointing to corruption and related offences. These corruption, fraud, and embezzlement indicators include misuse of public resources by overpaying for goods and/or services; mismanagement of public funds; poor supervision of government projects; abuse of position; payments to ghost workers; payments to ghost contractors; receipt of below standard goods and services; collection of revenue outside the GePG system; lack of receipts for payments; payments without contract; payments without actual delivery of services or goods; not depositing revenue collected into banks; and generally disregarding laid-down public

802 See International Chamber of Commerce / Transparency International / United Nations Global Compact / World Economic Forum Partnering Against Corruption Initiative. 2008. 'Clean Business is Good Business'. <http://www.weforum.org/pdf/paci/BusinessCaseAgainstCorruption.pdf>, cited in United Against Corruption, Corruption and development, at http://www.anticorruptionday.org/documents/actagainstcorruption/print/materials2016/corr16_fs_DEVELOPMENT_en_PRINT.pdf.

803 Ibid.

804 See UNPD, Primer on Corruption and Development, 2008, at https://www.undp.org/sites/g/files/zskgke326/files/publications/Corruption_and_Development_Primer_2008.pdf.

805 Ibid.

806 The Prevention and Combating of Corruption Act, CAP. 329 R.E. 2022].

807 Ibid, Sections, 16, 17, 28, & 29.



procurement guidelines.⁸⁰⁸ For instance, Tshs. 3.58 billion was reportedly paid to contractors without showing actual project value, while over Tshs. 800 million were paid to ghost workers.⁸⁰⁹

In the financial year 2020/21, the CAG found indicators of corruption, fraud, and embezzlement worth Tshs. 4,590.73 billion, increasing from Tshs. 1,770.84 billion during the financial year 2019/20.⁸¹⁰

Table 16: Status of indicators of corruption, fraud, and embezzlement in Tshs. billion – 2018/19-2020/21

SOURCE	2018/19	2019/20	2020/21
Central Government	34.3	560.19	1,781.77
Local Government Authorities (LGAs)	103.93	863.85	1,400.60
Public Institutions	94.29	346.80	1,400.60
Total	232.52	1,770.84	4,590.73

Source: WAJIBU, 2022

In 2022, development stakeholders continued to bemoan lack of accountability for individuals and institutions implicated in embezzlement and misuse of public funds implicated in various CAG reports. They demanded government action against people implicated in the CAG reports for the financial year 2020/21.⁸¹¹ MPs also called for those responsible to be held accountable.⁸¹²

808 See WAJIBU, Ripoti ya Uwajibikaji: Viashiria vya Rushwa, Ubadhiribu na Udanganyifu katika Taasisi za Umma, 2020/21, at https://www.wajibu.or.tz/wp-content/uploads/2022/10/RIPOTI-YA-UWAJIBIKAJI-YA-VIASHIRIA-VYA-RUSHWA_FINAL.pdf; "CAG's Report reveals flaws in public spending" The Citizen Newspaper (online), 7 Apr 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/cag-s-report-reveals-flaws-in-public-spending-2707238>.

809 Ibid.

810 WAJIBU, Ripoti ya Uwajibikaji: Viashiria vya Rushwa, Ubadhiribu na Udanganyifu katika Taasisi za Umma, 2020/21 (*supra*).

811 "Pressure piles up against culprits implicated in CAG report" The Citizen Newspaper (online), 30 Apr 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/pressure-piles-up-against-culprits-implicated-in-cag-report-3799886>.

812 Ibid.



4.1.5. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs and Ministry of Investment, Industry and Trade, to employ a human rights-based approach (HRBA) to investment by ensuring investors, both local and foreign, comply with Tanzanian laws and respect human rights in their operations.
- CSOs, including the media, to raise public awareness on collective rights, including the right to development and right to benefit from natural resources.

4.2. Right to Enjoy and Benefit from Natural Resources

About the right

- Requires people to freely dispose of their wealth and natural resources.
- Places emphasis on the development of people and in particular is geared towards the eradication of poverty, ignorance and disease.

Natural resources are important for generation of revenue and provision of employment for many Tanzanians, for example in the tourism industry. The mining industry is another area where natural resources generate revenue and provide employment. Local and foreign investors have invested in the mining sector. Duty bearers are required to ensure permanent sovereignty over the natural resources for the purpose of enhancing national development and wellbeing of the people, ensure respect of the rights and interests of the indigenous people, equitable sharing of transboundary natural resources and protection and conservation of the natural resources.⁸¹³ Under the Constitution of the United Republic of Tanzania, the State authority and agencies are required to direct policies and programmes in ensuring that the use of natural wealth places emphasis on the development of the people and geared towards eradication of poverty, ignorance and disease.⁸¹⁴

In 2022, key issues affecting the right to enjoy and benefit from natural resources in Mainland Tanzania included corruption, tax incentives, tax

813 Christina, V. International Environmental Law: Sovereignty over Natural Resources and Prohibition of Transboundary Harm available at <https://www.uio.no/studier/emner/jus/jus/JUS5520/h14/undervisningsmateriale/3.-sovereignty-over-natural-resources.pdf>, accessed on 9th March 2020.

814 Article 9(i) of the Constitution of the United Republic of Tanzania, 1977



avoidance, and tax evasion, especially in the extractive sector.

4.2.1. Efforts to Safeguard the Right to Enjoy and Benefit from Natural Resources

Over the years, the Government has taken various legislative, policy, and institutional measures to facilitate enjoyment of the right to enjoy and benefit from natural resources. In 2022, government action in this regard included revenue collection from key industries such as tourism and mining; employment creation; and implementation of Local content requirements (LCR) policies, which require companies to use domestically manufactured goods or domestically supplied services in order to operate in an economy and encourage local employment and the use of local goods and services.

In the budget speech for the Ministry of Minerals for the financial year 2022/2023, the Minister of Minerals, Hon. Dr. Doto Mashaka Biteko (MP), revealed that in the period of July 2021 to March 2022, the number of Tanzanians employed by mining companies and service providers in the mining sector reached 14,308, increasing from 7,151 during the same period in the financial year 2020/21, equal to 100% increase.⁸¹⁵ He also pointed out that during this reporting period, mining companies spent Tshs. 5.2 trillion on locally produced products and provided services, increasing from Tshs. 2.4 trillion during the financial year 2020/2021.⁸¹⁶ Contribution of the mining sector to the national economy has also been steadily increasing, having increased from 5.2% in 2019 to 6.7 in 2020.⁸¹⁷

4.2.2. Challenges in Realization of the Right to Enjoy and Benefit from Natural Resources

Despite the efforts to boost enjoyment of the right to enjoy and benefit from natural resources, key challenges persist, including corruption, tax incentives, tax avoidance, and tax evasion, especially in the extractives sector. Consequently, community members in most resource-rich areas remain poor.

815 See HOTUBA YA WAZIRI WA MADINI, MHESHIMIWA DKT. DOTO MASHAKA BITEKO (MB.), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2022/2023, at https://www.madini.go.tz/media/HOTUBA_YA_WAZIRI_WA_MADINI_2022.23_.pdf, accessed 9th August 2022.

816 Ibid.

817 See United Republic of Tanzania, National Audit Office, Performance Audit Report on the Management of Mechanisms for Revenue Collection in the Mining Sector, Controller and Auditor General, February 2022, at https://www.nao.go.tz/uploads/reports/DEVELOPMENT_AND_MANAGEMENT_OF_MECHANISMS_FOR_COLLECTION_OF_REVENUE_IN_MINING_SECTOR.pdf, accessed 9th August 2022.



4.2.3. Key Recommendations

- CSOs, including the media, to raise public awareness on collective rights, including the right to development and right to benefit from natural resources.
- The Government, through the Ministry of Minerals, to address tax evasion and avoidance in the extractives sector and ensure companies which evade tax are held accountable.

4.3. Right to Environment

About the right

- Requires a healthy human habitat, including clean water, air, and soil that are free from toxins or hazards that threaten human health.
- Involves an adequate living standard, the ability to participate in environmental decision-making and development planning, a safe environment in which to work, and access to information about health and environment.

4.3.1. Overview

According to the World Health Organization (WHO), 24% of all global deaths, roughly 13.7 million deaths a year, are linked to the environment, due to risks such as air pollution and chemical exposure.⁸¹⁸ This means that almost 1 in 4 of total global deaths are linked to environment conditions.

In 2021, the United Nations (UN) Human Rights Council recognised, for the first time, that having a clean, healthy and sustainable environment is a human right.⁸¹⁹ The recognition was made through adoption of Resolution 48/13,⁸²⁰ calling on States around the world to work together, and with other partners, to implement this newly recognised right.⁸²¹ In another resolution, Resolution 48/14, the Human Rights Council also increased its focus on the human rights impacts of climate change by establishing a Special Rapporteur dedicated specifically to that issue.

4.3.2. Situation of the Right to Clean and Healthy Environment

818 See World Health Organization, Environmental health, at https://www.who.int/health-topics/environmental-health#tab=tab_2.

819 See “Access to a healthy environment, declared a human right by UN rights council” UN News, 8 October 2021, at <https://news.un.org/en/story/2021/10/1102582>.

820 The text was proposed by Costa Rica, the Maldives, Morocco, Slovenia and Switzerland, and was passed with 43 votes in favour and 4 abstentions - from Russia, India, China and Japan.

821 Ibid.



In Mainland Tanzania, key policy and legal documents that provide for and govern the right to environment are the National Environmental Policy of 1997 and the Environmental Management Act of 2004. Section 4 of the Environmental Management Act recognizes the right to clean, safe, and healthy environment, section 5 provides for the right to bring an action on environment, and section 6 provides for the duty to protect the environment. The Act also establishes the National Environment Management Council (NEMC),⁸²² which is the government body responsible for regulation of environment. Key functions of NEMC include carrying out environmental audits, reviewing and recommending for approval environment impact statements, and enforcing and ensuring compliance of the national environmental quality standards.⁸²³

In 2022, community members who participated in LHRC's survey on business and human rights, conducted in 14 regions of Mainland Tanzania, were asked about their biggest human rights concerns when it comes to industrial and company operations. Environmental pollution (25.2%) was cited as the biggest human rights concern.

Community members who responded to the business and human rights survey were also asked about different forms of environmental pollution experienced in their areas of residence. Incidents of environmental pollution were reported in 13 out of the 14 regions (93%), namely Dodoma, Iringa, Dar es Salaam, Pwani, Morogoro, Shinyanga, Geita, Mara, Iringa, Mbeya, Arusha, Tanga, and Mtwara. These incidents fell in the categories of air pollution, water pollution, land pollution, and noise pollution. In total, 37 incidents of environmental pollution were reported by interviewed community members.

⁸²² Section 17 of the Environmental Management Act, 2004.

⁸²³ Ibid, Section 18.



Water pollution
 Land Pollution
 Air Pollution
 Noise Pollution

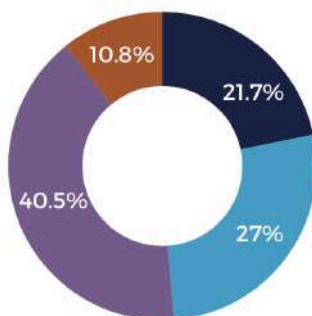


Figure 47: %Reported incidents of environmental pollution by type (N=37)

Below are some of the reported incidents of environmental pollution documented by LHRC in 2022 through the surveys on human rights:

- In Mara, Barrick’s North Mara Gold Mine was implicated in contamination of Tigite River, whose water flows into Mara River. It was reported that a chemical waste pipe from the mine burst and caused chemical waste to escape into the river. The matter was reportedly investigated by the National Environmental Management Council (NEMC) and culminated into the mine being punished to pay a fine of Tshs. 1 billion by NEMC. Contaminated water in the river was also said to contribute to deaths of livestock in Tarime District. Apart from the fine, there were no reports of any other action taken against the mine, including in relation to the fate of the surrounding community members who might have been affected by the pollution of the river water, considering it is their main source of water for domestic and other uses.
- In Tanga, complaints over dust pollution were made against *Neelkanth Lime Ltd.*, located in Kiomoni Ward in Tanga MC. Dust emissions from the operations of the company were said to affect air quality, with community members around the area noting that the situation gets worse on windy days. It was reported that various government leaders, including Ummu Mwalimu and Mussa Sima, had called upon the industry to address the dust pollution problem, but nothing had been done thus far. One community member residing near the industry said, *‘..many government leaders have come here, including ministers and the Vice-President – who visited last year. When they leave things continue to be as they were. We were told the industry would be moved from here, but it is still here. We have complained a lot, but*



we just have to get used to this situation, there is nothing more we can do.'

- In Dar es Salaam, complaints about industrial pollution in the form of air pollution were made by some of the interviewed respondents residing around the Mikocheni industrial area. One of them said that the situation is worse during the night hours, and one might think a house is burning due to the amount of smoke that is produced, accompanied by unpleasant odour.
- In Iringa, *IFP Company* was implicated in industrial air pollution by some of the residents in Kitwiru area. They complained about the heavy smoke coming from the industry. In neighbouring Mbeya, air pollution caused by operations at rice mills was said to be a big concern for nearby residents, especially in Mbarali DC. Mill owners were accused of not taking measures to prevent or reduce dust emissions. Dust emissions were also mentioned as a challenge in Chokaa Village in Chunya DC.

Through media survey, LHRC also documented the following incidents of noise pollution:

- Residents in different parts of Mainland Tanzania, including Dar es Salaam, lamented noise pollution in residential areas generated by some of the churches and mosques, as well as bars. Other regions where noise pollution was said to be a big problem include Kilimanjaro, Arusha, Morogoro, Tanga, Mbeya, Iringa, Mwanza, and Mara.⁸²⁴ Stakeholders called on the National Environment Management Council (NEMC) to intervene and curb this type of pollution, which is causing discomfort and distress.
- Some residents of Buza area in Dar es Salaam lamented noise pollution in the form of loud and pounding music coming from a famous party hall at Amani Street.⁸²⁵

4.3.3. The Mara River Pollution Saga

4.3.3.1. Introduction: Reports of Pollution in the River & Impact

In early March 2022, reports of pollution of Mara River water emerged, with dead fish observed floating on the river.⁸²⁶ It was reported that the pollution had caused foul smell, death of the fish, and change of water colour to

824 "Kelele janga jipya mtaani" Mwananchi Newspaper, 18 Sep 2022.

825 "Wakazi wa Buza walalamikia uchafuzi wa mazingira kwa njia ya sauti" HABARILEO Newspaper, 4 May 2022.

826 Emmanuel Onyango "Tanzania stops use of Mara River water over pollution fears" 15 March 2022, at <https://www.theeastafrican.co.ke/tea/science-health/tanzania-stops-supply-of-mara-river-water-to-locals-3748442>, accessed 21st August 2022; Baraza la Taifa la Hifadhi na Usimamizi wa Mazingira (NEMC), Muhtasari wa Taarifa ya Uchunguzi wa Kuchafuka kwa Mto Mara, at https://www.nemc.or.tz/uploads/publications/sw-1648384519-MUHTASARI%20WA%20TAARIFA%20YA%20MTO%20MARA_2022.pdf.



black.⁸²⁷ Impact of the water pollution in the river included loss of fish in the river due to hundreds of them being killed, consequently severely impacting people's livelihoods. Surrounding community members, whose main economic activity is fishing, lost their daily earnings, affecting their ability to support their families.⁸²⁸

An investigative report by *Nipashe*, a local newspaper, revealed that pollution in the Mara River has caused various health problems to surrounding community members who depend on the river water for domestic use and fishing activity.⁸²⁹ Health problems suffered include skin diseases, including itching; diarrhea; vomiting, including blood vomiting (haematemesis); and stomach inflammation/bloating (gastritis). Apart from health complications, the river water pollution was said to cause deaths of fish and cattle, severely affecting the livelihoods of the community members in surrounding villages. Interviewed village leaders revealed that the pollution problems started becoming serious in 2018 and they have been experiencing them ever since.⁸³⁰

4.3.3.2. Government Reaction: Investigative Team and Report

Following reports of water pollution, the Government banned fishing in the river and suspended water use.⁸³¹ The Government also formed an investigative team, a National Technical Committee of 11 experts from various public institutions to investigate the source and cause of Mara River pollution and provide recommendations.⁸³² According to the findings of the team, pollution in the river was caused by a toxic spill of cow excrement and urine.⁸³³ The report showed that about 1.8 million tons of livestock sludge and 1.5 billion liters of cow urine had been discharged into the river.⁸³⁴ The Government ruled out discharge of chemical waste from the nearby gold

827 See United Republic of Tanzania, Vice President's Office – Union and Environment and the National Environmental Management Council (NEMC), *Report on the Investigation of the Source of Mara River Pollution*, Submitted by the National Special Committee Appointed by the Minister of State in the Vice President's Office – Environment and Union, 22nd March 2022, at <https://www.vpo.go.tz/uploads/files/Mara%20River%20Pollution%20Final%20Report-22%20March%202022.pdf>, accessed 21st August 2022.

828 Kizito Makoye "Toxic sludge kills fish in Tanzania's Mara River" Anadolu Agency, 25 March 2022, at <https://www.aa.com.tr/en/africa/toxic-sludge-kills-fish-in-tanzania-s-mara-river/2545467#>, accessed 21st August 2022.

829 "Ripoti Maalum: Uchafuzi wa Mto Mara unavyowatesa wakazi" Nipashe Newspaper (online), 25 March 2022, at <https://www.ippmedia.com/sw/habari/ripoti-maalumu-uchafuzi-wa-mto-mara-unavyowatesa-wakazi>, accessed 21st August 2022.

830 Ibid.

831 Kizito Makoye "Toxic sludge kills fish in Tanzania's Mara River" Anadolu Agency, 25 March 2022, at <https://www.aa.com.tr/en/africa/toxic-sludge-kills-fish-in-tanzania-s-mara-river/2545467#>, accessed 21st August 2022; Emmanuel Onyango "Tanzania stops use of Mara River water over pollution fears" 15 March 2022, at <https://www.theeastafrican.co.ke/tea/science-health/tanzania-stops-supply-of-mara-river-water-to-locals-3748442>, accessed 21st August 2022.

832 *Report on the Investigation of the Source of Mara River Pollution* (supra); Baraza la Taifa la Hifadhi na Usimamizi wa Mazingira (NEMC), *Muhtasari wa Taarifa ya Uchunguzi wa Kuchafuka kwa Mto Mara* (supra).

833 Kizito Makoye "Toxic sludge kills fish in Tanzania's Mara River" (supra).

834 Ibid.



mining, North Mara Gold Mine, as the source of water pollution and fish deaths, but some environmentalists have indicated that this might actually be a more plausible explanation.⁸³⁵

4.3.3.3. Public Reaction to the Investigative Team Report

The report by the National Technical Committee was widely criticized by members of the public, including human and environmental rights stakeholders and Members of Parliament (MPs).⁸³⁶ Among the stakeholders who were critical of the report findings were the Legal and Human Rights Centre (LHRC) and Lawyers' Environmental Action Team (LEAT).⁸³⁷ Among MPs who criticized the report was the MP for Tarime Rural, Hon. Mwita Waitara, who claimed the committee did not interview community members from the most affected areas.⁸³⁸ He also accused the committee of not involving MPs from the affected areas in conducting the investigation. Another MP who was critical of the report was Prof. Kitila Mkumbo, who questioned the report findings in relation to recommendations provided. One of the MPs also questioned why the Ministry of Health and the Tanzania Bureau of Standards (TBS) were not involved in the investigation.⁸³⁹ Having disputed the report of the committee, the MPs recommended formation of a new independent committee to re-investigate the source of pollution in Mara River. Such call was also made by the ACT-Wazalendo, an opposition political party via a press statement issued on 23rd March 2022.⁸⁴⁰

Following the criticism of the report, the Government team came out to defend the report, reiterating that no contaminations were discovered and that the fish died because they were deprived of oxygen, and oxygen depletion was caused by high load of cow dung and urine generated from large number of herds of cattle pasturing in the wetland areas over the years.⁸⁴¹ The team, led by Prof Samwel Manyele, insisted that their

835 Ibid.

836 Rosemary Mirondo "Mara River findings: Government team defends report amid criticisms" The Citizen Newspaper (online), 27 March 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/mara-river-findings-government-team-defends-report-amid-criticisms-3761914>, accessed 21st August 2022; "WABUNGE WAPINGA RIPOTI UCHAFUZI MTO MARA, WATAKA UCHUNGUZI HURU" Watetezi TV, at <https://ne-np.facebook.com/wateteziTV/posts/1012675389369503>, accessed 21st August 2022; "Wabunge wa Tanzania wamekataa kupokea ripoti ya Mto Mara wakidai haina mashiko" 6 April 2022, at <https://www.bbc.com/swahili/61006159>, accessed 21st August 2022; Habel Chidawali "Wabunge waikataa ripoti ya Mto Mara" Mwananchi Newspaper (online), 5 April 2022, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/wabunge-waikataa-ripoti-ya-mto-mara--3772200>, accessed 21st August 2022.

837 Kituo cha Sheria na Haki za Binadamu (LHRC) & Chama cha Wanasheria wa Mazingira kwa Vitendo (LEAT), Tamko Uchafuzi wa Maji Mto Mara, Taarifa kwa Umma, 23 March 2022, at www.humanrights.or.tz; Rosemary Mirondo "Mara River findings: Government team defends report amid criticisms" (supra).

838 "WABUNGE WAPINGA RIPOTI UCHAFUZI MTO MARA, WATAKA UCHUNGUZI HURU" Watetezi TV (supra).

839 See Habel Chidawali "Wabunge waikataa ripoti ya Mto Mara" Mwananchi Newspaper (supra).

840 See ACT-Wazalendo Mto Mara: Tunataka Uchunguzi Huru!, Press Release, 23 March 2022, at https://www.actwazalendo.or.tz/mto_mara_tunataka_uchunguzi_huru?locale=en, accessed 21st August 2022.

841 Rosemary Mirondo "Mara River findings: Government team defends report amid criticisms" (supra).



investigation was confined to what transpired on 7th February 2022, based on their Terms of Reference (ToRs), which did not require them to look into long-term challenges of the Mara River.⁸⁴²

4.3.3.4. LHRC and LEAT Factfinding and Views

LHRC and LEAT conducted a factfinding in March 2022, around the same time the government committee was conducting their own investigation.⁸⁴³ The probe team visited some of the villages and affected areas to determine the cause of the river pollution, including Kirumi and Bisarwi Villages in Tarime District, which were reported to be among the most affected villages.

The probe team found existence of long-term problems that led to some people suffering from skin diseases and caused death of a large number of livestock after consuming water from the river. According to the fact-finding report, a total of 800 livestock were killed after consuming water believed to be polluted in the Mara River Basin in the period of 2018 to 2022, while in the period of 1st to 15th March 2022 alone, a total of 54 livestock were reportedly killed under similar circumstances.⁸⁴⁴ The dead animals were also said to have changed colour into black after dying and declared unsafe for human consumption.⁸⁴⁵ The probe team was also informed that skin diseases had become a common occurrence among community members, especially in 2020 and 2021, whereby affected individuals were said to excessively scratch their bodies to deal with their uncontrollably itchy skins, popularly termed “**Kwangua Vocha**.”⁸⁴⁶ It was reported that sometimes affected people had to use items such as pieces of firewood or maize cobs to scratch themselves. There were also reports of 3 fishermen who frequented the Mara River dying after vomiting blood for 2 to 3 days and people who experienced health problems, including diarrhea, after consuming fish believed to be affected by contaminated water in the river.

Like other critics, the organizations disputed the claim that contamination of Mara River was caused by animal faeces and decomposed weeds.⁸⁴⁷ LHRC and LEAT also pointed out lack of civil society representation in the government probe team; conflicting reports by the Lake Victoria Basin Water Board and the government probe team regarding source of pollution; some of the key information/explanations missing from the government report; and the committee led by Prof. Manyele failing to interview pollution

842 Ibid.

843 LHRC & LEAT, Tamko Uchafuzi wa Maji Mto Mara (supra).

844 Ibid.

845 LHRC & LEAT, Tamko Uchafuzi wa Maji Mto Mara (supra).

846 Ibid.

847 Rosemary Mirondo “Mara River findings: Government team defends report amid criticisms” (supra).



victims.

Like other stakeholders, including MPs, LHRC and LEAT recommended formation of an independent committee, that would include prominent environmental experts, to re-investigate the source of pollution in Mara River and impact caused to surrounding communities.⁸⁴⁸ They also recommended for affected community members to be freely interviewed and government to clean the affected areas and thereafter apply the **Polluter Pay Principle**. Another key recommendation from the LHRC and LEAT probe team was granting of fair and timely compensation to all community members affected by the pollution and subsequent problems caused by it.

4.3.4. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs and Ministry of Investment, Industry and Trade, to employ a human rights-based approach (HRBA) to investment by ensuring investors, both local and foreign, comply with Tanzanian laws and respect human rights in their operations, including the right to clean and healthy environment.
- The Government, through the National Environment Management Council, to effectively implement environmental laws and regulations to safeguard the right clean and healthy environment.
- Companies and industries to ensure their operations are environmentally friendly and take measures to mitigate their negative impacts on the environment.

4.4. Relevant SDGs, TDV 2025, and Agenda 2063 Targets

Tanzania's achievement of these 2030 SDGs, TDV 2025, and Agenda 2063, depends on progress made in realization of collective rights:

⁸⁴⁸ LHRC & LEAT, *Tamko Uchafuzi wa Maji Mto Mara* (supra).



Key SDGs and TDV 2025 Targets relating to Collective Rights

<p>SDGs</p>	<p><u>SDG1 NO POVERTY</u>: End Poverty in all Its Forms Everywhere. <u>SDG2 ZERO HUNGER</u>: End Hunger, Achieve Food Security and Improved Nutrition and Promote Sustainable Agriculture. <u>SDG 5 GENDER EQUALITY</u>: Achieve Gender Equality and Empower All Women and Girls <u>SDG12 RESPONSIBLE CONSUMPTION AND PRODUCTION</u>: Ensure Sustainable Consumption and Production Patterns. <u>SDG13 CLIMATE ACTION</u>: Take Urgent Action to Combat Climate Change and Its Impacts. <u>SDG17 PARTNERSHIPS FOR THE GOALS</u>: Strengthen the Means of Implementation and Revitalize the Global Partnership for Sustainable Development.</p>
<p>TDV 2025</p>	<p>High quality livelihood Peace, stability and unity</p>
<p>Agenda 2063: The Africa We Want.</p>	<p>ASPIRATION 1: A prosperous Africa based on inclusive growth and sustainable development ASPIRATION 3. An Africa of good governance, democracy, respect for human rights, justice and the rule of law ASPIRATION 4. A peaceful and secure Africa ASPIRATION 6: An Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children</p>



CHAPTER 5: RIGHTS OF VULNERABLE GROUPS

Some groups in the community are more likely than others to experience human rights violations. Recognizing their increased vulnerability, special protection for these groups is warranted, which is why there are various conventions and laws that specifically protect their rights. In Tanzania, vulnerable groups include women, children, persons with disabilities (PWDs), the elderly, and persons living with HIV/AIDS. This chapter highlights some key issues and developments relating to rights of these vulnerable groups during the reporting period of 2022.

5.1. Women's Rights

Tanzania has ratified several conventions that protect the rights of women and girls.⁸⁴⁹ Several obligations arise from these conventions, the goal being to ensure women and girls enjoy their human rights, as guaranteed under the international bill of rights,⁸⁵⁰ equally with men and boys. Among the obligations are to eradicate all forms of discrimination against women through appropriate legislative, institutional, and other measures and taking appropriate and effective measures to address all forms of violence against women.⁸⁵¹

5.1.1. Gender-Based Violence

Gender-Based violence (GBV) refers to harmful acts directed at an individual based on their gender.⁸⁵² It is a serious violation of human rights and a life-threatening health and protection issue.⁸⁵³ GBV can be physical, psychological, sexual or economic.⁸⁵⁴ These forms of GBV may be defined as follows:⁸⁵⁵

849 Key women's rights conventions ratified by Tanzania are the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) of 1979; Protocol Additional to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2003; and SADC Protocol on Gender and Development.

850 The Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), and International Covenant on Economic, Social and Cultural Rights (ICESCR).

851 See Article 2(1) & 4(2) of the Maputo Protocol.

852 United Republic of Tanzania, NATIONAL PLAN OF ACTION TO END VIOLENCE AGAINST WOMEN AND CHILDREN IN TANZANIA 2017/18 – 2021/22, December 2016, p. vi.

853 See UNHCR, Gender-based Violence, at <https://www.unhcr.org/gender-based-violence.html>.

854 NATIONAL PLAN OF ACTION TO END VIOLENCE AGAINST WOMEN AND CHILDREN IN TANZANIA 2017/18 (*supra*).

855 *Ibid*; East African Community, Forms of Gender-Based Violence,



- **Physical:** Any act which causes physical harm as a result of unlawful physical force. Physical violence can take the form of, among others, serious and minor assault, deprivation of liberty, and manslaughter.
- **Sexual:** Any sexual act performed on an individual without their consent. Sexual violence can take the form of rape or sexual assault.
- **Psychological:** Any act which causes psychological harm to an individual. Psychological violence can take the form of, for example, coercion, defamation, verbal insult, or harassment.
- **Economic:** Any act or behaviour which causes economic harm to an individual. Economic violence can take the form of, for example, property damage, restricting access to financial resources, education, or the labour market, or not complying with economic responsibilities, such as alimony.

In 2022, gender-based violence (GBV) continued to be a big threat to women's rights in Tanzania. Incidents of different acts of violence were reported and documented in all regions across Mainland Tanzania.

5.1.1.1. Police and government data and information

Recent police statistics on GBV show that reported incidents decreased from 42,414 in 2020 to 29,373 in 2021, a decrease of 30.8%.⁸⁵⁶ As is the case in most parts of the world, overwhelming majority of victims of GBV in Tanzania (over 70%) are women. In the period of 2017 to 2021, police regions which recorded most GBV incidents were Arusha, Temeke (Dar es Salaam), Kinondoni (Dar es Salaam), Tanga, and Dodoma. Arusha Region, which led in GBV incidents in 2021, and Rukwa, which was 5th in 2021, are other regions where GBV has been found to be more prevalent in recent years.

at <https://www.eac.int/gender/gbv/forms-of-gbv>.

856 WIZARA YA MAENDELEO YA JAMII, JINSIA, WANAWAKE NA MAKUNDI MAALUM

WASILISHO KUHUSU MTAKUWWA (2017/18 – 2021/22), Hoteli ya Morena, Dodoma, 26 Februari, 2022.



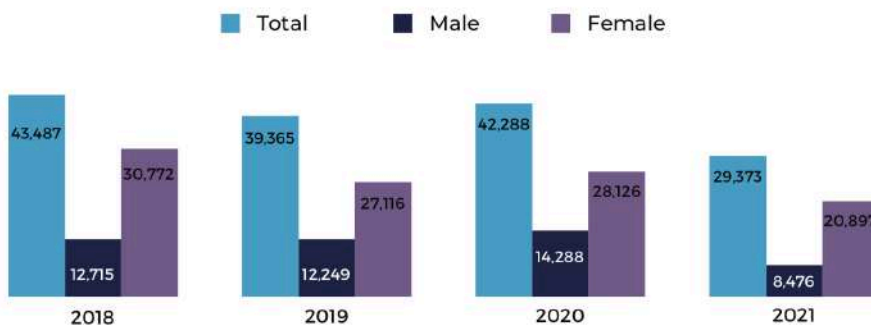


Figure 48: GBV victims in Tanzania by sex - 2018 to 2021

Source: Police data, 2018 to 2021

In 2022, police in various regions reported that GBV incidents were on the rise. For instance, in October 2022, Katavi Regional Police Commander, Ali Makame, revealed that GBV incidents reported in the period of January to September 2022 had already surpassed those reported for the same period in 2021 by 30 incidents, increasing from 240 to 270.⁸⁵⁷ In December, Ruvuma Regional Commissioner, Col. Laban Thomas, stated that the situation of GBV in the region was getting worse, calling for collaborative efforts to address the problem. He revealed that 442 GBV incidents were documented by police in the period of six months alone (January to June 2022).⁸⁵⁸

5.1.1.2. Incidents documented by LHRC

Through media survey and human rights monitoring, LHRC documented at least 108 VAW incidents, reported in regions such as Pwani, Kilimanjaro, Dar es Salaam, Mara, Mtwara, Rukwa, Songwe, Geita, Dodoma, and Kigoma Regions. 56% of these incidents were acts of physical and emotional violence, followed by sexual violence (28%), and economic violence (16%). LHRC's assessment of documented VAW incidents showed that the main perpetrators were husbands and other intimate partners. The most common setting for this type of violence was home.

⁸⁵⁷ Nipashe Newspaper, 9 Oct 2022.

⁸⁵⁸ Gideon Mwanosya "Mkuu wa mkoa ataka mkakati kukabili ukatili wa kijinsia Ruvuma" Nipashe Newspaper, 13 Dec 2022.



■ Sexual violence ■ Physical & emotional violence ■ Economic violence

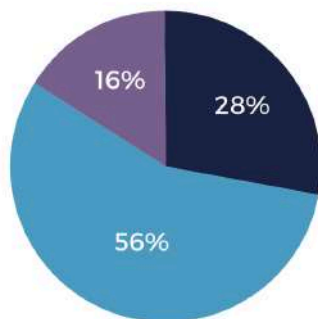


Figure 49: %Incidents of VAW documented by LHRC in 2022 by type (N=108)

Source: Human Rights Monitoring & Media Survey 2022

Incidents of VAW were also reported in all 20 surveyed regions.⁸⁵⁹ A total of 1,391 incidents were documented, of which 46% were of physical and psychological violence, 29% were of sexual violence (including rape and sextortion), and the remaining 25% were of economic violence. Majority of the interviewed respondents in the regions, including SWOs, paralegals, and human rights monitors, acknowledged that physical violence is the most common form of VAW, followed by economic violence. For instance, in Singida, interviews with NGO officials and paralegals revealed physical violence as the most common form of VAW in the region.⁸⁶⁰

‘Physical violence against women is a big challenge, especially for partners or married couples.’

Paralegal – Moshi MC, Kilimanjaro

LHRC’s View: It is high time for Tanzania to enact anti-GBV law. Several countries across the world already have such law in place. For instance, in Bulgaria there is the Law on Protection Against Domestic Violence (2005), in South Africa there is the Domestic Violence Act (1998), in Malaysia there is the Domestic Violence Act (1994), in India there is the Protection of Women

⁸⁵⁹ Only 3 districts for each region (60 districts).

⁸⁶⁰ LHRC Human Rights Survey 2022: Singida Field Report.



from Domestic Violence Act (2005), in Sierra Leone they have the Domestic Violence Act (2007), and in Namibia there is the Combating of Domestic Violence Act (2003).⁸⁶¹

LHRC's Call: The Government to enact anti-GBV law to prevent and address GBV in line international human rights standards.

5.1.1.3. Perceptions on VAW: Human Rights Survey 2022 findings

LHRC's Human Rights Survey 2022, conducted in 20 regions of Mainland Tanzania, probed the magnitude of violence against women in the community. Nearly half of the respondents (44%) perceived VAW to be a serious problem in their community, followed by nearly a third (29%), who believed it to be a problem. A quarter of the community members said VAW is only a moderate problem, while less than 3% of the respondents were of the view that VAW is either a minor problem or not at all a problem.

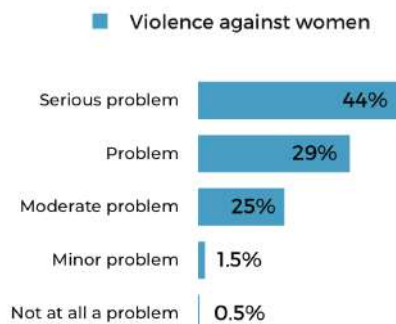


Figure 50: % Responses on the extent to which VAW is a problem in the community (N=1,497)

Source: Field data, 2022

In terms of region, the percentage of respondents who said VAW is a very serious/serious problem was highest in Dodoma Region (84%) and lowest in Katavi Region (58%). In terms of zones, the Northern Zone (Tanga, Kilimanjaro, and Arusha), scored the highest average percentage (82%), followed by Central Zone (Morogoro, Dodoma, Tabora, and Singida) at 76%, and Eastern (Dar es Salaam, Pwani & Mtwara) and Western (Rukwa, Kigoma,

⁸⁶¹ See UN Women, Definition of domestic violence, 11 December 2010, at <https://www.endvawnow.org/en/articles/398-definition-of-domestic-violence.html>.



and Katavi) Zones, both at 70%.

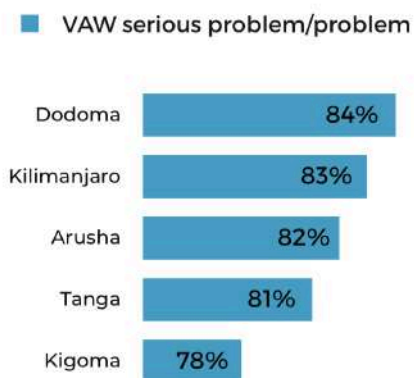


Figure 51: Top 5 regions where VAW is perceived to be a serious problem/problem (N=1, 497)

Source: Field data, 2022

5.1.1.4. Cyber Violence against Women and Girls

Overview

Like any other form of violence, both women and men can be victims of cyber violence. However, according to the European Institute for Gender Equality (EIGE), evidence shows that women and girls are more likely to be targeted by cyber violence, resulting into physical, sexual, psychological, or economic harm and suffering.⁸⁶² Cyber violence against women and girls (CVAWG) occurs across different cyberspaces, including social media platforms, whereby a vast array of information and communications technology (ICT) tools may be used to stalk, harass, survey, and control victims, including smartphones, computers, cameras, and other recording equipment.⁸⁶³ Because it does not always lead to physical harm, this type of violence is **usually regarded as insignificant and less harmful to its victims**, but it has just as devastating consequences, sometimes acting as precursor to physical violence, and contributing to mental health issues such as depression and anxiety disorders. This type of violence also often results into abandonment of digital spaces, which has a devastating impact on women's confidence when it comes to ICT, hence worsening gender

⁸⁶² See EIGE, *Cyber Violence against Women and Girls: Key Terms and Concepts*, at https://eige.europa.eu/sites/default/files/cyber_violence_against_women_and_girls_key_terms_and_concepts.pdf.

⁸⁶³ Ibid.



equality issues such as ICT gender segregation and gender pay gap.⁸⁶⁴ Acts of CVAWG can: start online and continue offline such as in the workplace, at school or at home; start offline and continue online across different platforms such as social media, emails or instant messaging apps; be perpetrated by a person or group of people who are anonymous and/or unknown to the victim; and be perpetrated by a person or group of people who are known to the victim such as an (ex) intimate partner, a schoolmate or co-worker.⁸⁶⁵ CVAWG acts include cyber stalking, cyber harassment, cyber bullying, online gender-based hate speech, and non-consensual intimate image abuse. These acts have been defined by EIGE as follows:⁸⁶⁶

Cyber stalking against women and girls involves intentional repeated acts against women and/or girls because of their gender, or because of a combination of gender and other factors (e.g. race, age, disability, sexuality, profession or beliefs). It is committed through the use of ICT means, to harass, intimidate, persecute, spy or establish unwanted communication or contact, engaging in harmful behaviours that make the victim feel threatened, distressed or unsafe in any way.

Cyber harassment against women and girls involves one or more acts against victims because of their gender, or because of a combination of gender and other factors (e.g. race, age, disability, profession, personal beliefs or sexual orientation). It is committed through the use of ICT means to harass, impose or intercept communication, with the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for the victim.

Cyber bullying against girls means any form of pressure, aggression, harassment, blackmail, insult, denigration, defamation, identity theft or illicit acquisition, treatment or dissemination of personal data, carried out repeatedly by ICT means on the grounds of gender or a combination of gender and other factors (e.g. race, disability or sexual orientation), whose purpose is to isolate, attack or mock a minor or group of minors.

Online gender-based hate speech is defined as content posted and shared through ICT means that: (a) is hateful towards women and/or girls because of their gender, or because of a combination of gender and other factors (e.g. race, age, disability, sexuality, ethnicity, nationality, religion or profession); and/or (b) spreads, incites, promotes or justifies hatred based

⁸⁶⁴ EIGE, *Cyber Violence against Women and Girls (supra)*.

⁸⁶⁵ *Ibid.*

⁸⁶⁶ EIGE, *Cyber Violence against Women and Girls (supra)*.



on gender, or because of a combination of gender and other factors (e.g. race, age, disability, sexuality, ethnicity, nationality, religion or profession). It can also involve posting and sharing, through ICT means, violent content that consists of portraying women and girls as sexual objects or targets of violence. This content can be sent privately or publicly and is often targeted at women in public-facing roles.

Non-consensual intimate image (NCII) abuse against women and girls involves the distribution through ICT means or the threat of distribution through ICT means of intimate, private and/or manipulated images/videos of a woman or girl without the consent of the subject. Images/videos can be obtained non-consensually, manipulated non-consensually, or obtained consensually but distributed nonconsensually. Common motivations include sexualizing the victim, inflicting harm on the victim, or negatively affecting the life of the victim. The spread of such images can destroy victims' educational and employment opportunities as well as their intimate relationships. Victims are often threatened with sexual assault, stalked, harassed, fired from jobs, and forced to change schools. Some have committed suicide.⁸⁶⁷

Concerns over Online Violence against Women in Tanzania

In 2022 various stakeholders expressed concern over increased prevalence of online violence against women. For instance, in March 2022, special seats MP, Hon. Neema Lugangira, called for incorporation of online gender-based violence in the new National Plan of Action to End Violence against Women and Children (NPA-VAWC). She noted that GBV in online platforms is gaining momentum, and it is high time something is being done about it, identifying girls, female businesspersons (entrepreneurs), female political leaders, and female MPs as major victims.⁸⁶⁸ In the same month, stakeholders attending a media roundtable on digital literacy for women, which was organized by Internews Tanzania, noted that gender aspects of cyber violence must be recognized as one of the main reasons for the digital divide in Tanzania as women opt to leave the online world as a result, adding that common types of violence experienced by women in Tanzania include sexual harassment, offensive name-calling, cyber-stalking, and image-based sexual assaults.⁸⁶⁹ They added that online VAW has a negative effect on women's mental health, leading to struggles socially and economically.

LHRC View: In today's world, access to internet and use of digital platforms

867 Ibid.

868 Anastazia Anyimike "Ashauri ukatili wa kijinja mtandaoni umulikwe" HABARILEO Newspaper, 4 Mar 2022.

869 "Players castigate cyber-bulling" The Citizen Newspaper, 9 Mar 2022.



has become a necessity for economic development and essential for realization of human rights. Digital platforms therefore need to be safe for everyone, including women and children, and protection of fundamental human rights, including freedom of expression, freedom from violence, and right to liberty and personal protection, needs to be extended to digital platforms. For a country like Tanzania, one of the key challenges to tackle this type of violence is low awareness about it and lack of comprehensive data, which is largely contributed by non-reporting or underreporting of such type of GBV.

LHRC's Call: The Government, through the Ministry of Constitutional and Legal Affairs and the Ministry of Community Development, Gender, Women and Special Groups, needs to make legal and policy reforms to ensure cyber violence against women and children is fully incorporated into laws and policies and public awareness programmes are conducted. Further research into CVAWG in Tanzanian context is also needed.

5.1.2. Physical Violence Against Women: Intimate Partner Violence and Killings of Women Motivated by Jealousy

Global overview

In 2021, around 45,000 women and girls worldwide were killed by their intimate partners or other family members.⁸⁷⁰ The number of women killed by their intimate partners or family members in Africa was 17,200.⁸⁷¹



Reported incidents of women killed by their intimate partners in Tanzania

In Tanzania, nearly half of women (48%) have survived intimate partner violence (IPV) in their lifetime, and one in four women has experienced IPV

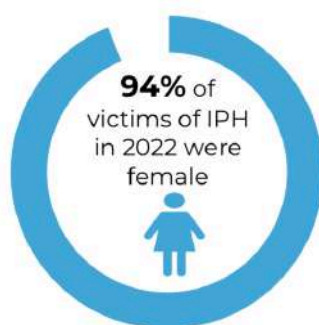
⁸⁷⁰ See UNODC & UN WOMEN, Gender-related killings of women and girls (femicide/feminicide), at https://www.unodc.org/documents/data-and-analysis/briefs/Femicide_brief_Nov2022.pdf.

⁸⁷¹ Ibid.



over the last 12 months.⁸⁷² This is above the average percentages of 36% and 33% for East Africa and Africa respectively. The proportion is higher for women living in rural areas and Mainland Tanzania.⁸⁷³

In 2022, physical violence against women (VAW) continued to be the most common form of VAW. As indicated above, over half of the VAW incidents (56%) documented by LHRC in 2022 were physical and emotional violence. IPV continued to cause intimate partner homicide (IPH). As discussed in Chapter Two of this report, LHRC documented 33 incidents of IPH in 2022, which are 2 less than those documented in 2021. Out of these victims, 31 were female. At least 17 out of 33 IPH incidents were motivated by jealousy (52%). The youngest victim was 16 years old, as was the youngest perpetrator, both victims of child marriage and married to each other. The oldest perpetrator was 60 years old. Most of the killings were reported in Eastern Zone (11), followed by the Lake Zone (7), with these two zones accounting for over 50% of the killings. The Central Zone (6) has also been a hotspot for IPH in recent years.



Participants of the Human Rights Survey 2022 in some of the surveyed regions also weighed in on the problem of IPV and IPH. For instance, in Njombe, one of the respondents gave an account of how his sister died at the hands of her husband. He noted that the husband killed his sister after constantly accusing her of being infertile.

'..We buried our sister in February this year. She was killed by her husband after accusing her of being infertile.'

Community member, Njombe

872 OECD (2022), *SI-GI Country Report for Tanzania, Social Institutions and Gender Index*, OECD Publishing, Paris, <https://doi.org/10.1787/06621e57-en>.

873 Ibid.



Human Rights Mostly Affected by IPV



5.1.3. Other Incidents of Physical and Psychological Violence Against Women

Apart from the 31 incidents of IPV, LHRC also documented at least 73 other incidents of physical and psychological VAW, including physical IPV, through human rights monitoring and media survey. These incidents were reported in regions such as Dar es Salaam, Mwanza, Songwe, Iringa, Mara, Mwanza, Mtwara, Manyara, Rukwa, and Kilimanjaro. The main perpetrators were intimate partners, mostly husbands. Additionally, LHRC documented at least 635 incidents through Human Rights Survey 2022, conducted in 20 regions of Mainland Tanzania. These incidents were reported by community members in regions such as Morogoro, Tabora, Singida, Kagera, Geita, Kilimanjaro, Arusha, and Katavi.

Reported acts of physical and psychological violence perpetrated against women included beatings, cutting of body parts, being attacked with a machete, biting ears, being attacked with a hammer, inserting a sharp object in a woman's private parts, and being subjected to female genital mutilation (FGM).

Physical VAW perpetrated by intimate partner

In October 2022, it was reported that police in Mwanza were looking for a man called Masoud for allegedly cutting his lover's private parts and a nipple.



Initial investigations showed that his actions were witchcraft motivated.⁸⁷⁴ A similar incident occurred in neighbouring Musoma, earlier in September 2022, whereby a man in Isango Village, located in Rorya District attacked his wife, Maria Marwa (36), and cut-off her breast because of jealousy. It was reported that he often physically abuses his wife, at some point causing her to be admitted to hospital for two weeks.⁸⁷⁵

In June 2022, police in Mara arrested a man, Gimusi Murimi (42), resident of Serengeti District, for beating his wife and inserting a machete into her private parts after accusing her of having an affair.⁸⁷⁶ He committed the offence in late May 2022. In Mtwara, a woman in Lyowa Village was brutally attacked with a machete by her husband for allegedly losing a mobile phone worth Tshs. 24,000.⁸⁷⁷

In Morogoro, the human rights survey team met with a woman and mother of 5 children, resident of Mlali Ward, who was brutally attacked with a machete on different parts of her body by her husband, leaving her in great pain and with permanent injuries.⁸⁷⁸ She said, *'...one night he returned home and we went to bed, but suddenly, out of nowhere I saw him standing beside the bed with a machete, and he started attacking me, saying 'I will show you today.' I was confused, because we did not have any quarrel. He cut me on the hands and head, and I was bleeding heavily and screaming, until the neighbours came and rescued me, as my husband ran away.'*⁸⁷⁹ After the incident, she spent six months in hospital (MOI), and by the time she returned home her husband had been arrested, prosecuted, and sentenced to 15 years in prison.⁸⁸⁰

874 "Asakwa akituhumiwa kumkata sehemu za siri mpenzi wake" Mwananchi Newspaper, 14 Oct 2022.

875 Beldina Nyakeke "Mume amkata mkewe mkono titi kisa wivu wa mapenzi" Mwananchi Newspaper, 23 Sep 2022.

876 LHRC Human Rights Monitoring 2022.

877 LHRC Human Rights Monitoring 2022.

878 LHRC Human Rights Survey 2022: Morogoro Field Report.

879 Ibid.

880 Ibid.





Picture 7: A woman, resident of Mlali Ward, who was brutally attacked with a machete and injured by husband in Morogoro

Source: Field data, 2022

In Katavi, interviewed social welfare officers narrated the incidents of two women who were brutally assaulted by their husbands in Mpanda and Tanganyika Districts in January and October 2022 respectively⁸⁸¹ One was nearly beaten to death for simply requesting for money to take care of children, while the other was beaten in public and attacked on the head with a sharp object by her husband.

881 LHRC Human Rights Survey 2022: Katavi Field Report.





Picture 8: A woman, resident of Tanganyika District, after she was beaten and attacked by her husband

Source: Field data, 2022

During this reporting period, there were also allegations of beating of a girl called Florencia Mjenda in Songwe Region, levelled against the Songwe District Commissioner, Simon Simalenga.⁸⁸² The DC allegedly beat the girl and caused her serious injuries for allegedly sitting at a place designated for dignitaries during a football match. Authorities, including the Ministry of Community Development, Gender, Women and Special Groups, reported to investigate the matter to determine the truth.⁸⁸³

Psychological violence against women

Wife and family abandonment was found to be a big problem in most of the surveyed regions. Interviews with social welfare officers revealed many cases of men abandoning their wives and children, causing them psychological harm. In regions such as Mtwara, Iringa, Arusha, Tanga,

882 Lukelo Francis “‘Outrageous’: DC Sparks Fury After Hitting a Girl, Causing Her Serious Injuries” 6 Dec 2022, The Chanzo Initiative, at <https://thechanzo.com/2022/12/06/outrageous-dc-sparks-fury-after-hitting-a-girl-causing-her-serious-injuries/>.

883 Herieth Makwetta “Waziri Gwajima azungumzia madai DC Songwe kumpiga msichana” Mwananchi Newspaper (online), 6 Dec 2022, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/waziri-gwajima-azungumzia-madai-dc-songwe-kumpiga-msichana-4045202>.



Kagera, Geita, and Kigoma, it was reported that it has now become a habit for men to sell all crops after harvest and go away with all the money to spend with other women. In all these regions, LHRC documented over 700 incidents of abandonment of wives and children.

Another form of psychological violence against women that emerged was men leaving their partners after giving birth because they no longer find them attractive. This was reported in Iringa Municipal Council in Iringa Region.⁸⁸⁴

5.1.4. Sexual Violence against Women

Sexual violence has serious consequences for victims. These consequences include but are not limited to long and short-term physical damage, such as unwanted pregnancies; vaginal and anal tears; miscarriages; forced abortions; stillborn children; chronic pain; and sexually transmitted infections (STI) such as HIV.⁸⁸⁵ Other consequences include psychological consequences such as post-traumatic stress disorder; denial; fear; lack of trust; low self-esteem; shame; guilt; anxiety and mood disorders, sleep disorders, loss of appetite; depression; drug abuse; self-harm and high-risk behaviour, including suicidal behaviour; isolation; decrease in or loss of sexual enjoyment; relationship problems with family, friends and partners; “honour” crimes; trauma that is passed down through generations; the destruction of communities; as well as death.⁸⁸⁶ Sexual violence also has social and financial consequences which can include abandoning schooling, job loss, loss of training opportunities, financial difficulties, social exclusion, stigmatization, and difficulty in forming romantic and other personal relationships.⁸⁸⁷

In 2022, LHRC documented at least 30 incidents of sexual VAW, through media survey and human rights monitoring, constituting 28% of the documented VAW incidents. These incidents included rape, sexual harassment, sexual corruption, and marital sodomy, reported in regions such as Iringa, Manyara, Geita, Arusha, Dar es Salaam, Njombe, and Kigoma. LHRC also documented an additional 406 incidents through the Human Rights Survey 2022, reported in regions such as Morogoro, Singida, Iringa, Mbeya, Njombe, Kilimanjaro, Arusha, Kagera, Mwanza, Mara, Geita, Kigoma, and Katavi. Acts of sexual violence included rape, gang-rape, sexual harassment, and sextortion.

884 LHRC Human Rights Survey 2022: Iringa Field Report.

885 The Guidelines on Combating Sexual Violence and its Consequences in Africa, at <https://www.achpr.org/legalinstruments/detail?id=4>.

886 Ibid.

887 Ibid.



Rape, including of elderly women, and gangrape

Incidents of rape documented in 2022 included rape of a pregnant woman in Iringa in October, perpetrated by Mohamed Njali, who was arrested by police.⁸⁸⁸ Another shocking and sad incident was rape of an elderly woman aged 80 years, resident of Mawengi Village in Njombe, in Decembe, perpetrated by Otmary Wangerage (38).⁸⁸⁹ A similar incident occurred in Manyoni District, Singida, whereby a 20-year-old man reportedly raped his 75-year-old grandmother after returning home drunk and high in August 2022.⁸⁹⁰

In April 2022, a man called Bolgas Kitwega, resident of Dar es Salaam, reportedly targeted a 30-year-old woman at hotel, tampered with her drink (spiked it with drugs) and then went on to rape her. He was arrested and arraigned before the Kisutu Resident Magistrate Court.⁸⁹¹ In Arusha, police arrested two people believed to be leaders of a gang of people kidnapping, robbing, and raping popular women in the city.⁸⁹²

In November, police in Manyara arrested two men, Frank Betezi and Nico Ngowo, accused of raping and sodomizing a barmaid, as well as inserting objects into her private parts. Police were also looking for two other men who participated in the sexual assault.⁸⁹³

Some women are also raped because of witchcraft. For instance, in November, police in Geita said they had set a trap to arrest a man who had been terrorizing women in Nzera Ward, Geita District, by raping them. Police believe his actions are witchcraft motivated.⁸⁹⁴

In Morogoro, a human rights survey team was informed about an incident of a 32-year-old woman who was allegedly gangraped by twelve Maasai men in front of her husband in their farm.⁸⁹⁵ The reason for the brutal sexual attack was the woman allegedly calling them ‘maasai’ instead of by their names, which they took personally. It was reported that seven out of the twelve perpetrators were arrested by police but paid their way out of custody.⁸⁹⁶ In Kigoma, police arrested four men for gang-raping a 19-year-

888 “Inasikitisa: Mauaji, Ukatili” Mwananchi Newspaper, 7 Oct 2022.

889 James Kasanga “Kijana atuhumiwa kumbaka ajuza mwenye umri wa miaka 80” HABARILEO Newspaper, 29 Dec 2022.

890 LHRC Human Rights Survey 2022: Singida Field Report.

891 “Adaiwa kubaka” HABARILEO Newspaper, 23 Apr 2022.

892 “Mbaroni wakituhumiwa kuteka na kubaka warembo” HABARILEO Newspaper, 24 April 2022.

893 John Mhala “Mbaroni kwa kumbaka mfanyakazi wa baa” HABARILEO Newspaper

22 Nov 2022.

894 Yohana Shida “Polisi yajpanga kumdhiti anayebaka wanawake usiku” HABARILEO Newspaper, 6 Nov 2022.

895 LHRC Human Rights Survey 2022: Morogoro Field Report.

896 Ibid.



old woman.⁸⁹⁷ Another young woman was also reportedly gang-raped in Ludewa, Njombe.⁸⁹⁸

Marital sodomy and rape

In 2022, marital sodomy re-emerged as a key concern for married women. In Dar es Salaam, a social welfare officer, Joyce Maketa, disclosed that marital sodomy is one of the main reasons for divorce in the city.⁸⁹⁹ Social welfare officers, community development officers, religious leaders, and other community members who participated in LHRC's Human Rights Survey 2022 in regions such as Singida, Kilimanjaro, Mbeya, and Katavi, also identified marital sodomy as a growing problem in their communities. For instance, in Singida, a religious leader in Manyoni District disclosed that some married women are forced to engage in anal sex (sodomy) but cannot do anything about it because of customs and traditions, while there are some who feel ashamed to speak out, and others feel that their husbands are entitled to that, even at their own expense.⁹⁰⁰

'There was a woman who filed a complaint against her husband, accusing him of sodomizing her for several years. They have tried to resolve their dispute the traditional way to no avail, and their case is currently in court.'

CDO - Singida DC, Singida

In Mbeya, a paralegal disclosed that some women are forced to engage in anal sex by their husbands and are beaten when they refuse. He said:

'We have received more than three cases of marital sodomy. Those who don't oblige are beaten. One of the marriages broke up because the husband wouldn't change.'

Paralegal, Mbeya CC – Mbeya

In Kilimanjaro, some interviewed paralegals, social welfare officers, and community members also said marital sodomy is slowly becoming a serious problem among married women. They said there are more complaints from married women about their husbands sodomizing them. Some unmarried women were also said to experience the problem.⁹⁰¹

897 LHRC Human Rights Monitoring 2022.

898 LHRC Human Rights Survey 2022: Njombe Field Report.

899 "Ndoa zavurugwa wanaume kuomba kinyume na maumbile" EATV, 6 Sep 2022, at <https://www.eatv.tv/news/current-affairs/ndoa-zavurugwawanaume-kuomba-kinyume-na-maumbile>.

900 LHRC Human Rights Survey 2022: Singida Field Report.

901 LHRC Human Rights Survey 2022: Kilimanjaro Field Report.



In some regions, including Kagera, Geita, Singida, Kigoma, Rukwa, Katavi, and Mara, some interviewed women also complained about marital rape. However, the law does not recognize forced sexual intercourse with one's wife as rape. In Kagera, a community member had this to say about marital rape:

'There are many married women who enduring marital rape, but they have no say over their bodies. They do what they must to preserve their marriages.'

Community member – Kagera

Sexual harassment

Majority of the interviewed respondents in the human rights survey in all surveyed regions identified sexual harassment as a problem in their community, especially at workplaces. Victims of such harassment include those working in the hospitality sector, including bar maids. For instance, in Iringa, a barmaid lamented being often touched on her buttocks and other parts of her body without consent.⁹⁰²

Sexual corruption

Sexual corruption continued to be a challenge in 2022, including in higher learning institutions. In March 2022, the Institute of Accountancy Arusha (IAA) in Arusha suspended a lecturer, Adam Semlambo, after a video showing him having sex with a student circulated on social media.⁹⁰³

5.1.5. Economic Violence against Women

Economic violence refers to a form of violence that involves denial of certain opportunities, including controlling a woman or man's access to resources for generating income, discrimination in employment, denial of inheritance and discrimination in accessing economic and educational opportunities. It includes making or attempting to make a person financially dependent by maintaining total control over financial resources, withholding access to money, and/or forbidding attendance at school or employment.⁹⁰⁴

In 2022, LHRC documented 17 incidents of economic violence against women, through media survey and human rights monitoring. These incidents were reported in regions such as Dar es Salaam, Kilimanjaro, Iringa,

902 LHRC Human Rights Survey 2022: Iringa Field Report.

903 John Mhala "Mhadhiri asimamishwa tuhuma ngono na mwanafunzi" HABARILEO Newspaper, 4 Mar 2022.

904 See UNWOMEN "Frequently asked questions: Types of violence against women and girls" at <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/faqs/types-of-violence>, accessed 20th December 2020.



Mtwara, and Njombe. The incidents included denial of inheritance, property grabbing, and withholding access to money. LHRC also documented additional 350 incidents through the Human Rights Survey 2022.

Withholding access to money

In October 2022, economic violence was cited as one of the major causes of domestic disputes, with husbands said to be the major perpetrators. Some women claimed that they are sometimes forced to retaliate by denying their husbands sex.⁹⁰⁵ Women residing in rural areas were found to be the major victims, especially those who engage in farming but do not enjoy the fruits of their labour. They claimed that their husbands usually turn up during harvest, take all the produce and sell them, and take all the money. Some of the men were accused of not using the money to take care of their families, instead temporarily abandoning them to spend the money with other women they have affairs with. Family neglect is a major concern for these women, as husbands leave them to take care of children alone. Josephine Tesha, a psychologist, said this type of violence against women may contribute to their mental health issues.⁹⁰⁶ In Geita, some men in Nzera Ward were accused of withholding money from their wives after selling agricultural produce.⁹⁰⁷ In Mbeya, some women and a ward executive officer (WEO) in Mbarali District who were interviewed during the human rights survey also made similar accusations.⁹⁰⁸ In Ludewa District, Mbeya Region, some men were accused of squandering money after selling crops during the harvest period, neglecting taking care of their families in the process.⁹⁰⁹ In Singida, a local NGO worker said most women in her community have no say over their income, with their husbands making all money-related decisions for them.⁹¹⁰

Eviction of widows from marital home

In 2022, LHRC documented at least 21 incidents of eviction of widows from marital home through human rights monitoring and human rights survey, which are 2 less than those documented in 2021. In Tabora, the survey team came across a woman, resident of Nzega District, who was facing eviction from marital home after her husband died. Deceased husband's relatives told her she had nothing to inherit and no need to stay, especially since she never had a child with her husband.⁹¹¹ In Manyoni District, Singida, some

905 Herieth Makweta & Rehema Matowo "Ukatili wa kiuchumi watajwa chanzo cha migogoro ya familia" HABARILEO Newspaper, 13 Oct 2022.

906 Ibid.

907 LHRC Human Rights Monitoring 2022.

908 LHRC Human Rights Survey 2022: Mbeya Field Report.

909 LHRC Human Rights Survey 2022: Njombe Field Report.

910 LHRC Human Rights Survey 2022: Singida Field Report.

911 LHRC Human Rights Survey 2022: Tabora Field Report.



of the interviewed community members said it is normal for a woman to be evicted from her marital home once their husband dies. One of them said:⁹¹²

'Women, who acquire properties together with their husbands, suffer a lot when they become widows, as in-laws make attempts to take the properties. They don't even care about the children.'

Businesswoman, Manyoni - Singida

Incidents of eviction of widows from marital homes were also reported by interviewed community members in regions such as Njombe (1 incident in Makete, 2 in Ludewa), Kagera, Rukwa, Mwanza, and Katavi. For instance, in Kagera, one of the interviewed community members said that there was a widow who was forcefully evicted from the house by her deceased husband's relatives, telling her that she no longer has any business in the house.⁹¹³ In Katavi the survey team met with a woman aged 50 years, resident of Nsimbo District, who said she had been evicted from her marital home by her late husband's relatives just 40 days after his death.⁹¹⁴

Denial of inheritance and property rights

In 2022, customs and traditions continued to be obstacles to women's inheritance rights, especially in rural and semi-urban areas. In Kagera, a local NGO worker told the survey team that customs and traditions of the Haya Tribe do not allow women to inherit from their fathers because they shall marry into another clan, and that is where they shall get their inheritance.⁹¹⁵ Similar claims were made by some of the interviewed men in Njombe and Dodoma.⁹¹⁶ In Tanga, some of the interviewed women in Tanga District Council said most women are denied their property and inheritance rights by in-laws once their husbands die.⁹¹⁷

During the human rights survey, such incidents were reported in regions such as Kagera, Katavi, Tanga, Njombe, Kigoma, and Kilimanjaro. Reports of denial of inheritance were also documented by LHRC through human rights monitoring and media survey in regions such as Iringa, Mtwara, and Njombe. 57 incidents in total were documented.

912 LHRC Human Rights Survey 2022: Singida Field Report.

913 LHRC Human Rights Survey 2022: Kagera Field Report.

914 LHRC Human Rights Survey 2022: Katavi Field Report.

915 LHRC Human Rights Survey 2022: Kagera Field Report.

916 LHRC Human Rights Survey 2022: Njombe & Dodoma Field Reports

917 LHRC Human Rights Survey 2023: Tanga Field Report.



LHRC's Call: Men and women to write wills as a way of safeguarding property rights, including of women and children.

5.1.6. Violence against Women in Politics

5.1.6.1. Overview

Violence against women in politics⁹¹⁸ (VAWP) has been defined as any act, or threat, of physical, sexual, or psychological violence that prevents women from exercising and realizing their political rights and a range of human rights.⁹¹⁹ According to the Report of the Special Rapporteur on Violence against Women, its Causes and Consequences on Women in Politics, VAWP, including in and beyond elections, consists of any act of gender-based violence, or threat of such acts, that results in, or is likely to result in, physical, sexual or psychological harm or suffering and is directed against a woman in politics because she is a woman, or affects women disproportionately.⁹²⁰

According to UN WOMEN, VAWP manifests in several ways, including:⁹²¹

- **Physical violence:** including assassinations, kidnappings, beatings – often with intent to force women to resign or withdraw from political life.
- **Sexual violence:** including sexual harassment, unwanted advances and sexual assault, rape, sexualized threats, altered pornographic or sexualized images intended to publicly question women's competencies and shame them.
- **Psychological violence:** including threats, character assassinations, stalking, online abuse as well as economic violence such as denial of salary or political financing, property theft or damage.

Victims and survivors of VAWP may include political office holders, women candidates and aspirants, political supporters, voters, election workers and observers, public officials, and civil servants.⁹²² Perpetrators (state and non-state) may include members of political parties, fellow or opposition

918 Women in politics include all women involved in political activities, those elected at the national or local levels, members and candidates of political parties, government and State officials.

919 See UN WOMEN, *PREVENTING VIOLENCE AGAINST WOMEN IN POLITICS: GUIDANCE NOTES*, July 2021, at <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2021/Guidance-note-Preventing-violence-against-women-in-politics-en.pdf>.

920 See Report of the Special Rapporteur on violence against women, its causes and consequences on violence against women in politics, UNGA, Seventy-third session, A/73/301, at <https://digitallibrary.un.org/record/1640483?ln=en>.

921 PREVENTING VIOLENCE AGAINST WOMEN IN POLITICS: GUIDANCE NOTES (*supra*).

922 Ibid.



Members of Parliament, voters, media representatives, religious leaders, friends, and family members.⁹²³

VAWP can be perpetrated offline and in online settings, including anonymously, as well as in public or private sphere. Female politicians are increasingly becoming victims of online violence and violence facilitated by information and communications technology (ICT).⁹²⁴

According to the Report of the Special Rapporteur on violence against women, the aim of VAWP is to preserve the traditional gender roles and stereotypes and maintain structural and gender-based inequalities.⁹²⁵ It is often normalized and tolerated in contexts where patriarchy is deeply embedded in the society.⁹²⁶

Consequently, VAWP hinders effective and full participation of women in politics and political life and enjoyment of their human rights, with disinformation used to discourage them from participating in politics, swaying popular support away from politically active women and influencing how men and women view particular issues.⁹²⁷

Access to justice for VAWP victims has been found to be a key challenge due to factors such as fear of retaliation, stigma, or not being believed, as well as reputational risk among victims or survivors. Some women decide to conceal VAWP incidents for fear of appearing weak or unfit for political position or leadership, as the culture of silence, stigma, and impunity make it difficult for them to access and get justice. Re-victimization during reporting and complaint process, as well as negative attitude or resistance of law enforcement officials and prosecutors, including being blamed as a victim or not taken seriously, may also discourage victims from pursuing justice.⁹²⁸

Lack of data and awareness of VAWP is another key challenge, which has been said to impede efforts to design and implement effective policies and legislation for prevention and elimination of this type of violence. Consequently, there is not reliable data on the magnitude of VAWP, but there are some few studies which indicate VAWP to be pervasive and

923 Report of the Special Rapporteur on violence against women (*supra*).

924 Report of the Special Rapporteur on violence against women (*supra*).

925 Report of the Special Rapporteur on violence against women (*supra*).

926 *Ibid.*

927 *Ibid.*

928 Report of the Special Rapporteur on violence against women (*supra*).



global.⁹²⁹ For instance, more than 80% of women MPs interviewed for a 2016 global study experienced psychological violence; one in three, economic violence; one in four, physical violence; and one in five experienced sexual violence in their work in parliament.⁹³⁰

5.1.6.2. Violence against women in politics in Tanzania: LHRC human rights survey findings

LHRC's Human Rights Survey 2022 also probed on the issue of VAWP in Tanzania, whereby some community members and women in politics were asked about the situation of VAWP, common forms of VAWP occurring within the community and during elections, drivers of VAWP, consequences of VAWP, and what needs to be done to combat VAWP. At least 48 women in politics were interviewed across the surveyed regions. At least 12 men in politics were also interviewed about VAWP.

Perceptions on the problem of VAWP in the community

45 out of 48 interviewed women in politics (94%) said VAWP is a serious problem in the community, while the remaining 6% said it is only a moderate problem. Majority of them also perceived VAWP to be pervasive both within and outside political parties and mentioned party leaders at different levels as main perpetrators. A few of them also said VAWP is not a problem within their own political parties, but rather other parties. For instance, a female opposition party member in Tabora pointed out that VAWP is not an issue within her party (CHADEMA) but rather in other parties.⁹³¹

'I call upon human rights organizations to intervene in this matter because sexual violence against women in politics is a serious problem..'

Female politician - Bukoba, Kagera

In Kigoma, one of the interviewed women said that the situation of VAWP in the region has improved in the current administration under President Samia Suluhu Hassan.⁹³²

Common forms of VAWP occurring within the community/during elections

929 PREVENTING VIOLENCE AGAINST WOMEN IN POLITICS: GUIDANCE NOTES (*supra*).

930 See Inter-Parliamentary Union (IPU), "Sexism, harassment and violence against women parliamentarians", issue brief (2016), at <https://www.ipu.org/resources/publications/issue-briefs/2016-10/sexism-harassment-and-violence-against-women-parliamentarians>.

931 LHRC Human Rights Survey 2022: Tabora Field Report.

932 LHRC Human Rights Survey 2022: Kigoma Field Report.



Interviewed women in politics identified various acts of sexual, physical, and psychological violence that they face when engaging in political life. Nearly all interviewed women in politics mentioned sexual violence as the most common form of VAWP.

In most surveyed regions, including Mtwara, Njombe, Kagera, Geita, Kigoma, and Kilimanjaro, sextortion was identified as the biggest challenge facing women in politics. In Kigoma, one of the interviewed male politicians made it very clear that he cannot help a female applicant get nominated or elected without getting something in return (sex).⁹³³

'Politics, especially intraparty politics, is a dirty game and very dangerous for a woman. Someone may seem to genuinely help you to attain a leadership position, but once you succeed, they come for 'payment'..'

Female politician, Mtwara DC – Mtwara

'Sexual corruption is very common during election periods. Some leaders within political parties solicit sex bribes from female politicians seeking appointment..'

Female politician, Manyoni – Mtwara

Some of the respondents mentioned that in some cases women themselves offer sex bribe to party leaders so that they can be nominated or helped with election. However, they usually end up with nothing and cannot come forward to speak against the sextortion because of shame.⁹³⁴ In Morogoro and Kigoma, interviewed respondents accused party leaders at different levels of perpetuating the culture of sextortion and giving empty promises to women in politics, especially during election periods.⁹³⁵

In Mbeya, the survey found that when sextortion does not work, perpetrators of VAWP demand bribe from female political aspirants within their parties.⁹³⁶ This leaves women in a difficult position, some of them opting to give up their political ambitions.⁹³⁷

Threats and character assassination were also mentioned as common acts of VAWP, especially in regions such as Tabora, Arusha, Singida, Geita, Kigoma,

933 LHRC Human Rights Survey 2022: Kigoma Field Report.

934 LHRC Human Rights Survey 2022: Mtwara Field Report.

935 LHRC Human Rights Survey 2022: Morogoro & Kigoma Field Reports.

936 LHRC Human Rights Survey 2022: Mbeya Field Report.

937 Ibid.



Katavi, and Tanga. For instance, a female ward councilor in Kaliua District, Tabora Region, told the survey team that women in politics in the region face acts of VAWP such as threats, sextortion, humiliation, and character assassination. She claimed that she was a victim of VAWP in the previous elections and was arbitrarily detained for a few days before elections.⁹³⁸ In Njombe, the survey team met with a young woman in politics (CCM) who narrated how her opponents within the party made efforts to damage her reputation and discredit her as a political aspirant until top party leadership intervened and nominated her.⁹³⁹ A similar ordeal was experienced by another female politician in Kigoma Region.⁹⁴⁰ Some interviewed women in the region also disclosed that some of them receive threats from party leaders and told not to contest certain positions.⁹⁴¹

Before using threats and character assassination, perpetrators of VAW have been said to use discouragement. In Kagera, some of the interviewed women said some party leaders discourage them from contesting certain positions, saying ‘they are too big for them.’⁹⁴²

In regions such as Dar es Salaam, Dodoma, Arusha, and Iringa, some of the interviewed women in politics said acts of VAWP are also perpetrated against women on online platforms such as Facebook and Instagram, especially during election periods.⁹⁴³ Similar complaints were made by some of the interviewed women in Moshi, Kilimanjaro Region.⁹⁴⁴

Use of abusive language against women was also cited as common in at least half of the surveyed regions. This was reported to be done directly to the female political aspirants or using social media platforms.

Women in politics also include those who provide civic education and observe elections. In Kigoma, one of the interviewed women stated that during the 2020 elections, a female director of an NGO called Promotion for Women Development Association (PWDA) was prevented by local authorities from providing civic and voter education, as well as observe elections despite securing a permit from the electoral management body (NEC).⁹⁴⁵

938 LHRC Human Rights Survey 2022: Tabora Field Report.

939 LHRC Human Rights Survey 2022: Njombe Field Report.

940 LHRC Human Rights Survey 2022: Kigoma Field Report.

941 Ibid.

942 LHRC Human Rights Survey 2022: Kigoma Field Report.

943 LHRC Human Rights Survey 2022: Iringa Field Report.

944 LHRC Human Rights Survey 2022: Kilimanjaro Field Report.

945 LHRC Human Rights Survey 2022: Kigoma Field Report.



Challenges in addressing VAWP

■ **Patriarchy**

Majority of the interviewed women and men in politics attributed the existing VAWP situation in their communities to patriarchy, especially in rural and semi-urban areas, the goal being to preserve the traditional gender roles and stereotypes.⁹⁴⁶

■ **Gaps and weaknesses in anti-GBV legal and policy frameworks**

In regions such as Mtwara, Iringa, Kilimanjaro, and Njombe, some interviewed respondents stated that they do not feel the existing legal and policy frameworks adequately protect women from VAWP.

■ **Negative perception towards women as leaders**

Some of the interviewed women in politics said women in their community are still perceived negatively when they decide to seek nomination within parties or contest in elections.⁹⁴⁷ They noted that women are perceived weak and incapable of leading.⁹⁴⁸ Some of the interviewed male community members also said they were not ready to be led by a woman, despite being led by a female President. For instance, in Arusha, one man said, *'I don't think women are strong enough to lead us, especially at community level. Personally, I prefer to be led by a man.'*⁹⁴⁹ Some few women also shared this view, one of them in Ludewa – Njombe saying, *'...as a woman you should not seek to compete with men, who says you are going to win?'*⁹⁵⁰

■ **Political financing**

Majority of interviewed women felt that female candidates or political aspirants are not given as much financial support as men,⁹⁵¹ which constitutes economic violence against them and leaves them more vulnerable to sexual violence.

'We would very much like to be elected councilors, but the major obstacle is lack of sufficient funds to finance our campaigns, making it difficult to compete with men. Special seats therefore remain our only hope..'

Special seats ward councillor, Njombe

946 LHRC Human Rights Survey 2022: Mtwara, Kigoma, Rukwa, Tabora, & Singida Field Reports.

947 LHRC Human Rights Survey 2022: Tabora Field Report.

948 Ibid.

949 LHRC Human Rights Survey 2022: Arusha Field Report.

950 LHRC Human Rights Survey 2022: Njombe Field Report.

951 LHRC Human Rights Survey 2022: Singida & Njombe Field Reports.



'Most women in politics cannot afford election costs, hence vulnerable to abuse by men....'

Female politician – Geita DC, Geita

- **Lack of or limited access to justice for women**

Women's access to justice was also raised as a challenge in addressing VAWP by some of the interviewees in regions such as Arusha, Dodoma, and Rukwa. For instance, in Rukwa, a female politician indicated that some women are discouraged in reporting acts of violence because of access to justice barriers such as corruption and not being taken seriously.⁹⁵²

Consequences of VAWP

- **Unqualified and unethical leaders**

'Because of violence against women in politics, the society ends up with unqualified and unethical leaders..'

Female politician, Tandahimba – Mtwara

'We miss out on some good leaders because of sexual corruption...'

Female politician, Manyoni – Singida

- **Negative perception towards women leaders and family disputes/ breakup**

In some surveyed regions, interviewees stated that VAWP has created a negative perception against women entering politics, especially because of sexual corruption.⁹⁵³ For instance, two interviewees, one in Kigoma and another in Singida, said women in politics are sometimes perceived to be 'prostitutes.'⁹⁵⁴ Another woman in the region, who is a leader at ward level, said she experienced a difficult time during election campaigns when she was defamed by being called a prostitute, which caused disruption in her family and caused her psychological harm.⁹⁵⁵ There was another woman

⁹⁵² LHRC Human Rights Survey 2022: Rukwa Field Report.

⁹⁵³ LHRC Human Rights Survey 2022: Arusha, Kilimanjaro & Singida Field Report.

⁹⁵⁴ LHRC Human Rights Survey 2022: Kigoma & Singida Field Reports.

⁹⁵⁵ Ibid.



who said she was discredited as a political aspirant by spreading lies that she was having an extra-marital affair with a man who was HIV positive and was thus unfit to lead.⁹⁵⁶

■ **Lack of family support for female political aspirants**

Lack of family support was cited as a consequence of VAWP in regions such as Singida, Tanga, Arusha, Mara, Mwanza, and Geita. In Singida, one woman disclosed that some men are reluctant to allow or support their wives with political ambitions because they are afraid they shall become victims of sextortion.⁹⁵⁷ A similar statement was made by another woman in Tanga.⁹⁵⁸

■ **Underrepresentation of women in leadership and decision-making positions**

One of the most obvious consequences of VAWP, which was cited by all interviewed female politicians, is underrepresentation of women in leadership and decision-making positions.

'If we don't take deliberate measures to combat VAWP, women shall continue to be underrepresented in leadership and decision-making..'

