

**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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TANZANIA HUMAN RIGHTS REPORT 2023

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

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Dr. Anna Henga
LHRC Executive Director

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LIST OF ACRONYMS & ABBREVIATIONS

| | |
|---------------|--|
| ACERWC | African Committee of Experts on the Rights and Welfare of the Child |
| ACHPR | African Charter on Human and Peoples Rights |
| ACRWC | African Charter 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 |
| CSOs | Civil Society Organizations |
| CVAWG | Cyber Violence against Women and Girls |
| 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 |
| LG | Local Government |
| LGAs | Local Government Authorities |



| | |
|----------------|---|
| LHRC | Legal and Human Rights Centre |
| MoCGWSG | Ministry of Community Development, Gender, Women and Special Groups |
| MPs | Members of Parliament |
| NBS | National Bureau of Statistics |
| NCII | Non-Consensual Intimate Image |
| NEA | National Elections Act |
| NEC | National Electoral Commission |
| NEMC | National Environmental Management Council |
| PCCA | Prevention and Combating of Corruption Act |
| PCCB | Prevention and Combating of Corruption Bureau |
| PLHIV | Persons living with HIV/AIDS |
| PWAs | Persons with Albinism |
| PWDs | Persons with Disabilities |
| RC | Regional Commissioner |
| REO | Regional Environmental Officer |
| RSWO | Regional Social Welfare Officer |
| 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 |
| UNESCO | United Nations Educational, Scientific and Cultural Organization |
| UNGA | United Nations General Assembly |
| 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 2023

Corruption and mismanagement, misuse, and embezzlement revealed in CAG reports, released in March 2023

Amendment of the Media Services Act 2016

Release of the Report of the Presidential Taskforce on Criminal Justice

EAC judgement on civil servants as returning officers

African Court judgement on right to bail

High Court judgement on political candidates running and winning unopposed

Review and introduction of the new Education and Training Policy

Toto Afya Card health insurance package removal

Establishment of the Tanzania Network against Human Trafficking (TANAHUT)

Lifting of the ban on political rallies

Enactment of the Universal Health Coverage (UHC) law

Introduction and implementation of the nationwide Mama Samia Legal Aid Campaign



KEY HIGHLIGHTS

| | | |
|---|--|--|
| 1 | Intimate partner homicide (IPH) | <ul style="list-style-type: none"> ■ More reported incidents in 2023. ■ Caused by intimate partner violence (IPV), continued to be a serious concern. ■ Mostly affecting the right to life, right to health, right to personal security, and freedom from violence. ■ Women constituting overwhelming majority of victims (90%). ■ Fears of more unreported incidents. |
| 2 | Violence against women & children | <ul style="list-style-type: none"> ■ Sexual violence against children (rape and sodomy), the biggest threat to their rights. ■ Physical violence the biggest concern for women, especially among those in relationships (with a partner/husband). ■ Economic violence a concern for women and girls: Including denial of property and inheritance rights for women and girls; denial of education for girls and boys; denying women access to family income, especially in rural areas; and eviction of widows from marital homes, usually by in-laws. |
| 3 | Criminal justice | <ul style="list-style-type: none"> ■ Many problems and challenges in the criminal justice chain, according to the Presidential Commission on Criminal Justice Reforms. ■ Use of excessive force when arresting suspects a key concern. ■ Immediate and concrete action, including legal reforms, needed to address key challenges, including corruption, delays in investigations and lengthy pre-trial detention. |
| 4 | Violence against the elderly | <ul style="list-style-type: none"> ■ Elderly men and women subjected to different acts of physical, sexual, psychological, and economic violence. ■ Some older persons attacked and killed over witchcraft suspicion and property. ■ More reported incidents of violence against the elderly. |
| 5 | Access to quality health services | <ul style="list-style-type: none"> ■ A key concern for older people, still facing challenges getting quality health services despite the existence of free-medical services policy. ■ Budgetary constraints and shortage of healthcare workers among key challenges hindering effective realisation of the right to health. ■ Maternal healthcare challenges, including shortage of beds in labour wards and neglect by nurses. ■ Menstrual health and hygiene a key challenge for many women and girls, especially in rural areas. ■ Mental health problems driving people to commit violence and suicide. |



| | | |
|----|---|---|
| 6 | Witchcraft-motivate killings | <ul style="list-style-type: none"> ■ Systematic and carried out by individuals or groups, including family members and close relatives. ■ Older people, especially women, mostly targeted, attacked, publicly humiliated, and sometimes killed. ■ Witchdoctors at the centre of most killings, especially through their practice of divination (popularly called ramli by the natives). ■ The Kamchape witchcraft eradicator in Kigoma ‘exposing’ witches and helping to ‘hold them to account.’ |
| 7 | Climate change impacts | <ul style="list-style-type: none"> ■ Impacted livelihoods, environment, and human rights in various ways, including floods, house and infrastructure destruction, drought, and decreased production. ■ Affected fundamental rights included right to life, right to adequate standard of living (food and shelter), right to health, right to clean and safe water, right to clean and healthy environment, and right to development. ■ Community members’ awareness of climate change and its impacts still generally low. |
| 8 | Torture | <ul style="list-style-type: none"> ■ Increase of reported torture incidents. ■ Incidents include those of Maasai in Ngorongoro District. ■ Child torture incidents also a key concern, as is of individuals under custody of law enforcement officers. |
| 9 | Corruption and mismanagement, misuse, and embezzlement of public funds | <ul style="list-style-type: none"> ■ Various flaws and gross financial irregularities in public spending, pointing to corruption and related offences, once again exposed in CAG reports. ■ Findings of the CAG reports reveal a serious problem of lack of accountability for individuals and institutions with regards to public funds. ■ Right to development the most affected right, especially the aspects of economic and social development. ■ Lost funds could significantly improve enjoyment of socio-economic rights. |
| 10 | Property rights | <ul style="list-style-type: none"> ■ Land disputes and conflicts pose threats to realisation of the right to property. ■ Reported violations of property rights of pastoralists, requiring legal reforms and other measures. ■ Customary laws are the biggest barrier to women’s and girls’ property and inheritance rights. ■ Violation of elderly property rights, mostly by their own children. |
| 11 | Health insurance | <ul style="list-style-type: none"> ■ Introduction of universal health coverage (UHC) presenting a new hope in safeguarding the right to health |



EXECUTIVE SUMMARY

Introduction

This is the 22nd report to be produced by LHRC since 2002. The report discusses the situation of human rights in Tanzania for the year 2023, covering both Mainland Tanzania (Part One) and Zanzibar (Part Two). 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. The report is informed by both primary and secondary sources of data.

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 deteriorated in 2023 compared to the previous year of 2022. Children continued to constitute the majority of victims of reported and documented incidents of human rights violations (45%), decreasing from 47% in 2022; followed by women (30%), from 33% in 2022; the elderly (12%), from 10% in 2022; men (10%), from 6% in 2022; and PWDs (3%), from 4% in 2022. The most violated human rights were right to life, freedom from violence, right to equality before the law, right to liberty and personal security, and freedom from torture.

KEY FINDINGS

1. CIVIL & POLITICAL RIGHTS

Key issues affecting enjoyment of civil and political rights included killings, press freedom violations, violence, barriers to access to justice, and criminal justice challenges.

Right to Life

In 2023, right to life in Mainland Tanzania continued to be violated by acts and issues such as mob violence, extrajudicial killings, witchcraft-motivated killings, death penalty, intimate partner homicide (IPH), disappearances, and road accidents.

- LHRC documented 42 incidents of mob violence, which are two more than those documented in 2022. However, a lot more incidents are usually documented by the Tanzania Police Force, usually over 400 incidents since 2020.
- The majority of the mob violence victims ranged from 15 to 40 years, most of them youth. Among the victims were two children, aged 15 and 17 years.
- Seven (7) incidents of extrajudicial killings were documented by LHRC, three



less than those documented in 2022.

- Incidents of witchcraft-motivated attacks and killings continued to be a problem in 2023, with older persons, especially women, constituting the majority of the victims. LHRC documented 12 incidents of witchcraft-motivated killings, which are five less than those documented in 2022.
- Unlike in the previous two years, in 2023, LHRC did not document any incident of attack or killing of persons with albinism (PWAs) for their body parts. However, PWAs continued to live in fear and renewed collaborative efforts are needed to protect them so that they can enjoy their human rights equally with others.
- LHRC documented 37 reported death sentences imposed by the High Court, whereby nearly all the convicts (94%) were male. Mandatory death penalty also continues to exist.
- LHRC documented 50 incidents of intimate partner homicide (IPH), in which 45 of the victims (90%) were female, and 5(10%) were male. The number of incidents is 17 more than those documented in 2022.
- In 2023, there were still no answers from the State regarding disappearances of various people in the past seven years, including that of a journalist, Azory Gwanda, who disappeared under mysterious circumstances in Pwani Region in November 2017.
- Despite the progress made in reduction of road accidents, over 500 people continue to lose their lives each year because of road accidents, majority of them caused by negligence, especially over speeding, reckless driving, drink-driving, driving defective vehicles, and brake failure.

Freedom of Expression

Key freedom of expression issues and violations in Mainland Tanzania included partial amendments to the Media Services Act and attacks of journalists.

- The Media Services Act (MSA) of 2016 was finally amended albeit only partially, contrary to the judgement of the East African Court of Justice (EACJ) of 2019. Expectedly, there was not much enthusiasm from media freedom stakeholders.
- Other laws such as s Act 2015 and the Regulations 2020 to arbitrarily restrict expression.
- While journalists and are happy with media landscape administration, they the freedom of the media in Tanzania could not be ensured until the laws are changed.
- Fewer journalists attack incidents were reported in 2023. LHRC documented

31%
provisions found by
EACJ to violate freedom
of expression amended
in MSA in 2023.

the Cybercrime Online Content also continued online freedom of

acknowledge the improved under the Samia 'underscored that

two incidents, reported in Dar es Salaam and Arusha.

- Tanzania dropped 20 places, from 123 in 2022 to 143 in 2023, in the World Press Freedom Index, prepared by Reporters Without Borders (RSF).

Freedoms of Assembly and Association

Key freedoms of assembly and association issues and violations in Mainland Tanzania included official lifting of ban on political rallies and arbitrary denial of holding rallies. Stakeholders lauded the move by the Government to lift the ban, imposed in 2016, but called for amendment of laws, including the Political Parties Act and Police Force and Auxiliary Services Act (Cap 322) to better safeguard freedoms of association and assembly. On the other hand LHRC documented three reported complaints of arbitrary restriction on freedoms of assembly and association, including holding rallies.

Rights to Equality before the Law and Effective Remedy

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; barriers to access to justice; criminal justice challenges, including right to fair trial violations; and juvenile justice.

- Community members reached by LHRC's survey mentioned corruption as the biggest barrier to access to justice, at 78%, followed by lengthy court proceedings (49%), low awareness about laws (48%), and costs of legal representation (39%).
- Low awareness about rights was also mentioned as a challenge in accessing and obtaining justice in all surveyed regions.
- Lack of adequate funding is indeed a big challenge for sustainability of paralegal legal aid services, while LHRC also observed that the Legal Aid Act of 2017 is also presenting challenges in recruitment and training of new paralegals in terms of high costs of doing so.
- Criminal justice institutions with arresting powers were said to usually use excessive force when arresting suspects, causing them pain and suffering.
- Corruption was identified as the most serious problem in criminal justice by the majority of community members, nearly two thirds (62%), followed by delays in investigations (43%), frequent adjournment of cases (41%), delays in disposal of case (39%), and lengthy pre-trial detention (35%).

Right to Liberty and Personal Security

Key right to liberty and personal security issues and violations included arbitrary arrest and detention; denial of bail; trumped-up charges; and human trafficking.

- Reported incidents of major crimes³ increased from 43,771 in the period of July 2021 to May 2022 to 45,455 from July 2022 to May 2023. Contributing factors included people punishing other people (taking the law into their

³ Major crimes include murder, robbery, burglary, arson, rape, abduction, illegal possession of government trophies, and economic crimes. They usually attract a prison sentence of more than a year.



- own hands), jealousy, belief in witchcraft, and land and inheritance disputes.
- Reported threats to personal safety and security included brutal killings and acts of violence, including GBV.
 - Digital insecurity also continued to pose a threat to personal safety and security.
 - LHRC documented 51 incidents of arbitrary arrests and detention, 39 more than those documented in 2022. LHRC also documented nine reported cases of trumped-up charges, but fears more incidents go unreported.
 - LHRC documented 21 incidents of denial of bail, all of them police bail, three more incidents than those documented in 2022.
 - Presidential commission on criminal justice reforms recommended amendment of the Economic and Organized Crime Control Act (CAP 200) and the Criminal Procedure Act (CAP 20) to grant the court power to deny or grant bail.
 - Human trafficking continued to be a threat to right to liberty and personal security as well as other fundamental human rights. LHRC documented 15 incidents of human trafficking, mostly of children, three more than those documented in 2022. In May 2023, the Ministry of Home Affairs told the Parliament that a total of 190 victims of human trafficking, 184 of them Tanzanians, had been rescued by the ministry in collaboration with stakeholders in the period of July 2022 to May 2023.

Right to Take Part in Governance

Key right to take part in governance issues included gaps in governing laws, amendments to electoral and political party laws and court judgements on MPs running unopposed. Key gaps, including gender gaps, in the Constitution and other laws such as the Political Parties Act and the National Elections Act, are yet to be addressed ahead of the 2024 and 2025 elections. In November 2023, three bills were tabled in Parliament for first reading, namely the Presidential, Parliamentary and Local Government Elections Bill; the Political Parties Affairs Laws (Amendment) Bill; and the National Electoral Commission (NEC) Bill. Stakeholder analysis showed that the proposed amendments to the Political Parties Act were inadequate and did not change the Act in any major way. In March 2023, the High Court delivered its judgement in the case regarding provisions of the National Elections Act and the Local Government (Elections) Act which allow unopposed candidates for member of parliament and councillorship seats. The court ruled that the provisions are unconstitutional, and therefore null and void for offending the provision of Article 21(1) and (2) of the Constitution.

Freedom from Torture and Inhuman or Degrading Treatment

In 2023, incidents and complaints about torture were widely reported across Mainland Tanzania. LHRC documented 57 such incidents, increasing from 44 in 2023.

Freedom from Violence

Some members of different groups, including women, children, men, PWDs, and the elderly were subjected to different acts of physical, sexual, economic, and psychological violence. Majority of the victims of violence were children, followed by women.

Men were also subjected to different forms of violence. LHRC documented 27 incidents of violence against men (VAM), increasing from 9 incidents documented in 2022. Official police statistics indicate that a total of 35,013 VAM cases were reported in the period of 2019 to 2021, averaging 11,671 incidents per year and 973 per month. 2% of women aged 15-49 who have ever had a husband or intimate partner have initiated physical violence against their husband or intimate partner when he was not already beating or physically hurting them. Men are less likely to report violence due to shame stemming from patriarchal beliefs related to masculinity and not being taken seriously when they report.

Right to Privacy

In 2023, one of the key issues which raised concern over enjoyment of the right to privacy was imposition of a ban on the use of Virtual Private Networks (VPN) without a permit by the Tanzania Communications Regulatory Authority (TCRA) in October 2023, a decision which has far-reaching implications for the digital rights and freedoms of Tanzanian citizens. The personal data protection law, enacted in 2022, also needs to be amended to bring it in line with international human rights standards, but this is yet to be done.

2. ECONOMIC, SOCIAL, & CULTURAL RIGHTS

Key issues affecting enjoyment of social, economic, and cultural rights included budgetary constraints; delays in disbursement of funds; poor working conditions; unemployment; shortages of workers; shortages of equipment, tools, and facilities; labour rights violations; and different forms of violence, especially against children, women, and PWDs.

Right to Education

The Government continued to take various measures to ensure progressive realisation of the right to education, including implementation of the fee-free education policy. However, various challenges persisted, key among them budgetary constraints and shortages of teachers, teacher houses, classrooms, and toilet holes. Budget for the education sector increased for the financial year 2023/24, but still fell short of the 20% of the national budget standard. Budget for implementation of fee-free education is also inadequate. All these factors continued to affect the education quality.



Community members who participated in LHRC's human rights survey in 2023 identified shortage of teachers (46%) as the leading issue affecting effective realization of the right to education, followed by inadequate cooperation from parents (43%), child/teenage pregnancy (42%), and shortage of classrooms (41%).

Nearly two thirds (62%) of interviewed community members said they have ever heard about incidents of parents telling their children to deliberately fail their national examinations. Such incidents were also widely reported in 2023.