Female politician, Nyang'hwale – Geita

■ **Fear of engaging in politics among women**

Nearly all interviewed women said some women in their communities had developed fear of engaging in politics, saying politics is 'too dirty a game' for them because of issues such as sexual violence, including sextortion and sexual harassment.⁹⁵⁹

Recommendations to address VAWP

Interviewed respondents made various recommendations to address VAWP, including:

- Amendment of electoral laws, including the Elections Act and Political Parties Act, to criminalize VAWP;
- Amendment of electoral laws to impose strict sanctions against political parties failing to address VAWP and promoting gender equality; and
- Government and CSOs to raise public awareness on VAWP and intensify efforts to promote gender equality in politics.

956 LHRC Human Rights Survey 2022: Kigoma Field Report.

957 LHRC Human Rights Survey 2022: Singida Field Report.

958 LHRC Human Rights Survey 2022: Tanga Field Report.

959 LHRC Human Rights Survey 2022: Mara, Mwanza, & Kilimanjaro Field Report.



LHRC's Call: LHRC calls for various measures to be taken to address VAWP, including:

- Enacting a specific anti-GBV law, that shall also include VAWP provisions.
- Amending electoral laws and regulations to criminalize VAWP in all its forms.
- Amending the Political Parties Act to require political parties to adopt gender equality and anti-VAWP policies.
- Removal of leaders found guilty of VAWP from leadership position.
- A nation-wide anti-VAWP campaign to be conducted for two years ahead of the 2025 general elections.

5.1.7. Drivers of VAW

5.1.7.1. Human rights survey findings

In all surveyed regions, interviewed respondents, including social welfare officers, identified several drivers of VAW within their communities. These include:

- **Normalization and tolerance of physical VAW in marriage**

In Singida and Geita some of the respondents noted that acts of physical VAW are seen in some communities as part and parcel of marriage.⁹⁶⁰ Consequently many incidents of VAW go unreported.

'There are women who are beaten by their partners and husbands but don't report the incidents to social welfare officers or police gender and children desk. When you ask them why they don't report, they say the practice is normal as they are used to seeing women being beaten since they were children.'

SWO – Chato, Geita

- **Poverty and lack of financial independence among women**

'Poverty is a big factor in women's tolerance of acts of gender-based violence. They don't know where to go and don't have any source of income. They also worry about how their children might suffer if they decide to leave.'

Paralegal – Kilimanjaro

⁹⁶⁰ LHRC Human Rights Survey 2022: Singida & Geita Field Reports.



'Most of us (women) are afraid of leaving our abusive marriages because we have nowhere to go..'

Community member, Makete – Njombe

- **Heavy drinking (alcoholism)**

'Heavy drinking is a key issue in GBV. Most men tend to be more physically abusive when under the influence of alcohol..'

SWO, Singida MC – Singida

- **Lack of legal knowledge and low awareness about women's rights**

Paralegals who were reached by the human rights survey in nearly all 20 surveyed regions mentioned lack of legal knowledge and low awareness about women's rights as a factor contributing to violence against women.

- **Jealousy**

This is one of the biggest factors behind intimate partner violence, leading to intimate partner homicide.

- **Witchcraft beliefs**

As discussed above, women, especially elderly women, are among the main victims of witchcraft-related or motivated killings. The elderly women are more likely to be killed over witchcraft suspicion,⁹⁶¹ while the younger ones may be targeted for body parts such as breasts and private parts to be used in creating potions for success.⁹⁶²

- **Customs and traditions**

Customs and traditions, such as those denying women property and inheritance rights were said to fuel economic and other forms of violence against children.⁹⁶³ Some customs and traditions also deny education right for women and girls.⁹⁶⁴

5.1.7.2. Social acceptance of violence against women a key concern

In Tanzania, a wide social acceptance of violence against women (VAW) has

961 LHRC Human Rights Survey 2022: Rukwa Field Report.

962 LHRC Human Rights Survey 2022: Arusha Field Report.

963 LHRC Human Rights Survey 2022: Kilimanjaro & Arusha Field Report.

964 LHRC Human Rights Survey 2022: Arusha Field Report.



perpetuated violence and is strongly associated with higher prevalence of intimate partner violence (IPV).⁹⁶⁵ Almost half of the population in Tanzania (49%) believes that a husband is justified in hitting or beating his wife if she burns food (13%), goes out without telling him (29%), neglects the children (39%) or argues with him (37%). Over a half (59%) also said hitting or beating is justified when wife cheats on husband. Women are also more likely to justify IPV; and having personally experienced IPV is associated with greater acceptance of such violence against women. A greater share of women (56%) than men (47%) justify violence in at least one circumstance.⁹⁶⁶ Higher levels of educational attainment as well as other factors are associated with lower acceptance rates of violence against women.

5.1.8. Prosecution of VAWC Cases and Implementation of NPA-VAWC

5.1.8.1. Prosecution of VAWC cases

Despite the Government and Judiciary efforts to fast-track investigation and prosecution of cases of violence against women and children (VAWC), some of the interviewed respondents in nearly all surveyed regions, including lawyers and social welfare officers, felt that few cases are prosecuted, while others singled out the slow wheels of justice as a key challenge.⁹⁶⁷

'Prosecution of VAWC cases is a challenge because the number of cases that are filed in court is much lower than that of the reported incidents..'

Lawyer, Arusha CC – Arusha

Access to justice and criminal justice challenges such as delays in investigations, corruption, frequent adjournment of cases, shortage of prosecutors, and inadequate capacity to conduct criminal investigations also affect prosecution of VAWC cases.

Another key challenge in prosecution of VAWC cases is witnesses, including victims, turning hostile in courts of law. This was revealed in Kilimanjaro, Morogoro, and Mtwara Regions. This is usually motivated by bribes parents or other family members receive or solicit from perpetrators.

⁹⁶⁵ OECD (2022), *SI GI Country Report for Tanzania, Social Institutions and Gender Index*, OECD Publishing, Paris, <https://doi.org/10.1787/06621e57-en>.

⁹⁶⁶ Ibid.

⁹⁶⁷ LHRC Human Rights Survey 2022: Arusha, Kilimanjaro, & Dodoma Field Reports.



“Nowadays I don’t bother with GBV and sexual VAC cases because the victims and their families have turned on me in court on six occasions..”..’

NGO director - Mtwara MC, Mtwara

5.1.8.2. Implementation of NPA-VAWC: Human Rights Survey 2022 findings

Respondents of the human rights survey in 20 regions of Mainland Tanzania were also asked to give their views on implementation of the National Plan of Action to End Violence against Women and Children (NPA-VAWC). They were first asked how the NPA-VAWC has helped in addressing VAWC within communities. Some of the positives highlighted in this regard include:

- Sensitizing the public on women’s and children’s rights and VAWC, including through public meetings and seminars.
- Establishing one-stop centres.
- Recruitment of fit families/persons at street level.
- Provision of support services for VAWC survivors.
- Conducting trainings for protection committees.
- Increased understanding of VAWC.
- Improved services for VAWC survivors.
- Increased reporting and documentation of VAWC incidents.
- Bringing together different stakeholders in the fight against VAWC, including religious leaders, children, PWDs, LGA officials, SWOs, CDOs, police gender and children desks, NGOs, paralegals, health workers, traditional leaders, and prominent members of the community.
- Enhancing access to justice and services to VAWC survivors.
- Reducing workload for SWOs through collaborative efforts in addressing VAWC.

‘Despite its challenges, the NPA-VAWC has really helped to reduce our workload as some cases are dealt with by other implementing partners. Before the introduction of the action plan, we used to have many case files.

SWO, Kilolo DC – Iringa





Picture 9: Pupils at Igeleke Primary School in Iringa listening to a police officer during a VAC awareness-raising meeting in October 2022

Source: Field data, 2022

The following were identified as key issues and challenges in implementation of the NPA-VAWC:

■ **Shortage of social welfare officers (SWOs) and other resources**

Shortage of SWOs, especially at ward level, was said to be a big challenge in most surveyed regions, including Kigoma and Njombe. For instance, in Kigoma, a SWO in Kasulu TC stated that there were only 3 SWOs operating at council level, but none at ward level, while they have scattered wards to deal with. He also cited the challenge of lack of reliable means of transport, which makes it difficult for them to easily reach survivors and provide immediate support; and shortage of office facilities and equipment.⁹⁶⁸ In Kibondo, it was reported that there were only 8 SWOs serving 19 wards and 50 villages, while some of the wards are as far as 72kms away. In Kasulu, a SWO said sometimes they have to enlist the help of community health workers, VEOs, and MEOs in provision of social welfare services.⁹⁶⁹ In Njombe, a SWO mentioned that there were three SWOs responsible for 20 wards.⁹⁷⁰ The working environment for SWOs was said and found to be much better in Kigoma MC, as was the case in most urban councils in regions such as Arusha, Dar es Salaam, Dodoma, Mbeya, and Mwanza.

⁹⁶⁸ LHRC Human Rights Survey 2022: Kigoma Field Report.

⁹⁶⁹ Ibid.

⁹⁷⁰ LHRC Human Rights Survey 2022: Njombe Field Report



The survey generally observed that shortage of SWOs has taken a big toll on the available SWOs, forcing them to work long hours and affecting their work morale while denying them adequate rest. In the long run this affects their ability to provide social welfare services efficiently and effectively, compromising the quality of such services.

- **Prosecution-related challenges, including parents or family members colluding with perpetrators**

In Kilimanjaro, especially Hai DC, interviewed CSOs and CDOs identified lack of cooperation from parents or other members of VAWC victim's family as a big challenge in prosecution of VAWC cases, especially VAC.⁹⁷¹

- **Inadequate budget for implementation of the action plan, especially for social welfare department and NPA-VAWC committees**

In nearly all surveyed regions, NPA-VAWC committee members, including CSOs, and other stakeholders mentioned budgetary constraints as a big challenge in implementation of the NPA-VAWC. The survey generally observed that the anti-GBV systems and coordination mechanisms from the national to local levels are not sufficiently resourced, hence affecting prevention and response initiatives.

'Budgetary constraints are the biggest factor hindering effective implementation of the NPA-VAWC. There are also gaps in monitoring and evaluation...'

NGO worker, Dodoma

'In just two weeks, I have used Tsh. 40,000 out of my pocket to assist one client. They should increase the budget..'

SWO, Kasulu TC – Kigoma

'It has become normal for SWOs to use their own money in provision of social welfare services, creating a big burden for us. Lack of transport is also a big challenge..'

SWO – Hai, Kilimanjaro

In Singida MC, some of the NGOs indicated that they have been supporting

⁹⁷¹ LHRC Human Rights Survey 2022: Kilimanjaro Field Report.



NPA-VAWC committees financially and by providing members with training to help them cope with budgetary constraints. However, they accused some committee members of not 'taking their work seriously'.⁹⁷²

- **Lack of regular training and motivation for NPA-VAWC committees**

In some regions, such as Iringa, Dar es Salaam, and Kigoma, some respondents said NPA-VAWC committee members are not motivated to do their job, and contributing factors include lack of financial support, including transport allowance⁹⁷³ In Kasulu DC, Kigoma Region, a SWO mentioned that even Tshs. 2000 would suffice as transport allowance for members in the district.

- **Inadequate engagement of men, both as perpetrators and victims of VAWC**

In Kigoma, a SWO indicated the NPA-VAWC should ensure better engagement of men in the fight against VAWC, to guarantee better success.⁹⁷⁴

- **Non-reporting of VAWC incidents and minimal cooperation to protection committees**

In some regions, including Mtwara, Dodoma, and Rukwa, some interviewed community members said some community members tend not to report VAWC incidents or afford protection committees cooperation because they want to settle 'matters' at family level.

LHRC's View: Despite various government efforts, effective implementation of the NPA-VAWC has been hindered by various challenges, including the ones highlighted above, which is why the situation of VAWC is still critical in various parts of Mainland Tanzania.

LHRC's Call: The Government, through the Ministry of Finance and Planning, to increase budgetary allocation for the implementation of the NPA-VAWC to effectively combat VAWC, which is a hurdle not only to social but also economic development in the country.

5.1.9. Women's Political Participation

In 2022, women's effective political participation continued to be hindered by several barriers, including social, economic, and legal. These barriers include:

972 LHRC Human Rights Survey 2022: Singida Field Report.

973 LHRC Human Rights Survey 2022: Iringa & Dar es Salaam Field Reports.

974 LHRC Human Rights Survey 2022: Kigoma Field Report.



- Gender gaps in electoral laws, including the Constitution of the United Republic of Tanzania of 1977;
- Violence against women in politics (VAWP);
- Customs, traditions, and gender stereotypes;
- Political financing;
- Lack of adequate support from political parties and exclusion in decision-making in party structures;
- Gender gaps in political party policy documents and practices; and
- The dual burden and a disproportionate share of domestic work.

Nevertheless, there is hope for improvement under the current administration. For instance, there has been appointment of more women in key government positions. As of March 2022, women constituted 36% of ministers, 22% of deputy ministers, 14% of permanent secretaries, 23% of regional commissioners, and 46% of regional administrative secretaries.⁹⁷⁵

In October 2022, the presidential taskforce on multiparty democracy in Tanzania, led by Prof. Rwekaza Mukandala, recommended for amendment of the political party law to make it mandatory for every political party to develop and adopt a gender and inclusion policy. The taskforce also recommended a representation of not less than 40% for males and females in party leadership.⁹⁷⁶

LHRC's View: Despite progress made in enhancing women's political participation and representation in decision-making, various barriers continue to exist, as highlighted above. Addressing these barriers requires coordinated efforts between government and non-government actors.

LHRC's Call: As we head towards 2024 and 2025 elections, policy, legal, and institutional frameworks should be reviewed or amended to promote gender equality in line with international human rights standards. The Government should take measures to enhance women's political participation, towards attaining the 50/50 representation of men and women in political leadership and other decision-making positions. For instance, in terms of leadership positions at regional levels, if the Regional Commissioner (RC) is male then Regional Administrative Secretary (RAS) should be female. Tanzania could also do with a gender equality law like our neighbours Malawi, who have in place the Gender Equality Act of 2013. Additionally, LHRC calls for:

- Establishment of mandatory women's quota in intra-party politics and

⁹⁷⁵ LHRC's own internal analysis, conducted in March 2022.

⁹⁷⁶ "Vyama viwe na sera ya jinsia" HABARILEO Newspaper, 22 Oct 2022.



leadership;

- Capacity building and mentoring of female political aspirants within political parties;
- Strengthening internal party structures that promote gender equality (e.g. women's wings);
- Electoral laws to target party structures, processes, and practices to ensure adherence to gender equality;
- Government to ensure availability of adequate funding for female political aspirants and equitable access to media;
- Legal requirement of nomination of candidates within political parties should be transparent, fair, and women-friendly in line with international human rights standards; and
- Helping women to balance personal and professional life in political parties; and
- Encouraging political parties to make gender a part of a political party's electoral strategy.

5.1.10. Women's Economic Empowerment: The Case of LGA Loans for Women's and Other Groups

5.1.10.1. Overview

Economically empowering women is essential in the fight against GBV as a key preventive measure and escape route.⁹⁷⁷ Economic empowerment can afford women the financial independence to leave abusive relationships or prevent GBV.⁹⁷⁸ According to UN Women, investing in women's economic empowerment sets a direct path towards gender equality, poverty eradication and inclusive economic growth.⁹⁷⁹ Globally, lack of economic or financial security is a key concern for most women, especially in rural areas, and is one of the major reasons they decide to stay in abusive relationships.

In Tanzania, women's economic empowerment includes provision of interest-free loans to women. In 2018, legal reforms were made to introduce a 10% interest free loans for the groups of women, youth, and persons with disabilities (PWDs).⁹⁸⁰ The 10% is to be set aside by LGAs and provided to

977 See UN Women "Take Five: "Economic empowerment of women is one of the key steps in prevention of gender-based violence in rural areas"" 3 August 2021 at <https://eca.unwomen.org/en/news/stories/2021/07/take-five-economic-empowerment-of-women>.

978 International Center for Research on Women (ICRW), PREVENTING AND RESPONDING TO GENDER-BASED VIOLENCE, A CRITICAL COMPONENT OF ECONOMIC DEVELOPMENT AND WOMEN'S ECONOMIC EMPOWERMENT, 2020, at <https://www.icrw.org/publications/preventing-and-responding-to-gender-based-violence-a-critical-component-of-economic-development-and-womens-economic-empowerment/>.

979 See UN Women "Economic empowerment" at <https://www.unwomen.org/en/what-we-do/economic-empowerment>.

980 See Section 37A of The Local Government Finance Act, CAP 290 [R.E 2019].



groups of women (4%), youth (4%) and PWDs (2%).⁹⁸¹ To access the loans groups must be organized into five members, the group's business must be registered within a local council; and the group members must have identification documents.⁹⁸² The Public Procurement Act of 2011 (as amended in 2016) also directly supports women's economic activities by foreseeing allocation of 30% of total procurement services for women and youth.⁹⁸³

Women Development Fund

In Mainland Tanzania, women are also economically empowered through the Women Development Fund, which is a programme run by the Ministry of Community Development, Gender, Women and Special Groups (MOHCDGEC).⁹⁸⁴

5.1.10.2.Key issues and challenges: CAG's audit findings

In 2022, the Controller and Auditor General (CAG), Charles Kichere, released his audit report on the Women, Youth, and People with Disabilities Revolving Fund (WYDF), through which LGAs grant loans to women, youth, and PWDs. In his report, the CAG identified several issues and challenges, including non-payment and recovery of loans, failure of LGAs to set aside funds for the revolving fund, provision of loans to unqualified groups, disregard of procedure in provision of loans, and inadequate capacity of Community Development Officers (CDOs) to manage loans.⁹⁸⁵

Non-payment and recovery of loans

The CAG noted that groups in 155 councils had not paid loans worth Tshs. 47.01 billion.⁹⁸⁶ This was attributed to lack of proper management of loan provision and LGAs' failure to conduct proper assessment (due diligence) of groups to determine ability to pay loans.⁹⁸⁷ The CAG cautioned that non-repayment of loans jeopardizes the sustainability of the revolving fund by depleting it.⁹⁸⁸ In total, 70% of the funds had not been recovered for

981 Ibid.

982 "Empowerment Loans: How 10% allocated budget helps women, youth and people with disabilities" Big Bold Cities, at <https://bigboldcities.org/en/innovation/empowerment-loans-how-10-allocated-budget-helps-women-youth-and-people->

983 *SIGI Country Report for Tanzania (supra)*.

984 Details regarding this fund shall be provided in the Tanzania Human Rights Report 2023.

985 See JAMHURI YA MUUNGANO WA TANZANIA, OFISI YA TAIFA YA UKAGUZI, RIPOTI YA MDHIBITI NA MKAGUZI MKUU WA HESABU ZA SERIKALI YA MAMLAKA YA SERIKALI ZA MITAA, MACHI 2022, at https://www.nao.go.tz/uploads/reports/RIPOTI_YA_UKAGUZI_WA_SERIKALI_ZA_MITAA_MWAKA_2020_21.pdf.

986 Ibid, p. 131.

987 CAG LGAs audit report (*supra*).

988 Ibid.



the financial year 2020/21, increasing from 65% during the financial year 2019/20.⁹⁸⁹

Failure of LGAs to set aside funds for the revolving fund and fully disburse funds

The CAG audit findings also showed that some LGAs had failed to contribute part of revenue collected to the revolving fund for women, youth, and PWDs, as required by the law. The CAG found that 83 LGAs had not contributed or set aside a total of Tshs. 6.68 billion for the revolving fund, to facilitate loan provision, hence affecting the achievement of the Government's objective of economically empowering the three groups and reducing poverty.⁹⁹⁰ He also noted a total of Tshs. 1.24 billion shillings set aside for the groups in 11 LGAs had not been deposited into the fund account. The LGAs include Ushetu DC (Shinyanga), Iringa DC (Iringa), Nanyumbu DC (Mtwara), Kilolo DC (Iringa), Rungwe DC (Mbeya), and Sengerema DC (Mwanza).

The CAG further noted that a total of 156.23 million shillings had not been disbursed, remaining in the revolving fund account for over a year. This was observed in Mpwapwa DC (Dodoma) and Nyasa DC (Ruvuma).⁹⁹¹

Provision of loans to unqualified groups

The LGAs audit findings showed that a total of 178.61 million shillings were provided to groups which lacked necessary qualifications.⁹⁹² During a parliamentary session, Makete MP (CCM), Hon. Festo Sanga, accused unscrupulous civil servants of forming bogus groups and use them to siphon the money from councils intended for the groups of women, youth, and PWDs.⁹⁹³

Disregard of procedure in provision of loans

The procedural requirement of providing loans based on the ratio of 40% for women, another 40% for youth, and the remaining 20% for PWDs was found to have been disregarded in 17 LGAs in regions such as Geita, Shinyanga, Kilimanjaro, Mtwara, Mara, Dodoma, and Singida. A total of 3.26 billion shillings were disbursed to groups without following the procedure.

989 CAG LGAs audit report (*supra*).

990 Ibid.

991 CAG LGAs audit report (*supra*).

992 Ibid; Gadosia Lamtey "Debate reveals irregularities in LGA empowerment funds" The Citizen Newspaper (online), 1 May 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/debate-reveals-irregularities-in-lga-empowerment-funds-3800598>.

993 Gadosia Lamtey "Debate reveals irregularities in LGA empowerment funds" The Citizen Newspaper (online), 1 May 2022 (Ibid).



Inadequate capacity of CDOs to manage and recover loans

The CAG audit concluded that some CDOs at council level lacked adequate capacity or skills to ensure effective provision and recovery of loans and conduct due diligence before loan provision.⁹⁹⁴

5.1.10.3. Impact of the loans on the beneficiaries: LHRC Human Rights Survey Findings

LHRC human rights survey found that the loans provided to groups (IGAs) of women, youth, and PWDs have benefited them in various ways, including helping them to generate income to sustain their families, improving livelihoods, and expanding their businesses.

Self-employment/income

In all surveyed regions, members of women, youth, and PWDs groups that were visited acknowledged that the loans provided to them had helped them to employ themselves and generate income to sustain their lives and take care of their families. In regions such as Morogoro, Dodoma, Arusha, and Singida, the survey found that the LGA loans have helped to economically empower women and reduce financial independence to their partners or husbands, enabling them to take care of their children, even where their husbands have abandoned them or passed away.⁹⁹⁵ Youth groups also indicated that the loans had given them opportunity to escape from poverty and earn a living.⁹⁹⁶



Picture 10: CCM Youth Group and their bee-keeping project in Kilombero, Morogoro

Source: Field data, 2022

994 CAG LGAs audit report (*supra*).

995 LHRC Human Rights Survey 2022: Morogoro, Dodoma, Arusha, and Singida Field Reports.

996 LHRC Human Rights Survey 2022: Kilimanjaro, Dar es Salaam, & Morogoro Field Reports.



In Mbeya, the survey team met with a PWD in Mbeya City Council, who expressed gratitude to the LGA for granting him loan to start a shoe-shine business.⁹⁹⁷ In Kigoma, a CDO indicated that the 10% loans had helped women contribute to and increase family income.⁹⁹⁸ Some of the interviewed group members in the region said individually they had been able to take their children to better schools, acquire land, and even build small houses.⁹⁹⁹



Picture 11: Talanta Group in Kigoma MC (left) & Bodaboda Maduka 7 Group in Kibondo DC - Kigoma
 Source: Field data, 2022

Improved livelihoods

In all surveyed regions, including Kilimanjaro, Singida, Geita, Kigoma, and Katavi, the members of women, youth, and PWDs income generating groups attested to the 10% loans improving their standard of living. Interviewed CDOs also indicated that the loans had significantly helped to improve livelihoods in the community, especially by creating employment opportunities and lifting people out of extreme poverty.

‘Provision of loans to women, youth and PWDs has really helped to improve livelihoods by economically empowering these groups, although there are challenges in loan repayment.’

CDO, Geita DC – Geita

997 LHRC Human Rights Survey 2022: Mbeya Field Report.
 998 LHRC Human Rights Survey 2022: Kigoma Field Report.
 999 Ibid.



In Kigoma, a DCDO in Kibondo DC disclosed that the 10% loans have played a big role in empowering youth in the district, especially *bodaboda* and *bajaj* drivers. He noted that creating this opportunity for youth has helped to reduce the risk of youth engaging in criminal activities.¹⁰⁰⁰

Business growth/expansion

Economic group members who participated in the human rights survey also gave testimonies on how the 10% LGA loans had helped them to expand their businesses. For instance, in Mtwara, the survey team met a youth group called *Makonde Salt Works*, which had received LGA loans on two occasions and recently managed to construct a new modern salt warehouse.¹⁰⁰¹ In Singida, members of women's economic group called *Amani Group* said before they received LGA loan they could only afford a small office but now they have been able to rent a bigger office and employ more people, as well as buy new modern sewing machines and a generator.¹⁰⁰² In Biharamulo DC, Kagera, a youth group also mentioned that they had been able to expand their businesses by adding 3 new sewing machines and buying a farm.¹⁰⁰³

'We are very thankful to the Government for the loan opportunities...Through the loans, we have been able to expand our business.'

Ebenezer Group, Iringa MC – Iringa

1000 LHRC Human Rights Survey 2022: Kigoma Field Report.

1001 LHRC Human Rights Survey 2022: Kigoma Field Report.

1002 LHRC Human Rights Survey 2022: Singida Field Report.

1003 LHRC Human Rights Survey 2022: Kagera Field Report.





Picture 12: One of the women's IGA groups that were visited in Kagera

Source: Field data, 2022

5.1.10.4. Key issues and Challenges: LHRC human rights survey findings

Interviewed beneficiaries of the LGA revolving fund loans and CDOs identified various issues and challenges regarding the loans provided to women, youth, and PWDs. Key among them were: slow pace or non-repayment of loans; high demand for loans; inadequate funds; concerns over loan repayment period; misuse of funds, mistrust, and quarrelling among group members; corruption, favouritism, and lack of transparency; poor monitoring of economic groups due to budgetary constraints; introduction of the Ten Percent Loan Management Information System (TPLMIS); diverting loans to other projects by the groups; lack of entrepreneurship and proposal writing skills; political interference with the loan provision process; delays in disbursement of funds and poor revenue collection; and shortage of community development officers.

Slow pace or non-repayment of loans

All interviewed CDOs cited delays in loan repayment and non-payment of loans as the biggest challenge. Women were said to perform better in loan repayment while youth and PWDs were said to be defaulters on many occasions. CDOs stated that the women's groups are usually more disciplined, better organized, and eager to acquire and apply entrepreneurship skills.¹⁰⁰⁴

1004 LHRC Human Rights Survey 2022: Singida, Dar es Salaam, & Kilimanjaro Field Reports.



'In loan repayment, we experience more challenges with youth and PWDs, who usually do not settle at one place and others leave the groups. Some PWDs believe they are entitled to the funds and should not repay.'

CDO -Singida MC, Singida

In Manyoni DC, Singida, a CDO mentioned that some groups take up to 3 years to repay the loan, while the stipulated loan period is 1 year.¹⁰⁰⁵ This creates a challenge for others to access and benefit from the revolving fund. In Iringa and Kilimanjaro, CDOs at district level also indicated that most groups struggle to comply with the 1-year loan repayment period.¹⁰⁰⁶ In Njombe, a CDO in Ludewa said at least 10 out of 50 groups which had benefited from the 10% loans provided by LGA had defaulted in loan repayment, failing to repay the funds according to the initial agreement of 15-month period.¹⁰⁰⁷ She added that some had outstanding loans going as far back as 2017.¹⁰⁰⁸ In Kasulu TC in Kigoma Region, CDOs indicated that they had to take some groups to police stations and others to court to compel them to repay the funds they were provided as loans.¹⁰⁰⁹

In nearly half of the surveyed regions, CDOs raised concerns over loan repayment by PWDs groups, due to a perception amongst most PWDs that the funds provided to them should not be considered as loans that they need to pay back.¹⁰¹⁰ In Njombe, it was reported that only 1 of 5 PWDs who had been provided with loans had fully repaid the funds in accordance with the agreement.¹⁰¹¹

Some of the interviewed groups across the surveyed regions acknowledged that they had defaulted in loan payment, but cited various challenges that contribute to their slow pace of loan repayment. For instance, in Iringa, one youth group said the business they had started had not yet made much profit, hence their struggles in loan repayment.¹⁰¹² In Geita, a CDO in Nyang'hwale District said the slow pace of loan repayment for some groups, particularly those investing in agricultural projects, had been contributed by the negative impacts of climate change, especially uncertain/erratic rainfall.¹⁰¹³

1005 LHRC Human Rights Survey 2022: Singida Field Report.

1006 LHRC Human Rights Survey 2022: Iringa & Kilimanjaro Field Report.

1007 LHRC Human Rights Survey 2022: Njombe Field Report.

1008 Ibid.

1009 LHRC Human Rights Survey 2022: Kigoma Field Report.

1010 LHRC Human Rights Survey 2022: Iringa Field Report.

1011 LHRC Human Rights Survey 2022: Njombe Field Report.

1012 LHRC Human Rights Survey 2022: Iringa Field Report.

1013 LHRC Human Rights Survey 2022: Geita Field Report.



High demand for loans

High demand for loans was identified as challenge in all surveyed regions, making it difficult to accommodate the needs or requests of all groups applying for loans. For instance, in Makete – Njombe, it was discovered that demand reaches or exceeds Tshs. 380 million while the actual amount usually stands at around Tshs. 296 million.¹⁰¹⁴

'The demand for the loans is very high. Many people are now coming forward to apply for them, especially after seeing how other groups have succeeded in starting and expanding their businesses through the loans. Consequently, groups do not usually get the exact amount of funds requested while others do not get the loans at all.'

CDO, Hai DC – Kilimanjaro

Inadequate funds

In all visited regions, the survey found that the consequence of high demand for loans is allocation of inadequate funds for the women, youth, and PWDs groups, so that 'everybody gets something.' Most of the groups reached by the survey said they usually receive much less than they request for. For instance, in Singida, one of the groups said they had requested for Tshs. 15 million to fund their project but only received Tshs. 8 million,¹⁰¹⁵ which is equivalent to 53% of the budget. Another group (PWDs) said they had requested for Tshs. 2 million but only got Tshs. 500,000.¹⁰¹⁶ In Kigoma, some groups stated that inadequate funds provided to groups make it difficult for them to achieve intended goals.¹⁰¹⁷ In Singida, some of the groups suggested that the 3-month grace period is not sufficient thus should be extended.¹⁰¹⁸

Concerns over loan repayment period

Some of the groups that were reached expressed concerns over the loan repayment period of 1 year, saying it is not realistic, especially for certain types of business projects. In Mtwara, a CDO suggested that the Government could consider increasing the loan repayment period, but it should not exceed 3 years and should be accompanied by a 10% interest rate.¹⁰¹⁹

1014 LHRC Human Rights Survey 2022: Njombe Field Report.

1015 LHRC Human Rights Survey 2022: Singida Field Report.

1016 Ibid.

1017 LHRC Human Rights Survey 2022: Kigoma Field Report.

1018 LHRC Human Rights Survey 2022: Singida Field Report.

1019 LHRC Human Rights Survey 2022: Mtwara Field Report.



Misuse of funds, mistrust, and quarrelling among group members

Group members and CDOs alike in all surveyed regions acknowledged that there is a challenge of misuse of funds, mistrust, and quarrelling among group members. For instance, in Iringa, a former member of a group of women with disabilities stated that their group broke up after the secretary and treasurer took the money for their personal use.¹⁰²⁰

'Some youth group members tend to misuse the funds once they get the loans, dividing the money amongst themselves and moving away...'

CDO, Geita DC – Geita

To address the issue and reduce risks of misuse or diversion of funds to other use, some of the community development departments in regions such as Dar es Salaam and Geita have resorted to provision of required machines, tools, and equipment to groups instead of cash.¹⁰²¹

In Kigoma, some of the interviewed CDOs stated that some people create 'groups' for the purpose of obtaining loans, but once they get the funds, they start quarrelling among themselves or end up dividing the money instead of using it for the intended project.¹⁰²²

Corruption, favouritism, and lack of transparency

Members of groups of women, youth, and PWDs in some of the surveyed regions accused community development departments of corruption, favouritism, and lack of transparency. In regions such as Njombe, Tanga, and Iringa, some women, youth, and PWDs said some groups are favoured in loan provision, by being provided with funds more than once before the others.¹⁰²³ In Kigoma, some of the groups, especially PWDs groups, suggested that the LGAs should disclose the exact amount within the revolving fund available for each group, not just the percentage.¹⁰²⁴

'We do not dispute that a group can receive another loan, but other groups which are yet to get any loan should also be considered, because the goal is to empower us all..'

Youth group member, Kilolo DC – Iringa

1020 LHRC Human Rights Survey 2022: Iringa Field Report.

1021 LHRC Human Rights Survey 2022: Geita & Dar es Salaam Field Reports.

1022 LHRC Human Rights Survey 2022: Kigoma Field Report.

1023 LHRC Human Rights Survey 2022: Njombe, Tanga, & Iringa Field Reports.

1024 LHRC Human Rights Survey 2022: Kigoma Field Report.



In Kigoma, one of the CDOs also mentioned that they had found that there are many groups which had actually been established by civil servants and not by group members themselves, contrary to the law.¹⁰²⁵

Poor monitoring of economic groups due to budgetary constraints

In Singida, CDOs disclosed that it is difficult for them to monitor the activities of beneficiaries, who are scattered in different parts of the districts, and closely follow up with them due to budgetary constraints.¹⁰²⁶ They noted that they do not have the means of transport to reach all beneficiaries, hence usually resorting to calling them to check on implementation of their business projects.

Introduction of the Ten Percent Loan Management Information System (TPLMIS)

The survey found that LGAs have now started using the Ten Percent Loan Management Information System (TPLMIS), a system created by the Government to facilitate provision of the 10% LGA loans. The aim of the system is to increase efficiency and accountability in provision and management of the funds. The system was also said to help in avoiding duplication of group members and make it easier for groups to apply for the funds through mobile phones.¹⁰²⁷

However, groups of women, youths, and PWDs highlighted various challenges related to the system, including lack of smartphones; lack of or limited access to internet; lack of or limited knowledge about the system; lack of equipment and tools such as computers and scanners at ward level; and requirement of the national ID for registration, while many people are still processing the ID cards. In Singida, LGA officials stated that some potential beneficiaries have to travel for more than 15km just to complete online registration.¹⁰²⁸ In Kigoma, some of the group members indicated that the introduction of the system will make it easier for groups located in urban areas to access loans but more difficult for those in rural areas.

1025 LHRC Human Rights Survey 2022: Kigoma Field Report.

1026 LHRC Human Rights Survey 2022: Singida Field Report.

1027 LHRC Human Rights Survey 2022: Dodoma & Kigoma Field Reports.

1028 LHRC Human Rights Survey 2022: Singida Field Report.



Diverting loans to other projects

Some of the CDOs in regions such as Iringa, Kilimanjaro, and Singida, accused some groups of diverting loans to other projects as opposed to those in their project proposals.¹⁰²⁹ In Iringa, the survey found that one of the reasons for some of the groups doing this is seeing other groups enjoying success implementing a different project, hence deciding to implement a similar project instead.

Lack of entrepreneurship and proposal writing skills

CDOs mentioned lack of entrepreneurship and proposal writing skills as a challenge for some women, youth, and PWDs groups. Some of the CDOs said they address this challenge by providing training, but only when funds are available. They also provide guidance in proposal writing and help correct the proposals before they become final. However, they charge some small fees for the assistance, but most groups complain about this because they feel they are entitled to the assistance.¹⁰³⁰ Others engage experts to help them write their proposals.¹⁰³¹

Political interference with the loan provision process

Political interference in loan provision and recovery was cited by CDOs as a

1029 Iringa, Kilimanjaro & Singida Field Reports.

1030 LHRC Human Rights Survey 2022: Iringa Field Report.

1031 Ibid.



challenge in regions such as Iringa, Geita, and Kigoma. In Iringa, some of the political figures, including ward councilors, were accused of interfering with loan provision, using LGA loans as an opportunity to gain political mileage among groups of women, youth, and PWDs.¹⁰³²

‘Some politicians, especially ward councilors, tend to ‘organize’ groups, encourage them to register, and guarantee them loans. This causes problems when their loan applications are unsuccessful and they start believing that we have deliberately denied them the loans, while the politicians come to our offices to blame us for not giving them loans.’

CDO – Iringa

In Geita, some of the CDOs who participated in the survey said some politicians tend to direct some groups to them ‘to be assisted’ without following the laid down procedures.¹⁰³³ Others reach out to CDOs and tell them ‘not to bother my voters.’¹⁰³⁴

In Kigoma, politicians and local leaders were accused of unduly influencing loan provision and interfering with the work of CDOs. They include councilors, regional leaders, party leaders (CCM), and ministry officials.¹⁰³⁵ This situation contributes to provision of loans to unqualified groups, contrary to the regulations, and non-repayment of loans.¹⁰³⁶

‘Political interference has been a big challenge because politicians mislead citizens about the 10% loans given to IGAs.’

CDO – Kigoma

Delays in disbursement of funds and poor revenue collection

Some of the groups in the surveyed regions complained about delays in disbursed of funds to loan beneficiaries. For instance, in Singida, a women’s group said that they had been waiting for the funds to be deposited for nearly two months, regularly checking the account balance since they were told the funds had been deposited.¹⁰³⁷ In Katavi, one group claimed that they successfully applied for the loan in August 2021, but received the funds

1032 LHRC Human Rights Survey 2022: Iringa Field Report.

1033 LHRC Human Rights Survey 2022: Geita Field Report.

1034 LHRC Human Rights Survey 2022: Singida Field Report.

1035 LHRC Human Rights Survey 2022: Kigoma Field Report.

1036 Ibid.

1037 LHRC Human Rights Survey 2022: Singida Field Report.



a year later.¹⁰³⁸ Poor revenue collection was said to be a challenge by some of the group members, especially in Njombe, hence affecting allocation of funds for the revolving fund.¹⁰³⁹

Shortage of community development officers

In Kigoma, shortage of CDOs was cited as a challenge to ensure effective management and provision of loans. Interviewed DCDO said that Kasulu TC has 15 wards and 108 villages and streets, but only 8 CDOs, all operating at district level. This makes it very difficult for them to provide quality and timely services to all 15 wards, especially those which are remote.¹⁰⁴⁰ In Kibondo DC, the survey found that there were also only 8 CDOs serving 19 wards, most of which are scattered, making it difficult to reach most of them, considering the lack of reliable means of transport for CDOs.¹⁰⁴¹

Market for products

Some of the groups in regions such as Kilimanjaro and Geita also expressed concern over market for their products due to decrease and increase of demand as well as prices, especially for agricultural products.¹⁰⁴² This may affect their ability to repay the funds timely.

Other issues

Other issues concerning the 10% LGA loans which were raised by the survey respondents include access to information about loans, especially for PWDs; allocation of 2% loans for PWDs to individuals as opposed to group of PWDs; and the challenge of lacking national ID, which is a requirement for loan application. In Kigoma, it was recommended that the decision to award 2% for PWDs to individuals as opposed to groups should be reviewed by the relevant ministry (PO-RALG) because it may negatively impact on rights of PWDs.¹⁰⁴³

5.1.11. Safety and Security of Women

Women saying they do not feel safe when walking alone at night

Half of Tanzania's women have been said to not feel safe when walking alone at night in the neighbourhood where they live.¹⁰⁴⁴ According to the 2022 Social Institutions and Gender Index (SIGI) Tanzania Report, more women

1038 LHRC Human Rights Survey 2022: Katavi Field Report.

1039 LHRC Human Rights Survey 2022: Njombe Field Report.

1040 LHRC Human Rights Survey 2022: Kigoma Field Report.

1041 Ibid.

1042 LHRC Human Rights Survey 2022: Geita Field Report.

1043 LHRC Human Rights Survey 2022: Kigoma Field Report.

1044 OECD (2022), SIGI Country Report for Tanzania, Social Institutions and Gender Index, OECD Publishing, Paris, <https://doi.org/10.1787/06621e57-en>.



than men fear walking alone at night in their neighbourhoods because they fear violence specifically. Nearly a half (45%) of women cited fears of physical assault, being robbed, kidnapping, rape, being sexually harassed, verbal assault and obscene words, and exhibitionism. More specifically, 33% of women said they fear being robbed, 28% mentioned fear of being physically assaulted and a quarter (25%) said they fear being raped. In some regions, a large share of women indicated feeling unsafe specifically because of fear of rape. For instance, in three regions (Kagera, Manyara and Songwe) more than 50% of women reported not feeling safe because they fear rape.¹⁰⁴⁵

Women attacked over property

Some women are also attacked and sometimes killed because of property. For instance, in November 2022, police reportedly arrested 14 people in connection with the killing of Getrude Dotto in Sengerema District, Mwanza Region. It was reported that the victim was a widow and was attacked by her deceased husband's relatives who wanted to take over the cassava farm she owned with her late husband. The relatives attacked and burned her to death on the farm.¹⁰⁴⁶ Other women are also killed after being raped, like it was the case in Iringa in October 2022, where police arrested a man, Mohamed Njali, for raping and killing a pregnant woman.¹⁰⁴⁷ In Rukwa, a man called Phillip Vincent (22), reportedly killed a pregnant woman and her two children over two sacks of maize worth Tshs. 100,000.¹⁰⁴⁸

The wave of killings by unknown assailants also claimed lives of women in some parts of Mainland Tanzania. In May 2022, five women, residents of Masasi District in Mtwara Region, were reportedly brutally killed by unknown assailants, with the bodies of three of them found without private parts. The killings occurred within a period of three months, starting February 2022, and have created fear among citizens, especially women, over their safety.¹⁰⁴⁹

Elderly women attacked and/or killed over witchcraft suspicion and for witchcraft purposes

In 2022, elderly women continued to be targeted, attacked, and killed over witchcraft suspicion. LHRC documented at least 5 incidents of older women

1045 Ibid.

1046 Boniface Masalu "Watano washikiliwa mauaji ya albino" HABARILEO Newspaper, 9 Nov 2022.

1047 "Inasikitisa: Mauaji, Ukatili" Mwananchi Newspaper, 7 Oct 2022.

1048 LHRC Human Rights Monitoring 2022.

1049 "Wanawake watano wauwawa, wanyofolewa sehemu za siri" Nipashe Newspaper, 13 May 2022.



killed over witchcraft allegations through media survey and human rights monitoring and an additional 3 incidents through Human Rights Survey 2022. These incidents were reported in Morogoro, Shinyanga, Kilimanjaro, and Katavi Regions. The age of the victims ranged from 60 to 76 years. In Katavi Region, in September 2022, Joyce Sospeter (67), resident of Tanganyika District, was reportedly brutally attacked by Shimbi Selemani (28) over witchcraft allegation. The man was told by a witchdoctor that if he wants to become rich he has to kill an elderly woman.¹⁰⁵⁰

Acquisition of women's breasts and private parts for witchcraft purposes in Singida

In Singida, it was reported that since 2021 some people were desecrating graves of deceased women in Manyoni District, exhuming bodies, and cutting breasts and private parts to use them in making potions to help them become rich.¹⁰⁵¹ This was revealed by LGA official at Manyoni District Council and six community members, and two paralegals operating in the district. At least four incidents were reported between September 2021 and August 2022.

LHRC's View: Attacks of women for different purposes, including sexual violence and witchcraft purposes, constitutes violation of their right to personal security and affects effective enjoyment of their other human rights, including freedom of movement, right to work, and right to adequate standard of living.

LHRC's Call: There is need to strengthen the capacity of women and children protection committees in order to enhance protection for women and safeguard rights of women, including right to personal security, freedom from violence, and freedom of movement.

5.1.12. Women's Access to Justice

Like in most other African countries, in Tanzania discrimination against women extends to access to justice. According to the 2022 Social Institutions and Gender Index (SIGI) report, Tanzania scored 29 on the "Access to justice" indicator, with Songwe recording the lowest level of discrimination, with the score of 13.¹⁰⁵² Women's access to justice was found to be most limited in Iringa, Mwanza, and Tabora Regions.

1050 LHRC Human Rights Survey 2022: Katavi Field Report.

1051 LHRC Human Rights Survey 2022: Singida Field Report.

1052 SIGI Country Report for Tanzania (supra).



The SIGI report also indicates that women’s ability and willingness to resort to the courts and the police are limited. In situations of conflict, only 20% of women said they seek access to the lowest court and just a quarter (25%) would seek help from the police. Overall, both men and women living in urban areas are more likely to solicit the help of court or police to settle a conflict than in rural areas. Family and friends are the most preferred option for the majority of women when seeking justice or settling a dispute.

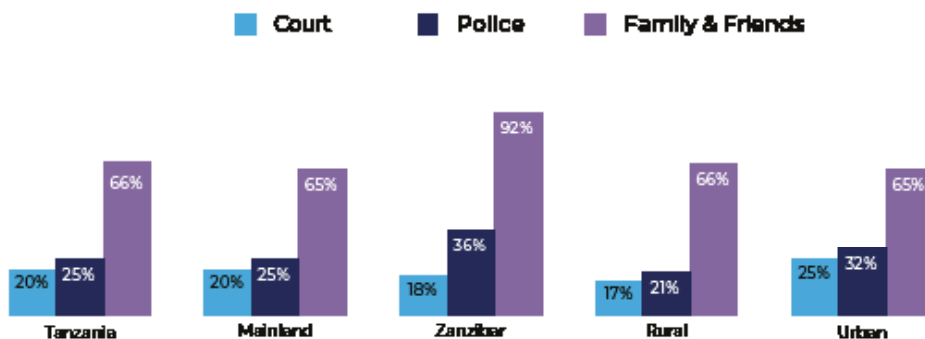


Figure 52: %Share of women who would turn to a court, the police, or family and friends in cases of conflict

Source: SIGI Tanzania Report, 2022

The SIGI report further shows that a large majority of the population believes that both men and women should have equal opportunity to file a complaint at a police station. However, more than three quarters hold the opinion that a woman needs her husband’s or partner’s permission if she wants to contact the police (77%) or a court (83%). In all regions this was the opinion of 50% and above of the population.



5.1.13. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs, to ensure enactment of a specific and comprehensive law on gender-based violence.
- The Government, through the Ministry of Constitutional and Legal Affairs and the Ministry of Community Development, Gender, Women and Special Groups, to make legal and policy reforms to ensure cyber violence against women and children is fully incorporated into laws and policies.
- The Government, through the Ministry of Constitution and Legal Affairs and the Law Reform Commission of Tanzania, to review, amend and repeal all discriminatory laws which continue to deprive women of their rights and which are contrary to fundamental principles of human rights as provided for in various regional and international conventions ratified by Tanzania.

5.2. Children's Rights

The international community has taken steps to legally protect children's rights and ensure they freely enjoy and realize these rights.¹⁰⁵³ To achieve this, children need to be free from all forms of discrimination and violence. As such States, Tanzania inclusive, are obligated to take all appropriate measures to ensure children do not suffer discrimination and protect them from all forms of abuse such as torture; violence; inhuman or degrading treatment; and especially sexual abuse and exploitation.¹⁰⁵⁴ They are also required to protect female children from harmful practices that affect their welfare, dignity, normal growth and development, such as female genital mutilation and child marriage.¹⁰⁵⁵ Domestically, there is the Law of the Child Act [CAP 13, R.E 2019], which has domesticated international and regional child rights conventions, providing for children's rights and protection of such rights.

5.2.1. Violence against Children

In 2022, violence against children (VAC) continued to be the biggest threat to children's rights and welfare. Incidents of different acts of violence were reported and documented in all regions across Mainland Tanzania.

¹⁰⁵³ This has been done through adoption of various conventions at international and regional levels such as the UN Convention on the Rights of the Child (CRC) of 1989 and the African Charter on the Rights and Welfare of the Child (ACRWC) of 1990.

¹⁰⁵⁴ Articles 5 & 6 of Maputo Protocol; Articles 6, 19& 34 of the Convention on the Rights of the Child; Article 16 of the African Charter on the Rights and Welfare of the Child.

¹⁰⁵⁵ Article 5 of Maputo Protocol; Article 21 of the African Charter on the Rights and Welfare of the Child.



5.2.1.1. Police and government data and information

Police statistics on VAC show that in the period of 2017 to 2021, a total of 70,997 incidents of VAC were reported at police stations, averaging 14,199 each year, 1,183 incidents each month, and 39 incidents each day. Overwhelming majority of VAC victims (over 80%) are female children. Police regions (and regions) which recorded most VAC incidents in the period of 2017 to 2021 (top 5) were Tanga, Mwanza, Mbeya, Arusha, and Temeke (Dar es Salaam). Overall, Arusha recorded most incidents during this period, followed by Tanga. In 2021, Arusha also topped the police regions for VAC incidents reported (808), followed by Tanga (691), Shinyanga (505), Mwanza (500), and Ilala (489). However, region wise, Dar es Salaam has always taken the top spot since it is where police regions such as Ilala and Temeke Districts are located, which, along with Kinondoni District, usually record many VAC incidents. It is also the most populous region in Tanzania.

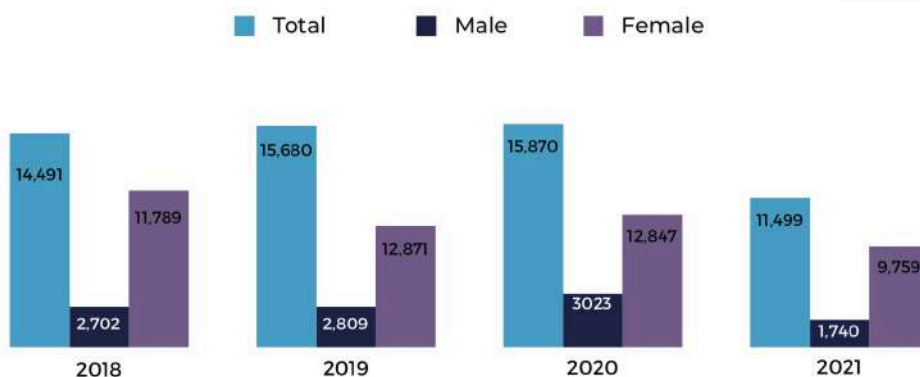


Figure 53: VAC victims in Tanzania by sex – 2018 to 2021

Source: Police data, 2018 to 2021

In 2022, police and government reports also indicated increase of VAC incidents in various regions, especially sexual VAC, as revealed in December 2022 during the commemoration of 16 Days of Activism against Gender-Based Violence in various parts of the country. For instance, in Iringa it was reported that a total of 182 sexual VAC incidents, constituting 47% of all GBV incidents, were reported in the period of January to October 2022 alone, majority of the victims being children.¹⁰⁵⁶ In Mbeya, it was reported that a total of 1,479 VAC incidents were documented by social welfare officers in

¹⁰⁵⁶ See "ULEVI KUPINDUKIA, IMANI POTOFU CHANZO CHA UKATILI WA KIJINSIA-RC DENDEGO" Iringa Municipal Council, 26 Nov 2023, at <https://iringamc.go.tz/new/ulevi-kupindukiaimani-potofu-chanzo-cha-ukatili-wa-kijinsia-rc-dendego>.



the period of January to September 2022 alone.¹⁰⁵⁷

5.2.1.2. Incidents documented by LHRC

Based on LHRC's assessment of reported incidents of VAW, sexual violence continued to be the most common form of VAC. Through media survey and human rights monitoring, LHRC documented at least 350 incidents of VAC, reported across Mainland Tanzania in 2022. Sexual VAC accounted for the overwhelming majority of incidents (81%), followed by physical and emotional violence (18%). 1% of the reported incidents were acts of economic VAC, including denial of education.

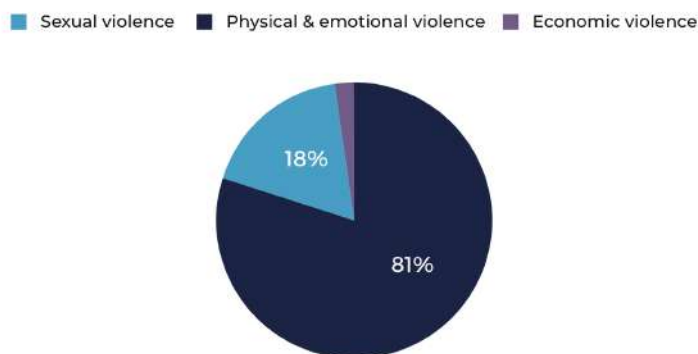


Figure 54: % Incidents of VAC documented by LHRC in 2022 by type (N=350)

Source: Human Rights Monitoring & Media Survey 2022

Further analysis of the documented incidents revealed that perpetrators of sexual VAC included a father, stepfather, unknown adult male (resident of the area), uncle, elderly man, close relative/family friend (e.g. cousin), child at school (especially for sodomy), health worker (e.g. doctor), teacher, and *bodaboda* (motorcycle) driver. 14 fathers, 30 close relatives, 10 teachers, and 2 religious leaders (1 padre, 1 sheikh/madrassa teacher) were mentioned as perpetrators of sexual VAC. In April 2022, police gender and children desk in Sumbawanga Town in Rukwa Region disclosed that *bodaboda* drivers are among the major perpetrators of child sodomy, usually targeting primary school children in the town.¹⁰⁵⁸ In terms of physical VAC, parents, especially women, were mentioned as the main perpetrators. In total, 34 parents were mentioned as perpetrators of VAC, whereby mothers were 28 and fathers were 6. VAC victims included 88 (25%) who were under the age of 10, and

1057 See “Wananchi Tushirikiane kutokomeza ukatili wa Kijinsia” Rc Homera” Mbeya Region Website, 2 Dec 2022, at <https://mbeya.go.tz/new/wananchi-tushirikiane-kutokomeza-ukatili-wa-kijinsia-rc-homera>.

1058 “Bodaboda watuhumiwa kulawiti watoto” Nipashe Newspaper, 26 Apr 2022.



88(25%) victims of child-on-child sexual VAC (perpetrator age ranging from 14 to 17 years), and 212 victims of sodomy. Boys constituted the overwhelming majority of victims of sodomy, at 166 (78%). Most of the sodomy incidents occurred in school and home settings.

5.2.1.3. Perceptions on VAC: Human Rights Survey 2022 findings

LHRC's Human Rights Survey 2022 probed the magnitude of violence against children in the community. Just over a half of the respondents (51%) perceived VAC to be a serious problem in the community, followed by just over a quarter (27%), who felt it is a problem, and 20% who said it is only a moderate problem. Only 2% of the respondents said VAC is only a minor problem in their community.

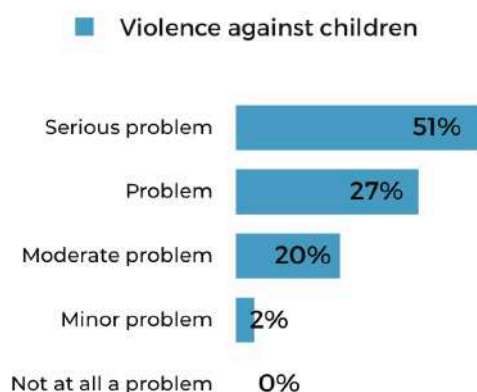


Figure 55: % Responses on the extent to which violence against children is a problem in the community (N=1,497)

Source: Field data, 2022

In terms of region, the percentage of respondents who said VAC is a very serious/serious problem was highest in Tanga and Arusha (93%), followed by Kilimanjaro (92%), and Mbeya (89%). It was lowest in Katavi (40%), followed by Iringa (54%), and Tabora and Dar es Salaam (61%). In terms of zones, the Northern Zone (Tanga, Kilimanjaro, and Arusha), scored the highest average percentage (92%), followed by central zone (Morogoro, Dodoma, Tabora, Singida) at 77%, Southern Highlands (Iringa, Mbeya, Njombe) at 76%, Lake (Kagera, Mwanza, Mara, Geita) at 70%, Eastern (Dar es Salaam, Pwani, Mtwara) at 68%, and lastly Western (Rukwa, Kigoma, Katavi) at 60%.



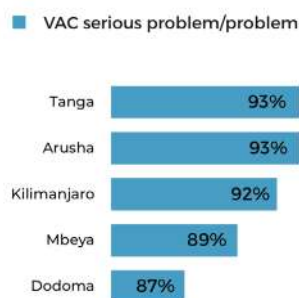


Figure 56: Top 5 regions where VAC is perceived to be a serious problem/problem (N=1, 497)

Source: Field data, 2022

Majority of the interviewed respondents, including social welfare officers, also acknowledged that VAC is a serious problem/problem in the community. Majority of them particularly singled out sexual violence, especially acts of rape and sodomy, as a problem. In Geita, a SWO said that the increase of mines in the region, which leads to influx of people from other districts and regions, has contributed to incidence of VAWC.¹⁰⁵⁹

5.2.2. Sexual Violence against Children: The Biggest Threat to Children's Rights

As stated above, sexual violence was the most common form of VAC among the reported incidents in 2022, accounting for over 80% of the incidents. Human Rights Survey 2022 also found sexual violence to be the most common form of VAC occurring in the community.

Rape and sodomy dominating reported sexual VAC incidents in 2022

In September 2022, it was reported that a total of 5,899 children (girls) were raped in the period of 2021, averaging 491 child rape incidents each month.¹⁰⁶⁰ A total of 1,114 children were also sodomized, averaging 93 each month.¹⁰⁶¹ In December 2022, it was also reported that nearly 5000 child rape incidents were reported across Tanzania in the period of January to September 2022.¹⁰⁶² Over 1,000 child sodomy incidents were also reported during that period, with boys constituting the overwhelming majority of

¹⁰⁵⁹ LHRC Human Rights Survey 2022: Geita Field Report.

¹⁰⁶⁰ See Mwamvua Mwinyi "WATOTO 5,899 WABAKWA HUKU 1,114 WALAWITIWA KIPINDI CHA MWAKA 2021/2022- DKT.GWAJIMA" MICHUZI BLOG, 11 Sep 2022, at <https://issamichuzi.blogspot.com/2022/09/watoto-5899-wabakwa-huku-1114.html>.

¹⁰⁶¹ Ibid.

¹⁰⁶² Ibrahim Joseph "Ubakaji, ulawiti watoto sasa tishio" Nipashe Newspaper, 14 Dec 2022.



victims (84%).¹⁰⁶³In the same month, police gender and children desk officers in Arumeru District, Arusha Region, disclosed that they were alarmed by the increase of incidents of sexual VAC in the district. They also pointed out that sexual violence against boys has become a big threat, given an increase in the incidents of sodomy of boys. They called upon parents to be closer to their male children and protect them from sexual violence.¹⁰⁶⁴ In Mbeya, it was reported that rape incidents (336) constituted the majority of GBV incidents documented at police gender and children desks in the region in the period of January to October 2022.¹⁰⁶⁵ Social welfare officers also documented 226 child rape and sodomy incidents in the period of January to September 2022 alone.¹⁰⁶⁶

5.2.2.1. Incidents documented by LHRC

Through media survey and human rights monitoring, LHRC documented at least 283 sexual VAC incidents in 2022. Most reported acts of sexual VAC were rape and sodomy. Perpetrators of sexual VAC included a father, stepfather, unknown adult male (resident of the area), uncle, elderly man, close relative/family friend (e.g cousin), child at school (especially for sodomy), health worker (e.g doctor), teacher, and *bodaboda* drivers. Below are some of the incidents of sexual VAC documented by LHRC in 2022.

Table 17: Some of the Incidents of sexual VAC documented by LHRC – January to December 2022

Incident(s)	Source
Dar es Salaam: Police gender and children desk in Dar es Salaam reported two incidents of sexual violence against children, one male and another female. In the first incident, a standard six boy was repeatedly sodomized by his uncle, whom he started living with after his parents separated, ending up with emotional and psychological trauma and being infected with HIV. In another incident, a standard two girl in Tabata area was sexually harassed by her father, who kept telling her to have sex with him. When her father persisted, she sought help from neighbours, who then contacted the police gender and children desk.	Nipashe Newspaper 18 Sep 2022
Simiyu: Bariadi District Court sentenced one Kulwa Meleka, resident of Bariadi District, to 70 years in prison and payment of a fine of Tshs. 1 million after finding him guilty of raping a 13-year-old girl.	Nipashe Newspaper 2 Sep 2022

1063 Ibid.

1064 Allan Isack “Kukithiri matukio ukatili wa kingono walishtua dawati la jinsia” Nipashe Newspaper, 13 Dec 2022.

1065 See “Wananchi Tushirikiane kutokomeza ukatili wa Kijinsia” Rc Homera” Mbeya Region Website, 2 Dec 2022, at <https://mbeya.go.tz/new/wananchi-tushirikiane-kutokomeza-ukatili-wa-kijinsia-rc-homera>.

1066 Ibid.



Incident(s)	Source
Kilimanjaro: 60-year-old Dickson Njau, resident of Moshi District, was sentenced to 60 years in prison after confessing to sodomizing a 7-year-old boy. The incident occurred on 7 th September 2022.	Mwananchi Newspaper 13 Oct 2022
Shinyanga: Police in Shinyanga arrested Abubakari Said (64), resident of Shinyanga Municipality, for raping a 14-year-old girl, after luring her to his room with a Tshs. 10,000.	Nipashe Newspaper 15 Oct 2022
Mbeya: Amos Daud (52), resident of Mbeya City, was taken to Mbeya Resident Magistrate Court, charged with sodomizing a 9-year-old boy on three occasions between January and October 2022.	Human Rights Monitoring Oct 2022
Manyara: Babati District Court sentenced Shaban Jumanne (20), to 30 years in prison for raping a 16-year-old girl with disability. He committed the offence on 28 th July 2022.	Nipashe Newspaper 12 Oct 2022
Dodoma: Dodoma RPC disclosed in October 2022 that a standard 7 girl aged 16 years recently killed in Dodoma had also been raped.	The Citizen Newspaper 7 Oct 2022
Katavi: Police in Katavi arrested Juma Jackson (30), resident of Kagunga Village in Tanganyika District, for raping and sodomizing a 5-year-old child.	Human Rights Monitoring Oct 2022
Mwanza: A 70-year-old man, resident of Old Misungwi in Misungwi District was accused by some fellow residents of sodomizing a 14-year-old boy on five occasions.	Mwananchi Newspaper 24 Sep 2022
Shinyanga: A 6-year-old female pupil at Bugimbagu Primary School in Shinyanga Municipality was found lying in a toilet, unable to walk and bleeding, after she was raped by unknown person.	Nipashe Newspaper 26 Sep 2022
Iringa: 25 female students from Spring Valley Secondary School went to the Police Headquarters in Iringa Municipality to protest against acts of sexual violence perpetrated to them by the school manager. They claimed that the manager had committed acts of sexual violence against some female students, including 'sleeping with three female students' and sexually harassing others. The manager was arrested and later released on bail.	Mwananchi Newspaper 15 Nov 2022
Mtwara: A secondary schoolgirl was reportedly killed and dumped near her home after she was raped and sodomized by unknown person.	Nipashe Newspaper 20 Jul 2022
Mbeya: Chunya District Court sentenced to prison Change Mawanga (32), resident of Mlimanjiwa Village, after finding him guilty of raping and sodomizing his sister's 8-year-old daughter.	Nipashe Newspaper 23 Jul 2022



Incident(s)	Source
Dar es Salaam: Joshua Simangwe (66), resident of Ukonga area in Dar es Salaam City, was charged with sodomy of a child aged 8 years before the Ilala District Court.	HABARILEO Newspaper 28 Jun 2022
Arusha: James Juma (28), resident of Arusha City, was sentenced to life in prison for raping a girl aged 11 years.	HABARILEO Newspaper 24 Dec 2022

Sexual violence by fathers

As indicated above, fathers, including stepfathers were also among the reported perpetrators of sexual VAC in 2022. Incidents involving fathers as perpetrators were reported in regions such as Mbeya, Rukwa, Lindi, Dar es Salaam, Kilimanjaro, Katavi, Shinyanga, and Ruvuma. In Mbeya, Chunya District Court sentenced Ayub Jackson Asude (34), to 30 years in prison for raping his 14-year-old daughter in August 2022.¹⁰⁶⁷ In Rukwa, Nkasi District Court sentenced Athanas Exavery (32) to life in prison after finding him guilty of raping his 7-year-old daughter in September 2022.¹⁰⁶⁸ In Lindi, Saidi Manduta (49), resident of Lindi Municipality, was arrested and taken to court, charged with sexually abusing his 14-year-old daughter on more than one occasion in August 2022.¹⁰⁶⁹

In Dar es Salaam, Kigamboni District Court sentenced Steven Pondela (45) to 30 years in prison after finding him guilty of raping his 11-year-old stepdaughter. He reportedly did that repeatedly between 2021 and February 2022 when the child's mother had gone to work or was asleep at night.¹⁰⁷⁰ In Kilimanjaro, Elihuruma Mwandri (46), resident of Lomakaa Village in Siha District, was sentenced to 30 years in prison after the court found him guilty of defiling his 7-year-old child in May 2022.¹⁰⁷¹ In Shinyanga, police arrested a 26-year-old man, resident of Shinyanga Municipality, for defiling his stepchild aged 1 year and 11 months.¹⁰⁷²

Sexual violence by teachers and other professionals

Sexual violence by teachers and other professionals, including health workers, were reported in various regions, including Iringa, Mara, Singida, and Dar es Salaam. For instance, in Iringa, it was reported in October 2022 that a standard seven pupil at Ndolezi Primary School in Mufindi District

1067 "Inasikitisha: Mauaji, Ukatili" Mwananchi Newspaper, 7 Oct 2022.

1068 Gurian Adolf "Jela maisha kwa kumnajisi mtoto" Mwananchi Newspaper, 17 Oct 2022.

1069 Said Hamdani "Baba kortini tuhuma kumnajisi mwanawe" Nipashe Newspaper, 19 Sep 2022.

1070 Fortune Francis "Baba atupwa jela miaka 30 kwa kumbaka mtoto" Mwananchi Newspaper, 22 Sep 2022.

1071 Godfrey Mushi "Jela miaka 30 kwa kumnajisi mwanawe" Nipashe Newspaper, 22 Sep 2022.

1072 LHRC Human Rights Monitoring 2022.



was raped and impregnated by her teacher.¹⁰⁷³ In Mara, in September 2022, Musoma Resident Magistrate Court sentenced a primary school teacher, Idrissa Athumani, to life in prison after finding him guilty of sodomizing his 14-year-old pupil and another pupil.¹⁰⁷⁴ In Singida, Thomas Ilacha, Deputy Headmaster at Singida Secondary School, was suspended by the school for engaging in sexual relationship with a female student.¹⁰⁷⁵

In October 2022, the Teachers' Service Commission (TSC) announced that in the period of March 2021 to September 2022 it had fired 919 teachers for disciplinary issues, including indulging in sexual relationships with their students.¹⁰⁷⁶ In the same month, the Deputy Minister of President's Office – Regional Administration and Local Government, Hon. Dr. Festo Dugange, disclosed that 328 teachers were accused of engaging in sexual relationships with students.¹⁰⁷⁷ In December, Rukwa Regional Commissioner, Queen Sendiga, warned teachers against indulging in sexual relationships with students.¹⁰⁷⁸

In Dar es Salaam, in July 2022, police arrested a doctor for sexually abusing an 8-year-old girl, including attempting to rape her.¹⁰⁷⁹ In September, a nursing officer at Amana Hospital in the region, Joseph Mwampola (59), was taken to Kisutu Resident Magistrate Court, charged with rape and sodomy of a 17-year-old girl.¹⁰⁸⁰

Child-on-child sexual violence a big concern, especially in school settings

Children, usually older children, also perpetrate sexual violence against other children, usually younger children. In 2022, incidents of VAC documented by LHRC through media survey and human rights monitoring included 88 victims (25%) of child-on-child sexual VAC, committed by perpetrators ranging from 14 to 17 years. These incidents were reported in regions such as Iringa, Geita, Mbeya, Dodoma, and Ruvuma. For instance, in Iringa, police arrested 14-year-old boy for sodomizing 19 other children. When asked about it, he said he started doing that since 2019, until he was caught on 6th March 2022. He would lure them to an abandoned house near his home in Kihesa Kilolo area in Iringa Municipality and commit the act of violence.¹⁰⁸¹ In Geita, a child was reportedly repeatedly sodomized by his cousin for over a year,

1073 "Inasikitisha: Mauaji, Ukatili" Mwananchi Newspaper, 7 Oct 2022.

1074 Baldina Nyakeke "Jela maisha kwa kulawiti mwanafunzi" Mwananchi Newspaper, 24 Sep 2022; "Inasikitisha: Mauaji, Ukatili" Mwananchi Newspaper, 7 Oct 2022.

1075 "Makamu mkuu wa shule asimamishwa kazi tuhuma kujihusisha kimapenzi na mwanafunzi" Nipashe Newspaper, 6 Jul 2022.

1076 "Walimu 919 nchini wafukuzwa kazi" Nipashe Newspaper, 29 Oct 2022.

1077 Magnus Mahenge "Walimu wengi watoro" HABARILEO Newspaper, 19 Oct 2022.

1078 Gurian Adolf "Sendiga awaonya walimu kufanya ngono na wanafunzi" Nipashe Newspaper 28 Dec 2022.

1079 "Daktari matatani kwa madai ya kunajisi mtoto wa miaka nane" Nipashe Newspaper, 28 Jul 2022.

1080 HABARILEO Newspaper, 10 Sep 2022.

1081 HABARILEO Newspaper, 22 Mar 2022.



causing him to suffer rectal prolapse (rectum falling out of anus, turning inside out) and needing medical surgery. The cousin was also accused of sodomizing two other children.¹⁰⁸²

In Mbeya, a 17-year-old child killed with an axe a 16-year-old girl, student at Sindi Secondary School, after a failed rape attempt.¹⁰⁸³ In Dodoma, in November 2022, police were looking for a 14-year-old child who was reportedly showing porn and sodomizing other children. They were also looking for an adult man known as Musa, who was accused of sodomizing seven children after luring them to his home and showing them porn videos and films.¹⁰⁸⁴

In Geita, two children aged 10 years and another one aged 8 years, residents of Geita District, were reportedly sodomized by their 16-year-old cousin, who would threaten to kill them if they cried or shouted.¹⁰⁸⁵ In Ruvuma, police arrested a 17-year-old child for sodomizing two children in Songea Municipality.¹⁰⁸⁶

Children ambushed and sexually abused at night

In Shinyanga, it was reported in March 2022 that 10 children, residents of Mhongolo Ward in Kahama Municipality, were reportedly raped and sodomized in the period of three months. They were aged 6 to 12 years, and most of them were ambushed by the perpetrators while on the way to a shop at night. Police gender and children desk in the district called upon parents not to send children to shops at night.¹⁰⁸⁷

Children living and working on the streets more vulnerable to sexual VAC

Children living and working on the streets are among children most vulnerable to VAC, including and especially sexual violence. In September 2022, children living and working on the streets narrated the challenges they face on the streets to Dr. Dorothy Gwajima, the Minister for Community Development, Gender, Women and Special Groups, during her impromptu visit in Ubungo District. The challenges include labour exploitation, being subjected to various forms of sexual violence such as rape and sodomy, and vulnerability to drug abuse and addiction.¹⁰⁸⁸

1082 Mwananchi Newspaper, 2 Apr 2022.

1083 "Mauaji yatikisa kila pembe" Nipashe Newspaper, 7 Oct 2022.

1084 "Polisi yaanza msako wanaowalawiti wanafunzi" Nipashe Newspaper, 10 Nov 2022.

1085 Rehema Matowo "Watoto watatu wadaiwa kulawitiwa na binamu yao" Mwananchi Newspaper, 30 Mar 2022.

1086 "Kijana matatnai akidaiwa kulawiti watoto wawili, mwingine asakwa" HABARILEO Newspaper, 20 Apr 2022.

1087 Shaban Njia "Watoto wabakwa, walawitiwa siku 90" Nipashe Newspaper, 29 Mar 2022.

1088 "Watoto mitaani wamsimulia waziri magumu wanayopitia" Nipashe Newspaper, 10 Sep 2022.



5.2.2.2. Sexual violence: Human Rights Survey 2022 findings

Through human rights survey, conducted in 20 regions of Mainland Tanzania, LHRC documented at least 513 incidents of sexual VAC, mostly rape and sodomy incidents. These include 118 rape incidents reported in Geita Region.

Concerns over growing problem of child sodomy, especially in school and home settings

In all surveyed regions, SWOs, CDOs, paralegals, and local NGO officials expressed concerns over child sodomy incidents, especially in schools, where child-on-child sexual abuse was reported by teachers to be a problem. For instance, in Singida, SWOs and NGO workers reported that sexual violence, especially acts of sodomy, was becoming a big problem in schools, especially primary schools and in hostels, with older children taking advantage of and luring younger children to sexually abuse them.¹⁰⁸⁹

'...children are sexually abusing each other, including in school settings, on the way back home, and even in home settings..'

Primary school teacher – Geita DC, Geita

'There is one school where a child was caught sodomizing other fellow children at school. The child was taken to the police station for interrogation and further investigation and his parents were informed...'

SWO – Kigoma MC, Kigoma

¹⁰⁸⁹ LHRC Human Rights Survey 2022: Singida Field Report.





Picture 13: Children on their way to school in Geita District

Source: Field data, 2022

Rate of rape and sodomy alarming in most surveyed regions

In regions such as Tanga, Kilimanjaro, Mbeya, Iringa, Geita, Mbeya, and Katavi the rate of rape and sodomy of children was said to be alarming. In Katavi, in May 2022, a witchdoctor reportedly sodomized a 10-year-old child who was sent to the witchdoctor by his parents to be ‘healed’ with traditional medicine. The witchdoctor was said to have done this to other children sent to him for treatment; and was arrested after the latest incident.¹⁰⁹⁰

‘There has been a significant increase of incidents of sodomy in our region, especially in Iringa Municipality..’

LGA official – Iringa MC, Iringa

In Iringa, there was an incident of a 14-year-old child who was said to have raped and sodomized 19 other children, both boys and girls, on different occasions in the period of 2019 to early 2022.¹⁰⁹¹ It was reported that he would lure them with sweets and the privilege of watching TV, and eventually three children told their parents about what he was doing to them, which

1090 LHRC Human Rights Survey 2022: Katavi Field Report.

1091 LHRC Human Rights Survey 2022: Iringa Field Report.



lead to a full investigation by authorities, revealing 16 more victims.¹⁰⁹²

In Geita, 118 incidents of child rape were reported at police gender and children desk in the period of January to September 2022 alone.¹⁰⁹³ Majority of the incidents were reported in Geita DC (41), followed by Bukombe (33), Chato (23), and Nyang'hwale (21). Two incidents of sexual abuse of boys were also reported during that period, both of them in Geita DC.¹⁰⁹⁴

Perpetrators of sexual VAC

Fathers, including stepfathers, were reported among the perpetrators of sexual VAC in regions such as Singida, Kilimanjaro, Tanga, Njombe, Katavi, and Iringa. For instance, in Singida, a SWO in Singida Municipality disclosed that in February 2022, three children (two girls aged 9 and 11 years, and one boy aged 6 years), were raped and sodomized by their stepfather for a long time at home.¹⁰⁹⁵ In Njombe, a father was reported to have sodomized his child for four years without being noticed.¹⁰⁹⁶

Other perpetrators of sexual VAC mentioned by respondents of the human rights survey, including SWOs, include uncles, family friends, *bodaboda* drivers, neighbours, and close relatives.¹⁰⁹⁷

'Most of the perpetrators of these acts of sexual violence against children are people close to them, such as uncles and neighbours..'

Community member – Lushoto, Tanga

Most sexual VAC incidents occurring at home and within neighbourhoods

The survey found that most sexual VAC incidents in 2022 occurred in home and neighbourhood settings, as attested by SWOs and NGO workers in most of the surveyed regions.

'In August 2022, we were informed that there is a man in Minga Ward who was using his house and money to lure young boys aged around 15 years to sodomize them. We are still following up on the matter..'

SWO – Singida MC, Singida

1092 Ibid.

1093 LHRC Human Rights Report 2022: Geita Field Report.

1094 Ibid.

1095 LHRC Human Rights Survey 2022: Singida Field Report.

1096 LHRC Human Rights Survey 2022: Njombe Field Report.

1097 LHRC Human Rights Survey 2022: Njombe, Kilimanjaro, Rukwa & Singida Field Reports.



Consequences of sexual VAC

In some regions, consequences of sexual VAC included being impregnated. For instance, in Njombe, the survey team recorded 12 incidents of girls aged 15 years and below who became pregnant after they were raped.¹⁰⁹⁸ In Chunya District, Mbeya, some of the girls who were reportedly raped were also impregnated, while other victims of rape and sodomy were said to experience loss in confidence.¹⁰⁹⁹ Other consequences included school dropout, lack of concentration in class, social exclusion, underperformance in examinations, suicidal thoughts, low self-esteem, trauma, and depression.

5.2.3. Sexual Violence against Boys: The Often Unrecognised or Unseen Form of Violence

Overview

Many countries around the world have been faulted for lacking adequate legal protections for boys and usually not looking at boys as victims of sexual abuse.¹¹⁰⁰ According to UNICEF, most of the research on sexual exploitation of children is centred on girls, neglecting the needs, experiences and perspectives of boys as well as youth who identify outside the gender binary.¹¹⁰¹ Consequently, sexual abuse of boys is all too often unrecognized or unseen and there is a notable gap in the global understanding, research, prevention and support of exploitation of boys.¹¹⁰²

Factors contributing to sexual abuse of boys include: gender roles and norms, including problematic beliefs about masculinity, which force boys to be 'strong,' 'unaffected', and 'able to protect themselves' in the face of violence; legislative limitations; non-availability of boy friendly services; and dismissal or neglect of implications of sexual abuse of boys by society, including law enforcement officers.¹¹⁰³ There are also vulnerabilities such as poverty, lack of access to education, and forced work. Consequences include low-self-esteem, panic disorders, and substance abuse; poor school performance; health complications and HIV; and mental health issues such as depression and trauma.¹¹⁰⁴

1098 LHRC Human Rights Survey 2022: Njombe Field Report.

1099 LHRC Human Rights Survey 2022: Mbeya Field Report.

1100 Rebecca Ratcliffe "Sexual abuse of boys often overlooked by state laws, global study warns" The Guardian Newspaper, 16 Jan 2019, at <https://www.theguardian.com/global-development/2019/jan/16/sexual-abuse-of-boys-often-overlooked-by-state-laws-global-study-warns>.

1101 UNICEF, Research on the Sexual Exploitation of Boys: Findings, ethical considerations and methodological challenges, April 2020, at <https://data.unicef.org/resources/sexual-exploitation-boys-findings-ethical-considerations-methodological-challenges/>.

1102 See End Violence against Children, *UNCOVERING THE HIDDEN EPIDEMIC OF SEXUAL VIOLENCE AGAINST BOYS*, 28 March 2022, at <https://www.end-violence.org/articles/uncovering-hidden-epidemic-sexual-violence-against-boys>.

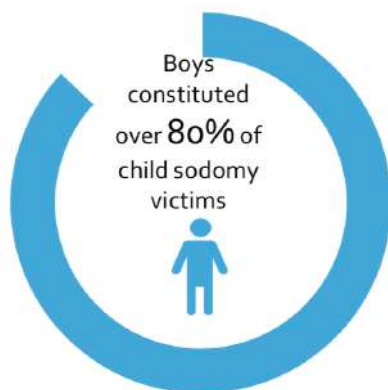
1103 Ibid.

1104 Ibid.



Police and government data and information

Sodomy is the most common form of sexual violence against boys in Tanzania and is gaining momentum in different settings, including school and home. In the period of 2016 to 2021, a total of 5,716 incidents of child sodomy cases were reported to police stations, averaging 900 incidents each year, 79 each month and at least 2 each day. Majority, 87%, of the victims were boys.



In December 2022, it was reported that over 1,000 child sodomy incidents were also reported in the period of January to September 2022, with boys constituting the overwhelming majority of victims (84%).¹¹⁰⁵ In the same month, police gender and children desk officers in Arumeru District pointed out that sexual violence against boys had become a big threat, given an increase in the incidents of sodomy of boys. They called upon parents to be closer to their male children and protect them from sexual violence.¹¹⁰⁶

Incidents of sexual abuse of boys documented by LHRC

In 2021, LHRC documented at least 34 incidents of sexual abuse of boys in the form of sodomy. In 2022, the number of incidents rose to 166, equivalent to 78% of all documented child sodomy incidents. Most of the sodomy incidents occurred in school and home settings.

'In the past, we were more worried with girls, but now boys are more vulnerable to acts of sexual violence than girls...I don't have the statistics but it is based on what I have heard...boys constitute the majority of sodomy victims..'

Sauti ya Jamii Director – Iringa

¹¹⁰⁵ Ibrahim Joseph "Ubakaji, ulawiti watoto sasa tishio Nipashe Newspaper, 14 Dec 2022.

¹¹⁰⁶ Allan Isack "Kukithiri matukio ukatili wa kingono walishtua dawati la jinsia" Nipashe Newspaper, 13 Dec 2022.



5.2.4. Child Sexual Abuse in Religious Settings

Global overview

In many parts of the world, child sexual abuse has also been known to occur in religious settings. Research has shown that abusers or perpetrators of such abuse use their positions of power, trust and authority to ‘groom’ or exploit children sexually, while maintaining secrecy.¹¹⁰⁷ They may spend weeks, months, even years grooming a child in order to violate them sexually.¹¹⁰⁸

Globally, the biggest challenge in addressing child sexual abuse in religious settings is the institutional secrecy and widespread protection of those who abuse children in religious institutions. This is because those who do it enjoy unquestioned faith placed in them by the victims (children), their parents, staff, and other community members. The perpetrators also know that the victims, usually vulnerable children, are **less likely to be believed**.

In the Catholic Church, one of the best-known cases of child abuse of children in religious settings is the case of John J. Geoghan, a former priest, who had fondled or raped at least 130 children over three decades in some half-dozen parishes in the United States of America.¹¹⁰⁹ Widespread pattern of abuse in the church have also been exposed in some countries in Europe, as well as other countries such as Australia, Chile, and Canada.¹¹¹⁰

Child sexual abuses have also been reported in madrasas (Islamic religious schools) in various parts of the world, including in Pakistan, United Kingdom, and India.¹¹¹¹ In Pakistan, the biggest challenges in investigating and prosecuting such abuse is clerics using their political power to cover up their sexual abuse crimes, including calling to stop investigations.¹¹¹²

In Africa, reports child sexual abuse in religious settings have been made in several countries, including Nigeria, South Africa, and Tanzania.¹¹¹³

1107 See Geoff Mcmaster “Researchers reveal patterns of sexual abuse in religious settings” University of Alberta, 5 August 2020, at <https://www.ualberta.ca/folio/2020/08/researchers-reveal-patterns-of-sexual-abuse-in-religious-settings.html>.

1108 Ibid.

1109 Researchers reveal patterns of sexual abuse in religious settings (supra); Jonathan Finer “Geoghan’s Death Is Described” The Washington Post (online), 25 Aug 2003, at <https://www.washingtonpost.com/archive/politics/2003/08/25/geoghans-death-is-described/fe0f632e-c0e0-45b4-ba37-3903b0ed6a10/>.

1110 Ibid.

1111 See “Investigating sexual abuse in Pakistan madrasas” DW (online), 29 Jun 2021, at <https://www.dw.com/en/investigating-child-sexual-abuse-in-pakistans-madrasas/a-58092455>; Richa Taneja “36 Children Rescued From Pune Madrasa After Cleric Arrested For Sex Abuse” NDTV (online), 28 Jul 2018, at <https://www.ndtv.com/pune-news/36-children-rescued-from-pune-madrasa-after-cleric-arrested-for-sex-abuse-1891226>; “Muslim Parliament warns of risk of child abuse in Madrasas” Community Care, 26 March 2006, at <https://www.communitycare.co.uk/2006/03/28/muslim-parliament-warns-of-risk-of-child-abuse-in-madrasas/>.

1112 Investigating sexual abuse in Pakistan madrasas (supra).

1113 Fredrick Nzwili “Africa is also grappling with clerical abuse, say Catholic leaders” Catholic News Service, 8 Feb 2019, at <https://cruxnow.com/church-in-africa/2019/02/africa-is-also-grappling-with-clerical-abuse-say-catholic-leaders>.



Perpetrators include religious and spiritual leaders, volunteers, staff in religious schools, and others associated with religious communities. They use their positions of power and authority to gain access to children and abuse them.

Child sexual abuse in religious settings in Tanzania

In the past five years (2017 – 2021), LHRC has documented at least nine incidents of child sexual abuse in religious settings. These incidents were reported in Morogoro, Dar es Salaam, Ruvuma, Shinyanga, and Kilimanjaro Regions. However, due to the culture of secrecy and protection of clerics in such settings, it is feared that many incidents go unreported.

At least 16 other incidents of clerics committing sexual abuse outside religious settings were documented during this period, including sexually abusing their own children. This suggests that they were also more likely to have abused other children in religious settings.

In 2022, LHRC documented at least 3 incidents of child sexual abuse in religious settings, involving at least 21 victims, majority of whom were boys. These incidents were reported in Kilimanjaro, Geita, and Shinyanga Region. In Kilimanjaro, a Catholic Church padre in Moshi District was arrested in September 2022, accused of sexually abusing at least 10 children, including sodomizing some of them. He was said to have taken advantage of teaching the children about the bible and sacrament of confirmation, giving each child Tshs. 3,000 to 5,000 after committing the heinous act. One of the parents mentioned that his child told him the padre had been sexually abusing him since January 2022.¹¹¹⁴ In Geita, police arrested a religious leader (catechist), one Athanas Rugambwa (62), a resident of Mganza Village in Chato District, suspected of raping an eight-year-old girl in August 2022.¹¹¹⁵ In Shinyanga, police arrested a madrassa teacher, suspected of sodomizing 10 boys who were his students aged 6 to 9 years. Medical tests confirmed the boys had been sodomized and it was reported that the teacher gave them Tshs. 1,500 each time he did the act to them.¹¹¹⁶

5.2.5. Physical and Psychological Violence against Children

Physical violence against children refers to all acts perpetrated against children that bring them physical harm. Such acts may include slapping, pushing, hitting with a fist (punching), kicking, whipping, or threatening

1114 "Inatisha, padri mbaroni akidaiwa kulawiti watoto 10" Mwananchi Newspaper, 25 Sep 2022.

1115 "Police nabs an elder for defiling eight-year-old child" Mwananchi Newspaper, 5 Nov 2022.

1116 Suzy Batondo "Mwalimu wa madrasa adaiwa kulawiti watoto 10" Mwananchi Newspaper, 5 Nov 2022.



a child with a weapon.¹¹¹⁷ Emotional or psychological violence includes restricting a child's movements, denigration, ridicule, threats and intimidation, discrimination, rejection, and other non-physical forms of hostile treatment.¹¹¹⁸

5.2.5.1. Incidents documented by LHRC

As indicated above, in 2022, physical and psychological violence constituted 18% of the VAC incidents documented by LHRC through media survey and human rights monitoring. Children in different parts of Mainland Tanzania were subjected to different acts of physical violence, including beating, strangulation, burning hands, being torched, being buried alive, being poisoned, and being attacked with a weapon. The biggest consequence for physical VAC was death. LHRC documented at least 13 incidents of physical VAC which resulted into deaths, reported in regions such as Lindi, Njombe, Mbeya, Katavi, Shinyanga, Dar es Salaam, Mtwara, Ruvuma, and Mwanza. Parents constituted the overwhelming majority of perpetrators of physical VAC. Below are some of the incidents of physical VAC documented by LHRC in 2022.

Table 18: Some of the Incidents of physical & psychological VAC documented by LHRC – January to December 2022

Incident(s)	Source
Lindi: A woman in Mchichili Village, Ruangwa District, was accused of killing her child by poison. She did so because she was angered by grandmother's refusal to take and stay with the child. Grandmother refused because the child was still a baby and breastfeeding.	Nipashe Newspaper 9 Mar 2022
Njombe: Police in Njombe arrested Happiness Mkolwe (27) for killing a 6-year-old child in retaliation to the child's mother allegedly having an affair with her estranged husband.	Nipashe Newspaper 10 Sep 2022
Mbeya: A 17-year-old child killed with an axe a 16-year-old girl, student at Sindi Secondary School, after a failed rape attempt.	Nipashe Newspaper 7 Oct 2022

1117 See the National Plan of Action to End Violence Against Women and Children in Tanzania 2017/18 – 2021/22, p. vi.

1118 See World Health Organization "Violence against children" 8 June 2020 at <https://www.who.int/news-room/fact-sheets/detail/violence-against-children>, accessed 18 October 2020.



Incident(s)	Source
<p>Arusha: A 15-year-old child, a victim of child marriage and resident of Gelailumbwa Village in Longido District, was severely beaten and tortured by her husband, causing her great pain.</p>	<p>Mwananchi Newspaper 23 Sep 2022</p>
<p>Katavi: Ntemi Ndamo (10) was reportedly strangled to death by unknown people on 25th October 2022 in Kasekese Village, Mpanda District, who attacked him while herding livestock. The assailants took the livestock after killing him.</p>	<p>Nipashe Newspaper 29 Oct 2022</p>
<p>Simiyu: Police in Bariadi District arrested Mwamba Thomas (37), resident in the district, for pouring hot water on his 4-year-old child as punishment for eating food without permission. The incident occurred on 22nd April 2022.</p>	<p>HABARILEO Newspaper 28 Apr 2022</p>
<p>Mtwara: A secondary schoolgirl was reportedly killed and dumped near her home after she was raped and sodomized by unknown person.</p>	<p>Nipashe Newspaper 20 Jul 2022</p>
<p>Mara: Nkwandu Kayenze (76), resident of Natta Village in Serengeti District, was accused of beating to death his 11-year-old grandson for spending Tshs. 2,000 without permission.</p>	<p>Human Rights Monitoring Dec 2022</p>
<p>Dar es Salaam: Police in Dar es Salaam arrested Latifa Bakari (33) for killing her sister's child aged 2 years. She caused the death by severely beating the child.</p>	<p>HABARILEO Newspaper 13 Apr 2022</p>
<p>Ruvuma: Amina Maketu (34), resident of Songea Municipality, reportedly killed her two children before committing suicide because of a family dispute and VICOBA debt.</p>	<p>Nipashe Newspaper 17 Dec 2022</p>
<p>Dar es Salaam: A domestic worker in Dar es Salaam reportedly strangled to death her employer's 8-year-old son.</p>	<p>Human Rights Monitoring Dec 2022</p>
<p>Mwanza: Three people were arrested by police and taken to court for killing a child by burying the child alive. Among those accused of killing the child was the child's mother, Elizabeth Kaswa, and a witchdoctor. The incident occurred on 13th November 2022 in Mwanza City.</p>	<p>Nipashe Newspaper 29 Dec 2022</p>





Picture 14: A 15-year-old girl, who was reportedly attacked by her husband and his friend in Longido, Arusha

Picture credit: Jamii Forums (Sep 2022)

Parents burning hands and other parts of bodies of their children as punishment

In 2022, some parents reportedly imposed some cruel punishment of burning hands and other parts of the bodies of their children. LHRC documented such incidents involving at least 8 children as victims, reported in regions such as Simiyu, Mtwara, Njombe, Geita, and Kilimanjaro. For instance, in Simiyu, police arrested Yohana Josephat (40) and his wife, Lucia Michael (30), residents of Busega District, for burning their children on different parts of their bodies as punishment for stealing maize in their grandmother's farm. The incident occurred on 29th July 2022.¹¹¹⁹ In Mtwara, police arrested Somoe Mohamedi, resident of Namanjele Village, for burning the hands of his 5-year-old child as punishment for stealing Tshs. 250 and eating some food (small fish) without permission.¹¹²⁰

In Njombe, police arrested Adelina Ngolo (36) for burning the hands of her two children as punishment for eating at a neighbour's house. She burned the two children, aged 4 and 7, on different parts of their bodies.¹¹²¹ In Kilimanjaro, Grace Pima, resident of Moshi District, was accused of burning his 5-year-old child on his mouth and nose and then locking him in the house for 48 hours.¹¹²²

1119 Happy Michael "Mke, mume washikiliwa kwa kuwachoma moto watoto wao" HABARILEO Newspaper, 1 Sep 2022.

1120 Hamis Nasri "Mbaroni kwa tuhuma za kumchoma mwanawe kisa kudokoa dagaa" Nipashe Newspaper, 8 Oct 2022.

1121 Elizabeth John "Mama adaiwa kuchoma moto wanawe kisa kula kwa jirani" Nipashe Newspaper, 8 Mar 2022.

1122 Godfrey Mushi "Mama adaiwa kumchoma moto mwanaye mdomo, pua" Nipashe Newspaper, 8 Mar 2022.





Picture 15: Burnt hand of a child who was punished for eating at a neighbour's house in Njombe

Picture credit: MillaAyo (Mar 2022)

In Geita, a standard-seven pupil at Shahende Primary School in Geita District was left in great bodily pain and unable to continue doing national examinations after his mother burned his hands.¹¹²³ While the mother claimed she did so because the son had stolen Tshs. 30,000, the head teacher said the child had told him she did so because she did not want him to do the national examinations, but he went to the first exam. Feeling betrayed, the mother decided to punish the child by burning his hands. The headteacher also stated that there has been a tendency of parents in the village demanding their children to deliberately fail their national exams so that they stay at home and help them in their economic activities.

Children attacked and killed for witchcraft purposes

In recent years, LHRC has observed that some children may be attacked, raped, and/or killed for witchcraft purposes, and sometimes parts of their bodies are cut and taken. In 2022, LHRC documented at least three incidents of children who were attacked or killed for witchcraft purposes, reported in Ruvuma, Geita, and Tabora Regions.

In Ruvuma, police in Songea District arrested Martin Emmanuel, resident of Lunyere Village, for pouring petrol on his 5-year-old stepson and setting him on fire so that he could become rich. It was reported that he was acting on the instructions of a witchdoctor. The incident occurred on 9th

¹¹²³ Yohana Shida "Aunguzwa mikono, ashindwa kufanya mtihani la 7" HABARILEO Newspaper, 7 Oct 2022; Rehema Matowo "Mwalimu afichua sababu mwanafunzi kujeruhiwa" Mwananchi Newspaper, 7 Oct 2022.



August 2022.¹¹²⁴ In Geita a 7-year-old child, resident of Ibambina Village in Nyag'hwale District, was killed and dumped in a bush. A witchdoctor, the child's mother, and two other people were arrested in connection with the killing.¹¹²⁵ In Tabora, a standard two pupil at Tutuo Primary School in Sikonge District, Maria Kazungu (13), was attacked and killed by unknown assailants while fetching water at a well. Her body was found with her private parts missing and her ears pierced.¹¹²⁶

5.2.5.2. Physical violence: Human Rights Survey 2022 findings

Through Human Rights Survey 2022, LHRC documented at least 460 incidents of physical VAC, reported in 7 out of 20 regions alone, namely Singida, Iringa, Njombe, Kagera, Geita, Kigoma, and Katavi.

In Iringa, one of the documented incidents was that of a man, resident of Kihesa area in Iringa MC, who in April 2022 punished two children he accused of stealing a flash disk, by burning them with a hot iron on different parts of their bodies.¹¹²⁷ He had reportedly hired the children to clean his room and suspected them of stealing when he could not find his flash disc. However, it was later revealed that he eventually saw the flash disc, discovering that it had not been stolen. Interviewed CSOs in the region also said corporal punishment was a common form of physical VAC.¹¹²⁸



Picture 16: Two children in Iringa MC who were burned with an iron for allegedly stealing a flash disc

Source: Field data, 2022

1124 "Baba matatani tuhuma kumchoma mwanee moto" Nipashe Newspaper, 22 Mar 2022.

1125 "Mtoto wa miaka 7 auwawa, mganga na wenzake mbaroni" HABARILEO Newspaper, 18 Jun 2022.

1126 Human Rights Monitoring 2022.

1127 LHRC Human Rights Survey 2022: Iringa Field Report.

1128 Ibid.



In Njombe, reported incidents of physical VAC included burning of hands, caning, and drowning. Parents and guardians were accused of using burning of hands as a preferred form of punishment.¹¹²⁹ In one incident, a mother in Nyombo Village in Kambakoko TC burned the hands of her two children because they ate at a neighbour's house. In another incident, a mother in Ludewa District reportedly drowned her son, causing his death.¹¹³⁰

In Kagera, it was reported that in the period of January to November 2022, a total of 202 physical VAC incidents were reported in Muleba District alone. The SWO in the district also disclosed that parents (both mothers and fathers) and teachers were the main perpetrators of such violence.¹¹³¹

In Geita, police statistics in the region showed that physical violence is usually perpetrated against boys, while girls are usually subjected to sexual violence. In Geita DC, it was reported that 73 incidents of physical VAC were reported in the period of January to September.¹¹³² The survey team also came across a standard seven girl, resident of Geita DC, whose mother burned her hands as punishment following accusations of stealing Tshs. 500, causing her to be unable to do her national examinations in October 2022.¹¹³³



Picture 17: A girl in Geita who could not do her standard seven national examinations after her mother burned her hands

Source: Field data, 2022

1129 LHRC Human Rights Survey 2022: Njombe Field Report.

1130 Ibid.

1131 LHRC Human Rights Survey 2022: Kagera Field Report.

1132 LHRC Human Rights Survey 2022: Geita Field Report.

1133 Ibid.



In Katavi, children were said to be subjected to various acts of physical violence, including beating, burning, and pushing. At least 102 incidents of physical violence were reported in the first three quarters of 2022. The incidents include that of two children aged 2 and 4, whose hands were burned with hot water by their stepmother in March 2022, as punishment for their father bringing them home to be raised by the stepmother.¹¹³⁴ It was reported that the stepmother was angry that her husband had brought other children into their family. The stepmother was also accused of regularly beating the children and denying them food, causing kwashiorkor to one of them.¹¹³⁵



Picture 18: Two children in Katavi whose stepmother burned their hands with hot water and would also deny them sufficient amount of food, causing kwashiorkor to one of them

Source: Field data, 2022

A human rights monitor in Katavi also revealed that there was a child in Kaushilili Ward in Mpanda District who was regularly beaten by her stepmother and made to do most of the house chores. The monitor noted that the matter was brought to her attention, and she was working with LGA officials to help the child.¹¹³⁶

¹¹³⁴ LHRC Human Rights Survey 2022: Katavi Field Report.

¹¹³⁵ Ibid.

¹¹³⁶ Ibid.



5.2.5.3. Psychological violence: Human Rights Survey 2022 findings

In visited regions, the survey found that psychological violence is mostly perpetrated in home settings. In Arusha, an NGO worker mentioned that children are often subjected to verbal abuse and threats, especially by their parents at home, which affects them psychologically.¹¹³⁷ Interviewed paralegals and human rights monitors in Dar es Salaam and Pwani also mentioned verbal abuse as a common act of psychological VAC.¹¹³⁸

'In terms of psychological violence, many children are subjected to verbal abuse and humiliation, usually by their parents. This affects them psychologically...'

NGO worker - Arusha

In Arusha and Kilimanjaro, some of the interviewed respondents, including ICT experts and lawyers, said children, especially those in urban areas, who have access to electronic equipment and internet, now experience psychological violence on online platforms.¹¹³⁹ They mentioned cyberbullying as an act of psychological VAC that children with an online presence are most vulnerable to, which could lead to psychological effects such as depression, anxiety, suicidal thoughts, and low self-esteem.¹¹⁴⁰

In Kagera, psychological VAC in the form of verbal abuse, humiliation, verbal aggression, and threats was said to be common in Muleba and Biharamulo Districts, including among young girls working as barmaids.¹¹⁴¹ SWOs reported to have documented 302 incidents of psychological VAC in Muleba and 130 in Biharamulo in the period of January to November 2022.¹¹⁴² In Geita, some parents were accused of leaving children without food, sometimes for days.¹¹⁴³

5.2.6. Economic Violence against Children

Most of the acts of economic VAC documented by LHRC in 2022 were denial of education and child marriage. Several reports of parents requiring or encouraging their children to deliberately fail their national examinations were made in various regions, including Mtwara.¹¹⁴⁴ Other children, like

1137 LHRC Human Rights Survey 2022: Arusha Field Report.

1138 LHRC Human Rights Survey 2022: Dar es Salaam & Pwani Field Report.

1139 LHRC Human Rights Survey 2022: Arusha Field Report.

1140 Ibid.

1141 LHRC Human Rights Survey 2022: Kagera Field Report.

1142 Ibid.

1143 LHRC Human Rights Survey 2022: Geita Field Report (interview with a nutrition officer).

1144 LHRC Human Rights Survey 2022: Mtwara Field Report.



in Kigoma, were reportedly made to work by their parents and denied opportunity to go to school.¹¹⁴⁵ For girls, they are also required to fail so that they can get married. Incidents of child marriage are further discussed below.

5.2.7. Drivers of VAC

In all surveyed regions, respondents mentioned several drivers of violence against children, including:

- Traditional sexual dances such as *vidogoro* – which is popular in coastal regions.
- FGM: A girl is considered ready for marriage once they have undergone FGM.
- Discriminatory customs and traditions.
- Alcoholism.
- Child/early marriage: Such marriage leaves children at greater risk of abuse.
- Witchcraft beliefs: In Chunya District, Mbeya Region, it was reported that some miners were suspected of raping children so that they can get more profits.¹¹⁴⁶
- Parental separation/divorce.
- Extreme poverty, leading to parents neglecting or abandoning their children or even sacrificing them to be trafficked for labour.
- Poor parenting, mainly attributed to parents being too busy with work, neglecting their parental duties.
- Globalization and technological advancement.
- Corruption and impunity.
- Extended family.
- Inadequate housing, which forces parents to share rooms with children.
- Culture of forgiveness and ‘concealing family shame,’ e.g. the ‘*sale*’ leaf forgiveness culture in Kilimanjaro.
- Rite of passage for girls.

5.2.8. Judicial Action against Violence against Children Perpetrators

In 2022, the Judiciary continued to take action against perpetrators of VAC, imposing maximum punishment, especially for sexual offences. LHRC documented at least 31 sentences, imposed by courts of law in regions such as Dar es Salaam, Simiyu, Geita, Manyara, Rukwa, Mara, Mwanza, Mtwara, Tabora, Kilimanjaro, Katavi, Lindi, Morogoro, Shinyanga, Mbeya, Tanga, and Arusha. 48% of the offenders were convicted of child rape, 45% of sodomy,

1145 LHRC Human Rights Survey 2022: Kigoma Field Report.

1146 LHRC Human Rights Survey 2022: Mbeya Field Report.



and 7% of killing. Below are some of the VAC sentences documented by LHRC through media survey and human rights monitoring.

Table 19: Judicial action against perpetrators of VAC – January to December 2022

Sentence	Source
Simiyu: Bariadi District Court sentenced one Kulwa Meleka, resident of Bariadi District, to 70 years in prison and payment of a fine of Tshs. 1 million after finding him guilty of raping a 13-year-old girl.	Nipashe Newspaper 2 Sep 2022
Geita: High Court of Tanzania in Mwanza, sitting in Geita, sentenced Anthony Masai (40) to five years in prison for killing his stepchild during a domestic dispute with his wife in 2017.	Nipashe Newspaper 2 Sep 2022
Manyara: Paschal Daniel (23), resident of Mandi Village in Babati District, was sentenced to life in prison after being found guilty of raping a 5-year-old child in July 2022.	Nipashe Newspaper 3 Sep 2022
Rukwa: Alexa Augustine, resident of Sumbawanga Town, was sentenced to life in prison after being found guilty of sodomizing a 9-year-old child between November 2020 and November 2021.	Human Rights Monitoring Oct 2022
Manyara: Babati District Court sentenced Shaban Jumanne (20), to 30 years in prison for raping a 16-year-old girl with disability. He committed the offence on 28 th July 2022.	Nipashe Newspaper 12 Oct 2022
Dar es Salaam: Daniel Chacha, a teacher, was sentenced to life in prison after he was found guilty of sodomizing his 6-year-old pupil.	Mwananchi Newspaper 7 Oct 2022
Mwanza: Nyamagana District Court sentenced Alphonse Ngassa (51) to life in prison for sexually abusing his 9-year-old daughter in 2021.	Nipashe Newspaper 27 Sep 2022
Tabora: Kulwa Chamkoko, resident of Tabora Municipality, was sentenced to life in prison after being found guilty of raping a 9-year-old child in June 2021.	HABARILEO Newspaper 8 Oct 2022
Mara: Musoma Resident Magistrate Court sentenced a primary school teacher, Idrissa Athumani, to life in prison after finding him guilty of sodomizing his 14-year-old pupil and another pupil.	Mwananchi Newspaper 24 Sep 2022



Sentence	Source
Kilimanjaro: Elihuruma Mwandri (46), resident of Lomakaa Village in Siha District, was sentenced to 30 years in prison after the court found him guilty of defiling his 7-year-old child in May 2022.	Nipashe Newspaper 22 Sep 2022
Lindi: Ismail Chakani (50), resident of Nayanga Village in Lindi District, was sentenced to 20 years in prison for defiling a 3-year-old child. He was also sentenced to pay a fine of Tshs. 200,000.	Nipashe Newspaper 3 Oct 2022
Tanga: Kilindi Resident Magistrate Court sentenced Shaban Abdallah (30) to 30 years in prison for sodomizing a child aged 11 years.	Mwananchi Newspaper 22 Jul 2022
Mara: Musoma Resident Magistrate Court sentenced Daniel Wasonga to 30 years in prison and 24 strokes after finding him guilty of raping a girl aged 14 years.	DAILYNEWS Newspaper 2 Aug 2022
Arusha: Godlisten Kibwana (22), resident of Arusha City, was sentenced to life in prison after the court found him guilty of sodomizing a boy aged 10 years on various occasions.	Mwananchi Newspaper 30 Dec 2022

5.2.9. Child Neglect and Abandonment

5.2.9.1. Overview

Child neglect means the failure to meet children's physical and psychological needs, protect them from danger, or obtain medical, birth registration or other services when those responsible for children's care have the means, knowledge, and access to services to do so.¹¹⁴⁷ It includes:¹¹⁴⁸

- **Physical neglect:** failure to protect a child from harm, including through lack of supervision, or failure to provide the child with basic necessities including adequate food, shelter, clothing and basic medical care;
- **Psychological or emotional neglect:** including lack of any emotional support and love, chronic inattention to the child, caregivers being "psychologically unavailable" by overlooking young children's cues and signals, and exposure to intimate partner violence, drug or alcohol

¹¹⁴⁷ See Committee on the Rights of the Child, The right of the child to freedom from all forms of violence, <https://docstore.ohchr.org/SelfServices/FilesHandlerashx?enc=6QkG1d%2FPPrICAqhKb7yhsqIkirKQZLK2M58RF%2F5F0vFKtnY3RFBX0eVOrGEVYuIm9CsHNwh1HrjED9fVmGn%2BaZ1TGy6vH1Iek6kukGyB%2FFCGBbSOP0uwpKf24vcxkEnv>.

¹¹⁴⁸ Ibid.



abuse;

- **Neglect of children’s physical or mental health:** withholding essential medical care;
- **Educational neglect:** failure to comply with laws requiring caregivers to secure their children’s education through attendance at school or otherwise; and
- **Abandonment:** a practice which is of great concern and which can disproportionately affect, inter alia, children out of wedlock and children with disabilities in some societies.

The African Charter on the Rights and Welfare of the Child of 1990 requires States Parties to take specific legislative, administrative, social, and educational measures to protect the child from abuse, torture, and neglect.¹¹⁴⁹ Domestically, the Law of the Child Act of 2009 and the NPA-VAWC 2017/18 – 2021/22 define child abuse to include neglect¹¹⁵⁰ and such neglect is associated with failure to provide for a child’s basic needs such as adequate food and clothing and failure to protect a child from violence.¹¹⁵¹ The Law of the Child Act also imposes parental duty and responsibility to protect the child from neglect, discrimination, violence, abuse, exposure to physical and moral hazards and oppression.¹¹⁵²

5.2.9.2. Incidents of child neglect/abandonment documented by LHRC

In 2022, through human rights monitoring and media survey, LHRC documented 67 incidents of child neglect, reported in regions such as Tanga, Morogoro, Lindi, Mtwara, Kilimanjaro, Tabora, Geita, and Simiyu. These are 43 more than those documented in 2021. In Tanga, it was reported that child neglect is big problem, especially in rural areas, where parents tend to abandon their children with their parents (grandparents) and flee to urban areas to work. It was further reported that living with grandparents leaves the children more vulnerable to other forms of violence against children, especially sexual violence.¹¹⁵³ In Morogoro, two parents in Ulanga District were said to have abandoned their three children to go and remarry somewhere else.¹¹⁵⁴ In Njombe, some young parents were accused of abandoning their children to their grandparents’ care.¹¹⁵⁵ In Mbeya, it was reported that a total of 1,073 incidents of child neglect and abandonment were documented by

1149 Article 16(1) of the African Charter on the Rights and Welfare of the Child, 1990.

1150 Section 3 of the Law of the Child Act, 2009.

1151 NPA-VAWC 2017/18 – 2021/22, p. 5.

1152 Section 9(3)(a) of the Law of the Child Act, 2009.

1153 Oscar Assenga “40% ya watoto wametelekezwa na wazazi wao” Nipashe Newspaper, 10 Nov 2022.

1154 “Baba, mama watelekezwa watoto kua, kuolewa” Nipashe Newspaper, 24 Jul 2022.

1155 LHRC Human Rights Monitoring 2022.



social welfare officers in the period of January to October 2022, constituting 75% of reported VAC incidents.¹¹⁵⁶

5.2.9.3. Child neglect and abandonment: Human Rights Survey 2022

Child neglect and abandonment was mentioned as a major challenge in all surveyed regions, including Kilimanjaro, Arusha, Dodoma, Mtwara, Morogoro, Singida, Kigoma, Mbeya, Katavi, Njombe, and Rukwa. Through human rights survey, LHRC documented over 700 child neglect cases, most of them reported in regions such as Katavi, Singida, Njombe, Kigoma, and Mtwara Regions.

In Mtwara, men were accused of abandoning their wives and children for other women, especially during the harvesting period.¹¹⁵⁷ In Morogoro, a community development officer (CDO) in Mwembesongo Ward in Morogoro District said child neglect and abandonment is a serious problem in the ward, whereby they receive 3 to 5 such cases per week. In the period of January to September 2022, a total of 113 cases of child neglect were reported.¹¹⁵⁸ In Singida, a SWO in Manyoni said that both men and women have been neglecting and abandoning children, but the men do it more and most women tend to do it once they have been abandoned by their husbands, resorting to abandoning children with their grandparents.¹¹⁵⁹ She noted that this causes the neglected children to become children living and/or working in the streets, roaming the streets, and some (girls) resorting to prostitution to take care of themselves and their siblings.¹¹⁶⁰ In Kilimanjaro and Kigoma, both parents were also accused neglecting and abandoning children, but men were also said to be the main perpetrators of child neglect and abandonment.¹¹⁶¹

'...During the cashew nut harvesting period, it is normal to hear a man has abandoned his wife and children to live with another woman....'

SWO – Tandahimba, Mtwara

In Mbeya, child neglect was also said to be a big challenge in child protection

1156 See *“Wananchi Tushirikiane kutokomeza ukatili wa Kijinsia” Rc Homera* Mbeya Region Website, 2 Dec 2022, at <https://mbeya.go.tz/new/wananchi-tushirikiane-kutokomeza-ukatili-wa-kijinsia-rc-homera>.

1157 LHRC Human Rights Survey 2022: Mtwara Field Report.

1158 LHRC Human Rights Survey 2022: Morogoro Field Report.

1159 LHRC Human Rights Survey 2022: Singida Field Report.

1160 Ibid.

1161 LHRC Human Rights Survey 2022: Kilimanjaro & Kigoma Field Reports.



and welfare. In one incident, two parents in Isyesye Ward, Mbeya City, were said to have abandoned their children inside their house for more than a day without food.¹¹⁶² In Njombe, child neglect and abandonment constituted over 50% of reported VAC cases. Poor parenting skills and alcoholism were said to be the contributing factors.¹¹⁶³

'You may find both the father and mother are drunkard, spending so much time at traditional liquor bars and neglecting their parental duties. Children may come home from school and find no food, affecting their physical development. That is why the District Commissioner directed parents to contribute funds or foods to support school feeding programmes ..'

CDO – Ludewa, Njombe

In Kigoma, a SWO revealed that some men do not leave their families, but rather just stop taking care of them, leaving that responsibility to their wives or partners.¹¹⁶⁴ In Katavi, Iddi Murua (45), resident of Kashaulili Ward in Mpanda District, was accused of abandoning his two children for another woman.¹¹⁶⁵

LHRC's View: Neglect and abandonment leaves children more vulnerable to other acts of VAC, especially sexual violence.

LHRC's Call: CSOs to collaborate with the ministry responsible for children to organize a nation-wide campaign on violence against children, including child neglect and abandonment, among other things, to sensitize the public about the dangers of this act of VAC.

5.2.10. Child Labour and Exploitation

5.2.10.1. Overview

Child labour denies a child their fundamental human rights, including right to education and freedom from all forms of violence. It also hinders children's development.¹¹⁶⁶ According to the Food and Agriculture Organization of the United Nations (FAO), child labour refers to "work that is inappropriate for a child's age, affects children's education, or is likely to harm their health, safety

1162 LHRC Human Rights Report 2022: Mbeya Field Report.

1163 LHRC Human Rights Survey 2022: Njombe Field Report.

1164 LHRC Human Rights Survey 2022: Kigoma Field Report.

1165 LHRC Human Rights Survey 2022: Katavi Field Report.

1166 ILO, *International Labour Standards on Child labour* at <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/child-labour/lang--en/index.htm>, accessed 21st May 2018.



or morals.”¹¹⁶⁷Child labour is said to be exploitative labour when a child is used as cheap labour, paid less than the labour provided (unequal payment) and exposed to various hazards.¹¹⁶⁸ Child labour may lead to impairment of a child’s physical, mental, moral, spiritual, and social development.¹¹⁶⁹

In Tanzania, child labour¹¹⁷⁰ is prohibited under various domestic legislations, most notably the Law of the Child Act of 2009 (revised in 2019) and the Employment and Labour Relations Act of 2004. Despite various efforts to combat child labour and exploitation in Tanzania, the practice persists in its various forms, denying children their fundamental rights, including right to education and protection from harmful employment. In 2022, child labour was found to be common in sectors such as agriculture, mining, and livestock.

The first schedule of the Employment and Labour Relations (General) Regulations of 2017 provides a list of work considered hazardous for children.¹¹⁷¹ The list includes hazardous works in the sectors such as agriculture, fishery, mining, construction, service, trade, and transport. Examples include fetching and carrying fire wood, portorage of heavy loads, feeding farm animals, crushing ore, drilling and blasting, cement mixing, painting, brick making, carpentry, wielding, stone crushing, water vending, masonry, cleaning toilets, working in places such as bars, hotels and places of entertainment, and electrical repair. Conditions for employing children are stipulated under the Employment and Labour Relations (General) Regulations, 2017.

5.2.10.2.Incidents documented by LHRC

Through human rights monitoring, in 2022 LHRC documented at least 10 incidents of child labour, reported in Mbeya, Geita, and Shinyanga Regions. Most of the children were said to be working in mines and farms.¹¹⁷²

5.2.10.3.Child labour and exploitation: Human Rights Survey 2022 findings

1167 See FAO “Child Labour in Agriculture” at <http://www.fao.org/childlabouragriculture/en/>, accessed 17th September 2019.

1168 Law Reform Commission of Tanzania, *Report on Labour Law*, presented to the Minister of Justice and Constitutional Affairs, Ministry of Justice and Constitutional Affairs, 2001.

1169 Ibid.

1170 Any work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that: is mentally, physically, socially or morally dangerous and harmful to children [NPA-VAWC 2017/18 – 2021/22, p. v]

1171 Employment and Labour Relations (General) Regulations, GN. 47 of 2017 and under section 82(3) of the Law of the Child Act 2009

1172 LHRC Human Rights Monitoring 2022.



Child labour and exploitation incidents were reported and observed in more than half of the surveyed regions, including in Katavi, Kigoma, Geita, Njombe, Mbeya, and Iringa. LHRC documented at least 53 incidents of child labour in these regions. The children were said to be working in sectors which they have been prohibited from because of the hazardous nature of their works such as agriculture, mining, trade, and service. They were also said to be engaging in prohibited activities for children such as mining, stone crushing, fetching and carrying firewood, and working in places such as bars and hotels.

In Iringa, a community member in Mafinga District revealed that children sometimes skip school to work in tea farms or plantations, while other children are tasked with grazing livestock, even during school hours.¹¹⁷³ In neighbouring Mbeya, some children were said to work at rice mills, rice plantations or farms (including to chase away birds and plant seeds), and in mines.¹¹⁷⁴ In Chunya District in the region, children were also said to be employed in stone crushing.¹¹⁷⁵ A Ward Executive Officer (WEO) in the region said children are exploited in the labour market because they do not know their rights and are easy to manipulate.¹¹⁷⁶ In Mbeya, children were also found working at marketplaces.¹¹⁷⁷

‘Child labour is prevalent in rice plantations, where children are preferred to adults to chase away birds and plant seeds. There have been complaints of truancy in schools because of child labour.’

WEO – Mbarali, Mbeya

1173 LHRC Human Rights Survey 2022: Iringa Field Report.

1174 LHRC Human Rights Survey 2022: Mbeya Field Report.

1175 Ibid.

1176 LHRC Human Rights Survey 2022: Mbeya Field Report

1177 Ibid.





Picture 19: A child found carrying a heavy load at Soweto Market in Mbeya City

Source: Field data, 2022

In Njombe, some children were said to work in timber and Irish potato plantations in Makete District, usually to help their parents, contributing to truancy. In one incident reported in the district, a child who had left school to go and carry timber died from a workplace injury after timber woods fell on him.¹¹⁷⁸

In Geita, child labour was said to be especially a problem in the mining sector, as well as in livestock and fishing activities. Some children were observed working in mines in Chato District (Makugurusi).¹¹⁷⁹ Some children were also observed fetching and carrying firewood in Chato District and selling food items during night hours (2300hours) in Geita District. The survey team also met a man in Chato District who was paying children candies to fetch him iron materials.¹¹⁸⁰

‘Child labour affects children’s school attendance. You may find a child attending school for only three out of five weekdays and using the remaining two days to go to work.’

CDO – Geita DC, Geita

1178 LHRC Human Rights Survey 2022: Njombe Field Report.

1179 LHRC Human Rights Survey 2022: Geita Field Report.

1180 Ibid.





Picture 20: Children found fetching and carrying firewood in Chato District (left) and other found selling fruits late at night in Geita District

Source: Field data, 2022

In Kigoma, some children were said to be made to work at markets and restaurants, even at late hours and without adequate rest. In Kigoma MC, an executive director at a local NGO called PWDA said there was a woman who used her 3 children to sell fruits and vegetables at a market, denying them their right to go to school and get an education. When other market traders put pressure on her to allow the children to go to school, she moved to Karagwe District, Kagera Region.¹¹⁸¹ Some children were also said to skip school to engage in fishing activities along the Tanganyika Lake.¹¹⁸²

Child labour and exploitation was also observed in Katavi Region, where the survey team met a 13-year-old boy, resident of Majimoto Village in Karema Ward, who said he was hired to do some farm work and herd livestock and paid Tshs. 300,000 per year.¹¹⁸³ In another incident, a 15-year-old boy was found working as a waiter at a restaurant, including during school hours.¹¹⁸⁴

1181 LHRC Human Rights Survey 2022: Kagera Field Report.

1182 Ibid.

1183 LHRC Human Rights Survey 2022: Katavi Field Report.

1184 Ibid.





Picture 21: A boy (15) found working at a restaurant (left) and another one (13) found herding livestock (right) in Katavi Region

Source: Field data, 2022

In 2022, instances of child labour were also observed in regions such as Tanga, Dar es Salaam, Mtwara, Shinyanga, and Dodoma. In Dar es Salaam, some of the business owners were accused of using children as vendors.¹¹⁸⁵ In Tanga, children were observed to engage in the business of stone quarrying/crushing, which is listed as a hazardous work for children for being hard and dangerous, because of possible hazards such as toxic gases, explosives, sexual harassment, vibration, long working hours, harsh supervision, and mercury fumes.¹¹⁸⁶ In Muheza DC, Tanga Region, a key child labour issue that was reported is the use of child labour in the orange business.¹¹⁸⁷ A Social Welfare Officer (SWO) in the district remarked that children account for nearly 80% of labour in the orange business in Muheza. Children were said to be mostly used in harvesting and loading and unloading the oranges, and it was reported that they are preferred in the business due to their agility and being cheaper labour than adults.

LHRC View: Child labour is still a big problem in Tanzania, and is usually associated with exploitation, as children are used as cheap labour and preferred because they can easily be manipulated and exploited. LHRC has also observed that conditions for child employment are not known by many in the community, including such employment not interfering with

¹¹⁸⁵ Human Rights and Business Survey 2022: Dar es Salaam Field Report.

¹¹⁸⁶ See the First Schedule of the Employment and Labour Relations (General) Regulations, 2017.

¹¹⁸⁷ Human Rights and Business Survey 2022: Tanga Field Report.



education, absolute prohibition for children to do certain types of works, payment of wages, and working hours.

LHRC View & Call: Collaborative efforts are needed to address the problem of child labour in Tanzania. Prevention, through public awareness-raising, is key in this regard. Labour officers should also conduct regular inspections at workplaces to ensure compliance of businesses with prohibition of child labour and conditions for child employment.

5.2.11. Child Marriage and Economic Violence against Female Children

5.2.11.1. Overview

Tanzania has an obligation to combat and eliminate all forms of discrimination against women and girls, including harmful practices which endanger their health and general well-being such as child marriage.¹¹⁸⁸ As a country and member of the African Union (AU), it is duty bound to take effective action, including legislation, to specify the minimum age of marriage to be 18 years.¹¹⁸⁹ Nevertheless, the Law of Marriage Act, 1971 still allows girls aged 14 and 15 years to get married.

5.2.11.2. Calls to outlaw child marriage in Tanzania

In 2022, stakeholders, including child rights advocates, continued to call for legal reforms to prohibit child marriage. In September 2022, the Government, through the Ministry of Constitutional and Legal Affairs, announced that it was planning on consulting the public regarding child marriage, an exercise which raised concerns amongst child rights stakeholders, as the expected move by the Government was to send a bill to the Parliament for amendment of the Law of Marriage Act, 1971 as directed by the Court of Appeal in the 2019 *Rebecca Gyumi* child marriage appeal case judgement. This and other developments relating to child marriage in Tanzania are summarized in Table 20 below.

Table 20: Developments relating to child marriage in Tanzania

1994	The Law Reform Commission releases its report on the Law of Marriage Act. It recommends minimum age of marriage to be 21 years, outlawing child marriage.
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¹¹⁸⁸ See Articles 1, 5, & 6 of the Maputo Protocol.

¹¹⁸⁹ Article 21(2) of African Charter on the Rights and Welfare of the Child, 1990.



	2003	Tanzania ratifies the African Charter on the Rights and Welfare of the Child 1990, which prohibits child marriage and sets 18 years as minimum age of marriage for women.
2007		Tanzania ratifies the Maputo Protocol of 2003, which prohibits child marriage and sets 18 years as minimum age of marriage for women.
	2016	Tanzania participates in developing and adopting the SADC Model Law on Eradicating Child Marriage and Protecting Children Already in Marriage
2016		Rebecca Gyumi case, challenging provisions within LMA allowing child marriage, is filed before the High Court of Tanzania.
	2016	High Court of Tanzania delivers its judgement on the <i>Rebecca Gyumi case</i> , declaring provisions within the Law of Marriage Act allowing girls at 14 and 15 years to be married unconstitutional and calling for amendment of LMA to set 18 years as minimum age for marriage.
2019		Court of Appeal upholds decision of the High Court, calling for amendment of LMA to outlaw child marriage by setting 18 years as minimum age for marriage. Judgement follows Government appeal in 2017.
	2021	Two years on from the Court of Appeal judgement, the Parliament of Tanzania is yet to amend the Law of Marriage Act of 1971 to outlaw child marriage. The national report of Tanzania before the UPR Working Group reveals that the Government is in the process of reviewing the Law of Marriage Act, Cap. 29 to conform to the Court of Appeal decision in the case of <i>Attorney General vs Rebecca Z. Gyumi</i> , Civil Appeal No. 204 of 2017 on the age of marriage.
2022		Law of Marriage Act yet to be amended to outlaw child marriage. Government announces that it is planning on consulting the public regarding child marriage. Consultation process reportedly ongoing as of December 2022. Child rights stakeholders, members of the Tanzania Ending Child Marriage Network (TECMN), including LHRC and TAWLA, hold a press conference expressing concerns over the public consultation process and calling for the Government to amend the LMA in line with the <i>Rebecca Gyumi</i> appeal judgement of 2019.



5.2.11.3. Incidents documented by LHRC

In 2021, LHRC documented 37 incidents of child marriage through media survey and human rights monitoring. In 2022, the number of documented incidents decreased to 16, reported in various regions across Mainland Tanzania, including Mara, Katavi, Shinyanga, Dodoma, and Arusha Regions.

Rescue missions by police and local authorities

In Shinyanga, in November 2022, it was reported that Shinyanga District Commissioner, Jasinta Mboneko, rescued a secondary school student from Solwa Secondary School, who had been taken to Mpanda District in Katavi Region by her parents to get married in October 2022.¹¹⁹⁰ In Dodoma, police intervened to prevent a 15-year-old girl, resident of Mvumi Village, from being married off to another child aged 17 years in the village after her father had received a dowry of 8 goats.¹¹⁹¹ In Mtwara, police arrested three people, residents of Shaba Village, for marrying off a secondary schoolgirl aged 16 years in December 2022.¹¹⁹²

In Mara, police intervened to prevent an arranged child marriage between a 12-year-old boy and a 16-year-old girl in Getarugu Village, Mara Region. Seven people were arrested for planning the marriage, including parents of the boy, Nyang'ombe Magere (50) and Ghati Masero (38).¹¹⁹³

Parents returning dowry to rescue their daughters from abuse

In Dodoma, two parents, residents of Mpwayungu Village in Chamwino District, reportedly returned dowries of money and livestock they received for marrying off their daughters so that they could return home, after finding out that that the daughters had been abused and suffering in their marriages.¹¹⁹⁴

Girls fearing child marriage

In Iringa, two girls, residents of Ilambilole Village in Iringa District, expressed their fears that they would soon be married off by their parents as they feel powerless to do anything about it, since it is part of their customs and

1190 Marco Maduhu “Mwanafunzi aliyetoroshwa aokolewa” Nipashe Newspaper, 11 Nov 2022.

1191 “Polisi walivyozima ndoa ya watoto” Mwananchi Newspaper, 4 Aug 2022.

1192 Hamisi Nasri “Watiwa pingu kumwozeshwa mwanafunzi usiku mnene” Nipashe Newspaper, 17 Dec 2022.

1193 LHRC Human Rights Monitoring 2022.

1194 “Warejesha mahari kuokoa maisha ya watoto” HABARILEO Newspaper, 24 Aug 2022.



traditions. They said they would like to continue with secondary studies.¹¹⁹⁵

Some parents telling their female children to fail to get married

In 2022, some reports emerged that parents in some regions were telling their female children to fail in their national examinations so that they can marry them off. For instance, in Songwe, in March 2022, reports emerged in Songwe District that some women in Ilasilo Village were telling their female children to deliberately underperform in school and fail their examinations, with the view of marrying them off in exchange for property.¹¹⁹⁶

LHRC's Call: The Government to take immediate measures to comply with the decision of the Court of Appeal of Tanzania in the *Rebecca Gyumi* case to set 18 years as the minimum age of marriage for both males and females and thereby abolishing or outlawing child marriage.

5.2.11.4. Child marriage: Human Rights Survey 2022 Findings

Child marriage was said to be a big problem in some of the surveyed regions, including Dodoma, Mtwara, Singida, Kigoma, and Katavi. In Mtwara, a SWO stated that there were 20 cases of child pregnancies in Mtwara DC by September 2022, of which 18 involved girls already in marriage.¹¹⁹⁷ In Katavi, it was reported that there were over 50 recorded cases of child marriage in the region.¹¹⁹⁸ The incidents included a 16-year-old girl in Mlele District who was married to a 46-year-old man in exchange for 27 cows. It was also reported that police intervened to prevent two girls from being married off to a man in exchange for 14 cows in Tanganyika District.¹¹⁹⁹

1195 Tumaini Msowoya "Waliofaulu kidato cha nne waingia hofu ya kuozwa, waomba msaada" Mwananchi Newspaper, 17 Oct 2022.

1196 Nebard Msokwa "Wanawake wadaiwa kushawishi watoto wasifanye vizuri shuleni" Nipashe Newspaper 16 Mar 2022.

1197 LHRC Human Rights Survey 2022: Mtwara Field Report.

1198 LHRC Human Rights Survey 2022: Katavi Field Report.

1199 Ibid.





Picture 22: Two girls who were rescued by police from child marriage (left) and the cows paid as dowry (right)

Source: Field Data, 2022

In Singida, dowry was said to be the biggest motivation for parents marrying-off their children. A SWO in Singida DC said child marriages occur but many go unreported. In Manyoni DC, an NGO worker commented that child marriage is more prevalent within pastoralist families, especially in rural areas, who even resort to paying teachers bribes so that they can ‘keep a secret’ of allowing schoolgirls to be taken away and married.¹²⁰⁰ Another NGO worker in the district said girls are usually targeted for child marriage immediately after completing their primary education, so that their families can get dowry in the form of cows, which can later be sold to generate funds to educate male children.¹²⁰¹

‘There are child marriages in Singida, although most of them are not reported. We usually find out about them when resolving family disputes...’

SWO – Singida DC, Singida

In Kigoma, it was reported that some parents were demanding their female

¹²⁰⁰ LHRC Human Rights Survey 2022: Singida Field Report.
¹²⁰¹ Ibid.



children to fail their national examinations so that they can get married.¹²⁰²

5.2.11.5. Social Acceptance: A Key Driver of Child Marriage

High rates of social acceptance of child marriage and bride price have been said to contribute to the persistence of child marriage in Tanzania.¹²⁰³ At national level, 19% of the population believe it is appropriate for a girl to marry before the age of 18 years, while only 6% of them believe the same for boys of the same age. In contexts where resources are limited, bride price is seen as a means of alleviating family's economic burden.¹²⁰⁴

5.2.11.6. Consequences of Child Marriage

Child marriage has various negative consequences for girls and women, including:

- **Cutting short the education journey for girls:** This has a life-long impact on girls and women, as it puts them at a disadvantage in terms of future employment and access to economic opportunities. When a girl gets married, she is often expected to drop out of school to look after the home, children and extended family.¹²⁰⁵ It is therefore difficult and rare for them to return to school.
- **Increasing likelihood of adolescent or teenage pregnancies:** Adolescent pregnancy is one of the key challenges affecting girls and young women in Tanzania, whereby at the national level one in three women is believed to have had a child before attaining the age of 20 years.¹²⁰⁶
- **Risk of violence:** Child marriage puts girls at higher risk of physical and sexual violence.¹²⁰⁷ Child brides are also at greater risk of experiencing dangerous complications in pregnancy and childbirth, contracting HIV/AIDS and suffering domestic violence.¹²⁰⁸
- **Gender inequality:** Child marriage perpetuates gender inequality, including by denying girls and women an opportunity to obtain quality education and advance their careers. This hampers efforts to achieve Sustainable Development Goal (SDG) number 5 "Achieve gender

1202 LHRC Human Rights Survey 2022: Kigoma Field Report.

1203 OECD (2022), SIGI Country Report for Tanzania, Social Institutions and Gender Index, OECD Publishing, Paris, <https://doi.org/10.1787/06621e57-en>.

1204 Ibid.

1205 See GirlsNotBrides "Further information about child marriage" at <https://www.girlsnotbrides.org/about-child-marriage/>; SIGI Country Report for Tanzania (supra).

1206 SIGI Country Report for Tanzania (supra).

1207 See Save the Children "What are the effects of child marriage?" at <https://www.savethechildren.org/us/charity-stories/child-marriage-a-violation-of-child-rights#:~:text=They%20are%20often%20isolated%20with,AIDS%20and%20suffering%20domestic%20violence..>

1208 Ibid.



equality and empower all women and girls” under Target 5.3 “Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation.”

- **Impact on economy:** Child marriage negatively affects the economy and can lead to an intergenerational cycle of poverty.¹²⁰⁹
- **Investing on child:** Women with higher education, in comparison with those with lower education, tend to invest more in the health and education of their children, and have fewer children, hence generating positive spillovers for the productivity and well-being of the next generation.¹²¹⁰

5.2.12. Female Genital Mutilation

Female Genital Mutilation (FGM) is a form of violence against women and is both a public health and human rights concern. It is most prevalent in Manyara, Dodoma, Arusha, Mara, and Singida Regions.

In 2022, incidents of FGM were especially reported in Manyara and Mara Regions. In Manyara, an official from the Simanjiro District Council disclosed that more than 200 women were subjected to FGM in the region in the past year. Majority of the victims were below the age of 20 years.¹²¹¹ In Mara, at least five schoolgirls had been forcibly subjected to FGM in some five wards in the region and some 60 had to escape to nearby safe houses. This was disclosed by the Hope Safe House Manager in Mugumu, Serengeti District.¹²¹² It was also reported in the region that a man and his wife had been arrested for creating and sending invitation cards for their daughter to undergo FGM.¹²¹³

1209 See UNICEF “Ending child marriage and adolescent empowerment” at <https://www.unicef.org/india/what-we-do/end-child-marriage>.

1210 *SI-GI Country Report for Tanzania (supra)*.

1211 “Wanawake 200 wakeketwa Manyara” Mwananchi Newspaper, 19 Oct 2022.

1212 “Girls subjected to FGM as safe house rescues 60” IPP Media, 6 Sep 2022.

1213 LHRC Human Rights Monitoring 2022.





Picture 23: FGM invitation card found in Nyamongo, Mara Region in June 2022

Picture credit: Hon. Dr. Dorothy Gwajima¹²¹⁴

Through Human Rights Survey 2022, LHRC also documented incidents of FGM reported in Singida, Mara, Dodoma, and Arusha. In Singida, Mara, and Dodoma, FGM was said to be motivated by traditional belief that a woman is not complete if she has not undergone FGM, and the practice helps to curb young women's sexual desires.¹²¹⁵ In Singida, it was reported that FGM is still practiced in secrecy and now tactics have been changed, whereby it is babies who are now being mutilated, especially by grandmothers. A SWO in the region said some babies are found to have been subjected to FGM after being taken to clinic bleeding. In one incident, reported in Manyoni District, a 3-year-old girl child bled to death after her grandmother cut her.¹²¹⁶ It was also reported that in November 2021 a 2-month-old baby in Saranda Village had suffered the same fate, and the grandmother is currently imprisoned in Isanga Prison in Dodoma.¹²¹⁷

1214 Minister of Community Development, Gender, Women and Special Groups.

1215 LHRC Human Rights Survey 2022: Singida, Mara, & Dodoma Field Reports.

1216 LHRC Human Rights Survey 2022: Singida Field Report.

1217 Ibid.



'FGM is now carried out in secrecy. In October 2022, a nurse examined a 3-month old baby brought to the hospital and found that she had been mutilated by her grandmother..'

NGO worker – Singida MC, Singida

An NGO worker in Manyoni District recommended that men should be effectively engaged in ending FGM because they hold the key to that, since girls and women are made to undergo FGM for them, especially to be eligible for marriage.

5.2.13. Child Pregnancy

In 2022, incidents of child pregnancy continued to be widely reported in different regions across Mainland Tanzania.

5.2.13.1. Reported Incidents documented by LHRC

Through media survey and human rights monitoring, LHRC documented over 6,000 child pregnancy incidents, reported in various regions, including Kigoma, Pwani, Mwanza, Katavi, Rukwa, and Arusha. LHRC's assessment concluded that Kigoma continues to record the highest number of reported cases of child/teenage pregnancy. For instance, it was reported in April 2022, that teenage pregnancy was responsible for half of school-dropouts in Kigoma Region. It was also reported that 6,799 girls dropped out of school in the past year (May 2021 to April 2022) because of teenage pregnancy.¹²¹⁸ In August, Kasulu District Medical Officer, Dr. Robert Rwebangira said 2 out of 10 pregnant women attending clinic in the district were below age of 18 years.¹²¹⁹ In Pwani, it was reported that 32 schoolgirls in Kibiti District had dropped out of school in the period of January to June 2022 due to teenage pregnancy.¹²²⁰

5.2.13.2. Teenage Pregnancy Testing in Tanzania: Decision of the African Committee of Experts on the Rights and Welfare of the Child

On 15th September 2022, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) issued its decision (Communication No: 0012/Com/001/2019 Decision No 002/2022) in the case of *Legal and Human*

¹²¹⁸ HABARILEO Newspaper, 24 Apr 2022.

¹²¹⁹ "Child pregnancies rampant in Kasulu District – DMO" The Guardian Newspaper, 6 Aug 2022.

¹²²⁰ "Wakatisha masomo kisa ujazito" Nipashe Newspaper, 8 Jul 2022.



*Rights Centre and Centre for Reproductive Rights (on behalf of Tanzanian girls) v United Republic of Tanzania.*¹²²¹

Summary of facts

The communication was submitted by the Legal and Human Rights Centre (LHRC) and the Centre for Reproductive Rights (on behalf of Tanzanian girls) (the Complainants) against the United Republic of Tanzania (the Respondent State).¹²²² It alleged that primary and secondary school girls were subjected to forced pregnancy testing – which did not follow any standard - and expulsion from schools in events where they are found pregnant or married. The pregnancy testing was also said to be undertaken and often results shared without the consent of the girls. They added that girls found to be pregnant before being enrolled would not be accepted to schools and those found to be pregnant in the school year were expelled from schools, and that neither of these actions (pregnancy testing and expulsion) was prescribed by law. The expulsion and exclusion of pregnant schoolgirls was also said to have no exception, such as in cases where girls fall pregnant due to sexual abuse or incest, even in cases where police reports can be produced to that effect. Lastly, girls were deprived of access to sexual and reproductive health information and services to prevent unplanned pregnancies.

Issues for determination

The main issues for determination were:¹²²³

- Whether the Respondent State has adopted a policy and practice which has resulted in forced pregnancy testing of schoolgirls and the expulsion of pregnant and married girls from schools with no re-entry opportunities;
- Whether the act of the Respondent State is a violation of the various rights of children and its state obligations in the African Charter on the Rights and Welfare of the Child; and
- Whether the applicants are entitled to any remedies.

There were also sub-issues of whether the State actions violated the right

¹²²¹ See *Center for Reproductive Rights, ACERWC Ruling in Legal and Human Rights Centre and Centre for Reproductive Rights v United Republic of Tanzania*, 19 Sep 2022, at <https://reproductiverights.org/acerwc-ruling-in-legal-and-human-rights-centre-and-centre-for-reproductive-rights-v-united-republic-of-tanzania/>.

¹²²² See The African Committee of Experts on the Rights and Welfare of the Child (ACERWC), *Legal and Human Rights Centre and Centre for Reproductive Rights (on behalf of Tanzanian girls) v United Republic of Tanzania*, Communication No: 0012/Com/001/2019, Decision No 002/2022, <https://reproductiverights.org/wp-content/uploads/2022/09/ACERWC-Decision-final-Communication-No-0012Com0012019.Tanzania.pdf>.

¹²²³ Legal and Human Rights Centre and Centre for Reproductive Rights (on behalf of Tanzanian girls) v United Republic of Tanzania (*supra*).



to education (Article 11); right to equality and non-discrimination (Article 3); right to be protected from harmful social practices and stereotypes (Article 21); principle of the best interests of the child (Article 4); right to health as it includes the right to access sexual and reproductive health services (Article 14); right to privacy and dignity (Article 10); right to be free from cruel, inhuman, and degrading treatment (Article 16); and right to general measures of implementation (Article 1).

Arguments

The Complainants alleged that Tanzania had failed to uphold its obligation to respect, protect, and fulfil the rights of Tanzanian girls as envisioned under the African Charter on the Rights and Welfare of the Child (ACRWC), to which it is a party to, through the following conduct:¹²²⁴

- Enforcing mandatory pregnancy testing in schools;
- The expulsion of pregnant and married learners from schools;
- The denial of re-entry to schools after childbirth;
- The illegal detention of pregnant girls; and
- The failure to provide children with reproductive and sexual health information services- leading to early pregnancies.

By doing this, Tanzania violated right to education (Article 11); right to equality and non-discrimination (Article 3); right to be protected from harmful social practices and stereotypes (Article 21); principle of the best interests of the child (Article 4); right to health as it includes the right to access sexual and reproductive health services (Article 14); right to privacy and dignity (Article 10); right to be free from cruel, inhuman, and degrading treatment (Article 16); and right to general measures of implementation (Article 1).

The Respondent argued that:

- none of the provisions of the Charter raised by the Complainants have been violated.
- it has endeavoured to ensure access to education by providing free primary and secondary education despite its limited resources.
- it has the prerogative to limit the rights of schoolgirls to education if it aims at achieving a certain result.
- it has the responsibility to promote African values and morality and it retains the discretion to determine what is moral or immoral in the education sector.

¹²²⁴ Legal and Human Rights Centre and Centre for Reproductive Rights (on behalf of Tanzanian girls) v United Republic of Tanzania (*supra*).



- sexual relations among children is against African values and morality as such it should be discouraged by the expulsion of pregnant and married girls.
- therefore, the limitation of rights introduced against the girls in the communication is carried out to achieve a legitimate aim which is considered 'relevant and sufficient.'

The Committee's analysis and findings on the merits of the alleged violations

Violation of Article 16 of the ACRWC on protection against cruel, inhuman, and degrading treatment

- The psychological harm and physical pain experienced by girls forced to undergo pregnancy tests as well as the humiliating manner in which many girls were subsequently expelled amounts to practices that are cruel, inhuman, and degrading treatment.
- The detention of persons who have not committed nor are suspected of having committed a crime violates the principle of illegal detention. This detention constitutes an unjustifiable infringement on the girls' dignity and physical integrity because it violates their dignity as well as their physical and mental integrity as children, violating Article 16.

Violation of Article 11 of the ACRWC on the right to education

- The promotion of a certain value cannot be achieved by establishing rules and policies that are not in conformity with the Charter.
- The policies and practices that the Respondent State has put in place to expel pregnant and married girls from schools go against the rights protected under Article 11 of the Charter, hence amounts to a violation of the right to education of Tanzanian girls.
- No argument of morality or margin of appreciation can justify a policy and practice which is against the explicit provisions of the Charter.
- The expulsion of and denial of re-entry of pregnant and married girls in school is by no means a necessary measure to deter sexual relationships among adolescents. It is a clear contradiction with article 11(6) of the Charter.



Violation of Article 3 of the ACRWC on the right to non-discrimination

- The detention of pregnant girls is discrimination based on their gender, age, and health status (pregnancy) as they are being targeted on these grounds while having committed no crime.
- The Respondent State in violation of Article 3 of the Charter on the right to non-discrimination through its expulsion of pregnant and married girls, denial of re-entry, mandatory pregnancy testing of schoolgirls, and detention of pregnant girls on the grounds of sex, age, health status (pregnancy), and marital status.

Violation of Article 21 of the ACRWC on the protection against harmful practices

- The issue of mandatory pregnancy testing, expulsion of pregnant and married girls with no re-entry, and the detention of pregnant girls are results of negative stereotypes which are harmful practices, and further perpetuate harmful practices prohibited under article 21 of the ACRWC.

Violation of Article 4 of the ACRWC on the best interests of the child

- It is not in the best interests of the child to be expelled due to being pregnant or married, as it prevents their access to quality education, which is immensely detrimental to their holistic development and future opportunities.
- The conduct of mandatory pregnancy testing, expulsion, and denial of re-entry of pregnant and married girls is a violation of Article 4 of the Charter.

Violation of Article 14 of the ACRWC on the right to health

- The prevalence of teenage pregnancy among schoolgirls is a result of a lack of sexual and reproductive health services and comprehensive sexuality education for children and adolescents, and the practice of enforcing mandatory pregnancy testing on schoolgirls and subsequently expelling them from schools is a violation of Article 14 of the ACRWC.

Violation of Article 10 of the ACRWC on the right to privacy

- The mandatory pregnancy testing of schoolgirls, the failure to facilitate



prior, informed consent, and the public announcement of their results is an unlawful, and arbitrary infringement on their privacy.

- The practice of illegally detaining pregnant girls is unjustifiable in any context, thus an unlawful and arbitrary interference with the right to privacy.

Violation of Article 1 of the ACRWC on the obligation of States Parties

- The Respondent State has been informed about the violation of the rights of schoolgirls as a result of the practices raised in this Communication yet failed to rectify and take action by reviewing its policy, in violation of its obligations under Article 1 of the Charter.

The Committee also noted that it was informed by the Respondent State that in November 2021, the Ministry of Education, Science and Technology issued a circular which allowed pregnant girls to be re-admitted to formal schools. However, having considered the content of the Circular, it was of the view that the Circular does not address the issues raised in the Communication.

Decision of the Committee

Committee found Tanzania (the Respondent State) to be in violation of its obligations under Article 1 (obligation of states parties), Article 3 (non-discrimination), Article 4 (best interests of the child), Article 10 (protection of privacy) Article 11 (education), Article 14 (health and health services), Article 16 (protection against child abuse and torture), and article 21 (protection against harmful social and cultural practices).¹²²⁵ It then went on to provide several recommendations, including:¹²²⁶

- Immediately prohibit mandatory pregnancy testing in schools and health facilities and publicly announce the prohibition.
- Review the Education (Expulsion and Exclusion of Pupils from School) Regulations, 2002 G.N. No. 295 of 2002 and in doing so remove wedlock as a ground of expulsion and provide an indication that the moral ground of expulsion should be interpreted narrowly and should not apply in cases of pregnancy of schoolgirls.
- Undertake concrete steps to prevent the expulsion of pregnant and married girls from schools including by providing laws and policies on the same.

¹²²⁵ Legal and Human Rights Centre and Centre for Reproductive Rights (on behalf of Tanzanian girls) v United Republic of Tanzania (*supra*).

¹²²⁶ *Ibid.*



- Remove any policy of non-re-entry of schoolgirls including girls who have drop-out of school due to pregnancy or wedlock.
- Immediately re-admit schoolgirls who have been expelled due to pregnancy and wedlock and provide special support programmes to compensate for the lost years and ensure better learning outcomes for the returned girls.
- Provide clear guidance to school administrators that girls who drop out of school due to pregnancy or wedlock with their preference are allowed to come back to school with no preconditions.
- Undertake extensive sensitization of teachers, healthcare providers, police and other actors with regards to the protection that should be accorded to pregnant and married girls.
- Take action against any actors who conduct forced pregnancy testing of any kind, or who discriminate against girls on the grounds of their pregnancy or marital statuses such as expulsion and detention.

5.2.13.3. Child pregnancy: Human Rights Survey 2022 findings

Child pregnancy was said to be a big challenge in some of the surveyed regions, especially Singida, Njombe, Kagera, Katavi, Rukwa, Kigoma, and Mwanza. In Singida, a SWO revealed that in the past two years they have documented an average of 20 child pregnancy cases per ward per a year.¹²²⁷ In Njombe, 12 incidents of child pregnancy were recorded in the period of January to September 2022, reported in Makete, Ludewa, and Njombe Districts.¹²²⁸

In Kagera, the survey found that *bodaboda* drivers and close relatives were the main perpetrators of child pregnancy. The survey also found that some parents do not report to the authorities about their children being impregnated, instead they reach out to the perpetrators and demand bribe, a practice commonly known as '*makubaliano ya mezani*' (under-the-table agreement).¹²²⁹ In Geita, some parents in farming communities were said to marry off their daughters during plantation seasons to get funds for their agricultural activities.¹²³⁰ In Katavi, where over 200 incidents of child pregnancy were documented in the period of January to September 2022 alone, child pregnancy was said to be contributed by child neglect and abandonment by their parents, who can leave their children alone in the house for up to a month with little to eat.¹²³¹ Child pregnancy in the region

1227 LHRC Human Rights Survey 2022: Singida Field Report.

1228 LHRC Human Rights Survey 2022: Njombe Field Report.

1229 LHRC Human Rights Survey 2022: Kagera Field Report.

1230 LHRC Human Rights Survey 2022: Geita Field Report.

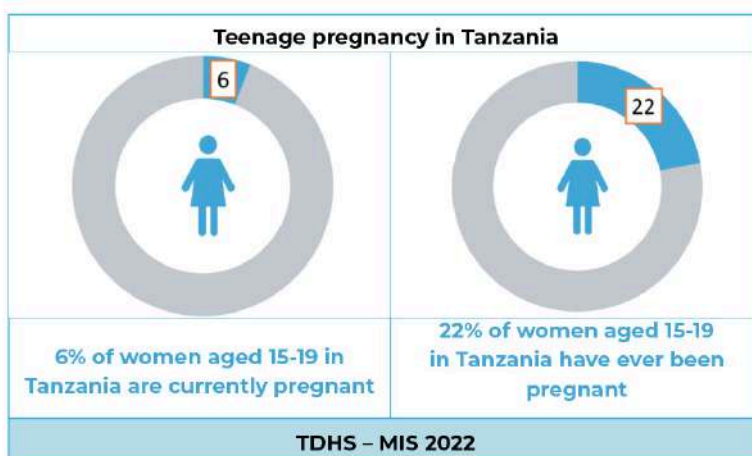
1231 LHRC Human Rights Survey 2022: Katavi Field Report.



was also said to be a driver of child marriage.¹²³² In one of the incidents, a 17-year-old girl, resident of Kashaulili Ward, Mpanda District, was married-off to a 35-year-old man after it was discovered that he had impregnated her.¹²³³

5.2.13.4. Teenage Pregnancy Situation in Tanzania: Demographic and Health Survey 2022 Findings

The Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 has revealed that 22% of women aged 15 to 19 years have ever been pregnant, 16% have had a live birth, 2% have had a pregnancy loss, and 6% are currently pregnant.¹²³⁴ Percentage of women aged 15 to 19 years who have ever been pregnant is higher in rural areas (24.9%) compared to urban areas (16.4%), for the whole of Tanzania. The percentage is also higher in rural Mainland Tanzania (25.7%) compared to urban Mainland Tanzania (17%).¹²³⁵



In terms of regions, percentage of women aged 15 – 19 who have ever been pregnant is highest in Songwe (44.7%), followed by Ruvuma (37.2%), Katavi (34.4%), Mara (31.1%), Rukwa (29.6%), Tabora (29.1%), Manyara (28.8%), Geita (28.4%), Morogoro (28.0%), and Mtwara (25.7%).¹²³⁶ In terms of zones, the percentage of women aged 15 – 19 who have ever been pregnant is highest in South West Highlands (31.1%), followed by Southern Highlands (29.4%),

1232 Ibid.

1233 LHRC Human Rights Survey 2022: Katavi Field Report.

1234 Ministry of Health (MoH) [Mainland Tanzania], Ministry of Health (MoH) [Zanzibar], National Bureau of Statistics (NBS), Office of the Chief Government Statistician (OCGS), and ICF. 2023 Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Key Indicators Report. Dodoma, Tanzania, and Rockville, Maryland, USA: MoH, NBS, OCGS, and ICF.

1235 Ibid.

1236 TDHS – MIS 2022 (*supra*).



Southern (25.4%), and Western (24.0%).¹²³⁷

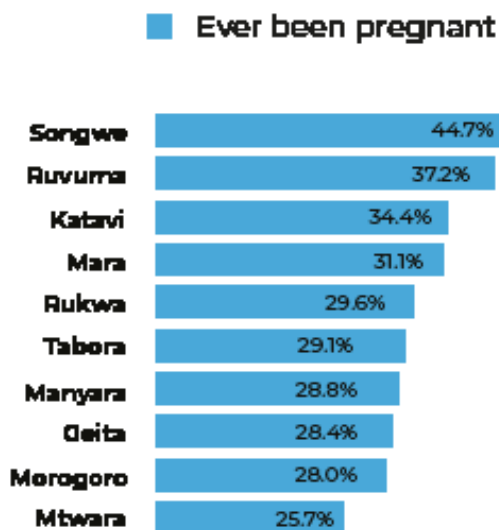


Figure 57: % Women aged 15-19 who have ever been pregnant

Source: TDHS – MIS 2022 & writer’s own analysis

In terms of education, 52.5% of women aged 15-19 who said they had no education have ever become pregnant, 26% who said they had not completed primary education have ever become pregnant, 35.5% who said they had completed primary education have ever become pregnant, and 9.3% who said they attained at least secondary education have ever become pregnant.¹²³⁸

5.2.14. Child trafficking

Child trafficking has been defined as the exploitation of girls and boys, primarily for forced labor and sexual exploitation.¹²³⁹ According to the International Labour Organization (ILO), child trafficking is about taking children out of their protective environment and preying on their vulnerability for the purpose of exploitation.¹²⁴⁰ ILO has also pointed out that child trafficking is closely interlinked with the demand for cheap malleable and docile labour in sectors and among employers where the working conditions and the treatment grossly violates the human rights of the

1237 Ibid.

1238 TDHS – MIS 2022 (*supra*).

1239 See SaveTheChildren “THE FIGHT AGAINST CHILD TRAFFICKING” at <https://www.savethechildren.org/us/charity-stories/child-trafficking-awareness>.

1240 See ILO “Trafficking in children” at <https://www.ilo.org/ipec/areas/Traffickingofchildren/lang-en/index.htm>.



children.¹²⁴¹ In Tanzania there is the Anti- Trafficking in Persons Act, No. 6 of 2008, which criminalizes trafficking in persons, including child trafficking.

In recent years, child trafficking, particularly child labour trafficking and child sex trafficking, have been the most common forms of human trafficking in Tanzania. Impoverished and orphaned children from rural areas are at a higher risk of being trafficked, while girls are exploited in domestic servitude and sex trafficking.¹²⁴²

5.2.14.1. Reported incidents documented by LHRC

As reported in Chapter Two above, in 2022, LHRC documented at least twelve incidents of human trafficking through media survey and human rights monitoring. Out of the twelve, eight were incidents of child trafficking. Most of the incidents were reported in Mbeya, Singida, and Dar es Salaam. In Mbeya, a Community Development Officer (DCDO) in Chunya District revealed that children from regions such as Songwe, Rukwa, and Shinyanga are trafficked for labour, especially in gold mining, in the district.¹²⁴³ In Singida, LHRC intervened to rescue two children, who had been trafficked to Pwani Region for labour.¹²⁴⁴ LHRC did the same in Dar es Salaam, intervening together with another human rights organization, to rescue a girl trafficked for the purpose of domestic work from Mpwapwa District in Dodoma and help her return to school in the district.¹²⁴⁵

In April 2022, the Minister of Home Affairs, Hon. Hamad Yussuf Masauni, disclosed that for the financial year 2021/2022, his ministry had rescued 153 victims of child trafficking, equivalent to 84% of the rescued human trafficking victims.¹²⁴⁶

5.2.14.2. Child trafficking: Human Rights Survey 2022 findings

Through human rights survey, in 2022 LHRC also documented 62 incidents of child trafficking, reported in regions such as Kigoma, Singida, Njombe, and Dar es Salaam. In Singida, a SWO disclosed that children in the region are usually trafficked for domestic work and sex.¹²⁴⁷ Due to poverty, children

1241 Ibid.

1242 LHRC (2021), Tanzania Human Rights Report 2020, LHRC [www.humanrights.or.tz].

1243 Human Rights and Business Survey 2022: Mbeya Field Report.

1244 LHRC Human Rights Monitoring 2022.

1245 Ibid.

1246 See HOTUBA YA WAZIRI WA MAMBO YA NDANI YA NCHI MHE. MHANDISI HAMAD YUSSUF MASAUNI (MB), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2022/2023, para 199, at <https://www.parliament.go.tz/uploads/budgetspeeches/1651748002-HOTUBA%20YA%20MAKADIRIO%20YA%20MAPATO%20NA%20MATUMIZI%20KWA%20MWAKA%202022-23%20DODOMA%2004%20MEI%202022%20FINAL%20PRNT.pdf>.

1247 LHRC Human Rights Survey 2022: Singida Field Report.



are forced by their parents to go to urban areas for domestic servitude and 50% or more of their wages are sent to their parents. In some cases, employers send the wages in full to the parents, according to an NGO worker in the region.¹²⁴⁸

'Children are trafficked for domestic labour, others for sexual exploitation....'

SWO – Singida DC, Singida

In Singida, parents were also accused of using their children as sources of income, facilitating their trafficking in urban areas and cities, including Mbeya, Dodoma, and Dar es Salaam, for domestic servitude (girls) and shopkeeping (boys). In Njombe 13 incidents of child trafficking were reported in Ludewa and Makete Districts.¹²⁴⁹

In Kigoma, it was reported that some children in Kibondo DC and Kakonko DC had been trafficked to regions such as Tabora and Shinyanga as well as to the neighbouring country of Burundi to do some hazardous works, like working in bars and pubs. Employed children were also said to be paid very little wages, hence exploited, especially in Kasulu, where 8 child trafficking cases were reported.¹²⁵⁰ In Kigoma MC, it was reported that some children are trafficked for begging. Some children from refugee camps were also said to be used as cheap labour in the community.¹²⁵¹

'There are children who are trafficked for begging. They work for the traffickers and get paid when they get some money...'