Menstrual hygiene problems affect girls' right to education, contributed by lack of sanitary pads, limited access to clean and safe water, dirty toilets, and lack of changing rooms for girls. Girls in rural areas are disproportionately affected. Most girls, especially in rural areas, also cannot afford sanitary pads, hence settling for makeshift ones.

In 2023, various stakeholders proposed for education about gender-based violence (GBV) and human rights to be incorporated into the education curricula in Tanzania.

Right to Health

Key right to health issues and violations in Mainland Tanzania included budgetary constraints; shortage of healthcare workers; mental health problems; shortages of equipment, medicines, and medical supplies; and maternal health challenges.

50%
Worker shortage
in the health
sector.

- Budget allocated for the health sector increased for the financial year 2023/24, but still fell significantly short of the 15% of national budget standard, as it was equivalent to only 5.4% of the national budget.
- The Universal health coverage (UHC) law was finally enacted, a key milestone in safeguarding the right to health. However, removal of the Toto Afya Card health insurance package brought key concerns for children's access to health services.
- Healthcare worker shortage is also a key concern in provision of quality health services.
- Women's right to quality maternal healthcare continued to be affected by various issues and challenges in the health sector, especially in public hospitals, including long distance to health facilities; shortage of medicines and medical supplies; shortage of health workers, including nurses; and acts of violence perpetrated against them. These challenges contribute to maternal mortality.
- Shortage of beds in labour wards, especially in public health facilities, was widely reported in 2023, causing pregnant women to share beds. There

were also complaints in some parts of the country of women being made to pay for delivery services, which are supposed to be free of charge.

Nearly **80**
maternal deaths
occur each
month.

- Menstrual health and hygiene still a challenge for many women and girls across the country, especially in rural areas. Access to sanitary pads is particularly a key concern. Most used pad among women aged 15-49 is cloth (53%), followed by disposable pads (37%). Women in rural areas (63%) are more likely to use cloth

than those in urban areas (37%)

- Mental health also continued to be a key challenge, especially among youth, driving some of the people to commit suicide. LHRC documented 57 incidents of suicide, 22 more than those documented in 2022. 79% of the victims were male, especially youth, and a quarter of the victims were children.

Right to Water

Despite the government efforts, right to clean and safe water continued to be affected and hindered by several key issues and challenges, including budgetary constraints; water leakages and loss; lack of or limited access to clean water in some areas; and climate change impacts. While trends show the budget for the water sector has been slightly increasing since 2021/22, the funds remain short of the recommended 5.5% of the national budget benchmark, as well as other standards. Human activities were said to contaminate water sources in different parts of the country. Climate change caused delays in rainfall, drought, and floods, which contributed to drying up of water sources, damage of water infrastructure, and water rationing.

Right to Work

Key right to work issues and challenges included labour rights violations, poor working environment, and low awareness about labour laws and rights. In 2023, LHRC received 2,653 new labour rights violations complaints, of which 624 were filed by women (24%) and 2,029 by men (76%). The overwhelming majority of the complaints (54%) were of unfair termination, followed by benefits (29%). Systemic violations of the rights of workers are a key challenge. Violations of labour rights of domestic workers were also widely reported, including non-payment of wages and paying of wages below the minimum wages. PWDs continued to lament discrimination in the job market. Additionally, non-remittance of social security contributions continued to violate labour rights.

Right to Own Property

Key right to own property issues and violations in Mainland Tanzania included land conflicts/disputes and property grabbing from women and elderly people.



Land disputes and conflicts were found to be a top challenge facing the pastoralists across Mainland Tanzania. Pastoralists expressed huge concerns over violations of their property rights, especially confiscation and auctioning of livestock as a way of penalizing them for their livestock entering national parks and other protected areas.

In 2023, LHRC documented land disputes reported in Shinyanga, Mbeya, Kigoma, Arusha, Lindi, Mwanza, Dodoma, Manyara, Singida, and Tanga Regions. Some of the disputes were reported to lead to death and property destruction. Land disputes between farmers and pastoralists were particularly deadly, as has been the case in the past.

LHRC's legal aid clinics in Dar es Salaam, Arusha, and Dodoma received a total of 12,205 land rights violations complaints, of which, 4,225 (35%) were filed by women and 7,980 (65%) by men. The overwhelming majority of the land disputes (98%) related to land ownership.

Right to Adequate Standard of Living

Key issues affecting the right to adequate standard of living in Mainland Tanzania included food insecurity; access to nutritious food; food affordability; and inadequate housing. Some parts of Mainland Tanzania were said to be experiencing food insecurity. According to a food insecurity report about 900,000 people in 21 district councils of Mainland Tanzania, especially Longido and Monduli, were experiencing high levels of acute food insecurity.

Regarding shelter, Tanzania is faced with shortage of 3.8 million houses, while prices for building materials across the country have significantly increased, making it difficult for people to afford adequate housing.

Right to Social Security

Key issues affecting enjoyment of the right to social security included health insurance, including universal health insurance (UHC) law introduction, and non-remittance of social security contributions. In 2023, some employers were accused of non-remittance of social security contributions, like it was the case in the previous years.

3. COLLECTIVE RIGHTS

Key issues affecting enjoyment of collective rights included mismanagement, misuse, and embezzlement of public funds; environmental pollution and degradation; and climate change impacts.

Right to Development

In the past, bilateral investment treaties (BITs) have hurt Tanzania through losing investment disputes and having to pay huge compensation, affecting

the right to development. In 2023, a huge public debate ensued when the details of the agreement between Tanzania and Dubai-based DP World were revealed (the DP World saga). Overall, various stakeholders were concerned with the vagueness, doubts, and ambiguities within the agreement and warned that if unamended or removed, the provisions have a potential to lead to costly disputes during the implementation of the agreement.

Another key public concern regarding the right to development in 2023 was reports and incidents of mismanagement, misuse, and embezzlement of public funds highlighted in the CAG reports, indicating corruption and fraud.

Right to Enjoy and Benefit from Natural Resources

Key issues affecting the right to enjoy and benefit from natural resources in Mainland Tanzania included corruption and mismanagement, misuse, and embezzlement of public funds, as revealed in various CAG reports released in March.

Right to Clean and Healthy Environment

Key issues affecting the right to a healthy and sustainable environment included environmental pollution and degradation, disregard of environmental impact assessment, and climate change impacts.

79% of community members who participated in LHRC's human rights survey in 20 regions of Mainland Tanzania said environmental pollution is a concern in their community. Soil/land pollution was mentioned the most (44%) as the common type of environmental pollution.

In the financial year 2022/23, NEMC received a total of 317 environmental pollution and degradation complaints, including noise and vibration, air pollution, land pollution, and water pollution.

Less than a quarter (21%) of community members reached by LHRC in 2023 said they were very well informed (8%) and well informed (13%) about climate change and its impacts. Climate change impacted livelihoods, environment, and human rights in various ways, including through floods, house and infrastructure destruction, drought, and decreased production. Affected rights included right to life, right to adequate standard of living (food and shelter), right to work, right to family, right to health, right to peace, and right to development.

4. RIGHTS OF VULNERABLE GROUPS

Key issues affecting enjoyment of rights of special groups included discrimination and different forms of violence.



Women's Rights

Gender based violence (GBV) continued to be the biggest threat to women's rights. Police gender desk data for the period of July 2022 to May 2023 showed that a total of 14,184 incidents of GBV and violence against children (VAC) were reported at police stations, increasing from 12,642 incidents in 2021/22, equal to a 12.2% increase. Over two thirds of the victims are usually women.

61% of incidents of incidents of violence against women (VAW) documented by LHRC in 2023 were incidents of physical violence, followed by sexual violence (20%), and economic violence (19%). The main perpetrators of VAW were men, particularly intimate partners, and most of the incidents occurred in home settings (domestic violence).

Over a quarter of women in Tanzania (27%) aged 15 to 49 years old have ever experienced physical violence since age 15, and 18% have experienced such violence in the last 12 months.

Two in five ever-partnered women have experienced intimate partner violence (IPV), and a third (33%) have experienced such violence in the last 12 months. IPV is mostly prevalent in Lake (48.6%), Central (48%), Western (42.1%), Southern Highlands (41.9%), and Northern (38.3%) Zones. IPV is experienced more by women (girls) aged 15-19 (37%) than older women in last 12 months – dangers of child marriage!

Incidents of IPV were widely reported in 2023 and LHRC documented 115 such incidents. One of the major consequences of IPV is intimate partner homicide (IPH), and in 2023, LHRC documented 50 incidents of IPH, whereby 45 of the victims (90%) were female, and 5(10%) were male. These are 17 more than those documented in 2022.

Psychological VAW is also a key concern, and common acts include verbal abuse, humiliation, neglect, and abandonment.

Sexual violence is also a problem for women in Mainland Tanzania. Regions with highest percentages of sexual violence (20%) are Kagera, Mwanza, and Mara, while Mtwara has the lowest percentage (1%). 20% of incidents of VAW documented by LHRC in 2023 were sexual violence. They included rape, sextortion, and sexual harassment.

Incidents of economic VAW were also widely reported in 2023. LHRC documented 323 economic VAW incidents through human right monitoring and surveys. This type of VAW is more prevalent in rural areas.

Cyberviolence is also a key challenge for women. Nearly two thirds of

community members (62%) engaged by LHRC in 2023 said it is a problem (34%) and a serious problem (28%) in their community. LHRC documented 22 incidents of cyberviolence against women reported in some surveyed regions. Perpetrators are mostly current and former lovers, some of whom blackmail women for money or staying in relationship with them in exchange for not posting or sharing nude photos and videos.

Key challenges in addressing VAWC include discriminatory customs and traditions, acute shortage of social welfare officers (SWOs), budgetary constraints, coordination challenges, and ineffectiveness of NPA-VAWC committees.

Women's effective political participation continued to be hindered by various socio-economic and legal hurdles, including gender gaps in electoral and political parties laws. Violence against women in politics (VAWP), inadequate support from political parties, and inadequate representation in party decision-making structures are also key concerns for women as we head towards the 2024 and 2025 elections.

Women also face various barriers to access to justice, including not knowing where to file a complaint, poverty and costs of legal representation, patriarchy, low legal awareness, corruption, discriminatory customs and traditions, and access to legal aid services.

Children's Rights

Children across Mainland Tanzania continued to be subjected to various forms of violence, including physical, sexual, psychological, and economic violence. LHRC documented 464 incidents of violence against children (VAC), increasing from 350 documented in 2022 through media survey and human rights monitoring. Sexual violence continued to account for the majority of reported incidents, at 79%.

Analysis of police data on VAC in recent years has shown that over 30 incidents of VAC occur in Tanzania each day, and that over two thirds of the victims (8 out of 10 children) are girls.

Sexual violence (especially rape and sodomy) is the biggest concern for children. Perpetrators include fathers and stepfathers, whose motivations for committing such acts of violence include to get rich, as directed by witchdoctors. Girls account for over 80% of rape victims (women and girls), while boys account for 87% of child sodomy victims.

Incidents of child-on-child sexual abuse and boychild sexual abuse were also widely reported in 2023. LHRC documented 87 incidents of boy child sexual abuse in 2023, which are 79 less than those documented in 2022. However, on



average, 900 child sodomy cases are reported to the police each year.

Physical VAC is also common across Mainland Tanzania. Children were subjected to acts of violence such as beating, burning of body parts, torture, rape, attempted rape, sextortion, sexual harassment, humiliation, and verbal abuse. Perpetrators included parents, grandparents, uncles, relatives, teachers, and strangers.

Psychological VAC, especially child neglect and abandonment also continued to be a key challenge for children, as did child labour and exploitation.

Child marriage and pregnancy also continued to be key hindrances for girls. In 2023, LHRC documented 14 incidents of child marriage, two less than those documented in 2022. Tanzania is yet to amend the Law of Marriage Act to abolish child marriage, contributing to child marriage. Other drivers of child marriage include poverty, social acceptance of child marriage, FGM, discriminatory customs and traditions, child neglect, and gaps in the legal protection of girls' rights.

Child pregnancy: 22% of women aged 15-19 in Tanzania have ever been pregnant and 6% are currently pregnant.

FGM: Government statistics indicate a declining rate of FGM in Tanzania. For instance, the rate of FGM/C has declined from 18% in 1996 to 8% in 2022, equal to a 10% decline. In 2023, LHRC documented 76 incidents of FGM/C reported in Mara, Dodoma, and Singida.

Child trafficking is a key safety and security concern for children. In 2023, LHRC documented 15 incidents of human trafficking through human rights monitoring, 11 of which (73%) were child trafficking incidents. In May 2023, it was reported that 190 victims of human trafficking, of whom 73% were children, were rescued in Tanzania.

Rights of Persons with Disabilities

Key issues affecting the rights of PWDs included limited access to employment and economic opportunities, including discrimination in employment, and stigma and discrimination. Community members who participated in LHRC's human rights survey mentioned stigma and discrimination (48%) as the biggest challenge for PWDs, followed by poverty and unreliable source of income (44%) and unfriendly infrastructure (42%).

Rights of the Elderly

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, especially over witchcraft suspicion and property; and social protection. Community members who participated in LHRC's human rights survey mentioned poverty and unreliable source of income (57%) as the biggest concern for the elderly, followed by limited access to quality health services (45%), food insecurity (40%), childcare burden imposed by their own children (38%), and neglect/social exclusion (36%). Interviewed older people also mentioned access to quality health services as a big challenge for them, largely due to not quite enjoying entirely free-medical services.

Some older persons were subjected to different forms of violence, including physical, sexual, economic, and psychological violence. In 2022, LHRC documented 24 incidents of violence against the elderly. The elderly also mentioned lack of adequate social protection, including lack of universal pension scheme, as a key challenge. Majority of the interviewed older people also called for enactment of the elderly protection law, akin to the one in Zanzibar.

Youth Rights

In 2023 LHRC observed that employment; underemployment; quality education; mental health and access to quality health services; violence; and limited participation in decision-making continued to be key concerns for youth.

Rights of PLIHVs

Stigma and discrimination remain key concerns for PLHIVs in Tanzania. 28% of women and 27% of men aged 15 to 49 years express discriminatory attitudes towards PLHIVs. The discriminatory attitudes tend to be more common in rural areas and decrease with increasing education and wealth. Widespread stigma and discrimination are said to adversely affect people's willingness' to be tested and their adherence to antiretroviral therapy (ART) and ART programmes.

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.

6. IMPLEMENTATION OF RECOMMENDATIONS OF PREVIOUS HUMAN RIGHTS REPORTS

In 2023, the percentage of implemented recommendations stood at 36%, increasing from 35% in 2022. Percentage of partially implemented recommendations also increased from 38% in 2022 to 40% in 2023, while the percentage of recommendations not implemented decreased from 26% in 2022 to 23% in 2023.

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 | This 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 special groups

This includes an elderly rights law and domestic violence/ GBV law. There is also need for stakeholders, including CSOs, to continue with campaigns for introduction of the universal pension scheme for the elderly.

Ensuring accountability of law enforcement officers when they violate human rights

Increasing budgetary allocations for education, health, water, and agriculture sectors in line with international minimum standards/benchmarks.

Addressing challenges faced by national human rights mechanisms

Setting aside adequate resources/budget for the implementation of the National Plan of Action to End Violence Against Women and Children

Increasing public awareness on human rights issues

Incorporating human rights education in curricula



CHAPTER ONE: INTRODUCTION

1.1. CONTEXTUAL OVERVIEW

1.1.1. Historical Overview

Prior to independence in 1961 and 1963, Tanzania (formerly Tanganyika and Zanzibar) was under the colonial rules of the Germans, British, and Arabs, largely characterized by massive human rights violations. These violations of the rights of the natives drove the two union countries, Tanganyika, and Zanzibar, to push for independence.⁴ After independence, Tanzania, born in 1964 following the union of the two countries, did not make much progress towards enhancing human rights protection until in 1984 when constitutional amendments were made to incorporate the Bill of Rights into the Constitution of Tanzania. This milestone, reached five constitutions later, marked the beginning of the journey of better protection of human rights in Tanzania, paving way for the 1992 constitutional amendments to introduce multiparty democracy and proliferation of human rights advocacy NGOs in the 1990s and 2000s.

1.1.2. Geography and Population

The Population of the country is rapidly growing, at the rate of 3.2 per annum.⁵ 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.⁶ 96.9% of the population resides in Mainland Tanzania, while the remaining 3.1% resides in Zanzibar. The majority of the country's population resides in rural areas, where the number of households found is high compared to urban areas. Distribution of the population categories based on age, sex, and location is provided below.⁷

| Category | Sex | | Total |
|----------|------------|------------|------------|
| | Urban | Rural | |
| Tanzania | 21,539,695 | 40,201,425 | 61,741,120 |
| Mainland | 20,613,420 | 39,237,927 | 59,851,347 |

⁴ TANU Political Party led by the late Julius Kambarage Nyerere in Mainland Tanzania and ASP Political Party in Zanzibar, led by the late Abeid Amani Karume.

⁵ 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>.

⁶ Ibid.

⁷ Ministry of Finance and Planning, Tanzania National Bureau of Statistics and President's Office - Finance and Planning, Office of the Chief Government Statistician, Zanzibar. *The 2022 Population and Housing Census: Age and Sex Distribution Report*. Tanzania, December 2022, at https://www.nbs.go.tz/nbs/takwimu/Census2022/Age_and_Sex_Distribution_Report_Tanzania_volume2a.pdf.



| | | | |
|------------------------|-----------|------------|------------|
| Children Tanzania | 9,283,834 | 20,973,362 | 30,257,196 |
| Youth Tanzania (15-35) | 8,664,902 | 12,647,509 | 21,312,411 |
| Children Mainland | 8,875,234 | 20,490,000 | 29,365,234 |
| Youth Mainland | 8,300,163 | 12,312,403 | 20,612,566 |

Source: Census 2022

Geographically, Tanzania is a beautiful country made of many mountains, lakes, rivers, national parks, and other tourist attractions. It boasts Mount Kilimanjaro, the highest mountain in Africa and the highest free-standing mountain in the world. There are also Lakes Victoria and Tanganyika, which are Africa's largest and deepest respectively, and many national parks, including the Serengeti National Park, famous for the massive annual migration of wildebeest and zebra.

1.1.3. Literacy

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. Adult literacy is lower among women compared to men, contributed by marginalization of women, especially in rural areas. 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.

1.1.4. Economic Situation

Despite the setbacks of the Covid19 years of 2020 and 2021, Tanzania has enjoyed gradual economic growth.⁸ 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

1.1.5. Political and Governance Systems

Since 1962, Tanzania has been governed by six presidents, namely: the late Julius Kambarage Nyerere (1962-1985), the late 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). H.E Samia Suluhu Hassan is the first ever female President of the United Republic of Tanzania.

The Tanzanian Government structure comprises the Executive, the Legislature,

⁸ See African Development Bank Group, *Tanzania Economic Outlook*, at <https://www.afdb.org/en/countries-east-africa-tanzania/tanzania-economic-outlook>.

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.



and the Judiciary, established under Article 4 of the Constitution of the United Republic of Tanzania of 1977.

| | |
|-------------------------------|---|
| Executive | <ul style="list-style-type: none"> ■ 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. ■ Government of the United Republic of Tanzania is in charge of all union matters and all matters of Mainland Tanzania. ■ Zanzibar has a semi-autonomous government that has the power over non-union matters in the Isles. |
| Legislature | <ul style="list-style-type: none"> ■ Consists of two parts: the President and the National Assembly. ■ Vested with legislative powers in relation to all Union Matters and in relation to all other matters concerning Mainland Tanzania. ■ The laws passed by the National Assembly shall apply also in Zanzibar if they address specifically designated union matters. |
| Judiciary¹¹ | <ul style="list-style-type: none"> ■ A constitutional organ and an arm of the State with final decision in dispensation of justice in the United Republic of Tanzania. ■ Judges are appointed by the President, in consultation with the Judicial Service Commission of Tanzania. ■ Magistrates are appointed directly by the Commission. ■ Zanzibar has its own Judiciary,¹² but under 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 Mainland Tanzania for the period of January to December 2023, looking at key human rights issues for the year in question. The report highlights positives in human rights protection and discusses gaps in human rights protection and incidents of human rights violations. The report also provides 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 acts 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 nine data sources, categorized as primary data and secondary data.

¹¹ 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.

¹² 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.

1.2.2.1. Primary Data

Primary data were mainly obtained through the Human Rights Survey 2023, LHRC's engagement with beneficiaries of its programmes, legal aid data, and human rights monitoring. The human rights survey was conducted in 20 regions of Mainland Tanzania.¹³ The main objective of the survey was to collect data to inform LHRC's assessment of human rights situation in Tanzania for the period under review.

Seven themes were covered in the survey, namely: violence against women and children (VAWC); cyberviolence; access to justice; environmental protection and climate change; criminal justice; protection of the rights of the elderly and PWDs; and access to education. LHRC targeted and reached community members, social welfare officers (SWOs), LG/street chairpersons, LGA environmental officers and NEMC officials, older people, PWDs, NGO official, and paralegals. Cluster sampling was employed in region sampling, while purposive and random sampling techniques were inclusively used to identify respondents. A total of 3,339 people were reached in line with sampling determination made using Calculator.net.

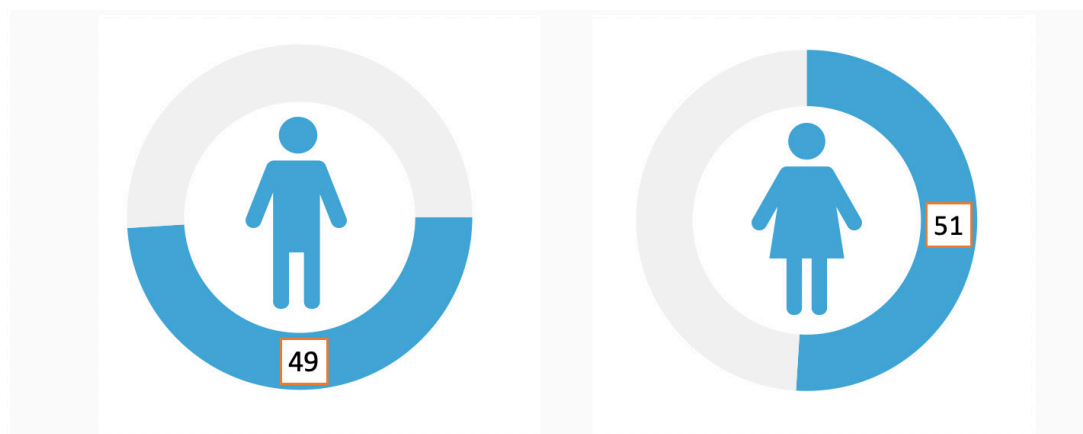


Figure 1: % Respondents by sex

Source: Field data, 2023

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 course, 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,

¹³ Dar es Salaam, Pwani, Mtwara, Morogoro, Dodoma, Tabora, Singida, Tanga, Kilimanjaro, Arusha, Iringa, Mbeya, Njombe, Ruvuma, Mwanza, Mara, Geita, Rukwa, Kigoma, & Manyara. At least 3 districts visited in each region.



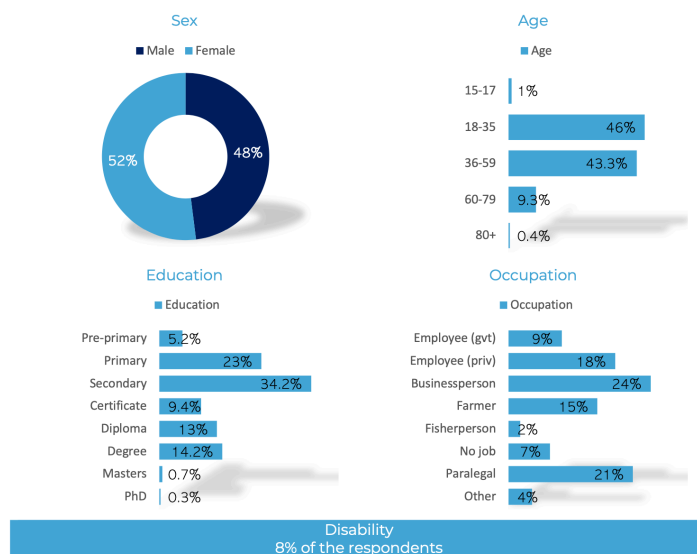
establishing frequencies and key variables. These data were further analysed and transformed into tables and figures by using Microsoft Excel and Microsoft Word. Qualitative data were grouped and analysed based on the various themes developed.

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 2023. Legal aid data is also an important data source, especially on issues around economic and social rights, such as property and land rights issues, access to justice, and criminal justice.

1.2.2. Secondary Data

Secondary data were obtained through review of various credible sources, including reports and statements by government and non-government actors. The data sources included 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; 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 | <ul style="list-style-type: none"> ■ Provides a short contextual overview of Tanzania and highlights report preparation, objectives, and structure |
| Chapter 2 Civil and Political Rights | <ul style="list-style-type: none"> ■ 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 | <ul style="list-style-type: none"> ■ 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 | <ul style="list-style-type: none"> ■ 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 Special Groups | <ul style="list-style-type: none"> ■ Covers rights of special groups, including women, children, PWDs, and the elderly. |
| Chapter 6 Human Rights Mechanisms | <ul style="list-style-type: none"> ■ Looks at human rights mechanisms at domestic, regional, and international levels and discusses their role in human rights protection. |
| Chapter 7 Implementation of Recommendations | <ul style="list-style-type: none"> ■ Assesses the status of implementation of the recommendations made in the previous human rights reports. |

1.3. CONSTITUTION, ACCOUNTABILITY, AND RIGHTS PROTECTION

A country's constitution is a key tool for the advancement of human rights. Provisions on fundamental rights and freedoms articulated in constitutions provide a strong legal means to facilitate States' duties to **respect, protect, and fulfil** human rights.¹⁴ Constitutions, including Tanzania's constitution, contain a list of rights, usually called 'Bill of Rights,' but also typically stipulate various human rights principles, including **accountability, rule of law, participation, and non-discrimination**. They also establish accountability mechanisms, which in the context of human rights include the Judiciary, and lists duties and responsibilities.

Ideally, constitutions **should also pay special attention to special groups**, including women, children, and PWDs. However, it has been observed that constitutions have historically done very little to protect these groups¹⁵. This gap is also observed in the Constitution of the United Republic of Tanzania,

¹⁴ . United Nations Development Programme (2023), Protecting Human Rights in Constitutions, UNDP, at <https://www.undp.org/sites/g/files/zskgke326/files/2023-10/undp-protecting-human-rights-in-constitutions.pdf>.

¹⁵ Protecting Human Rights in Constitutions (supra).



1977 and is one of the reasons a new constitution is desirable. Indeed, the draft constitutions written by the Constitutional Review Commission led by the former Prime Minister and Retired Judge, Joseph Warioba, in 2024, addressed this concern by including provisions on rights of specific special groups.

Accountability means the obligation of those in authority to take responsibility for their actions, to answer for them to those affected, and to be subjected to some form of enforceable sanction.¹⁶ It is the cornerstone of the human rights framework¹⁷, without which rights holders cannot hold duty bearers to account in accordance with their obligations. This makes this human rights principle such an important tool for enforcing human rights.

In recent years, stakeholders in Tanzania have repeatedly voiced their concerns over lack of accountability, including for corruption and mismanagement, misuse, and embezzlement of public funds, revealed in the Controller Auditor General (CAG) reports. This is evidence that the current constitution has failed to effectively ensure rights holders can hold to account duty bearers implicated in these actions, hence the need for a new constitution to better address accountability issues and in turn ensure better protection of human rights.

In LHRC's view the country needs to resume the constitutional review process as soon as possible, and as recommended by other stakeholders, we should go back to the second draft constitution drafted by the Warioba commission in 2014, as it largely represents the wishes of Tanzanians and could better address current accountability issues¹⁸.

1.4. OVERVIEW OF HUMAN RIGHTS SITUATION IN 2023

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 deteriorated in 2023 compared to the previous year of 2022. This was mainly attributed to violations of civil and political rights, especially the right to life, the right to freedom from violence, the right to equality before the law, and right to liberty and personal security.

Most reported and documented human rights issues

Like it was the case in 2022, in the year 2023 the most reported and documented

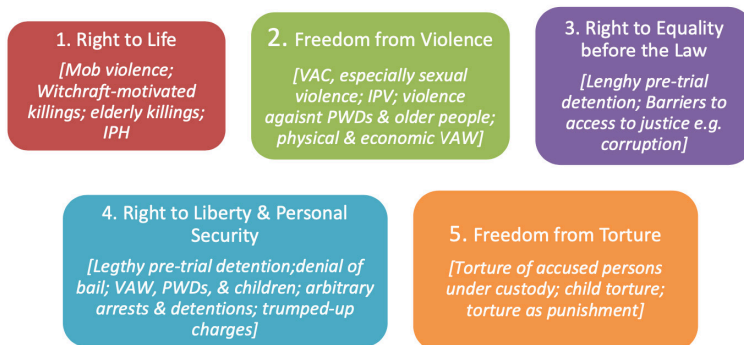
16 OHCHR, WHO WILL BE ACCOUNTABLE? Human Rights and the Post-2015 Development Agenda: Summary, at https://www.ohchr.org/sites/default/files/Documents/Publications/WhoWillBeAccountable_summary_en.pdf.

17 Ibid.

18 Nicodemus M Minde, 'Tanzania's pathway to a new constitution: genuine progress or political rhetoric?', ConstitutionNet, International IDEA, 31 May 2023, <https://constitutionnet.org/news/tanzanias-pathway-new-constitution-genuine-progress-or-political-rhetoric>.

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. Torture issues and incidents were also reported across Mainland Tanzania.

5 Most violated human rights in 2023



Other key human rights issues

Other key human rights issues for the year 2023 included 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, health insurance, and violations of property and inheritance rights of women (including widows).

Victims of human rights violations

Based on LHRC's human rights monitoring data, children continued to constitute the majority of victims of reported and documented incidents of human rights violations (45%), followed by women (30%), the elderly (12%), men (10%), and PWDs (3%).



■ Human rights violations victims

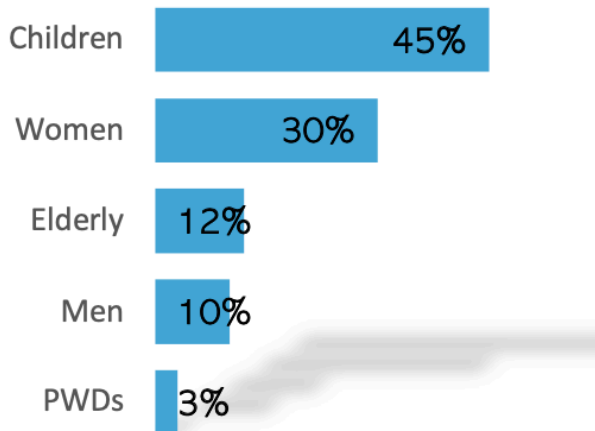


Figure 2: Victims of human rights violations based on reported incidents documented by LHRC in 2023

Source: Human Rights Monitoring 2023



CHAPTER TWO: 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 and non-state actors, promote participation in civil society, and are essential component of democracy. These rights are protected and guaranteed under international¹⁹ and regional²⁰ human rights instruments, as well as the Constitution of the United Republic of Tanzania of 1977.²¹

This chapter discusses the situation of some of the fundamental civil and political rights in Mainland Tanzania in 2023, looking at violations, issues, and positive developments.

In 2023, key issues affecting enjoyment of civil and political rights included killings, press freedom violations, violence, barriers to access to justice, and criminal justice challenges.

2.1. RIGHT TO LIFE

About the right

- Most fundamental human right and enshrined in all major human rights treaties.
- Imposes upon States and other actors 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 2023, right to life in Mainland Tanzania continued to be violated or affected by issues such as mob violence, extrajudicial killings, witchcraft-motivated

19 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.

20 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.

21 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.



killings, death penalty, intimate partner homicide (IPH), disappearances, and road accidents.

2.1.1. Mob Violence

In 2023, mob violence continued to pose a significant threat to the right to life, especially in Mainland Tanzania, where 95% of such incidents occur, based on analysis of reported incidents documented by the Tanzania Police Force (TPF). During this reporting period, LHRC documented 42 incidents of mob violence, slightly increasing from 40 documented in 2022. However, many more incidents are usually recorded by the TPF.

Incidents documented by LHRC were reported in 11 regions, namely Geita, Dar es Salaam, Shinyanga, Katavi, Lindi, Arusha, Mara, Kilimanjaro, Mwanza, Songwe, and Tanga. For instance, in Lindi an angry mob in Lindi Municipality reportedly beat and burned to death a young man in July 2023, following accusations of stealing cookware worth Tshs. 85,000.²² In the same month in Arusha, church members and other citizens beat to death Romani Leonard (30), believed to be mentally unstable, for killing a Catholic priest at a church in Karatu District.²³ In another incident reported in the region in January 2023, 32-year-old Nelson Mollel was brutally killed by being flogged 280 times by members of his tribe for insulting his mother.²⁴ In Tanga, a 24-year-old man, resident of Tanga City, was burned to death by a mob for allegedly stealing cows.²⁵ A similar incident occurred in Tarime District, Mara Region, claiming two lives.²⁶

The majority of the mob violence victims ranged from 15 to 40 years, most of them youth. Two of the victims were children, aged 15 and 17 years, killed in Katavi and Songwe respectively for theft and rape.²⁷ Majority of the victims of mob violence were killed because of theft. Police crime statistics indicate that more than 400 incidents of mob violence have been reported each year since 2020.