NGO executive director – Kigoma MC, Kigoma

An NGO in Kigoma called *Promotion Women and Development Association* (PWDA) recommended capacity building and awareness-raising on human trafficking for children and other community members in order to increase knowledge and impact of human trafficking, including child trafficking.

5.2.15. Juvenile Justice

5.2.15.1. Overview

Juvenile justice in Tanzania is mainly administered through the Law of the

¹²⁴⁸ Ibid.

¹²⁴⁹ LHRC Human Rights Survey 2022: Njombe Field Report.

¹²⁵⁰ LHRC Human Rights Survey 2022: Kigoma Field Report.

¹²⁵¹ Ibid.



Child Act of 2009, which was revised in 2019. The Act was introduced, among other things, to ensure legal protection of children in conflict with the law and ensure administration of juvenile justice in line with international human rights standards. Tanzania has ratified various international and regional treaties that protect children's rights and stipulate how juvenile justice is to be administered. Key underpinning principles in this regard are: **the best interests of the child; non-discrimination; right to survival and development;** and **views of the child**. The applicable standards and principles in administration of juvenile justice in Tanzania include the UN Convention on the Rights of the Child (CRC), 1989; African Charter on the Rights and Welfare of the Child (ACRWC), 1990; United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), 1985; United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), 1990; Law of the Child Act, 2009 (revised edition of 2019); and The Second Five-Year Child Justice Strategy (covering the period of 2020/21 to 2024/25).

5.2.15.2.Key Issues Affecting Administration of Juvenile Justice

In 2021, juvenile justice stakeholders such as justice actors, social welfare officers (SWOs) and NGO officials reached by the human rights survey identified several challenges that hinder effective administration of juvenile justice. Some of these issues were also mentioned as key challenges by SWOs and legal aid providers during the human rights survey in 2022. The issues include:

- Mixing juvenile offenders with adults in detention facilities;
- Shortage of detention facilities, approved schools, and courts;
- Shortage of retention homes;
- Inadequate financial support for SWOs, who play a crucial role in administration of juvenile justice;
- Lack of adequate training on juvenile justice for some justice actors, including prosecutors; and
- Perceived lenient punishment for juvenile offenders, especially those accused of sexual offences.

Access to justice and criminal justice challenges discussed in Chapter Two above also affect and hinder effective administration of juvenile justice.



Improved access to juvenile justice: The case of Arusha

In Arusha City in Arusha Region, the survey team met with a SWO who provided insight into issues around VAC and access to juvenile justice in the region. The SWO claimed that there had been improved access to juvenile justice in the past three years. He acknowledged the role of the Judiciary (judicial officers/judges) in helping to improve access to juvenile justice in the region. He noted that previously there was only one day designated for hearing juvenile cases, which caused delays and difficulties for SWOs, victims, and children in conflict with the law. However, following the outcry of SWOs, one judge took the initiative to change the situation. As a result, juvenile cases are currently heard for four days in a week, from Monday to Thursday, and all of them are heard in the morning, as opposed to odd afternoon hours. As such, juvenile proceedings now end at noon.

However, the SWO noted one key challenge in administration of juvenile justice, which is provision of psychosocial support to survivors of VAC. He noted that sometimes compensation provided in juvenile cases is inadequate, depending on the ability of parents of juvenile offenders to pay. This affects payment for counselling sessions for VAC survivors, especially since their parents usually cannot afford. Consequently, the parents tend to pay for the counselling sessions for only a few days.

5.2.16. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs, to facilitate amendment of the Law of Marriage Act of 1971 in line with the Court of Appeal decision of 2019 in the *Rebeca Gyumi* case.
- The Government, through the Ministry of Finance and Planning, to increase budget for implementation of the National Plan of Action to End Violence Against Women and Children (NPA-VAWC) in order to effectively address VAC and VAW, which have reached alarming levels.
- Community members to refrain from protecting perpetrators of violence against children simply because they need 'to conceal family shame.

5.3. Rights of Persons with Disability

Rights of persons with disabilities (PWDs) are guaranteed internationally,



regionally, and nationally.¹²⁵² These rights include right to equality and non-discrimination, right to life, right to equality before the law, right to liberty and security of person, freedom from torture, freedom from violence, right to education, right to health and right to work and employment.¹²⁵³ States, including Tanzania, are obligated to take appropriate measures to ensure PWDs do not suffer any form of discrimination and are protected from forms of exploitation, violence and abuse.¹²⁵⁴

5.3.1. Promotion and Protection of Rights of PWDs

In February 2022, the Government announced plan to review some laws and policies to safeguard rights of PWDs. This was disclosed by the Deputy Minister of the Prime Minister’s Office – Labour, Youth, Employment and Persons with Disabilities, Hon. Patros Katambi in February 2022.¹²⁵⁵ In the same month, the Government announced that it had hired 312 PWDs in the period of 2018 to 2021.¹²⁵⁶

5.3.2. Access to Employment and Economic Opportunities

Discrimination in employment

In April 2022, the Tanzania Albinism Society (TAS) urged the Government to enforce the Persons with Disabilities Act of 2010 to ensure PWDs are employed and not discriminated in the job market.¹²⁵⁷ At workplaces, especially at companies and industries, PWDs are said to be faced with lack of friendly working environment, contributed by relevant infrastructure missing.

In 2022, LHRC observed that access to employment for PWDs was mainly driven by the perception that disability means inability. For instance, in Dar es Salaam, the survey on business and human rights, conducted in 14 regions of Mainland Tanzania, found that some employers do not like hiring PWDs because they ‘are not as effective as persons without disability.’¹²⁵⁸ In Pwani, it was reported that PWDs are not employed at industries because they ‘may somehow delay production’ and the environment is ‘not suitable’

1252 *See for example*, Convention on the Rights of Persons with Disabilities (CRPD), 2006; Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa (not yet ratified by Tanzania); and Persons with Disabilities Act, No. 9 of 2010.

1253 *See* CRPD.

1254 Articles 16(1) & 27(1) of CRPD.

1255 “Serikali kurekebisha sheria wenye ulemavu” Nipashe Newspaper, 17 Feb 2022.

1256 “Wenye ulemavu 312 wapata ajira serikalini miaka minne” Nipashe Newspaper, 17 Feb 2022.

1257 “Wataka Serikali kutoa msukumo wa ajira kwa watu wenye ulemavu” Nipashe Newspaper, 23 Apr 2022.

1258 Human Rights and Business Survey 2022: Dar es Salaam Field Report.



for them.¹²⁵⁹ Similar claims were made at some of the workplaces in Tanga.¹²⁶⁰

In Dodoma, a mediator at the Commission for Mediation and Arbitration (CMA), claimed that the fact that no complaints of labour rights violations are ever filed by PWDs shows that most employers in the private sector do not hire them.¹²⁶¹ He added that most employers use a word that is insensitive when explaining why they do not like to employ PWDs, '**unemployable.**' He noted that this is the reason very few PWDs are employed in the business sector, compared to those employed by the Government. In Tanga, one of the employers claimed they avoid employing women or PWDs because they are 'expensive' to accommodate and 'unreliable.'¹²⁶²

Another key driver of unemployment of PWDs is lack of effective enforcement of the Persons with Disabilities Act.

2% loan for PWDs from LGA revolving fund

As discussed in detail the sub-chapter on women's rights above, PWDs are also entitled to loans provided by LGAs at the rate of 2%. However, enjoyment of this opportunity for PWDs is hindered by various factors, including:

- failure of some LGAs set aside funds for the revolving fund and fully disburse funds;
- provision of loans to unqualified groups;
- disregard of procedure in provision of loans;
- inadequate funds;
- concerns over loan repayment period;
- misuse of funds, mistrust, and quarrelling among group members;
- non-payment of loans;
- corruption, favouritism, and lack of transparency;
- lack of entrepreneurship and proposal writing skills;
- political interference with the loan provision process;
- delays in disbursement of funds; and
- access to information about loans, especially for PWDs.

5.3.3. Stigma and Discrimination against PWDs

In 2022, incidents of stigma and discrimination against PWDs were reported in regions such as Njombe, Kilimanjaro, Dar es Salaam, Dodoma, Arusha, Katavi, Rukwa, Mbeya, Iringa, and Morogoro. Social isolation, including of children with disabilities, was said to be a major challenge.

¹²⁵⁹ Human Rights and Business Survey 2022: Pwani Field Report.

¹²⁶⁰ Human Rights and Business Survey 2022: Tanga Field Report.

¹²⁶¹ Human Rights and Business Survey 2022: Dodoma Field Report.

¹²⁶² Human Rights and Business Survey 2022: Tanga Field Report.



In Njombe, the survey team came across an incident of 13-year-old child with disability who was not sent to school because of disability. One of the interviewed community members said that some people in the community believe disability is a curse.¹²⁶³ Consequently, they tend to lock up children with disabilities inside the house and neglect them.

'Many children with disabilities are locked up at home by their parents, and in some cases, it is difficult to know if there are such children in some families unless you are close to them, as their existence becomes a family secret. Most of these children are not taken to school and are not even allowed to go outside the house because their disabilities are considered a curse.'

PWD – Ludewa, Njombe

In Dar es Salaam, the survey on business and human rights found that some employers do not like hiring PWDs because they 'are not as effective as persons without disability.'¹²⁶⁴ In Pwani, it was reported that PWDs are not employed at industries because they 'may somehow delay production' and the environment is 'not suitable' for them.¹²⁶⁵ Similar claims were made at some of the workplaces in Tanga.¹²⁶⁶

5.3.4. Violence against PWDs

In 2022, PWDs continued to be targeted and subjected to different acts of violence, including physical, economic, psychological, and sexual violence. In May 2022, the Tanzanian Albinism Society (TAS) called on PWDs and their families to take all precautions to ensure they avoid acts of violence against them.¹²⁶⁷ In 2022, LHRC documented at least 12 incidents of violence against PWDs, including PWAs and children with disabilities. Acts of violence included rape, physical attack, verbal abuse, isolation, and denial of education.

Physical and psychological violence

In Kilimanjaro, Rebeca Siowi (30), resident of Makiwaru Village in the region was accused of killing her 5-year-old child with disability by denying her food, then burying her secretly. The incident occurred on 21st April 2022.¹²⁶⁸ In Manyara, Babati District Court sentenced Shaban Jumanne (20), to 30

1263 LHRC Human Rights Survey 2022: Njombe Field Report.

1264 Human Rights and Business Survey 2022: Dar es Salaam Field Report.

1265 Human Rights and Business Survey 2022: Pwani Field Report.

1266 Human Rights and Business Survey 2022: Tanga Field Report.

1267 "TAS urges PWDs to be more vigilant" DAILYNEWS Newspaper, 3 May 2022.

1268 "Utata mwanamke anayedaiwa kumuua mwanae na kumzika" Nipashe Newspaper, 24 Apr 2022.



years in prison for raping a 16-year-old girl with disability. He committed the offence on 28th July 2022.¹²⁶⁹

Violence against PWAs, motivated by witchcraft beliefs

In recent years, attacks and killings of persons with albinism (PWAs) have re-emerged. In 2021, brutal killing of a child with albinism, aged around 4 to 7 years, was reported in Tabora Region. In 2022, LHRC documented another incident of attack and killing of Joseph Mathias (50), whose hand was cut by unknown assailants, causing him to bleed to death. The incident occurred in Kwimba District, Mwanza Region. In a joint press conference with Tanzania Albinism Society (TAS), LHRC condemned the brutal killing of Joseph Mathias and urged the society to discourage and not embrace all harmful traditional beliefs that contribute to the increase in the attacks against PWAs and recognize that they are human beings like others.¹²⁷⁰

Economic violence

In December 2022, a senior officer at the Anti-Trafficking Secretariat (ATS), Ahmad Mwidadi, mentioned that some persons with disabilities (PWDs) are trafficked for the purpose of begging.¹²⁷¹

5.3.5. Access to Health Services and Buildings

Concern over access to quality maternal health services for women with disabilities

In March 2022, women with disabilities in the country called on the government to improve health services and help the group obtain high quality maternal healthcare services in various facilities.¹²⁷² Tanzania Federation of Disabled People's Organization (SHIVYAWATA) Chairperson, Nuru Awadhi, said government intervention is needed because pregnant women with disabilities experience challenges during the labour and delivery process. She also mentioned the challenge of beds used by women with disabilities during labour being unfriendly; maternity care providers lacking relevant knowledge and skills to attend women with disabilities; and stigma and discrimination of pregnant women with disabilities. SHIVYAWATA called on the government allocate special beds for pregnant women with disabilities in hospitals and allow them

1269 Jaliwason Jasson "Ahukumiwa jela miaka 30 kwa kunajisi binti" Nipashe Newspaper, 12 Oct 2022.

1270 "LHRC urges public to shun harmful traditional beliefs" The Guardian Newspaper, 8 Nov 2022.

1271 Francisca Emmanuel "Nchi nane zatajwa mabinti wanakotumikishwa kingono" HABARILEO Newspaper, 19 Dec 2022.

1272 Beatrice Philemon "Women with disabilities call on govt to improve health services" The Guardian Newspaper, 16 Mar 2022.



to get assistance of sign language interpreters, since most healthcare professionals lack knowledge about disabilities.

Concerns over lack of disability-friendly infrastructure

In June 2022, PWDs in Dodoma, Morogoro, and Njombe lamented lack of disability-friendly infrastructure, identifying it a key challenge they face.¹²⁷³ This is a challenge for both adults and children, as most schools do not have disability-friendly facilities, including toilets.

5.3.6. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs and the Ministry of Foreign Affairs, to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa of 2018.
- The media to report, raise public awareness, and expose incidents of violations of rights of vulnerable groups, including PWDs, including different forms of violence.
- Community members to refrain from stigmatizing and discriminating PWDs and ensuring their rights are respected and protected.

5.4. Rights of the Elderly

Unlike for women, children, and PWDs, there are no specific human rights conventions for the elderly. Argument has been made that absence of such an instrument means lack of comprehensive and systematic framework for the protection and promotion of rights of the elderly.¹²⁷⁴ According to the 2011 report of the Secretary General to the UN General Assembly, older persons around the world face four major challenges in terms of human rights.¹²⁷⁵ These challenges are discrimination, poverty, violence and abuse, and lack of specific measures and services.¹²⁷⁶ These challenges are also major challenges faced by the elderly in Tanzania,¹²⁷⁷ who are believed be over four million people.

In 2022, key issues affecting the rights of the elderly in Tanzania included different forms of violence, threatening their safety and welfare; access to

1273 "Watu wenye ulemavu walia na miundombinu" Mwananchi Newspaper, 29 Jun 2022; LHRC Human Rights Survey 2022: Morogoro Field Report; LHRC Human Rights Survey 2022: Njombe Field Report.

1274 See HelpAge International "Towards a UN convention on the rights of older people" at <https://www.helpage.org/what-we-do/rights/towards-a-convention-on-the-rights-of-older-people/>, accessed 5th January 2019.

1275 See Follow-up to the Second World Assembly on Ageing: Report of the Secretary-General, Sixty-sixth session, A/66/173, 22 July 2011 at <https://undocs.org/A/66/173>, accessed 5th January 2019.

1276 Ibid.

1277 According to the Tanzania National Age Policy 2003, these are people who are 60 years and above.



health services; attacks and killings, and social protection.

5.4.1. Protection of Rights of the Elderly

Legal protection of the rights of the elderly in Tanzania is inadequate. In LHRC's view, it is high time for Tanzania (Mainland Tanzania) to enact a law to protect the rights of the elderly, like our neighbours Zanzibar. In Zanzibar, the Elderly Affairs Bill was signed into Law by the former President, H.E Dr. Ali Mohammed Shein in June 2020,¹²⁷⁸ a key milestone for protection of the elderly rights in Zanzibar. Among other things, the law recognizes the right to universal pension for older people in Zanzibar. Many other countries in the world have in place the elderly rights law. For instance, China has the Elderly Rights Law,¹²⁷⁹ which prohibits adult children from neglecting or snubbing elderly people and South Africa has the Older Persons Act No. 13 of 2006.

In September 2022, the World Health Organization (WHO) and *HelpAge International* called on the government to enact a special law which will supervise and strengthen protection of older people in Tanzania and take into account all their needs.¹²⁸⁰

5.4.2. Access to Health & Other Services

In 2022, the elderly continued to be disproportionately affected by challenges hindering effective enjoyment of their right to health. These challenges included lack of medical services nearby where health facilities are located far, shortage of health workers, and shortage of medicines and medical supplies. This is because health is their single most important asset.

5.4.3. Violence against the Elderly

In Africa, it is common for older people to be subjected to negative attitudes and abandoned and neglected by their families.¹²⁸¹ In extreme cases, they are also subjected to various forms of violence, including rape and physical abuse.¹²⁸² However, it has been observed that most of them tend to not report the abuses they suffer, usually due to fear and ignorance of their rights. Older women, especially widows, are said to experience more abuse than older men, including over witchcraft suspicion.¹²⁸³

1278 See HelpAge International, Elderly affairs bill signed into Law in Zanzibar, at <https://www.helpage.org/newsroom/latest-news/elderly-affairs-bill-signed-into-law-in-zanzibar-tanzania/>.

1279 Karina Martinez-Carter "How the elderly are treated around the world" *The Week*, 11 January 2015, at <https://theweek.com/articles/462230/how-elderly-are-treated-around-world>.

1280 Mary Kadoke, Naima Ahmad & Abdallah Mfaume "Stakeholders call for enactment of special law on elderly's protection" *The Guardian Newspaper*, 28 Sep 2022.

1281 HelpAge International, *Protecting the rights of older people in Africa* (supra).

1282 Ibid.

1283 Ibid.



In 2022, LHRC documented at least 24 incidents of violence against the elderly, increasing from 16 documented in 2021. But it should be noted that this could just be a small fraction of the actual number of incidents reported, considering the problem of non-reporting of different forms of violence against older people.

Elderly men and women were subjected to different acts of physical, sexual, psychological, and economic violence, including rape, beatings, neglect, being attacked with sharp objects, and being deprived of property.

Physical violence: Brutal elderly attacks and killings over witchcraft suspicion, property, and other reasons

In 2022, elderly persons faced physical violence for different reasons, including witchcraft suspicion, inheritance or property disputes, and witnessing a crime. For instance, in Mwanza, Jesto Machibya (34), resident of Nyashoshi Village in Magu District, killed his ex-wife and his father before committing suicide by hanging. He killed his father, Lucas Machibya (75), because he saw him killing his wife. The man had separated with his wife in February 2021; and they left behind two children.¹²⁸⁴

In March, police in Nzega District arrested Michael Jacob (25) for brutally killing his father with an axe, which he used to hit him with on the head, neck, and arms. His actions were witchcraft motivated, accusing his father of bewitching him and causing him to get epilepsy.¹²⁸⁵ In April, police in Shinyanga arrested a man, Mwadu Shija (32), resident of Shinyanga Municipality, accused of killing his father for allegedly catching him with his wife on the bed.¹²⁸⁶

In June, it was reported in Shinyanga that Elizabeth Kibata (70), resident of Isagong'o Village in Kahama District, was attacked at her home by three unknown people and killed.¹²⁸⁷ In July, a man and his wife, Paul Mushi (70) and Felista Mariki Mushi (65), residents of Mamushi Kati Village in Moshi District, were reportedly brutally attacked with a machete and killed by one of the husband's relatives, Jonas Mushi (26), over witchcraft allegation on 19th July 2022.¹²⁸⁸

In August, an elderly woman, believed to approach 100 years, Felister Shayo,

1284 Mgongo Kaitira "Aua mtalaka, baba mzazi kisha kujiua" Mwananchi Newspaper, 8 Oct 2022.

1285 Lucas Raphael "Mtoto aua baba kwa shoka, ajeruhi dada" HABARILEO Newspaper, 5 Mar 2022.

1286 "Adaiwa kumuua baba yake baada ya kumkuta ameleta na mkewe" Nipashe Newspaper, 28 Apr 2022.

1287 "Baba auwawa kwa kupigwa na kitu Kizito kichwani" Nipashe Newspaper, 28 Jun 2022.

1288 Mwananchi Newspaper, 21 Jul 2022; LHRC Human Rights Monitoring 2022.



was reportedly killed by her daughter-in-law, Rosista Moshi (48), over a land dispute, which had lasted 10 years. The elderly woman, resident of Kirongo Juu Village, was hit with a heavy object on the head.¹²⁸⁹ In the same month, the National Elders Council condemned the killing of a 78-year-old man, Jonas Komba, in Mahanje Village, Madaba District. The elderly man was killed over witchcraft suspicion, accused of killing his son, Severeni Komba. He was buried alive by some residents in his village. Police arrested 12 people in connection with the incident.¹²⁹⁰ In Mwanza, Phillip Mtakope (64), resident of Magu District, was reportedly beaten to death by guards at a Chinese-owned company for trespassing into the company property while chasing away hyenas.¹²⁹¹ In August, there was another incident in Shinyanga, where Kabula Ngasa (60), resident of Nyinda Village in the region was attacked with machetes and killed by unknown people.¹²⁹²

In September 2022, police in Lindi arrested Raymond Milandi (33), resident of Mchangani Village in Nachingwe District, for killing his grandmother and two aunts over a farm dispute. Two of the victims were elderly women, aged 76 and 68.¹²⁹³ In the same month, police in Mtwara arrested Kilistausi Victory (23), resident of Masasi District, who was said to have killed his father because he failed to find him a woman to marry. He also attacked his mother.¹²⁹⁴ Again, in September, Shinyanga Elders Council condemned killings of the elderly motivated by witchcraft allegations and belief, following the brutal killing of Sophia Dotto (66), an elderly woman and resident of Kazuni Village in Shinyanga, who was killed over witchcraft suspicion.¹²⁹⁵ Again in this month, it was reported that two people, including a 76-year-old woman, Kija Nkenda, were killed over witchcraft allegation and property dispute on 5th September 2022 at their home in Itete Village in Malinyi District.¹²⁹⁶

In October 2022, the Minister of State, Prime Minister's Office (Policy, Parliamentary Affairs & Coordination), Hon. George Simbachawene, disclosed in October 2022 that most of the elderly killings in 2022 were motivated by greed over their property and belief in witchcraft.¹²⁹⁷ In the same month, Elina Nzilano (87), resident of Makambako Town, was killed by her son, Elisha Mwema (42), for scolding her grandchild for stealing, cooking,

1289 "Kikongwe wa miaka 100 auwawa akigombea ardhi" Mwananchi Newspaper, 20 Aug 2022.

1290 "National Elders Council condemns killing of elders in Ruvuma" DAILYNEWS Newspaper, 24 Aug 2022; "Mapya yaibuka watoto waliomzika hai baba yao" Mwananchi Newspaper, 16 Aug 2022.

1291 Mwananchi Newspaper, 29 Aug 2022.

1292 "Watu wauwawa kikatili, wamo waliochomwa moto" Nipashe Newspaper, 3 Aug 2022.

1293 Hamis Nasri "Mbaroni tuhuma mauaji ya bibi na shangazi zake" Nipashe Newspaper, 22 Sep 2022.

1294 "Adaiwa kumuua baba yake kwa kushindwa kumtafutia mke" Nipashe Newspaper, 9 Sep 2022.

1295 Nipashe Newspaper, 26 Sep 2022; LHRC Human Rights Monitoring 2022.

1296 Nipashe Newspaper, 7 Oct 2022.

1297 Augustino Njoi "Simbachawene ataja sababu mbili mauaji ya wazee" Nipashe Newspaper, 5 Oct 2022.



and eating a chicken.¹²⁹⁸ Furthermore, a 75-year-old woman, Mwajuma Sadru, resident of Morogoro Municipality, was reportedly killed by a man following a dispute over doing business on her property.¹²⁹⁹

In November 2022, it was reported in Songwe that Berta Shugha (69), resident of Kaloleni Village, Songwe District, was brutally attacked and killed by a man, Lazaro Adamson (40), cutting her body into pieces and reportedly eating some of them.¹³⁰⁰

In December, police in Mwanza arrested a woman and her two sons for killing their husband and father. It was reported that the wife and children hired killers and paid them Tshs. 800,000 to commit the murder on 1st December 2022. The cause of the murder was the victim kicking out of his house one of his sons for being a thief. The mother was enraged by this decision, prompting her to mastermind the murder.¹³⁰¹ In the same month, it was reported in neighbouring Shinyanga Region that Mbalu Shija (68), resident of Mwalukwa Village, Shinyanga District, was brutally killed with a machete over witchcraft suspicion, and police arrested the perpetrator.¹³⁰² Additionally, in this month, the Shinyanga Regional Commander, Janeth Magomi, disclosed that elderly killings were still prevalent in some villages. He gave an example of a recent incident in Didia Ward, where an elderly woman was attacked at her home and hit with a heavy object by unknown assailants. He said that most of the killings are fueled by the practice of divination (ramli) by witchdoctors, as people consult a witchdoctor for divination in order to know who 'bewitched' them.¹³⁰³

In December, it was also reported that a women's network in Urambo District condemned the public flogging of elderly women accused of being witches in the district. Four elderly women and their two daughters, one of which was pregnant, were reportedly subjected to such inhuman and degrading treatment. They were flogged after the perpetrators, reportedly led by Kasisi Ward Councilor, poured water on them and removed some of their clothes. The incidents caused unrest among elderly people and their families in the district, prompting some of them to relocate for fear of attacks and being killed, leaving behind their properties.¹³⁰⁴

1298 Elizabeth John "Ajuzi adaiwa kuuwawa na mwanawe mwenye ulemavu" Nipashe Newspaper, 1 Oct 2022.

1299 LHRC Human Rights Monitoring 2022.

1300 Grace Mwakalinga "Aua na kula nyama ya mtu" Nipashe Newspaper, 15 Nov 2022.

1301 Richard Makore "Mama, watoto wadaiwa kumuua baba yao" Nipashe Newspaper, 14 Dec 2022.

1302 Marco Maduhu "Mzee auwawa kukatwa panga imani za kishirikina zikitajwa" Nipashe Newspaper, 24 Dec 2022.

1303 Kareny Masasy "Mauaji ya wazee bado yapo Shinyanga" HABARILEO Newspaper, 30 Dec 2022.

1304 "Walaani wenzao kutandikwa viboko" Nipashe Newspaper, 17 Dec 2022.



Witchdoctors driving elderly witchcraft-suspicion killings

Witchdoctors were at the centre of most witchcraft-motivated killings in 2022, accused of fueling such killings. In Shinyanga, police disclosed in September 2022 that the practice of divination (popularly called *ramli* by the natives) by witchdoctors is one of the causes of violence against people, especially senior citizens, in the community. The Regional Police Commander called upon the witchdoctors to stop the practice, following the killing of one senior citizen, who was killed over witchcraft suspicion after a witchcraft doctor had read the 'divining board'.¹³⁰⁵ In Njombe, the Human Rights Survey 2022 found that witchdoctors also determine the fate of older persons suspected to be 'witches'.¹³⁰⁶ In Katavi, a 67-year-old woman, resident of Mpanda District, was reportedly killed by a 28-year-old man, after he was told by a witchdoctor that it was the elderly woman who was the source of his misfortune.¹³⁰⁷ A community member in the region commented that elderly women are killed because they are perceived to 'hinder' peoples' development.¹³⁰⁸

'Older persons are the witches, responsible for killing youth in our village. When the witchdoctors tell us that that a certain older person has bewitched another person, we don't think twice in 'getting rid' of them.'

Community member (female) - Njombe DC, Njombe

'When someone dies, community members often check with witchdoctors to see if there is anything unusual about the death, and if they are told that a certain person is responsible then they do whatever it takes to take their life as well..'

Ward Executive Officer - Njombe

Psychological violence

Through media survey, human rights monitoring, and human rights survey, LHRC documented incidents of psychological violence against the elderly reported in regions such as Mbeya, Kilimanjaro, Njombe, Singida, Pwani, and Kigoma. In September 2022, elderly people in Mbarali District, Mbeya Region, lamented their children leaving them to raise their grandchildren without any support.¹³⁰⁹

1305 "Polisi: Ramli chonganishi chanzo matukio ya ukatili" Nipashe Newspaper 19 Sep 2022.

1306 LHRC Human Rights Survey 2022: Njombe Field Report.

1307 LHRC Human Rights Survey 2022: Katavi Field Report.

1308 Ibid.

1309 Joachim Nyambo "Kesho Siku ya Wazee, waomba kupunguziwa kulea wajukuu" HABARILEO Newspaper, 30 Sep 2022.



In December 2022, Masama Magharibi Ward Councilor in Hai District - Kilimanjaro, Mashoya Matai, lamented the tendency of youth abandoning their children with their grandparents, creating a huge burden for them to raise them. He noted that most of the children at Lukani Children Centre were left by their parents to be raised by their grandparents, who are unable to provide them with basic needs such as food, clothing, and education.¹³¹⁰ In Njombe, the behaviour of parents ‘dumping’ their children on their grandparents was also reported to become a big problem, leaving the children more vulnerable to different forms of violence.¹³¹¹

In Pwani and Singida, interviewed community members and paralegals also mentioned that there are many children who are left by their parents to be raised by grandparents, while providing the grandparents with little or no support. They noted that most of these children are usually subjected to acts of violence, as their grandparents can do little to protect and take care of them.¹³¹²

Economic violence: Interference with elderly people’s property rights

In Kilimanjaro, Elizabeth Chuwa, a widow and resident of Shirimatunda Village in Hai District, urged the Government to intervene and help regain her land, after she was forcibly evicted by children of her deceased husband’s brother. She said she had been living on the property since 1948 and has been harassed over it since her husband died 20 years ago.¹³¹³ In the same region, Hilda Maeda (82), resident of Moshi District, requested help from the President Samia Suluhu Hassan and human rights NGOs to prevent her son from forcibly taking her properties she acquired with her late husband.¹³¹⁴ In Kigoma, elderly persons were said to be targeted for their property.¹³¹⁵ For instance, an older person in Kasulu TC took his children to court in February 2022 for attempting to forcibly take his properties.¹³¹⁶

Sexual violence

In December 2022, police in Njombe arrested Otmary Wangerage (38), resident of Njombe Town, for raping an elderly woman aged 80 years.¹³¹⁷ In Njombe at least two incidents of rape of elderly women were reported.¹³¹⁸ A SWO in Njombe TC revealed that some elderly women are raped for

1310 “Diwani atanga kaima kwa vijana wanaotelekeza watoto” Nipashe Newspaper, 13 Dec 2022.

1311 LHRC Human Rights Monitoring 2022.

1312 LHRC Human Rights Survey 2022: Pwani & Singida Field Reports.

1313 Mary Mosha “Mjane aiomba serikali kuingilia mgogoro ardhi” Nipashe Newspaper, 26 Sep 2022.

1314 Mwananchi Newspaper, 12 Apr 2022.

1315 LHRC Human Rights Survey 2022: Kigoma Field Report.

1316 Ibid.

1317 James Kasanga “Kijana atuhumiwa kumbaka ajuza mwenye umri wa miaka 80” HABARILEO Newspaper, 29 Dec 2022.

1318 LHRC Human Rights Survey 2022: Njombe Field Report.



purposes of perpetrators getting rich, as instructed by witchdoctors.¹³¹⁹

'There is an elderly woman who was raped by an unknown man in the bushes, and now we (elderly women) are even afraid to go to farm alone.'

Elderly woman – Njombe

5.4.4. Parricide: When Children Kill their Parents

Parricide is when a child kills their parents, mother (matricide) or father (patricide) or another near relative.¹³²⁰ In recent years, parricide has become a problem in different parts of the world, including Africa. It is now not uncommon for children to kill their parents for different reasons, including property. For instance, it was reported in India in October 2021 that a husband and his wife conspired and killed his parents and younger brother so that they gain ownership of family property.¹³²¹ In Africa, there have also been cases of parricide in different parts of the continent, but only a few studies on the matter have been conducted, especially in South Africa.¹³²²

In 2022, LHRC documented at least 8 incidents of parricide, 3 more than those documented in 2020 and 2021 combined.

In 2022, LHRC documented a least 8 incidents of parricide, reported in Mwanza, Tabora, Shinyanga, Kilimanjaro, Ruvuma, Mtwara, and Njombe Regions, as discussed above. Among those killed, six were fathers, and two were mothers. All perpetrators, save one, were male. Reasons for killing them included father witnessing a crime, witchcraft suspicion, father having an affair with daughter-in-law, land dispute/property, father failing to find son a woman to marry, mother scolding her grandchild, and father kicking son out of the house because of bad behaviour.

5.4.5. Social Protection for the Elderly

Social protection provides secure incomes for people in old age and pensions and are crucial form of social protection. According to *HelpAge International*,

¹³¹⁹ Ibid.

¹³²⁰ Joyce Lupiani "Explanation of parricide and why kids kill parents" KTNV, 11 June 2021, at <https://www.ktnv.com/news/crime/explanation-of-parricide-and-why-kids-kill-parents>; Jeffrey L. Metzner "When a Child Kills: Abused Children Who Kill Their Parents, Jama Network, 17 June 1992, at <https://jamanetwork.com/journals/jama/article-abstract/397911>.

¹³²¹ "Tamil Nadu: Couple gets death penalty for killing parents over property in Villupuram District" TIMES OF INDIA, 31 October 2021, at <https://timesofindia.indiatimes.com/city/chennai/tamil-nadu-couple-gets-death-penalty-for-killing-parents-over-property-in-villupuram-district/articleshow/87416148.cms>.

¹³²² Moen, Melanie & Shon, Phillip. (2020). Attempted and Completed Parricides in South Africa, 1990–2019. *International Journal of Offender Therapy and Comparative Criminology*. 65. 0306624X2092802. 10.1177/0306624X20928023.



just 4% of older people in Tanzania receive a pension, forcing them to take on difficult tasks such as farming, which is physically too demanding to them.¹³²³ Delays in pension payment is also a challenge. For instance, in May 2022, the Trade Union Congress of Tanzania (TUCTA) in Shinyanga lamented delays in payment of pensions for retirees.¹³²⁴

5.4.6. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs, to table a bill in Parliament to propose enactment of a specific law to cater for the promotion and protection of the elderly.
- The Ministry of Community Development, Gender, Women and Special Groups to fast-track the process of introducing pension for the elderly.
- CSOs to continue raising awareness on the rights of the elderly and conduct campaigns on ending violence and discrimination against the elderly.

5.5. Youth Rights

5.5.1. Overview

Like other human beings, youth are guaranteed their human rights under various international and regional human rights instruments, including the Universal Declaration of Human Rights (UDHR) of 1948; the International Covenant on Civil and Political Rights (ICCPR) of 1966; the African Charter on Human and Peoples Rights (Banjul Charter) of 1981; and the African Charter on the Rights and Welfare of the Child (ACRWC) of 1981. In Africa, like in other parts of the world, there is a specific convention for youth rights, the African Youth Charter of 2006.¹³²⁵ According to the Charter, youth or young people refer to every person between ages 15 and 35 years.¹³²⁶

The African Youth Charter recognizes various youth rights and stipulates their duties. The rights include **right to non-discrimination**; freedom of movement; **freedom of expression**; freedom of association; freedom of thought, conscience and religion; protection of private life; protection of the family; right to own and inherit property; right to social, economic, political,

1323 See HelpAge International “Why do we work in Tanzania?” at <https://www.helpage.org/where-we-work/helpage-global-network-members-in-africa/tanzania/>, accessed 28 November 2021.

1324 “TUCTA yalalamika wastaafu kucheleweshewa mafao” Nipashe Newspaper; 2 May 2022.

1325 African Youth Charter, adopted by the Seventh Ordinary Session of the Assembly, held in Banjul, The Gambia on 2nd July 2006.

1326 Ibid.



and cultural development; right to participate in all spheres of society; **right to education of good quality**; **right to gainful employment**; and **right to adequate standard of living**. Other fundamental rights of youth enshrined in the Charter include the right to enjoy the best attainable state of physical, mental, and spiritual health; right to social security; right to presumption of innocence when accused of crime; and fair trial rights.

The African Youth Charter imposes several obligations upon States Parties, including developing a comprehensive and coherent national youth policy; taking measures to eliminate discrimination against girls and young women according to obligations stipulated in various international, regional and national human rights conventions; take measures to protect right of mentally and physically challenged youth; and take measures to eliminate harmful social and cultural practices.

Youth responsibilities under the Charter include becoming custodians of their own development; protecting and working for family life and cohesion; partaking fully in citizenship duties including voting, decision making and governance; engage in peer-to-peer education to promote youth development; reject and expose corruption; and defending democracy, the rule of law and all human rights and fundamental freedoms.¹³²⁷

5.5.2. Key issues affecting youth rights: Human Rights Survey 2022 findings

In 2022, LHRC observed that youth are most concerned about 1. Employment 2. Quality of education 3. Health 4. Discrimination & violence 5. Participation in decision-making.

Youth who participated in the Human Rights Survey 2022 were asked about issues that affect them and their rights. They mentioned and discussed various issues, including awareness about rights; employment and economic opportunities; globalisation and the pressure of social networking; knowledge about sexual and reproductive health and rights; access to quality and youth-friendly health services; mental health; and harmful cultural practices. Youth also identified issues such as political participation, leadership, and decision-making; quality education; alcoholism and drugs/substance abuse; teenage pregnancy; vulnerability to crime; and violence.

¹³²⁷ Article 26 of the African Youth Charter, 2006.



Awareness about rights

In all surveyed regions, majority of youth who participated in focus group discussions (FGDs) said lack of awareness about their rights is a big challenge. Approximately 80% of FGD participants said that lack of awareness about youth rights is a big challenge. However, the remaining 20% said youth are somewhat aware of their rights, but the main challenge is claiming or realizing them.¹³²⁸

Employment and economic opportunities

Unemployment was cited as the biggest challenge facing youth in all surveyed regions. Nearly all youth who participate in discussions said they find access to employment difficult, and lamented corruption in the job market, including in the form of bribe and nepotism, as a big hurdle for youth, especially those coming from poor families, as they do not ‘anyone to hold their hands.’¹³²⁹ Some youth in nearly half of the surveyed regions, including Katavi, Singida, Kilimanjaro, and Dodoma, also bemoaned some people being given more jobs when they retire, including in political spheres, while there are youth who are unemployed and underemployed.

‘You may find that someone has retired but then is immediately given another job, while there are university graduates with no jobs in the streets. People should not be rehired so that we can also get jobs.’

Youth – Singida MC, Singida

In regions such as Arusha, Kigoma, and Dar es Salaam, female youth said sextortion is a daily struggle for them when seeking employment, and sometimes even when starting or running a business.¹³³⁰ In Kigoma, human resource officers were mentioned as the main perpetrators of sextortion.¹³³¹

‘I have given up on being employed, despite having the qualifications, because of sexual corruption in the job market. I am better off doing some online business, although lack of sufficient capital is a challenge.’

Youth – Arusha CC, Arusha

Some of the youth, including in Dar es Salaam and Mwanza, said they

1328 LHR Human Rights Survey 2022: Dodoma, Arusha, Kilimanjaro, & Pwani Field Reports

1329 LHRC Human Rights Survey 2022: Dar es Salaam, Mbeya, Kigoma, & Singida Field Reports.

1330 LHRC Human Rights Survey 2022: Arusha & Dar es Salaam Field Reports.

1331 LHRC Human Rights Survey 2022: Kigoma Field Report.



have to do with temporary and informal jobs, usually characterized by poor working conditions and pay, in order to earn a living, even when they have skills for better jobs.¹³³² They noted that lack of employment and economic opportunities makes it difficult for youth to escape poverty. In Kigoma, youth associated lack of employment with limited access to nutritious food, which creates health problems.¹³³³

'..What can we do my brother? We can't just sit around, we shall die of hunger. We have to do whatever job that comes our way, regardless of our degrees. Sometimes we help our employed friends and colleagues with office work and they pay us a little so that we can survive. I believe one day I shall be able to move from where I am today..'

Youth – Mwanza CC, Mwanza

Regarding the entrepreneurship option, some of the youth said that it is very limited due to lack of capital, high costs of running a business, and limited access to training.¹³³⁴ In Mtwara, some youth indicated that there is a challenge of lack of family support when they want to employ themselves. One of them said:

'The environment is not very supportive for youth self-employment. Our education prepares youth for employment, not entrepreneurship, and parents prefer you get employed. My father never wanted me to employ myself, but I had to, and now I can at least send him some little money...'

CCM Youth – Tandahimba, Mtwara

Other youth, especially petty traders popularly known as '*machingas*', said their biggest challenge is government disruption of their businesses, accusing government law enforcement officials of constantly harassing them and sometimes confiscating their items.¹³³⁵

Regarding the 4% loan available through LGAs' revolving fund, some youth highlighted challenges such as corruption and political interference. They noted that some groups are favoured in provision of loans.¹³³⁶ They also recommended more funds to be allocated for youth as more of them graduate and enter the job market every year.

1332 LHRC Human Rights Survey 2022: Dar es Salaam & Mwanza Field Reports.

1333 LHRC Human Rights Survey 2022: Kigoma Field Report.

1334 LHRC Human Rights Survey 2022: Singida & Geita Field Reports.

1335 LHRC Human Rights Survey 2022: Dar es Salaam & Tabora Field Reports.

1336 LHRC Human Rights Survey 2022: Dar es Salaam, Iringa, Kigoma & Geita Field Reports.



The pressure of social networking and laziness

In some regions, such as Dodoma, Iringa, Mtwara, and Arusha, some youth criticized fellow youth for being lazy and spending too much time on social media instead of looking for work and/or seeking entrepreneurship opportunities. In Dodoma, some of the interviewed youth said they had not considered organizing themselves and apply for the 4% loan given to youth by LGAs.¹³³⁷

'Sometimes the opportunities are there, but as youth we fail to grab them. For instance, there is the opportunity of the 4% loans granted by LGAs to youth, which some youth have not taken advantage of. Some think they stand little chance of getting the loans, but for me you should at least try..'

Youth – Dodoma

Some youths were also accused of trying to live fake lives, especially on social media platforms, which cost them time and money – money they could invest to generate income. Faking lifestyles was said to be a bigger problem among young women, seeking to appease their 'friends' on Instagram, TikTok, and Facebook.¹³³⁸

Knowledge about sexual and reproductive health and rights

Lack of knowledge about sexual and reproductive health and rights was said to be a big challenge in Mtwara. This was said to disproportionately affect girls and young women, leaving them vulnerable to unplanned and unwanted pregnancies, HIV/AIDS, and shattering their dreams.¹³³⁹ Accessing age-appropriate sexual and reproductive health and rights information and services is therefore a challenge for many young people.

Access to quality and youth-friendly health services

In some regions, such as Morogoro, most youth indicated that they had organized themselves in groups of 6 to obtain community health insurance, with each member contributing Tshs. 5,000.¹³⁴⁰ However, they noted that the health service providers are more friendly with those who pay cash than those with health insurance, who are usually served last.¹³⁴¹ In Singida, some

1337 LHRC Human Rights Survey 2022: Dodoma Field Report.

1338 LHRC Human Rights Survey 2022: Dodoma & Singida Field Reports.

1339 LHRC Human Rights Survey 2022: Mtwara Field Report.

1340 LHRC Human Rights Survey 2022: Morogoro Field Report.

1341 Ibid.



youths in Manyoni District mentioned lack of youth-friendly language among nurses as a challenge.¹³⁴² In Geita, some youth also mentioned fears over lack of confidentiality among health workers as an obstacle to access to youth-friendly quality health services.¹³⁴³



Picture 24: A CHF card of one of the youth who participated in the survey in Morogoro

Source: Field data, 2022

Some youth also pointed out it is difficult to get health insurance without having jobs.¹³⁴⁴ Consequently, medical costs become a big burden for the unemployed youth, especially those from poor families.

Mental health

Youth in regions such as Kilimanjaro, Dar es Salaam, and Iringa, also mentioned mental health as an issue of concern among youth, contributed by lack of employment, which leaves them vulnerable to drugs or substance abuse and mental health disorders such as depression and anxiety. This was said to be a bigger concern among male youth, who are expected to get jobs and bring 'respect' into their families after they finish their studies.

Harmful cultural practices, including FGM and child/forced marriage

Harmful cultural practices such as FGM and child and forced marriages were also said to be a challenge for female youth, especially in rural areas. This was especially mentioned as a challenge by youth in Kigoma, Mara, Dodoma, Mara, Singida and Tabora Regions.

¹³⁴² LHRC Human Rights Survey 2022: Singida Field Report.

¹³⁴³ LHRC Human Rights Survey 2022: Geita Field Report.

¹³⁴⁴ LHRC Human Rights Survey 2022: Kagera Field Report.



Political participation, leadership, and decision-making

Most youth in the surveyed regions indicated that they have limited political participation, are usually not actively involved in decision-making processes, and are perceived to be greedy, hence unfit for leadership. In regions such as Dar es Salaam, Mtwara, Mwanza, Mara, Iringa, and Pwani, some youth claimed that are usually used by politicians as *machawa* (people who sing praises leaders/politicians or other prominent members of the society, usually in exchange for money or favours).¹³⁴⁵

'Politicians use us when it is convenient for them, targeting our influence among fellow youth. But when it comes to leadership, we are not trusted and forgotten..''

Youth – Tandahimba, Mtwara

'The community has shown little faith in youth to become good leaders....'

Youth – Kasulu TC, Kigoma



Picture 25: FGD with youth bodaboda drivers in Iringa

Source: Field data, 2022

Effective participation of young women in politics was said to be hindered mainly by sexual corruption. Both male and female youth who participated in discussions said young female political aspirants are usually subjected to acts of sexual violence such as sextortion in order to be supported by party

¹³⁴⁵ LHRC Human Rights Survey 2022: Dar es Salaam, Mtwara, Mwanza, Mara, & Pwani Field Reports.



leaders.¹³⁴⁶

‘For young women in politics, one of the biggest challenges we face is sexual corruption, which minimizes our chances of being appointed to leadership positions or as candidates during elections.’

Youth – Kibaha, Pwani

However, some youths, especially in Mtwara, criticised each other for being ‘unpatriotic’ and their political participation being primarily motivated by financial gains and greed.¹³⁴⁷ This was especially said to be more true for male youth than female youth.

Most youth said they are usually not involved in decision-making processes for various reasons, including ‘lacking wisdom.’¹³⁴⁸ Others mentioned that youth are not involved in decision-making because they are educated and question things.¹³⁴⁹

‘We are usually not meaningfully involved in decision-making at different levels because they say we lack wisdom to make right decisions.’

Youth – Arumeru, Arusha

Youth who participated in the survey also said they are negatively perceived in the community as incapable of making sound decisions, including at family level. This was especially raised during discussions in Singida, Geita, Katavi, and Rukwa.

1346 LHRC Human Rights Survey 2022: Dar es Salaam, Pwani, & Kilimanjaro Field Reports.

1347 LHRC Human Rights Survey 2022: Mtwara Field Report.

1348 LHRC Human Rights Survey 2022: Arusha Field Report.

1349 LHRC Human Rights Survey 2022: Singida Field Report.





Picture 26: FGD with youth in Katavi Region

Source: Field data, 2022

Quality education

In all surveyed regions, youth expressed concerns over the education system, deemed to be too theoretical and not promoting self-employment, instead preparing youth for non-existent white-collar jobs. In most regions, including Morogoro and Singida, some youths questioned the quality of education provided in public schools, especially in rural areas, which is mostly deemed to be poor due to a plethora of challenges, including shortages of teachers, classrooms, and toilets. In Singida, youth also pointed out gaps in curricula, including technological gaps, and called for their review.¹³⁵⁰ They also called for the education system to be more practical and prepare youth for self-employment.

Other youths lamented the quality of education provided in higher learning institutions, stating that it does not prepare them well for the job market, including by imparting in them employability skills.¹³⁵¹

'There is a need to revamp our education system so that we can produce youth who are ready to engage in self-employment instead of being entirely dependent on government employment..'

Youth – Chato, Geita

In Kigoma, some youth also mentioned education financing as an obstacle in pursuing higher education. This is especially the case for those who are not able to secure or are unqualified for loans granted by the Higher

¹³⁵⁰ LHRC Human Rights Survey 2022: Singida Field Report.

¹³⁵¹ LHRC Human Rights Survey 2022: Dodoma Field Report (interview with university students).



Education Students' Loans Board (HESLB).¹³⁵²

Vulnerability to crime, alcoholism, drugs/substance abuse, teenage pregnancy, and prostitution

Youth in surveyed regions claimed that poor parental guidance and support, poor education, and lack of employment and economic opportunities leave them vulnerable to crime, alcoholism, drugs/substance abuse, and teenage pregnancy. They said that male youth are more likely to resort to life of crime, including fraud, stealing, and burglary, while young women are more likely to resort to prostitution, including those in higher learning institutions.¹³⁵³ In Iringa, youth revealed that issues of drug use and alcohol addiction are rapidly destroying young people's lives.¹³⁵⁴ In Dodoma, lack of parental support was said to be a contributing factor for female university students engaging in prostitution.¹³⁵⁵

Violence

Youth in all surveyed regions also mentioned violence as a key challenge for them, including mob violence and different acts of sexual, psychological, physical, and economic violence. These acts include rape, sodomy, denial of education (especially for girls), sexual harassment, and sextortion (especially young women in higher learning institutions and those seeking employment).

5.5.3. Youth Economic Empowerment: The case of LGA 4% loans for Youth

As discussed in detail in the sub-chapter on women's rights above, youth are also entitled to loans provided by LGAs at the rate of 4%. However, enjoyment of this opportunity for youth is hindered by various factors, including:

- failure of some LGAs to set aside funds for the revolving fund and fully disburse funds;
- provision of loans to unqualified groups;
- disregard of procedure in provision of loans;
- inadequate funds;
- concerns over loan repayment period;
- misuse of funds, mistrust, and quarrelling among group members;
- non-payment of loans;

1352 LHRC Human Rights Survey 2022: Kigoma Field Report.

1353 LHRC Human Rights Survey 2022: Dar es Salaam, Dodoma, Kilimanjaro, & Arusha Field Reports.

1354 LHRC Human Rights Survey 2022: Iringa Field Report.

1355 LHRC Human Rights Survey 2022: Dodoma Field Report



- corruption, favouritism, and lack of transparency;
- lack of entrepreneurship and proposal writing skills;
- political interference with loan provision process; and
- delays in disbursement of funds.

5.5.4. Key Recommendations

- The Government, through the Ministry of Education, Science, and Technology, to revamp the education system to improve the quality of education to better prepare youth for employment and self-employment.
- The Government, through the Ministry of Community Development, Gender, Women and Special Groups, to intensify efforts to combat different forms of violence against youth to safeguard their rights to education and health.
- Youth to take advantage of existing youth economic empowerment programmes to become entrepreneurs instead of awaiting government employment.

5.6. Rights of Other Vulnerable Groups, including Persons Living with HIV

Other vulnerable groups include persons living with HIV (PLHIVs) and refugees. For PLHIVs in Tanzania, key human rights concerns are access to medical services, stigma, and discrimination. Stigma and discrimination limit women and girls' access to HIV prevention, treatment and care, as well as to SRH and other services.

In August 2022, it was reported that the war against HIV/AIDS, Malaria and TB in Tanzania could be seriously affected in three years due to dwindling resources, according to a new UNAIDS Report. Stakeholders also expressed concern over access to ARVs for over 1.7 million Tanzanians.¹³⁵⁶ Earlier, in April 2022, the CAG Report showed that there was a stock of expired ARVs worth Tshs. 23.4 billion at the the Medical Stores Department (MSD) and the Muhimbili National Hospital (MNH).¹³⁵⁷

For refugees, key concerns include employment, adequate standard of living, and violence. In 2021, the major issue concerning refugees hosted

¹³⁵⁶ "Shift in donor priorities to hit war on diseases" The Citizen Newspaper, 1 Aug 2022.

¹³⁵⁷ "ARV zilizokwisha muda zagundulika" Nipashe Newspaper, 25 Apr 2022.



in Tanzania that came into light is the issue or allegation of forceful return of refugees to their home countries, particularly Burundian refugees.¹³⁵⁸ In June 2022, the Government of Tanzania said it would continue embracing voluntary repatriation of refugees as it observes human rights and dignity of the people who are forced to flee from their native countries for different reasons. Addressing the UN Agencies representatives and regional commissioners from Katavi, Kagera, Tabora and Kigoma where most refugees are being hosted, Ambassador Liberata Mulamula, the then Minister for Foreign Affairs and East African Cooperation, said that by May, Tanzania had hosted 257,800 refugees mostly from Burundi, Rwanda, DR Congo and Uganda.¹³⁵⁹

In August 2022, the UN Refugee Agency (UNHCR) handed over 16 vehicles worthy USD 500,000 to the government of Tanzania to support operations in refugee's camps and host communities. Speaking during handover ceremony, Deputy Minister of Home Affairs, Jumanne Savimbi, commended UNHCR for their support to Tanzania on ensuring refugees and asylum seekers continue to get basic needs.¹³⁶⁰

In the Nduta Refugees Camp in Kigoma, several key issues affecting refugees were reported. One of the key issues of concern is gender-based violence, whereby it was reported that over 1,000 such incidents are reported each year.¹³⁶¹ One of the common forms of violence is sexual violence against women (especially rape), perpetrated by fellow refugees as well as members of surrounding communities, including when they go to fetch firewood. Male refugees were also said to commit economic violence against female refugees, including grabbing their goods. There is also a concern of lack of privacy for parents due to inadequate accommodation, making it difficult for them to have some time alone without children seeing or hearing them.¹³⁶²

1358 See "UN experts deplore rights violations against Burundi refugees" OHCHR, 13 April 2021, at [https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=26990#:~:text=GENEVA%20\(13%20April%202021\)%20%E2%80%93,torture%2C%20forced%20returns%20and%20repression.](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=26990#:~:text=GENEVA%20(13%20April%202021)%20%E2%80%93,torture%2C%20forced%20returns%20and%20repression.)

1359 "Government pledges to embrace refugees" The Guardian Newspaper, 22 Jun 2022.

1360 "UNHCR hands over 16 vehicles to support Refugees operations" DailyNews Newspaper, 8 Aug 2022.

1361 LHRC Human Rights Survey 2022: Kigoma Field Report.

1362 Ibid.



5.6.1. Key Recommendations

- The Government, through the Ministry of Health, to ensure persons living with HIV have access to quality health services, including access to ARVs.
- Community members to refrain from stigma and discrimination against persons living with HIV.
- The Government, through the Ministry of Home Affairs, to collaborate with local and international refugee rights organizations to address challenges faced by refugees in Tanzania, including combating different forms of violence within refugee camps.

5.7. Relevant SDGs, TDV 2025, and Agenda 2063 Targets

Tanzania's achievement of these 2030 SDGs, TDV 2025, and Agenda 2063, depends on progress made in realization of rights of vulnerable groups:

Key SDGs and TDV 2025 Targets relating to Rights of Vulnerable Groups

SDGs	<p><u>SDG3 GOOD HEALTH AND WELL-BEING</u>: Ensure Healthy Lives and Promote Well-Being for All at All Ages.</p> <p><u>SDG4 QUALITY EDUCATION</u>: Ensure Inclusive and Equitable Quality Education and Promote Lifelong Learning Opportunities for All.</p> <p><u>SDG5 GENDER EQUALITY</u>: Achieve Gender Equality and Empower All Women and Girls.</p> <p><u>SDG6 CLEAN WATER AND SANITATION</u>: Ensure Availability and Sustainable Management of Water and Sanitation for All.</p> <p><u>SDG10 REDUCED INEQUALITIES</u>: Reduce Inequality Within and Among Countries.</p> <p><u>SDG16 PEACE, JUSTICE AND STRONG INSTITUTIONS</u>: Promote Peaceful and Inclusive Societies for Sustainable Development, Provided Access to Justice for All and Build Effective, Accountable and Inclusive Institutions At All Levels.</p>
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<p>TDV 2025</p>	<p><u>High quality livelihood.</u></p> <ul style="list-style-type: none"> ■ Food self-sufficiency and food security. ■ Universal primary education, the eradication of illiteracy and the attainment of a level of tertiary education and training that is commensurate with a critical mass of high-quality human resources required to effectively respond and master the development challenges at all levels. ■ Gender equality and the empowerment of women in all socio-economic and political relations and cultures. ■ Access to quality primary health care for all. ■ Access to quality reproductive health services for all individuals of appropriate ages. ■ Reduction in infant and maternal mortality rates by three-quarters of current levels. ■ Universal access to safe water. ■ Life expectancy comparable to the level attained by typical middle-income countries. ■ Absence of abject poverty <p><u>A well educated and learning society</u> <u>Peace, Stability and Unity</u> <u>Good Governance</u></p> <ul style="list-style-type: none"> ■ Desirable moral and cultural uprightness. ■ Strong adherence to and respect for the rule of law <p><u>A strong and Competitive economy</u></p>
<p>Agenda 2063: The Africa We Want.</p>	<p>ASPIRATION 1. A prosperous Africa based on inclusive growth and sustainable development. ASPIRATION 3. An Africa of good governance, democracy, respect for human rights, justice and the rule of law. ASPIRATION 4. A peaceful and secure Africa. ASPIRATION 6: An Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children. ASPIRATION 7: Africa as a strong, united, resilient and influential global player and partner and partner.</p>



CHAPTER 6: HUMAN RIGHTS MECHANISMS

Human rights mechanisms comprise of institutions that promote and protect human rights at national, regional, and international levels. This chapter looks at some of the key national, regional, and international human rights mechanisms and their role in promotion and protection of human rights in Tanzania.

6.1. National Human Rights Mechanisms

6.1.1. Legal Framework

The national human rights mechanisms in Tanzania include the Commission for Human Rights and Good Governance (CHRAGG), the Prevention and Combating of Corruption Bureau (PCCB), the Judiciary, the National Prosecutions Service (NPS), the Tanzania Police Force (TPF) and the Tanzania Prisons Services (TPS). These mechanisms are established under the following laws:

- CHRAGG is established under the Commission for Human rights and Good Governance Act, CAP 391, No. 7 of 2001.
- PCCB is established under the Prevention and Combating of Corruption Bureau Act, CAP 329, Act No. 11 of 2007.
- The Judiciary is established under the Constitution of the United Republic of Tanzania, 1977.
- NPS is established under the National Prosecutions Service Act, CAP 430 (RE 2019).
- TPF is established under the Police Force and Auxiliary Services Act, CAP 322.
- TPS is established under the Prisons Act, CAP 58.

In conducting their operations and day-to-day activities all these mechanisms are also governed by various other laws, rules, and regulations as well as international human rights standards in line with Tanzania obligations and commitments under various international and regional human rights instruments.



6.1.2. Judiciary

6.1.2.1. Mandate and Positive Action

Mandate

- Authority with final decision in dispensation of justice in the United Republic of Tanzania.
- Administration of justice through interpretation and application of laws, rules, and regulations as well as international human rights standards.
- Setting precedents and developing case law.
- Provide remedy for legal and human rights violations.

Positive action to promote or protect human rights

In 2022, action by Judiciary to promote and/or protect human rights included administration of civil and criminal cases/proceedings, including sentencing convicted accused persons; construction of new courts and renovation of current ones; reducing backlog of cases; delivering justice through mobile courts, bringing judicial services closer to the people; provision of legal education; and conducting judicial inspections.

It was also reported that by March 2022, the Judiciary had introduced and operationalised the '*Sema na Mahakama*' mobile application, which enables smartphone users to file complaints at any court, make recommendations, provide feedback on Judiciary work, and track complaints.¹³⁶³

In April 2022, The Judiciary unveiled a digital call centre to facilitate queries or receive feedback. This enables citizens to register a complaint, seek information on matters of justice or simply drop a compliment through the *Judiciary MobileTz* App.¹³⁶⁴

In July 2022, Resident Magistrate of Kahama District Court, Edimundi Kete, commended digitalization of the justice delivery system for reducing backlog of cases, especially GBV cases.¹³⁶⁵

6.1.2.2. Key Issues and Challenges

- Shortage of judicial staff.
- Corruption, especially in lower courts: Corruption was mentioned as the biggest barrier to justice by majority of human rights survey respondents

¹³⁶³ HOTUBA YA WAZIRI WA KATIBA NA SHERIA (*supra*).

¹³⁶⁴ "Judiciary unveils digital call centre for queries, feedback" The Guardian Newspaper, 29 Apr 2022.

¹³⁶⁵ "Mfumo uendeshaji mashauri kieletroniki wapunguza kesi" Nipashe Newspaper, 26 Jul 2022.



(82%).

- Delays in dispensation of justice, mainly contributed by delays in police investigations, delays in scheduling criminal sessions, and delays in disposal of criminal cases: Failure to complete cases on established time has resulted into accumulation of criminal sessions, including in subordinate courts granted extended jurisdiction, and overstay of accused persons in prison.
- Constant adjournment of cases.
- Non-execution/implementation of judgements: There are several court judgements which await implementation, including the Court of Appeal judgement in the *Rebecca Gyumi* case.
- Some court buildings, especially lower courts (primary courts) being in dilapidated condition.
- Backlog of cases, contributed by shortage of judicial workers and delays in completing investigations.
- Imbalance of the Judges and Magistrates-Prosecutors ratio.
- Inadequate use of the Judiciary Case Management system (JSDS 2.0): Use of the system for documentation is low, according to the CAG audit. Audit also found a mismatch between data in the system and hardcopy files and some court clerks being inadequately skilled to operate the system, indicating gaps in training.
- Inadequate quality controls of data entry into the JSDS 2.0: Recent CAG audit found no documented quality assurance procedures to check if data entry work was done properly.
- Delays in updating the JSDS 2.0 by court clerks and deviation of information between casefile and JSDS 2.0. CAG audit also found that the Judiciary of Tanzania had not automated data entries for daily update of case status, instead data is entered manually by court clerks, hence susceptible to error in the information.
- Witness budget has also been insufficient, creating a challenge for both the Judiciary and NPS.
- Uneven distribution of caseload among magistrates, inadequate funding for subordinate courts granted extended jurisdiction, and non-implementation of recommendations to improve criminal justice delivery made by magistrates, have also been identified as challenges in timely disposal of criminal cases.¹³⁶⁶
- Coordination/stakeholder involvement: The Judiciary has also been faulted for not adequately involving stakeholders such as the National Prosecutions Services (NPS), Director of Criminal Investigations (DCI), the Prevention and Combating of Corruption Bureau (PCCB), and the

¹³⁶⁶ CAG Criminal Justice System Audit Report (*supra*), p. 33.



Police Force and Government Chemist Laboratory Authority (GCLA) in setting disposition targets.¹³⁶⁷

6.1.3. Ministry of Constitutional and Legal Affairs (MoCLA)

6.1.3.1.Mandate and Positive Action

The Ministry of Constitutional and Legal Affairs (MoCla) has a key role to play in promoting and protecting human rights in Tanzania. In this regard, it works closely with the Ministry of State, President Office from Zanzibar Ministry of Constitution, Legal Affairs, Public Service and Good Governance.

Regarding human rights, the mandate of MoCLA includes:

- Preparing national reports for presentation before the human rights bodies;
- Disseminating concluding observations from human rights treaty bodies;
- Preparing country reports on human rights in accordance with regional and international human rights instruments;
- Sensitising the public on human rights matters;
- Ensuring state compliance with human rights obligations; and
- Overseeing the development of human rights regime.

Positive action to promote or protect human rights

In 2022 MoCLA continued to take various measures to promote and protect human rights, including sensitizing the public on human rights issues, enhancing access to justice through paralegal work, and engaging government and non-government institutions on issues affecting human rights.

6.1.3.2.Key Issues and Challenges

- Budgetary constraints, including budget for preparing due state reports.
- Gaps in monitoring and evaluation of justice delivery organs and coordination: The recent CAG audit on Tanzania's criminal justice system has found loopholes in monitoring and evaluation of the justice delivery organs, which is the responsibility of MoCLA. According to the CAG report, MoCLA did not avail any M&E report within the audit scope period of 2016/17 to 2020/21. Reasons for deficiency in conducting M&E include lack of assessment of key performance indicators in MoCLA

¹³⁶⁷ Ibid.



reports, absence of specific M&E plan for administration of justice, and lack of prioritization of monitoring function for the component of administration of justice.¹³⁶⁸

- Efficiency in administration of criminal justice: The CAG report also shows that MoCLA has not made adequate efforts to improve efficiency in case administration in the criminal justice system within the audit period, including not conducting frequent meetings with relevant stakeholders in administration of justice and not having an established follow-up system for tracking or following-up implementation of recommendations to improve administration of justice.
- Shortage of staff: Inadequate efforts to ensure improved administration of criminal justice is contributed by shortage of staff within the responsible ministry department, as during the CAG audit there were only 3 out of required 14 staff members, equivalent to 79% shortage. The report further highlights inadequate coordination of stakeholders as another challenge within the ministry.¹³⁶⁹

6.1.4. Commission for Human Rights and Good Governance (CHRAGG)

6.1.4.1. Legal framework & role in promoting and protecting human rights

The Commission for Human Rights and Good Governance (CHRAGG) is an independent government institution, established as a national focal point institution for the promotion and protection of human rights and duties as well as good governance in Tanzania. CHRAGG is established under Article 129(1) of the Constitution of the United Republic of Tanzania of 1977 as amended by Act No. 3 of 2000. The Commission became operational on the 1st of July 2001 after the coming into force of the Commission for Human Rights and Good Governance CAP 391. The Commission was officially inaugurated in March 2002 following the appointment of Commissioners by the President of United Republic of Tanzania.

The Commission is mandated to promote, protect and preserve human rights and deal with maladministration i.e. abuse of public authority in the context of administrative justice as per Article 130(1) of the Constitution of the United Republic of Tanzania and sections 6 and 15 of the CHRAGG Act. According to Section 6 (1) (a) – (o) of the Act CAP 391, the Commission has protective, promotive, advisory, and mediatory/conciliatory functions as listed below:

¹³⁶⁸ CAG Criminal Justice System Audit Report (*supra*), p. 65.

¹³⁶⁹ *Ibid.*



- a. To promote within the country the protection and preservation of human rights and duties to the society in accordance with the constitution and laws of the land;
- b. To receive allegations and complaints of the violation of human rights generally;
- c. To conduct enquiries into matters involving violations of human rights and the contravention of the principles of administrative justice;
- d. To conduct research into human rights, administrative justice and good governance issues and to educate the public about such issues;
- e. When necessary, to institute proceedings in court designed to terminate activities involving the violation of human rights or redress the right or rights so violated or contravention of the principles of administrative justice;
- f. To investigate the conduct of any person to whom or any institution to which the provisions of this section apply in the ordinary course of the exercise of the functions of his office or discharge of functions in excess of authority;
- g. To investigate or enquire into complaints concerning practices or actions by person holding office in the service of the government, public authorities or other public bodies, including private institutions and private individuals where those complaints allege abuse of power, injustice, unfair treatment of any person, whether complainant or not, in the exercise of their official duties;
- h. To visit prisons and places of detentions or related facilities with the view to assessing and inspecting conditions of persons held in such places and making recommendations to redress the existing problems in accordance with the provisions of this act;
- i. To take steps to secure remedying, correction, reversal or cessation of instances referred to paragraphs (e), (f), (g) or (h) through fair, proper and effective means, including the institution of legal proceeding;
- j. To provide advice to the government or to other public organs and private sector institutions on specific issues relating to human rights and administrative justice;
- k. To make recommendations relating to existing or proposed legislation, regulations or administrative provision to ensure compliance with human rights norms and standards and with the principles of good governance;
- l. To promote ratification of or accession to treaties or conventions on human rights, harmonization of national legislation and monitor and assess compliance, within the United Republic by the government and other persons with human rights standards provided for in treaties or



- conventions or under customary international law to which the United Republic has obligations;
- m. Under the auspices of the government, to cooperate with agencies of the United Nations, the AU, The Commonwealth and other bilateral, multilateral or regional and national institutions of other countries which are competent in the areas of protection and promotion of human rights and administrative justice;
 - n. To take such measures as may be appropriate for the promotion and development of mediation and reconciliation amongst the various persons and institutions that come or are brought before the Commission; and
 - o. To perform such other functions as may be provided for by any other written law.

Positive action to promote or protect human rights

In 2022, CHRAGG continued carrying out its key functions, including: sensitizing the public about protection and preservation of human rights and the duties; and receiving allegations and complaints on the violations of human rights and contravention of principles of good governance. CHRAGG also continued to closely work with some CSOs in Tanzania, including LHRC, to promote and protect human rights and principles of good governance in Tanzania, particularly in creating awareness to the general public of the Commission's functions, human rights and good governance in general, monitoring and reporting of human rights violations in the country, serving the citizens whose rights have been violated by directing them to the Commission's offices to submit their complaints. CHRAGG continues to use a newly developed system known as Complaints Management Information System (CMIS) that enables citizens to submit and track their complaints. In 2022, CHRAGG also commemorated 20 years of its existence and released a 20 year report highlighting what it has done in those years and key human rights issues.

6.1.4.2.Challenges

- Budgetary constraints: Like for most other government institutions, budgetary constraints is a challenge for CHRAGG in terms of providing and expanding its services.
- Shortage of staff to implement CHRAGG Mandates.
- Increasing demand and expectations of stakeholders of human rights and good governance vis-à-vis CHRAGG's capacity and country's coverage: Currently, CHRAGG has few offices where it operates through



its Dodoma Headquarters in Mainland Tanzania and Unguja in Zanzibar and branch offices located in Dar es Salaam, Mwanza, Lindi and Pemba. This limits its ability to reach many people and provide timely services.

6.1.5. Tanzania Police Force (TPF)

6.1.5.1.Mandate and Positive Action

- Maintain law and order.
- Protect life and property.
- Prevent, detect, and investigate crime.

Police mandate includes investigation of human rights violations, for instance arresting and taking to court perpetrators of violence against women and children. Preventing crime includes raising awareness on crimes and criminal laws as well as road safety. TPF has also established police gender and children desks, which attend victims of gender-based violence and violence against children.

Positive action to promote or protect human rights

In 2022, police continued to take action to protect citizens and their property, including arresting and taking to court perpetrators of crime and human rights violations such as people accused of committing acts of physical and sexual violence.

6.1.5.2.Key Issues and Challenges

- Shortage of facilities and equipment, including vehicles.
- Budgetary constraints.
- Corruption.
- Shortage of police officers and lack of police presence in some wards/ areas, which affects provision of quality police services and causes overworking of available police officers.
- Poor working conditions.
- Poor cooperation from community members and witnesses to crimes.
- Excessive use of force during arrest or interrogation, sometimes leading to extrajudicial killings.
- Arbitrary arrests and detentions.
- Negative perception about rights of accused person among junior police officers, including right counsel.
- Trumped-up charges/fabrication.
- Holding accused persons beyond 24 hours before taking them to court.
- Lengthy investigations, causing delays in dispensation of criminal justice.



- Inadequate capacity to conduct criminal investigation: According to the performance audit report on the criminal justice in Tanzania, released in March 2022, in the period of financial years 2018/19 to 2020/21, criminal investigators did not adequately attend further advanced and specialized training to improve their investigative skills, with the number of those who had not attended being higher than those who had attended.¹³⁷⁰ Lack of training needs assessment has also affected planning, budgeting, and setting of training priorities within the Directorate of Criminal Investigation.

To address these challenges, there have been calls for police reform. In July 2022, President Samia Suluhu Hassan told the new IGP, Camilius Wambura, that he is faced with the task of addressing various key challenges, including prison deaths, fabrication of cases, police corruption, road accidents, delays in investigations, cybercrime, and GBV.¹³⁷¹ In the same month, the President formed a team composed of 12 members with a five-man secretariat to assess the performance on the Police Force and to advise on the reforms needed in the security organ to make the force more efficient. The team is chaired by Rtd. Chief Justice, Hon. Mohamed Othman Chande, and was tasked with looking at institutional structure, recruitment processes, trainings, and promotions system as well as enforcement of disciplinary mechanism.¹³⁷² This move was applauded by various justice and human rights stakeholders, including NGOs.¹³⁷³

6.1.6. Tanzania Prison Services (TPS)

6.1.6.1.Mandate and Positive Action

Key functions of TPS include:

- Custodial sentence management and supervision of offenders.
- Proper management of custodial remand services.
- Designing and implementation of programmes and services which address offenders' rehabilitation needs.

Prisons are there to protect the society from convicted criminals and act to reform such individuals so that they can fit in back into the society, should they be released. TPS also conducts or facilitate trainings for prisoners.

¹³⁷⁰ CAG Criminal Justice System Audit Report (supra), p. 58.

¹³⁷¹ Nipashe Newspaper, 21 Jul 2022.

¹³⁷² "Samia Embarks on Police Force Training, Ranks Refrom agenda" The Guardian Newspaper, 21 Jul 2022.

¹³⁷³ "NGOs applause Courts Police Reform Agenda" The Guardian Newspaper, 25 Jul 2022.



Positive action to promote or protect human rights

In 2022, TPS continued to provide prison services, including managing and supervising detainees and ensuring detainees are taken to court whenever required.

6.1.6.2.Key Issues and Challenges

- Prolonged detention of accused persons in prisons, largely caused by denial of bail and delays in investigations, causing prison overcrowding and compromising the ability of TPS to provide required prison services.
- Budgetary constraints.
- Shortage of prison officers/wardens.
- Poor working environment.
- Shortage of vehicles for transporting detainees to court: In 2021, the Chief Justice noted that in some areas accused persons had to be transported for up to 200 kilometres to reach court.

6.1.7. National Prosecutions Services (NPS)

6.1.7.1.Mandate and Positive Action

NPS has overall mandate over prosecution of criminal offenders in Tanzania, on behalf of the Government. Key functions include:

- Deciding to prosecute or not to prosecute cases in relation to any offence.
- Taking and conducting criminal cases on behalf of the sovereign of the United Republic, the Central Government, independent departments, executive agencies and the local government.
- Coordinating and supervising criminal investigation and conduct of criminal prosecution in courts of law other than court martial.
- Discontinuing at any stage before judgement is delivered any criminal proceeding brought to the court by another person or authority.
- Issuing directives to any public officer performing functions relating to conduct of criminal prosecution in courts of law.
- Direct the police and other investigative organs to investigate any information of a criminal nature and to report expeditiously.

Positive action to promote or protect human rights

In 2022, NPS continued to act on behalf of the State to ensure criminal offenders are prosecuted to the full extent of the law.

6.1.7.2.Key Issues and Challenges

- Budgetary constraints, which sometimes make it difficult to prepare



witnesses for the prosecution.

- Frequent adjournment of cases: As discussed in Chapter Two of this report, frequent adjournment of cases is one of the biggest factors behind delays in criminal trials in Tanzania, according to recent CAG audit. This is also one of the reasons for huge backlog of cases in courts of law, occasioning miscarriage of justice. Various factors have been said to contribute to frequent adjournments of cases in courts of law in Tanzania. Key among them are incomplete investigations, inadequate update of status or progress of the case by state attorneys, and weak coordination within the National Prosecutions Services (NPS) and regional offices.¹³⁷⁴
- Inadequate management of case files during investigation and absence of prosecution timeframe: The performance audit report on the criminal justice system released by the CAG in March 2022 showed that there is inadequate coordination between NPS and the Police Force, which provide state attorneys and investigators respectively.¹³⁷⁵ Absence of prosecution timeframe has also been identified as a problem in the criminal justice system. According to the CAG report, NPS has not set a timeframe for prosecuting criminal cases, creating the problem of lack of accountability and contributing to delays in disposal of cases¹³⁷⁶
- Shortage of state attorneys: The performance audit report on the criminal justice system, released in March 2022, shows that NPS has only 661 out of the required 5,890 state attorneys, meaning there is a shortage of 5,229 attorneys, equivalent to 89%. Lack of training for prosecutors has also been found to be a challenge within NPS, considering advancement in science and technology. Lack of training and capacity building for the available prosecutors has also been attributed to their inadequate number, making it for them to get adequate time for training due high workload.¹³⁷⁷ Consequently, NPS is faced with shortage of prosecutors with requisite expertise and experience to guarantee effective case disposal.

6.1.8. Prevention and Combating of Corruption Bureau (PCCB)

6.1.8.1. Mandate and Positive Action

Functions of PCCB include:

- Preventing and combating corruption in all its forms.
- Raising public awareness on corruption and its impacts on the society.

¹³⁷⁴ CAG Criminal Justice System Audit Report (*supra*), p. 44.

¹³⁷⁵ CAG Criminal Justice System Audit Report (*supra*), p. 41.

¹³⁷⁶ CAG Criminal Justice System Audit Report (*supra*), p. 46.

¹³⁷⁷ *Ibid.*



- Examining and advising the practices and procedures of public parastatal and private organisations, to facilitate the detection of corruption or prevent corruption and secure the revision of methods of work or procedure which appear to add to the efficiency and transparency of the institution concerned.
- Addressing corruption, both grand and petty, which has negative impact on human rights, especially socio-economic rights.

Positive action to promote or protect human rights

In 2022, PCCB continued to take various measures to prevent and address corruption, including awareness-raising and arrest and prosecution of perpetrators of corruption. For instance, in May 2022, PCCB in Geita announced that it was investigating four police officers accused of corruption.¹³⁷⁸ In July, PCCB in the region arrested a police officer, Juma Manyama, and a village executive officer, Maulidi Kayembe from Lulembelela Village, for soliciting and receiving bribes.¹³⁷⁹

In August 2022, PCCB in Singida said they were investigating development projects worth over 7.2 billion due to various defects in their implementation.¹³⁸⁰ In the same month, PCCB in Mbeya arrested two census clerks for soliciting and receiving Tshs. 400,000/= bribe.¹³⁸¹ In September, PCCB in Katavi arrested Michael Nkingwa, resident of Mpanda District, for fraud and soliciting and receiving a bribe of Tshs. 150,000.¹³⁸²

In March 2022, it was reported that 84% of Tanzanians expressed satisfaction with government's efforts to combat corruption in public offices, according to Afrobarometer round eight survey conducted by REPOA across Mainland Tanzania between February and March 2021 (Citizens' perceptions on the state of corruption in Tanzania).¹³⁸³

Tanzania in the Corruption Perceptions Index 2022

Tanzania's performance in the Corruption Perceptions Index continues to indicate improvements in combating corruption, although corruption is

1378 "Polisi waendelea kuchunguzwa kwa tuhuma za rushwa" Nipashe Newspaper, 4 May 2022.

1379 "Askari na mtendaji mbaroni kwa tuhuma za rushwa" Nipashe Newspaper, 26 Jul 2022.

1380 "PCCB probes faulty projects worth 7.2bn/- in Singida" DAILYNEWS Newspaper, 18 Aug 2022.

1381 "PCCB in Mbeya Region arrests two census clerks allegedly in connection with fraud and bribery" The Guardian Newspaper, 24 Aug 2022.

1382 "PCCB apprehends Mpanda man for impersonation, soliciting 150,000/= bribe" DAILYNEWS Newspaper, 6 Sep 2022.

1383 Gadosa Lamtey "New report indicates that graft declines in Tanzania" The Citizen Newspaper, 10 Mar 2022.



still a big problem in Tanzania. In 2019, Tanzania was ranked 96th out of 180 countries, jumping another 3 places after scoring 37 out of 100 points.¹³⁸⁴ In 2020, it jumped two more places in the world rankings to 94th after scoring one more point. In 2021, Tanzania jumped further in the rankings to the 87th position after scoring another point to make it 39 points.¹³⁸⁵ However, in 2022, Tanzania dropped one point and climbed down from 87th to 94th position in the corruption perceptions index.¹³⁸⁶ Figure 58 below shows score trend from 2015 to 2022.

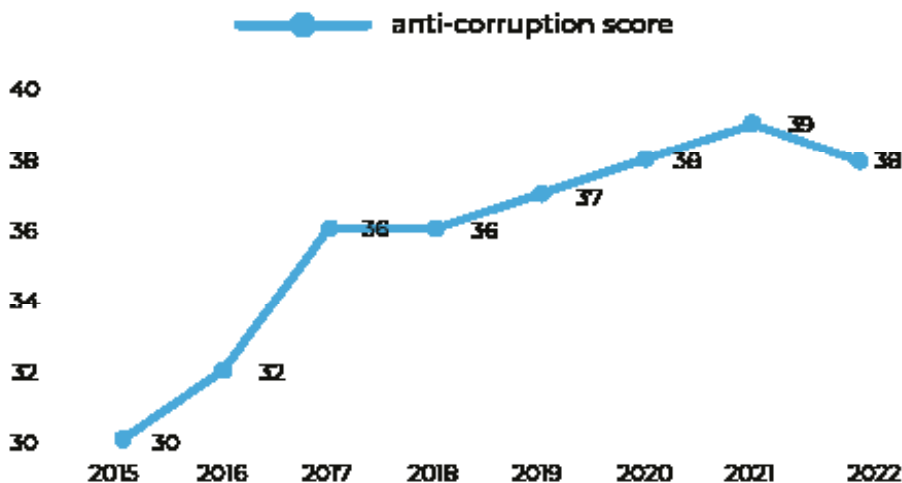


Figure 58: Tanzania's scores in the Corruption Perceptions Indexes 2015-2022

Source: Corruption Perceptions Indexes 2015 to 2022

6.1.8.2. Key Issues and Challenges

- Delays in investigation and prosecution of corruption cases.

1384 See Transparency International's Corruption Perceptions Index 2019, at <https://www.transparency.org/cpi2019>, accessed 5th March 2020.

1385 See Transparency International's Corruption Perceptions Index 2021: Tanzania, at <https://www.transparency.org/en/countries/tanzania>.

1386 See Transparency International's Corruption Perceptions Index 2022: Tanzania, at <https://www.transparency.org/en/cpi/2022/index/tza>.



6.1.9. Key Recommendations

- The Government, through the Ministry of Home Affairs and the Ministry of Constitutional and Legal Affairs, to strengthen national human rights mechanisms to ensure better protection of human rights.
- The Government, through the Ministry of Home Affairs and the Ministry of Constitutional and Legal Affairs, to ensure adequate budget is allocated for Commission on Human Rights and Good Governance (CHRAGG) to enable it to effectively carry out its mandate as the national human rights institution.
- CSOs to sensitize the public about different national, regional/continental and international human rights mechanisms.

6.2. Regional and International Human Rights Mechanisms

6.2.1. Legal Framework

Tanzania is part of various regional and international human rights mechanisms. These include the Universal Periodic Review Mechanism (UPR) - whereby it submits its reports on promotion and protection of human rights; and bodies established under various human rights treaties.

Treaty bodies are established by the human rights treaties that have been ratified, with the aim of monitoring the implementation of such treaties by States parties. The provisions of the treaties require States parties to submit to the treaty bodies periodic reports on their efforts to implement the treaties. The major international and regional treaty bodies are the Human Rights Committee (HRC), the UN Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination Against Women, the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of Persons with Disabilities, the African Court on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights, African Committee of Experts on the Rights and Welfare of the Child and the East African Court of Justice. Status of reporting to the treaty bodies is indicated in the Annex section below.

6.2.2. Key Issues and Challenges

Key issues regarding regional and international human rights mechanisms in Tanzania include withdrawal of Tanzania of access of individuals and NGOs to the African Court on Human and Peoples' Rights and non-



implementation of recommendations made by the mechanisms, and non-enforcement of judgements delivered by the judicial mechanisms.

Difficulties in Enforcing Decisions of Regional and International Human Rights Mechanisms

In December 2019, it was revealed that Tanzania had decided to withdraw access of individuals and NGOs to the African Court on Human and Peoples' Rights, issuing a notice of withdrawal.¹³⁸⁷ According to the notice, the withdrawal decision was reached after the Declaration had been implemented contrary to the reservations submitted by Tanzania when making its Declaration.¹³⁸⁸ The withdrawal came at a time when its enforcement of regional and international human rights mechanisms, especially of the African Court on Human and Peoples' Rights and the East African Court of Justice, has been a challenge.

Enforcement of decisions/judgements of the regional and international human rights mechanisms in domestic jurisdictions usually depends on the political will. For instance, in 2013, the African Court on Human and Peoples' Rights issued its judgement on the private candidate case filed by the late Christopher Mtikila, but the judgement is yet to be enforced. In 2019, the East African Court of Justice delivered its judgement on the Media Services Act of 2016 but it is also yet to be enforced.

Non-ratification of some key regional and international human rights instruments

Tanzania is yet to ratify some of the key regional and international human rights instruments, including the UN Convention against Torture (CAT) and the African Charter on Democracy Elections and Governance (ACDEG) of 2007. This is a gap in terms of the human rights mechanisms effectively carrying out their mandate of promoting and protecting human rights.

6.2.3. Universal Periodic Review (UPR)

6.2.3.1. Overview

UPR is a unique mechanism of the Human Rights Council (HRC) aimed at **improving the human rights situation on the ground** of each

¹³⁸⁷ See NOTICE OF WITHDRAWAL OF THE DECLARATION MADE UNDER ARTICLE 34(6) OF THE PROTOCOL TO THE AFRICAN CHARTER ON THE ESTABLISHMENT OF AN AFRICAN COURT ON HUMAN AND PEOPLE'S RIGHTS at <https://www.southernafricalitigationcentre.org/wp-content/uploads/2019/12/Tanzania-Withdrawal-Article-36-4-African-Court.pdf>.

¹³⁸⁸ Ibid.



of the 193 United Nations (UN) Member States.¹³⁸⁹ Under this mechanism human rights situation of all UN Member States, Tanzania inclusive, is reviewed every 5 years to ascertain the extent States have taken action to improve human rights and fulfil their international human rights obligations.¹³⁹⁰

6.2.3.2. Tanzania’s Review Process

In 2021, Tanzania’s human rights record was yet again examined by the UN Human Rights Council’s Universal Periodic Review (UPR) Working Group for the third time on 5th November 2021, following the first and second UPR reviews in October 2011 and May 2016 respectively.¹³⁹¹ The documents on which the reviews are based are: 1) national report - information provided by the State under review; 2) information contained in the reports of independent human rights experts and groups, known as the Special Procedures, human rights treaty bodies, and other UN entities; 3) information provided by other stakeholders including national human rights institutions, regional organizations and civil society groups. During the interactive dialogue, 92 delegations made statements. Tanzania supported 108 recommendations (43%), promised to examine 12 recommendations (5%), and noted 132 recommendations (52%).

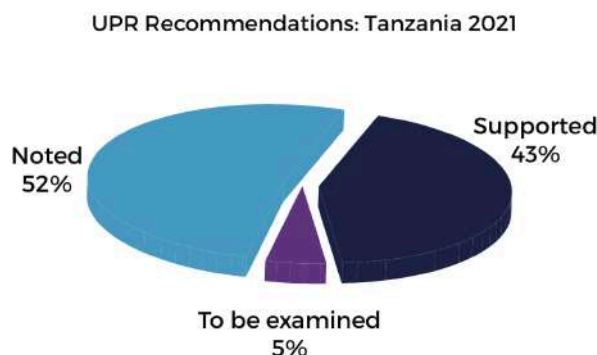


Figure 59: % 2021 UPR Recommendations made to Tanzania that were supported, to be examined, and noted (N=252)

Source: UPR Working Group Report on URT, December 2021

¹³⁸⁹ See United Nations Human Rights Office of the High Commissioner, Universal Periodic Review, at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>, accessed 29th December 2016.

¹³⁹⁰ Ibid.

¹³⁹¹ OHCHR “Tanzania’s human rights record to be examined by Universal Periodic Review” at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27747&LangID=E>.



6.2.3.3. Adoption of Tanzania's Universal Periodic Review

In March 2022, the Working Group on the Universal Periodic Review released its report on the outcome of Tanzania's Universal Periodic Review.¹³⁹² According to the report, the United Republic of Tanzania has accepted to implement 187 recommendations (20 with partial support) and has noted 65 recommendations.¹³⁹³ The percentage of supported recommendations increased from 43% in 2021 to 66% in 2022, while the number of noted recommendations decreased from 52% in 2021 to 26% in 2022.

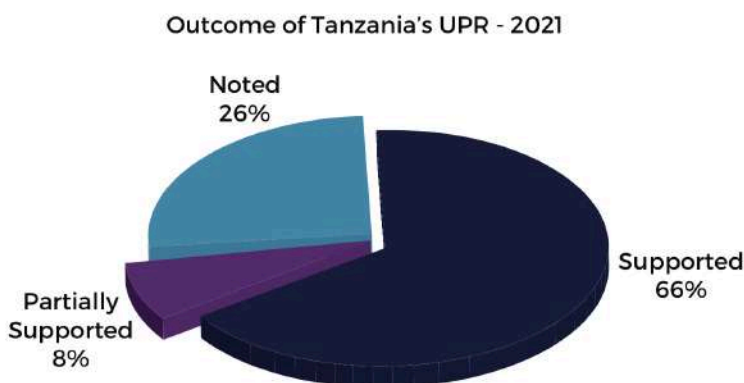


Figure 60: %2021 UPR Recommendations supported, partially supported, and noted by Tanzania in 2022 (N=252)

Source: Report of the Working Group on the Universal Periodic Review 2022

In 2022, various stakeholders commended United Republic of Tanzania for accepting the majority of the recommendations provided during the UPR process in 2021.¹³⁹⁴ Among other things, they welcomed Tanzania's commitment to amend the restrictive Media Services Act of 2016¹³⁹⁵ and acceptance of recommendations to implement reforms to strengthen the independence of the Judiciary and access to justice.¹³⁹⁶ However, they also expressed concerns with only noting or partially supporting various recommendations, including noting all recommendations

¹³⁹² See UNGA, *Report of the Working Group on the Universal Periodic Review: United Republic of Tanzania*, Human Rights Council Forty-ninth session 28 February–1 April 2022 Agenda item 6, Universal periodic review, 21 March 2022, at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/287/06/PDF/G2228706.pdf?OpenElement>.

¹³⁹³ *Ibid.*

¹³⁹⁴ See CIVICUS, *Adoption of Tanzania's Universal Periodic Review*, 23 March 2022, at <https://www.civicus.org/index.php/media-resources/news/united-nations/geneva/5699-adoption-of-tanzania-s-universal-periodic-review>; Amnesty International, *United Republic of Tanzania: Consideration of UPR reports*, 25 March 2022, at <https://www.amnesty.org/en/documents/afr56/5377/2022/en/>.

¹³⁹⁵ CIVICUS, *Adoption of Tanzania's Universal Periodic Review* (*supra*).

¹³⁹⁶ Amnesty International, *United Republic of Tanzania: Consideration of UPR reports* (*supra*).



relating to ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto;¹³⁹⁷ and noting a recommendation to amend the Non-Governmental Organisations Act (Amendments) Regulation 2018, in line with international human rights standards on freedoms of association and peaceful assembly.¹³⁹⁸

LHRC's View: The Government's decision to accept majority of the recommendations is commendable and a step in the right direction in terms of enhancing promotion and protection of human rights in Tanzania.

LHRC's Call: The Government to reconsider its stance on some of the noted or partially supported recommendations, including on the enactment of the anti-GBV law, ratification of the Convention against Torture, and amendment of the Non-Governmental Organisations Act (Amendments) Regulation 2018. The Government should also commit and take measures to implement all accepted recommendations.

6.2.4. Key Recommendations

- The Government, through the Ministry of Constitutional and Legal Affairs, to re-sign the African Court Declaration to allow NGOs and individuals to access the African Court on Human and Peoples' Rights to enhance access to justice for Tanzanians.
- The Government, through the Ministry of Constitutional and Legal Affairs, to ensure the various judgements issued by regional human rights mechanisms, particularly the African Court on Human and Peoples' Rights and the East African Court of Justice, are implemented.
- The Government, through the Ministry of Constitutional and Legal Affairs, to implement the 187 accepted recommendations following the Universal Periodic Review (UPRC) process of 2021.

¹³⁹⁷ Ibid.

¹³⁹⁸ CIVICUS, Adoption of Tanzania's Universal Periodic Review (*supra*).



CHAPTER 7: IMPLEMENTATION OF RECOMMENDATIONS IN PREVIOUS REPORTS

7.1. Overall Picture

LHRC's human rights reports provide recommendations to various government and non-government actors to improve promotion and protection of human rights in Tanzania. Implementation of recommendations is an important yardstick to measure where we are in terms of improving the situation of human rights in Tanzania. This chapter provides status of implementation of recommendations in previous human rights reports produced by LHRC.

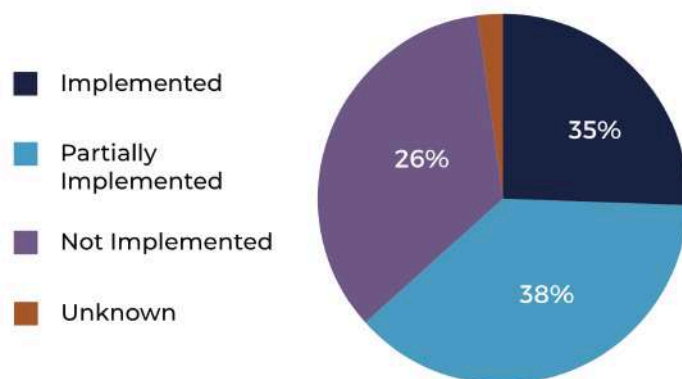


Figure 61: Status of implementation of THRR recommendations (2015 – 2021)

In 2022, the percentage of implemented recommendations stood at 35%, increasing from 31% in 2021. Percentage of partially implemented recommendations also increased from 37% in 2021 to 38% in 2022, while the percentage of recommendations not implemented decreased from 29% in 2021 to 26% in 2022.

Table 21 below shows the number of recommendations that were



implemented (I), partially implemented (PI), not implemented (NI), and whose status is unknown (U).

Table 21: Status of recommendations of LHRC’s Tanzania Human Rights Reports

Human Rights Category	#Recommendations	I	PI	NI	U
Civil and Political Rights	71	25	27	19	0
Economic, Social, and Cultural Rights	45	16	19	10	0
Rights of Vulnerable Groups	28	8	10	9	1
Other human rights	7	3	2	1	1
Total	151	52	58	39	2

Majority of the recommendations made during this period (47%) were on civil and political rights. This is because these rights constitute the majority of human rights stipulated in international human rights instruments and are the most violated human rights compared to other categories of human rights. Recommendations on civil and political rights also constituted the majority of recommendations which were implemented (48%) and not implemented (49%).

LHRC’s Call: In order to safeguard fundamental human rights, enhance social justice, and achieve sustainable development goals (SDGs), LHRC calls upon the Government and other actors to fully implement recommendations which are not implemented and fully implement those which are partially implemented.

7.2. Civil and Political Rights Recommendations

During this reporting period, a total of 71 key recommendations on civil and political rights made in the Tanzania Human Rights Reports of years 2015 to 2021 were assessed to determine their status. Out of these, only 25 recommendations were found to be implemented, while 27 were found to be partially implemented. A total of 19 recommendations were found not implemented. However, percentage of implemented recommendations increased by 2%, while percentage of partially



implemented recommendations also increased from 35% in 2021 to 38% in 2022. Percentage of recommendations not implemented decreased from 32% in 2021 to 27% in 2022.

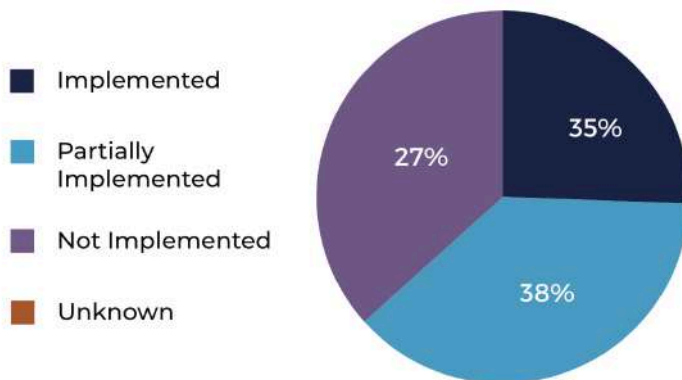


Figure 62: Status of THRR recommendations (2015-2021)

Among key recommendations that were implemented in 2022 were the Government considering lifting of ban on political rallies, as the Government indicated that it would do so soon. The Government also took measures to start reforming the criminal justice system, which has also been one of LHRC's key recommendations in the Tanzania Human Rights Report. One of the measures is formation of a criminal justice reforms committee, chaired by former Chief Justice, Hon. Mohamed Chande Othman. There were also lifting of bans on media outlets and formation of a multiparty democracy presidential taskforce.

Some of the key recommendations on civil and political rights which are yet to be implemented include:

- Officially declare the state of moratorium on execution of death penalty and amend Penal Code to end compulsory sentencing of death penalty for the crime of murder and treason.
- Sign and ratify the Second Optional Protocol to the International Convention on Civil and Political Rights to abolish the death penalty.
- Establish an independent and inclusive electoral body.
- Establishment of an independent police oversight body.
- Government to amend the Media Services Act 2016 to bring it in line with international standards on freedom of expression.



- Government to amend the Cybercrimes Act so that it does not infringe on freedom of expression and other human rights.
- The Government to ratify and domesticate the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Government to sign and ratify the African Charter on Democracy, Elections and Governance.
- Government to amend the Online Content Regulations to remove or amend provisions that do not conform to international human rights standards.
- Government to amend the Political Parties Act 1992 to remove problematic provisions in line with international standards on freedoms of association and assembly.

7.3. Economic, Social, and Cultural Rights Recommendations

During this reporting period, a total of 45 key recommendations on economic, social, and cultural rights made in the Tanzania Human Rights Reports of years 2015 to 2021 were assessed to determine their status. Out of these, only 16 recommendations have been implemented, while 19 have been partially implemented, and total of 10 recommendations have not been implemented.

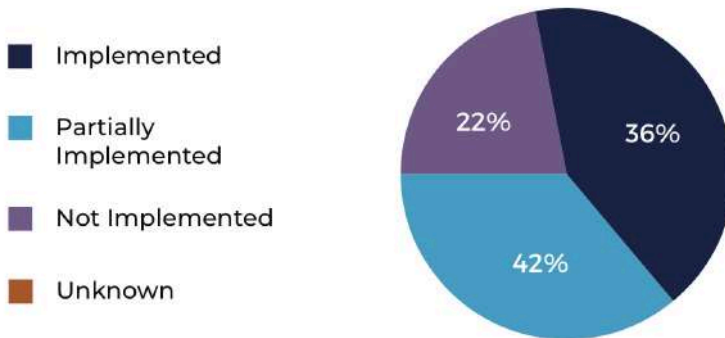


Figure 63: Status of THRR recommendations on economic, social and cultural rights (2015-2021)

Percentage of implemented recommendations increased by 6%, from 30% in 2021 to 36% in 2022. Partially implemented recommendations also



increased from 41% to 42%, while recommendations not implemented decreased from 27% to 22%. One of the key differences was adoption of the new Wage Order of 2022, replacing the Wage Order of 2013. Another key difference was introduction of universal health coverage (UHC) bill.

For economic, social, and cultural rights, one of the key recommendations which is yet to be implemented is the Government to increase budgetary allocations for education, water and health sectors in line with international standards and to ensure full and timely disbursement of funds for these sectors. While budgets have been somewhat increasing, they have not been in line with international minimum standards.

7.4. Rights of Vulnerable Groups Recommendations

During this reporting period, a total of 28 key recommendations on rights of vulnerable groups made in the Tanzania Human Rights Reports of years 2015 to 2021 were assessed to determine their status. Out of these, only 8 recommendations have been implemented, while 10 have been partially implemented. A total of 9 recommendations were not implemented, and status of implementation of 1 recommendation was unknown.

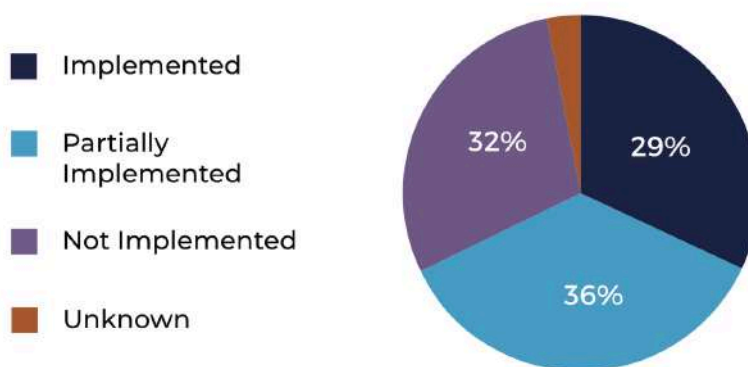


Figure 64: Status of THRR recommendations on rights of vulnerable groups (2015-2021)

Percentage of implemented recommendations remained the same, at 29%, compared to the status in 2021, but percentage for partially implemented recommendations increased from 32% to 36%.



Some of the key recommendations on the rights of vulnerable groups which are yet to be implemented include:

- The Government to ensure enactment of a specific and comprehensive law on gender-based violence as the current legislations do not adequately address gender-based violence issues.
- The Government to enact the law on elderly rights and protection to complement the National Age Policy.
- The Government to fulfil its obligation under the regional and international children rights treaties to end child marriage and confirm the age of 18 as the minimum age for marriage, through a legislative action to amend the Law of Marriage Act 1971.
- The Government to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa of 2018.



CHAPTER 8: CONCLUSION AND RECOMMENDATIONS

8.1. Conclusion

Civil and Political Rights

In the year 2022, LHRC observed a lot of positives in promotion and protection of civil and political rights, including lifting of bans on media outlets, promise of lifting of ban on political rallies, and plans to reform the criminal justice system. Consequently, there was an overall slight improvement in protection and promotion of civil and political rights. However, these rights continued to be the most violated in 2022, due to factors such as existence of restrictive laws and regulations, especially on freedoms of expression, assembly, and association; corruption and delays in administration of criminal justice; gender discrimination; different forms of violence, including against women, children, PWDs, and the elderly; disregard of due process of the law; arbitrary arrests and detentions; and killings.

Economic, Social and Cultural Rights

In 2022, the Government continued to take various measures to ensure progressive realisation of economic, social, and cultural rights in line with its obligations under regional and international human rights instruments. Key policies such as the fee-free education policy, continued to be implemented to safeguard the right to education. However, effective realisation of these rights continued to be hindered by challenges such as insufficient budget; shortage of workers, including teachers and healthcare workers; shortage of classrooms and dormitories; shortage of toilet holes; violence against children; harmful cultural practices; low social security coverage; and labour rights violations. Despite these challenges, the situation of economic, social, and cultural rights slightly improved in 2022 compared to 2021. Among the key positives were the adoption of the new Wage Order of 2022, replacing the Wage Order of 2013, and introduction of the universal health coverage (UHC) bill.



Collective Rights

During this reporting period, collective rights, particularly the right to development, were boosted by various factors, including promises to lift the ban on political rallies and formation of multiparty democracy presidential taskforce. However, for political development existence of laws containing restrictive and intrusive provisions such as the Political Parties Act and gender equality gaps in electoral laws remain key challenges. In terms of economic development there were also some positives and obstacles, with achieving human development remaining a key concern.

Despite the efforts to boost enjoyment of the right to enjoy and benefit from natural resources, key challenges persist, including corruption, tax incentives, tax avoidance, and tax evasion, especially in the extractive sector. Consequently, community members in most resource-rich areas remain poor. Additionally, environmental pollution and climate change continued to be big threats to right to environment.

Rights of vulnerable groups

Vulnerable groups include women, children, PWDs, youth, refugees, the elderly and PLHIVs. These are groups that are more likely to suffer human rights violations, which is why there are special protection mechanisms for them, including specific human rights instruments, save for the elderly who are yet to have a specific human rights convention. In the year 2022, incidents of violence and discrimination against vulnerable groups were widely reported and documented, significantly increasing from those reported in 2021. Sexual, physical, and economic violence continued to be a big threat to effective enjoyment of the rights of vulnerable groups.

Human rights mechanisms

Key national human rights mechanisms are the law enforcement organs, mainly the Tanzania Police Force and the Tanzania Prison Services; the Judiciary; and the Commission for Human Rights and Good Governance (CHRAGG). Their role is to protect human rights under different capacities and in 2022 they continued to play this role in various ways, including bringing perpetrators of human rights violations to justice and taking various measures to enhance access to justice. However, key issues affecting their role in human rights protection included corruption; delays in investigation, prosecution, and disposal of cases; poor working environment due to shortage of equipment; shortage of staff; overcrowding in prisons; budgetary constraints; shortage of facilities and equipment; and poor



knowledge about human rights and essence of procedural safeguards.

For international, regional, and sub-regional human rights mechanisms, including the the African Court on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights, African Committee of Experts on the Rights and Welfare of the Child and the East African Court of Justice, the biggest challenge continued to be non-enforcement the decisions of these mechanisms.

8.2. Recommendations

8.2.1. Civil and Political Rights

State actors

- Being a de facto abolitionist state, the Government, through the Ministry of Constitutional and Legal Affairs, to declare a state of moratorium and improve death row conditions and prepare to abolish death penalty.
- The Tanzania Police Force to promptly respond to mob violence and witchcraft-related killings and ensure the perpetrators are brought to justice.
- The Ministry of Home Affairs to ensure law enforcement officials who conduct extra-judicial killings are held accountable in accordance with the law.
- The Tanzania Police Force to adequately enforce traffic laws to reduce road traffic fatalities and injuries.
- The Government, through the Ministry of Constitutional and Legal Affairs, to ratify and domesticate the African Union Road Safety Charter, adopted in 2016.
- The Tanzania Police Force to collaborate with non-state actors like CSOs to raise public awareness about road accidents and their impact on families, communities, and the nation at large.
- The Ministry of Constitutional and Legal Affairs to spearhead amendments of laws restricting freedoms of expression, association, and assembly.
- The Government, through the Ministry of Constitutional and Legal Affairs, to amend the Online Content Regulations 2020 to bring them in line with international human rights standards.
- The Government, through the Ministry of Constitutional and Legal Affairs, to amend Media Services Act of 2016 in line with the decision/



judgement of the East African Court of Justice of 2019.

- The Government, through the Ministry of Constitutional and Legal Affairs, to enact a law establishing an independent civilian police oversight body to ensure and promote accountability in law enforcement.
- The Commission for Human Rights and Good Governance (CHRAGG) and the Tanzania Police Force to ensure police officers at all levels are regularly trained on the UN Basic Principles on Use of Force and Firearms by Law Enforcement Officials and human rights in general, in an effort to address extrajudicial killings.
- The Judiciary and the Prevention and Combating of Corruption Bureau (PCCB) to closely work together to address corruption within the justice system in order to improve public trust and confidence in the criminal justice system and safeguard the right to access to justice and effective remedy.
- The Government and the Tanzania Police Force to refrain from arbitrarily interfering with freedom of expression, including press freedom; freedom of assembly; and freedom of association.
- Police officers to refrain from conducting arbitrary arrests and arbitrarily detain accused persons instead of sending them to court within a specified period of time (usually 24 hours) as required by the law, in order to promote the right to liberty. The Tanzania Police Force should ensure police officers implicated in this behaviour are held accountable.
- The Government, through the Ministry of Constitutional and Legal Affairs, to make legal reforms in the criminal justice system to address various challenges, including lengthy pre-trial detention. The law should set the maximum limit for pretrial detention and clearly stipulate the process that should be followed in situations where such limits have been exceeded.
- The Tanzania Police Force should ensure police officers refrain from fabricating cases against innocent civilians; and those responsible are disciplined and charged with malicious prosecution.
- The Government, through the Ministry of Home Affairs, to collaborate with other stakeholders to strengthen anti-human trafficking measures in regions where children are most trafficked from and effectively implement the anti-human trafficking laws and regulations.
- The Government, through the Ministry of Constitutional and Legal Affairs, to take legal and administrative measures to safeguard the right to take part in governance, including allowing independent candidates and creation of an independent and inclusive electoral body.
- The Government, through the Ministry of Constitutional and Legal Affairs, to ratify the African Charter on Democracy Elections and



Governance (ACDEG) of 2007.

- The Government, through the Ministry of Constitutional and Legal Affairs, to make legal reforms to safeguard the right to access to justice for presidential candidates and political parties by allowing presidential results to be challenged in court in line with the judgment of the African Court on Human and Peoples' Rights.
- The Government to allow all CSOs, especially those dealing with human rights, to freely observe elections in order to enhance credibility of such elections.
- The Government, through the Ministry of Constitutional and Legal Affairs, to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) in order to safeguard freedom from torture.
- The Tanzania Police Force to ensure police officers grant bail for all bailable offences and to do so timely.
- The Commission for Human Rights and Good Governance (CHRAGG) to collaborate with CSOs to promote and protect civil and political rights.

Non-state actors

- CSOs to intensify effort to raise public awareness on legal procedures and human rights, as well as encouraging community members to obey the law and respect human rights of others in order to preserve right to life. In case of mob violence, for example, members of the public should be made aware of offences which are bailable.
- CSOs and FBOs to use their platforms to speak against and raise awareness about mob violence, death penalty, witchcraft-related killings, attacks of PWAs and road accidents as well as their overall impact on human rights.
- CSOs to collaborate with the Tanzania Police Force to raise public awareness about road accidents and their impact on families, communities, and the nation at large.
- CSOs to collaborate with CHRAGG to provide regular human rights trainings to judges, magistrates and other legal professionals in order to enhance with knowledge and understanding of human rights as a way of safeguarding right to equality before the law and ensuring access to justice.
- CSOs, including the media, to jointly work to promote and protect civil and political rights.
- The media to increase coverage and reporting of issues and incidents of violations of civil and political rights.



- The media to collaborate with NGOs to raise awareness of civil and political rights issues, including by reducing costs for airtime.

Members of the public

- Community members to refrain from taking the law into their own hands and seek remedies at higher levels of the justice system when they are not satisfied with the outcome of a case.
- Religious leaders and traditional leaders to use their platforms to speak against violations of civil rights, especially right to life, freedom of expression and freedom from torture, as a way of promoting these rights.
- Community members to expose and report violations of human rights, especially right to life, and ensure the perpetrators are brought to justice.
- Community members and road users to obey traffic laws to prevent and reduce road traffic fatalities and injuries.

8.2.2. Economic, Social and Cultural Rights

State actors

- The Government, through the Ministry of Finance and Planning, to increase budgetary allocations for education, water, and health sectors in line with international standards and ensure full and timely disbursement of funds for these sectors.
- The Government, through the Ministry of Finance and Planning, to increase budgetary allocation for the agriculture sector, which is the leading employer, in order to boost the right to development and right to work.
- The Government, through the Ministry of Agriculture, to increase investment in irrigation farming in order to boost food production and improve accessibility.
- The Prime Minister's Office - Labour, Youth, Employment and Persons with Disability to collaborate with the Ministry of Community Development, Gender, Women and Special Groups to promote self-employment and entrepreneurship in order to address the problem of youth unemployment.
- Government, through the Prime Minister's Office Labour, Youth, Employment and Persons with Disability (PMO-LYED), to ensure effective implementation of the new Wage Order in the private sector.



- The Ministry of Education, Science and Technology to address challenges faced by teachers to ensure they work in favourable conditions, as a key measure in improving quality of education and achieving key targets under Sustainable Development Goal (SDG) 4 and the Tanzania Development Vision 2025.
- The Ministry of Education, Science and Technology, to review the 2014 Education and Training Policy and make relevant policy and legal reforms to safeguard right to education.
- The Ministry of Education, Science and Technology to collaborate with Ministry of Community Development, Gender, Women and Special Groups to the devise strategies of preventing violence against children perpetrated in school settings, including by teachers.
- The Parliament of the United Republic of Tanzania to ensure that recommendations made in the reports of the Controller and Auditor General (CAG) are implemented by relevant government ministries, institutions, agencies, and local government authorities (LGAs).
- The Government, through the Ministry of Finance and Planning, to increase funding for the water projects, especially for rural areas, in a bid to improve accessibility and quality of water, which is essential to the Government's industrialisation drive.
- The Government, through the Ministry of Water, to ensure its institutions pay water bills on time in order for the water authorities to effectively implement their activities and maintain water infrastructure.
- The Ministry of Water to intensify efforts to address the problem of water leakages, which lead to water loss, and costs water authorities billions of monies.
- Ministry of Education, Science and Technology to improve access to education for children with disabilities by ensuring availability of relevant infrastructure, teachers and learning tools.
- The Commission for Human Rights and Good Governance (CHRAGG) to collaborate with CSOs in promoting and protecting economic, social, and cultural rights.
- The media to raise public awareness on economic, social, and cultural rights issues.

Non-state actors

- CSOs to collaborate with relevant government ministries, including the Ministry of Community Development, Gender, Women and Special Groups and Ministry of Lands, Housing and Human Settlements Development, to promote and protect economic rights, including



conducting awareness-raising sessions and campaigns.

- CSOs to collaborate with the Prime Minister's Office Labour, Employment, Youth and People with Disability to regularly raise public awareness about labour laws, rights and duties.
- The private sector, through the Tanzania Private Sector Foundation, to collaborate with the Government to invest in water projects in order to increase access to water services. This could also be done as part of corporate social responsibility.
- CSOs, the media and other stakeholders to collaborate with the Government to promote and protect social and cultural rights, including through public awareness-raising programmes.

Members of the public

- Members of the public to seek knowledge and access information about their economic, social, and cultural rights, including right to work, right to own property and popular versions on laws relating to these rights prepared by government and no-government actors.
- Members of the public to report violations of their economic, social, and cultural rights to relevant authorities, including trade unions and the Commission for Human Rights and Good Governance (CHRAGG).
- Parents to strive to understand their duties and responsibilities towards their children under the Law of the Child Act of 2009 (as amended in 2019) and make efforts to ensure children enjoy and realise their rights, including right to education and freedom from violence.
- Members of the public to protect public infrastructure and refrain from the habit of damaging them, especially water infrastructure. They also have a duty to report incidents of damage to the infrastructure.
- Community members to mobilize themselves and help the Government in addressing some of key challenges in the education sector, such as shortage of desks and shortage of toilets/toilet holes.

8.2.3. Collective Rights

State actors

- The Government, through the Ministry of Minerals, to address corruption in the mining sector, which is threatening right to development and right to enjoy and benefit from natural resources.
- The Government, through the Ministry of Natural Resources and Tourism, to ensure effective implementation of natural resources laws.
- The Government, through the Ministry of Constitutional and Legal Affairs



and Ministry of Investment, Industry and Trade, to employ a human rights-based approach (HRBA) to investment by ensuring investors, both local and foreign, comply with Tanzanian laws and respect human rights in their operations.

- The Government, through the Ministry of Minerals, to ensure effective implementation of corporate social responsibility (CSR) policy to ensure people in areas with heavy investment, such as mining areas, benefit from their natural resources through improved social services.
- The Government, through the Ministry of Minerals, to address tax evasion and avoidance in the mining sector and ensure companies which evade tax are held accountable.
- The Parliament of the United Republic of Tanzania to ensure that recommendations made in the reports of the Controller and Auditor General (CAG) are implemented by relevant government ministries, institutions, agencies, and local government authorities (LGAs).
- The Commission for Human Rights and Good Governance (CHRAGG) to raise public awareness on collective rights, including the right to development and right to benefit from natural resources.

Non-state actors

- CSOs, including the media, to raise public awareness on collective rights, including the right to development, right to benefit from natural resources, and right to clean and healthy environment.
- CSOs to identify gaps in realization of natural resources and engage and advise the government accordingly.
- CSOs to collaborate with the government to ensure companies comply with their corporate social responsibilities. CSOs can also advocate for CSR to be mandatory for other companies, following amendments to the Mining Act of 2010, which have made CSR a legal requirement for companies in the mining sector.

Members of the public

- Community members are encouraged to preserve and protect natural resources, which is their constitutional duty.
- Community members are also encouraged to pay their taxes, since these are key in realization of social and economic rights.



8.2.4. Rights of Vulnerable Groups

State actors

- The Government, through the Ministry of Constitutional and Legal Affairs, to ensure enactment of a specific and comprehensive law on gender-based violence as the current legislations do not adequately address gender-based violence issues.
- The Government, through the Ministry of Constitutional and Legal Affairs and the Ministry of Community Development, Gender, Women and Special Groups, needs to make legal and policy reforms to ensure cyber violence against women and children is fully incorporated into laws and policies.
- The Government, through the Ministry of Constitution and Legal Affairs and the Law Reform Commission, to review, amend and repeal all discriminatory laws which continue to deprive women of their rights, and which are contrary to fundamental principles of human rights as provided for in various regional and international conventions ratified by Tanzania.
- The Government, though the Ministry of Constitutional and Legal Affairs and the Ministry of Foreign Affairs, to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa of 2018.
- The Government, through the Ministry of Education, Science and Technology to integrate gender education in learning curriculums from elementary to higher learning.
- The Government, through the Ministry of Finance and Planning and Ministry of Home Affairs, to increase funding for the police gender desks to enable it to effectively address gender-based violence and violence against children.
- The Government, through the Ministry of Community Development, Gender, Women and Special Groups, the Ministry of Home Affairs, the National Prosecutions Services (NPS), and the Judiciary of Tanzania to ensure that acts of gender-based violence and violence against children are timely investigated and prosecuted.
- The Government, through the Ministry of Constitutional and Legal Affairs, to ratify the ILO C190 - Violence and Harassment Convention, 2019 (No. 190) to safeguard against acts of violence and harassment in the world of work.
- The Government to consider gender parity and equality in leadership and decision-making positions in order to increase female representation.



- The Government, through the Ministry of Constitutional and Legal Affairs, to facilitate amendment of the Law of Marriage Act of 1971 in line with the Court of Appeal decision of 2019 in the *Rebeca Gyumi* case.
- The Judiciary of Tanzania to ensure that courts of law fast-track proceedings of violence against PWDs.
- The Government, through the Ministry of Home Affairs, to ensure that the elderly are protected from all forms of violence, particularly witchcraft-related killings, through investigation and prosecution of cases of violence against them.
- The Government, through the Ministry of Constitution and Legal Affairs, to table a bill in Parliament to propose enactment of a specific law to cater for the promotion and protection of the elderly.
- The Ministry of Community Development, Gender, Women and Special Groups to fast-track the process of introducing pension for the elderly.
- The Government, through the Ministry of Finance and Planning, to increase budget for implementation of the National Plan of Action to End Violence Against Women and Children (NPA-VAWC) in order to effectively address VAC and VAW, which have reached alarming levels.
- The Ministry of Community Development, Gender, Women and Special Groups to ensure allocation of adequate budget for community development and social welfare departments to enable them to effectively perform their duties in relations to violence against women and children, including making follow-ups on the incidents and providing relevant assistance to victims.
- The Government to take deliberate measures to increase the number of social welfare officers to enhance provision of relevant services to the vulnerable groups.

Non-state actors

- CSOs to increase awareness on violence against women and children and encourage community members to report incidents to relevant authorities so that the perpetrators can be brought to justice.
- CSOs to collaborate with the Government to ensure effective implementation of the Convention on the Rights of the Child (CRC) of 1989 and the African Charter on the Rights and Welfare of the Child (ACRWC) of 1990 in order to safeguard rights of all children, including street children and children with disabilities.
- CSOs to continue raising awareness on the rights of the elderly and conduct campaigns on ending violence and discrimination against the elderly.



- CSOs to collaborate with the Government to strengthen mechanisms to enable women to report abuse instantly as they happen, especially women in remote areas of Tanzania.
- CSO to advocate for the realization of a specific Convention on the rights of the elderly.
- The media to report, raise public awareness, and expose incidents of violations of rights of vulnerable groups, including different forms of violence.

Members of the public

- Community members to perform their duties of protecting and safeguarding children's rights refraining from conducting acts of abuse to children.
- Community members to refrain from discriminating all children, including street children and children with disabilities.
- Community members to refrain from protecting perpetrators of violence against children simply because they need 'to conceal family shame.'
- Women and children to report acts of violence against them in order to receive relevant assistance, including legal and health services.
- Victims of different forms of violence and their families to cooperate with the social welfare officers and prosecutors, including testifying in court, in order to ensure perpetrators of violence are held accountable and justice is achieved.

8.2.5. Human Rights Mechanisms

State actors

- The Government, through the Ministry of Home Affairs and the Ministry of Constitutional and Legal Affairs, to strengthen national human rights mechanisms to ensure better protection of human rights.
- The Government, through the Ministry of Home Affairs and the Ministry of Constitutional and Legal Affairs, to ensure adequate budget is allocated for Commission on Human Rights and Good Governance (CHRAGG) to enable it to effectively carry out its mandate as a national human rights institution.
- The Government, through the Prevention and Combating of Corruption Bureau (PCCB), to move to address corruption in the justice system to boost protection of human rights and their ability to ensure justice.
- The Government, through the Ministry of Constitutional and Legal



Affairs, to re-sign the African Court Declaration to allow NGOs and individuals to access the African Court on Human and Peoples' Rights to enhance access to justice for Tanzanians.

- The Government, through the Ministry of Constitutional and Legal Affairs, to ensure the various judgements issued by regional human rights mechanisms, particularly the African Court on Human and Peoples' Rights and the East African Court of Justice, are implemented in Tanzania, including the judgements on independent candidate, challenging of presidential results, and mandatory death sentence.

Non-state actors

- CSOs to collaborate with the Commission for Human Rights and Good Governance (CHRAGG) to build capacity for law enforcement officials to apply a rights-based approach in their work.
- CSOs also to collaborate with CHRAGG to prepare rights-based approach guides for law enforcement officials.
- CSOs to engage human rights mechanisms at national, regional, continental and international levels as a way of promoting and protecting human rights. CSOs should apply for observer status at some of the human rights mechanisms, such as the African Committee of Experts on the Rights and Welfare of the Child and the African Commission on Human and Peoples' Rights.
- CSOs to engage regional and international human rights mechanisms as part of their regional and international level advocacy and influencing the Government to improve its human rights record and ratifying key human rights treaties that it is yet to ratify.
- The Media to report about different human rights mechanisms and how they can be engaged.
- CSOs to sensitize the public about different national, regional/continental and international human rights mechanisms.
- Members of the public
- Members of the public are encouraged to engage different levels of human rights mechanisms, either individually, or with assistance of CSOs when their human rights are violated, as a way of seeking remedy.



ANNEXES

Annex 1: Status of International Human Rights Ratifications in 2022

As of December 2022, Tanzania has ratified 16 key international human rights treaties/conventions. The table below indicates the number of regional and international treaties ratified by Tanzania so far.

	Convention/Treaty	Ratification
International	Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) 1979	1985
	Convention on the Elimination of All forms of Racial Discrimination 1965	1972
	Convention on the Rights of the Child (CRC) 1989	1991
	International Covenant on Civil and Political Rights (ICCPR) 1966	1976
	International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966	1976
	Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005	2005
	Optional Protocol to the Convention on the Elimination of All forms of Discrimination Against Women 2000	2006
	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict 2002	2004
	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography 2002	2003
	Convention on the Rights of Persons with Disabilities 2008	2009
	Convention Relating to the Status of Refugees 1951	1983
	Optional Protocol on the Convention on the Rights of Persons with Disabilities 2008	2009



	Convention/Treaty	Ratification
Regional	African Charter on Human and Peoples' Rights 1981	1984
	African Charter on the Rights and Welfare of the Child 1990	2003
	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2000 (Maputo Protocol)	2007
	Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights 1998	2006

Tanzania is yet to ratify the following treaties:

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1987.
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families 2003.
- African Charter on Democracy, Elections and Governance. Date of Adoption: January 30, 2007.
- International Convention for the Protection of all Persons from Enforced Disappearance 2010.
- Optional Protocol to the International Covenant on Civil and Political Rights 1976.
- Second Optional Protocol to the International Covenant and Political Rights, aiming at the abolition of the death penalty 1991.
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights 2013.
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 2006.
- Optional Protocol to the Convention on the Rights of the Child on a communications procedure 2011.
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa of 2018.
- African Union Road Safety Charter, adopted in 2016.

LHRC calls upon the Government to ratify the conventions which are yet to be ratified in order to safeguard human rights and strengthen human rights mechanisms in Tanzania.



Annex 2: Status of Tanzania's Reportage to Treaty Bodies

The table below shows the status of Tanzania's reporting to the treaty bodies.

Treaty Body	Mandate	Tanzania Reports
Human Rights Committee	Monitoring implementation of the ICCPR (Article 40 of ICCPR)	First report submitted on 20 th August 1979. Second report submitted on 4 th June 1991. Third report submitted on 6 th February 1997. Fourth and last report submitted on 8 th October 2007. Fifth report was due on 1 st August 2013.
Committee on Economic, Social and Cultural Rights	Monitoring implementation of ICESCR (Article 17 of ICESCR)	First report submitted on 10 th September 1979. Second report submitted on 25 th August 2009. Third report was due on 30 th November 2017.
Committee on Elimination of Discrimination Against Women	Monitoring implementation of CEDAW (Article 18 of CEDAW)	First report submitted on 9 th March 1988. Second report submitted on 25 th September 1996. Third report submitted on 16 th April 2007. Fourth and last report submitted on 10 th November 2014.
Committee on the Elimination of Racial Discrimination	Monitoring implementation of CERD (Article 9 of CERD)	First report submitted on 22 nd March 1976. Second report submitted on 29 th January 1980. Third report submitted on 1 st October 1982. Fifth report submitted on 17 th July 1986. Sixth and last report submitted on 27 th October 2004. Seventh report was due on 26 th November 2007.
Committee on the Rights of Persons with Disabilities	Monitoring implementation of CRPD (Article 35 of CRPD)	Report was due on 10 th December 2011, yet to be submitted.



Treaty Body	Mandate	Tanzania Reports
Committee of the Rights of the Child	Monitoring implementation of CRC (Article 44 of CRC)	First report submitted on 20 th October 1999. Second report submitted on 20 th October 2004. Third report submitted on 13 th January 2012. Next report due on 9 th January 2020.
Committee on the Rights and Welfare of the Child	Monitoring implementation of the ACRWC (Article 43 of ACRWC)	Initial report submitted in December 2006. Consolidated 2 nd , 3 rd and 4 th reports submitted in October 2015.

The table above indicates the extent to which Tanzania has complied with its reporting obligations under the treaties it has ratified. While Tanzania has done well in its reporting obligations under the ICESCR, CEDAW, CRC, and ACRWC, it has not done so with regard to its reporting obligations under the CRPD and recently under the ICCPR and CERD. LHRC calls upon the Government, under the Ministry of Constitutional and Legal Affairs to comply with its treaty reporting obligations by preparing and submitting timely reports on actions taken to improve, promote and protect human rights in Tanzania.

Annex 3: List of International Human Rights Instruments

- African Charter on Human and Peoples Rights (ACHPR) of 1981.
- African Charter on the Rights and Welfare of the Child (ACRWC) of 1990.
- African Declaration on Internet Rights and Freedoms.
- AU Declaration of Principles on Freedom of Expression in Africa 2002.
- AU Model on Freedom of Expression Law.
- Code of Conduct for Law Enforcement Officials adopted by the UN General Assembly in resolution 34/169 of 17 December 1979.
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) of 1984.
- Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969
- Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) of 1979.
- Convention on the Rights of Persons with Disabilities (CRPD) of 2006
- Declaration on the Elimination of Discrimination against Women of



1993.

- Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, General Assembly resolution 53/144 Adopted at 85th plenary meeting 9 December 1998.
- Guidelines on Freedom of Association and Assembly in Africa.
- International Convention on the Elimination of all forms of Racial Discrimination (CERD) of 1965.
- International Covenant on Civil and Political Rights (ICCPR) of 1966.
- International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966.
- International Principles on the Independence and Accountability of Judges, Lawyers and Prosecutors of 2004.
- Johannesburg Principles of National Security, Freedom of Expression and Access to Information of 1995.
- Joint Declaration on Freedom of Expression and the Internet of 2011.
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2003.
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa of 2018.
- SADC Protocol on Gender and Development of 2008.
- UN Basic Principles on the Role of Lawyers of 1990.
- UN Convention Relating to the Status of Refugees, 1951.
- UN Convention on the Rights of the Child (CRC) of 1989.
- Universal Declaration of Human Rights (UDHR) of 1948.
- UN Declaration on the Right to Development of 1986.
- UN Universal Declaration on the Eradication of Hunger and Malnutrition of 1974.



PART TWO: ZANZIBAR

ZANZIBAR FIGHTING AGAINST YOUTH CHALLENGES ORGANIZATION (ZAFAYCO)





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LIST OF ABBREVIATIONS

ACHPR	African Charter on Human and Peoples Rights
ACRWC	African Charter on the Rights and Welfare of the Child
AIDS	Acquired Immune Deficiency Syndrome
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CCM	Chama cha Mapinduzi
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention on the Elimination of all Forms of Racial Discrimination
CHRAGG	Commission for Human Rights and Good Governance
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSOs	Civil Society Organizations
HIV	Human Immunodeficiency Virus
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
LRCZ	Law Review Commission of Zanzibar
MoHR	Members of House of Representatives
NEA	National Elections Act
PLHIV	Persons living with HIV/AIDS
PWAs	Persons with Albinism
PWDs	Persons with Disabilities
SDG	Sustainable Development Goal
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Funds
UPR	Universal Periodic Review
VAC	Violence against Children
VAW	Violence against Women
ZAECA	Zanzibar Anticorruption and Economic Crimes Authority
ZAFAYCO	Zanzibar Fighting Against Youth Challenges Organization
ZAWIO	Zanzibar Widows Organization
ZEMA	Zanzibar Environmental Management Authority





ABOUT ZAFAYCO

The Zanzibar Fighting Against Youth Challenges Organization (ZAFAYCO) is a non – governmental, nonprofit –making membership organization established in 2011 and got its registration the same year Dec. 23, 2011, with Registration No. 1047 under the societies Act No.6 of 1995, known as “Zanzibar Fighting Against Youth Challenges Organization”. In the new online registration system ZAFAYCO has been registered under Business Entities Registration Act No.12 of 2012 with the registration No. Z0000012796. ZAFAYCO now has 29 organization active members (17 females and 12 males) and 4 Board of Trustees members (1 male and 4 females). ZAFAYCO is hierarchically arranged from the Board of Trustees, Annual General Meeting, Executive Committee, Executive Director, Head of Programs, Head of Finance and Administration, MEAL, Program Managers and Coordinator with sub committees. Currently there are 15 staff, 11 are permanent and 4 are part-timers.

Vision: To see Zanzibar youth are very active and flexible in order that they can handle current economic, political, and social challenges.

Mission: ZAFAYCO is dedicated towards promoting young people through awareness raising, capacity building and networking programs which are youth centered, environmentally friendly and development oriented.

Main Objective: The Organization’s main focus is the development of youth and women, by helping all that need help regardless of age, tribe, etc. The most pressing needs of the groups are identified through meetings with community members and possible solutions are worked out in partnership with them.



EXECUTIVE SUMMARY

Introduction

The report assesses the situation of human rights in Zanzibar in line with international human rights standards and covers all three generations of human rights, namely: civil and political rights; economic, social, and cultural rights; and collective rights. These categories of human rights are covered in separate chapters, but there are other chapters that cover contextual overview, rights of vulnerable groups, human rights mechanisms, and conclusion and recommendations. Information and data used to prepare this report were obtained from primary and secondary sources. ZAFAYCO's assessment of human rights situation in Zanzibar was primarily informed by various reports by government and non-government actors, especially reports by the Office of Chief Government Statistician (OCGS) Zanzibar, the National Bureau of Statistics (NBS) of the United Republic of Tanzania, and the Tanzania Police Force (TPF). Speeches, including budget speeches, as well as speeches and statements by government leaders and institutions were also instrumental in preparation of this report.

Overall, the situation of human rights in Zanzibar has been observed to be improving in recent years, including in 2022. This is mainly contributed by the efforts of the current administration in improving the situation by addressing various challenges in enjoyment and realization of human rights, especially socio-economic rights.

Key Issues and Findings

Civil and Political Rights

Significant human rights issues that were observed with regards to civil and political rights in 2022 included road accidents and their negative impacts, measures to enhance access to justice, barriers to access to justice, different forms of violence against women and children, and concerns over human trafficking.

- In 2022, a total of 172 road accidents were reported across Zanzibar. This constitutes a decrease of 34 incidents compared to the incidents of 2021. Nevertheless, the rate of accidents is still high, thus the need for more coordinated efforts to address such accidents and preserve human lives. The impacts of these accidents at family, community, and national levels are huge.



- Despite the various efforts to enhance access to justice by the Revolutionary Government of Zanzibar, the Judiciary of Zanzibar and other state and non-state actors, several barriers to access to justice continue to exist. Corruption is the biggest barrier to justice (73%), followed by lengthy court proceedings (46%), and low awareness about laws (25%).
- Key concerns in the administration of criminal justice include slow pace of investigation, lengthy pre-trial detention, constant adjournment of cases, denial of bail, and trumped-up charges/fabricated cases.
- Women and children continued to constitute the majority of different forms of violence. Men also suffer from different forms of violence, but the incidents are rarely reported. In 2022, men constituted 0.2% of the 1,360 victims of GBV in Zanzibar.
- Human trafficking incidents have been said to often go unreported.

Economic, Social, and Cultural Rights

Despite government efforts, several challenges continued to affect realization of economic and social rights in 2022.

- In education, such challenges included shortage of teachers; shortage of classrooms; shortage of toilets and toilet holes; budgetary constraints; and poor working conditions for teachers.
- Challenges in accessing quality health services, including proximity of health facilities and shortage essential medicines and supplies were also cited as challenges.
- Challenges in realization of right to clean and safe water include budgetary constraints for the ministry responsible; climate change, which has affected rainfall; water loss and leakages; old water infrastructures; contamination of water sources; and non-payment of water bills or delays in paying them.
- Some of the challenges currently hindering effective realization of the right to work include shortage of workers in key sectors, which creates a burden for available workers; poor working conditions, including for teachers; low awareness about labour rights; unemployment and underemployment, especially of youth; and violations of labour rights
- Protection of property rights was said to be jeopardized by land disputes, especially boundary disputes, while labour rights violations jeopardized right to work.
- 80% of the disputes in Zanzibar are caused by citizens purchasing land without following legal procedures and or property brokers facilitating illegal land sales, at the expense of unsuspecting citizens and investors.



Rights of Vulnerable Groups

Women

Like in Mainland Tanzania, gender-based violence (GBV) continued to be a big threat to human rights in Zanzibar in 2022, especially for women and children. Incidents of different acts of violence were reported and documented in all regions across Zanzibar.

- Statistics released by the Office of the Chief Government Statistician (OCGS) Zanzibar show that GBV incidents increased from 1,222 in 2021 to 1,360 in 2022, equivalent to an 11% increase.
- Most of the reported GBV incidents in 2022 were said to occur at home. Out of 1,360 GBV incidents, 941 incidents occurred at home, equivalent to 69%.
- In 2022, it was reported that Magharibi 'B' District led in terms of number of recorded GBV incidents, with 288 incidents, closely followed by Mjini District, which recorded 279 incidents.
- Lack of police gender and children desks nearby in some districts and divorce contribute to non-reporting of GBV incidents and increase of VAC.
- In 2022, incidents of sexual violence against women included 66 incidents of rape and 5 of sodomy, equivalent to 38% of all reported VAW incidents.

Children

Statistics released by the Office of the Chief Government Statistician (OCGS) Zanzibar show that incidents of violence against children (VAC) constituted 86.2% of all reported GBV incidents in 2022.

- VAC incidents increased from 1,068 in 2021 to 1,173 in 2022. This is equivalent to a 9.8% increase. Girls accounted for 75.8% of VAC victims, while boys accounted for the remaining 24.2%.
- In 2022, the Office of the Grand Mufti of Zanzibar also expressed concerns over the increasing incidents of VAC.
- Like in Mainland Tanzania, sexual violence is the most common form of violence against children (VAC) in Zanzibar, while rape and sodomy are the most common acts of sexual violence. Child rape incidents increased from 563 in 2021 to 585 in 2022, equivalent to half (50%) of all reported VAC incidents.
- Sexual violence against boys is a key concern in Zanzibar. A total of 200 sodomy incidents had been recorded by police, increasing from 177 in



2021.

- Incidents of child neglect are rarely reported in Zanzibar, but child neglect is believed to be common.
- Drivers of VAC include poor parenting, parental neglect, separation/divorces, and non-reporting of incidents.

One of the key challenges in combating human trafficking, including child trafficking, in Zanzibar was said to be non-adoption of the 2008 anti-trafficking law.

PWDs

Key challenges faced by PWDs include discrimination and stigma, social exclusion, discrimination in employment, workplace discrimination, unfriendly infrastructure, different forms of violence, lack of disability friendly social services, access to quality health services, and inadequate enforcement of laws and policies.

Elderly

Exclusion and marginalization is a big challenge for older persons, whereby their families tend to push them out to live in elderly homes. Other challenges include health problems; inadequate monthly pensions, considering the current high costs of living; lack of quality and elderly-friendly health services; limited access to nutritious food, especially for older persons residing in rural areas.

Youth

In Zanzibar, challenges faced by youth and affecting their rights include unemployment and underemployment, lack of or restricted access to quality health services and information, drugs/substance abuse, vulnerability to crime, child labour and exploitation, and different forms of violence, including sexual violence.

Key Recommendations

- The Commission for Human Rights and Good Governance (CHRAGG) and the Tanzania Police Force to ensure police officers at all levels are regularly trained on the UN Basic Principles on Use of Force and Firearms by Law Enforcement Officials and human rights in general, in an effort to address police misconducts.
- The Revolutionary Government of Zanzibar to collaborate with the Union Government take measures to amend laws and regulations governing freedom of expression, particularly the Cybercrimes Act of 2015 and the Online Content Regulations of 2020, to bring them in line



with international human rights standards.

- The Revolutionary Government of Zanzibar to collaborate with the Union Government to take measures to amend laws and regulations governing freedoms of association and assembly, including the Political Parties Act, to bring them in line with international human rights standards.
- The Police Force to ensure police officers refrain from conducting arbitrary arrests and arbitrarily detain accused persons instead of sending them court within a specified period of time (usually 24 hours) as required by the law, in order to the right to liberty. Police officers implicated in this behaviour should be held accountable.
- CSOs to intensify effort to raise public awareness on legal procedures and human rights, as well as encouraging community members to obey the law and respect human rights of others.
- Religious and community leaders to use their platforms and influence to speak out against human rights violations, especially violations of civil and political rights.
- The Revolutionary Government of Zanzibar to collaborate with the Union Government to ratify the UN Convention against Torture (CAT) of 1984.
- The Revolutionary Government of Zanzibar to intensify efforts to increase budgetary allocation for education and health sectors in line with international standards, which require allocation of at least 15 to 20% of the overall budget.
- CSOs to work with relevant government ministries, such as the ministry responsible for women and ministry responsible for land, to promote and protect economic and social rights, including conducting awareness-raising sessions and campaigns.
- Members of the public to report violations of their economic and social rights to relevant authorities, including trade unions and the Commission on Human Rights and Good Governance.
- The Government, through the ministry responsible for women and the Zanzibar Law Review Commission, to review, amend and repeal all discriminatory laws which continue to deprive women of their rights, which are contrary to fundamental principles of human rights as provided for in various regional and international conventions ratified by Tanzania.
- The Government to collaborate with CSOs to increase public awareness raising on GBV and VAC.



- CSOs to continue raising awareness on the rights of the elderly and PWDs and conduct campaigns on ending violence and discrimination against the elderly and PWDs.
- Women and children to come forward and report acts of violence against them in order to receive relevant assistance, including legal and health services.
- The Government to strengthen national human rights mechanisms to ensure better protection of human rights.



CHAPTER 1: INTRODUCTION

1.1. Contextual Overview

1.1.1. Historical Overview

The first settlements of Zanzibar are believed to have been established by immigrants from numerous sections of the African Mainland.¹³⁹⁹ At that time, there was contact between the people of Zanzibar and outsiders. The word Zanzibar is believed to be derived from Arabic word 'Zanjibar' which means coast of the blacks. Autonomous African societies existed in Zanzibar since ancient times, before the isles became increasingly a good geographical and strategic location that attracted visitors from many foreign nations, some of whom established their political bases in the isles. Henceforth, the historical print of Zanzibar drew mainly from African settlers, Persian traders and invasion by foreign nationals. Persians and Arabs are said to be the first foreigners who settled in Zanzibar prior to the coming of Sultan of Oman.¹⁴⁰⁰ The interactions of the local people and foreigners had derived from the responses of development marked by indigenous African parallel with imported notions from other parts of Africa, the Middle East, especially from Oman and Yemen in Arabia and from Shiraz in Persia.¹⁴⁰¹

During the 16th Century, the Portuguese who were the first foreign visitors arriving from the South to Zanzibar were also the first European power to gain control of Zanzibar from 1503 to 1698. The Portuguese established friendly relations with the ruler and introduced Christianity in the Isles. However, the Muslim of Oman did start a forceful campaign along the coast against the Portuguese in the late of 17th Century. Consequently, the Portuguese were defeated and fell and thus, their colonial powers and Christian presence came to an end.¹⁴⁰²

The people of Zanzibar have also been socially influenced by the coming of Persians (Shirazi) who began landing in Zanzibar from about the 10th Century. It is common even nowadays to find a good number of Zanzibaris as "Shirazi" with the Persian origin.¹⁴⁰³

1399 Michael F (1965), Zanzibar Background to Revolution, p.29

1400 Bhacher M.R(1994), Trade and Empire in Muscat and Zanzibar: p.5-6

1401 ibid

1402 J. Middleton and another (1965), Zanzibar, its society and politics, p.3-4

1403 .Ibid.



Politically, the people of Zanzibar have a long political relationship with Arabs from Oman.¹⁴⁰⁴ The Omani Arabs, who expelled the Portuguese from Muscat in 1650 and were the leading force against them in the entire region, gradually established at least nominal control over many settlements, including Zanzibar. After a lengthy turmoil of dynastic wars and losses and gains on the African coast, the ruling sultan of Oman, Said bin Sultan, decided to relocate his capital from Muscat to Zanzibar.¹⁴⁰⁵ Zanzibar became an increasingly important part of the Omani empire due to its value as the main slave market of the East African coast. It was the slave trade which was originally responsible for generating the increased economic interest of the Omanis in the Swahili Coast. Universal Declaration of Human Rights condemns slavery as one of the violation of human rights, as this said “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”¹⁴⁰⁶ It is the strength of international pressure as founded under the provisions of the international Bill of Rights that slavery was abolished in most countries that were practicing slavery, including Zanzibar.

When the British came to rule in Zanzibar, the human rights agenda took another shape in the islands. The British rule remained the colonial power with its well-established political presence signified by the abrupt redistribution of the Sultan’s inland territories. This was brought about by the Heligoland–Zanzibar Treaty (German: Helgoland-Sansibar-Vertrag; also known as the Anglo-German Agreement of 1890) which was an agreement signed on 1st July 1890, between Germany and Great Britain. Germany gained the small but strategic island of Heligoland, which its new navy needed for the control of the new Kiel Canal and approaches to Germany’s North Sea ports. Zanzibar and its narrow coastal regions were declared a British protectorate in 1890.

The joint colonial leadership between British and Sultan took place for virtually 70 years from 1890. Their rule came to an end after the islands got their independence in 1963.¹⁴⁰⁷ Despite bringing into the end the Sultanate regime in Zanzibar, the social relationship between the people of Zanzibar and the Oman people continued to be significantly in existence. The main cause behind this social link appears to be inter-marriage and, therefore, blood relationships between Zanzibaris of African origin and Zanzibari

1404 . S.C. Nicholls (1971), *The Swahili Coast, Politics, Diplomacy and Trade on the East African Littoral*, p.217

1405 . <https://www.britannica.com/place/Zanzibar-island-Tanzania>

1406 Article 4 of UDHR

1407 Majamba H.I, (2007), *Perspectives on the Kadhis’ Courts in Zanzibar*, p.2



of Arabs. However, the official link or tie between the Revolutionary Government of Zanzibar and the Omani Government has seen its ‘ups and downs.’ Nevertheless, the two countries continue to have a strong socio-economic relationship as Oman has been a close ally of Zanzibar, providing support in the areas such as health, education, and culture.

Realization of human rights was a struggle for Zanzibaris during the British and Sultan rules, as was the case for their neighbours in Tanganyika. This situation intensified the struggle for independence and realization of the right to self-determination, led by the Afro-Shirazi party (ASP). Eventually, on December 10, 1963, Zanzibar achieved independence as a member of the Commonwealth. In January 1964 the Zanzibar government was overthrown by an internal revolution, Sayyid Jamshid ibn Abdullah (who had succeeded to the sultanate in July 1963 on his father’s death) was deposed, and a republic was proclaimed.¹⁴⁰⁸ An armed insurrection led by Ugandan ASP member John Okello (dubbed the “Field Marshal of Zanzibar and Pemba”), an ASP Youth League mob supported by disaffected ex-police officers overwhelmed security authorities to gain strategic control of the capital, Zanzibar Town.¹⁴⁰⁹ The Umma Party, led by the radical left-winger Abdulrahman Mohamed Babu, was at the forefront. While it did not start the uprising, Umma turned it into a revolutionary insurrection, which took over state power – becoming the first time in modern Africa that a neocolonial administration had been directly overthrown.¹⁴¹⁰ ASP’s Abeid Amani Karume the first President of Zanzibar following the 1964 revolution and in the same year led Zanzibar into the union with Tanganyika to form the United Republic of Tanzania.

The Independence Constitution of 1963, which was characterized by a monarchy leadership, included a bill of rights. However, following the 1964 revolution, the Independence Constitution was replaced by the Constitutional Decree passed by the Revolutionary Council. Consequently, Zanzibar was ruled without a permanent Constitution from 1964 to 1979 when the Revolutionary Council passed the first democratic Constitution of 1979 under the administration of Aboud Jumbe, the then President of Zanzibar. The 1979 Constitution created a legislative body called the House of Representatives followed by first national election after Revolutionary. In 1983 another constitutional debate started in Zanzibar, culminating into the constitutional reforms which saw Zanzibar adopt a new constitution

1408 See Britannica, *Independence of Tanzania*, <https://www.britannica.com/place/Tanzania/Independence>.

1409 See “Remembering Zanzibar’s revolution and its bloody aftermath” TRT World Magazine, 12 January 2021, at <https://www.trtworld.com/magazine/remembering-zanzibar-s-revolution-and-its-bloody-aftermath-43195>.

1410 Ibid.



in 1984, which is still in use to date.¹⁴¹¹ This democratic Constitution made it mandatory for the House of Representatives to be directly elected from constituencies and included the provisions of the Bill of Rights into it. The Constitution has undergone various amendments, including the 2002 amendments which saw the inclusion of provisions on separation of powers and the right of anyone to to protect the constitution through court process.¹⁴¹²

1.1.2. Geography and Population

1.1.2.1. Geography

Zanzibar lies off the eastern coast and situated at its narrowest point some 40 km. away from the east of Mainland Tanzania, (West of Zanzibar) in the Indian Ocean. The northern tip of Unguja Island is located at 5.72 degrees south, 39.30 degrees east; with the southernmost point at 6.48 degrees south, 39.51 degrees east.¹⁴¹³ The northern tip of Pemba Island is located at 4.87 degrees south, 39.68 degrees east, and the southernmost point located at 5.47 degrees east. To the east of both islands exist deep Indian oceans.¹⁴¹⁴ Pemba Island is 40 miles long and 14 miles wide with a surface area of 608 square miles. It is found 36 miles from the mainland and 29 miles north-east of Unguja island. Unguja is about 24 miles wide and 50 miles long and has a surface area of just under 1,000 square miles.¹⁴¹⁵ Zanzibar islands cover a total area of around 2,654 square kilometers out of which Unguja Island occupies an area of 1,666 square kilometers and Pemba Island occupies the remaining 988 square kilometers of the total area.

Zanzibar is characterized by beautiful sandy beaches with fringing coral reefs, and the magic of the historic Stone Town - said to be the only functioning ancient town in East Africa.¹⁴¹⁶ The country is also blessed with the brilliant white beaches round by the warm turquoise waters of the Indian Ocean, provide the perfect place to relax, soak up the sun and take a break from some busy sightseeing. The Climate of Zanzibar is usually warm and humid (equatorial). However, there are four common and long climate changes experienced in Zanzibar. *Masika* is the longer and heavy

1411 See University of Minnesota Human Rights Library, *Tanzania Human Rights Jurisprudence*, at <http://hrlibrary.umn.edu/research/TanzaniaB.html>.

1412 Ibid.

1413 See Zanzibar in Figures 2020, at <http://www.ocgs.go.tz/php/ReportOCGS/Zanzibar%20In%20Figures%202020.pdf>.

1414 Ibid.

1415 Ibid.

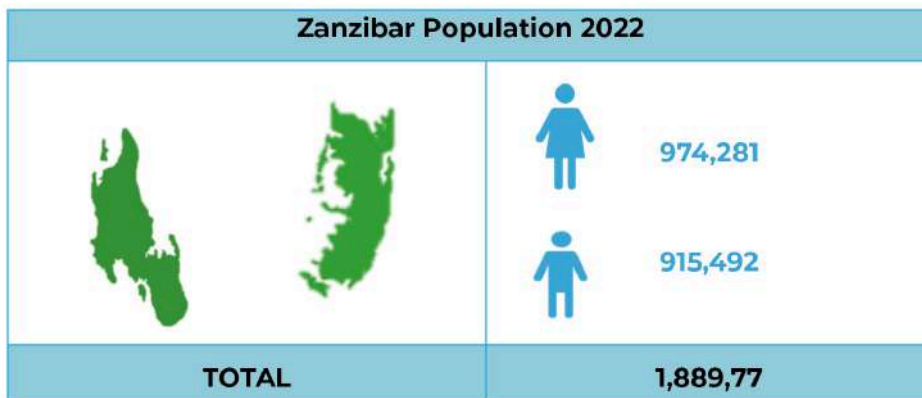
1416 Lugoe F.N (2012) Land Diputes in Zanzibar for SMOLE p.13



rains, and some time comes with consequences, normally occurs between March and May;¹⁴¹⁷ *Kipupwe* which is cold season usually comes on June and August; the hot season is known as *Kaskazi* or *Kiangazi* always comes between December and February and the fourth is *Vuli* where short rains are experienced, usually happens on October and November.¹⁴¹⁸

1.1.2.2. Population

According to census conducted in Tanzania in 2022, Zanzibar currently has a population of 1,889,773, which is equal to 3.1% of the whole population of Tanzania.¹⁴¹⁹ 51.6% of the population is female and the remaining 48.4% is male.¹⁴²⁰



The majority of Zanzibaris are Muslim of Sunni sect, however there are also Christians and Hindu followers. Zanzibaris are an eclectic mixture of ethnic backgrounds, indicative of the islands' colourful history. Widespread intermarriages between Shirazis and Africans gave rise to a coastal community with distinctive features, using a highly Arabicized form of language, known as Kiswahili, which is the country's national language. However, while the official languages are both Kiswahili and English, English generally is used as a medium of instruction in academic institutions. The language of the court and all official documents and public recordings is either Kiswahili or English.¹⁴²¹

1417 Zanzibar Institute for Tourist Development (2014) p.33

1418 Zanzibar Human Rights Report, 2016

1419 See JAMHURI YA MUUNGANO WA TANZANIA, *SENSA YA WATU NA MAKAZI YA MWAKA 2022: MATOKEO YA MWANZO, OKTOBA 2022*, at <https://www.nbs.go.tz/nbs/takwimu/Census2022/matokeomwanzooktoba2022.pdf>.

1420 Ibid.

1421 Zanzibar Human Rights Reports, 2016



1.1.3. Economic Situation

Zanzibar's economy is largely dependent on agriculture and tourism sectors. In agriculture, production of cloves is very important to Zanzibar, historically considered to be the economic backbone of Zanzibar's economy. Zanzibar has been enjoying a good economic growth rate, increasing from 5.8% in 2016 to 7.0% in 2019.¹⁴²² During this period, the average economic growth rate was impressive, at 6.9%. However, in 2020 the growth rate declined significantly to 1.3%,¹⁴²³ with the tourism-dependent economy of Zanzibar particularly impacted by the COVID-19 pandemic, which disrupted the Zanzibar economy, especially hitting hard the tourism sector, which is one of the key sectors for the economy. Impressive economic growth led to increased budgetary allocation, whereby the nominal government budget grew by 69 per cent from TSh 841 billion in FY 2016/17 to TSh 1,419 billion in FY 2019/20.¹⁴²⁴ However, Zanzibar's economy recovered in the second quarter of 2021, with growth of real gross domestic product (GDP) at 6.5 percent, year-on-year, compared with a contraction of 1.4 percent in the corresponding quarter of 2020 and 2.2 percent in the preceding quarter.¹⁴²⁵ Impressive economic growth has also seen Zanzibar attain the lower-middle income status by 2020, which was the goal of the Zanzibar Development Vision 2020.¹⁴²⁶

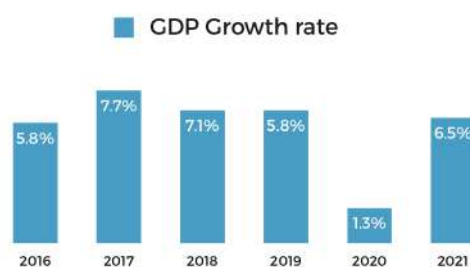


Figure 65: Zanzibar GDP Growth Rate – 2016 to 2021

Source: Zanzibar in Figures 2020 & Bank of Tanzania 2021

¹⁴²² Zanzibar in Figures 2020 (supra).

¹⁴²³ Ibid.

¹⁴²⁴ See UNICEF, *NATIONAL BUDGET BRIEF 2019/2020 ZANZIBAR*, at <https://www.unicef.org/esa/media/8436/file/UNICEF-Tanzania-Zanzibar-2020-National-Budget-Brief-revised.pdf>.

¹⁴²⁵ See Bank of Tanzania, *ECONOMIC BULLETIN FOR THE QUARTER ENDING SEPTEMBER 2021*, VOL. LIII NO. 3, at <https://www.bot.go.tz/Publications/Regular/Quarterly%20Economic%20Bulletin/en/2021121308575263.pdf>.

¹⁴²⁶ The Revolutionary Government of Zanzibar, *Zanzibar Development Vision 2050*, at <http://planningznz.go.tz/doc/new/ZDV2050.pdf>.



1.1.4. Political and Governance Systems

1.1.4.1. Political Background

Since the revolution of 1964, Zanzibar has been led by eight Presidents, namely: Abeid Amani Karume (1st President, 1964-1972); Aboud Jumbe Mwinyi (2nd President, 1972-1984); Ali Hassan Mwinyi (3rd President, 1984-1985); Idrissa Abdul Wakil (4th President, 1985-1990); Dr. Salmin Amour Juma (5th President, 1990-2000); Amani Abeid Karume (6th President, 2000-2010); Dr. Ali Mohammed Shein (7th President, 2010-2020); and the current President, H.E Dr. Hussein Ali Mwinyi (8th President, 2020 to date).

1.1.4.2. Governance System

The Zanzibari governing structure comprises of Executive, the Legislature and the Judiciary, established by the Constitution of Zanzibar of 1984.

The Executive

The Executive arm of Zanzibar is established under Chapter Four of the Constitution of Zanzibar of 1984. It is led by the President, who is the Head of the Country, Head of the Revolutionary Government of Zanzibar, and Chairperson of the Revolutionary Council. Other members of the Revolutionary Council are the First Vice President, the Second Vice President, Ministers, and the Attorney General. As of December 2020, Zanzibar had 17 members in the Revolutionary Council.¹⁴²⁷

The Legislature

The legislative body in Zanzibar is the House of Representatives, established under Chapter Five of the Constitution of Zanzibar of 1984. The House of Representatives is vested with legislative powers in relation to all non-union matters in Zanzibar. It is composed of the Speaker, Deputy Speaker, elected representatives, representatives nominated by President, special seats representatives, and the Attorney General. The majority of representatives are elected members from their constituencies. The House of Representatives also has mandate to oversee and advise the Revolutionary Government of Zanzibar and all its institutions/agencies in discharging their respective duties or responsibilities.

The Judiciary

The Judiciary of Zanzibar is a constitutional organ, established under Chapter Six of the Constitution of Zanzibar of 1984. Zanzibar has its own

¹⁴²⁷ Tanzania in Figures 2020 (supra).



judicial system consisting of (in descending order): the Court of Appeal of Tanzania; the High Court of Zanzibar; Regional and District Magistrate Courts; Primary Courts; *Kadhi* Appeal Courts; and *Kadhi* Courts. These courts have jurisdiction over cases arising in Zanzibar that involve non-union matters.¹⁴²⁸ The High Court of Zanzibar is the highest court for matters originating from *Kadhi* Courts and the interpretation of the Constitution of Zanzibar. However, the appeal process for a case originating from a magistrate court is slightly different, as some of the cases may be appealed to the High Court of Zanzibar and then appealed again to the Court of Appeal of Tanzania. Therefore, not all cases in Zanzibar can be appealed to the Court of Appeal of Tanzania.

1.2. Report Preparation, Objectives, and Structure

1.2.1. Report Preparation & Objectives

The report covers the situation of human rights in Zanzibar for the period of January to December 2022. Reference is also made to the situation in previous years, especially the year 2021, for purposes of showing trends and where specific data for the year 2022 were not obtained. The main objective of this report is to highlight the situation of human rights in Zanzibar during the period under review and discuss reported human rights issues, violations, and acts that promoted human rights. The report is also meant to be used as an advocacy and awareness-raising tool. Further, the report can be used to promote understanding of human rights and human rights issues, identify legal and human rights issues for further research, and act as a starting point in human rights-related research.