²² "Auwawa kwa kuchomwa moto tuhuma za wizi" Nipashe Newspaper, 20 Jul 2023.

²³ LHRC Human Rights Monitoring Report, July 2023; "Paroko auwawa kikatili kanisani" Nipashe Newspaper, 20 Jul 2023.

²⁴ "Aliyeuawa madai kuchapwa viboko kuzikwa leo" Nipashe Newspaper, 13 Jan 2023.

²⁵ LHRC Human Rights Monitoring Report, Sep 2023.

²⁶ "Wauwawa wakidaiwa kukutwa na ng'ombe watatu walioibwa" Nipashe Newspaper, 28 Jul 2023.

²⁷ LHRC Human Rights Monitoring Reports, March & April 2023; "Mwanafuzi auwawa madai kuiba duka la M-Pesa" Nipashe Newspaper, 8 Mar 2023; "Mtoto auwawa madai kujihusisha wizi, ubakaji" Nipashe Newspaper, 16 Apr 2023; "Mtoto auwawa Katavi akidaiwa kujihusisha na 'damu chafu'" HABARILEO Newspaper, 16 Apr 2023.



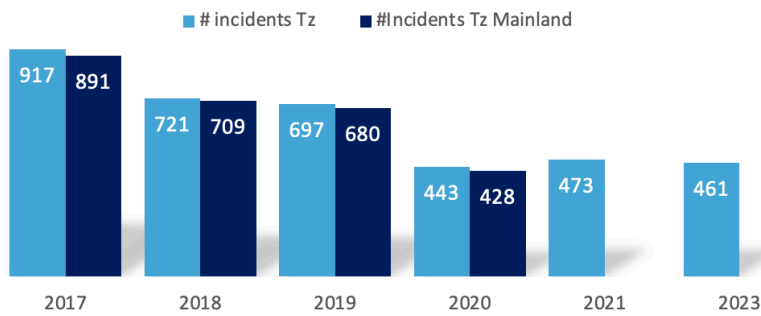


Figure 3: # Mob violence killings in Tanzania, 2017 to 2023

Source: Tanzania Police Force Data

As shown in Figure 3 above, mob violence has been gradually decreasing since 2017 and the number of reported incidents has nearly halved since 2015. However, the number of incidents is still high, equaling an average of over 400 incidents each year and over 30 incidents each month in recent years, starting from 2020.

LHRC’s View & Call: Mob violence, often referred to as mob justice, undermines the due process by denying and violating the presumption of innocence and the right to be heard, which are key principles of natural justice and components of the right to equality before the law. It constitutes a serious violation of the right to life, which is the most fundamental human right.

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 the law enforcement organs, and ignorance about criminal law, especially on the issue of bail. The Government should speed up criminal justice reforms 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 Officers

2.1.2.1. Extrajudicial Killings

The primary duty of law enforcement officials²⁸ is to protect and safeguard the

²⁸ 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.



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 their duty.²⁹ 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.

In 2023, LHRC documented 7 incidents of extrajudicial killings, reported in Mara, Geita, Pwani, Simiyu, Morogoro, and Dar es Salaam Regions. These incidents are three less than those documented in 2022. Law enforcement officials implicated in these killings were police officers and wildlife/forest officers. In one of the incidents that occurred in Dar es Salaam in November 2023, two police officers reportedly shot and killed a bar security guard in Kinondoni District.³⁰ The two officers were reportedly dismissed by the Tanzania Police Force in December 2023 and one of them was sent to Kinondoni District Court after being charged with murder.³¹ In another incident, reported in Mara Region in March 2023, a police officer in Tarime District was reportedly arrested for shooting to death a *bodaboda* driver, Ng'ondi Marwa Masiaga (22), resident of Kubiterere Village.³² In August 2023, the Dar es Salaam Special Zone Police reportedly arrested 6 police officers, 11 security guards from *Pasco Ltd*, and 2 forest officers from Tanzania Forest Services (TFS), for causing the deaths of two people in Kisarawe, Pwani Region.³³

29 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.

30 LHRC Human Rights Monitoring Report, Nov 2023.

31 "Askari wanaodaiwa kuua mlinzi wa baa wafukuzwa kazi" Mwananchi Newspaper (online), 12 Dec 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/askari-wanaodaiwa-kuua-mlinzi-wa-baa-wafukuzwa-kazi-4462406>.

32 "Askari polisi mbaroni madai mauaji ya raia" Mwananchi Newspaper, 12 Apr 2023.

33 "Askari polisi sita mbaroni kwa tuhuma za mauaji" Nipashe Newspaper, 30 Aug 2023.





Picture 1: A police statement on arrest of a police officer accused of killing a man in Tarime District

In the past seven years (2017 to 2023), LHRC has documented **47 reported incidents** of extrajudicial killings, perpetrated by law enforcement officials, including police officers, game wardens, and members of the people’s militia (*mgambo*).³⁴ The incidents represent an average of 6 incidents each year.

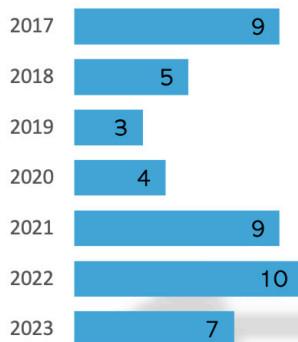


Figure 4: #Reported incidents of extrajudicial killings documented by LHRC (2017 – 2023)

³⁴ See LHRC’s Tanzania Human Rights Reports of, 2017, 2018, 2019, 2020, 2021, & 2022 [www.humanrights.or.tz]



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 making legal and policy reforms can be a good starting point. There are also opportunities to learn from countries that have in place such mechanisms, including Kenya and South Africa, and see what the Government of Tanzania can do, in consideration of the local 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.

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 the Tanzania Police General Orders, the 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. A police oversight body can help the police and other law enforcement organs restore or enhance public trust, which is a prerequisite for effective policing, and prevent police misconduct and a culture of impunity.

2.1.2.2. Violence against Law Enforcement Officers

During this reporting period, LHRC also documented one incident of violence against law enforcement officers, reported in Geita Region. In April 2023, an angry mob in Chato District raided a police station and burned it after accusing police officers at the station of causing the death of 34-year-old Enos Msalamba, resident of Mganza Village, who was under police custody for allegedly stealing a car battery.³⁵

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 Persons with Albinism

2.1.3.1. Witchcraft-motivated Killings

Deaths caused by belief in witchcraft continue to occur in different parts of

³⁵ "Mtuhumiwa afia Polisi, wananchi wachoma moto kituo" HABARILEO Newspaper, 1 Apr 2023; "Polisi wadaiwa kuua kwa kipingo, raia wachoma kituo" Mwananchi Newspaper, 31 Apr 2023.

Tanzania, despite police and government warnings over the years. This situation is mainly fueled by belief in witchcraft, which remains pervasive throughout Mainland Tanzania. Existence of the Witchcraft Act,³⁶ inherited from our colonial masters, appears to have reinforced belief in witchcraft.

In most parts of the country, people who are accused of witchcraft are often subjected to violence and persecuted. These killings are usually systematic and carried out by individuals or groups, including family members and close relatives of the victims. In 2023, **LHRC documented 12 incidents of witchcraft-motivated killings, which are five less than those documented in 2022.** These incidents were reported in Singida, Geita, Simiyu, Mtwara, and Manyara Regions. For instance, in Singida police arrested two people in September for killing Ester Michael (70), resident of Msigiri Village in Iramba District, over witchcraft suspicion.³⁷ Earlier in the year, in February, police in Geita arrested a man, Juma Charles, and his wife, Joyce Julius, for killing the husband's mother, Butamo Igonzelo (70), after accusing her of bewitching and killing their child a week earlier.³⁸ **Women, including elderly women, constituted the majority of victims (75%).**

In Singida, there were also reports of desecration of graves for witchcraft purposes. Our 2022 edition of the Tanzania Human Rights Report revealed 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.³⁹ In 2023, it was reported that this practice continued, as acknowledged by the Singida Regional Commissioner, Peter Serukamba, in March, who also indicated that there had been many killings motivated by belief in witchcraft in Manyoni District and that some people were even going to hospitals to obtain body parts from dead bodies.⁴⁰ In April, police in Manyoni District arrested seven people, accused of killing a man and removing some of his body parts for witchcraft purposes.⁴¹

The incidents documented by LHRC represent only a small fraction of incidents recorded by the Tanzania Police Force. Police crime statistics indicate that more than 100 incidents of witchcraft-motivated killings have been reported each year since 2019.

36 Witchcraft Act, 1928, Cap. 18, R.E 2002.

37 LHRC Human Rights Monitoring Report, October 2023.

38 "Wanandoa mbaroni mauaji ya mama wa mume" HABARILEO Newspaper, 26 Feb 2023.

39 LHRC & ZAFAYCO (2023), *Tanzania Human Rights Report 2022*, LHRC: Dar es Salaam, Tanzania, at www.humanrights.or.tz.

40 "Mauaji yakithiri Manyoni, maiti zanyofolewa viungo" HABARILEO Newspaper, 6 Mar 2023.

41 "Saba kizimbani kwa tuhuma za kuua kwa Imani za kishirikina" HABARILEO Newspaper, 16 Apr 2023.



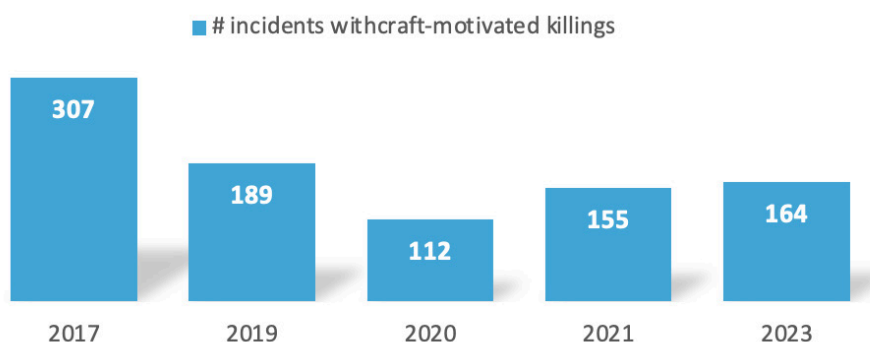


Figure 5: # Incidents of witchcraft-suspicion killings recorded by police – 2017 to 2023

Source: Tanzania Police Force Data

The Kamchape Witchcraft Eradicator in Kigoma

In 2023, it was reported in Kigoma Region that there was a witchdoctor, popularly known as Kamchape, who was helping communities exposing witches⁴². Interviewed community members in Kigoma DC pointed out that Kamchape had helped them fight back against people who were bewitching them, causing them discomfort, economic hardships or misfortunes, and even taking away their loved ones (causing their deaths). They also said some people had become rich by stealing other peoples' 'good luck' and killing other people as 'sacrifice.' Angered by these circumstances, the people have turned to the Kamchape, who is looked at as their saviour⁴³.

'We are tired of this life whereby we cannot sleep because of witches, and we are working but not getting much. That's why we need Kamchape to expose all the witches causing most of us hardships.'

Community member - Bitale, Kigoma DC

A vigilante group has been formed to search for and 'hold to account' those implicated by the Kamchape in witchcraft practices. Local observers said some people, including businessmen and religious leaders have fled to escape attack and death. The vigilante group has also reportedly killed 4 people accused of witchcraft by the Kamchape in Kazuramimba Village, burned properties of some of the accused persons, and intimidated street leaders who sympathize with the accused persons. The vigilante group also reportedly killed one person for informing the police about the presence of the Kamchape in their village (Kazuramimba Village).

⁴² LHRC Human Rights Survey 2023: Kigoma Field Report.

⁴³ Ibid.



'This is one of the people in our village, Kazuramimba, who was informing the police about the Kamchape, so an angry mob, which wants to rid our community of witches, decided to kill him when they learned about his betrayal, as a lesson for others.'

Community member - Bitale, Kigoma DC

LHRC's View: It has been observed that 'witchdoctors' are at the centre of most witchcraft-motivated killings, especially through their practice of divination (popularly called *ramli* by the natives), whereby they read 'divining boards' and identify witches. The Witchcraft Act is also not helping the situation, is outdated, and should be repealed.

LHRC's Call: The Government, including through the Commission for Human Rights and Good Governance, to continue collaborating with other stakeholders to educate the public about witchcraft beliefs and killings. Those who commit violence due to belief in witchcraft should also be prosecuted to the full extent of the law.

2.1.3.2. Violence against PWAs

Attacks and killings of persons with albinism (PWAs) in Tanzania and other parts of Africa is heavily linked to witchcraft, whereby it is believed that an organ or body part of a PWA can be used by a witchdoctor to create a potion or charm to make someone rich or successful in their endeavours. Unlike the situation in 2000s and early 2010s, when it was normal to hear more than 30 killings of PWAs, significant improvement has been observed in 2020s. There were even some years, from 2015 to 2020, when there were no reported killings of PWAs. However, in 2021 the killings re-emerged, albeit much fewer than previously reported, as two killings were reported in 2021 and 2022.

In 2023, LHRC did not document any incident of attack or killing of PWAs for their body parts. However, PWAs continued to live in fear, and renewed collaborative efforts are needed to protect them so that they can enjoy their human rights equally with others.

LHRC's Call: A special taskforce, composed of the representatives from the Tanzania Police Force, the Ministry of Home Affairs, the Ministry of Constitutional and Legal Affairs, the 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 PWAs and create long-term strategies for their protection.



2.1.4. Death Penalty

Tanzania has not executed persons on death row in nearly 30 years!

Death penalty in Tanzania continues to exist in penal laws, but the country is *de facto* abolitionist, since there have been no executions since 1994, nearly 30 years ago, under the administration of the late H.E. President Ali Hassan Mwinyi. No execution warrants were signed by the late H.E President Benjamin William Mkapa, H.E Dr. Jakaya Mrisho Kikwete, the late H.E John Pombe Magufuli, and so far under H.E President Samia Suluhu Hassan. During his administration, H.E John Pombe Magufuli went as far as commuting nearly all death sentences to life imprisonment.

Reported death sentences imposed in 2023

In 2023, courts of law across Mainland Tanzania continued to impose the sentence of death penalty, in line with the law. LHRC documented 37 reported death sentences imposed by High Courts in regions such as Dar es Salaam, Mwanza, Shinyanga, Tanga, Iringa, Tabora, Geita, Arusha, Rukwa, and Njombe. Nearly all the convicts (94%) were male, as has been the case in the past whereby over 90% of the convicts have been male.

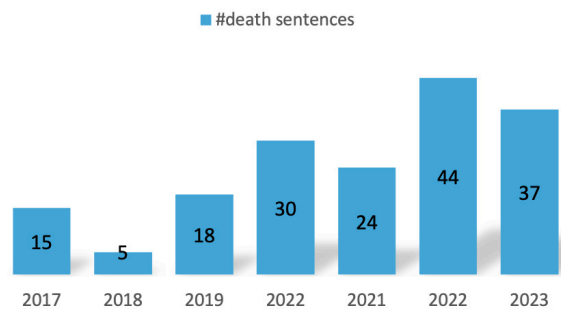


Figure 6: # Death sentences documented by LHRC – 2017 to 2023

Source: LHRC Media survey & Human Rights Monitoring 2023

Mandatory death penalty continues to exist

Tanzania's penal laws include provisions on mandatory death penalty, preventing judges from exercising discretion on a case-by-case basis, taking into account any mitigating or extenuating circumstances. This practice contradicts international human rights law by violating right to life. This was affirmed by the African Court on Human and People's Rights, which ruled in December 2022 in the case of *Marthine Christian @ Msuguri v. United Republic of Tanzania*,⁴⁴ in which the applicant was represented by LHRC and the Cornell Center on the Death Penalty Worldwide, that mandatory death penalty violates right to life and lengthy confinement on death row constitutes cruel and inhuman

⁴⁴ The African Court on Human and Peoples Rights Application No. 052/2016

treatment.⁴⁵

Domestic Decisions on Death Penalty

In 1994, the High Court of Tanzania delivered its judgement in the case of *Republic vs Mbushuu Alias Dominic Mnyaroje & Kalai Sangula*,⁴⁶ in which the two accused persons raised a point that they should not be executed after being convicted of murder because death penalty is unconstitutional and constitutes a cruel, inhuman, and degrading punishment and treatment. Indeed, the Court found the sentence to be unconstitutional and cruel and reduced the punishment to life imprisonment.⁴⁷ However, the Court of Appeal of Tanzania overturned the decision in 1995, noting that the sentence is constitutional because it is saved by claw-back clauses of the Constitution and is permissible under international human rights instruments.⁴⁸ It agreed, however, that the death penalty is cruel and inhuman.⁴⁹

Moratorium on the use of death penalty

On 15th December 2022, the United Nations General Assembly (UNGA) adopted the 9th resolution for a moratorium⁵⁰ on the use of the death penalty.⁵¹ Out of the 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 been steadily increasing since 2008, as more States choose to vote in favour of the moratorium. The 10th resolution on the moratorium on the use of death penalty is expected to be adopted in 2024.

Support for the UNGA resolution has increased since it was last adopted in December 2020.⁵² 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 2020.⁵³ In 2020, the resolution was adopted with a record 123 votes in favour, 38 against, 24 abstentions and eight absent.⁵⁴ The number of States voting in favour of moratorium has increased from 106 in 2008 to 125 in 2022,⁵⁵ an increase of 18%.

45 Tanzania Human Rights Report 2022 (*supra*).

46 *Republic vs Mbushuu Alias Dominic Mnyaroje & Kalai Sangula* [1994] TZHC 7 (22 June 1994), at <https://tanzlii.org/akn/tz/judgment/tzhc/1994/7/eng@1994-06-22>.

47 *Ibid.*

48 *MBUSHUU alias DOMINIC MNYAROJE AND ANOTHER v REPUBLIC* 1995 TLR 97, at <https://machete03.blogspot.com/2019/06/mbushuu-alias-dominic-mnyaroje-and.html>.

49 *Ibid.*

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

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

52 Voting is conducted every two years.

53 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/>.

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

55 *Ibid.*



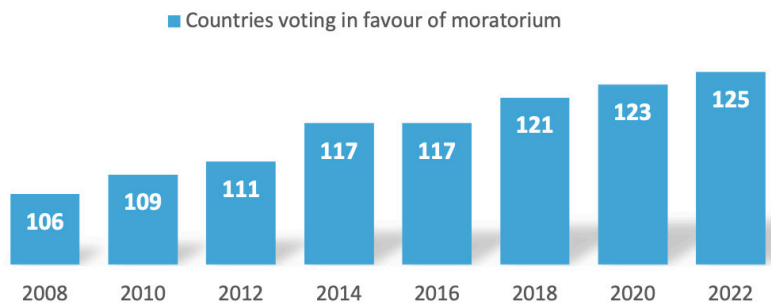


Figure 7: # Countries voting in favour of UNGA resolution on moratorium on the use of the death penalty

Source: World Coalition against the Death Penalty, 2022

Former Prime Minister calls for abolition of death penalty

In March 2023, the former Prime Minister, Hon. Mizengo Pinda, called for the Government to abolish the death penalty, suggesting that it is not right to impose capital punishment.⁵⁶ He instead recommended the capital punishment to be substituted with life imprisonment.⁵⁷ Other stakeholders, including LHRC, also called for abolition of death penalty when submitting their views and recommendations on criminal justice reforms to the Presidential Commission on Criminal Justice Reforms.

⁵⁶ "PINDA APENDEKEZA ADHABU YA KIFO IFUTWE" HABARILEO Newspaper, 29 Mar 2023; "Pinda: Adhabu ya kifo ifutwe nchini" Mwananchi Newspaper, 19 Mar 2023.

⁵⁷ Ibid.



Picture 2: A front page story of former Prime Minister calling for abolition of death penalty (Mwananchi Newspaper)

Recommendations by the Criminal Justice Reforms Commission

- The Penal Code, Chapter 16, to be amended to make death penalty not the only punishment for murder.
- Death sentence to be commuted to life imprisonment if the President does not authorize execution within a period of three years.

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).⁵⁸ 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 – forever depriving an individual of the opportunity to benefit from new evidence or new laws that might warrant the reversal of a conviction, or

⁵⁸ 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.

the setting aside of a death sentence. 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.

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,⁵⁹ including Tanzania. Neighbouring countries like Rwanda, Burundi, and Mozambique are among the 112 countries in the world that have abolished death penalty,⁶⁰ and Tanzania can take a step further and do the same. Other African countries which have recently (2021 and 2022) taken the step include Sierra Leone, Central African Republic, Equatorial Guinea, and Zambia.

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 Homicide

Women globally the major victims of intimate partner homicide (IPH)

Intimate partner violence (IPV) refers to physical, sexual, or psychological harm by a current or former partner or spouse.⁶¹ 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.⁶² 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.

Reported IPH incidents

In 2023, LHRC documented 50 incidents of IPH, whereby 45 of the victims (90%) were female, and 5(10%) were male. The number of incidents is 17 more than those documented in 2022. The 50 incidents documented in 2023 takes the number of incidents documented by LHRC since 2019 to 162. LHRC fears that a lot more incidents may have gone unreported.

The IPH incidents documented by LHRC in 2023 were reported in Tanga, Kilimanjaro, Arusha, Geita, Mbeya, Tabora, Kagera, Mwanza, Simiyu, Dar

⁵⁹ See Death Penalty Information Center "Abolitionist and Retentionist Countries" at <https://deathpenaltyinfo.org/policy-issues/international/abolitionist-and-retentionist-countries>.

⁶⁰ 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>.

⁶¹ See CDC "Intimate Partner Violence" at <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html>, accessed 20 January 2022.

⁶² 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.



es Salaam, Songwe, Mara, Dodoma, Manyara, Iringa, Rukwa, Njombe, and Morogoro. Half of the incidents were reported in the Northern Zone and Lake Zone, while the remaining half were reported in other zones. 46% of the incidents were motivated by jealousy. Other reasons included one partner not wanting to be with another (especially for women), marital dispute, and property dispute. For instance, in Kilimanjaro, police arrested Erasto Gabriel (31), resident of Himo, in May for killing his wife, Josephine Mngara (27) in February because of jealousy.⁶³ In another incident, reported in the region, Mary Mushi (30), resident of Moshi District, was reportedly killed by her partner because of jealousy.⁶⁴ In the neighbouring region of Arusha, it was reported in December that Salome Nnko (47), resident of Arumeru District, was brutally killed by her estranged husband following an altercation.⁶⁵

In Mwanza, Kashinje Thomas (35), resident of Sengerema District, reportedly strangled to death his wife, Noga Lugwisha (42), and then committed suicide in September 2023.⁶⁶ Another man committed suicide by throwing himself onto the train in Dar es Salaam in June after stabbing his wife, Mwanahamisi Paulin, with a sharp object and killing her.⁶⁷ A similar incident occurred in Dodoma, where a man killed his lover, Esther Isugilo (26) before stabbing himself to death.⁶⁸

The five incidents of women killing their male partners were reported in Simiyu, Iringa, Njombe, Rukwa, and Morogoro Regions.⁶⁹ In Simiyu, Salu Magambo, resident of Bariadi District, was arrested by police for strangling her husband to death following a marital dispute in April 2023. In Iringa, a similar incident occurred in Iringa District, where a woman attacked her husband to death with a bat following a quarrel. Two women in Rukwa were also arrested by police for killing their husbands because of jealousy, while in Njombe a woman attacked and killed her husband after he had intervened to prevent her from continuing punishing their child. In Morogoro, in October, a woman, Maela Athanas (33), resident of a village located in Malinyi District, reportedly contracted a man to kill her husband, Charles Maghashi (55), because he had refused to divorce her.

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 incidents. LHRC has also observed that IPV is common among youth and adult groups.

63 "Mbaroni akidaiwa kumuua mkewe" Mwananchi Newspaper, 19 May 2023.

64 "Wanaharakati walaani mauaji ya kinyama" Nipashe Newspaper, 4 Aug 2023.

65 LHRC Human Rights Monitoring Report, December 2023.

66 "Aua mke kisha ajinyonga, mtoto ashuhudia miili" Nipashe Newspaper, 29 Sep 2023.

67 "Kamari, kubeti chanzo cha ugomvi na mauaji kwa wanandoa" Mwananchi Newspaper, 30 Jun 2023.

68 LHRC Human Rights Monitoring Report, September 2023; "Amkata mwenza koromeo kisha kujiua kwa kisu tumboni" Nipashe Newspaper, 19 Sep 2023.

69 LHRC Human Rights Monitoring Report, 2023.



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, including awareness-raising strategies. 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.

2.1.6. Disappearances

Under international human rights law, States have a duty to carry out an effective official investigation when individuals have been killed or 'disappeared.'⁷⁰ 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.⁷¹

In 2023, there were still no answers from the State regarding disappearances of various people in the past seven 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 January 2023, Luqman Maloto, a human rights activist, filed a case against the Director of Criminal Investigations (DCI) and the Director of Public Prosecutions (DPP) before the High Court in Dar es Salaam due to disappearances and attacks of several people, including Azory Gwanda, Tundu Lissu, Ben Saanane, and Akwilina Akwilini, for their failure to investigate and prosecute the perpetrators.⁷² No incidents of disappearances were documented by LHRC in 2023, five less than those documented in 2022.

LHRC's View: Mysterious disappearances present a serious threat to right to life and warrant official police investigation.

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. Additionally, as recommended by the Presidential Commission on Criminal Justice Reforms in its report released in 2023, the Government should enact a law that shall introduce and govern **private investigation**, as also recommended by stakeholders over the years.

70 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.

71 Ibid.

72 "DCI, DPP kortini kwa watu kupotea" Mwananchi Newspaper, 16 Jan 2023.



2.1.7. Road Accidents

Overview

Road accidents become a human rights issue when negligence is involved in terms of drivers of vehicles and quality of roads. Police assessment of road accidents has shown that over two thirds of road accidents occur because of human error.

Road accident trends

The Tanzania Police Force (TPF), under its Traffic Police Department, has enjoyed significant success in reduction of road accidents in recent years. Since 2020, fewer than 2,000 road accidents have been recorded by police. In August 2023, TPF revealed that road accidents had declined by 57% in five years.⁷³ In May 2023, the Minister of Home Affairs, Hon. Hamad Masauni (MP), said road accidents decreased from 1,731 incidents in 2021/22 to 1,283 in the period of July 2022 to May 2023, equivalent to a 25.9% decline.⁷⁴ He also mentioned that the number of deaths had declined by 11%, from 946 in 2021/22 to 842 in 2022/23.⁷⁵

Despite the progress in reduction of road accidents, over 500 people continue to lose their lives each year because of road accidents, majority of them caused by negligence, especially over speeding, reckless driving, drink-driving, driving defective vehicles, and brake failure.

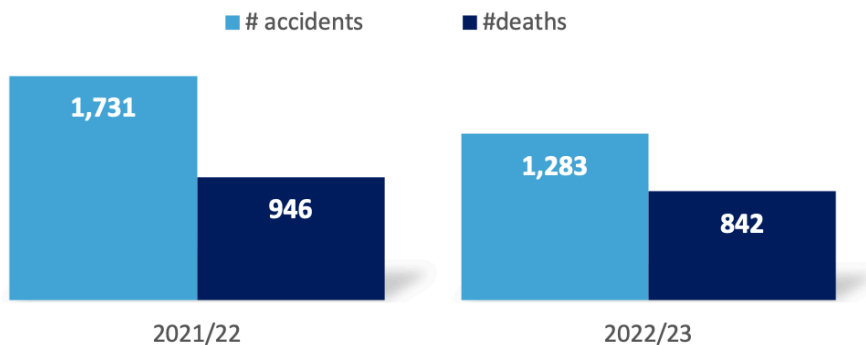


Figure 8: # Road accidents and resulting deaths in Tanzania, 2021/22 & 2022/23

Source: Police Force Data, 2022

⁷³ "Road accidents down by 57pc in five years" THE CITIZEN Newspaper, 24 Aug 2023.

⁷⁴ See HOTUBA YA WAZIRI WA MAMBO YA NDANI YA NCHI MHE. MHANDISI HAMAD M. Y. MASAUNI (MB.), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/2024, at [https://www.parliament.go.tz/uploads/budgetspeches/1685369435-document%20\(5\).pdf](https://www.parliament.go.tz/uploads/budgetspeches/1685369435-document%20(5).pdf).

⁷⁵ Ibid.



Impact of road accidents

Road accidents cause great suffering to families, especially dependants of the victims, including children, affecting enjoyment of other basic rights. Many family members perish in road accidents, especially those travelling together as family. Two road accidents involving family members travelling in a private car were documented by LHRC in 2023.

Road accidents also leave loved ones in disability, sometimes permanent, affecting their ability to work and earn a living and leading to job loss. Road accidents may also increase the government expenditure in unproductive ways, including in the health sector, where hospitals are overburdened with victims of road accidents requiring operation, which is now often the case at the Muhimbili Orthopaedic Institute (MOI) in Dar es Salaam.

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 permanent disability, creating a huge impact on the community and the national development. LHRC has also observed sleep deprivation among inter-regional bus and truck drivers to be another contributing factor, as they are usually overworked and given tight deadlines.

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 grant drivers adequate rest and refrain from putting unnecessary pressure on them. Additionally, Tanzania should ratify the African Union Road Safety Charter, adopted in 2016. Poor road maintenance is also recognized as one of the contributing factors to road accidents, and this needs to be addressed by the Tanzania National Roads Agency (TANROADS).

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 Ministry of Constitutional and Legal Affairs to ensure ratification and domestication of the African Union Road Safety Charter, adopted in 2016.



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 2023, key freedom of expression issues and violations in Mainland Tanzania included partial amendments to the Media Services Act and attacks of journalists.

2.2.1. Freedom of Expression Laws vis-à-vis International Standards

Restrictive provisions still a concern

In the past nine years, LHRC and other freedom of expression and media stakeholders have expressed concerns over various pieces of legislation, enacted or amended, that govern freedom of expression and the media for containing restrictive provisions that contravene international human rights standards. The laws and regulations containing problematic provisions include the Media Services Act of 2016, the Cybercrimes Act of 2015,⁷⁶ the Access to Information Act of 2016, and the Electronic and Postal Communications (Online Content) Regulations of 2020.⁷⁷

⁷⁶ 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)).

⁷⁷ 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. 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; Severe and uniform punishment for failure to comply with regulations (Regulation 21(1)); and criminalization of defamation.



Domestic Decisions on Freedom of Expression Laws

Since the Cybercrimes Act was enacted in 2015, at least three cases have been filed by human rights advocates before the High Court of Tanzania. The cases are *Jebra Kambole versus The Attorney General*⁷⁸ of 2015, *Jamii Media Company Limited versus The Attorney General and Another*⁷⁹ of 2016, and *Raymond Paul Kanegene & Bob Chacha Wangwe versus the Attorney General*⁸⁰ of 2019 and 2020. The advocates were largely unsuccessful in questioning the constitutional validity of the Cybercrimes Act, including sections 4,5,6,7,8,9,10,11,14,19,21,22,31,33,34,37,38, and 50 in the Jebra Kambole case, whereby the High Court only found section 50(2)(b) to be unconstitutional for violating Article 13(6) of the Constitution. In the other two cases, the High Court did not find the provisions of the Act, sections 16, 32, 38, and 39(2)(a) & (b), to be unconstitutional, as argued by the petitioners.

The petition challenging provisions of the Online Content Regulations of 2018, filed by LHRC, the Media Council of Tanzania (MCT), and the Tanzania Human Rights Defenders Coalition (THRDC) before the High Court in 2018 was also not successful, as the Court dismissed the application save for provision on the definition of the word 'content' in the Regulations.

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.⁸¹ The EACJ directed the Government of Tanzania to make relevant amendments to ensure the law conforms to international human rights standards. In May 2022, Hon. Nape Nnauye, 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 by media stakeholders ahead of amendment.⁸² In early 2023, the Ministry announced that it had tabled the bill and stakeholders were invited to give their views and recommendations. In June, it was reported that media stakeholders were relatively happy with proposed amendments in the bill.⁸³ However, the Deputy Chairperson of MISA-TAN, James Marenga, expressed dissatisfaction with the number of recommendations taken on board, noting that only a few of the 21 recommendations and three key recommendations made to the parliamentary committee responsible for the bill. Amendment of the Media Services Act is further discussed in sub-section 2.2.2 below.

78 *Jebra Kambole vs. The Attorney General*, Misc. Civil Cause No. 32 of 2015.