1.2.2. Sources of Data

ZAFAYCO's assessment of human rights situation in Zanzibar was primarily informed by various reports by government and non-government actors, especially reports by the Office of Chief Government Statistician (OCGS) Zanzibar, the National Bureau of Statistics (NBS) of the United Republic of Tanzania, and the Tanzania Police Force (TPF). Speeches, including budget speeches, as well as speeches and statements by government leaders and institutions were also instrumental in preparation of this report, providing information on how much progress Zanzibar has made in promoting and protecting human rights and persisting challenges that need to be

¹⁴²⁸ There are 22 union matters, originally there were only 11 union matters. The Court of Appeal is one of the union matters listed in the First Schedule of the Constitution of Tanzania 1977. Other union matters include foreign affairs, security, police, citizenship, immigration, foreign trade, higher education, aviation and statistics.



addressed. Further, the report benefited a lot from previous human rights reports; reports by local and international CSOs; domestic, regional, and international human rights instruments; and decisions of regional and international human rights bodies. The media also provided an important source data for this report, particularly on issues around socio-economic rights and violence against women and children. Different sources of data were used to enable triangulation of data. Key human rights that were assessed included right to life, freedom from violence, right to equality before the law (especially access to justice), right to liberty and personal security, right to education, right to health, right to work, right to property, right to clean and healthy environment, right to non-discrimination, and youth rights.

An assessment involving ZAFAYCO's beneficiaries and partners, including youth, paralegals, human rights monitors, and other community members, also informed this report by providing their perceptions on various human rights issues, especially on different forms of violence, such as mob violence, gender-based violence, and violence against children. A total of 531 stakeholders, including community members, participated in the assessment, of whom 49% were male and 51% were female. Out of the 531 respondents, 408 were community members who provided their opinions on human rights issues, including 19 persons with disabilities (PWDs).¹⁴²⁹ Overwhelming majority of those who participated in the assessment (61.5%) were youth – since ZAFAYCO primarily a youth rights organization, hence engaging more with youth (15 – 35 years). In terms of sex, 46.1% of them were male, while 53.9% were female. 60.3% participated in the assessment in Unguja (60.3) and 162 in Pemba (39.7%).

Primary data obtained through ZAFAYCO's various programmes and projects, especially on youth, were also used. These programmes include public awareness-raising and human rights monitoring programmes.

¹⁴²⁹ Mob violence, intimate partner violence, access to justice, digital safety and security, access to education, access to health services, environmental pollution, violence against women and children, youth rights and challenges.



1.2.3. Report Structure

Chapter 1: Introduction	Provides an overview of Zanzibar, including contextual overview and political and governance systems.
Chapter 2: Civil and Political Rights	Covers situation of key civil and political rights, including freedoms of association, assembly, and expression; rights to equality before the law and effective remedy; and right to life
Chapter 3: Economic, Social, and Cultural Rights	Covers economic, social, and cultural rights, including right to work, right to education, right to health, right to water, and right to property.
Chapter 4: Collective Rights	Looks at and discusses realization of rights to development, right to benefit from natural resources, and right to clean and healthy environment.
Chapter 5: Rights of Vulnerable Groups	Covers rights of vulnerable groups, especially women, children, PWDs, and the elderly.
Chapter 6: Human Rights Mechanisms	Looks at human rights mechanisms at domestic, regional, and international levels and discusses their roles in human rights protection in Zanzibar.
Chapter 7: Conclusion and Recommendations	Provides general conclusion and recommendations to enhance promotion and protection of human rights in Zanzibar.

1.2.4. Overview of Human Rights Situation in 2022

Overall, the situation of human rights in Zanzibar has been observed to be improving in recent years, including in 2022. This is mainly contributed by the efforts of the current administration in improving the situation by addressing various challenges in enjoyment and realization of human rights, especially socio-economic rights. One of the big positives in this regard is the recent enactment of elderly protection law and provision of monthly pensions to older persons aged 70 years and above. President Mwinyi's Government has also been commended by stakeholders for



efforts in addressing gender-based violence and violence against children, as well as challenges in provision of social services, including education and health services.

The biggest human rights concern in Zanzibar was found to be gender-based violence and violence against children. Children (including youth aged 15 to 17 years) constitute the overwhelming majority of the victims of violence, especially sexual violence, which usually manifests through acts of rape (girls) and sodomy (especially for boys). For women, physical and psychological violence is a concern, especially in domestic settings, as well as economic violence, especially against widows, who are sometimes kicked-out of homes by in-laws or denied property and inheritance rights. There are also various concerns for youth rights, including unemployment and underemployment, globalization and social networking, crime, and substance/drugs abuse and addiction. Another key concern is various access to justice and criminal justice challenges, such as corruption, proximity of court services, proximity of legal aid services, delays in administration of justice, delays in police investigations, and shortages of criminal justice staff. Additionally, right to life challenges such as mob violence and road accidents also continued to jeopardize human rights in Zanzibar.



CHAPTER 2: CIVIL AND POLITICAL RIGHTS

Civil and political rights are rights that protect peoples' freedoms from infringement by governments, institutions, and private individuals. These rights involve citizens' participation in the establishment of a government and participation in political life. They protect individuals' freedoms from interference by state actors, promote participation in civil society, and are essential for democracy.¹⁴³⁰ These rights are protected and guaranteed under international¹⁴³¹ and regional¹⁴³² human rights instruments, as well as the Constitution of Zanzibar.¹⁴³³

This chapter highlights the situation of key civil and political rights in Zanzibar, namely: right to life; freedom of expression; freedom of assembly; freedom of association; right to equality before the law; right to liberty and personal security; right to take part in governance; freedom from torture; and freedom from violence.

Significant human rights issues that were observed with regards to civil and political rights in 2022 included road accidents and their negative impacts, measures to enhance access to justice, barriers to access to justice, different forms of violence against women and children, and concerns over human trafficking.

2.1. Right to Life

2.1.1. Overview

Right to life is the most fundamental human right, upon which realization

¹⁴³⁰ International IDEA, UN & OHCHR, *Democracy and Human Rights: The Role of the UN*, Discussion Paper September 2013, at <https://www.idea.int/sites/default/files/publications/democracy-and-human-rights-the-role-of-the-united-nations.pdf>.

¹⁴³¹ Key instruments include the Universal Declaration of Human Rights (UDHR) of 1948; the International Covenant on Civil and Political Rights (ICCPR) of 1966; UN Convention on the Rights of Persons with Disabilities (CRPD) of 2006; the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) of 1979; the UN Convention on the Rights of the Child of 1989; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) of 1984.

¹⁴³² Including the African Charter on Human and Peoples' Rights (ACHPR/Banjul Charter) of 1981; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (popularly known as the Maputo Protocol) of 2003; the African Charter on the Rights and Welfare of the Child (ACRWC) of 1990; African Charter on Democracy, Elections and Governance of 2007; SADC Protocol on Gender and Development of 2008; and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa of 2018.

¹⁴³³ The Constitution contains the bill of rights, which guarantees fundamental human rights such as right to life, freedom of expression, freedom of assembly, right to liberty and personal security, and right to take part in governance.



of other rights depends on. Various regional and international human rights conventions ratified by Tanzania recognize right to life. These include the International Covenant on Civil and Political Rights (ICCPR) of 1966; the UN Convention on the Rights of Persons with Disabilities (CRPD) of 2006; Convention on the Rights of the Child (CRC) of 1989; the African Charter on Human and Peoples' Rights (ACHPR) of 1981, the African Charter on the Rights and Welfare of the Child (ACRWC) of 1990, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2003, and SADC Protocol on Gender and Development of 2008. This right is also enshrined in the Universal Declaration of Human Rights (UDHR) of 1948.

Domestically, right to life is also guaranteed and protected under the Constitution of the United Republic of Tanzania of 1977. In Zanzibar, this fundamental human right is protected under Section 13(1) of the Constitution of Zanzibar of 1984, which provides that "Every person has the right to the preservation of his life." Additionally, "Everyone has the right to live and to the protection of his life by the society in accordance with the law."¹⁴³⁴

In 2022, key issues that were observed to affect right to life included mob violence and road accidents.

2.1.2. Mob Violence

2.1.2.1. Trend and reported incidents

Mob violence is one of the key issues affecting right to life in Zanzibar. Police statistics show that in recent years, mob violence in Zanzibar peaked in 2017, when 26 incidents were reported. Ever since, fewer than 20 reports have been reported, based on the most recent police data.¹⁴³⁵ In 2022, ZAFAYCO could not obtain police data on mob violence in time for finalization of this report. However, going by the available data from 2015 to 2020, an average of 16 mob violence incidents are reported each year in Zanzibar.

¹⁴³⁴ Ibid, Article 13(2).

¹⁴³⁵ Jeshi la Polisi Tanzania & Ofisi ya Taifa ya Takwimu, *TAKWIMU ZA HALI YA UHALIFU NA MATUKIO YA USALAMA BARABARANI*, Januari – Disemba 2020. [https://www.nbs.go.tz/nbs/takwimu/Crime/Crime_Report_January_to_%20December_2020.pdf]





Figure 66: #Mob violence killings in Zanzibar, 2015 to 2020

Source: Police data, 2020 & 2021

2.1.2.2. Community perceptions on mob violence

Community members and stakeholders who provided their opinions on various human rights issues, expressed concerns over mob violence. Just over half of them (55.4%) said it is a serious problem in their community, followed by 19.9% who said it is a moderate problem, while 9.4% said it is only a minor problem or not at all a problem. Regarding reasons for resorting to mob violence, an accused person being seen on the streets after they were arrested and bragging about being released was mentioned as the biggest reason (52%), followed by justice being perceived to take too long (49%).

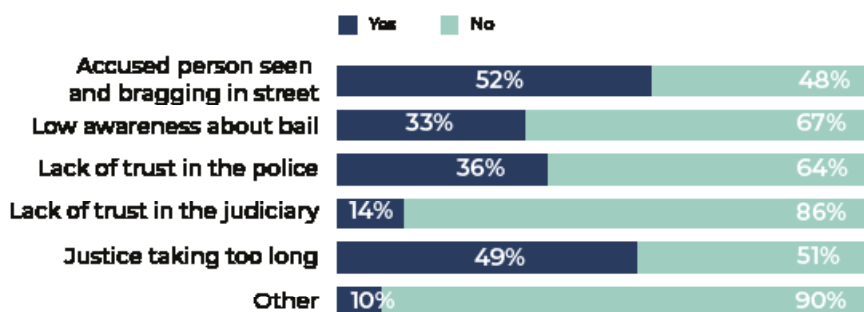


Figure 67: %Responses on reasons for mob violence (N=408)

Source: Human rights assessment, 2022



2.1.3. Extrajudicial Killings and Violence against Law Enforcement Officers

Tanzania is obligated under various regional and international human rights treaties to safeguard the lives of its citizens as well as foreigners, doing so through its law enforcement and security officials. The United Nations Code of Conduct for Law Enforcement Officials provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty. In other words, use of force must be proportionate to the objective intended and use of firearms should be limited to when a suspect is armed and there is possibility of the lives of others being in jeopardy. When law enforcement officials do not observe this principle of proportionality and people die, they commit extrajudicial killings.

Incidents of extrajudicial killings and violence against law enforcement officers been rare in Zanzibar in recent years. Like it was the case in 2021, no incidents of extrajudicial killings and violence against law enforcement officers were reported and documented by ZAFAYCO in Zanzibar in 2022.

2.1.4. Witchcraft-motivated Killings and Violence against PWAs

Unlike in Mainland Tanzania, witchcraft-motivated killings and violence against persons with albinism (PWAs) are not right to life concerns and issues in Zanzibar. Community members, including older persons, are rarely accused of witchcraft and even when this happens it does not escalate into violence. For years, there have also been no reports of attacks of PWAs, hence members of this vulnerable group are not made to pay the price for superstition in Zanzibar, unlike in Mainland Tanzania, where incidents of attacks of PWAs for their body parts have resurfaced.

2.1.5. Death Penalty

In many countries around the world, death penalty is seen as a violation of the right to life and deemed a cruel, degrading, and inhuman punishment under the Convention against Torture (CAT). The death penalty has therefore been criticized by many human rights activists on the grounds that it is inhuman and against the right to life, and many countries (over 100) have moved to abolish it, including neighbouring Rwanda, Mozambique, and Malawi. Only about 53 countries in the world have retained death penalty and execute death row inmates.¹⁴³⁶

¹⁴³⁶ See Death Penalty Information Center “Abolitionist and Retentionist Countries” at <https://deathpenaltyinfo.org/policy-issues/international/abolitionist-and-retentionist-countries>.



For Zanzibar, the debate death penalty is affected by ideological justification for the practice, including the ancient maxim of ‘an eye for an eye, a tooth for a tooth.’ Consequently, many believers would not want or wish to question anything which they consider having been sanctioned by their religion as taught by their religious leaders.¹⁴³⁷

Despite retaining death penalty in the penal laws, Tanzania, including Zanzibar, is considered to be an abolitionist State in practice, being among 29 such countries in the world.¹⁴³⁸ This is because death row inmates are not executed, as Presidents have been reluctant to sign death warrants.

Like in the previous year, there were no reported death sentences imposed by courts of law in Zanzibar that were documented by ZAFAYCO in 2022. No executions were also reported.

2.1.6. Road Accidents

2.1.6.1. Overview

Road accidents become a human rights issue when negligence of drivers of vehicles and poor quality of roads are involved. Road safety is an essential human right linked to the right to life. As a result of these accidents, communities bear the burden after families lose their loved ones, including breadwinners and children. These accidents are usually caused by reckless behaviour and negligence on the part of motor vehicle drivers,¹⁴³⁹ hence jeopardizing right to life.

2.1.6.2. Police statistics on road accidents and resulting deaths

Efforts by the Tanzania Police Force and other stakeholders have seen road accidents in Tanzania generally decrease from 10,297 incidents in 2016 to 1,714 in 2020, equivalent to a 68% decline. The number of resulting deaths has also decreased from 3,381 in 2016 to 1,260 in 2020, equivalent to a 46% decline. In Zanzibar, road accidents have also been decreasing in recent years.¹⁴⁴⁰ For instance, road accidents decreased from 314 in 2020 to 206 in 2021. Resulting deaths also decreased by 12 incidents.¹⁴⁴¹

1437 Simon Coldham ‘Criminal Justice Policies in Commonwealth Africa: Trends and Prospects’ Vol. 44 No. 2 (2000) *Journal of African law*, OUP 218-238

1438 Death Penalty Information Center “Abolitionist and Retentionist Countries” (*supra*).

1439 Jeshi la Polisi Tanzania & Ofisi ya Taifa ya Takwimu, *TAKWIMU ZA HALI YA UHALIFU NA MATUKIO YA USALAMA BARABARANI*, Januari – Disemba 2020.

1440 *Ibid.*

1441 Office of the Chief Government Statistician (OCGS) Zanzibar statistics, 2021.



In 2022, a total of 172 road accidents were reported across Zanzibar.¹⁴⁴² This constitutes a decrease of 34 incidents compared to the incidents of 2021. Kaskazini B (North B) District recorded the biggest number of road accidents (31), followed by Kaskazini A and Kati (Central) Districts, with 24 road accidents each.

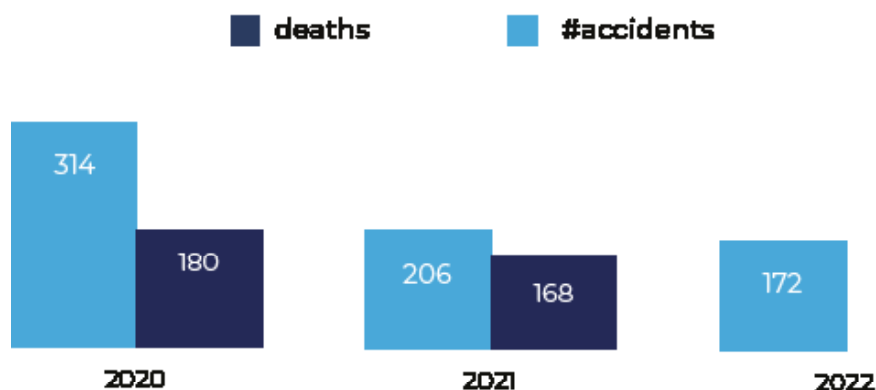


Figure 68: #Road accidents and resulting deaths in Zanzibar, 2020 - 2022

Source: Official OCGS statistics 2022 & Zanzibar in Figures 2021

2.1.6.3.Reasons for road accidents

In recent years, The Tanzania Police Force has indicated that most road accidents are caused by human error (over 90%), especially driver's negligence.¹⁴⁴³ Community members are also of the view that most road accidents are caused by negligence of drivers, followed by disregard of traffic laws, and over speeding.¹⁴⁴⁴ In 2021, there were 662 traffic offences on dangerous driving, decreasing from 824 in 2020.¹⁴⁴⁵

2.1.6.4.Impact of road accidents

At family level, road accidents rob families of breadwinners and loved ones, leaving husbands without wives, wives without husbands, parents without children, and children without parents. This may severely impact family ties, reduce family income, create family conflicts, and cause divorce or

¹⁴⁴² See Office of the Chief Government Statistician (OCGS) Zanzibar statistics at <https://www.ocgs.go.tz/>.

¹⁴⁴³ *TAKWIMU ZA HALI YA UHALIFU NA MATUKIO YA USALAMA BARABARANI*, Januari – Disemba 2020 (supra).

¹⁴⁴⁴ See LHRC, ZLSC & ZAFAYCO, Tanzania Human Rights Report 2021(Part Two), at www.humanrights.or.tz.

¹⁴⁴⁵ Zanzibar in Figures 2021 (supra).



separation, as victims of road accidents and their families suffer socially, psychologically, and economically.¹⁴⁴⁶

Road accidents also leave loved ones in disability, sometimes permanent, hence affecting their ability to work and earn a living. This in turn affects efforts to reduce household poverty. A survey conducted in South Korea in 2013 showed the impact of road crashes on household income, unemployment, home ownership, divorce rate, and income gaps for surviving victims of road-crashes.¹⁴⁴⁷ For instance, the survey found that a large number of people lose their jobs after traffic crashes; it takes longer for victims of road crashes to find jobs; and there are huge income gaps between victims of traffic crashes and non-victims.¹⁴⁴⁸

At community and national levels, road accidents take away experts, professionals, and producers, who play a crucial role in economy and development. Globally, economic costs of road accidents may cost up to 5% of GDP in many countries.¹⁴⁴⁹ Road accidents therefore increase the government expenditure in unproductive ways, including in the health sector, where hospitals are overburdened with victims of road accidents requiring operation.

Negligence/reckless driving continues to be a key factor contributing to road accidents. In some areas, poor road infrastructure also contributes to road accidents. ZAFAYCO commends the police force for making efforts to reduce road accidents and ensure those responsible for reckless driving are held accountable. Nevertheless, the rate of accidents is still high, thus the need for more coordinated efforts to address such accidents and preserve human lives. The impact of these accidents at family, community, and national levels are huge.

2.1.7. Intimate Partner Violence and Intimate Partner Homicide

2.1.7.1. Situation of intimate partner violence in Zanzibar

In Zanzibar, incidents of intimate partner violence (IPV) and intimate partner homicide (IPH) have been rare and rarely reported. However, it has been observed that these incidents might have been reported as murder cases, hence making it difficult to determine the extent or magnitude of

¹⁴⁴⁶ See M. Makuu, *Socio-economic Consequences of Road Traffic Accidents to the Victims and their Families in Dar es Salaam Tanzania*, AJOL, Vol. 25 No. 2 (2018), at <https://www.ajol.info/index.php/huria/article/view/187646>.

¹⁴⁴⁷ See Nak Moon Sung & Mauricio Ríos, *Road crashes have more impact on poverty than you probably thought*, World Bank Blogs, 25 February 2015, at <https://blogs.worldbank.org/transport/road-crashes-have-more-impact-poverty-you-probably-thought>.

¹⁴⁴⁸ Ibid.

¹⁴⁴⁹ Ibid.



IPH caused by IPV. In 2021, ZAFAYCO documented only one incident of IPH, which occurred on 25th September 2021 in Urban West Region, whereby a woman was attacked and killed by her husband because of jealousy.¹⁴⁵⁰ In 2022, no reported incident of such killing was documented.

However, IPV is said to exist in Zanzibar, according to the SIGI Country Report for Tanzania 2022, which indicates that 21% of women in Zanzibar have experienced IPV in their lifetime, while 7% experienced such violence over the past 12 months (2021).¹⁴⁵¹ This situation is mainly said to be driven by social acceptance of violence against women, whereby half of Tanzania's population is said to agree with the statement that a husband is justified in hitting or beating his wife if she burns food, goes out without telling him, neglects the children, or argues with him.¹⁴⁵²

2.1.7.2. Intimate partner violence and homicide: Human rights assessment findings

Stakeholders who participated in assessing human rights situation in Zanzibar were also asked to give opinions on IPV in their community. Majority of them, nearly two thirds (60.8%), said it is a serious problem, followed by 15.2% who said it is a problem, and 15% who said it only a moderate problem.¹⁴⁵³ Only 9.1% of the respondents said it is either a minor problem or not at all a problem. When asked if they had ever witnessed or heard about IPV incidents, nearly half of them (47.1%) said they had, while just over two thirds (39.7%) said they had not, and the remaining 13.2% said they did not know or remember. Over half of those said they had witnessed such violence, mentioned psychological violence (verbal abuse/humiliation) as more common, followed by physical violence. Regarding IPH, only 1.2% of the participants said they had witnessed or heard about such killings.¹⁴⁵⁴

2.2. Freedom of Expression

2.2.1. Overview

Freedom of expression is defined as a right to communicate one's opinions and ideas to anyone who is willing or entitled to receive them. It includes any act of seeking, receiving and imparting information or ideas

1450 See "MAUAJI ZANZIBAR: DADA WA KAZI ALISINGIZIWA, SIRI YAFICHUKA "MUME NDIE ANADAIWA KUMUUA MKEWE" at <https://www.youtube.com/watch?v=dP6Nsb-HhCY>.

1451 OECD (2022), *SIGI Country Report for Tanzania, Social Institutions and Gender Index*, OECD Publishing, Paris, <https://doi.org/10.1787/06621e57-en>.

1452 Ibid.

1453 Human rights assessment, 2022.

1454 Ibid.



regardless of the medium of the information used.¹⁴⁵⁵ This right is provided for and protected under various international and regional human rights instruments, such as the Universal Declaration of Human Rights (UDHR) of 1948, the International Covenant on Civil and Political Rights (ICCPR) of 1966 and the African Charter on Human and People’s Rights (ACHPR) of 1981.

(1) Without prejudice to the relevant laws of the land, every person has the right to freedom of opinion and expression, and to seek, receive and impart or disseminate information and ideas through any media regardless of national frontiers and also has the right of freedom from interference with his communications.

(2) Every citizen has the right to be informed at all times of various events in the country and in the world at large which are of importance to the lives and activities of the people and also of issues of importance to society.

Section 18 of the Constitution of Zanzibar of 1984

Several principles under international law allow some restrictions on such rights and freedoms but only where they meet certain thresholds or restrictive conditions. Interference with the right to freedom of opinion or freedom of expression has to qualify as being “necessary in a democratic society” and to the extent strictly required to achieve the legitimate aim sought to be achieved.”¹⁴⁵⁶ In other words, a state must not only demonstrate that its interference with a person’s right meets a “pressing social need” criteria but also it is proportionate to the legitimate aim pursued, which appears to be necessary in a democratic State.¹⁴⁵⁷ Therefore, restrictions on freedom of expression are allowed as long as they meet the conditions of legality (provided by law), necessity, and proportionality, as required under the ICCPR of 1966.

2.2.2. Restrictive provisions in freedom of expression laws

In Zanzibar, there are freedom of expression laws such as the Constitution of Zanzibar of 1984, the Cybercrimes Act of 2015 and Online Content Regulations of 2020, which apply in both Mainland Tanzania and Zanzibar, which contain provisions which arbitrarily restrict freedom of expression. This is because these provisions have failed to meet international human rights standards and permissible restrictions on freedom of expression.

¹⁴⁵⁵ ZHRR 2015, P.73

¹⁴⁵⁶ See Article 19(3) of the International Covenant on Civil and Political Rights, 1966.

¹⁴⁵⁷ ZHRR 2015, p.74.



For instance, Section 18(2) of the Constitution of Zanzibar has been said to restrict freedom of expression, particularly the right to information, by narrowing the right to be informed to “various events in the country and in the world at large which are of importance to the lives and activities of the people and also of issues of importance to society.” This provision implies that enjoyment of the right to seek and impart information largely depends on the conditions imposed by relevant laws without setting boundaries within the Constitution on the permissible restrictions that may be imposed by these laws.¹⁴⁵⁸ This constitutional provision has therefore fallen short of international human rights standards by failing to meet the three-part test of legality, necessity and proportionality enshrined in Article 19(3) of the International Covenant on Civil and Political Rights (ICCPR) of 1966.¹⁴⁵⁹

Various analyses of the Cybercrimes Act of 2015 and Online Content Regulations of 2020 by local and international organizations have also shown that they contain provisions which are restrictive and fall short of international human rights standards.¹⁴⁶⁰

It is desirable for the Government to review all laws and regulations relating to freedom of expression to bring them in line with international standards on freedom of expression in order to safeguard human rights. In recent years, restrictive provisions in the freedom of expression laws have also affected freedom of expression online and contributed to decline in internet freedom.¹⁴⁶¹

2.2.3. Press Freedom Violations

In 2022, media stakeholders praised President Samia Suluhu Hassan for improving press freedom. In March 2022, the Chairperson of the Media Institute of Southern Africa – Tanzania Chapter (MISA-TAN), Salome Kitomari, said there were improvements in press freedom, contributed by the government’s decision to lift bans imposed on media outlets, paving way to constructive criticism.¹⁴⁶² This view was also shared by the Media Council of Tanzania (MCT), which welcomed the improvement but insisted on positive amendment of press freedom laws to guarantee the freedom.¹⁴⁶³

1458 See Mohamed Khamis Hamad, FREEDOM OF EXPRESSION IN ZANZIBAR: LEGAL REVIEW, Tanzania Women’s Association (TAMWA), 29 April 2019 at <http://www.tamwazanz.or.tz/reports/28560ae0109f7f975c7800d7.pdf>.
1459 Ibid.

1460 Ibid; LHRC & ZLSC (2019), Tanzania Human Rights Report 2018, at www.humanrights.or.tz; LHRC (2020), Tanzania Human Rights Report 2019 at www.humanrights.or.tz; ARTICLE 19, Tanzania: Cybercrime Act 2015, Legal Analysis, May 2015, at <https://www.article19.org/data/files/medialibrary/38058/Tanzania-Cybercrime-Bill-TO.pdf>.

1461 See LHRC (2021), Tanzania Human Rights Report 2020, at www.humanrights.or.tz.

1462 George Helahela “Media fraternity commend improved freedom of the press” The Citizen Newspaper, 19 Mar 2022.

1463 “Media should press for amendments of restrictive laws or else..” Media Watch, Newsletter of the Media Council of Tanzania, Issue No. 218, August 2022.



The situation has been said to lead to decrease of press freedom violations.

View: Improving media environment in Tanzania is a welcome development in safeguarding press freedom. However, existence of laws containing restrictive provisions, contrary to international human rights standards, continues to hinder effective realization of the press freedom. Concrete action, starting with legal reforms, are needed to guarantee enjoyment of this right.

In 2022, H.E President Samia Suluhu Hassan formed a presidential taskforce to probe on multiparty democracy in Tanzania. The taskforce, led by Prof. Rwekaza Mukandala, looked at press freedom in relation to multiparty politics in Tanzania. The report by the taskforce, released in October 2022, recommended amendment of the law to curb powers of the Director of Tanzania Information Services to ban or suspend media outlets.¹⁴⁶⁴ The report also recommended amendment of all freedom of expression laws to safeguard press freedom. Additionally, the taskforce also recommended journalists to form their own body to regulate their conduct (self-regulation). This shall guarantee minimal state interference in the media.¹⁴⁶⁵

President Mwinyi's initiatives to promote access to information

Since coming into power, H.E Dr Hussein Ali Mwinyi, President of the Revolutionary Government of Zanzibar, has taken various measures to increase access to information to citizens and bringing his administration closer to people, including by meeting with journalists each month to tell them about what the Government is doing, and developing a mobile application called 'Sema na Rais' - through which people can reach the President. He has also ordered his cabinet members to also regularly meet with journalists and provide them with relevant information.

LHRC Recognition



2.2.4. Ban and suspension of media outlets

Incidents of ban and suspension of media outlets have been rarely reported

¹⁴⁶⁴ See *Jamhuri ya Muungano wa Tanzania, KIKOSI KAZI CHA MHESHIMIWA RAIS WA JAMHURI YA MUUNGANO WA TANZANIA KILICHOFANYIA KAZI MASUALA YANAYOHUSU DEMOKRASIA YA VYAMA VINGI VYA SIASA NCHINI*, Ripoti ya Kikosi Kazi, Oktoba 2022, p. 166, at http://idc-tz.org/files/documents/1666622289_gGXo0VbIDWDy.pdf.

¹⁴⁶⁵ Ibid; See also "Sheria zinazoratibu uhuru wa habari ziboreshwe" HABARILEO Newsapepr, 22 Oct 2022.



in Zanzibar. For the year 2021, there were no reported incidents of ban and suspension of media outlets. For the year 2022 there was a case of revocation of Swahiba FM Radio license due to the failure of airing programs “off air”, however the license was reinstated in January 2023.

2.2.5. Performance in the World Press Freedom Index

Despite the perceived improvement in the media environment, Tanzania only jumped one place in the World Press Freedom Index 2022. In the index report, prepared by Reporters Without Borders (RSF), Tanzania climbed from 124th position in 2021 to 123rd position in 2022, out of 180 countries that were assessed.¹⁴⁶⁶ This is nevertheless a positive development, as previously the country had been dropping steadily in the rankings since 2016, falling over 50 places, more than any other country.¹⁴⁶⁷ Despite the jump in the rankings, the score dropped slightly from 59.31 in 2021 to 48.28 in 2022. RSF has raised concerns over lack of concrete and immediate action by the Government in amending restrictive laws so far.¹⁴⁶⁸

2.3. Freedoms of Assembly and Association

States are obligated to respect and refrain from interfering with freedom of assembly under international human rights law, including under the International Covenant on Civil and Political Rights (ICCPR) and African Charter on Human and Peoples' Rights (ACHPR).¹⁴⁶⁹ In 1984, the Government incorporated the bill of rights, including freedom of assembly, into the Constitution of United of Tanzania of 1977.

Freedom of Association ensures one the right to form and participate in association, either formally or informally. It covers any form of organized groups and professional organizations like political parties, trade unions, public associations, and non-governmental organisations. It involves an ability to seek and receive resources for organization, and peaceful promotion and respect of human rights.¹⁴⁷⁰ This right is guaranteed under the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples Rights (ACHPR), and the African Charter on Democracy, Elections and Governance, among other human rights

1466 See RSF, *World Press Freedom Index 2022: Tanzania*, at <https://rsf.org/en/country/tanzania>.

1467 See RSF, *Tanzanian cartoonist detained over cartoon of president*, 7 October 2021 at <https://rsf.org/en/news/tanzania-suspends-newspaper-one-month>.

1468 RSF, *World Press Freedom Index 2022: Tanzania* (supra).

1469 Article 20(1) of UDHR; Article 22 of ICCPR; and Article 11 of ACHPR.

1470 Human Rights House Foundation: *Freedom of Association* at <https://humanrightshouse.org/we-stand-for/freedom-of-association/> (accessed on 24th February 2019)



instruments.¹⁴⁷¹ In Africa, States have an obligation to enact a national legislation on freedom of association that facilitates and encourages establishment of associations and promotes their abilities to pursue their objectives. Members have a choice of joining and leaving associations.¹⁴⁷²

The only restrictions on freedoms of assembly and association allowed are those prescribed by law and necessary in a democratic society in the interests of national security or public safety, public order, protection of public health or morals or protection of the rights and freedoms of others, according to ICCPR.¹⁴⁷³ Restrictions must be necessary to achieve the desired purpose and must be proportionate to the need on which the limitation is based. Together with freedom of expression, freedoms of assembly and association are key for realization of the right to participate in governance (participation rights).

2.3.1. Legal environment for freedoms of association and assembly in Zanzibar

In Zanzibar, freedoms of association and assembly are guaranteed under laws such as the Constitution of the United Republic of Tanzania, 1977; the Constitution of Zanzibar, 1984; the Political Parties Act;¹⁴⁷⁴ the National Elections Act,¹⁴⁷⁵ and Zanzibar Elections Act.¹⁴⁷⁶ This right is guaranteed for all persons and groups, including workers, CSOs, and political parties. In line with Tanzania's human rights obligations and commitments made through regional and international human rights instruments, laws and regulations governing freedoms of association and assembly must conform to international human rights standards. In the context of politics, laws such as the Political Parties Act and the National Elections Act establish key institutions that regulate the conduct of political parties and elections, such as the National Electoral Commission (NEC), the Zanzibar Electoral Commission (ZEC), and the Office of Registrar of Political Parties (ORPP).

2.3.2. Challenges in realization of freedoms of association and assembly

In 2022, freedoms of association and assembly were boosted by the government plans to lift ban on political rallies, which was imposed in 2016.

1471 Article 22(1) of ICCPR; Article 10(1) of ACHPR; Articles 12(3), 27(2); and 28 of the African Charter on Democracy, Elections and Governance, 2007

1472 ACHPR: Guidelines on Freedom of Association and Assembly in Africa at http://www.achpr.org/files/instruments/freedom-association-assembly/guidelines_on_freedom_of_association_and_assembly_in_africa_eng.pdf accessed on 26th February 2019

1473 See Article 22(2) of ICCPR; see also Article 11 of ACHPR and Article 22(2) of ICCPR.

1474 Political Parties Act, Cap. 258 RE 2019.

1475 National Elections Act, Cap. 343 RE 205.

1476 Zanzibar Elections Act, No. 4 of 2018.



However, several challenges persist, including existence and application of laws governing freedoms of association and assembly which contain restrictive provisions and the ban on political rallies. The Political Parties Act, amended in 2019, has been faulted for by stakeholders within and outside Tanzania for giving the Registrar of political parties excessive and intrusive powers over political parties and failing to conform to international standards on freedom of association.¹⁴⁷⁷ Some of the provisions within the law have been noted to have a serious impact on political development by criminalising political activity and granting the Registrar excessive powers to interfere with internal affairs of political party, including stripping membership and removing individuals from leadership position.¹⁴⁷⁸ Other key concerns raised by stakeholders regarding the amendments of the Political Parties Act include lack of clarity in some provisions, which leaves loopholes for abuse of powers and creation of fear; criminalisation or regulation of legitimate political activities and expressions; and severe penalties for breaching the law, which are not proportional to the administrative offences.¹⁴⁷⁹

The report of the presidential taskforce on multiparty democracy, released in October 2022, showed the need to amend the Political Parties Act, as well as review and amendment of the Police Force and Auxiliary Services Act (Cap 322).¹⁴⁸⁰

As it was the case in 2021, there were no reported incidents of arbitrary restrictions or infringement on freedoms of association and assembly in 2022.

2.4. Rights to Equality before the Law and Effective Remedy

2.4.1. Overview

Rights to equality before the law and effective remedy are guaranteed and protected under various regional and international human rights instruments. These include the Universal Declaration of Human Rights (UDHR), the African Charter on Human and Peoples' Rights (ACHPR) and the International Covenant on Civil and Political Rights (ICCPR).¹⁴⁸¹ According to the Constitution of Tanzania, 'all persons are equal before the law and are entitled, without any discrimination, to protection and equality

¹⁴⁷⁷ LHRC, *Tanzania Human Rights Report 2019*, LHRC 2021, at www.humanrights.or.tz.

¹⁴⁷⁸ *Ibid.*

¹⁴⁷⁹ *Ibid.*

¹⁴⁸⁰ Ripoti ya Kikosi Kazi (*supra*), p. 28.

¹⁴⁸¹ Article 3 of ACHPR; Article 14 of ICCPR; and Article 10 of UDHR.



before the law.¹⁴⁸² The Constitution of Zanzibar of 1984 also recognizes the right to equality before the law.¹⁴⁸³

The right to effective remedy is provided for where other rights of an individual have been violated.¹⁴⁸⁴ Rights derived from these two rights include right to access to justice, right to legal representation,¹⁴⁸⁵ right to presumption of innocence and right to fair trial.¹⁴⁸⁶

Access to justice

Access to justice means access to **formal** or **informal** institutions that are tasked with delivery of justice such as courts and tribunals. This access enables people whose rights are violated or jeopardized to seek remedy from these institutions, where their grievances can be heard and determined. Access to justice is a key component of rule of law and the international community has recognized **“the right to equal access to justice for all”** and committed itself to **“taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid.”**¹⁴⁸⁷

Presumption of innocence

Presumption of innocence is a key principle in criminal justice. The right to be presumed innocent until proven guilty is an established principle under domestic, regional, and international law. According to the Constitution of Tanzania, “no person charged with a criminal offence shall be treated as guilty of the offence until proved guilty of that offence.”¹⁴⁸⁸ This right is also guaranteed under the ICCPR and UDHR.¹⁴⁸⁹

Right to legal representation

Right to legal representation is clearly stipulated under the Constitution of the United Republic of Tanzania and the Constitution of Zanzibar and is critical in ensuring administration and access to justice. This means the right of an accused person to a lawyer, who will help to defend them in the court

1482 Article 13(1) of the Constitution of the United Republic of Tanzania of 1977.

1483 Section 12 of the Constitution of Zanzibar, 1984.

1484 Article 2(3) (a) of ICCPR.

1485 See Article 14(3) (b) of the Constitution of Tanzania 1977; Article 7(1)(c) of ACHPR; and Article 14(3)(d) of ICCPR.

1486 Article 13(6) of the Constitution of the United Republic of Tanzania of 1977;

Article 7 of ACHPR; Article 14 of ICCPR; and Article 10 of UDHR.

1487 See Para 14 of the Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels, Resolution adopted by the General Assembly A / RES / 67 / 1, Sixty-seventh session, 30 November 2012, available at <https://www.un.org/ruleoflaw/files/A-RES-67-1.pdf>, accessed 29th February 2020.

1488 Article 13(6) (b) of the Constitution of the United Republic of Tanzania, 1977.

1489 Article 14(2) of ICCPR; Article 11 of UDHR.



of law. In criminal justice, Tanzania, Zanzibar inclusive, is required under domestic, regional and international law to ensure an attorney is appointed for the defendant where the defendant cannot afford one. Article 14(3) of ICCPR – which Tanzania has ratified – clearly stipulates this obligation on the part of States.

Rights to fair trial and effective remedy

Rights to fair trial and effective remedy are also known as **rights to due process**. Right to fair trial includes the right to legal representation, right to be heard, right to be presumed innocent until proven guilty and right to be tried without undue delay by **an independent, impartial and competent tribunal**.¹⁴⁹⁰ Right to effective remedy is closely associated to the right to fair trial; and is also protected under the Constitution of Tanzania¹⁴⁹¹ and international human rights instruments, including ICCPR.¹⁴⁹²

2.4.2. Access to Justice

2.4.2.1. Action to improve access to justice

In 2022, the Revolutionary Government of Zanzibar and the Judiciary of Zanzibar continued taking various measures to improve access to justice. One of the key highlights in this regard was the appointment of the new Chief Justice of Zanzibar, Hon. Khamis Ramadhan Abdalla, in June 2022.¹⁴⁹³ H.E Dr. Hussein Ali Mwinyi, President of the Revolutionary Government of Zanzibar, also appointed and sworn in three Judges of the High Court of Zanzibar, namely Hon. Said Hassan Said (former Attorney General), Hon. Salma Ali Hassan (former Director of Public Prosecutions), and Hon. Mohamed Ali Mohamed (former Registrar of the High Court of Zanzibar).¹⁴⁹⁴

1490 See Article 14 of ICCPR; Article 13 of Tanzania Constitution; & Article 7 of ACHPR.

1491 Article 13(6) (a) of the Constitution of the United Republic of Tanzania 1977.

1492 Article 2(3)(b) of ICCPR.

1493 “Tanzania: Zanzibar CJ Pledges Diligence in Dispensing Justice” DailyNews Newspaper, 29 Jun 2022, at <https://allafrica.com/stories/202206300234.html>.

1494 Alex Sonna “RAIS DKT.HUSSEIN ALI MWINYI AMEWAAPISHA MAJAJI WA MAHKAMA KUU ZANZIBAR” Fullshangwe Blog, 28 June 2022, at <https://fullshangweblog.co.tz/2022/06/28/rais-dkt-hussein-ali-mwinyi-amewaapisha-majaji-wa-mahkama-kuu-zanzibar/>.





Picture 27: H.E Dr. Hussein Ali Mwinyi, President of the Revolutionary Government of Zanzibar, swearing in the new Chief Justice of Zanzibar, Hon. Khamis Ramadhan Abdalla, in June 2022

Picture credit: Fullshangwe blog

The new Chief Justice of Zanzibar, Hon. Khamis Ramadhan Abdalla, also appointed new staff of the Judiciary of Zanzibar. He appointed four new *Kadhis*, namely Sheikh Abdul-azizi Saleh Juma, Sheikh Hemed Saleh Abdalla, Sheikh Ali Juma Machano na Sheikh Taraik Abdalla Kassim.¹⁴⁹⁵



Picture 28: The Chief Justice of Zanzibar, Hon. Khamis Ramadhan Abdalla, swearing in a new Kadhi in Zanzibar in 2022

Picture credit: The Judiciary of Zanzibar

¹⁴⁹⁵ See The Judiciary of Zanzibar “JAJI MKUU AWAAPISHA MAKADHI WAPYA” at <https://judiciaryzanzibar.go.tz/web/posts/6>.

Legal aid providers, including paralegals and NGOs such as ZAFELA, also played their part in enhancing access to justice for indigent persons, through provision of legal aid. The Judiciary of Zanzibar also continued to use ICT to enhance access to justice and improve administration of justice in Zanzibar. Recently, the Chief Justice of Zanzibar, Hon. Khamis Ramadhan Abdalla, revealed that digital justice systems such as *ZanWakili* and *ZanLii* had been developed and are now used in administration of justice.¹⁴⁹⁶ He noted that use of ICT in the justice system would enable citizens easily access the Judiciary and its judicial services, including filing a case, receiving judgements, and making complaints, as well as increase transparency in justice delivery.¹⁴⁹⁷

In 2022, the Judiciary of Zanzibar also announced that it had secured plots to construct new court buildings in different parts of Unguja and Pemba, targeting increasing the number of courts at regional and district levels.¹⁴⁹⁸ These plots were obtained in Kigunda areas in Kaskazini A District, to be used to construct a district court to serve citizens of Kitalii Nungwi and Kendwa areas; Pale area in Kaskazini Unguja (Unguja South), to construct a regional court; Kinduni area in Kaskazini B District (North B), to construct a district court; Kijichi area in Magharibi A District (Urban West); and Mazizini to construct Mjini Magharibi Regional Court. Other areas mentioned were Binguni and Makunduchi in Kusini Unguja Region (Unguja South); Mabaoni in Chakechake, Pemba; Changaweni in Mkoani; Kinyasini in Kaskazini Pemba (Pemba North); and Konde in Micheweni.¹⁴⁹⁹

In 2022, the Judiciary of Zanzibar also announced that it registered a total of 15,159 criminal cases in Unguja, and managed to dispose of 13,712 cases, which is equivalent to 90.5% case disposal. In Pemba, a total of 2,725 criminal cases were registered, and 2,410 were disposed of, equivalent to 88.4%.¹⁵⁰⁰ Kadhi courts also managed to dispose of 69.2% of cases in Unguja and 83.7% in Pemba.¹⁵⁰¹ The goal is to create a system that ensures a fast and timely disposal of cases, which has been a key challenge in administration of justice in Tanzania, including Zanzibar.¹⁵⁰²

The Chief Justice of Zanzibar also revealed that the Judiciary of Zanzibar

1496 See THE JUDICIARY ZANZIBAR, HOTUBA YA MHE. JAJI MKUU WA ZANZIBAR KATIKA KILELE CHA MAADHIMISHO YA SIKU YA SHERIA, at <https://judiciaryzanzibar.go.tz/web/posts/7>.

1497 Ibid.

1498 HOTUBA YA MHE. JAJI MKUU WA ZANZIBAR KATIKA KILELE CHA MAADHIMISHO YA SIKU YA SHERIA (*supra*).

1499 Ibid.

1500 HOTUBA YA MHE. JAJI MKUU WA ZANZIBAR KATIKA KILELE CHA MAADHIMISHO YA SIKU YA SHERIA (*supra*).

1501 Ibid.

1502 Ibid.



had started implementing the directive of the President of using Swahili language in courts and establishing the anti-corruption and economic crimes court.¹⁵⁰³ He noted that District, Regional, Kadhis and High Courts were mainly using Swahili language during court proceedings, and that the official language for Primary and Kadhis Courts was Swahili Language. Regarding the anti-corruption court, he noted that a team had been formed and deployed to Mainland Tanzania to learn about establishment of such court and how it should operate.¹⁵⁰⁴

In 2022, the Judiciary of Zanzibar also provided vehicles to three new Judges and Chief Kadhi, as part of the efforts to address the challenge of transport for judicial staff.¹⁵⁰⁵

2.4.2.2. Barriers to access to justice

Despite the various efforts to enhance access to justice by the Revolutionary Government of Zanzibar, the Judiciary of Zanzibar and other state and non-state actors highlighted above, several barriers to access to justice continue to exist.

Community perceptions on barriers to access to justice

In 2022, community members and stakeholders who participated in assessing the human rights situation in Zanzibar also had their say on barriers to access to justice. Like in Mainland Tanzania, corruption was mentioned as the biggest barrier to justice (73%), followed by lengthy court proceedings (46%), and low awareness about laws (25%).

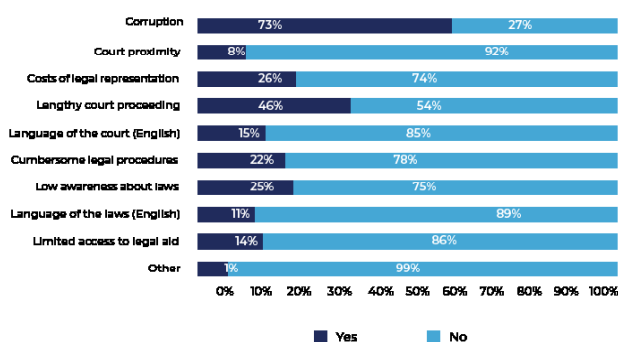


Figure 69: % Responses on barriers to access to justice (N=408)

Source: Human rights assessment, 2022

1503 HOTUBA YA MHE. JAJI MKUU WA ZANZIBAR KATIKA KILELE CHA MAADHIMISHO YA SIKU YA SHERIA (*supra*).

1504 Ibid.

1505 See THE JUDICIARY ZANZIBAR, ZIARA YA MHESHIMIWA JAJI MKUU UNGUJA, at <https://judiciaryzanzibar.go.tz/web/posts/4>.



Court proximity

As indicated above, in 2022, the Revolutionary Government of Zanzibar continued to take steps to address access to justice challenges, including construction of new court buildings. Human rights assessment participants were asked to give their perceptions on the distance from their residences to courts, whereby the majority of them (33.7%) said the distance is moderate (judicial services are somewhat near), followed by just over a quarter (27.5%), who said the distance is very long (judicial services being very far), and 18.7% who said the judicial services are near or very near.¹⁵⁰⁶ 16.5% said the judicial services are far, while the remaining 3.7% said they did not know or were not sure.

Access to legal aid

Human rights assessment participants were also asked about access to legal aid, specifically the distance to legal aid providers. Majority of them, just over a quarter (25.6%) said legal aid providers are very far from their residences, followed by 21.5% who said the distance is moderate, 17% who said the distance is short, and 14.8% who said the distance is long. 13.8% said they did not know or were not sure, and 6.9% said the distance is very short.

Trust in justice delivery and dispute resolution institutions

Participants of the human rights assessment provided their opinions on trust in justice delivery and dispute resolution institutions, including courts of law, police, and religious leaders. Overwhelming majority of the participants (over 80%) indicated that they trust religious leaders and family meetings the most in terms of delivering justice and resolving disputes, followed by NGOs/legal aid providers (54.8%), office of Sheha (51.2%), and courts of law (40.6%).

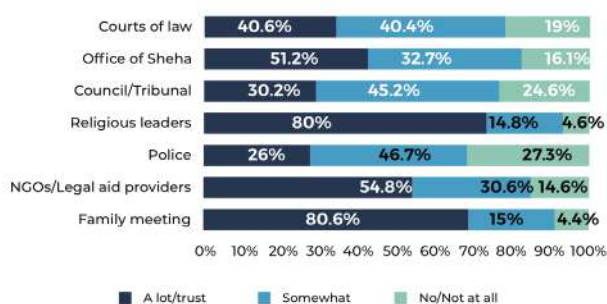


Figure 70: % Responses on trust in justice delivery and dispute resolution institutions (N=408)

¹⁵⁰⁶ Human rights assessment, 2022.



However, when asked whether they prefer to seek justice or resolve dispute through judicial or non-judicial mechanisms, majority of the participants (67.6%) said they prefer the judicial option, while the remaining 32.4% said they prefer the non-judicial option. This shows that despite various existing challenges in the justice system, majority of the community members still trust the Judiciary in justice delivery.

Delayed disbursement of funds

Delayed disbursement of funds from the Government may also affect administration of justice. In early 2023, the Chief Justice of Zanzibar, Hon. Khamis Ramadhan Abdalla, stated in his Law Day Speech that the Judiciary of Tanzania had been allocated the budget of Tshs. 3.5 billion to facilitate construction of regional courts in the period of 2022/23 but was yet to receive such funds.¹⁵⁰⁷

Shortage of judicial staff

Shortage of judicial staff was also identified as a key challenge in administration of justice in Zanzibar in 2022. The Chief Justice of Zanzibar, Hon. Khamis Ramadhan Abdalla, has recently revealed that the Judiciary of Zanzibar is faced with shortage of 40 judicial staff, including magistrates.¹⁵⁰⁸ In his visit in Unguja, the Chief Justice was also told about the challenge of workers by judicial staff at the courts he visited.¹⁵⁰⁹

2.4.3. Criminal Justice Challenges: Key Issues and Challenges

In recent years, government and non-government stakeholders have made repeated calls for criminal justice reforms in order to address various challenges in administration of criminal justice. Among those who have been vocal in this regard is H.E Samia Suluhu Hassan, President of the United Republic of Tanzania. In July 2022, the President formed a 12-member committee to investigate the performance of criminal justice institutions in the country, including advising her on the best way to improve the performance of Tanzania's criminal system.¹⁵¹⁰ She directed the committee, led by the Former Chief Justice, Hon. Mohamed Othman Chande, to start with the Tanzania Police Force, before moving on to other institutions.¹⁵¹¹

1507 HOTUBA YA MHE. JAJI MKUU WA ZANZIBAR KATIKA KILELE CHA MAADHIMISHO YA SIKU YA SHERIA (*supra*).

1508 HOTUBA YA MHE. JAJI MKUU WA ZANZIBAR KATIKA KILELE CHA MAADHIMISHO YA SIKU YA SHERIA (*supra*).

1509 See THE JUDICIARY ZANZIBAR, ZIARA YA MHESHIMIWA JAJI MKUU UNGUJA, at <https://judiciaryzanzibar.go.tz/web/posts/4>.

1510 See Bethsheba Wambura "Samia forms committee to investigate performance of security forces" The Citizen Newspaper (online), 20 Jul 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/samia-forms-committee-to-investigate-performance-of-security-forces-3886174>; "Samia forms 12-member committee to probe criminal justice system" Africa Press, 20 Jul 2022, at <https://www.africa-press.net/tanzania/all-news/samia-forms-12-member-committee-to-probe-criminal-justice-system>.

1511 See "Rais Samia ageukia vyombo vya haki nchini" Mtanzania Newspaper (online), 20 Jul 2022, at <https://mtanzania.co.tz/rais-samia-ageukia-vyombo-vya-haki-nchini/>.



Key concerns in the administration of criminal justice in Tanzania that have been mentioned in recent years, including in 2022, include slow pace of investigation, lengthy pre-trial detention, constant adjournment of cases, denial of bail, trumped-up charges/fabricated cases and overcrowding of detention facilities. Community members and stakeholders who participated in the human rights assessment in 2022 also provided their opinions on key criminal justice challenges. Lengthy pre-trial and sentencing detention was mentioned as the biggest challenge (75.4%), followed by fabrication of cases (70.5%), frequent adjournment of cases (68.5%), and police investigation taking too long (67.1%).

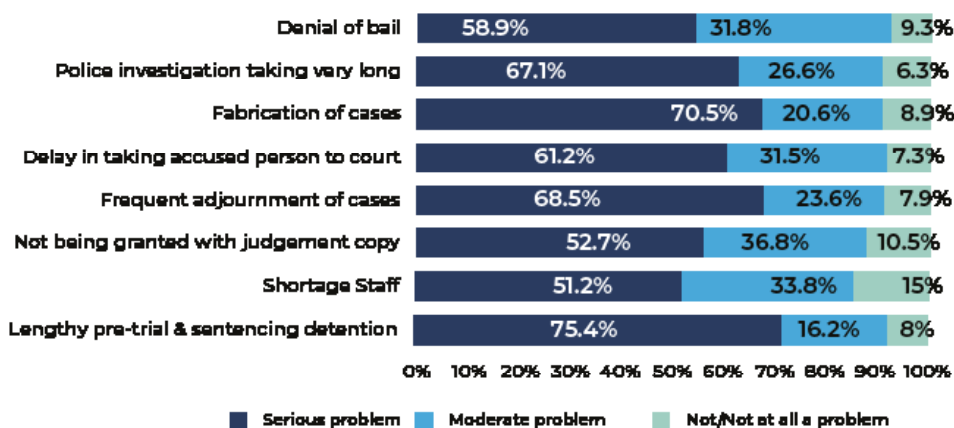


Figure 71: % Responses on criminal justice challenges (N=408)

Source: Human rights assessment, 2022

2.5. Right to Liberty and Personal Security

2.5.1. Overview

Right to liberty is provided for in Section 14 of the Constitution of Zanzibar, 1984. The provision guarantees the right of every person to be free and to live like a free person.¹⁵¹² It is also an essential human right, guaranteed under regional and international human rights instruments, including UDHR and ICCPR.¹⁵¹³ In order to preserve the personal liberty of an individual, in essence, the provision prohibits for any person to be arrested, jailed, kept

¹⁵¹² See: Section 14 (1) of the Zanzibar Constitution 1984.

¹⁵¹³ Article 3 of UDHR; Article 9(1) of ICCPR.



in custody, detained, forcibly deported, or to be deprived of his freedom. The overall purpose of this section in Zanzibar Constitution is to ensure that no one should be dispossessed of his liberty in an 'arbitrary fashion'. The right also safeguards the individual against the illegal deprivation of liberty conducted contrary to Section 14 of the Constitution of Zanzibar 1984. This constitutional provision also takes care of a situation where an individual does not exist alone, but as part of the community and hence the need to be sensitive of the rights and freedoms of the rest members of the society.¹⁵¹⁴ This means that the right to liberty is not absolute.¹⁵¹⁵ Though the right is not an absolute one, its curtailment can only be done in limited circumstances. These include where it is expressly provided by law, or in the process of implementing a judgment or order or a punishment imposed by a court of law following a conviction.¹⁵¹⁶

2.5.2. Arbitrary arrests and detention

International human rights law prohibits arbitrary arrests and detention. According to the ICCPR, "Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him."¹⁵¹⁷ Accused person must also not be discriminated against, must be allowed to communicate with family, and presumed innocent until proven guilty in court.¹⁵¹⁸

Like it was the case in 2021, ZAFAYCO did not document any reported incidents of arbitrary arrests and detention in 2022.

2.5.3. Right to bail

2.5.3.1. Overview

Bail may generally be defined to mean a temporary release of an accused person upon certain conditions pending the finalisation of court proceedings.¹⁵¹⁹ It is like a conditional discharge in the sense that person's liberty at that particular time is tied up with bail conditions. There are three types of bail, namely police bail, bail pending trial and bail pending appeal. Under all situations, bail is considered to be a right of the person whose

1514 C.M. Peter, *Human Rights in Tanzania: Selected Cases and Materials*, Koln: Rudiger Koppe Verlag, 1997, p. 524.

1515 D.J.Harris, M. O'Boyle, and C. Warbrick, *Law of the European Convention on Human Rights*, London: Butterworths, 1995, p. 97.

1516 Section 14 (2)(a) and (b).

1517 See Article 9(2) of ICCPR of 1966.

1518 See ICCPR and BODY OF PRINCIPLES FOR THE PROTECTION OF ALL PERSONS UNDER ANY FORM OF DETENTION OR IMPRISONMENT, adopted by the UN General Assembly in resolution 43/173 on 9 December 1988 at New York.

1519 Chris Maina Peter, *Human Rights in Tanzania: ...*, op. cit., p.527.



liberty is at stake pending the due process of the law. Though righteous in essence, the right to bail is not an absolute one as it is granted under the court's discretion.

2.5.3.2. Denial of bail

Like it was the case in 2021, ZAFAYCO did not document any reported incidents of denial of bail in 2022. However, this is more likely to be due to non-reporting of such incidents rather than non-occurrence, as the 2021 survey showed that nearly half of the community members (48%) perceived denial of bail to be a serious problem.

2.5.4. Human trafficking

2.5.4.1. Overview

According to the United Nations (UN), human trafficking is generally understood to refer to the process through which individuals are placed or maintained in an exploitative situation for economic gain.¹⁵²⁰ Trafficking can occur within a country or may involve movement across borders. Women, men, and children are trafficked for a range of purposes, including forced and exploitative labour in factories, farms and private households, sexual exploitation, and forced marriage. States are required to adopt legislative and other measures to criminalize human trafficking.¹⁵²¹ Human trafficking is a threat to right to liberty and personal security and also a threat to other rights and freedoms such as right to life, right to non-discrimination, freedom from slavery, freedom from torture, freedom from violence, freedom of association, freedom of movement, right to health, right to just and favourable conditions of work, right to adequate standard of living, and right to social security.¹⁵²²

2.5.4.2. Elements of human trafficking

According to the United Nations Office on Drugs and Crime (UNODC), there are three key elements of human trafficking, namely an **act, means** used to commit an act, and **purpose** (reason for the act). The elements are summarized in the picture below.

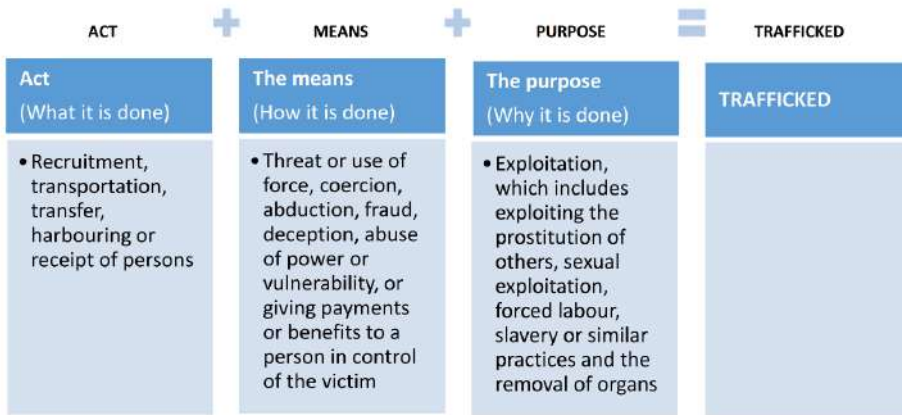
¹⁵²⁰ See The Office of the United Nations High Commissioner for Human Rights, Human Rights and Human Trafficking, Fact Sheet No. 36 at https://www.ohchr.org/Documents/Publications/FS36_en.pdf, accessed 15 October 2020.

¹⁵²¹ See Article 5(1) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000.

¹⁵²² Ibid.



Key elements of human trafficking factsheet



Picture 29: Key elements of human trafficking

Source: UNODC¹⁵²³

2.5.4.3. Situation of human trafficking in Tanzania, including Zanzibar

The most recent data on human trafficking in Tanzania, published by the Tanzania Police Force, shows that in the period of 2016 to 2020, a total of 151 incidents of human trafficking were reported, while additional 25 incidents were reported in 2021 in the whole of Tanzania. However, some incidents are feared to go unreported, including in Zanzibar. Popular destinations for victims of human trafficking in Tanzania include Zanzibar.

In 2022, Tanzania made a significant progress in efforts to combat human trafficking, earning an upgrade to Tier Two in the 2022 Trafficking in Persons (TIP) Country Report for the United Republic of Tanzania prepared by the U.S. State Department's Office to Monitor and Combat Trafficking in Persons.¹⁵²⁴ The Government was praised for the overall progress demonstrated in combatting trafficking in persons compared to previous reporting periods, recognizing the key roles of the Anti-Trafficking Secretariat, law enforcement, social welfare, and justice sector entities, civil society organizations and key partners.¹⁵²⁵ However, there are areas which need improvement in the fight against human trafficking, due process of the

¹⁵²³ See UNODC Human Trafficking Key Elements Factsheet at https://www.unodc.org/documents/e4j/Secondary/Human_Trafficking_11_Key_elements_of_human_trafficking.pdf.

¹⁵²⁴ See U.S Embassy in Tanzania, TANZANIA UPGRADED TO TIER 2 IN 2022 TRAFFICKING IN PERSONS REPORT, 20 Jul 2022, at <https://tz.usembassy.gov/tanzania-upgraded-to-tier-2-in-2022-trafficking-in-persons-report/>.

¹⁵²⁵ Ibid.



law; seeking significant prison terms for convicted traffickers, as majority of them receive lenient sentencing; increasing protective services for victim-witnesses participating in the criminal justice process; expanding the provision of services to victims in partnership with NGOs; and adopting and enforcing the 2008 anti-trafficking law in Zanzibar.¹⁵²⁶ Prosecution of child traffickers has also been identified as a concern in Zanzibar. For instance, in 2022, it was reported that there were 113 investigations of human trafficking, 18 prosecutions, and 13 convictions, but none of them were in Zanzibar. However, of the 185 victims identified, 38 victims, all girls, were identified in Zanzibar.¹⁵²⁷

2.6. Freedom from Torture and Inhuman or Degrading Treatment

2.6.1. Overview

Freedom from torture is a basic human right protected under the regional and international human rights treaties.¹⁵²⁸ The Constitution of Zanzibar, 1984 prohibits torture, providing that to ensure equality before the law, among the principles that must be taken into account, is to ensure that no person is subjected to torture or inhuman or degrading punishment or treatment. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) defines torture for the purposes of the convention as any act inflicting severe pain to obtain information, confession or to intimidate or punish by a public official or any person in official capacity.¹⁵²⁹ However, it also provides for a wider application. According to the the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Nils Melzer, “Any unnecessary, excessive or otherwise arbitrary use of force by law enforcement officials is incompatible with the absolute prohibition of cruel, inhuman or degrading treatment.”¹⁵³⁰ He notes that the act of a law enforcement official who intentionally and purposefully inflicts pain or suffering on an individual who is powerless and unable to escape or resist arrest is unlawful and amounts to torture.¹⁵³¹

2.6.2. Challenges in addressing torture

One of the key challenges that we face in addressing torture and increasing

1526 TANZANIA UPGRADED TO TIER 2 IN 2022 TRAFFICKING IN PERSONS REPORT (*supra*).

1527 *Ibid.*

1528 Article 5 of ACHPR and Article 7 of ICCPR.

1529 Article 1 of CAT.

1530 See “Arbitrary police violence can amount to torture, even in public spaces, UN expert warns” at <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22235&LangID=E>, accessed 23rd December 2018.

1531 *Ibid.*



accountability of duty bearers is the fact that Tanzania is yet to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Another challenge is non-reporting or underreporting of torture incidents, especially those perpetrated by state agents.

2.6.3. Reported Torture Incidents

In 2021, ZAFAYCO did not document any reported incidents of torture by state agents. In 2022 there also no reported incidents.

2.7. Right to Take Part in Governance

2.7.1. Overview

Right to take part in governance is also known as the right to take part in public affairs or the right to participate in the government.¹⁵³² It includes the right for citizens to vote and be voted for public office and the right to participate in political life.¹⁵³³ Everyone, either directly or through a chosen representative, has a right and opportunity to take part in the public affairs of the state.¹⁵³⁴ Public participation enhances the promotion of democracy and the rule of law. Individuals have to be allowed to draw attention in case there is any aspect of work that may likely impede the realization and promotion of human rights in the country.¹⁵³⁵ Restrictions should not be imposed when a citizen is about to participate fully in the process leading to the matters affecting his wellbeing or that of the nation where there is no reasonable justification for such restrictions.¹⁵³⁶

2.7.2. Legal barriers to Realising the Right to Take Part in Governance

As Tanzania and Zanzibar head towards the Presidential and Parliamentary Elections in 2025, there are several legal barriers that hinder effective realization of the right to take part in governance that need to be addressed. Most of these barriers exist in electoral laws, including the Political Constitution of the United Republic of Tanzania, 1977 and Elections Act (CAP 343 R.E

1532 Is guaranteed under various regional and international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of Persons with Disability (CRPD).

1533 Article 12 of the Constitution of Zanzibar, 2010.

1534 Article 25 (a) of the International Covenant on Civil and Political Rights, 1966; Article 21(1) of the Constitution of Tanzania.

1535 Article 8 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Adopted by General Assembly resolution 53/144 of 9 December 1998.

1536 Article 21 (2) of the Constitution of the United Republic of Tanzania, 1977.



2015).

One of the key issues is that of private/independent candidates. Both the Constitution of the United Republic of Tanzania of 1977 and the Constitution of Zanzibar of 2010 do not allow any person to contest in presidential, parliamentary or local government elections unless they are a member of a political party.¹⁵³⁷ However, the African Court of Human and Peoples' Rights had disputed this position as contrary to the African Charter on Human and Peoples' Rights, 1981.¹⁵³⁸ The Court found that Article 41(7) of the Constitution of the United Republic of Tanzania, 1977 violates Articles 2 and 7(1) (a) of the Banjul Charter.

Another key issue in the Constitution of Tanzania that relates to the right to take part in governance is the prohibition of challenging presidential election results in a court of law. According to Constitution, no court of law is allowed to inquire into election of a candidate when such candidate has been declared by the electoral commission (NEC) to have been duly elected.¹⁵³⁹ Again, this legal provision has been found to contravene the African Charter by the African Court on Human and Peoples' Rights.¹⁵⁴⁰ Neighbouring countries such as Kenya and Malawi have also abandoned this practice, such that presidential election results in those countries can now be challenged in court.

There are also gender-related legal barriers, which are briefly discussed in Chapter Five below. For the Political Parties Act, the amendments made in law have faulted by stakeholders within and outside Tanzania for giving the Registrar of political parties excessive and intrusive powers over political parties and failing to conform to international standards on freedom of association.

2.7.3. Proposed Measures to Improve Multiparty Democracy in Tanzania: Presidential Taskforce Report

The report on multiparty democracy in Tanzania by the presidential taskforce, released in October 2022, discussed various issues touching on the right to take part in governance in Tanzania and made relevant

¹⁵³⁷ See for example Articles 67(1)(b) and 39(1)(c) of the Constitution of Tanzania, 1977 & Section 26(2)(d) of the Constitution of Zanzibar, 2010.

¹⁵³⁸ See African Court of Human and Peoples' Rights, Tanganyika Law Society et al. v. The United Republic of Tanzania, App. Nos 09/2011 and 11/2011, Judgment of 14 June 2013, para 4.

¹⁵³⁹ Article 41(7) of the Constitution of Tanzania

¹⁵⁴⁰ See JUDGMENT SUMMARY, *JEBRA KAMBOLE V. UNITED REPUBLIC OF TANZANIA*, APPLICATION NO. 018/2018

JUDGMENT ON MERITS AND REPARATIONS, 15 JULY 2020 at https://en.african-court.org/images/Cases/Judgment/Application_018-2018_-Jebra_Kambole_v_Tanzania_-_Judgment_Summary.pdf, accessed 30 October 2020.



recommendations.¹⁵⁴¹ The issues include the electoral system; independence of the electoral commission; challenging presidential election results in court; participation of women, PWDs, and youth in politics, democracy, and elections; civic education; and corruption.¹⁵⁴² The taskforce came up with several recommendations to address these issues, including:

- In presidential election, candidate should get more than 50% of votes to win.
- PR systems for appointment of special seats MPs and councillors should continue.
- NEC should not be obliged to comply with orders or directions of any person or any government department or the views of any political party.
- It should be permitted to challenge NEC conduct and decisions in the Supreme Court, once such court has been established.
- Selection Panel for NEC Members should be established, which selects and forwards the names of qualified candidates for the positions of NEC members to the President for appointment.
- At least two members of the Selection Panel for NEC Commissioners should be female.
- NEC Chairperson should be directly appointed by President and must be a High Court Judge or Justice of Appeal (current or retired).
- Selection Panel for NEC Members should be composed of: Chief Justice of the United Republic of Tanzania (Chairperson), Chief Justice of Zanzibar (Vice Chairperson), Commissioner of Ethics Secretariat of Mainland Tanzania, Chairperson of Ethics Secretariat of Zanzibar, Chairperson of the Commission for Human Rights and Good Governance, and two other members appointed by the Chief Justice of the United Republic of Tanzania upon recommendations by the Tanganyika Law Society (TLS) and Zanzibar Law Society (ZLS).
- Presidential election results should be able to be challenged in Supreme Court, once such court has been established.
- Political Parties Act should be amended to compel political parties to adopt gender and inclusion policies, and representation of men and women in decision-making within political parties to be at least 40%.
- Constitutions of political parties to contain gender equality and GBV provisions.
- Each political party to establish a programme of empowerment of female members to contest in elections and promote gender-equality.

¹⁵⁴¹ Jamhuri ya Muungano wa Tanzania, *KIKOSI KAZI CHA MHESHIMIWA RAIS WA JAMHURI YA MUUNGANO WA TANZANIA KILICHOFANYIA KAZI MASUALA YANAYOHUSU DEMOKRASIA YA VYAMA VINGI VYA SIASA NCHINI*, Ripoti ya Kikosi Kazi, Oktoba 2022, at http://idc-tz.org/files/documents/1666622289_gGXo0VbIDWDy.pdf.

¹⁵⁴² Ibid.



- Office of the Registrar of Political Parties to establish a gender desk to address gender issues within political parties.
- Special seats arrangement should continue, but there should be a 10-year term limit for special seats MPs and councillors, so that other women can also get an opportunity to grow in politics and leadership.
- Each party to adopt a strategy of increasing the number of female candidates.
- Increase the number of female members within the Political Parties Council.
- Special seats MPs to be called National MPs and special seats councillors to be called District Councillors, because they were indirectly appointed by voters at national and district levels.
- National MPs should also benefit from the Constituency Development Fund (CDF).
- Amendment of electoral laws to ensure equal participation of PWDs in politics and representation in decision making.

2.7.4. Right to Vote for Prisoners and Remandees

In 2022, the High Court of Tanzania delivered its judgment in the right to vote for prisoners and remandees case filed by Tito Magoti and John Tulia in 2022. The two petitioners were challenging the restrictions imposed on prisoners and remandees awaiting trial to register and vote in general elections.¹⁵⁴³ They were specifically challenging provisions of section 11(1)(c) of the National Elections Act for being inconsistent with and contravening Article 5(2)(c) of the Constitution of the United Republic of Tanzania of 1977. This was the main issue which the court determined. The Court ruled that the practice of denying remandees above the age of 18 years their constitutional right to vote is not backed by a law or rule and that the provision of section 11(1)(c) of the National Elections Act constitutes a blanket restriction on right to vote for prisoners and remandees, even those arrested and detained for civil offences. The Court then went on to declare Section 11(1)(c) of the National Elections Act unconstitutional and void for contravening Article 5(1) of the Constitution.¹⁵⁴⁴

2.7.5. Kenya Elections and Key Lessons for Tanzania, including Zanzibar

2.7.5.1. Overview

¹⁵⁴³ See *Tito Elia Magoti & John Boniface Tulia vs National Electoral Commission, The Attorney General, Commission for Human Rights and Good Governance, & Tanzania Prison Service*, High Court of Tanzania, Miscellaneous Civil Cause No. 3 of 2022, Judgement, 15/11/2022 & 19/12/2022, at <https://media.tanzlii.org/files/judgments/tzhc/2022/15383/2022-tzhc-15383.pdf>; James Magai "Court rules denying inmates voting rights is unconstitutional" *The Citizen Newspaper* (online), 23 Dec 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/court-rules-denying-inmates-voting-rights-is-unconstitutional--4064570>.

¹⁵⁴⁴ *Ibid.*



Kenya held general elections in August 2022, which saw William Ruto emerge the winner of the presidential election.¹⁵⁴⁵ Ruto, from UDA party, won by 50.49%, closely followed by Raila Odinga from AZIMIO, with 48.85% of the votes.¹⁵⁴⁶ Aggrieved by the results, Raila Odinga filed petition challenging William Ruto's win.¹⁵⁴⁷ He was seeking 23 reliefs, including an order for inspection of the Independent Electoral and Boundaries Commission (IEBC) servers and scrutiny of the rejected and spoilt votes, as well as an order for scrutiny and forensic audit of the Kenya Integrated Elections Management System (KIEMS) kits, IEBC website and portal and the returns of the presidential election.¹⁵⁴⁸ He was also seeking election rerun.¹⁵⁴⁹ Eventually, in September 2022, the Supreme Court of Kenya upheld the election of William Samoei Ruto as Kenya's fifth president after declaring that there was no concrete evidence of irregularities to cast doubt on Ruto's win and annul the election.¹⁵⁵⁰

2.7.5.2. Key Lessons

Several key lessons can be derived from the 2022 Kenya General Elections, similar to those of Malawi's history-making presidential elections of 2019 and 2020. Six key lessons can be drawn from the elections, namely:

- Transparency;
- Independence and integrity of Electoral Management Bodies (EMBs), to ensure elections are free, fair, and peaceful;
- Challenging presidential results in court, as is the case in neighbouring countries such as Kenya, Malawi, and Uganda;
- Independence and role of the Judiciary in safeguarding electoral justice;
- Parallel vote tallying/tabulation, to create of a sense of transparency and enable citizens to analyse the integrity of the electoral process; and
- Need for a new, people-centred Constitution for the United Republic of Tanzania.

2.8. Freedom from Violence

All human rights instruments provide for protection of everyone from all

1545 Dickens Olewe "Kenya elections 2022: Win or lose, why Raila Odinga's election challenge matters" 22 Aug 2022, at <https://www.bbc.com/news/world-africa-62599219>.

1546 See Nation "Kenya Elections 2022" at <https://elections.nation.africa/>.

1547 Joseph Wangui "Raila Odinga files petition challenging William Ruto's win" The EastAfrican Newspaper (online), 22 Aug 2022, at <https://www.theeastafrican.co.ke/tea/news/east-africa/raila-odinga-files-petition-challenging-william-ruto-win-3922462>.

1548 Ibid.

1549 Ibid.

1550 Joseph Wangui & Brian Wasuna "Ruto is President of Kenya, court confirms election win" The Citizen Newspaper (online), 5 Sep 2022, at <https://www.thecitizen.co.tz/tanzania/news/ruto-is-president-of-kenya-court-confirms-election-win-3937594>.



forms of violence, whether physical, sexual, economic, or psychological/emotional. Freedom from violence is implied in and closely linked to right to life, freedom from torture and degrading treatment, freedom from discrimination and the right to safety and security. These fundamental human rights are protected and guaranteed under all major international and regional human rights instruments.

2.8.1. Violence against women

In 2022, women continued to be subjected to different forms of violence. In the period of January to December 2022, women accounted for 13.6% of 1,360 reported GBV incidents (including violence against children).¹⁵⁵¹ Incidents of sexual violence in the form of rape increased from 58 in 2021 to 66 in 2022, equivalent to 38% of all reported VAW incidents (including 5 incidents of sodomy).

2.8.2. Violence against Children

Like in Tanzania, violence against children (VAC) is the biggest threat to children's rights in Zanzibar. incidents of VAC constituted 86.2% of all reported GBV incidents in 2022, increasing from 1,068 in 2021 to 1,173 in 2022.¹⁵⁵² Girls constitute the majority of VAC victims in Zanzibar, usually accounting for over two thirds of the victims. In 2022, girls accounted for 75.8% of VAC victims, while boys accounted for the remaining 24.2%.¹⁵⁵³

Like in Mainland Tanzania, sexual violence is the most common form of VAC in Zanzibar, while rape and sodomy are the most common acts of sexual violence. Child rape incidents increased from 563 in 2021 to 585 in 2022. Rape constituted half of all reported VAC incidents in 2022. Sodomy is the most common form of sexual abuse against boys in Zanzibar. Sodomy incidents increased from 117 in 2021 to 200 in 2022.

2.8.3. Violence against Men

Men also suffer from different forms of violence, but the incidents are rarely reported. In 2022, men constituted 0.2% of the 1,360 victims of GBV in Zanzibar.¹⁵⁵⁴

1551 TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA KWA WANAWAKE NA WATOTO - ZANZIBAR KWA MWAKA 2022 (*supra*).

1552 *Ibid*.

1553 TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA KWA WANAWAKE NA WATOTO - ZANZIBAR KWA MWAKA 2022 (*supra*).

1554 *Ibid*.



2.8.4. Violence against PWDs

Persons with disabilities (PWDs) are also sometimes subjected to different forms of violence. However, in 2022, there were no reported incidents of violence against PWDs that were documented by ZAFAYCO.

2.8.5. Violence against the Elderly

Older persons in Zanzibar may also be subjected to various forms of violence, including neglect. However, in 2022 there were no reported incidents of violence against the elderly that were documented by ZAFAYCO.



CHAPTER 3: ECONOMIC, SOCIAL AND CULTURAL RIGHTS

ICESCR recognizes the right to education for everyone and calls education to be directed to the full development of the human personality and the sense of dignity. It recognises that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and groups.¹⁵⁵⁵ In achieving the full realisation of this right, states are required to ensure: primary education is compulsory and available free to all; secondary education in its different forms, including technical and vocational secondary education, is made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education; and higher education is made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education.¹⁵⁵⁶

Despite being internationally recognized under the international instruments, the Constitution of Zanzibar of 1984 has not indicated the right to education as part of bill of rights, Instead, it is mentioned under section 10(f) of the Zanzibar Constitution as a political objective of the Revolutionary Government of Zanzibar. The right to education is provided for under the Education Act of 1982¹⁵⁵⁷ which provides for free and compulsory education.¹⁵⁵⁸ The Education Act provides for obligation on the part of parents or guardians to ensure that the child regularly attends school until he or she completes the basic education. Basic education is defined to mean basic primary and junior secondary which every child in Zanzibar is entitled to be provided with.¹⁵⁵⁹

This chapter highlights the situation of right to education, right to health, right to clean and safe water, right to work, right to own property, and right to adequate standard of living in Zanzibar in 2022.