79 *Jamii Media Company Ltd vs. The Attorney General and Another*, Misc. Civil Cause No. 9 of 2016.

80 *Raymond Paul Kanegene & Bob Chacha Wange vs. The Attorney General*, Consolidated Misc. Civil Cause No. 15 of 2019 & No. 5 of 2020.

81 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.

82 Tanzania Human Rights Report 2022 (*supra*).

83 "Wadau wa habari waona nuru muswada wao" Nipashe Newspaper, 14 Jun 2023; "One Step Forward: Tanzania's journey towards decriminalization of media offenses" Internews, 31 Jul 2023, at <https://internews.org/story/one-step-forward-tanzanias-journey-towards-decriminalization-of-media-offenses/>.



Laws such as the Cybercrimes Act 2015 and the Online Content Regulations 2020 also continued to arbitrarily restrict online freedom of expression, as they are yet to be amended to be brought in line with international human rights standards.

Journalists mostly concerned with the legal environment

Freedom of expression and media stakeholders, including journalists themselves, are mostly concerned with the legal environment. A qualitative study on press freedom in Tanzania in the period of 2021 to 2023, conducted in Dar es Salaam in the last quarter of 2023 revealed that while journalists acknowledge and are happy with the improved media landscape under the H.E Samia Suluhu Hassan administration, they ‘underscored that the freedom of the media in Tanzania could not be ensured until the laws are changed.’⁸⁴ The study warns about ‘the risk of having a media that is free solely because of the goodwill of the current ruling government.’⁸⁵ The study concludes that self-censorship among journalists and media houses is on slow decline but still occurs, largely due to the existing legal environment, and investigative journalism, especially of sensitive issues, continues to suffer.

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 test⁸⁶ under the International Covenant on Civil and Political Rights (ICCPR) of 1966, as well as other international and regional human rights instruments.

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.

⁸⁴ See Lycke Holmen, *Media Freedom in Tanzania Today: A Qualitative Study on the Freedom of the Press Under President Samia Suluhu Hassan, 2021-2023*, at <https://uu.diva-portal.org/smash/get/diva2:1796242/FULLTEXT01.pdf>.

⁸⁵ Ibid; See also African Freedom of Expression Exchange (AFEX), *Report: Safety of Journalists Situation in Tanzania*, September 20, 2023, at <https://www.africafex.org/publication/safety-of-journalists-in-tanzania> ('...the media in Tanzania cannot rely on the authorities' benevolence, but rather it needs strong institutions and lasting reforms.')

⁸⁶ Applied by regional and international courts across the globe and recently applied by the East African Court of Justice in the case of *Burundi Journalists Union v. the Attorney General of the Republic of Burundi*, Reference No. 7 of 2013, (<https://www.eacj.org/?cases=burundi-journalists-union-vs-the-attorney-general-of-the-republic-of-burundi>).



2.2.2. Amendment of the Media Services Act vis-à-vis the Judgement of the East African Court of Justice of 2019

In June 2023, the Media Services Act (MSA) of 2016 was finally amended following repeated calls by stakeholders, led by the Coalition on the Right to Information (CoRI),⁸⁷ for nearly seven years. The long wait was finally over and there was optimism, albeit cautious, by LHRC and other stakeholders that that the amendment would largely be informed by their recommendations and the law would be amended in line with the judgement of the East African Court of Justice (EACJ).

Amended sections in the Media Services Act

In June 2023, Minister of Information, Communication and Information Technology, Hon. Nape Nnauye told the media that stakeholders had proposed 21 recommendations, but eight of them were not taken on board.⁸⁸ In total, the Government amended nine sections, namely sections **5, 38, 50, 51, 53, 54, 55, 63, and 64.**⁸⁹ These sections were amended as follows:⁹⁰

Table 1: MSA provisions amended by the Parliament in June 2023

| Section | Amendment |
|-------------------|---|
| <u>Section 5</u> | <ul style="list-style-type: none"> ■ Deleting paragraph (l) – coordinating Government advertisements ■ Renaming paragraphs (m) and (n) as (l) and (m) |
| <u>Section 38</u> | <ul style="list-style-type: none"> ■ Deleting subsection (3) – civil or criminal liability for publication of defamatory matter |
| <u>Section 50</u> | <ul style="list-style-type: none"> ■ Deleting paragraph (a) (ii) – publishing information deemed falsified and injurious to reputation, rights, and freedom of a person ■ Deleting paragraph (c) (ii) – publishing statement deemed injurious to reputation, rights, and freedom of other persons ■ Reducing punishment in sub-section (1) from fine of Tshs. 5 to 20 million or imprisonment of 3 to 5 years or both to a fine of Tshs. 3 to 10 million or imprisonment of 2 to 5 years or both ■ Deleting the word “or” appearing at the end of paragraphs (a)(i) and (c)(i) ■ Designating the contents of paragraphs (a)(i) and (c)(i) as paragraphs (a) and (c) respectively ■ Reducing punishment in sub-section (2) from fine of Tshs. 5 to 20 million or imprisonment of 3 to 5 years or both to a fine of Tshs. 3 to 10 million or imprisonment of 2 to 5 years or both |

⁸⁷ LHRC is a member.

⁸⁸ “What media law changes mean” The Citizen Newspaper (online), 14 Jun 2023, at <https://www.thecitizen.co.tz/tanzania/news/national/what-media-law-changes-mean-4269692>.

⁸⁹ See The Written Laws (Miscellaneous Amendments) Act, 2023, at [https://www.parliament.go.tz/polis/uploads/bills/acts/1692955614-THE%20WRITTEN%20LAWS%20\(MISCELLANEOUS%20AMENDMENTS\)%20ACT,%202023.pdf](https://www.parliament.go.tz/polis/uploads/bills/acts/1692955614-THE%20WRITTEN%20LAWS%20(MISCELLANEOUS%20AMENDMENTS)%20ACT,%202023.pdf).

⁹⁰ Ibid, sections 17 to 25.

| | |
|--------------------------|--|
| <p><u>Section 51</u></p> | <ul style="list-style-type: none"> ■ Reducing punishment for first offender in section 51(1) from a fine of Tshs 5 to 10 million or imprisonment of 3 to 5 years or both to a fine of Tshs. 2 to 5 million or imprisonment of 1 to 3 years or both ■ Reducing punishment for subsequent offender in section 51(1) from a fine of Tshs 8 to 20 million or imprisonment of 5 to 10 years to a fine of Tshs. 5 to 10 million or imprisonment of 1 to 3 years or both |
| <p><u>Section 53</u></p> | <ul style="list-style-type: none"> ■ Reducing punishment for first offender in sub-section (1) from a fine of Tshs. 5 to 10 million or imprisonment of 3 to 5 years or both to a fine of Tshs. 3 to 5 million or imprisonment of 1 to 3 years or both ■ Reducing punishment for subsequent offender in sub-section (1) from a fine of Tshs. 7 to 20 million or imprisonment of 5 to 10 years or both to a fine of Tshs. 5 to 10 million or imprisonment of 3 to 5 years or both ■ Reducing punishment for first offender in sub-section (2) from a fine of Tshs. 2 to 5 million or imprisonment of 2 to 5 years or both to a fine of Tshs. 2 to 3 million or imprisonment of 1 to 3 years or both ■ Reducing punishment for subsequent offender in sub-section (2) from a fine of Tshs. 3 to 10 million or imprisonment of 3 to 10 years or both to a fine of Tshs. 3 to 5 million or imprisonment of 3 to 5 years or both ■ Deleting sub-sections (4) and (5) – additional punishment for printing or reproducing a seditious publication & forfeiture of a printing machine to the Government to be sold ■ Deleting sub-section 6 and substituting it with a provision that allows a court to order prohibition of publication of newspaper for 1 to 3 years to a proprietor, publisher or editor convicted of sedition, in addition to any other penalty imposed ■ Deleting sub-section (7) – court satisfying itself before ordering printing machine forfeiture ■ Reducing punishment in sub-section (8) from a fine of Tshs. 5 to 10 million or imprisonment of 3 to 5 years or both to a fine of Tshs. 3 to 5 million or imprisonment of 2 to 3 years or both ■ Renumbering sub-sections (6) and (8) as sub-sections (4) and (5) respectively |
| <p><u>Section 54</u></p> | <ul style="list-style-type: none"> ■ Reducing punishment in sub-section (1) from a fine of Tshs. 10 to 20 million or imprisonment of 4 to 6 years or both to a fine of Tshs. 3 to 5 million or imprisonment of 1 to 3 years or both |
| <p><u>Section 55</u></p> | <ul style="list-style-type: none"> ■ Reducing punishment in sub-section (2) from a fine of Tshs. 15 to 25 million to a fine of Tshs. 10 to 15 million |
| <p><u>Section 63</u></p> | <ul style="list-style-type: none"> ■ Reducing punishment in sub-section (1) from a fine of Tshs. 5 or imprisonment of 1 year or both to a fine of Tshs. 2 to 5 million or imprisonment of 1 to 3 years or both ■ Reducing punishment in sub-section (2) from a fine of Tshs. 10 million or imprisonment of 7 years to a fine of Tshs. 5 to 7 million or imprisonment of 3 to 5 years |



Section 64

- Reducing punishment in sub-section (2), paragraph (a) from a fine of Tshs. 10 to 20 million or imprisonment of not less than 3 years or both to **a fine Tshs. 5 to 10 million or imprisonment of 3 to 5 years or both**
- Reducing punishment in sub-section (2), paragraph (b) from a fine of Tshs. 15 to 25 million or imprisonment of not less than 3 years or both to **a fine of Tshs. 5 to 10 million or imprisonment of 3 to 5 years or both**

Positive amendments in the MSA include:

- Decriminalizing defamation, which means defamation cases shall be tried under civil instead of criminal proceedings;
- Reducing punishments for contravening various provisions of the law, touching on both fines and jail terms; and
- Removing powers of the Director of Information Services Department of coordinating government advertisements, which shall increase the chances of private media outlets securing the advertisements and increase income.

From table 1 above, it can be observed that most of the amendments sought to reduce punishment for offences stipulated in the MSA. While these positive amendments are commendable, LHRC and CORI have observed that most punishments are still severe and likely to continue causing fear and self-censorship among media houses and journalists, who are faced with various challenges, including poor remuneration and other labour rights violations.

Amendments in comparison with the 2019 EACJ MSA judgement

In March 2019, EACJ found various provisions within the Act to be in violation of freedom of expression and Articles 6(d) and 7(2) of the Treaty for the Establishment of the East African Community. The Court directed that the Government of Tanzania to take necessary measures to bring the Media Services Act into compliance with the Treaty for the Establishment of the East African Community. The provisions that were said to violate violation of expression and the East African Community (EAC) Treaty were **section 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.**⁹¹

⁹¹ See the Media Council of Tanzania, Legal and Human Rights Centre & Human Rights Defenders Coalition versus The Attorney General of the United Republic of Tanzania, Reference No. 2 of 2017, Judgement of the Court, 28th March 2019 at <http://eacj.eac.int/wp-content/uploads/2019/03/Referene-No.2-of-2017.pdf>, accessed 20th February 2020.



Table 2: Status of amendment of MSA provisions found by the EACJ to violate freedom of expression in Tanzania

| EACJ judgement provisions | | Status |
|--|---|---------------|
| Section | Description | |
| Section 7(3) (a), (b), (c), (f), (g), (h), (i) and (j) | Rights and obligations of media houses | Not amended |
| Section 19 | Accreditation of journalists <ul style="list-style-type: none"> ■ Not practicing as a journalist unless accredited | Not amended |
| Section 20 | Press card <ul style="list-style-type: none"> ■ Journalists to be issued with press card after accreditation | Not amended |
| Section 21 | Roll of journalists <ul style="list-style-type: none"> ■ Board maintaining a roll of journalists containing names and particulars | Not amended |
| Section 35 | Defamation | Amended |
| Section 36 | Defamation in print media | Not amended |
| Section 37 | Definition of unlawful publication | Not amended |
| Section 38 | Cases in which publication is absolutely privileged | Amended |
| Section 39 | Cases in which publication is conditionally privileged | Not amended |
| Section 40 | Offer of amends <ul style="list-style-type: none"> ■ Person publishing defamatory words to make offer of amends | Not amended |
| Section 50 | Offences related to media services | Amended |
| Section 52 | Seditious intention | Not amended |
| Section 53 | Seditious offences | Amended |
| Section 54 | Publications likely to cause fear and alarm | Amended |
| Section 58 | Powers to prohibit importation of publication | Not amended |
| Section 59 | Powers of the Minister | Not amended |

Analysis of the amendments made in June 2023 suggests that only 5 out of these 16 sections have been amended, as shown in Table 3 above. This is equal to only nearly a third of all sections that the EACJ directed to be amended to safeguard freedom of expression in Tanzania.



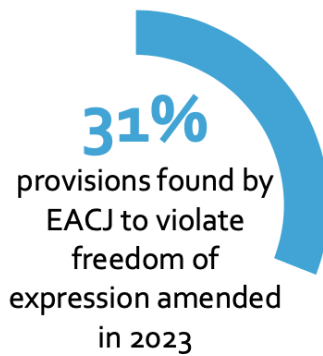


Figure 9: %Amendment of provisions in MSA found to violate freedom of expression by EACJ

Source: Writer's own analysis

LHRC's View: LHRC commends amendment of some of the restrictive provisions in the MSA, indicating a step in the right direction in terms of improving the media landscape. However, there are still many provisions which are yet to be amended, including and especially those identified by the EACJ to violate freedom of expression and the EAC Treaty.

LHRC's Call: The Government and the Parliament to cause amendment of other restrictive provisions within the MSA of 2016 to bring the whole law in line with international human rights standards. Full amendment of the law is also critical to improving investigative reporting of issues of national interest, including corruption and mismanagement of public funds, and building accountability on basic human rights.

2.2.3. Ban, Suspension, and Other Punishment for Media Outlets

In recent years, stakeholders with and outside Tanzania, including LHRC, have lamented the use of Online Content Regulations, including the latest edition of 2020, to impose bans and suspend media outlets for allegedly contravening provisions of the Regulations. The concern expressed by stakeholders is the application of provisions which do not meet international human rights standards and therefore cause violation of press freedom. In 2022 and 2023, stakeholders, including journalists, welcomed a somewhat improved media environment, including lifting of bans imposed on four media outlets (newspapers) in 2016 and 2017, but also insisted on positive amendment of press freedom laws to guarantee press freedom.⁹²

In 2023, LHRC did not document any report incidents of ban or suspension of media outlets.

⁹² Tanzania Human Rights Report 2022 (*supra*).

2.2.4. Arrests, Attacks, Harassment, Intimidation, and Detention of Journalists

During the commemoration of the World Press Freedom Day 2023 in Zanzibar, Tanzania, the Media Council of Tanzania (MCT) revealed that 272 journalists had experienced press freedom violations since 2012, of whom 219 (81%) were male and 53 (19%) were female.⁹³ The attacks included arbitrary arrest and detention, harassment, intimidation, and attacks of journalists. However, LHRC and other freedom of expression stakeholders have observed an improved media landscape under the administration of H.E President Samia Suluhu Hassan, with fewer incidents of press freedom violations documented and reported. For instance, MCT indicated that it had documented 17 press freedom violations in 2022, decreasing from 25 in 2021. A journalists safety report by the African Freedom of Expression Exchange (AFEX), released in September 2023, also indicates a significant decline in attacks of journalists and other press freedom violations.⁹⁴

In 2023, LHRC documented two incidents of attacks of journalists, reported in Dar es Salaam and Arusha Regions. In Dar es Salaam, journalists and a driver from *Mwananchi* Communications Limited (MCL) were attacked by people on 22nd July in Temeke District, where they had gone to cover preparations for a public rally.⁹⁵ In Arusha, three journalists were reportedly attacked and injured by a mob in Ngorongoro District, accusing them of campaigning for relocation of the Maasai to Msomera in Tanga.

2.2.5. Artistic Freedom Violations

According to the United Nations (UN), artistic freedom is a fundamental aspect of cultural rights, and includes the freedom to seek, receive and impart information and ideas of all kinds in the form of art.⁹⁶ Artistic and creative expression has also been recognized as part of the freedom of expression, requiring artists to be protected against censorship and any form of pressure or intimidation.⁹⁷ In 2013, the Special Rapporteur in the field of cultural rights, Farida Shaheed, expressed concerns over laws and regulations in many countries around the world restricting artistic freedom.⁹⁸ She noted that the underlying motivations are most often political, religious, cultural, or moral, or lie in economic interests, or are a combination of those.⁹⁹ According to ARTICLE 19, an international human rights NGO defending freedom of expression and information, globally, political criticism (35.7%) is the leading ground for restricting artistic expression, followed by sex, sexuality and nudity (22.4%), traditional or religious values

93 "Waadishi 272 wapata madhila kazini" Mwananchi Newspaper, 3 May 2023.

94 Report: Safety of Journalists Situation in Tanzania (*supra*).

95 "Wadau wang'ka waadishi MCL kushambuliwa" Mwananchi Newspaper, 24 Jul 2023.

96 See United Nations Office of the High Commissioner for Human Rights, Artistic freedom: Special Rapporteur in the field of cultural rights, at <https://www.ohchr.org/en/special-procedures/sr-cultural-rights/artistic-freedom>.

97 See Council of Europe, *Manifesto on the Freedom of Expression of Arts and Culture in the Digital Era*, at <https://www.coe.int/en/web/culture-and-heritage/manifesto-on-the-freedom-of-expression-of-arts-and-culture-in-the-digital-era>.

98 See Report of the Special Rapporteur in the Field of Cultural Rights, Farida Shaheed: the right to freedom of artistic expression and creativity, A/HRC/23/34, Geneva: UN, 14 Mar. 2013, at <https://digitallibrary.un.org/record/755488?ln=en&v=pdf>.

99 Ibid.




(16.6%), and offence or insult (10.8%).¹⁰⁰

Like journalists, some artists in Tanzania and artistic freedom stakeholders have expressed concerns about the current legal framework governing creative expression fueling self-censorship and silencing alternative viewpoints.¹⁰¹ These concerns grew in 2023 following two incidents of ban of songs by artists, a rapper and gospel singers in August and September. In the first incident, rapper Emmanuel Elibariki, popularly known as Ney wa Mitego, saw his song ‘Amkeni,’ which is critical of the government, getting the ban for allegedly being inciteful to the public.¹⁰² In the second incident, reported in Mbeya in September, Sifa Bujune, a gospel singer and her colleagues were arrested and prosecuted for their song about police brutality titled ‘Mnatuona Nyani’ (literally translating to *You See Us as Apes*), charged under the Cybercrimes Act of 2015.¹⁰³

2.2.6. Performance in the World Press Freedom Index 2023

After jumping one place in the 2022 rankings of the World Press Freedom Index, prepared by Reporters Without Borders (RSF), in 2023 Tanzania significantly dropped to 143rd,¹⁰⁴ which is 20 places below the previous rank. RSF continued to raise concerns over lack of concrete and immediate action by the Government in fully bringing freedom of expression laws in line with international standards, despite initial hopeful signs brought by the President, and the influence politicians have on many media outlets, which undermines editorial independence of media outlets. It also highlighted lack of updates over disappearance of Azory Gwanda, a journalist, who disappeared in 2017 in Pwani Region.¹⁰⁵

Table 3: Tanzania’s rank and score in press freedom in 2023

| Tanzania | WPF Index | Rank | Score |
|---|--------------------------------|---------|-------|
|  | World Press Freedom Index 2023 | 143/180 | 44.02 |
| | World Press Freedom Index 2022 | 123/180 | 48.28 |

Source: RSF World Press Freedom Index 2023

2.2.7. Right and Access to Information

Violations and potential violations of press freedom also continued to jeopardize

¹⁰⁰ See ARTICLE 19, *Violations of the right to freedom of artistic expression: Statistics*, at https://www.article19.org/data/files/pdfs/other/Artist_infographic_for_web.pdf.

¹⁰¹ “Artists in Tanzania Demand Creative Freedom: ‘We’re Being Censored’” The Chanzo Initiative, 20 Nov 2023, at <https://thechanzo.com/2023/11/20/artists-in-tanzania-demand-creative-freedom-were-being-censored/>.

¹⁰² See “Tanzanian Govt Bans Popular Rapper Ney Wa Mitego’s Song, Claims It Is ‘Inciteful’ To The Public” Citizen Digital, 1 Aug 2023, at <https://www.citizen.digital/entertainment/tanzanian-govt-bans-popular-rapper-ney-wa-mitegos-song-claims-it-is-inciteful-to-the-public-n324648>.

¹⁰³ “Tanzania Charges Musicians Who Sang About Police Brutality” The Chanzo Initiative, 20 Nov 2023, at <https://thechanzo.com/2023/09/20/tanzania-charges-musicians-who-sang-about-police-brutality/>.

¹⁰⁴ See RSF, *World Press Freedom Index 2023*, at [HTTPS://RSF.ORG/EN/COUNTRY/TANZANIA](https://RSF.ORG/EN/COUNTRY/TANZANIA).

¹⁰⁵ Ibid.

enjoyment of the right to information. Access to information, especially public information, also remained somewhat limited or restricted due to the gaps in the Access to Information Act of 2016. Some of the key concerns with the access to information law include vague exceptions to disclosure of information, long time for responding to information request, vague terms and phrases, severe punishment for releasing exempt information, and the law not overriding other laws on access to information.

In 2023, the right to access to information was also jeopardized by restrictions on access to Clubhouse – a social networking app based on audio-chat for thematic discussions. It was reported in February and August that Tanzania started blocking access to Clubhouse.¹⁰⁶ Stakeholders expressed concerns over this move, noting it is an attempt to restrict online civic space, denying Tanzanians an opportunity to discuss a variety of social, political, and economic topics.¹⁰⁷ Access to the platform is currently sometimes not possible without using the Virtual Private Network (VPN).

Women, in both urban and rural areas, are disproportionately affected by limited access to information, making it more difficult for them to hear about and take advantage of opportunities and make informed choices. Access to information is also fundamental for women’s empowerment.¹⁰⁸

2.2.8. Key Recommendations

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

¹⁰⁶ “Tanzania blocked Clubhouse” OONI, 13 Aug 2023, at <https://explorer.ooni.org/findings/185407756401>.

¹⁰⁷ “It is unacceptable to continue restricting Online Civic Space in Tanzania.” Reach Out Tanzania, 16 Feb 2023, at <https://reachouttanzania.org/our-stories/0b912d94-d9d9-4e24-83bb-297e6bd7c8a0>.

¹⁰⁸ “Tackling gender inequality through access to information” ARTICLE 19, 28 Sep 2020, at <https://www.article19.org/resources/tackling-gender-inequality-through-access-to-information/>.



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 meetings and engage in peaceful protest.
- 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 2023, key freedoms of assembly and association issues and violations in Mainland Tanzania included official lifting of ban on political rallies and arbitrary denial of holding rallies.

2.3.1. Freedoms of Assembly and Association Laws vis-à-vis International Standards

In recent years, amendment of key laws and regulations governing freedoms of assembly and association, including the Political Parties Act (amended in 2019), the NGOs Act of 2002 (amended in 2019), and the Basic Rights and Duties Enforcement Act (BRADEA), amended in 2020, has caused arbitrary restrictions on these fundamental rights. LHRC and other stakeholders continue to advocate for amendment of these laws, as they contain provisions which do not conform to international standards on freedoms of assembly and association, particularly the tests of necessity, legality, and proportionality.¹⁰⁹ For instance, by preventing NGOs from filing cases on behalf of citizens because of not being personally affected, BRADEA interferes with freedom of association of NGOs. By doing this, the law has gravely limited the ability of public-spirited civil society organizations and individuals to defend the rights of vulnerable individuals, groups, and communities by curtailing public interest litigation, which forms part of freedom of association.¹¹⁰

109 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.

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



The 2022 High Court Judgement on BRADEA

In 2021, Mr. Onesmo Olungurumwa, a human rights defender and the National Coordinator of the Tanzania Human Rights Defenders Coalition (THRDC), filed a petition before the High Court of Tanzania challenging the constitutionality of sections 4(2), 4(3), 4(4), and 4(5) of the Basic Rights and Duties Enforcement Act. He argued that the provisions were unconstitutional for contravening Articles 13(2) & (4), 13(6) (a), 26 (1) & (2), and 30(3) of the Constitution of the United Republic of Tanzania, 1977.¹¹¹ However, the High Court concurred with the Respondent in finding that the provisions do not violate the stipulated Articles of the Constitution.¹¹²

Stakeholder concerns with the amendments made in the Political Parties Act include granting of excessive and intrusive powers to the Registrar of Political Parties,¹¹³ affecting the ability of political parties, especially opposition parties, to effectively enjoy and realize freedoms of association and assembly. For NGOs, some of the provisions in the NGOs Act, such as excessive powers of the Registrar of NGOs and reporting requirements,¹¹⁴ have been said to be incompatible with international human rights standards and not fully meeting the three-part test of restrictions on civil and political rights.

In 2023, most of the problematic provisions in these laws remained, which is a concern, especially for political parties, as the country edges closer to the general elections in 2025.

LHRC's View: Over the years, 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, with the exception of the Political Parties Act, which was partially amended in 2023, as discussed in subchapter 2.6 of this report.

LHRC's Call: The Government to take measures to review and fully 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.

111 Onesmo Olungurumwa vs Attorney General (Misc. Civil Cause 9 of 2021) [2022] TZHC 17011 (15 February 2022), at <https://tanzlii.org/akn/tz/judgment/tzhc/2022/17011/eng@2022-02-15>.

112 Ibid.

113 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

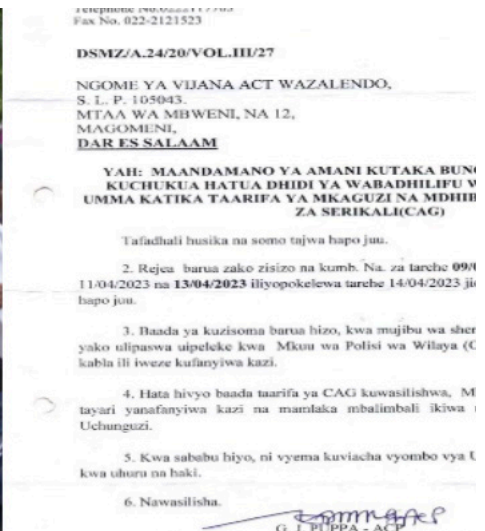
114 See the Consolidated Analysis of the Written Laws (Miscellaneous Amendments) (No.3) Act, 2019 Bill by Centre for Strategic Litigation, Change Tanzania, Jamii Forums, HakiElimu, Legal and Human Rights Centre, Policy Forum, Save the Children, Tanzania Human Rights Defenders Coalition, Tanzania Women Lawyers Association, TIBA, Twaweza, at <https://www.twaweza.org/uploads/files/Amendments%20Consolidated%20Analysis%20Final%20-%202023June2019.pdf>, accessed 3rd March 2020.



2.3.2. Enjoyment of Freedoms of Assembly and Association

In 2023, the enjoyment of freedoms of assembly and association for political parties was boosted by lifting of the ban on political rallies, imposed in 2016. Stakeholders lauded the move by the Government, but called for amendment of laws, including the Political Parties Act and the Police Force and Auxiliary Services Act (Cap 322). This recommendation was also made in the report by the presidential taskforce that probed into the situation of multiparty democracy in Tanzania in 2022. The task force also recommended lifting of the ban on political rallies and non-interference with internal party meetings.

Following the lifting of the ban on political rallies in January 2023, which had mostly affected opposition parties, political parties started conducting political rallies in different parts of the country. However, LHRC documented three reported complaints or incidents of arbitrary restriction on freedoms of assembly and association, including holding rallies. In April, ACT-Wazalendo, a political party, complained about being denied their right to hold peaceful demonstrations to protest embezzlement and mismanagement of public funds revealed in the Controller and Auditor General (CAG) reports, released in March 2023, and calling for the Government to ensure those responsible are held accountable.¹¹⁵



Picture 3: Police stopping ACT-Wazalendo members from starting demonstrations outside the party headquarters in Dar es Salaam, 18 April 2023 (left) and a letter issued by police in response to planned protest (right)

Picture credit: MCL/Other

In August, it was reported that a car and some equipment belonging to the main opposition party, CHADEMA, were torched during the nighttime in Chato

¹¹⁵ "Polisi yazuia maandamano ya ACT-Wazalendo, wajipanga tena" Mwananchi Newspaper (online), 18 Apr 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/polisi-yazuia-maandamano-ya-act-wazalendo-wajipanga-tena-4203616>.

District, Geita Region, ahead of a planned rally in the district.¹¹⁶ The CHADEMA leadership said there had also been threats from unknown people but the party would continue with the rallies to be held in different parts of the region, as planned.¹¹⁷ In September, CHADEMA lamented being denied entry into the Ngorongoro Conservation Area Authority (NCAA) by the police to hold rallies.¹¹⁸ The Vice Chairperson of the party, Tundu Lissu, took to Twitter to complain about denial of the right to hold rallies in Ngorongoro, and was reportedly held by police for questioning over unlawful assembly.

LHRC's Call: The Government and the Tanzania Police Force to take measures to prevent arbitrary interference with the rights to hold political rallies and peaceful protests. The State has a duty to respect, facilitate and protect this right.

2.3.3. Key Recommendations

- The Ministry of Constitutional and Legal Affairs to facilitate amendment of the Political Parties Act to bring it in line with international human rights standards.
- The Ministry of Constitutional and Legal Affairs to initiate the process of ratification of 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 2023, 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; barriers to access to justice; criminal justice challenges, including right to fair trial violations; and juvenile justice.

2.4.1. Access to Justice: Key Issues and Concerns

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

116 "Gari, vifaa CHADEMA vyapigwa kibiriti Chato" Nipashe Newspaper, 3 Aug 2023.

117 Ibid.

118 LHRC Human Rights Monitoring Report, September 2023; "Polisi wazuia msafara wa Lissu Ngorongoro, wafuasi waziba Barabara" Mwananchi Newspaper (online), 9 Sep 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/polisi-wazuia-msafara-wa-lissu-ngorongoro-wafuasi-waziba-barabara-4363548>.



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.**”¹¹⁹

2.4.1.1. Action to Improve Access to Justice

In 2023, the Government and the Judiciary continued to take various measures to improve access to justice, including provision of court services; legal aid provision; construction and renovation of court buildings; and translation of laws into Swahili.

Mama Samia Legal Aid Campaign

In 2023, the Ministry of Constitutional and Legal Affairs (MoCLA) collaborated with various stakeholders (legal aid providers) to provide legal aid in various parts of the country, including through the Mama Samia Legal Aid Campaign¹²⁰.

Construction and renovation of court buildings

Court buildings were constructed and renovated in various parts of the country, including in Kilindi, Rungwe, Sikonge, and Moshi¹²¹.

Translation of laws into Swahili

Eight laws were reportedly translated into Swahili in 2023, including the Electricity Act, CAP 131; the Ports Act, CAP 166; the Mining Act, CAP 123; the Investment Act, CAP 10; and the Personal Data Protection Act of 2022¹²².

Introduction of guidelines to enhance access to justice

In 2023, the Judiciary introduced the Tanzania Sentencing Guidelines of 2023 and the Standard Operational Guide for Magistrates on Managing Children Cases in Tanzania.

Improved court services

Various projects continued to be implemented in 2023 to improve court services, including use of ICT in administration of justice, which was said to have reduced delays and backlog of cases¹²³. A user satisfaction survey

119 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.

120 HOTUBA YA WAZIRI WA KATIBA NA SHERIA MHESHIMIWA DKT. DAMAS DANIEL NDUMBARO (MB), AKIWASILISHA BUNGENI MPANGO NA MAKADIRIO YA MAPATO NA MATUMIZI YA WIZARA KWA MWAKA WA FEDHA 2023/2024, at [https://www.parliament.go.tz/uploads/budgetspeeches/1682416605-HOTUBA%20YA%20MHESHIMIWA.%20DKT.%20DAMAS%20DANIEL%20NDUMBARO%20\(MB.\)%20WAZIRI%20WA%20KATIBA%20NA%20SHERIA,%20AKIWASILISHA%20BUNGENI%20MPANGO%20NA%20MAKADIRIO%20YA%20BAJE.pdf](https://www.parliament.go.tz/uploads/budgetspeeches/1682416605-HOTUBA%20YA%20MHESHIMIWA.%20DKT.%20DAMAS%20DANIEL%20NDUMBARO%20(MB.)%20WAZIRI%20WA%20KATIBA%20NA%20SHERIA,%20AKIWASILISHA%20BUNGENI%20MPANGO%20NA%20MAKADIRIO%20YA%20BAJE.pdf).

121 Ibid.

122 Ibid.

123 HOTUBA YA WAZIRI WA KATIBA NA SHERIA MHESHIMIWA DKT. DAMAS DANIEL NDUMBARO (MB), AKIWASILISHA



conducted by REPOA in 2023 showed that satisfaction with the services provided by the Judiciary had increased from 78% in 2019 to 88% in 2023¹²⁴.