1555 Article 13(1) of ICESCR

1556 Ibid, Article 14(2) (a) – (c)

1557 Act No. 6 of 1982.

1558 Section 19 of Act No. 6 of 1982.

1559 Ibid, Section 20 (1-2).



3.1. Right to Education

3.1.1. Overview

Right to education is essential for effective realization of all other human rights, including the right to take part in governance. Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESR) of 1966 explicitly provides for the right to education as one of the basic human rights. Right to education entails right to access education and right to quality education. The Constitution of Zanzibar (1984) does not include the right to education as one of the enforceable rights. Rather, it is enshrined under Article 10 (6) as one of the political objectives of the government. The right to education is provided for under the Education Act, 1982¹⁵⁶⁰ which provides for free and compulsory education.¹⁵⁶¹ The Education Act provides for obligation on the part of parents or guardians to ensure that the child regularly attends school until he or she completes the basic education. Basic education is defined to mean basic primary and lower secondary, which every child in Zanzibar is entitled to be provided with.¹⁵⁶² The Zanzibar education system presently offers 12 years of compulsory education. This means encompasses two years of nursery education, six years of primary education and four years of secondary schooling.¹⁵⁶³

3.1.2. Government action to ensure progressive realization of the right to education, including implementation of free education policy

In recent years, the Revolutionary Government of Zanzibar has taken various measures to ensure progressive realisation of the right to education, including increasing budget for the education sector and construction of educational facilities, hiring of teachers, and provision of loans to higher education students. Between the financial year 2017/18 and financial year 2021/22, allocations to the education sector increased by TSh 66 billion in nominal terms.¹⁵⁶⁴ In terms of education facilities, the number of public education facilities at primary level has increased from 550 in 2020 to 569 in 2021, including increasing of primary education facilities from 293 in 2020 to 302 in 2021 and secondary schools from 210 in 20220 to 216 in 2021.¹⁵⁶⁵

In January 2022, the President of the Revolutionary Government of Zanzibar, H.E. Dr. Hussein Ali Mwinyi, unveiled six new classrooms at Sebleni Primary

1560 Act No. 6 of 1982.

1561 Section 19 of Act No. 6 of 1982.

1562 In Zanzibar, there is also the Zanzibar Education Policy.

1563 Revolutionary Government of Zanzibar, Zanzibar Education Policy 2006.

1564 See The Revolutionary Government of Zanzibar & UNICEF, *EDUCATION BUDGET ISSUE PAPER: ZANZIBAR, JULY 2022*, at <https://www.unicef.org/esa/media/11301/file/UNICEF-Tanzania-Zanzibar-2022-Education-Budget-Brief.pdf>.

1565 See The Revolutionary Government of Zanzibar, Office of the Chief Government Statistician, Zanzibar in Figures 2021, August 2022, at <https://www.ocgs.go.tz/php/ReportOCGS/1665577844.pdf>.



School in Mjini Magharibi Region (Urban West), constructed as part of the Government's efforts to enhance access to education and reduce the problem of classroom congestion in Zanzibar.¹⁵⁶⁶

In May 2022, the Minister of Education and Vocational Trainings, Hon. Lela Muhamed Mussa, disclosed that construction of 4 pre-primary schools was completed in Donge Chechele and Mwera Gudini in Unguja, and in Kifundi and Kipapo in Pemba.¹⁵⁶⁷ She also noted that through the Covid19 project, the construction of 22 new pre-primary schools and 589 primary school classrooms was ongoing. Additionally, she stated that construction of 7 primary schools was ongoing in Kidongochekundu, Kwabitihamrani, Mwanakwerekwe, Jendele, Kwale, Mwambe and Punini areas and 61 primary school classrooms were constructed with the help of citizens, 38 in Unguja and 23 in Pemba.¹⁵⁶⁸

Other government measures to promote right to education in 2022 included completion of construction of 80 toilets at Kandwi, Ubago, and Kikungwi Primary Schools in Unguja, and Kisiwapanza, Mwambe, and Tumbe Primary Schools in Pemba; renovation of 31 classrooms and 4 offices in Unguja and Pemba; ongoing construction of three modern secondary schools in Kaskazini Unguja, Mjini Magharibi, and Kaskazini Pemba; construction of dormitories at Paje Mtule, Chwaka Tumbe, and Lumumba Secondary Schools; conduct school inspections at 729 schools (79 pre-primary, 322 primary, 328 secondary) in Unguja and Pemba; procurement of school laboratory equipment; procurement of 67,000 books for primary schools; conduct meals to 2,263 residing in dormitories; and provision of loans 4,659 students at higher learning institutions.¹⁵⁶⁹

3.1.3. Introduction of the Zanzibar Improving Quality of Basic Education (ZIQUE) Project

In 2022, the right to education in Zanzibar received a huge boost following the introduction of the Zanzibar Improving Quality of Basic Education (ZIQUE) Project. The project, initiated by the Revolutionary Government of Zanzibar, through the Ministry of Education of Education and Vocational Training (MoeVT), shall be supported by the World Bank.¹⁵⁷⁰ The ZIQUE

¹⁵⁶⁶ See Zanzi News Online, Rais wa Zanzibar na Mwenyekiti wa Baraza la Mapinduzi Mhe.Dk.Hussein Ali Mwinyi Amefungua Madarasa Sita Mampya ya Suku ya Msingi Sebleni Ikiwa ni Shamrashamara za Miaka 58 ya Mapinduzi ya Zanzibar, at http://www.zanzinews.com/2022/01/rais-wa-zanzibar-na-mwenyekiti-wa_30.html.

¹⁵⁶⁷ See SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUMBA YA WAZIRI WA ELIMU NA MAFUNZO YA AMALI, MHE. LELA MUHAMED MUSSA (MBM), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA WA FEDHA 2022/2023

Mei, 2022, at https://moez.go.tz/documents/budget/HOTUBA_BAJETI_WIZARA_EILIMU_20222023.pdf.

¹⁵⁶⁸ Ibid.

¹⁵⁶⁹ Ibid.

¹⁵⁷⁰ See THE REVOLUTIONARY GOVERNMENT OF ZANZIBAR, MINISTRY OF EDUCATION AND



project seeks to strengthen teaching and learning in basic education by supporting the roll-out of the new competency-based curriculum by focusing on high-quality teaching and learning materials; improving the learning environment; and providing regular, targeted, and effective support to teachers. This shall in turn help to improve learning outcomes and support student progression throughout the learning cycle. It is hoped that the project shall significantly help to address some of the critical challenges in basic education (primary and lower secondary education) in Zanzibar.¹⁵⁷¹ The project is expected to be implemented within six years from 2023/24 to 2028/29 and has four main components, namely: 1. Supporting the effective roll-out of the new curriculum in basic education; 2. Strengthening teacher effectiveness; 3. Supporting conducive learning environment; and 4. Systems strengthening and project management.¹⁵⁷²

The ZIQUE project was approved by the World Bank in December 2022, with the project cost totalling USD 50 Million and also seeks to reduce gender gap in transition rates within basic education.¹⁵⁷³ It is expected that more than 400,000 primary students in Zanzibar, half of them girls, will have access to more a conducive learning environment with reduced class sizes and strengthened teacher support to improve their ability to transition to secondary school.¹⁵⁷⁴ It has also been reported that ZIQUE beneficiaries include students with disabilities, particularly those who are visually impaired, through the development of adapted learning materials. Others will also benefit from the inclusive construction design of new classrooms and schools. The project is further expected to benefit over 13,000 primary and secondary teachers in government schools (69% of whom are female) and over 520 school headteachers in the public school system. Other direct beneficiaries will be ministry officials in key departments and roles who are critical to the successful implementation of each component.¹⁵⁷⁵

3.1.4. Water, Sanitation and Hygiene (WASH) in schools in Zanzibar

Adequate access to water, sanitation and hygiene (WASH) services is a fundamental human right, essential for the realization of all human rights and is necessary for the attainment of better health, education, nutrition and

VOCATIONAL TRAINING, RESETTLEMENT POLICY FRAMEWORK (RPF) FOR ZANZIBAR IMPROVING QUALITY OF BASIC EDUCATION (ZIQUE) PROJECT, 10th November 2022, at <https://moez.go.tz/images/RPF.pdf>.

1571 Ibid.

1572 Ibid.

1573 See THE WORLD BANK, Zanzibar Improving Quality of Basic Education Project, at <https://projects.worldbank.org/en/projects-operations/project-detail/P178157>.

1574 See World Bank, Tanzania: Over 400,000 Students to Benefit From Improved and More Inclusive Education in Zanzibar, Press Release, 22 December 2022, at [HTTPS://ALLAFRICA.COM/STORIES/202212230090.HTML](https://ALLAFRICA.COM/STORIES/202212230090.HTML).

1575 Ibid.



other indices of human development.¹⁵⁷⁶ A 2020 report on the assessment of school, sanitation and hygiene in schools in Tanzania, conducted in 2018 by NBS, OCGS, and UNICEF, highlighted some key facts and issues about WASH in schools. In Zanzibar, 614 schools in five regions were assessed. Some of the key facts and issues raised in Zanzibar include:¹⁵⁷⁷

Number of pupils/students and implications on WASH services

- The average number of pupils/students in both primary schools and secondary schools is higher in Zanzibar (825 and 618 in primary and secondary schools respectively) than in the Mainland (638 and 434 respectively).

Sources of water

- Nearly all schools in Zanzibar (96.0 per cent) obtained their drinking water from an improved source as compared to 67.4 per cent of schools in Mainland Tanzania.
- 18.0 per cent of schools in Mainland Tanzania used unimproved source of drinking water compared to only 2.4 per cent of schools in Zanzibar.
- Zanzibar had a higher percentage of schools with basic water services (82.9 per cent) than Mainland Tanzania (54.5 per cent).
- Thirteen per cent of schools in Mainland Tanzania and Zanzibar depended on limited water services.
- Only 4.1 per cent of schools in Zanzibar did not have water services compared to 32.5 per cent of schools in Mainland Tanzania.

Location of water sources

- Schools in Zanzibar were more likely to have their water sources on their premises (78.5 per cent) than schools in the Mainland (62.9 per cent).

Treating drinking water

- Only 32.0 per cent of schools in Mainland Tanzania and 53.3 per cent of those in Zanzibar treated their drinking water

¹⁵⁷⁶ See NBS, OCGS, & UNICEF, *Tanzania: 2018 School Water, Sanitation and Hygiene Assessment, Main Report*, February 2022, at https://www.nbs.go.tz/nbs/takwimu/SWASH/2018_School_Water_Sanitation_and_Hygiene%20_Assessment_Report.pdf.
¹⁵⁷⁷ Ibid.



Accessibility of water to youngest children and those with limited mobility or vision

- The findings also revealed that primary schools in Zanzibar were more likely to have their water sources accessible to youngest children (94.3 per cent) than those in Mainland Tanzania (75.3 per cent).
- 85.0 per cent of schools in Zanzibar had water sources accessible to those with limited mobility or vision compared to 64.8 per cent of the schools in the Mainland.

Use of improved sanitation facilities

- Schools in Zanzibar were likely to use improved sanitation facilities (98.2 per cent) than schools in Mainland (88.4 per cent). Almost all schools in Zanzibar had some sort of a toilet facility.

Availability of basic sanitation services

- The assessment on sanitation showed that more than a half of schools in Zanzibar (58.3 per cent) had basic sanitation services compared to 29.5 per cent of those in Mainland.
- Schools in Mainland Tanzania were more likely to have both limited and no sanitation services (58.9 per cent and 11.6 per cent, respectively) than schools in Zanzibar (39.9 per cent and 1.8 per cent, respectively).
- Percentage of improved and usable toilets in Zanzibar was almost twice that of the Mainland (58.3 per cent against 29.5 per cent).
- In Zanzibar, 49.0 per cent of schools had at least one usable toilet accessible to pupils with physical disability or impaired vision. Furthermore, the findings indicate that 70.3 per cent of primary schools (in Zanzibar) had at least one toilet/latrine accessible to the youngest pupils.

Pupil per drop hole ratio

- Twenty-eight per cent of schools in Mainland Tanzania had met the recommended pupil per drop hole ratio compared to 17.0 per cent of schools in Zanzibar.
- Schools in Zanzibar had the highest mean number of pupils/students per drop hole (111 girls and 114 boys) compared to schools in Mainland Tanzania (56 girls and 61 boys).



- All regions in Zanzibar had schools with more than average of 75 pupils per drop hole, with Kaskazini Pemba Region having a ratio of 174 girls and 172 boys. Such high number of users places a heavy burden on existing facilities, making maintenance challenging and also discouraging usage of the toilet facilities by pupils/students.

Availability of urinals

- Generally, the use of urinals in Tanzanian schools was low. About 2.7 per cent of schools reported to having urinals for both girls and boys. While 21.7 per cent of schools reported to having urinal facilities for boys, less than one per cent (0.5 per cent) of schools had urinal facilities for girls. Urinals were not common in Zanzibar as 94.7 per cent of schools reported to having no urinals for their students.

Availability of handwashing facilities

- Handwashing facilities were present in more than six out of ten (63.8 per cent) schools in Tanzania. The percentage of schools reported to having handwashing facilities was higher in Zanzibar (78.1 per cent) than in Mainland Tanzania (63.4 per cent).
- Presence of handwashing facilities were more likely in urban schools (75.3 per cent) than schools in rural areas (60.6 per cent).
- Schools with handwashing facilities in Zanzibar were more likely to use piped water with taps (95.0 per cent) than schools in Mainland Tanzania (31.7 per cent).

Availability of basic hygiene services

- About 17.6 per cent schools in Tanzania had basic hygiene services (handwashing facilities with soap and water are available), 27.6 per cent had limited hygiene services (handwashing facilities with water are available, but no soap is available) and more than half of schools (54.8 per cent) had no hygiene services (school has handwashing facilities but no water and soap, or does not have handwashing facility).

Handwashing facilities accessible to youngest children

- Primary schools in Zanzibar were more likely to have handwashing



facilities that were accessible to the youngest children (88.4 per cent) compared to 84.6 percent in Mainland Tanzania.

- The survey found out that 44.2 per cent of schools had teachers trained in WASH (Table 6.7). Teachers in Zanzibar were more likely to be trained in WASH (54.6 per cent) than teachers in Mainland (43.9 per cent).

Menstrual hygiene facilities

- The assessment found out that two thirds (66.8 per cent) of Tanzanian schools (excluding schools with boys only) provided menstrua hygiene management (MHM) services to adolescent girls.
- In Zanzibar, only 21 per cent of the schools were found to provided MHM services, while in Mainland Tanzania it was 68 per cent.
- Overall, urban schools were more likely to provide MHM services (70.9 per cent) than rural schools (65.6 per cent).
- 71.1 per cent of secondary scools provided MHM servies to adolescents girls compared to 64.9 percent of primary schools.
- While more than half of schools in Mainland Tanzania (51.4 per cent) provided some type of hygine products to adolesecnt girls, only three out of ten schools (29.9 per cent) in Zanzibar provided hygiene products to adolescent girls.
- About one quarter (24.7%) of schools (excluding boys only schools) in Tanzania reported to having a private space/room for menstrual hygiene management.
- Schools in Tanzania Mianland were more likely to have a separate room/ space for MHM services (24.9 percent) than schools in Zanzibar (19.3 per cent).

From the findings of the WASH assessment above, it can be observed that, overall, Zanzibar has doing better than Mainland Tanzania in provision of WASH services in schools. Given the budgetary constraints facing the education sector in recent years, it is less likely that much has improved by the end of the year 2022.

3.1.5. Challenges hindering effective realization of the right to education

Despite the various efforts made by the Revolutionary Government of Zanzibar to ensure progressive realisation of the right to education, there are still various challenges that were observed to hinder effective realization of this right in 2022. Participants of the human rights assessment in 2022 were asked to give their opinions on challenges affecting provision of quality



education. Shortage of teachers was mentioned as the biggest challenge (74%), followed by truancy and school dropout (42%), and shortage of classrooms (35%).

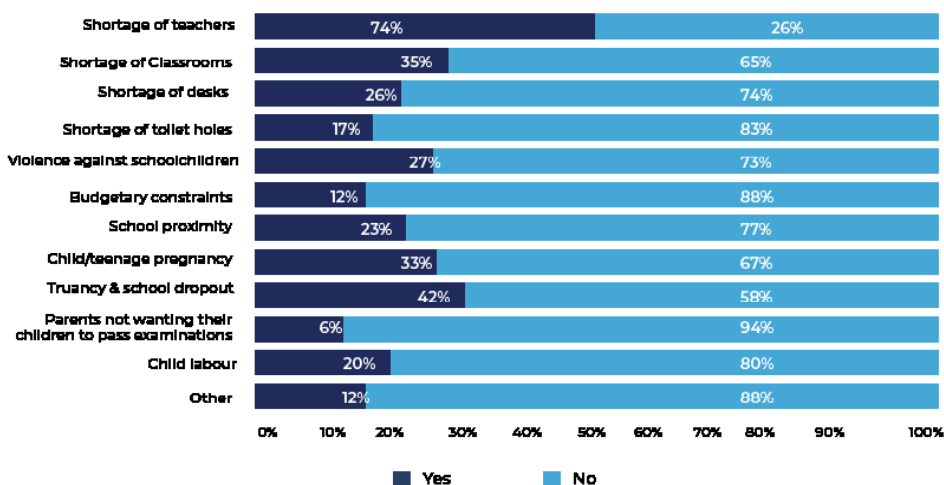


Figure 72: % Responses on challenges affecting provision of quality education (N=408)

Source: Human rights assessment, 2022

Budgetary allocation and delayed or partial disbursement of funds

Analysis of budgets allocated for the education sector in recent years in Zanzibar has raised several concerns. Despite the increase in budgetary allocation for the financial year 2020/21, the budget allocated was still below the minimum standard of 20% of the national budget allocated for education, which is the cent Education for All target¹⁵⁷⁸ (for overall education sector).¹⁵⁷⁹ Analysis has also revealed limited allocation of funding for school inspections. Another concern is low budget execution rates of local and foreign development funds, mainly resulting from low and untimely releases, challenges in procurement processes, and insufficient human resource capacity to manage projects.

Like in Mainland Tanzania, delayed or partial disbursement funds allocated for the education sector is also a challenge in Zanzibar. For instance, for the financial year 2021/22 it was reported that by April 2022, only 58% of the

1578 UNESCO. 2014c. EFA Global Monitoring Report: Increasing tax revenues to bridge the education financing gap..
 1579 EDUCATION BUDGET ISSUE PAPER: ZANZIBAR (supra).



budget funds had been disbursed.¹⁵⁸⁰

Shortage of teachers and teacher absenteeism

The problem of shortage of teachers in Zanzibar has been contributed by growing enrolment with which the government's efforts in recruiting teachers has not kept pace.¹⁵⁸¹ This seriously affects the pupil–teacher ratio (PTR), especially for pre-primary schools, and in turn affecting the quality of education provided. Teacher shortage is a bigger problem in Pemba, where highest pupil–teacher ratio (PTR has recently been recorded.¹⁵⁸² The problem of shortage of teachers is also caused or compounded by significant disparities in the distribution of teachers between districts.

Shortages of learning and teaching facilities and tools

In recent years, shortage of classrooms has seen the number of government primary schools operating in double shifts increased from 38.7% to 44.1% between 2018 and 2021.¹⁵⁸³ Consequently, working in double shifts appears to be a practice in some schools, especially primary schools. Double shifts primarily affect urban schools, resulting in reduced number of hours for teaching and learning in schools.¹⁵⁸⁴

Violence against children, especially sexual violence

As discussed in detail in Chapter Five of this report, violence is one of the big challenges faced by children including in home, street, and school settings. Children are subjected to all forms of violence, namely sexual violence, physical violence, psychological violence, and economic violence, which hinder or affect effective realization of their right to education. In May 2022, the Government disclosed that it had trained a total of 1,213 (326 male, 887 female) in Unguja and Pemba on life skills to that they can help children develop or improve self-confidence and be able to cope with and address the challenge of different forms of violence, which may affect their schooling.¹⁵⁸⁵

Access to Water, Sanitation and Hygiene (WASH) services in some schools in Zanzibar

As discussed above, Zanzibar has been doing better overall in terms of providing WASH services in schools, compared to Mainland Tanzania. However, there are components of WASH services that Zanzibar has not

1580 HOTUBA YA WAZIRI WA ELIMU NA MAFUNZO YA AMALI, MHE. LELA MUHAMED MUSSA (*supra*).

1581 EDUCATION BUDGET ISSUE PAPER: ZANZIBAR (*supra*).

1582 EDUCATION BUDGET ISSUE PAPER: ZANZIBAR (*supra*).

1583 EDUCATION BUDGET ISSUE PAPER: ZANZIBAR (*supra*).

1584 *Ibid.*

1585 HOTUMBA YA WAZIRI WA ELIMU NA MAFUNZO YA AMALI, MHE. LELA MUHAMED MUSSA (*supra*).



been doing very well in, including availability of drop holes. For instance, the recent WASH services in schools assessment has shown that schools in Zanzibar had the highest mean number of pupils/students per drop hole (111 girls and 114 boys) compared to schools in Mainland Tanzania (56 girls and 61 boys). The situation was found to be worst in Kaskazini Pemba Region, where there was a ratio of 174 girls and 172 boys per drop hole.¹⁵⁸⁶ Another key concern is shortage of urinals for boys, whereby 94.7 percent of schools in Zanzibar reported to having no urinals for their students. Additionally, lack of menstrual hygiene facilities was found to be a key challenge at most schools in Zanzibar, as only, only 21 percent of the schools were found to provide menstrual hygiene management (MHM) services, while in Mainland Tanzania it was 68 percent. On 19.3 percent of schools in Zanzibar were also found to have a separate room/space for MHM services.¹⁵⁸⁷

Shortage of classrooms and other challenges at Michakaini Primary School in Pemba

Recently, in February 2023, the House of Representatives Committee on Social Welfare, released its report for the financial year 2022/23, in which, among other things, highlights various challenges experienced at Michakaini Primary School in Pemba.¹⁵⁸⁸ The challenges include classrooms being in dilapidated condition, jeopardizing the safety of pupils and teachers; shortage of classrooms, which forces pupils to attend classes in shifts and others learning under the trees and even in a mosque; insufficient allowances for teachers caring for children with special needs; and lack of special training for inclusive education and life skills teachers. Other challenges that are mentioned in the report include shortage of learning tools and books, including braille machine and lack of friendly infrastructure.¹⁵⁸⁹

To address the committee made several recommendations, including:

- The Government to allocate a special budget in the coming financial year for Michakaini Primary School to reconstruct the school, due to its dilapidated condition;
- The Ministry of Education and Vocational Trainings to ensure teachers at the school are trained on sign language;
- The Government to increase allowance pay for teachers teaching

¹⁵⁸⁶ Tanzania: 2018 School Water, Sanitation and Hygiene Assessment (*supra*).

¹⁵⁸⁷ *Ibid*.

¹⁵⁸⁸ See BARAZA LA WAWAKILISHI ZANZIBAR, RIPOTI YA KAMATI YA KUDUMU YA USTAWI WA JAMII YA BARAZA LA WAWAKILISHI ZANZIBAR KWA MWAKA WA FEDHA 2022/2023, FEBRUARI, 2023, at <http://www.zanzibarassembly.go.tz/storage/documents/Committees/all/1677042312.pdf>.

¹⁵⁸⁹ *Ibid*.



children with disabilities in the budget for the financial year 2023/24 in order to motivate them; and

- The Government to ensure enforcement of education guidelines, including on inclusive education.

3.2. Right to Health

3.2.1. Overview

Right to health is essential for realization of other rights, including the fundamental right to life. This right means that hospitals, clinics, medicines, and doctors' services must be accessible, available, acceptable, and of good quality for everyone on an equitable basis, where and when needed. This right is guaranteed and protected under the International Covenant on Economic, Social and Cultural Rights (ICESCR), which recognises enjoyment of the highest attainable standard of physical and mental health.¹⁵⁹⁰ States parties to the ICESCR are required to take several steps towards full realization of the right to health, including creating conditions which would assure to all medical services and attention in the event of sickness and prevention, treatment and control of epidemic, occupational and other diseases.¹⁵⁹¹ States thus have a primary duty to ensure that necessary measures are taken to protect the health of their people and to ensure that they receive medical attention when they are sick.¹⁵⁹² This right is also guaranteed under regional treaties that Tanzania is bound to, such as the African Charter on Human and Peoples' Rights (ACHRPR), African Charter on the Rights and Welfare of the Child (ACRWC) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).¹⁵⁹³ Right to health includes right to access health services and right to quality health services.

This subchapter looks at the situation of the right to access health services and right to quality health services as key components of the right to health, focusing on the year 2022.

3.2.2. Government action to ensure progressive realisation of right to health

In recent years, the Revolutionary Government of Zanzibar has taken various measures to facilitate progressive realisation of the right to health, including

¹⁵⁹⁰ Article 12 of the International Covenant on Economic, Social and Cultural Rights, 1977

¹⁵⁹¹ See Article 12(2) of ICESCR.

¹⁵⁹² Article 16(2) of the African Charter on Human and People's rights, 1981.

¹⁵⁹³ See Article 16(1) of ACHRPR; Article 14 of ACRWC; and Article 14 of Maputo Protocol.



construction and renovation of health facilities and employment of health workers. For instance, in 2020, the number of public health facilities (PHCU) specifically increased from 119 facilities in 2018 to 128 facilities in 2021.¹⁵⁹⁴ The number of workers in public health facilities also increased from 2,552 in 2018 to 3,690 in 2021.¹⁵⁹⁵ To boost provision of health services, the Government also announced in June 2022 that for the financial year 2021/22 it had provided temporary jobs for 2,331 youth to work in various health-related projects.¹⁵⁹⁶

In August 2022, it was reported that construction of a new hospital building of the Mjini Magharibi Regional Hospital had reached a good stage.¹⁵⁹⁷ In November, H.E Dr. Hussein Ali Mwinyi, President of the Revolutionary Government of Zanzibar, announced that renovation of the Mnazi Mmoja Referral Hospital would commence in April 2023.¹⁵⁹⁸



Picture 30: Ongoing construction of a new hospital building of the Mjini Magharibi Regional Hospital – August 2022

Picture credit: DIRAMAKINI

1594 See REVOLUTIONARY GOVERNMENT OF ZANZIBAR, Office of the Chief Government Statistician (OCGS), ZANZIBAR STATISTICAL ABSTRACT 2021, August 2022, at <https://www.ocgs.go.tz/php/ReportOCGS/ZANZIBAR%20STATISTICAL%20ABSTRACT%202021.pdf>.

1595 Ibid.

1596 See SERIKALI YA MAPINDUZI YA ZANZIBAR OFISI YA RAIS FEDHA NA MIPANGO, HOTUBA YA WAZIRI WA NCHI OFISI YA RAIS FEDHA NA MIPANGO, MHESHIMIWA DKT. SAADA MKUYA SALUM (MBM), AKIWASILISHA MWELEKEO WA UCHUMI MWAKA 2022 NA MPANGO WA MAENDELEO WA SERIKALI YA MAPINDUZI YA ZANZIBAR KWA MWAKA 2022/2023, at <https://www.planningznz.go.tz/english/Downloads/current/Hotuba%20ya%20waziri%202022-2023.pdf>.

1597 See "ZANZIBAR MPYA: Rais Dkt. Mwinyi aridhishwa na ujenzi wa Hospitali ya Mkoa wa Mjini Magharibi" DIRAMAKINI, at <https://www.diramakini.co.tz/2022/11/zanzibar-mpya-rais-dktmwinyi-aridhishwa.html>.

1598 Jesse Mikofu "Hospitali ya Mnazi Mmoja Zanzibar kukarabatiwa" Mwananchi Newspaper (online), 19 Nov 2022, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/hospitali-ya-mnazi-mmoja-zanzibar-kukarabatiwa--4025634>.



Another key development affecting the right to health in Zanzibar in 2022 was the tabling of the universal health coverage (UHC) bill in November 2022.¹⁵⁹⁹ Stakeholders, including doctors and NGOs, lauded this move, noting that it would help to safeguard right to health, which is a basic human right.¹⁶⁰⁰

3.2.3. Challenges hindering effective realization of the right to health

Despite the various efforts made by the Revolutionary Government of Zanzibar to ensure progressive realisation of the right to health, there are still various challenges that continued to hinder effective realization of this right in 2022. These challenges include shortage specialists, including in the field of radiology and pharmacy, and shortage of medical equipment.¹⁶⁰¹

Participants of the human rights assessment in 2022 also gave their views on challenges hindering effective realization of the right to health. They identified shortage of medicines as the biggest challenge (55%), followed by challenges such as verbal abuse by nurses (44%), shortage of workers (39%), long queues in receiving treatment (39%), and shortage of health facilities (37%).

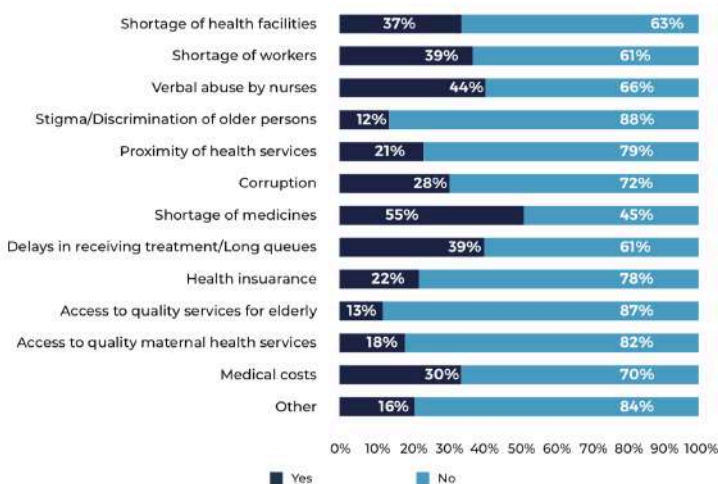


Figure 73: % Responses on challenges in provision of quality health services (N=408)

Source: Human rights assessment, 2022

1599 See House of Representatives website, at <https://zanzibarassembley.go.tz/storage/documents/bills/all/1672312673.pdf>.

1600 Masato Masato “Tanzania: Zanzibar Ready for Universal Health Insurance” DAILYNEWS Newspaper (online), 28 Sep 2022, at [HTTPS://ALLAFRICA.COM/STORIES/202209290106.HTML](https://ALLAFRICA.COM/STORIES/202209290106.HTML).

1601 HOTUBA YA WAZIRI WA AFYA, USTAWI WA JAMII, WAZEE, JINSIA NA WATOTO, MHESHIMIWA NASSOR AHMED MAZRUI KWA MWAKA WA FEDDHA 2021/22, <http://www.zanzibarassembley.go.tz/files/budgets/ministerial-budget/1622732556.pdf>.



3.3. Right to Clean and Safe Water

3.3.1. Overview

The UN Committee on Economic, Social, and Cultural Rights defines the right to water as the right of everyone to **sufficient, safe, acceptable** and **physically accessible** and **affordable** water for personal and domestic uses.¹⁶⁰² It is also known as right to water and sanitation and is essential and indispensable in ensuring life with dignity.¹⁶⁰³ Right to water is not expressly provided for under the International Covenant on Economic, Social, and Cultural Rights (ICESCR) of 1966, instead, according to the UN Human Rights Council, it is derived from Article 11 of the convention, which provides for the right to adequate standard of living.¹⁶⁰⁴

Unlike other countries, like South Africa, where the right to water is enshrined in their Constitutions,¹⁶⁰⁵ the right to water is not provided for in the Constitution of Zanzibar. However, the Revolutionary Government of Zanzibar has taken various measures to ensure that all people in Zanzibar enjoy this right. Different policies, strategies, plans, programmes and projects have been formulated to address issue of water in Zanzibar. These include the Water policy (RGoZ, 2004), Forest Policy (1996), Education Policy (RGoZ, 2006), Tourism Policy (RGoZ, 2005), and Environmental Policy (RGoZ, 1992, 2013).

3.3.2. Government action to ensure progressive realization of the right to water

In Zanzibar, the duty to produce clean and safe water falls under the government executive agent, the Zanzibar Water Authority (ZAWA).¹⁶⁰⁶ The authority is responsible for formulating water policies, supply of clean water, and collection of nominal charges from water recipients. ZAWA has a duty to contact international organizations on improvement of water.¹⁶⁰⁷ The authority provides water services in both urban and rural areas. Currently those who enjoy the right to water are more than 76 per cent of Zanzibaris, the vast majority of whom live in rural areas and who now have access to safe

1602 See UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant)*, 20 January 2003, E/C.12/2002/11, available at: <http://www.refworld.org/docid/4538838d11.html> [accessed 17 December 2017].

1603 Article 1.1 of the *General Comment No. 15. The right to water, UN Committee on Economic, Social and Cultural Rights, November 2002*,

1604 International Bank for Reconstruction and Development (IBRD), World Bank. *The Human Right to Water. Legal and Policy Dimensions*. 2004. www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2004/10/18/00009034120041018135134/Rendered/PDF/302290PAPER0Human0right0to0H20.pdf (accessed on 20th May 2015). 331SC McCaffrey 'The basic right to water' in EB Weiss et al (eds) *Fresh Water and International Economic Law* (2005) 93-94.

1605 Section 27(1) of the Constitution of South Africa 1996.

1606 Zanzibar Water Authority Act No. 4 of 2006.

1607 Ibid.



water.¹⁶⁰⁸ In 2022, ZAWA continued implementing various water projects to enhance access to clean and safe water to Zanzibaris. To boost provision of water services, the Government also announced in June 2022 that for the financial year 2021/22 it had provided temporary jobs for 154 youth to work in various water projects.¹⁶⁰⁹

3.3.3. Challenges hindering effective provision of clean and safe water

Despite the various efforts made by the Revolutionary Government of Zanzibar to ensure progressive realisation of the right to water, various challenges persist. These include climate change, which has affected rainfall; water loss and leakages; old water infrastructures; contamination of water sources; non-payment of water bills or delays in paying them; and lack of access to clean and safe water in some areas in Zanzibar. Another key challenge for the water sector in Zanzibar, like in Mainland Tanzania, is budgetary constraints and partial or delayed disbursement of funds, which affects implementation of water projects. For instance, for the financial year 2021/22, the Tshs. 34.2 billion was allocated for the sector, but only 27% of the funds had been disbursed by March 2022.¹⁶¹⁰

Collaborative efforts between the government, non-government stakeholders, and community members to address these challenges are needed. This shall help to alleviate the 20% deficit of water supply in Zanzibar.

3.4. Right to Work

3.4.1. Overview

Right to work is provided for under the various international instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) and The African Charter on Human and Peoples' Rights (ACHPR).¹⁶¹¹ It gives an individual an opportunity to gain a living by work they freely choose or accept.¹⁶¹² An emphasis is made for governments to set up social, civil, political and economic mechanisms to enable full and progressive realization of the right to work.¹⁶¹³ Right to work includes right to gain living by work and right to just and favourable working conditions.

¹⁶⁰⁸ Zanzibar Celebrates Safe Rural Water with the African Development Bank.

¹⁶⁰⁹ See HOTUBA YA WAZIRI WA NCHI OFISI YA RAIS FEDHA NA MIPANGO (*supra*).

¹⁶¹⁰ *Ibid.*

¹⁶¹¹ Article 15 of ACHPR.

¹⁶¹² Article 6(1) of the International Covenant on Economic, Social and Cultural Rights, 1966

¹⁶¹³ *Ibid* 6(2)



In Zanzibar, the right to work is provided under Section 21 (3) and (4) of Constitution of Zanzibar (1984), which states that all people have the right to work and are entitled to equal rights and privileges and can hold any position in employment under jurisdiction of Zanzibar. The Constitution further asserts that the right should be enjoyed without discrimination of any kind, and remuneration should be given according to one's work, that is, the extent of the work he/she does and his/her competency.

3.4.2. Government action to promote right to work

To ensure progressive realization of the right work, in 2022 the Revolutionary Government of Zanzibar took various measures, including enforcement of labour laws and regulations, and providing employment. For instance, to boost provision of water services, the Government also announced in June 2022 that for the financial year 2021/22 it had provided temporary jobs for 2,331 youth to work in various health-related projects and for 154 youth to work in various water projects.¹⁶¹⁴

In May 2022, H.E Dr. Hussein Ali Mwinyi, President of the Revolutionary Government of Zanzibar, announced that the Government would increase salaries for public servants, including through promotion.¹⁶¹⁵ The President also announced an increase of minimum wage from Tshs. 300,000 to Tshs. 347,000, equivalent to a 15.6% increase. Additionally, the President remarked that his government would employ 5,639 new workers for different sectors, including health and education, setting aside Tshs. 24.6 billion to make this happen.¹⁶¹⁶

3.4.3. Challenges hindering effective realization of the right to work

In Zanzibar, some of the challenges currently hindering effective realization of the right to work include shortage of workers in key sectors, which creates a burden for available workers; poor working conditions, including for teachers; low awareness about labour rights; unemployment and underemployment, especially of youth; and violations of labour rights, including paying wages below the minimum wage structure set by the Government.

In May 2022, the Secretary of the Zanzibar Trade Union Congress (ZATUC),

¹⁶¹⁴ See HOTUBA YA WAZIRI WA NCHI OFISI YA RAIS FEDHA NA MIPANGO (*supra*).

¹⁶¹⁵ See Ikulu Zanzibar, Dk. Hussein Ali Mwinyi amesema kwa mwaka wa fedha 2022/2023, Serikali itaongeza mshahara kwa kutumia utaratibu wa kuwapanga watumishi katika madaraja na vyeo kwa mujibu wa miundo ya utumishi, 8 May 2022, at <https://www.ikuluzanzibar.go.tz/media/view/dk-hussein-ali-mwinyi-amesema-kwa-mwaka-wa-fedha-2022-2023-serikali-itaongeza-mshahara-kwa-kutumia-utaratibu-wa-kuwapanga-watumishi-katika-madaraja-na-vyeo-kwa-mujibu-wa-miundo-ya-utumishi>; "Rais Dkt. Mwinyi aibua shangwe kwa wafanyakazi, mishahara ijayo 2022/23 mambo safi, DIRAMAKINI, at <https://www.diramakini.co.tz/2022/05/rais-dktmwinyi-aibua-shangwe-kwa.html>.

¹⁶¹⁶ Ibid.



Khamis Mwinyi Mohammed, revealed that the minimum wage of Tshs. 300,000 was not commensurate with the current costs of living, considering also the amount is still subject to various statutory deductions.¹⁶¹⁷ In the same month, the Minister of State President's Office, Labour, Economy and Investment – Zanzibar, Hon. Mudrik Ramadhan Soraga, disclosed that a special inspection on minimum wage payment compliance conducted by his ministry had revealed that 19 institutions were paying wages below the minimum wage set by the Government.¹⁶¹⁸

3.5. Right to Own Property

3.5.1. Overview

Article 17 of the Universal Declaration of Human Rights of 1948 recognizes the right of everyone to own property alone as well as in association with others; and that they shall not be deprived of that right arbitrarily by anyone.¹⁶¹⁹

Right to acquire land in Zanzibar is governed by various laws. The main laws are: the Constitution of Zanzibar of 1984; the Land Tenure Act 1992; the Land Acquisition Decree of 1909; the Acquisition of Land (Assessment of Compensation) Decree 1949; and the Town and Country Planning Decree 1955. Section 17 of the Constitution of Zanzibar declares that the Government shall not acquire any private property, which in this sense includes immovable properties, unless the acquisition is of 'utmost importance' and 'absolutely important' to legalise acquisition of a person's property.

Although the Constitution of Zanzibar 1984 directs the Government, when it acquires the private lands for public interest, to compensate a holder fairly and adequately,¹⁶²⁰ there exists no interpretation on what constitutes fair and adequate compensation. The Land Tenure Act 1992 declares that a holder would be compensated according to the market value and unexhausted improvements.¹⁶²¹

3.5.2. Government action to promote right to own property

In 2022, measures taken by the Revolutionary Government of Zanzibar to promote and protect the right to own property included implementation

¹⁶¹⁷ Dk. Hussein Ali Mwinyi amesema kwa mwaka wa fedha 2022/2023, Serikali itaongeza mshahara kwa kutumia utaratibu wa kuwapanga watumishi katika madaraja na vyeo kwa mujibu wa miundo ya utumishi. (supra).

¹⁶¹⁸ Ibid.

¹⁶¹⁹ Article 17 of the Universal Declaration of Human Rights,

¹⁶²⁰ Section 17 of the Constitution of Zanzibar, 1984

¹⁶²¹ Section 56 of the Land Tenure Act, 1992



of various land related programmes and projects, land dispute resolution, issuance of land titles and certificates of occupancy, and survey of plots.

In May 2022, the Zanzibar Commission for Lands announced that it was planning to survey 2,000 plots, prepare 3,400 maps and conduct valuation on 400 areas in the fiscal year 2022/2023.¹⁶²² the Minister of Lands and Settlements Development, Hon. Rahma Kassim Ali, also told the House of Representatives that the Commission shall also prepare 2,000 titles on land use rights; 140 land rent contracts; and 100 identities for three-acre use.¹⁶²³ Additionally, it was reported that the Commission would sustain inspections on 250 investment areas and 150 three-acre farms; value 400 areas for various activities; and identify right holders on the use of 5,000 plots.¹⁶²⁴ The Minister further stated that her ministry intended to review all legislations on land use and prepare the new housing and urban plan; and conduct researches for improved service delivery in the land sector.¹⁶²⁵

3.5.3. Land and Property Rights: Perceptions of Community Members

Participants of the human rights assessment conducted by ZAFAYCO in 2022 gave their opinions in protection of property rights. Majority of them (35%), said they were somewhat satisfied with protection of property rights, followed by 31.6% who expressed satisfaction with protection of such rights. 11% said they were very unsatisfied, 4.7% said they were somewhat unsatisfied, and the remaining 0.5% said they did not know or were not sure. However, as discussed below, women's property and inheritance rights continued to be a concern in Zanzibar in 2022.

3.5.4. Challenges hindering effective realization of property rights

Challenges that continued to affect effective enjoyment and realization of property rights in 2022 included land disputes and conflicts and land sale frauds.

3.5.4.1. Land disputes and conflicts

In February 2022, H.E President Dr. Hussein Ali Mwinyi revealed during a press conference that his government was planning to form a commission that would address land disputes in various parts of Zanzibar.¹⁶²⁶ The

¹⁶²² Masato Masato "Zanzibar land commission launches land survey drive" DailyNews Newspaper (online), 31 May 2022, at <https://landportal.org/news/2022/06/zanzibar-land-commission-launches-land-survey-drive#:~:text=Land%20and%20Settlement%20Development%20Minister,identities%20for%20three%2Dacre%20use>.

¹⁶²³ Ibid.

¹⁶²⁴ Zanzibar land commission launches land survey drive (*supra*).

¹⁶²⁵ Ibid.

¹⁶²⁶ Lukelo Francis "Watendaji Wasio Waadilifu Watajwa Kuchochea Migogoro ya Ardhi Zanzibar" The Chanzo, 1 March 2022, at <https://thechanzo.com/2022/03/01/>



President acknowledged that there are injustices in the land sector, including property grabbing, which is why formation of the commission cannot come soon enough. While the President’s announcement about formation of the commission was generally met with relief, it was reported that some of the people who have been involved in land disputes were less optimistic, given the corruptness and unethical conduct of some of the land administration officials.¹⁶²⁷

In June 2022, the Deputy Minister of Lands and Settlements Development, Hon. Nadir Abdullatif Yussuf Alwardy, visited Shabuta Spice Farm in Dole, which is subject to land dispute, in an effort to resolve the dispute. He listened to both parties to the dispute and promised them that his office would facilitate a peaceful resolution to the dispute.¹⁶²⁸



Picture 31: Deputy Minister of Lands and Settlements Development, Hon. Nadir Abdullatif Yussuf Alwardy, listening to parties to a dispute over Shabuta Farm in Dole, Zanzibar – June 2022

Source: <http://dev.cascadeapartments.com/w/iD7iJOZTWZo/pages>

In December 2022, the Minister of Lands and Settlements Development,

watendaji-wasio-waadilifu-watajwa-kuchochea-migogoro-ya-ardhi-zanzibar/.

1627 Ibid.

1628 See WIZARA YA ARDHI NA MAENDELEO YA MAKAAZI ZANZIBAR, MHE. NADIR NAIBU WAZIRI WA ARDHI ZANZIBAR KUUFATILIA KWA KINA MGOGORO WA SHAMBA LA SHABUTA HUKO DOLE, at <http://dev.cascadeapartments.com/w/iD7iJOZTWZo/pages>.



Hon. Rahma Kassim Ali, acknowledged that there has been an increase of and land disputes and revealed that 80% of the disputes in Zanzibar are caused by citizens purchasing land without following legal procedures and land or property brokers facilitating illegal land sales, at the expense of unsuspecting citizens and investors.¹⁶²⁹ She urged citizens and investors to seek assistance from relevant government agencies and offices when they want to acquire land for different purposes to prevent land disputes.¹⁶³⁰ Recently, in January 2023, the Minister said that invasions and illegal sale of reserve lands has contributed to land disputes in Zanzibar, especially in Kusini Unguja District.¹⁶³¹

More recently, in February 2023, the Minister of Lands and Settlements Development stated that her ministry and land court had received 108 new land disputes in the period of July to December 2022 alone, in both Unguja and Pemba.¹⁶³²

3.5.4.2. Women's property and inheritance rights

Like in Mainland Tanzania, violation of women's property and inheritance rights is a concern in Zanzibar, with discriminatory laws and practices cited as major contributing factors. In some communities, women are still perceived as not deserving to acquire or inherit property, since they are more likely to be married and use properties of their husbands. Consequently, they become victims of violations of property and inheritance rights, including due to acts such as land grabbing and eviction from property or home. This constitutes economic violence against women, discussed in Chapter Five below.

One of the groups of women who have been victims of denial or infringement of property and inheritance rights in Mainland Tanzania and Zanzibar are widows. The President of the Revolutionary Government of Zanzibar, H.E Dr. Hussein Ali Mwinyi, has shown political will to help widows in Zanzibar, after meeting with the Zanzibar Widows Organization (ZAWIO) and agreeing with them that there is a need for legal reforms to safeguard widows' rights in Zanzibar and pledged to take action in that regard.¹⁶³³ Some women in

1629 "Madalali wanachangia migogoro ya ardhi Zanzibar" TimesMajira (online), 25 Dec 2022, at <https://timesmajira.co.tz/madalali-wanachangia-migogoro-ya-ardhi-zanzibar/>.

1630 Ibid.

1631 Lucy Ngowi "Uvamizi wa maeneo umechangia migogoro ya ardhi Z'bar" HABARILEO Newspaper (online), 19 Jan 2023, at <https://habarileo.co.tz/uvamizi-wa-maeneo-umechangia-migogoro-ya-ardhi-zbar/>.

1632 Sabiha Keis "Migogoro ya Ardhi Zanzibar inasababishwa na wananchi kutofuata sheria" HABARI MSETO (online), 1 Feb 2023, at <https://francisdande.blogspot.com/2023/02/migogoro-ya-ardhi-zanzibar-yasababishwa.html>.

1633 Elias Msuya "Dk Mwinyi: Kuna haja kurekebisha sheria kadamizi kwa wanawake wajane Zanzibar" Mwananchi Newspaper [online], 20 April 2021, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/dk-mwinyi-kuna-haja-kurekebisha-sheria-kadamizi-kwa-wanawake-wajane-zanzibar-3369702>.



Tanzania, including Zanzibar, have learnt a brutal lesson that ‘marriage contract expires soon after one’s husband is dead.’¹⁶³⁴

3.5.4.3. Land sale frauds and disregard of procedures in land acquisition

As discussed above, some land sale frauds and disregard of procedures for land acquisition among citizens and land brokers have contributed to 80% of the disputes in Zanzibar. They lead to violation of property rights for citizens, including right to acquire and use land.

3.5.4.4. Partial and/or delayed disbursement of funds

Like it was the case for some other ministries in 2022, partial and/or delayed disbursement of funds was said to be a challenge for the ministry responsible for lands and settlements. In May 2022, the Chairperson of the House Standing Committee on Communications, Land and Energy, Hon. Yahya Rashid Abdulla, highlighted financial constraints as a major impediment to the smooth operations of the Zanzibar Housing Corporation (ZHC).¹⁶³⁵ He bemoaned partial and delayed disbursement of budgetary allocations for the 2021/2022 financial year, with only Tshs. 4 billion out of the Tshs. 19.117 billion total budget released as of March 31, 2022.¹⁶³⁶ He also expressed concern with non-disbursement of development funds.

3.6. Right to Adequate Standard of Living

3.6.1. Overview

An adequate standard of living is a human right recognized under various international human rights instruments and is understood to establish a minimum entitlement to food, clothing and housing at an adequate level. According to the Universal Declaration of Human Rights (UDHR), “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”¹⁶³⁷ This right is also provided for under the International Covenant on Economic, Social and Cultural

¹⁶³⁴ Kizito Makoye “Zanzibar women brush up on the law to keep control of land” Thomson Reuters Foundation, 4 Feb 2016, at <https://landportal.org/news/2016/02/zanzibar-women-brush-law-keep-control-land>.

¹⁶³⁵ Zanzibar land commission launches land survey drive (*supra*).

¹⁶³⁶ *Ibid*.

¹⁶³⁷ Article 25(1) of UDHR.



Rights (ICESCR).¹⁶³⁸ It includes right to food and right to shelter.

3.6.2. Government action to boost Adequate Standard of Living

Right to adequate standard of living is closely associated and dependent on the rights to education, health, water, work, and own property. In 2022, government action to promote realization of these rights, as discussed above, contributed to promoting the right to adequate standard of living.

Regarding settlements, in May 2022, the Minister of Lands and Settlements Development, Hon. Rahma Kassim Ali, said her ministry was planning to develop and initiate modern settlements and manage all construction activities in the country with the view of creating quality settlements and decent towns.¹⁶³⁹ She added that the Zanzibar Housing Corporation (ZHC) would embark on construction of commercial and residential buildings at Mabatini, ChakeChake in Pemba; proceed with construction of four commercial and residential buildings at Mombasa area in Unguja; and renovate its 68 development houses in Unguja and Pemba.¹⁶⁴⁰

3.6.3. Right to Food

Right to food is realized progressively and is accomplished when every man, woman, and child, alone or in a community with others, has physical and economic access, at all times, to adequate food or the means for its procurement. Key elements of right to adequate food include **availability of food, food safety, acceptability and accessibility**.¹⁶⁴¹ Availability of food means food is available in quantity and quality required to satisfy the dietary needs of people and can be moved from where it is produced to markets, while accessibility, both economic and physical, means people should be able to meet financial costs of acquiring food and the food is accessible to everyone, including disadvantaged groups such as children and persons with disabilities (PWDs).

3.6.3.1. Food insecurity concerns: IPC assessment findings

An analysis conducted by Integrated Food Security Phase Classification (IPC)¹⁶⁴² in Unguja and Pemba in Zanzibar in the period of October 2022 to

1638 Article 11(1) of ICESCR

1639 Zanzibar land commission launches land survey drive (*supra*).

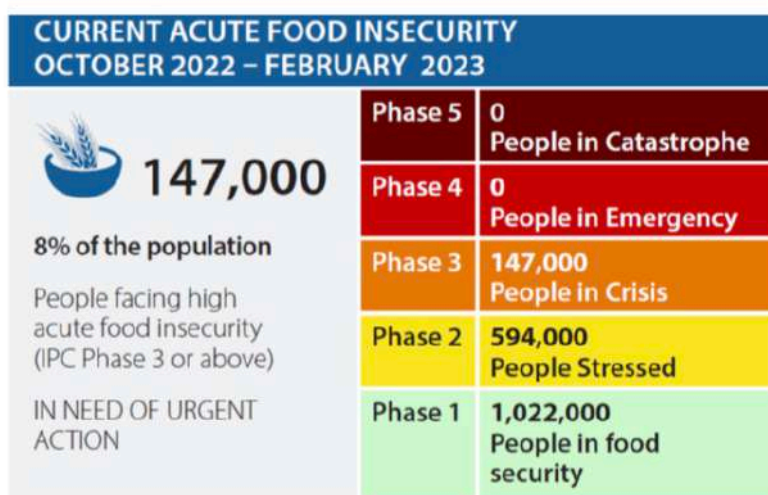
1640 *Ibid.*

1641 See UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant), 12 May 1999, available at: <http://www.refworld.org/docid/4538838c11.htm>; See also Icelandic Human Rights Centre, *Right to An Adequate Standard of Living*, at <http://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/substantive-human-rights/the-right-to-an-adequate-standard-of-living>.

1642 An innovative multi-partner initiative for improving food security and nutrition analysis and decision-making. By using the IPC classification and analytical approach, Governments, UN Agencies, NGOs, civil society and other relevant actors, work together to determine the severity and magnitude of acute and chronic food insecurity,



February 2023 revealed food insecurity concerns, finding that key drivers of acute food insecurity situation in some areas of Zanzibar were: a sharp increase in prices of the main food products; prolonged dry spells and erratic rainfall, that caused failure of crop and livestock production; crop pests and disease infestations; poor traditional storage systems of food crops produced, leading to decreased food availability; and low purchasing power of the population due to prices increase.¹⁶⁴³ These factors lead to inadequate food production and consumption, hence limited food availability and reduction of casual labour opportunities; and low-income households are the most affected by this situation.¹⁶⁴⁴



Source: IPC, 2022

According to IPC, during the period of analysis (October 2022 and February 2023), all analysed regions of Zanzibar were classified in Stressed (IPC Phase 2). Around 147,000 people (8% of the analysed population of Zanzibar) were facing Crisis levels of acute food insecurity (IPC Phase 3), with no people classified in higher phases. About 594,000 people (34% of the population analysed) were in IPC Phase 2 and would require livelihood support.¹⁶⁴⁵ The most affected region was Kaskazini Pemba where about 48,000 people (15% of the population analysed) were in IPC Phase 3. In addition, two regions (Kaskazini Unguja and Kusini Pemba) each had 10% of their households

and acute malnutrition situations in a country, according to internationally recognised scientific standards.

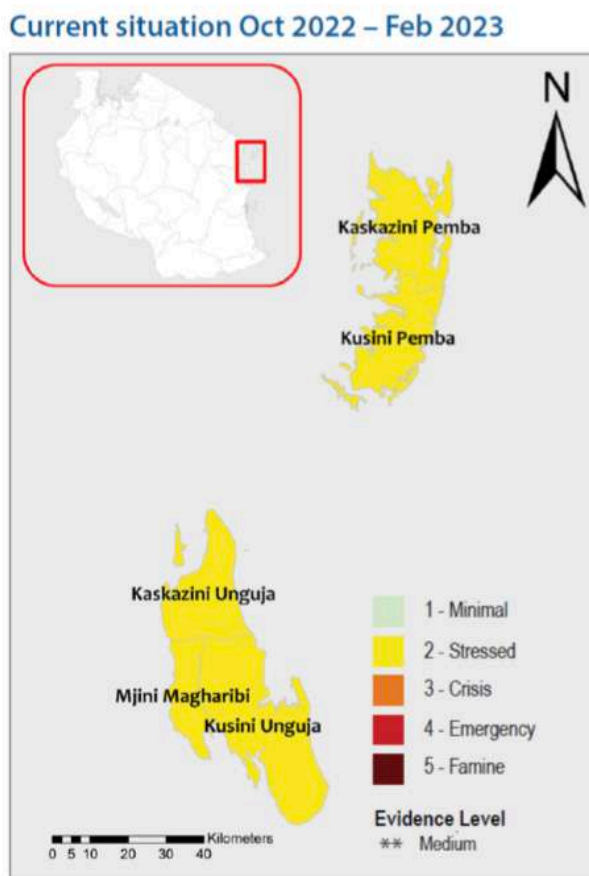
1643 See IPC, ZANZIBAR: PRICE INCREASE, DRY SPELLS, AND CROP PESTS DRIVE FOOD INSECURITY IN ZANZIBAR, IPC ACUTE FOOD INSECURITY ANALYSIS, OCTOBER 2022 – MAY 2023, 30 December 2022, at <https://reliefweb.int/report/ united-republic-tanzania/zanzibar-tanzania-acute-food-insecurity-situation-october-2022-february-2023-and-march-may-2023>.

1644 Ibid.

1645 IPC ZANZIBAR ACUTE FOOD INSECURITY ANALYSIS (*supra*).



in IPC Phase 3, while the rest of the two regions (Kusini Unguja and Mjini Magharibi) had 5% of their population in IPC Phase 3.¹⁶⁴⁶ The most vulnerable houses were said to be those who have run out of stock because of low production and had low purchasing power to due high prices. However, food availability was expected to improve in the months of October to December.



Source: IPC, 2022

According to the IPC analysis, during the projection period (March – May 2023), the number of people facing high levels of acute food insecurity is expected to slightly increase from 147,000 to about 151,000 (8% of the population analysed), and this is solely attributed to an increase in the projected population of 2023.¹⁶⁴⁷ However, due to a projected below-normal to normal rainfall in the projection period, production is expected to reduce,

¹⁶⁴⁶ Ibid.

¹⁶⁴⁷ IPC ZANZIBAR ACUTE FOOD INSECURITY ANALYSIS (*supra*).



compared to the current production period.¹⁶⁴⁸

Population table for the current period: October 2022 – February 2023

District	Total population analysed*	Phase 1		Phase 2		Phase 3		Phase 4		Phase 5		Area Phase	Phase 3+	
		#people	%	#people	%	#people	%	#people	%	#people	%		#people	%
Kaskazini pemba	318,214	143,196	45	127,286	40	47,732	15	0	0	0	0	2	47,732	15
Kaskazini Unguja	242,314	157,504	65	60,579	25	24,231	10	0	0	0	0	2	24,231	10
Kusini pemba	293,840	176,304	60	88,152	30	29,384	10	0	0	0	0	2	29,384	10
Kusini unguja	142,935	85,761	60	50,027	35	7,147	5	0	0	0	0	2	7,147	5
Mjini Magharibi	765,686	459,412	60	267,990	35	38,284	5	0	0	0	0	2	38,284	5
Total	1,762,989	1,022,177	58	594,033	34	146,779	8	0	0	0	0	2	146,779	8

Note: A population in Phase 3+ does not necessarily reflect the full population in need of urgent action. This is because some households may be in Phase 2 or even 1 but only because of receipt of assistance, and thus, they may be in need of continued action. Marginal inconsistencies that may arise in the overall percentages of totals and grand totals are attributable to rounding.

Source: IPC, 2022

To address Zanzibar’s food insecurity in the five regions that were analysed, IPC made several recommendations, including reducing food consumption gaps by improving access to food through appropriate modalities for households in deficit areas; stabilising food prices through government intervention in order to allow access to households with low purchasing power during the period of January to April 2023; and empowering the most vulnerable groups through training, modern technologies, accessibility, and financial support.¹⁶⁴⁹

3.6.3.2. Access to nutritious food

Improving access to nutritious food in Zanzibar

In October 2022, H.E Dr. Hussein Ali Mwinyi, President of the Revolutionary Government of Zanzibar, reaffirmed his government’s commitment to ensure food security, safety, and nutrition in Zanzibar.¹⁶⁵⁰ He noted there are several factors which were disrupting food supply chain and leading to price increase, including global instability caused by ongoing wars, pandemic, climate change impact, and drought. He also stressed the importance of consumption of nutritious food and urged citizens to develop a culture of eating healthy foods, including consumption of milk, especially for children under five.¹⁶⁵¹

Tanzania’s progress in meeting global nutrition targets

1648 Ibid.

1649 IPC ZANZIBAR ACUTE FOOD INSECURITY ANALYSIS (supra).

1650 “Tanzania: Mwinyi Assures Increase in Food Security, Nutrition in Isles” DailyNews Newspaper (online), at <https://allafrica.com/stories/202210120085.html>.

1651 Ibid.



However, Tanzania, Zanzibar inclusive, is making progress to meet global nutrition targets, according to the 2022 Global Nutrition Report.¹⁶⁵² For instance, some progress has been made towards achieving the low birth weight target with 10.5% of infants having a low weight at birth; and the country is 'on course' for the exclusive breastfeeding target, with 57.8% of infants aged 0 to 5 months exclusively breastfed.¹⁶⁵³ Additionally, some progress has also been made towards achieving the target for stunting, but 31.8% of children under 5 years of age are still affected, which is higher than the average for the Africa region (30.7%). In terms of wasting, Tanzania is said to be 'on course' for the target for wasting, with 3.5% of children under 5 years of age affected, which is lower than the average for the Africa region (6.0%).¹⁶⁵⁴

Access to nutritious food: Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Findings

The Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 has revealed that 30% of children under age five are stunted (short for their age) and 9% are severely stunted.¹⁶⁵⁵ 3% of children under age five are wasted (thin for their height), while 4% are overweight. Additionally, 12% of children under age five are underweight, and 3% are severely underweight. However, the percentage of children under 5 who are stunted has decreased steadily from 48% in 1999 to 30% in 2022. Little change has been observed over time in terms of percentage of children who are wasted or overweight.¹⁶⁵⁶

3.6.3.3. Rising food prices

Like in Mainland Tanzania, in 2022 residents of Zanzibar were also affected by rising food prices, although inflation rate was not as high. Citizens bemoaned rising food prices, threatening their right to food and food security. The President of the Revolutionary Government of Zanzibar has recently expressed concern over rising food prices, including rice price, and urged businesspersons to reduce the prices to enable citizens afford food and reduce life hardships.¹⁶⁵⁷ He noted a kilogram of rice costing over Tshs.

1652 See Global Nutrition Report, United Republic of Tanzania, at <https://globalnutritionreport.org/resources/nutrition-profiles/africa/eastern-africa/united-republic-tanzania/>.

1653 Ibid.

1654 Ibid.

1655 Ministry of Health (MoH) [Tanzania Mainland], Ministry of Health (MoH) [Zanzibar], National Bureau of Statistics (NBS), Office of the Chief Government Statistician (OCGS), and ICF. 2023 Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Key Indicators Report. Dodoma, Tanzania, and Rockville, Maryland, USA: MoH, NBS, OCGS, and ICF.

1656 Ibid.

1657 Jesse Mikofu "Rais Mwinyi awaangukia wafanyabiashara kushusha bei vyakula" Mwananchi Newspaper (online), 13 Jan 2023, at <https://www.mwananchi.co.tz/mw/habari/>



3,000 has never happened before, which is nearly double the price when he became President two years ago. On their part, the businesspersons stated that delays at the Zanzibar ports contributed to driving food prices.¹⁶⁵⁸

3.6.4. Right to Adequate Housing

In 2022, challenges that hindered effective realization of the rights to education, health, water, work, and own property for some Zanzibaris also acted as barriers to enjoyment of the right to adequate standard of living. However, the situation was exacerbated by the impact of the Covid19 pandemic, which caused challenges such as loss or reduction of income, loss of employment or work, and delays in payment of wages. Poor people find it difficult to afford adequate housing,¹⁶⁵⁹ hence having to do with low quality of housing and accompanying infrastructure.¹⁶⁶⁰

In 2022, the Zanzibar Housing Corporation (ZHC) was faulted by a parliamentary standing committee for underperforming and operating under losses.¹⁶⁶¹ However, this situation was said to be contributed by the ZHC tenants not paying their rent, hence affecting ZHC operations, which mostly rely on the rental fees. The Committee called for the tenants to pay their rent and proposed strict measures against the rent defaulters.¹⁶⁶²

Town and village planning and poor enforcement of land use plans are also challenges that contribute to inadequate housing in Zanzibar. To address the challenge of town and village planning, in December 2022, it was reported that the Ministry of Lands and Settlements Development had signed a contract with Mainland Tanzania-based company called Properties International to assist in town and village planning.¹⁶⁶³ Another key challenge affecting right to adequate housing is citizens building houses on planned or unplanned areas without securing formal planning approval from authorities.¹⁶⁶⁴ It is estimated that that 60% to 70% of houses in Zanzibar have been built that way.¹⁶⁶⁵ This contributes to increase of informal settlements and compromises access to basic social services, especially in urban areas, where the effects of inadequate housing are typically felt more, despite the problem of inadequate housing being bigger in rural areas.

biashara/rais-mwinyi-awaangukia-wafanyabiashara-kushusha-bei-vyakula-4106474.

1658 Ibid.

1659 See UN HABITAT, Adequate Housing, at <https://unhabitat.org/11-1-adequate-housing>.

1660 Ibid.

1661 Zanzibar land commission launches land survey drive (*supra*).

1662 Ibid.

1663 Madalali wanachangia migogoro ya ardhi Zanzibar (*supra*).

1664 Sabiha Keis "Migogoro ya Ardhi Zanzibar inasababishwa na wananchi kutofuata sheria" HABARI MSETO (online), 1 Feb 2023, at <https://francisdande.blogspot.com/2023/02/migogoro-ya-ardhi-zanzibar-yasababishwa.html>.

1665 See SERIKALI YA MAPINDUZI YA ZANZIBAR OFISI YA MAKAMU WA KWANZA WA

RAIS RIPOTI YA HALI YA MAZINGIRA ZANZIBAR DISEMBA, 2021, at http://www.omkr.go.tz/docs/86xwNKMzjf_RIPOTI_YA_HALI_HALISI_YA_MAZINGIRA_ZANZIBAR_YA_MWAKA_2021..pdf.



CHAPTER 4: COLLECTIVE RIGHTS

Collective rights are the rights that belong to the group of people as opposed to individual rights. An individual enjoys collective rights as part of a group,¹⁶⁶⁶ which is why they are also called solidarity rights. These rights form the third generation of human rights and are provided for under several international and regional human rights instruments, including the: the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966; the African Charter on Human and People's Rights (ACHPR) of 1981 and the United Nations Charter of 1945. Examples of collective rights are the right to self-determination, the right to clean and safe environment, the right to enjoy and benefit from natural resources, the right to peace and the right to development.

This chapter looks at the right to development, the right to enjoy and benefit from natural resources, and the right to clean and healthy environment in Zanzibar for the period of 2022.

4.1. Right to Development

4.1.1. Overview

The United Nations (UN) has defined development as “...an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.”¹⁶⁶⁷ To ensure effective realization of this fundamental right, Governments are obligated to formulate appropriate national development policies that seek to improve the well-being of the entire population as well as of individuals to ensure meaningful participation in development and fair distribution of benefits resulting from such development.¹⁶⁶⁸ States from different parts of the world are also required to co-operate with each other in ensuring development and eliminating

¹⁶⁶⁶ Andrea, N. (2018) *Collective Rights: In The United Nations Declaration On The Rights of Peasants And Other People Working In Rural Areas*, Fian International available at https://www.fian.org/fileadmin/media/publications_2018/Reports_and_guidelines/droits_collectifs_UK_web.pdf, accessed on 18th March 2019.

¹⁶⁶⁷ Article 1 of the UN Declaration on the Right to Development, A/RES/41/12, 4 December 1986, available at <http://www.un.org/documents/ga/res/41/a41r128.htm>, accessed 27th December 2021.

¹⁶⁶⁸ Ibid.



obstacles to development.¹⁶⁶⁹

In line with the interdependent and interrelated nature of human rights, right to development cannot be achieved without considering other human rights. In Zanzibar's context, realization of human rights enshrined in the bill of rights in the Constitution of Zanzibar (1984) is essential for realization of the right to development.

4.1.2. Situation of enjoyment and realization of the right to development

In 2022, the Revolutionary Government of Zanzibar continued to take various measures to ensure enjoyment and realization of the right to development, governed by the Zanzibar Development Vision 2050, pushing for social, economic, and infrastructural development.

However, the right to development was affected by various challenges in realization of civil, political, social, and economic rights, as discussed above. These challenges, including different forms of violence, budgetary constraints, shortages of facilities and equipment, unemployment and underemployment, and shortages of human resources, affected both personal (human) and national development, as Zanzibar continues to recover from the adverse impacts of the Covid19 pandemic on development.

In terms of political development, the promise of lifting ban political rallies by President of the United Republic of Tanzania, H.E Samia Suluhu Hassan was a big positive as was formation of a presidential taskforce on multiparty democracy and politics in Tanzania. As proposed by the presidential taskforce, Tanzania, including Zanzibar, should now move to amend the Political Parties Act, National Elections Act, and other electoral laws to further safeguard freedoms of association and assembly as well as right to participate in governance, including voting and standing in election, as well as addressing gender equality gaps in laws and policies.

Regarding the right to cultural development, Zanzibar continues to make significant progress to ensure progressive realization of cultural rights. The Zanzibari people freely enjoy their right to culture as interference with cultural rights is almost non-existent. The Revolutionary Government of Zanzibar has also continued to take measures to preserve different cultural heritage sites in Zanzibar.

¹⁶⁶⁹ Ibid Article 3(3)



4.2. Right to Enjoy and Benefit from Natural Resources

4.2.1. Overview

The right to natural resources is recognized under various international and regional human rights instruments, as well as under the municipal laws in Zanzibar. This right is covered under the United Nations General Assembly Resolution 1803 of 1962 called “Permanent Sovereignty over Natural Resources”, which provides four guiding principles for the exploitation of natural resources, which are: individual and state sovereignty over natural resources; exploitation of natural resources for the benefit of the people; necessity to reach consensual agreements to exploit natural resources; and utilization of natural resources for the purposes of human development.¹⁶⁷⁰ This right is connected to the right to development and right to self-determination; and is also recognized and protected under Article 21 of the African Charter on Human and Peoples’ Rights (Banjul Charter) of 1981. According to the Banjul Charter, “All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.”¹⁶⁷¹

4.2.2. Situation of realisation and enjoyment of the right to enjoy and benefit from natural resources

In Zanzibar, natural resources include soil/land, oil and gas, water, forests, flora and fauna, and marine resources. These natural resources are essential for generation of revenue and provide employment for many Zanzibaris, especially in the tourism, hospitality, agriculture, and fishing industries. Recognizing the importance of marine sources in driving the economy of Zanzibar, the Revolutionary Government of Zanzibar has adopted the Zanzibar Blue Economy Policy of 2020¹⁶⁷² and included blue economy as a priority area in the Zanzibar Development Vision 2025, considering “Zanzibar relies heavily on the sea for both social and economic activities.”¹⁶⁷³ Some of the efforts taken to spearhead development have been discussed above, especially in Chapter Three of this report.

In 2022, the Revolutionary Government of Zanzibar continued implementing Zanzibar Blue Economy Policy of 2020 in line with the Zanzibar Development Vision 2025 to facilitate enjoyment of the right to enjoy and benefit from natural resources. However, various challenges

¹⁶⁷⁰ Ibid

¹⁶⁷¹ Article 21(1) of the Banjul Charter.

¹⁶⁷² See the Zanzibar Blue Economy Policy, October 2020, at <http://planningznz.go.tz/doc/new/BE%20Policy-2020.pdf>.

¹⁶⁷³ Ibid.



persist, including overexploitation of resources and environmental degradation, largely contributed by the growing population; climate change; tax evasion and avoidance; and corruption.

Limited access to and use of land, which is an essential natural resource both for the survival and prosperity of humanity, also affected enjoyment of the right to enjoy and benefit from natural resources, due to factors such as land disputes/conflicts and low purchasing power among some citizens.

4.3. Right to Clean and Healthy Environment

4.3.1. Overview

The right to a healthy environment is implied under key human rights instruments such as the Universal Declaration of Human Rights (UDHR) of 1966 and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) of 1966. In 2021, the United Nations (UN) Human Rights Council recognised, for the first time, that having a clean, healthy and sustainable environment is a human right.¹⁶⁷⁴ The recognition was made through adoption of Resolution 48/13,¹⁶⁷⁵ calling on States around the world to work together, and with other partners, to implement this newly recognised right.¹⁶⁷⁶ In another resolution, Resolution 48/14, the Human Rights Council also increased its focus on the human rights impacts of climate change by establishing a Special Rapporteur dedicated specifically to that issue.

According to World Health Organization (WHO), 24% of all global deaths, roughly 13.7 million deaths a year, are linked to the environment, due to risks such as air pollution and chemical exposure.¹⁶⁷⁷ This means that almost 1 in 4 of total global deaths are linked to environment conditions.

4.3.2. Situation of realization of the right to clean and healthy environment

In Zanzibar, key policy and legal documents that provide for and govern the right to environment are the Zanzibar Environmental Policy-2013 and the Environment Management Act 2015. According to the law, every Zanzibari

¹⁶⁷⁴ See "Access to a healthy environment, declared a human right by UN rights council" UN News, 8 October 2021, at <https://news.un.org/en/story/2021/10/1102582>.

¹⁶⁷⁵ The text was proposed by Costa Rica, the Maldives, Morocco, Slovenia and Switzerland, and was passed with 43 votes in favour and 4 abstentions - from Russia, India, China and Japan.

¹⁶⁷⁶ Ibid.

¹⁶⁷⁷ See World Health Organization, Environmental health, at https://www.who.int/health-topics/environmental-health#tab=tab_2.



has a right to a clean, safe, and healthy environment¹⁶⁷⁸ and a duty to maintain, safeguard and enhance a clean, safe, and healthy environment.¹⁶⁷⁹ Every person in Zanzibar is also obligated to protect the environment for the welfare of the present and future generations and ensure development plans and activities are implemented in an environmentally sound and sustainable manner.¹⁶⁸⁰ The environment law also establishes the Zanzibar Environmental Management Authority (ZEMA),¹⁶⁸¹

Situation of environment in Zanzibar: Report of the First Vice President's Office (FVPO)

A 2021 report on the situation of environment in Zanzibar by the First Vice President's Office (FVPO) provides a good insight into issues affecting the right to clean and healthy environment in Zanzibar, including environmental pollution. The report identifies environmental pollution as one of the environment-related challenges and highlights contributing factors.¹⁶⁸² The report highlights various challenges in relation to environmental management and pollution, including:¹⁶⁸³

- Conflicting environmental management laws;
- Inadequate capacity of institutions tasked with management of environment and natural resources;
- Conflicting duties of institutions tasked with environmental management;
- Lack of effective land use plans, contributing to environmental pollution and degradation;
- Environmental pollution caused by human activities and businesses;
- Presence of timber, pebbles, welding, and grain milling industries in residential areas, causing noise and air pollution; and
- Lack of soundproof construction at bars, wedding halls (some of which are out in the open), and other hangouts, causing noise pollution.

However, the report indicates that the Government has managed to reduce marine pollution by establishing three waste disposal sites, located in Kibele, Kizimbani (Unguja), and Bandata (Chake Chake – Pemba) areas.¹⁶⁸⁴

1678 Section 5(1) of the Environment Management Act 2015.

1679 Ibid, Section 5(2).

1680 Ibid, Sections 3 & 4.

1681 Section 14(1) of the Environment Management Act 2015.

1682 See SERIKALI YA MAPINDUZI YA ZANZIBAR OFISI YA MAKAMU WA KWANZA WA RAIS, RIPOTI YA HALI YA MAZINGIRA ZANZIBAR, DISEMBA, 2021, at http://www.omkr.go.tz/docs/86xwNKMzfj_RIPOTI_YA_HALI_HALISI_YA_MAZINGIRA_ZANZIBAR_YA_MWAKA_2021..pdf.

1683 Ibid.

1684 RIPOTI YA HALI YA MAZINGIRA ZANZIBAR (*supra*).



Air pollution is also said to be not a big challenge in Zanzibar, as it produces very little greenhouse gases. Noise problem was also said not to be as a big problem as in other countries.¹⁶⁸⁵

Community perceptions on environmental pollution

The human rights assessment conducted in Pemba and Unguja, also touched on the topic of environment. Participants of the human rights assessment, engaged by ZAFAYCO in 2022, identified land pollution as the biggest environmental pollution (65.4%), largely caused by human activities and businesses which are not environmental-friendly. This was followed by water pollution (55.6%), air pollution (53%), and noise pollution (36.2%).

Reported incidents of environmental pollution

In 2022, there were no reported incidents of environmental pollution documented by ZAFAYCO in Zanzibar.

¹⁶⁸⁵ Ibid.



CHAPTER 5: RIGHTS OF VULNERABLE GROUPS

Vulnerable groups refer to those groups which are more likely to suffer violations of human rights. For purposes of this report, these groups are: women; children; persons with disabilities; the elderly; youth; and persons living with HIV/AIDS. These groups require special protection in order to safeguard their human rights. This is why there are several regional and international human rights conventions that specifically provide for their rights. These include: the UN Convention on the Rights of the Child (CRC) of 1989; Convention on the Elimination of all Form of Discrimination Against Women (CEDAW) of 1979; Convention on the Rights of Persons with Disabilities (CRPD) of 2006; African Charter on the Rights and Welfare of the Child (ACRWC) of 1990; and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2003. At the national level, the Constitution of Zanzibar protects the rights of vulnerable groups despite the nonexistence of the specific provision on the matter. Under Section 12 of the Constitution of Zanzibar, the rights of these groups can be expressed in relation to the equality before the law, thus requires equal treatment of all people without any discrimination.¹⁶⁸⁶

This chapter provides an assessment of the situation of rights of vulnerable groups for the year 2022, while making comparisons with previous years or showing trends.

5.1. Women's Rights

5.1.1. Overview

Women's rights are protected under several international and regional human rights instruments, most notably the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) of 1979; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2003; and SADC Protocol on Gender and Development of 2008.

¹⁶⁸⁶ See Section 12(1) to (5), respectively, of the Constitution of Zanzibar 1984.



Women's rights are also protected under the Constitution of Zanzibar, which prohibits discrimination of any form and provides for equal enjoyment of rights for all regardless their nationality, tribe, gender, place of origin, political opinion, colour, religion or station in life.¹⁶⁸⁷ Women's rights are also protected under several legislations, including: the Penal Act No 6 of 2004; Criminal Procedure Act No 7 of 2004; Spinster and Single Parents Children Protection Act No 4 of 2005; and Employment Act No 11 of 2005.¹⁶⁸⁸

This sub-chapter looks at the situation of women's rights in Zanzibar in 2022, focusing on their rights to freedom from violence and right to non-discrimination.

5.1.2. Gender-Based Violence and Violence against Women

Like in Mainland Tanzania, gender-based violence (GBV) continued to be a big threat to human rights in Zanzibar in 2022, especially for women and children. Incidents of different acts of violence were reported and documented in all regions across Zanzibar.

5.1.2.1. Reported incidents of GBV and VAW

Statistics released by the Office of the Chief Government Statistician (OCGS) Zanzibar show that GBV incidents increased from 1,222 in 2021 to 1,360 in 2022,¹⁶⁸⁹ equivalent to an 11% increase. In the period of 2020 to 2022, a total of 3,945 incidents have been documented by police in Zanzibar,¹⁶⁹⁰ equivalent to 1,315 incidents each year, at least 109 incidents each month, and at least 3 incidents each day. In 2022, GBV incidents increased from 65 reported in January 2022¹⁶⁹¹ to 154 reported in December 2022.¹⁶⁹²

1687 Section 12(5) of the Zanzibar Constitution 1984,

1688 Zanzibar Human Rights Report, 2016

1689 See The Office of the Chief Government Statistician Zanzibar, TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA KWA WANAWAKE NA WATOTO - ZANZIBAR KWA MWAKA 2022, at <https://www.ocgs.go.tz/link3.php?file=%27Publish%27&id=%2752%27>; Najjat Omar "Watoto 1,173, Wanawake 185, Wanaume 3 Wafanyiwa Ukatili Zanzibar 2022" The Chanzo Initiative, 26 Jan 2023, at <https://thechanzo.com/2023/01/26/watoto-1173-wanawake-185-wanaume-3-wafanyiwa-ukatili-zanzibar-2022/>.

1690 Ibid; The Office of the Chief Government Statistician Zanzibar, MATUKIO YA UKATILI NA UDHALILISHAJI WA KIJINSIA KWA WANAWAKE NA WATOTO 2020, Aprili 2021, at [https://www.ocgs.go.tz/php/ReportOCGS/KITABU%20CHA%20UDHALILISHAJI%202020%20\(1\).pdf](https://www.ocgs.go.tz/php/ReportOCGS/KITABU%20CHA%20UDHALILISHAJI%202020%20(1).pdf); Salma Said "Matukio ya udhalilishaji 1,363 yalioripotiwa 2020." ZANZIBAR YETU, 6 May 2021, at <https://zanzibariyetu.wordpress.com/2021/05/06/matukio-ya-udhalilishaji-1363-yalioropotiwa-2020/>.

1691 The Office of the Chief Government Statistician Zanzibar, TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA KWA WANAWAKE NA WATOTO -ZANZIBAR, JANUARI 2022, at <https://www.ocgs.go.tz/link3.php?file=%27Publish%27&id=%2742%27>.

1692 The Office of the Chief Government Statistician Zanzibar, TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA KWA WANAWAKE NA WATOTO - ZANZIBAR DISEMBA 2022, at <https://www.ocgs.go.tz/link3.php?file=%27Publish%27&id=%2751%27>.



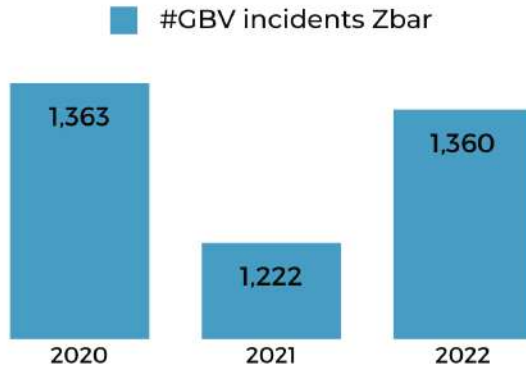


Figure 74: Reported GBV incidents in Zanzibar, 2020-2022

Source: OCGS, 2021 & 2022

3

An average of GBV incidents occurring in Zanzibar each day in the period of 2020 to 2022.

Children constitute the majority of GBV victims in Zanzibar, usually over two thirds. In 2022, children accounted for 86.2% of the victims of GBV, followed by women (13.6%), and men (0.2%).¹⁶⁹³



Figure 75: # GBV victims in Zanzibar in 2022 by group

Source: OCGS, 2021 & 2022

¹⁶⁹³ TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA KWA WANAWAKE NA WATOTO - ZANZIBAR KWA MWAKA 2022 (*supra*).



Most GBV incidents occurring in home settings

Most of the reported GBV incidents in 2022 were said to occur at home. Out of 1,360 GBV incidents, 941 incidents occurred at home, equivalent to 69%.¹⁶⁹⁴

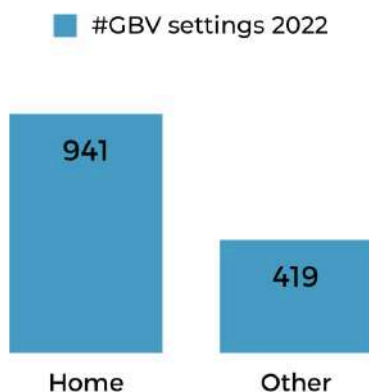


Figure 76: #GBV incidents reported in Zanzibar in 2022 by settings

Source: OCGS Zanzibar, 2022

Status of reported GBV incidents

Out of the 1,360 reported GBV incidents, 534 were said to be under police investigation, 2 under the Office of the Director of Public Prosecutions, and 421 were filed as cases in court.¹⁶⁹⁵

Magharibi 'B' leading in number of reported GBV incidents

In 2022, it was reported that Magharibi 'B' District led in terms of number of recorded GBV incidents, with 288 incidents, closely followed by Mjini District, which recorded 279 incidents. Fewest GBV incidents were recorded in Micheweni District in Pemba, where only 39 incidents were reported.¹⁶⁹⁶ However, stakeholders, including Tanzania Media Women's Association (TAMWA), mentioned that in Micheweni most incidents go unreported because most residents in the district are reluctant to report such incidents, preferring to 'settle' them at family level and concealing them.¹⁶⁹⁷ Lack of

¹⁶⁹⁴ Watoto 1,173, Wanawake 185, Wanaume 3 Wafanyiwa Ukatili Zanzibar 2022 (*supra*).

¹⁶⁹⁵ *Ibid.*

¹⁶⁹⁶ Watoto 1,173, Wanawake 185, Wanaume 3 Wafanyiwa Ukatili Zanzibar 2022 (*supra*).

¹⁶⁹⁷ *Ibid.*



willingness to report violence to formal or informal sources is therefore a challenge in Micheweni District.

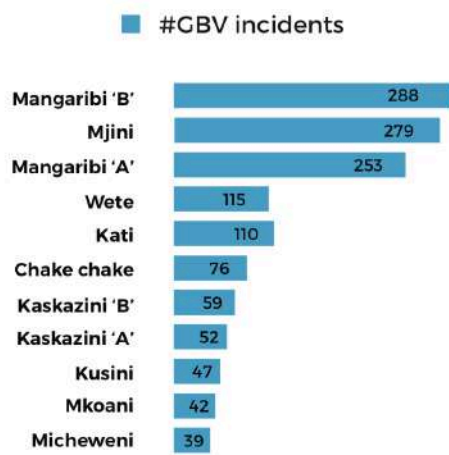


Figure 77: #GBV incidents reported in Zanzibar in 2022 by district

Source: OCGS Zanzibar, 2022

Lack of police gender and children desks and divorce contributing to GBV

In 2022, government stakeholders, including Khatibu Sheha from the ministry responsible for education and Siti Abasi Alli from the ministry responsible for community development, pointed out lack of police gender and children desks nearby in some districts and divorce as factors contributing to non-reporting of GBV incidents and increase of VAC respectively.¹⁶⁹⁸

Challenges in addressing GBV: Report of the House Standing Committee on Social Welfare

In February 2023, the House of Representatives Standing Committee on Social Welfare released a report, which among other things, highlights some challenges in addressing GBV.¹⁶⁹⁹ The challenges include threats

¹⁶⁹⁸ Watoto 1,173, Wanawake 185, Wanaume 3 Wafanyiwa Ukatili Zanzibar 2022 (*supra*).

¹⁶⁹⁹ See BARAZA LA WAWAKILISHI ZANZIBAR, RIPOTI YA KAMATI YA KUDUMU YA USTAWI WA JAMII BARAZA LA WAWAKILISHI ZANZIBAR KWA MWAKA WA FEDHA 2022/23, FEBRUARI,



and lack of cooperation for Sheria women and children’s coordinators following up on incidents of GBV; survivors of GBV turning hostile in court to protect perpetrators; corruption; divorce, leading to neglect of women and children; and low awareness about reporting GBV among some parents.¹⁷⁰⁰ The Committee also expressed concern over increase of GBV incidents, especially in Mjini Magharibi Region.

Challenges for the Ministry of Community Development, Gender, Elderly, and Children include inadequate budget; shortage of working tools and equipment; lack of ministry building and high rental fee; shortage of human resources; delays in payment of allowances for Sheria women and children’s coordinators, which affects their morale; and increase of GBV incidents and delays in determining such cases.

The Committee made several recommendations, including the Government, through the Ministry of Finance and Planning, to increase budget for Sheria women and children’s coordinators to enhance their effectiveness; the Government to re-introduce community policing (CP) to help deal with GBV; and establishment of one-stop centre in each district to better address GBV.

President Mwinyi’s anti-GBV drive

Since coming into power, H.E Dr Hussein Ali Mwinyi, President of the Revolutionary Government of Zanzibar, has been vocal against GBV and has met with stakeholders, including CSOs, to strategize on combating different forms of GBV and violence against children. He has called upon CSOs to collaborate with relevant government institutions in the fight against GBV. He has also issued a presidential decree to remove access to bail for perpetrators of sexual violence.

LHRC Recognition



5.1.2.2. Community perceptions on common acts of VAWC

Participants of the human rights assessment of the year 2022 were asked about common acts of violence against women and children (VAWC). Rape was mentioned as the most common form of VAWC (69%), followed

2023, at <https://zanzibarassembly.go.tz/storage/documents/Committees/all/1677042312.pdf>.
1700 Ibid.



by sodomy (46%), child marriage (36%), child neglect (26%), and sexual corruption (26%). Beating/torture and verbal abuse/humiliation were also mentioned as common by 25% of the participants.

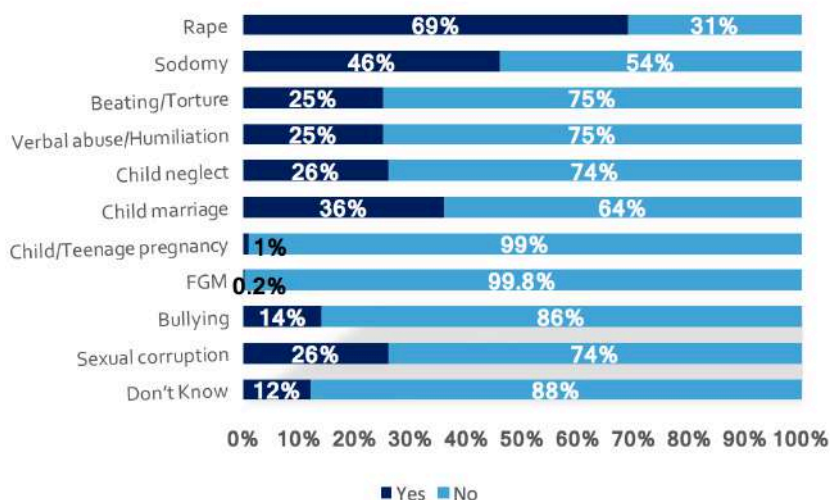


Figure 78: % Responses on common acts of VAWC (N=408)

Source: Human rights assessment, 2022

5.1.3. Physical and Psychological Violence against Women

In Zanzibar physical violence is not a common violence against women (VAW), unlike in Mainland Tanzania. For instance, in the whole of 2020 only 126 incidents of physical VAW were reported, constituting only 9% of all GBV incidents. According to police data, no incidents of physical violence, including beatings, were reported in all five regions of Zanzibar in the period of January to December 2021.¹⁷⁰¹ However, in 2022, physical violence constituted over a third of VAW incidents. Most of these incidents occur in home settings. At least 11% of women aged 15-49 years in Zanzibar have ever experienced spousal violence.¹⁷⁰²

5.1.4. Sexual Violence against Women

Sexual violence against women is also a concern in Zanzibar. In 2022, incidents of sexual violence against women included 66 incidents of rape and 5 of sodomy, equivalent to 38% of all reported VAW incidents. In 2021,

1701 Jeshi la Polisi Tanzania & Ofisi ya Taifa ya Takwimu, *TAKWIMU ZA HALI YA UHALIFU NA MATUKIO YA USALAMA BARABARANI*, JANUARI – DESEMBA 2020. [Tanzania Police Fore & National Bureau of Statistics, Crime and Traffick Incidents Statistics, January to December 2020]

1702 2015/16 Tanzania Demographic and Health Survey and Malaria Indicators Survey.



a total of 58 incidents of rape of women and 18 of indecent assault were reported.¹⁷⁰³

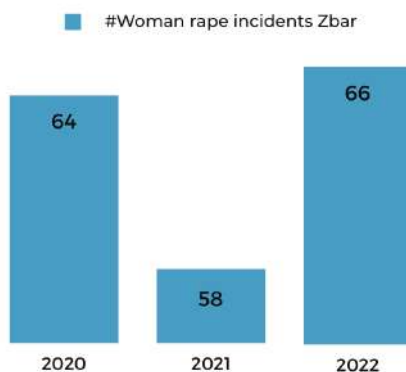


Figure 79: # Woman rape incidents in Zanzibar, 2020 to 2022

Source: OCGS, 2021 & 2022

5.1.5. Economic Violence against Women

Economic violence refers to any act or behaviour which causes economic harm to an individual. Economic violence can take the form of, for example, property damage, restricting access to financial resources, education, or the labour market, or not complying with economic responsibilities, such as alimony.¹⁷⁰⁴ Alimony is financial support that a person is ordered by a court to give to their spouse during separation or following divorce; maintenance. It is the financial assistance and monetary support provided by one spouse to another after a marriage ends in divorce.¹⁷⁰⁵

In 2022, several factors continued to perpetuate economic violence against women, including limited access to education and illiteracy caused by various gender norms and attitudes towards women and girls, discrimination in employment, and child neglect and abandonment.

5.1.6. Women's Economic Empowerment

According to UN Women, investing in women's economic empowerment sets a direct path towards gender equality, poverty eradication, and inclusive

1703 ZANZIBAR STATISTICAL ABSTRACT 2021 (*supra*).

1704 See European Institute for Gender Equality "economic violence" at <https://eige.europa.eu/thesaurus/terms/1096#:~:text=Any%20act%20or%20behaviour%20which,economic%20responsibilities%2C%20such%20as%20alimony..>

1705 Legal Information Institute "Alimony" at <https://www.law.cornell.edu/wex/alimony>.



economic growth.¹⁷⁰⁶ Globally, lack of economic or financial security is a key concern for most women, especially in rural areas, and is one of the major reasons they decide to stay in abusive relationships.

In 2022, the Revolutionary Government of Zanzibar continued taking various measures to economically empower women so that they can escape poverty, including through provision of loans to groups and individuals. For instance, by February 2023, a total of 773 women benefited from loans provided under the Covid19 relief project (Covid funds), while 60 women had benefited from the Tanga-Pemba Seascape blue economy project.¹⁷⁰⁷ 241 women were also economically empowered through 11 blue economy groups under the *Maisha Bora Foundation*, which is led by the First Lady of Zanzibar, Maryam Mwinyi.¹⁷⁰⁸ Through the Covid funds, a total of 2,625 loans worth Tshs. 16.8 billion were provided in Unguja and Pemba to various entrepreneurs and businesspersons, including those engaging in *bodaboda* business, agriculture, beekeeping, timber business, iron smelting, and food selling.¹⁷⁰⁹

Main challenge in provision of loans is the slow pace of loan repayment, especially due to community perception that the funds belong to the Government, hence beneficiaries should not be compelled to pay back. Several recommendations have been made, including provision of entrepreneurship trainings and guidance for loan beneficiaries, monitoring of activities and businesses of loan beneficiaries, loan beneficiaries to be encouraged and compelled to repay loans on time so that others can also benefit from the, and provision loans on 'first come first served' basis.¹⁷¹⁰

5.1.7. Women's political participation and representation

5.1.7.1. Overview

The right of Zanzibari women to participate in political life is protected and guaranteed internationally, regionally, and domestically. Internationally, Tanzania is a party to various international human rights instruments that guarantee women's political participation, including the Universal Declaration of Human Rights (UDHR) of 1948, the Convention on the Political Rights of Women (CPRW, 1952), and the International Covenant

1706 See UN Women "Economic empowerment" at <https://www.unwomen.org/en/what-we-do/economic-empowerment>.

1707 See BARAZA LA WAWAKILISHI ZANZIBAR, RIPOTI YA KAMATI YA UCHUMI KWA MWAKA WA FEDHA 2022/2023, FEBRUARI 2023, at <https://zanzibarassembly.go.tz/storage/documents/Committees/all/1676623843.pdf>.

1708 Ibid.

1709 RIPOTI YA KAMATI YA UCHUMI KWA MWAKA WA FEDHA 2022/2023 (*supra*).

1710 Ibid.



on Civil and Political Rights (ICCPR) of 1966. Tanzania has also ratified the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) of 1979, which is a specific convention for women's rights. CEDAW requires States Parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country on equal terms with men.¹⁷¹¹

At the African level, Tanzania is party to key human rights instruments such as African Charter on Human and Peoples' Rights (Banjul Charter) of 1981, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2003, and SADC Protocol on Gender and Development of 2008. These human rights instruments guarantee the right of women to participate freely in the government of their country, either directly or through freely chosen representatives and require States Parties,¹⁷¹² including Tanzania (Mainland and Zanzibar), to adopt and implement affirmative or special measures to eliminate barriers for women's political participation.¹⁷¹³ The SADC Gender Protocol goes further to require a 50-50 representation in leadership positions.¹⁷¹⁴

At domestic level, both the Constitution of the United Republic of Tanzania, 1977 and the Constitution of Zanzibar, 1984 guarantee the right of all citizens, including women, to participate in politics and hold leadership positions. They also provide for the right to equality and the right to non-discrimination, which are key pillars for women's political participation. The Constitution of Zanzibar specifically provide that each Zanzibari has a right to participate in public affairs, either directly or through freely chosen representatives.¹⁷¹⁵ It also provides for the right to participate in making decisions that affect people's lives and the nation at large.¹⁷¹⁶

5.1.7.2. Status of women's political participation and representation in Zanzibar

Like the Union Government, the Revolutionary Government of Zanzibar has taken various measures over the years to enhance women's political participation in line with international human rights obligations. One of the key measures taken is affirmative action through incorporation of quotas. Like in the Union Constitution, the Zanzibar Constitution contains quota for female representation in parliament. However, Zanzibar has taken a

1711 Article 7 of CEDAW, 1979.

1712 Article 13(1) of the Banjul Charter.

1713 Article 9 of the Maputo Protocol; Article 5 of the SADC Protocol on Gender and Development.

1714 Article 12(1) of SADC Gender Protocol.

1715 Section 21(1) of the Constitution of Zanzibar, 1984.

1716 Ibid, Section 21(2).



step closer to achieving a 50-50 representation in parliament through the constitutional amendments of 2010 which has seen the quota for female MPs increasing from the original 30% to 40%.¹⁷¹⁷

Efforts to improve women’s political participation and representation in Zanzibar have seen more women into leadership and decision-making positions. For instance, women MPs in the House of Representatives increased from 21 in 2017 to 30 in 2020. However, by December 2021, the number of female Members of House Representatives decreased slightly to 29.¹⁷¹⁸ Below is the number women holding some of the key leadership and decision-making positions as of December 2021 and March 2022 (for ministers and deputy ministers).

Table 22: #Women holding some of the key leadership and decision-making positions in 2021 & 2022

Position	Women	
	#	%
Ministers	6	33
Deputy Ministers	1	14
Members of Parliament (House of Representatives)	29	36.7%
Councilors	56	26.5%
Judges	3	37.5%
Magistrates	25	31.6%

Source: OCGS Zanzibar 2022 & House statement 2022

5.2.Children’s Rights

5.2.1. Overview

Children’s rights in Zanzibar are protected at international, regional, and domestic levels. They are guaranteed and protected under the UN Convention on the Rights of the Child (CRC) of 1989 and the African Charter on the Rights and Welfare of the Child (ACRWC) of 1990, which require

¹⁷¹⁷ See Sections 67(1) of the Constitution of Zanzibar (revised edition of 2006) and Constitution of Zanzibar (revised edition of 2010).

¹⁷¹⁸ The Revolutionary Government of Zanzibar, The Office of the Chief Government Statistician Zanzibar, Zanzibar in Figures 2021, <https://www.ocgs.go.tz/php/ReportOCGS/1665577844.pdf>.



Tanzania to take all appropriate measures to protect children within its territory from all forms of abuse such as torture; violence; inhuman or degrading treatment; and especially sexual abuse and exploitation;¹⁷¹⁹ and to protect female children from harmful practices that affect their welfare, dignity, normal growth and development, such as female genital mutilation and child marriage.¹⁷²⁰

In Zanzibar, children’s rights are protected under the Constitution of Zanzibar (1984) and Children’s Act of No. 6 of 2011. The Children’s Act also provides for obligations to protect children from all forms of violence.

5.2.2. Violence against Children

Statistics released by the Office of the Chief Government Statistician (OCGS) Zanzibar show that incidents of violence against children (VAC) constituted 86.2% of all reported GBV incidents in 2022. In the period of 2020 to 2022, a total of 3,387 VAC incidents have been recorded by police, equivalent to an average of 1,129 incidents each year, 94 incidents each month, and 3 incidents each day. VAC incidents increased from 49 in January¹⁷²¹ to 130 in December 2022.¹⁷²²

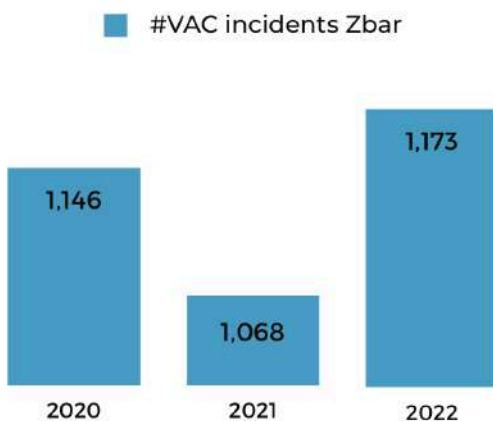


Figure 80: Reported VAC incidents in Zanzibar, 2020-2022

Source: OCGS, 2020, 2021 & 2022

1719 Articles 5 & 6 of Maputo Protocol; Articles 6, 19& 34 of the Convention on the Rights of the Child; Article 16 of the African Charter on the Rights and Welfare of the Child.

1720 Article 5 of Maputo Protocol; Article 21 of the African Charter on the Rights and Welfare of the Child.

1721 TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA KWA WANAWAKE NA WATOTO - ZANZIBAR, JANUARI 2022 (*supra*).

1722 TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA KWA WANAWAKE NA WATOTO - ZANZIBAR DISEMBA 2022 (*supra*).



3

An average of VAC incidents occurring in Zanzibar each day in the period of 2020 to 2022

Most of the VAC victims are girls

Girls constitute the majority of VAC victims in Zanzibar, usually constituting over two thirds of the victims. In 2022, girls accounted for 75.8% of VAC victims, while boys accounted for the remaining 24.2%.¹⁷²³

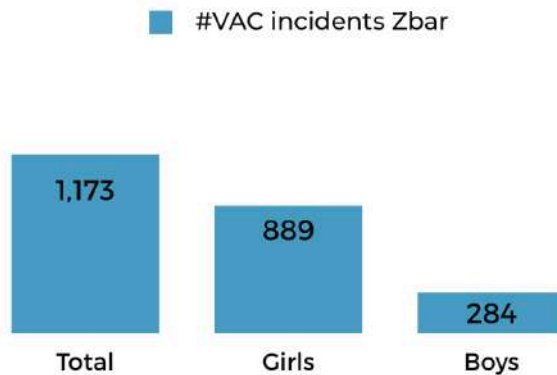


Figure 81: # VAC victims in Zanzibar in 2022 by sex

Source: OCGS, 2021 & 2022

Grand Mufti Office concerned over and saddened by VAC

In 2022, the Office of the Grand Mufti of Zanzibar also expressed concerns over the increasing incidents of VAC.¹⁷²⁴ The Office Executive Director, Sheikh Othman Muhammed Saleh, noted that VAC incidents in Zanzibar are contributed by the influence of Satan and lack of fear of God among people. He stated that people who do not fear God can do anything, including

¹⁷²³ TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA KWA WANAWAKE NA WATOTO - ZANZIBAR KWA MWAKA 2022 (*supra*).

¹⁷²⁴ See Salim Khamis Kombo "Ofisi ya Mufti Zanzibar: Vitendo vya Udhalilishaji Watoto Vinahuzunisha" The Chanzo



perpetrating violence against children. He called upon all stakeholders, including religious leaders, to play their part in preventing and addressing VAC.¹⁷²⁵

Perpetrators of VAC

In 2022, perpetrators of different forms of VAC included unknown people, neighbour, relative/family member, parent, teacher, *bodaboda* (motorcycle) driver, and school child.¹⁷²⁶

5.2.3. Physical and Psychological Violence against

Like in 2021, in 2022 it was revealed that reported cases of physical violence are fewer compared to those of sexual violence. However, incidents of psychological violence were said to be common among children, including verbal abuse. In the period of 2019 to 2021, a total of 509 incidents of physical violence (assault) against children were reported in Zanzibar,¹⁷²⁷ equivalent to 170 incidents each year, 14 each month, and nearly 1 every two days.

5.2.4. Sexual Violence against Children

Like in Mainland Tanzania, sexual violence is the most common form of violence against children (VAC) in Zanzibar, while rape and sodomy are the most common acts of sexual violence. Crime statistics for the years 2020 to 2022 show that a total of 1,655 child rape incidents were reported in Zanzibar during this period. This is equivalent to an average of 551 incidents each year, 46 incidents each month, and at least 1 incident each day. Rape incidents have increased from 371 in 2016 to 585 in 2022.¹⁷²⁸

1725 Ibid.

1726 Human rights assessment, 2022.

1727 ZANZIBAR STATISTICAL ABSTRACT 2021 (*supra*).

1728 ZANZIBAR STATISTICAL ABSTRACT 2021 (*supra*); TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA KWA WANAWAKE NA WATOTO -ZANZIBAR, JANUARI 2022 (*supra*); Watoto 1,173, Wanawake 185, Wanaume 3 Wafanyiwa Ukatili Zanzibar 2022 (*supra*).



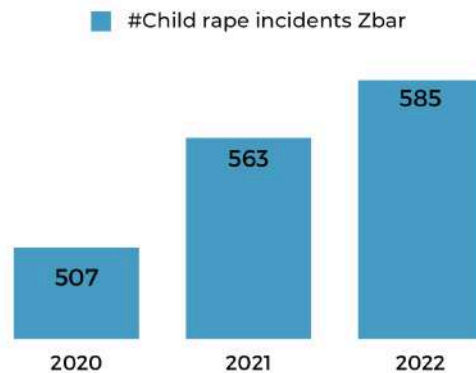


Figure 82: # Reported child rape incidents in Zanzibar, 2020-2022

Source: OCGS, 2021 & 2022

Rape constituting the majority of sexual VAC incidents

Out of the 1,173 VAC incidents reported in 2022, there were 585 rape incidents. This is equivalent to half (50%) of all reported VAC incidents. In 2021, rape constituted 46% all reported VAC incidents (563 out of 1,222).

Rape and sodomy perceived to be serious problems

Majority of the participants of the human rights assessment of the year 2022 (79.5%) perceived child rape to be a serious problem, while 68.3% also perceived child sodomy to be a serious problem. Less than a quarter perceived these issues to be not a problem in the community.¹⁷²⁹

Magharibi 'A' recording most incidents of rape

Based on recent crime statistics released by OCGS, Magharibi 'A' has been found to be leading in rape incidents reported. For instance, in 2021, a total of 112 rape incidents were reported in the district,¹⁷³⁰ which are equivalent to 18% of all reported rape incidents.

Girls aged 15-17 years constituting the majority of sexual VAC victims

In 2021, a total of 385 girls aged 15-17 years were victims of rape. This is equivalent to 68% of all child rape victims.

Conviction rate for rape cases not convincing

Statistics on action taken against perpetrators of rape is not very convincing, especially in terms of conviction. For instance, in 2021, only 39 convictions

¹⁷²⁹ Human rights assessment, 2022.

¹⁷³⁰ ZANZIBAR STATISTICAL ABSTRACT 2021 (*supra*).



were secured out of 563 reported cases, while 207 accused persons were acquitted.¹⁷³¹

5.2.5. Sexual Violence against Boys: The Often Unrecognised or Unseen Form of Violence

Overview

Many countries around the world have been faulted for lacking adequate legal protections for boys and usually not looking at boys as victims of sexual abuse.¹⁷³² According to UNICEF, most of the research on sexual exploitation of children is centred on girls, neglecting the needs, experiences and perspectives of boys as well as youth who identify outside the gender binary.¹⁷³³ Consequently, sexual abuse of boys is all too often unrecognized or unseen and there is a notable gap in the global understanding, research, prevention and support of exploitation of boys.¹⁷³⁴ Boys are often believed to be 'strong', 'unaffected', and 'able to protect themselves' in the face of violence, which leaves them more vulnerable to sexual abuse.

Reported incidents of sexual abuse against boys

Sodomy is the most common form of sexual abuse against boys in Zanzibar. In the period of 2019 to 2021, a total of 436 incidents of sodomy of boys were reported in Zanzibar,¹⁷³⁵ equivalent to an average of 145 incidents each year and 12 incidents each month.

1731 ZANZIBAR STATISTICAL ABSTRACT 2021 (*supra*).

1732 Rebecca Ratcliffe "Sexual abuse of boys often overlooked by state laws, global study warns" The Guardian Newspaper, 16 Jan 2019, at <https://www.theguardian.com/global-development/2019/jan/16/sexual-abuse-of-boys-often-overlooked-by-state-laws-global-study-warns>.

1733 UNICEF, Research on the Sexual Exploitation of Boys: Findings, ethical considerations and methodological challenges, April 2020, at <https://data.unicef.org/resources/sexual-exploitation-boys-findings-ethical-considerations-methodological-challenges/>.

1734 See End Violence against Children, *UNCOVERING THE HIDDEN EPIDEMIC OF SEXUAL VIOLENCE AGAINST BOYS*, 28 March 2022, at <https://www.end-violence.org/articles/uncovering-hidden-epidemic-sexual-violence-against-boys>.

1735 ZANZIBAR STATISTICAL ABSTRACT 2021 (*supra*).



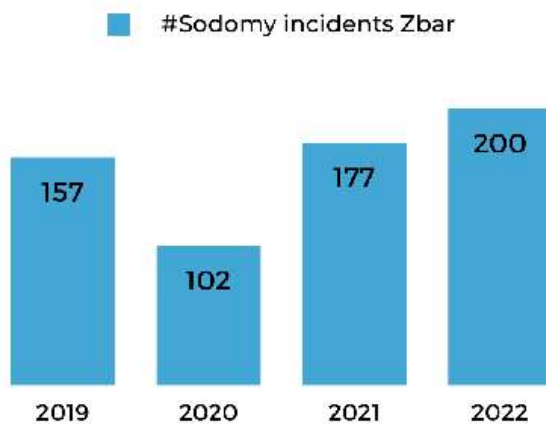


Figure 83: # Reported incidents of sodomy of boys in Zanzibar, 2019-2022

Source: OCGS, 2021 & 2022

A total of 9 sodomy incidents were reported in May 2022, followed by 20 in June, 9 again in July, and 32 in August.¹⁷³⁶ Majority of these incidents were reported in Mjini and Magharabi 'A' Districts. By December 2022, a total of 200 sodomy incidents had been recorded by police.¹⁷³⁷

Abduction and sodomy of a boy in Unguja

One of the incidents of sexual abuse against boys in Zanzibar occurred in Unguja in November 2022, whereby three people were arrested by police for abducting a 12-year-old boy, demanding a Tshs. 8 million ransom, and sodomizing him.¹⁷³⁸ The boy was abducted when going back home from madrasa. The accused persons, who were arrested by police in December, were Khamis Dilshadi Muradi (33), Juma Dilshadi Muradi (23), and Dickson Ndushi (40).

Conviction rate for sodomy cases not convincing

Statistics on action taken against perpetrators of sexual abuse against boys

1736 OFISI YA MTAKWIMU MKUU WA SERIKALI ZANZIBAR, TOLEO LA TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA KWA WANAWAKE NA WATOTO – ZANZIBAR JUNI MWAKA 2022, at <https://ocgs.go.tz/php/ReportOCGS/1658995117.pdf>; OFISI YA MTAKWIMU MKUU WA SERIKALI ZANZIBAR, TOLEO LA TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA KWA WANAWAKE NA WATOTO – ZANZIBAR JUNI MWAKA 2022, at <https://www.ocgs.go.tz/php/ReportOCGS/1663742984.pdf>.

1737 See OCGS Zanzibar, LIVE:TAWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA ZANZIBAR, DISMBA 2022, at <https://www.youtube.com/watch?v=nJr9jH8wrx0>.

1738 Jesse Mikofu "Wateka, walawiti mtoto wakiomba fedha" Mwananchi Newspaper, 21 Dec 2022.



is not very convicting, especially in terms of conviction. For instance, in 2021, only 2 convictions were secured out of 177 reported cases, while 62 accused persons were acquitted.¹⁷³⁹

5.2.6. Child Neglect and Abandonment

Child neglect is a form of child abuse, and includes:¹⁷⁴⁰

- **Physical neglect:** failure to protect a child from harm, including through lack of supervision, or failure to provide the child with basic necessities including adequate food, shelter, clothing and basic medical care;
- **Psychological or emotional neglect:** including lack of any emotional support and love, chronic inattention to the child, caregivers being “psychologically unavailable” by overlooking young children’s cues and signals, and exposure to intimate partner violence, drug or alcohol abuse;
- **Neglect of children’s physical or mental health:** withholding essential medical care;
- **Educational neglect:** failure to comply with laws requiring caregivers to secure their children’s education through attendance at school or otherwise; and
- **Abandonment:** a practice which is of great concern and which can disproportionately affect, inter alia, children out of wedlock and children with disabilities in some societies.

Incidents of child neglect are rarely reported in Zanzibar, but child neglect is believed to be common. In the period of 2016 to 2021, a total of 38 incidents of child desertion have been reported, peaking in 2018 when 18 incidents were reported.¹⁷⁴¹ In 2021, only 1 incident was reported, while in the previous year there was no incident recorded by police.¹⁷⁴²

5.2.7. Drivers of VAC

Based on the assessment of various primary and secondary sources of data, drivers of VAC in Zanzibar include:

- Poor parenting

1739 ZANZIBAR STATISTICAL ABSTRACT 2021 (*supra*).

1740 See Committee on the Rights of the Child, The right of the child to freedom from all forms of violence, <https://docstore.ohchr.org/SelfServices/FilesHandlerashx?enc=6QkG1d%2FPPrICAqhKb7yhsqIkirKQZLK2M58RF%2F5F0vFKtnY3RFBX0eVOOrGEVYuIm9CsHNwh1HrjED9fVmGn%2BaZ1TGy6vH1Iek6kukGyB%2FFCGBbSOP0uwpKf24vcxkEnv>.

1741 ZANZIBAR STATISTICAL ABSTRACT 2021 (*supra*).

1742 Ibid.



- Single parenting
- Parental neglect (failure to provide a child with necessities)
- Lack of fear of God
- Insufficient budget for preventing and combating VAC
- Low awareness about impact of VAC
- Non-reporting of most incidents of VAC
- Preventing/concealing family shame
- Separation/divorce
- Moral decay and globalization
- Inadequate enforcement of laws

5.2.8. Child Labour and Exploitation

In Tanzania, child labour is prohibited under various domestic legislations. In Zanzibar, such prohibition is found in the Employment Act No. 11 of 2005 and the Children's Act No 6 of 2011. As a general rule, child labour, including worst forms of child labour, is prohibited under the Employment Act of 2005. However, exceptions have been made under several circumstances, as is the case in Mainland Tanzania.

Regarding **restrictions on employment of children**, the Employment Act of 2005 provides that no person shall employ a child in any type of work except domestic work.¹⁷⁴³ In assessing domestic work to a child, a parent or guardian must ensure that a child has sufficient time to attend to matters pertaining to education and sufficient time to rest.¹⁷⁴⁴

Regarding **prohibition of worst forms of child labour**, the Employment Act of 2005 provides that no person is allowed to engage or employ any child in any worst forms of child labour. Such labour includes all forms of slavery or practices similar to slavery such as sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour; the use procuring or offering of a child for prostitution, for the production of pornography; and work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.¹⁷⁴⁵ The Employment Act of 2005 also speaks about **condition of employment of young persons**, including not employing a young person who attends or is required to attend compulsory education and not assigning a young person heavy duties.¹⁷⁴⁶

¹⁷⁴³ Section 6 of the Employment Act No. 11 of 2005.

¹⁷⁴⁴ Ibid.

¹⁷⁴⁵ Ibid, Section 7.

¹⁷⁴⁶ Ibid, Section 8.



There is also an exemption from restriction of employment of children and young persons. According to the Act, the provisions on restriction on employment of children and young persons shall not apply to students undergoing training in Government or other technical schools and vocational training centres registered in accordance with the Education Act No. 8 of 1982 and or the Vocational Training Act No. 17 of 1986.¹⁷⁴⁷ However, a child shall not be eligible to undertake any such training unless he/she has attained the minimum age of 14 years.

The Children's Act also prohibits employment or engagement of a child in any activity that may be harmful to such child's health, education, mental, physical or moral development.¹⁷⁴⁸ The Act also recognizes the child's right to work, subject to the need to promote and safeguard his best interests, 15 years being the minimum age for employment, and such child only doing light work.¹⁷⁴⁹ **Light work** is defined as work which is not likely to be harmful to the health or development of the child and does not prevent or affect the child's attendance at school, participation in vocational orientation or training programmes or the capacity of the child to benefit from school work.

The Children's Act further prohibits exploitative labour and hazardous work; recognizes the right to remuneration; and prohibits forced labour.¹⁷⁵⁰ Labour is exploitative if: it deprives the child of his health or development; it exceeds six hours of a day; it is inappropriate to the child's age or stage of development; it requires a child to work after eight o'clock at night and before six o'clock in the morning. Hazardous work includes: mining and quarrying; portage of heavy loads; work in manufacturing industries where chemicals are produced or used; work in places where machines are used; and any other hazardous work as it shall be declared by the Minister.

Despite various efforts to combat child labour and exploitation in Zanzibar, child labour persists in its various forms, denying children the fundamental rights, including right to education and protection from harmful employment. In Mainland Tanzania, child labour is common in sectors such as agriculture, mining, and livestock. In Zanzibar, child labour is common in fisheries, agriculture, tourism, and trade. For instance in tourism, children work in the tourism industry as guides, street vendors and hotel cleaners.¹⁷⁵¹ A 2014 child labour survey showed that 25,803 children in Zanzibar were

¹⁷⁴⁷ Section 9 of the Employment Act of 2005.

¹⁷⁴⁸ Section 97 of the Children's Act (No 6) of 2011.

¹⁷⁴⁹ Ibid, Section 98.

¹⁷⁵⁰ Ibid, Section 99.

¹⁷⁵¹ "Statistics and Effects of Child Labor in Tanzania" The United Republic of Tanzania 25 May 2021, at <https://unitedrepublicoftanzania.com/economy-of-tanzania/statistics-and-effects-of-child-labor-in-tanzania/>.



engaged in child labour, especially in agriculture, which constitutes 49 percent of total children.¹⁷⁵²

In June 2022, the Minister of State President's Office - Labour, Economy and Investment, Hon. Mudrik Ramadhan Soraga, revealed that there were about 25,803 children aged between five and 17 that are experiencing child labor in Zanzibar.¹⁷⁵³ He also noted that about 2,256 children, including 840 girls, had been rescued from child labor in different parts of Zanzibar's twin islands of Unguja and Pemba.¹⁷⁵⁴ Paje, Jambiani, Kizimkazi, Chwaka Marumbi, Uroa Nungwi, Pwani Mchangani, Matemwe, Micheweni, Tumbe, Makangale, Uwandani and Mkoani are some of the identified as hotspot areas for child labour, where children are employed to carry and clean fish.¹⁷⁵⁵

5.2.9. Child Marriage and Teenage Pregnancy

According to the UNFPA, Child marriage is a pervasive issue in Zanzibar, where 18 per cent of girls are married before age 18 and some 3.5 percent of these girls are married before the age of 15.¹⁷⁵⁶ These early marriages are often driven by negative gender norm. This also contributes to the problem of child or teenage pregnancy. While both child marriage and teenage pregnancy are not as big of challenges as in Mainland Tanzania, there are fears that such incidents are rarely reported.

5.2.9.1. Teenage pregnancy situation in Zanzibar: Demographic and Health Survey 2022 Findings

The Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 has revealed that 4.1% of women aged 15 to 19 years in Zanzibar have ever been pregnant (3.6% Unguja, 5.2% Pemba), 2.9% have had a live birth, 0.4% have had a pregnancy loss, and 1.3% are currently pregnant (1.2% in Unguja, 1.6% in Pemba).¹⁷⁵⁷

Teenage pregnancy in Zanzibar

1752 See Office of the Chief Government Statistician (OCGS) & Ministry of Finance and Planning Zanzibar, ZANZIBAR CHILD LABOUR SURVEY 2014: GENERAL REPORT, October 2016, at <https://www.ocgs.go.tz/php/ReportOCGS/Zanzibar%20Child%20Labour%20Survey%202014.pdf>.

1753 See "Tanzania's Zanzibar vows to end child labor as it marks World Day Against Child Labor" Xinhua, 13 Jun 2022, at <https://english.news.cn/africa/20220613/979f528755c944438a6a35e9d32a0ead/c.html>.

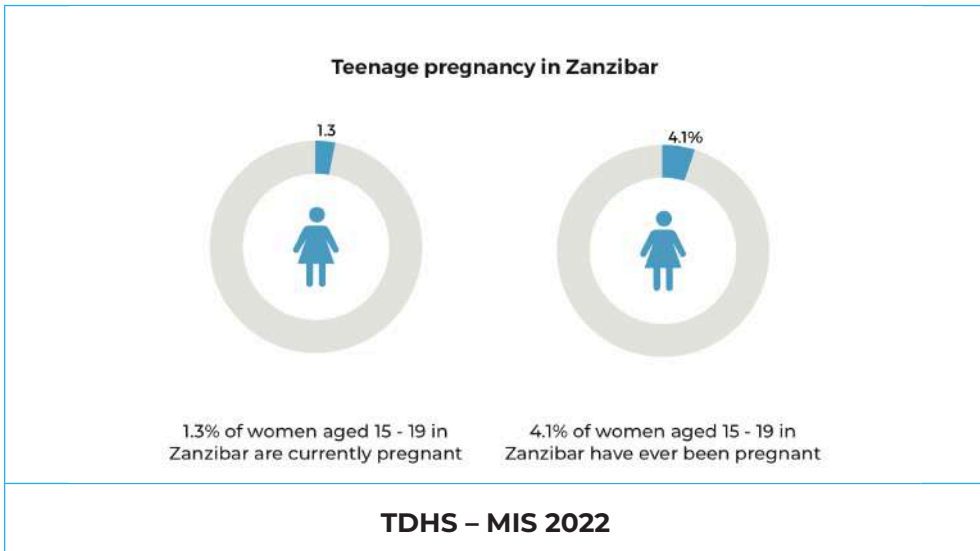
1754 Ibid.

1755 "Tanzania: Zanzibar Making Strides in Controlling Child Labour" DailyNews Newspaper (online), 15 Jun 2022, at <https://allafrica.com/stories/202206150108.html>.

1756 UNFPA, Faith leaders fight child marriage in Zanzibar, 13 October 2021, at <https://www.unfpa.org/news/faith-leaders-fight-child-marriage-zanzibar>.

1757 Ministry of Health (MoH) [Tanzania Mainland], Ministry of Health (MoH) [Zanzibar], National Bureau of Statistics (NBS), Office of the Chief Government Statistician (OCGS), and ICF. 2023 Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Key Indicators Report. Dodoma, Tanzania, and Rockville, Maryland, USA: MoH, NBS, OCGS, and ICF.





In terms of regions, percentage of women aged 15 – 19 years who have ever been pregnant is highest in Kusini Unguja (12.9%) and lowest in Mjini Magharibi (2.3%).¹⁷⁵⁸



Figure 84: % Women aged 15-19 who have ever been pregnant – Zanzibar

Source: TDHS – MIS 2022

¹⁷⁵⁸ Ibid.



5.2.10. Female Genital Mutilation

Unlike in Mainland Tanzania, female genital mutilation (FGM) is not an issue of human rights concern in Zanzibar as it has very rarely ever been reported.

5.2.11. Child trafficking

According to the International Labour Organization (ILO), child trafficking is about taking children out of their protective environment and preying on their vulnerability for the purpose of exploitation.¹⁷⁵⁹ According to the United Nations Office on Drugs and Crime (UNODC), the United Nations Children's Fund (UNICEF), and the Inter-Agency Coordination Group against Trafficking (ICAT), children account for nearly one-third of identified trafficking victims globally.¹⁷⁶⁰

In 2022, it was reported that there were 113 investigations of human trafficking, 18 prosecutions, and 13 convictions, but none of them were in Zanzibar.¹⁷⁶¹ However, of the 185 victims identified, 38 victims, all girls, were identified in Zanzibar.¹⁷⁶² One of the key challenges in combating human trafficking, including child trafficking, in Zanzibar was said to be non-adoption of the 2008 anti-trafficking law.

5.3. Rights of Persons with Disability

5.3.1. Overview

As part of Tanzania, Zanzibar has various obligations under regional and international human rights conventions to promote and protect the rights of persons with disability (PWDs). Globally, a key milestone in protection of the rights of PWDs was reached in 2006 when the international community adopted the UN Convention on the Rights of Persons with Disabilities (CRPD) of 2006. These rights include right to equality and non-discrimination, right to life, right to equality before the law, right to liberty and security of person, freedom from torture, freedom from violence, right to education, right to health and right to work and employment.¹⁷⁶³ Zanzibar did not waste time to domesticate the CRPD, doing so immediately in 2006 through enactment of the Persons with Disabilities (Rights and Privileges)

¹⁷⁵⁹ See ILO "Trafficking in children" at <https://www.ilo.org/ipec/areas/Traffickingofchildren/lang-en/index.htm>.

¹⁷⁶⁰ UNODC, Global Report on Trafficking in Persons 2020 (United Nations publication, Sales No. E.20.IV.3); UNICEF, Children account for nearly one-third of identified trafficking victims globally, Press Release, 29 July, 2018, at <https://www.unicef.org/press-releases/children-account-nearly-one-third-identified-trafficking-victims-globally>.

¹⁷⁶¹ See US Department of State, Office to Monitor and Combat Trafficking in Persons, 2022 Trafficking in Persons Report: Tanzania, at <https://www.state.gov/reports/2022-trafficking-in-persons-report/tanzania/>.

¹⁷⁶² Ibid.

¹⁷⁶³ See CRPD at <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>.



Act, No.9 of 2006. Under the Act, every PWD in Zanzibar has the right to education,¹⁷⁶⁴ right to employment,¹⁷⁶⁵ right to medical care,¹⁷⁶⁶ accessibility and mobility.¹⁷⁶⁷ There are several organizations established for the purpose of promoting and protecting interests and welfare of PWDs. These include the Zanzibar Association of the Blind (ZANAB), Zanzibar Association for People with Developmental Disabilities (ZAPDD), the Association of People with Disabilities in Zanzibar (UWZ), Zanzibar Centre for Disability and Inclusive Development (ZACEDID) and others.

5.3.2. Promotion and Protection of Rights of PWDs

In collaboration with various PWDs welfare organizations such as the Zanzibar Association of the Blind (ZANAB), Zanzibar Association for People with Developmental Disabilities (ZAPDD), the Association of People with Disabilities in Zanzibar (UWZ), and Zanzibar Centre for Disability and Inclusive Development (ZACEDID), in 2022 the Revolutionary Government of Zanzibar continued to implement the Persons with Disabilities (Rights and Privileges) Act, No.9 of 2006 to promote and protect rights of PWDs in Zanzibar. However, several challenges that PWDs face persist, as briefly highlighted below.

5.3.3. Key challenges hindering effective enjoyment and realization of the PWDs' rights

Key challenges faced by PWDs include discrimination and stigma, social exclusion, discrimination in employment, workplace discrimination, unfriendly infrastructure, different forms of violence, lack of disability friendly social services, access to quality health services, and inadequate enforcement of laws and policies. Participants of the human rights assessment identified discrimination and stigma as the biggest challenges faced by PWDs (54%), followed by discrimination in employment (45%), violence (37%), social exclusion (34%), and unfriendly infrastructure (31%).¹⁷⁶⁸

5.4. Rights of the Elderly

5.4.1. Overview

Unlike other vulnerable groups such as women, children, and PWDs, there is no international convention on the rights of the elderly. Nevertheless, their

¹⁷⁶⁴ Ibid, section 9

¹⁷⁶⁵ Ibid, section 7

¹⁷⁶⁶ Ibid, section 11

¹⁷⁶⁷ Ibid, section 12

¹⁷⁶⁸ Human rights assessment, 2022.



rights, like those of other groups, are guaranteed under various international and regional conventions, including the International Covenant on Civil and Political Rights (ICCPR) of 1966, the International Covenant on Economic, Social, and Cultural Rights (ICESCR) of 1966, and African Charter on Human and Peoples' Rights (Banjul Charter) of 2003. Domestically, their rights are guaranteed under the Constitution of the United Republic of Tanzania, 1977 and the Constitution of Zanzibar, 1984.

5.4.2. Promotion and Protection of Rights of the Elderly

In 2022, the Revolutionary Government of Zanzibar continued to take various measures to promote and protect rights of the elderly, most notably provision of monthly pension to older people aged 70 years and above. In October 2022, H.E Dr Hussein Ali Mwinyi, President of the Revolutionary Government of Zanzibar, stated that a total of 28,706 older persons aged 70 years and above in Unguja and Pemba had been granted monthly pension.¹⁷⁶⁹ However, the elderly in Zanzibar continued to face various challenges, as highlighted below.

5.4.3. Key challenges hindering effective enjoyment and realization of the elderly's rights

During the commemoration of the International Day of Older Persons in October 2022, H.E Dr Hussein Ali Mwinyi, President of the Revolutionary Government of Zanzibar, identified exclusion and marginalization as a challenge for older persons, whereby their families tend to push them out to live in elderly homes.¹⁷⁷⁰ Other stakeholders who attended the commemoration event at Hotel Verde in Unguja, including older persons, also highlighted various challenges that older persons in Zanzibar face, including health problems; inadequate monthly pensions, considering the current high costs of living; lack of quality and elderly-friendly health services; limited access to nutritious food, especially for older persons residing in rural areas; allegations of witchcraft; and lack of a special fund for the development of the elderly.¹⁷⁷¹ They recommended for the Government to reduce the age of pension beneficiaries from 70 to 50 years and to increase the monthly pension.

In 2022, the House of Representatives Standing Committee on Social Welfare highlighted some challenges faced by the elderly pension department.¹⁷⁷²

¹⁷⁶⁹ See "Maadhimisho ya Siku ya Wazee Duniani Ukumbi wa Hotel ya Verde Mtoni Jijini Zanzibar" ZanziNews, 1 Oct 2022, at <http://www.zanzinews.com/2022/10/maadhimisho-ya-siku-ya-wazee-duniani.html>.

¹⁷⁷⁰ Ibid.

¹⁷⁷¹ Ibid.

¹⁷⁷² RIPOTI YA KAMATI YA KUDUMU YA USTAWI WA JAMII ZANZIBAR 2022 (*supra*).



These challenges include difficulties in vetting the beneficiaries by going house to house; lack of reliable means of transport; shortage of staff; many older persons lacking IDs; misuse of Power of Attorney to collect pension on behalf of older persons; some of beneficiaries not meeting the age qualification; and some older persons not benefitting from pension due to lack of IDs, especially in rural areas.¹⁷⁷³

5.5. Youth Rights

5.5.1. Overview

While there is no universally agreed international definition of the youth age group, Tanzania, including Zanzibar,¹⁷⁷⁴ consider youth to be people who fall in the age category of 15 to 35.¹⁷⁷⁵ According to the United Nations (UN), youth “can be a positive force for development when provided with the knowledge and opportunities they need to thrive.”¹⁷⁷⁶

Youth rights are protected under various international and regional human rights instruments, including the Universal Declaration of Human Rights (UDHR) of 1948; the International Covenant on Civil and political Rights (ICCPR) of 1966; the African Charter on Human and Peoples Rights (Banjul Charter) of 1981; and the African Charter on the Rights and Welfare of the Child (ACRWC) of 1981. In Africa, youth rights are enshrined in the African Youth Charter of 2006.¹⁷⁷⁷ Among the rights recognized in the Charter are right to non-discrimination; freedom of movement; freedom of expression; freedom of association; right to own and inherit property; right to development; right to education of good quality; right to gainful employment; right to adequate standard of living; right to health; and fair trial rights.

The African Youth Charter imposes a number of obligations upon States Parties, including developing a comprehensive and coherent youth policy; eliminating discrimination against girls and young women in line with international human rights obligations; taking measures to protect right of mentally and physically challenged youth; and taking measures to eliminate harmful social and cultural practices. Youth responsibilities are also provided for, including becoming custodians of their own development; protecting

¹⁷⁷³ Ibid.

¹⁷⁷⁴ See UN, *Global Issues: Youth*, at <https://www.un.org/en/global-issues/youth>.

¹⁷⁷⁵ African Youth Charter, adopted by the Seventh Ordinary Session of the Assembly, held in Banjul, The Gambia on 2nd July 2006.

¹⁷⁷⁶ UN, *Global Issues: Youth* (supra).

¹⁷⁷⁷ African Youth Charter, adopted by the Seventh Ordinary Session of the Assembly, held in Banjul, The Gambia on 2nd July 2006.



and working for family life and cohesion; partaking fully in citizenship duties including voting, decision making and governance; engaging in peer-to-peer education to promote youth development; rejecting and exposing corruption; and defending democracy, the rule of law and all human rights and fundamental freedoms.¹⁷⁷⁸

5.5.2. Youth Rights Challenges

In Zanzibar, challenges faced by youth and affecting their rights include unemployment and underemployment, lack of or restricted access to quality health services and information, drugs/substance abuse, vulnerability to crime, child labour and exploitation, and different forms of violence, including sexual violence. Youth aged 15-17 years constitute the majority of victims of sexual violence, especially rape. For instance, in 2021 385 out of 563 victims of rape were girls aged 15-17 years,¹⁷⁷⁹ equivalent to 68% of the victims.

¹⁷⁷⁸ Article 26 of the African Youth Charter, 2006.

¹⁷⁷⁹ See Zanzibar Statistical Abstract, 2021.



CHAPTER 6: HUMAN RIGHTS MECHANISMS

Human rights mechanisms comprise of laws and institutions that promote and protect human rights. These mechanisms exist at national, regional, and international level. National level mechanisms that are discussed under this chapter are the Judiciary; the Commission for Human Rights and Good Governance (CHRAGG); Law Review Commission of Zanzibar (LRCZ); Office of the Director of Public Prosecutions (DPP); and the Police Force.

Regional and international human rights mechanisms accessible by Zanzibar include: Universal Periodic Review Mechanism (UPR); Human Rights Committee (HRC), the UN Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights; the Committee on the Elimination of Discrimination Against Women; the Committee on the Elimination of Racial Discrimination; the Committee on the Rights of Persons with Disabilities; the African Court on Human and Peoples' Rights; the African Commission on Human and Peoples' Rights; African Committee of Experts on the Rights and Welfare of the Child; and the East African Court of Justice.

6.1. National Human Rights Mechanisms

6.1.1. The Judiciary of Zanzibar

6.1.1.1. Legal framework & role in promoting and protecting human rights

The Judiciary of Zanzibar is comprised of the High Court of Zanzibar, Kadhis Court, and other courts established and provided for under Chapter Six of the Constitution of Zanzibar (1984) and the Magistrates Court Act, 1985. The Court of Appeal of the United Republic of Tanzania has the made to determine an appeal case from the High Court of Zanzibar, except where the subject matter is interpretation of the Zanzibar Constitution, Islamic case originating from Kadhis Court, and other matters reserved in the Constitution of Zanzibar and other laws enacted by the House of Representatives.¹⁷⁸⁰

¹⁷⁸⁰ See Section 99 of the Constitution of Zanzibar (1984).



The Judiciary of Zanzibar has final decision in dispensation of justice in Zanzibar. It administers justice through interpretation and application of laws, rules, and regulations as well as international human rights standards. In this regard, it plays a very important role in safeguarding human rights through administration of justice, preventing human rights violations and ensuring effective remedy is provided where such violations occur.

6.1.1.2.Challenges

- Shortage of judicial staff.
- Corruption, especially in lower courts.
- Delays in dispensation of justice, mainly contributed by delays in police investigations
- Constant adjournment of cases.
- Delays in execution of judgement.
- Backlog of cases, contributed by shortage of judicial workers and delays in completing investigations.

6.1.2. Tanzania Police Force

6.1.2.1.Legal framework & role in promoting and protecting human rights

The Tanzania Police Force (TPF) is established under the Police Force and Auxiliary Services Act.¹⁷⁸¹ Police mandate includes investigation of human rights violations, for instance arrested and taking to court perpetrators of violence against women and children. Preventing crime includes raising awareness on crimes and criminal laws as well as road safety. In 2022, police continued to take action to protect citizens and their property, including arresting and taking to court perpetrators of human rights violations such as people accused of committing acts of physical and sexual violence.

6.1.2.2.Challenges

- Corruption
- Shortage of police officers
- Trumped-up charges/fabrication
- Delays in investigations
- Poor working environment
- Accessibility challenges for both police officers and residents, in some areas

¹⁷⁸¹ Section 3 of the Police Force and Auxiliary Services Act, [CAP 322].



6.1.3. Commission for Human Rights and Good Governance

6.1.3.1. Legal framework & role in promoting and protecting human rights

The Commission for Human Rights and Good Governance (CHRAGG) is an independent government institution, established as a national focal point institution for the promotion and protection of human rights and duties as well as good governance in Tanzania. CHRAGG is established under Article 129(1) of the Constitution of the United Republic of Tanzania of 1977 as amended by Act No. 3 of 2000. The Commission became operational on the 1st of July 2001 after the coming into force of the Commission for Human Rights and Good Governance CAP 391. The Commission was officially inaugurated in March 2002 following the appointment of Commissioners by the President of United Republic of Tanzania.

The Commission is mandated to promote, protect and preserve human rights and deal with mal-administration i.e. abuse of public authority in the context of administrative justice as per Article 130(1) of the Constitution of the United Republic of Tanzania and sections 6 and 15 of the CHRAGG Act. According to Section 6 (1) (a) – (o) of the Act CAP 391, the Commission has protective, promotive, advisory and mediatory/conciliatory functions as listed below:

- a. To promote within the country the protection and preservation of human rights and duties to the society in accordance with the constitution and laws of the land;
- b. To receive allegations and complaints in the violation of human rights generally;
- c. To conduct enquiries into matters involving the violation of human rights and the contravention of the principles of administrative justice;
- d. To conduct research into human rights, administrative justice and good governance issues and to educate the public about such issues;
- e. When necessary, to institute proceedings in court designed to terminate activities involving the violation of human rights or redress the right or rights so violated or contravention of the principles of administrative justice;
- f. To investigate the conduct of any person to whom or any institution to which the provisions of this section apply in the ordinary course of the exercise of the functions of his office or discharge of functions in excess of authority;
- g. To investigate or enquire into complaints concerning practices or



actions by person holding office in the service of the government, public authorities or other public bodies, including private institutions and private individuals where those complaints allege abuse of power, injustice, unfair treatment of any person, whether complainant or not, in the exercise of their official duties;

- h. To visit prisons and places of detentions or related facilities with the view to assessing and inspecting conditions of persons held in such places and making recommendations to redress the existing problems in accordance with the provisions of this act;
- i. To take steps to secure remedying, correction, reversal or cessation of instances referred to paragraphs (e), (f), (g) or (h) through fair, proper and effective means, including the institution of legal proceeding;
- j. To provide advice to the government or to other public organs and private sector institutions on specific issues relating to human rights and administrative justice;
- k. To make recommendations relating to existing or proposed legislation, regulations or administrative provision to ensure compliance with human rights norms and standards and with the principles of good governance;
- l. To promote ratification of or accession to treaties or conventions on human rights, harmonization of national legislation and monitor and assess compliance, within the United Republic by the government and other persons with human rights standards provided for in treaties or conventions or under customary international law to which the United Republic has obligations;
- m. Under the auspices of the government, to cooperate with agencies of the United Nations, the AU, The Commonwealth and other bilateral, multilateral or regional and national institutions of other countries which are competent in the areas of protection and promotion of human rights and administrative justice;
- n. To take such measures as may be appropriate for the promotion and development of mediation and reconciliation amongst the various persons and institutions that come or are brought before the Commission; and
- o. To perform such other functions as may be provided for by any other written law.

Positive action to promote or protect human rights

In 2022, CHRAGG continued carrying out its key functions, including: sensitizing about protection and preservation of human rights and the



duties; and receiving allegations and complaints in the violation of human rights and contravention of principles of good governance. CHRAGG also continued to closely work with some CSOs in Zanzibar, including ZAFAYCO, to promote and protect human rights and principles of good governance in Tanzania particularly in creating awareness to the general public of the Commission's functions, human rights and good governance in general, monitoring and reporting of human rights violations in the country, serving the citizens whose rights have been violated by directing them to the Commission's offices to submit their complaints. CHRAGG continues to use a newly developed system known as Complaints Management Information System (CMIS) which is used and accessible in all CHRAGG offices that enabling citizens submit and track their complaints. In 2022, CHRAGG also commemorated 20 years of its existence and released a 20 year report highlighting what it has done in those years and key human rights issues.

6.1.3.2.Challenges

- Budgetary constraints: Like for most other government institutions, budgetary constraints is a challenge for CHRAGG in terms of providing and expanding its services.
- Shortage of staff to implement CHRAGG Mandates.
- Increasing demand and expectations of stakeholders and citizen on human rights and good governance vis-à-vis CHRAGG s capacity and country s coverage: Currently, CHRAGG has few offices where it operates through its Dodoma Headquarters in Mainland Tanzania and Unguja in Zanzibar and branch offices located in Dar es Salaam, Mwanza, Lindi and Pemba.
- This limits its ability to reach many people and provide timely services.

6.1.4. Office of the Director of Public Prosecutions Zanzibar

6.1.4.1.Legal framework & role in promoting and protecting human rights

The Office of the Director of Public Prosecution as the National Human Rights Mechanisms in Zanzibar was established in 2002, following the 8th amendment of the Constitution of Zanzibar 1984.¹⁷⁸² The fundamental role of the DPP office is the administering of criminal cases by charging and prosecuting persons charged with criminal cases. The DPP has constitutional powers to institute, prosecute, discontinue and take over any criminal case in all courts in Zanzibar other than martial courts.

1782 1984 Section 56A



This office performs its functions in accordance with the Constitution of Zanzibar 1984, the office of Director of Public Prosecutions Act (No. 2) 2010, the Prosecution Manual of 2005 as revised in 2015. The four constitutionally founded core values of the DPP Office are independence, impartiality, integrity and truthfulness.

The DPP office administers criminal cases by prosecuting all criminal cases in all courts of Zanzibar from District Courts, Regional Magistrates courts, High Court and the Court of Appeal of Tanzania cases that are filed in Zanzibar. It also coordinates all prosecution services in primary courts. The office is also responsible in educating members of society on matters relating to criminal justice. The office was established under the idea of civilianization of prosecution where prosecution services are to be delivered by civilians and not police force.

As far as human rights and good governance are concerned, the DPP office performs its responsibilities under two main slogans. The first is that investigation should precede prosecution and the second is that no conviction without evidence. From these two slogans, the DPP office always requires police to admit suspects to bail until such time where an investigation of a given case is completed and where prosecution can then be formally initiated.

In 2022, the DPP Office continued to perform its various roles in administration of criminal justice in Zanzibar, including charging criminal suspects in courts of law and conducting investigations to assist in prosecution of cases.

6.1.4.2.Challenges

- Delays in police investigations
- Shortage of staff

6.1.5. Zanzibar Anti-corruption and Economic Crimes Authority

6.1.5.1.Legal framework & role in promoting and protecting human rights

In 2011, the Revolutionary Government of Zanzibar (RGOZ) developed and adopted a good governance policy and shortly thereafter an Anti-Corruption and Economic Crimes Act was passed by the Zanzibar House of Representatives.¹⁷⁸³ The Act establishes the Zanzibar Anti-Corruption

¹⁷⁸³ See the Zanzibar Anti-Corruption and Economic Crimes Authority (ZAECA) website at <https://zaeca.go.tz/background.html>.



and Economic Crimes Authority (ZAECA) operationalized in 2012 with a three-pronged mandate of Prevention, Education and Investigations for both public and private sector.¹⁷⁸⁴ Fighting corruption is essential for safeguarding human rights, especially economic and social rights such as education, health, and water. Corruption has also proven to be an enemy of administration of justice in Zanzibar. Therefore, the role of the national anti-corruption body, such as ZAECA, in promoting and protecting human rights cannot be underestimated.

In 2022, ZAECA continued to take various measures to prevent and address corruption, including awareness-raising and arrest and prosecution of perpetrators of corruption.

6.1.5.2.Challenges

Despite the various government efforts to combat it, corruption is still a big problem, including in provision of social services. In 2022, Tanzania, including Zanzibar, dropped in the Corruption Perceptions Index 2022, from 87th position in 2021 to 94th position in 2022, after dropping from 39 points scored in 2021 to 38 points scored in 2022.

6.1.6. The Law Review Commission of Zanzibar

6.1.6.1.Legal framework & role in promoting and protecting human rights

Another National Human Right Mechanism in the country is Law Review Commission of Zanzibar (LRCZ). This commission was established was established under Section 3 of the Law Review Commission of Zanzibar Act No:16 of 1986. It was a result of recommendations of Law Review Commission commonly known as the “Msekwa Commission”, as led by Hon. Pius Msekwa. It was the idea of the Mskewa Commission that there are various laws which are outdated in Zanzibar and do not reflect the existing situation in the society. Hence, there is a need to establish a permanent organ to deal with law review. LRCZ was established under Zanzibar Law Review Commission Act No. 16 of 1986. The main function of the Commission is to review the laws of Zanzibar and to propose necessary amendments so as to make sure that they respond to timely changes as taking place in Zanzibar.

¹⁷⁸⁴ Ibid.



6.1.6.2.Challenges

- The Commission has not been very active in reviewing laws that have been identified by various stakeholders, both within and outside Zanzibar and Tanzania, as containing provisions which infringe on human rights. It has also not been vocal in this regard.

6.2.Regional and International Human Rights Mechanisms

6.2.1. Legal Framework

Tanzania, Zanzibar inclusive, is part of various regional and international human rights mechanisms. These include the Universal Periodic Review Mechanism (UPR) - whereby it submits its reports on promotion and protection of human rights; and bodies established under various human rights treaties.

Treaty bodies are established by the human rights treaties that have been ratified, with the aim of monitoring the implementation of such treaties by States parties. The provisions of the treaties require States parties to submit to the treaty bodies periodic reports on their efforts to implement the treaties. The major international and regional treaty bodies are the Human Rights Committee (HRC), the UN Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination Against Women, the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of Persons with Disabilities, the African Court on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights, African Committee of Experts on the Rights and Welfare of the Child and the East African Court of Justice.

6.2.2. Universal Periodic Review (UPR)

UPR is a unique mechanism of the Human Rights Council (HRC) aimed at **improving the human rights situation on the ground** of each of the 193 United Nations (UN) Member States.¹⁷⁸⁵ Under this mechanism human rights situation of all UN Member States, Tanzania inclusive, is reviewed every 5 years to ascertain the extent states have taken action to improve human rights and fulfil their international human rights obligations.¹⁷⁸⁶

¹⁷⁸⁵ See United Nations Human Rights Office of the High Commissioner, Universal Periodic Review, at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>, accessed 29th December 2016.

¹⁷⁸⁶ Ibid.



In 2021, Tanzania's human rights record was yet again examined by the UN Human Rights Council's Universal Periodic Review (UPR) Working Group for the third time on 5th November 2021, following the first and second UPR reviews in October 2011 and May 2016.¹⁷⁸⁷ The Tanzania national report highlighted developments since previous review and status of implementation of accepted recommendations.¹⁷⁸⁸ In 2022, the Government of the United Republic of Tanzania and the Revolutionary Government of Zanzibar made commitments to implement accepted UPR recommendations, including access to adequate housing, safe drinking water and adequate sanitation, making efforts to halt all forms of discrimination against women, and addressing different forms of violence against women and children.

¹⁷⁸⁷ OHCHR "Tanzania's human rights record to be examined by Universal Periodic Review" at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27747&LangID=E>.

¹⁷⁸⁸ Human Rights Council Working Group on the Universal Periodic Review, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: United Republic of Tanzania, Thirty-ninth session, -12 November 2021, at <https://undocs.org/A/HRC/WG.6/39/TZA/1>.



CHAPTER 7: CONCLUSION AND RECOMMENDATIONS

7.1. Conclusion

Civil and Political Rights

In the year 2022, ZAFAYCO observed slight improvement in promotion and protection of civil and political rights, boosted by promises of lifting of ban on political rallies by the President of the United Republic of Tanzania, H.E Samia Suluhu Hassan, and political will to reform criminal justice system. However, key issues affecting effective enjoyment of civil and political rights persisted, including laws containing provisions which arbitrarily restrict freedoms of expression, assembly, and association; mob violence; road accidents; barriers to access to justice; criminal justice challenges, including delays in investigations and proceedings; and different forms of violence, including against women, children, PWDs, and the elderly.

Economic, Social and Cultural Rights

Continued government efforts to ensure progressive realization of economic and social rights, including in education and health sectors, contributed to improved situation these rights compared to the year 2021. However, several challenges continued to affect realization of these rights. In education, such challenges included shortage of teachers; shortage of classrooms; shortage of toilets and toilet holes; and poor working conditions for teachers. Challenges in accessing quality health services, including proximity of health facilities and shortage essential medicines and supplies were also cited as challenges. Protection of property rights was said to be jeopardized by land disputes, especially boundary disputes, while labour rights violations jeopardized right to work.

Collective Rights

Collective rights, such as the right to development and right to enjoy and benefit from natural resources, are dependent on the enjoyment of civil and



political rights and economic, social, and cultural rights. For the year 2022, challenges that affected enjoyment of these rights also affected realization of collective rights. The Government has pledged to improve the situation of these rights as Zanzibar continues to recover from the adverse impacts of the Covid19 pandemic.

Rights of vulnerable groups

In 2022, the Revolutionary Government of Zanzibar continued to take steps to ensure realization of rights of vulnerable groups such as women, children, PWDs, and the elderly. However, key challenges such as violence and discrimination continue to hinder effective realization of the human rights of these groups, especially freedom from violence and right to non-discrimination. Like in 2021, gender-based violence (GBV) and violence against children (VAC) constituted major violations of women's and children's rights in 2022. For PWDs, key issues include exclusion/marginalization, harassment, and unemployment. For youth, challenges include unemployment and underemployment, vulnerability to crime, and different forms of violence.

Human rights mechanisms

In 2022, national human rights mechanisms such as the Judiciary of Zanzibar, the Tanzania Police Force, the Commission for Human Rights and Good Governance, the Zanzibar Anti-Corruption and Economic Crimes Authority, and the Office of Director of Public Prosecutions, continued to provide various services that promote and protect human rights. However, these mechanisms were faced with various challenges, including shortage of staff/officers, corruption, delays in conducting investigations and administration of justice; and budgetary constraints.

7.2. Recommendations

7.2.1. Civil and Political Rights

- The Tanzania Police Force to ensure police officers respond timely to prevent mob violence and legal action is taken against perpetrators.
- Public awareness-raising is also important to address the problem of mob violence. As such, the ministry responsible for home affairs, the police and other stakeholders such as CSOs operating in Zanzibar



should collaborate to conduct awareness-raising programmes.

- Community members to refrain from engaging in mob violence practices.
- The Commission for Human Rights and Good Governance (CHRAGG) and the Tanzania Police Force to ensure police officers at all levels are regularly trained on the UN Basic Principles on Use of Force and Firearms by Law Enforcement Officials and human rights in general, in an effort to address police misconducts, including extrajudicial killings.
- Tanzania has become an abolitionist state in practice when it comes to death penalty. As such, the Government should move to abolish death penalty in its penal laws.
- The Revolutionary Government of Zanzibar to collaborate with the Union Government take measures to amend laws and regulations governing freedom of expression, particularly the Cybercrimes Act of 2015 and the Online Content Regulations of 2020, to bring them in line with international human rights standards.
- The Revolutionary Government of Zanzibar to collaborate with the Union Government to take measures to amend laws and regulations governing freedoms of association and assembly, including the Political Parties Act, to bring them in line with international human rights standards.
- The Zanzibar Anti-Corruption and Economic Authority to work closely with other stakeholders, including NGOs, to intensify prevention and combating of corruption initiatives, as part of a strategy to address corruption in administration of justice.
- The Police Force to ensure police officers refrain from conducting arbitrary arrests and arbitrarily detain accused persons instead of sending them court within a specified period of time (usually 24 hours) as required by the law, in order to the right to liberty. Police officers implicated in this behaviour should be held accountable.
- The Police Force to ensure police officers refrain from fabricating cases against innocent civilians; and those responsible should be held accountable. Establishment of an independent police oversight body would be a good move in this regard.
- CSOs to intensify effort to raise public awareness on legal procedures and human rights, as well as encouraging community members to obey the law and respect human rights of others.
- CSOs to collaborate with CHRAGG to provide regular human rights trainings to judges, magistrates, and other legal professionals in order to enhance with knowledge and understanding of human rights as a way of safeguarding right to equality before the law and ensuring access to



justice.

- Religious and community leaders to use their platforms and influence to speak out against human rights violations, especially violations of civil and political rights.
- The Revolutionary Government of Zanzibar to collaborate with the Union Government to ratify the UN Convention against Torture (CAT) of 1984.

7.2.2. Economic, Social and Cultural Rights

- The Revolutionary Government of Zanzibar to intensify efforts to increase budgetary allocation for education and health sectors in line with international standards, which require allocation of at least 15 to 20% of the overall budget.
- The Government to take measures to address shortages of human and material resources in key sectors such as health and education.
- The Government, through the ministry responsible for education, to take measures to address challenges faced by teachers in primary and secondary schools as part of a strategy to improve quality of education in Zanzibar.
- The Government to spearhead legal reforms to protect women's property and inheritance rights.
- The Government, through the ministry responsible for land, and the Zanzibar Land Tribunal to increase efforts to resolve or address land disputes to safeguard the right to own property.
- The Government to continue with efforts to address employment-related challenges such as unemployment and underemployment in order to safeguard the right to work and the right to adequate standard of living.
- The Government, through the ministry responsible for education, to collaborate with non-state actors to address the problem of employability skills among college and university graduates.
- CSOs to work with relevant government ministries, such as the ministry responsible for women and ministry responsible for land, to promote and protect economic and social rights, including conducting awareness-raising sessions and campaigns.
- Members of the public to seek knowledge and access information about their economic and social rights, including right to work and right to own property, including popular versions on laws relating to these rights prepared by government and non-government actors.
- Members of the public to report violations of their economic and social rights to relevant authorities, including trade unions and the Commission on Human Rights and Good Governance.



- In order to promote and ensure quality education, the ministry responsible to ensure school inspections are conducted regularly and meals are available at primary schools, especially in rural areas.
- Community members to write wills to safeguard property and inheritance rights.
- The private sector to continue supporting the Government to address key challenges in health, education, and water sectors, as part of their corporate social responsibility.
- Community members to mobilize themselves and help the Government in addressing some of key challenges in the education sector, such as shortage of desks and shortage of toilets/toilet holes.
- Members of the public to refrain from damaging infrastructures, especially water infrastructures.

7.2.3. Collective Rights

- The Government, through relevant agencies such as ZAECA and the Zanzibar Revenue Board (ZRB), to take measures to address issues of corruption and tax avoidance and evasion as a way of safeguarding collective rights, especially the right to development.
- The Government to ensure respect of human rights in the course of attracting investment and ensure investors comply with Tanzanian laws and respect human rights in their operations.
- CSOs and the Commission for Human Rights and Good Governance (CHRAGG) to raise public awareness on right to development and right to benefit from natural resources.
- Community members are encouraged to preserve and protect natural resources, which is their constitutional duty.
- Community members are also encouraged to pay their taxes, since these are key in realization of the right to development.

7.2.4. Rights of Vulnerable Groups

- The Government, through the ministry responsible for women and the Zanzibar Law Review Commission, to review, amend and repeal all discriminatory laws which continue to deprive women of their rights, which are contrary to fundamental principles of human rights as provided for in various regional and international conventions ratified by Tanzania.
- The Government to collaborate with CSOs to increase public awareness raising on GBV and VAC.
- The Government to consider gender parity and equality in leadership and decision-making positions in order to increase female representation.
- The Government to ensure increase of employment and economic



opportunities for persons with disabilities and address all forms of violence and discrimination against them.

- CSOs and social welfare departments within local governments to increase awareness on violence against women and children and encourage community members to report incidents to relevant authorities so that the perpetrators can be brought to justice.
- CSOs to continue raising awareness on the rights of the elderly and PWDs and conduct campaigns on ending violence and discrimination against the elderly and PWDs.
- Community members to perform their duties of protecting and safeguarding children's rights refraining from conducting acts of abuse to children.
- Community members to refrain from discriminating all children, including street children and children with disabilities.
- Community members to refrain from protecting perpetrators of violence against children simply because they need 'to conceal family shame.'
- Women and children to come forward and report acts of violence against them in order to receive relevant assistance, including legal and health services. They are also encouraged to cooperate with the Prosecution and social welfare officers, including testifying in court, in order to ensure perpetrators of violence are held accountable and justice is achieved.

7.2.5. Human Rights Mechanisms

- The Government to strengthen national human rights mechanisms to ensure better protection of human rights.
- ZAECA to intensify efforts to address corruption within the national human rights mechanisms and ensure individuals are held accountable.
- CSOs to collaborate with CHRAGG to build capacity for national human rights mechanisms officials to apply a rights-based approach in their work.
- CSOs to engage human rights mechanisms at national, regional, regional, and international levels as a way of promoting and protecting human rights.
- CSOs to sensitize the public about different national, regional, and international human rights mechanisms accessible to Zanzibaris and their role in promoting and protecting human rights.
- Members of the public to engage different levels of human rights mechanisms, either individually, or with assistance of CSOs when their human rights are violated, as a way of seeking remedy.





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