2.4.1.2. Barriers to Access to Justice

Community perceptions on barriers to access to justice

In 2023, LHRC conducted a human rights survey across 20 regions of Mainland Tanzania, aimed at assisting the organization in assessing human rights situation. Regarding access to justice, respondents were asked about key barriers to access to justice in their community, whereby **corruption** (78%), was mentioned the most, followed by **lengthy court proceedings** (49%), **low awareness about laws** (48%), and **costs of legal representation** (39%).

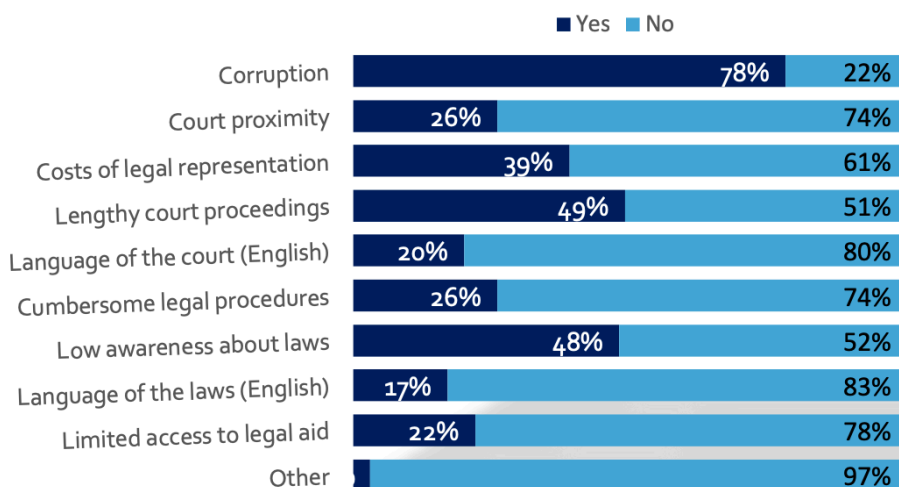


Figure 10: % Responses on key barriers to access to justice
Source: Field data, 2023

Corruption

Corruption was identified as a significant barrier to justice in all surveyed regions, including by 343 paralegals who participated in assessing the situation of access to justice in Mainland Tanzania in 2023. Allegations of corruption were mostly levelled against police officers and court staff, particularly in the lower courts, while some anti-corruption body (PCCB) officials were also implicated in corruption in one of the regions. Interviewed community members in regions such as Tanga, Dar es Salaam, Ruvuma, Dodoma, Manyara, Kilimanjaro, Rukwa, Kigoma, and Arusha, spoke about how corruption is a hurdle in accessing justice, especially for the poor members of the community. For instance, in Tanga a resident of Majengo Ward in Tanga

BUNGENI MPANGO NA MAKADIRIO YA MAPATO NA MATUMIZI YA WIZARA KWA MWAKA WA FEDHA 2023/2024 (supra).
 124 See REPOA (2023). Court Users' Satisfaction Survey Report 2023. REPOA, Dar es Salaam, at <https://www.repoa.or.tz/?publication=court-users-satisfaction-survey-report-2023>.



Urban claimed that corruption is pervasive in Primary Courts and the poor disproportionately suffer because they cannot ‘compete’ against the middle and upper classes¹²⁵.

In Dodoma, a community member narrated his ordeal with a police officer and PCCB official, claiming that the former demanded from him a bribe of Tshs. 300,000 and he reported him to the anti-corruption body. However, he later received a call from the police officer warning and threatening him for reporting him¹²⁶.

‘Corruption is the biggest barrier to access to justice here in Moshi. I cannot think of anything else.’

Paralegal - Moshi, Kilimanjaro

In Rukwa, an interview with an official at an NGO, Community Economic Empowerment and Support (CEES), in Nkasi District indicated that people who are well-known and rich are more likely to win cases, at the expense of people from poor households for various reasons, including corruption¹²⁷. Another NGO official in the region, from Grace Community Development and Education (GCDE), revealed that some police officers have a tendency of soliciting bribes to conduct investigations, noting that there was one incident whereby his friend, a victim of theft, was forced to pay police officers ‘money’ to facilitate the investigation and cover fuel costs¹²⁸. In Kigoma, a Primary Court Magistrate in Kasulu was accused of receiving a bribe to dismiss a rape case against a teacher¹²⁹. Parents of the victim were also reportedly paid by the teacher to ensure the victim does not testify against him.

In Kilimanjaro, the Executive Director of an NGO called *Helping Hands* suggested that corruption shall never end or be properly addressed unless strict laws are enacted and enforced¹³⁰.

Lengthy court proceedings

Some of the interviewed community members in nearly all surveyed regions, including paralegals, also lamented duration of cases as a significant barrier to access to justice. LHRC observed that this situation is contributed by several factors, including shortage of staff in justice institutions, especially the Tanzania Police Force (TPF), the National Prosecutions Office (NPS), and the Judiciary, affecting both civil and criminal cases. Delays in conducting investigations and shortage of courts, especially primary courts, have also been mentioned

125 LHRC Human Rights Survey 2023: Tanga Field Report.

126 LHRC Human Rights Survey 2023: Dodoma Field Report.

127 LHRC Human Rights Survey 2023: Rukwa Field Report.

128 Ibid.

129 LHRC Human Rights Survey 2023: Kigoma Field Report.

130 LHRC Human Rights Survey 2023: Kilimanjaro Field Report.



as contributing factors, including in recent CAG report on the criminal justice system.

'Financially, lengthy court proceedings is a big challenge for those of us residing in the outskirts, because you may spend not less than Tshs. 10,000. Where do I get such money? That's why sometimes people decide to abandon or drop their cases due to lack of transport fare.'

Community member – Manolo Ward, Lushoto

"We don't understand why the cases take too long to be determined in court while we prepare and submit all the evidence, as they always say the investigation has not been completed.'

NGO official - Kigoma

Delays and frequent adjournment of cases

Complaints about delays and frequent adjournment of cases were made by interviewed community members in nearly all surveyed regions, especially in rural areas. The study found that some people tend to reluctantly abandon legal cases because of such delays and adjournments. In Dodoma, a paralegal in Mpwapwa District mentioned that some citizens decide to give up on their cases when they see they are taking too long because of the costs of regularly attending them in court.¹³¹

'Going back and forth to the Primary Court is very discouraging and costly for those of us residing far from it.'

Community member - Mpwapwa, Dodoma

Low awareness about laws

Low awareness about laws, and even rights, was mentioned as a challenge in accessing and obtaining justice in all surveyed regions. For instance, in Morogoro, an advocate mentioned that many people have no or little knowledge about relevant laws and justice institutions, including the law of limitation, hence ending up losing their rights¹³². Similar remarks were made by key informants in regions such as Pwani, Ruvuma, Arusha, and Manyara.

Access to legal aid

As pointed out above, one of the major obstacles in accessing justice is costs of legal representation and advice, provided by lawyers. This makes access to legal aid all the more important for indigent persons in the community, who cannot

¹³¹ LHRC Human Rights Survey 2023: Dodoma Field Report.

¹³² LHRC Human Rights Survey 2023: Morogoro Field Report



afford such costs. Efforts by government and non-government stakeholders, including the Ministry of Constitutional and Legal Affairs (MoCLA), the Commission for Human Rights and Good Governance (CHRAGG), and CSOs, including paralegal organizations, has helped to enhance access to justice through legal aid throughout Mainland Tanzania. Awareness about existence of legal aid providers also appears to be high, as over two thirds (71%) of community members who participated in LHRC’s human rights survey indicated that they were aware of legal aid providers operating in their community.¹³³ Majority of them also indicated general satisfaction with the legal aid services provided, as nearly two thirds (61%) said they were very satisfied (20%) and satisfied (41%) with them, followed by just over a third (34%), who said they were moderately satisfied.

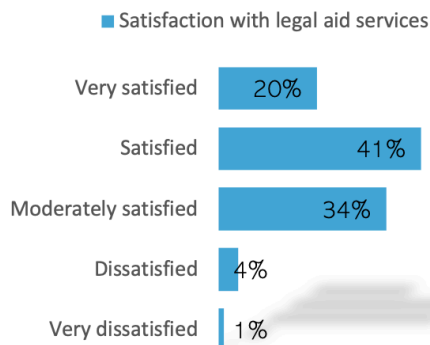


Figure 11: %Responses on community satisfaction with legal aid services (N=1,142)

Source: Field data, 2023

However, access to legal aid remains elusive for some members of the community in rural and remote areas of some regions in Mainland Tanzania. One of the contributing factors is the shortage of legal aid providers, especially paralegals. In 2023, LHRC observed a 42% shortage of paralegals in 32 paralegal organizations that it visited, based on the standard of one paralegal for each ward. For instance, at WASHABITA in Tandahimba District (Mtwara) there were 18 paralegals but 32 wards and at RUPACE in Songea Urban (Ruvuma), it was revealed that there were only 16 paralegals serving 21 wards. In Mbinga (Ruvuma) NAJATA said there were 48 wards but only 22 paralegals.

The best practice is for each ward to have at least one paralegal, but the reality is much different, and some wards require more than one paralegal, given their size. In Iringa, the study found that in Mgama Ward, Iringa District, there was only one paralegal, covering five villages.¹³⁴

¹³³ Human Rights Survey 2023 Field Data.

¹³⁴ LHRC Human Rights Survey 2023: Iringa Field Report

Recognition of the role of paralegals in enhancing access to justice

'Paralegals have helped a lot to enhance access to justice in the community through provision of legal aid services.'

Legal Officer at African Movement for Women Rights, Morogoro

Community members and LGA and NGO officials acknowledged and commended paralegals for their efforts in enhancing access to justice at grassroots level in Tanzania. To improve legal aid services in their areas of operation, paralegals themselves made the following five recommendations:

- Regular training for paralegals
- Creating a more conducive legal environment for paralegal work
- Increased technical and financial support for paralegals
- Recruitment of more paralegals to address shortages
- Legal aid providers to increase outreach activities (mobile legal aid)

Lack of adequate funding is indeed a big challenge for sustainability of paralegal legal aid services. In some surveyed regions, such as Dodoma, Ruvuma, and Manyara, **some interviewed community members accused paralegals of not always being available at their offices when people go there seeking legal aid.** When asked about these allegations, some of the interviewed paralegals said it is true that paralegals are not always available at their offices when needed, but this is mainly due to lack of funding.

'Sometimes people go to the paralegals seeking legal aid services but find the offices closed. This presents a big challenge to the community.'

Paralegal – Babati, Manyara

'We cannot afford to come to the office every single day because of financial difficulties, as you know our work includes provision of legal education and following up on clients' cases. So, at best we can only come to the office nine times a month.'

Paralegal – Kigoma MC, Kigoma

In December 2023, stakeholders recommended **establishment of a legal aid fund**, aimed at enhancing access to justice for many Tanzanians¹³⁵. Former LHRC Executive Director, Dr. Hellen Kijo-Bisimba, said establishment of the legal aid fund shall enable improved access to legal aid, noting that many Tanzanians fail to get justice due to lack of legal support.

Another key challenge in enhancing access to justice through paralegals that LHRC has recently observed is the **conditions and requirements of paralegal**

¹³⁵ "The poor in serious need for legal aid fund to access justice" THE CITIZEN Newspaper, 23 Dec 2023.



training and recruitment under the Legal Aid Act of 2017 and its regulations. These conditions have made it very difficult for training and recruitment of new paralegals as the costs are too high.

BRADEA and access to justice

As discussed above, in 2020, the Basic Rights and Duties Enforcement Act (BRADEA) was amended, to the effect that NGOs can no longer file cases on behalf of citizens because of not being personally affected. Consequently, it is now more difficult to defend the rights of vulnerable individuals, groups, and communities as the public interest litigation is curtailed by the amendment.

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 legal aid fund is also needed to further enhance access to justice through legal aid. Additionally, the Ministry of Constitutional and Legal Affairs should consider revising the Legal Aid Act of 2017 and its regulations to reduce the costs of training and recruiting new paralegals.

Other challenges

Lack of police stations and shortage of police officers: In some areas in some of the surveyed regions, lack of police stations was also said to pose a significant challenge in accessing justice. For instance, in Kongwa District in Dodoma Region, residents of Chamkorama Ward told the survey team that that they are disadvantaged in terms of accessing justice because of lack of a police station in the ward, thus decided to make contributions and start construction of a station¹³⁶. In Singida, a paralegal in Singida MC revealed that some rural areas had no police stations, forcing villagers to travel up to 40km to reach nearby police station¹³⁷.

¹³⁶ LHRC Human Rights Survey 2023: Dodoma Field Report.
¹³⁷ LHRC Human Rights Survey 2023: Singida Field Report.





Picture 4: A police station reportedly under construction by citizens in Chamkorama Ward, Kongwa District
Source: Field data, 2023

“We have a big challenge of shortage of police stations and officers in rural areas. Sometimes you find there is only one police officer available, making it difficult for them to ensure our safety.”

Community member – Bumbuli, Tanga

In Shinyanga, it was reported in July 2023 that residents of Ngaywa Ward in Msalala Council had contributed bricks and started construction of a police station, to address increased crime rate¹³⁸. It was further reported that the Government would send police officers upon completion of the construction¹³⁹.

Court proximity: Interviewed community members in some parts of the surveyed regions indicated that they find it difficult to access courts of law due to distance. For instance, a village leader in Chamkoroma Village, located in Kongwa District, Dodoma Region, said some people give up on their rights because of the distance of the court¹⁴⁰. In Singida, a paralegal in Singida DC claimed that there were only two Primary Courts to serve 20 wards¹⁴¹.

Another paralegal in the region revealed that people in Mkalama travel for more than 20km to access court services at Iramba District Court¹⁴². In Tanga, a resident of Lushoto District said sometimes people fail to attend several court sessions because they cannot

138 “Wananchi wajenga kituo cha polisi kukabili uhalifu” Nipashe Newspaper, 13 Jul 2023.

139 Ibid.

140 LHRC Human Rights Survey 2023: Dodoma Field Report.

141 LHRC Human Rights Survey 2023: Singida Field Report.

142 Ibid.



afford transport costs, hurting their cases in the process¹⁴³. Similar concerns were raised in rural areas in Iringa, including in Mgama Ibuma Village, where transport costs (*bodaboda*) range from Tshs. 9,000 to 12,000¹⁴⁴.

'Distance is a key concern here in our village because the court and police stations are more than 40km away and we also sometimes face transportation challenges.'

VEO - Tabora

'In Tabora Municipality there are 29 wards, but the Primary Court is only available in 15 of them and there is a village where it may cost you up to Tshs. 15,000 in fares to reach the District Court.'

Paralegal - Tabora

Language barrier: Some of the key informants that were interviewed in some regions, including ward leaders, mentioned use of English Language in writing court judgement as a hurdle in accessing justice.

'We have had people coming to us to help them understand their court judgements because they are written in English. The judgements should be prepared in Swahili Language.'

WEO - Kongwa, Dodoma

Political interference: In Tabora, an NGO official lamented political interference in administration of justice, questioning the role, mandate, and competence of District Commissioners (DCs) in dispute resolution.

'Access to justice is being interfered with by political figures, including the District Commissioner, and this sometimes presents problems when those aggrieved by their decisions go to court and win. So, you find people wanting the DC to settle matters that should be determined by court. Indeed, there are people who received court summons but went to the DC instead.'

NGO director, Tabora

Fear of justice institutions: In some surveyed regions, such as Tabora, Iringa, Ruvuma, and Kigoma, it was found that access to justice is also limited by fear and lack of trust of justice institutions.

143 LHRC Human Rights Survey 2023: Tanga Field Report.

144 LHRC Human Rights Survey 2023: Iringa Field Report.



'People are afraid of taking cases to the police because they are afraid of being held to provide witness account.'

Village leader – Igunga District, Tabora

Shortage of judicial staff: Shortage of staff in justice institutions, including the Judiciary, is also an impediment to access to justice. Shortage of magistrates in the lower courts, especially Primary Courts, was said to hinder timely delivery of justice as available magistrates have to rotate at up to three courts in some regions¹⁴⁵.

2.4.2. Criminal Justice: Key Issues and Concerns

2.4.2.1. Report of the Presidential Commission on Criminal Justice Reforms

The commission has found that there are many problems and challenges in the criminal justice chain, from crime prevention; crime detection and reporting; investigation and manner of arrest of suspects; prosecution; adjudication and sentencing; imprisonment of convicted persons; and life of released prisoners upon re-entry into society (social reintegration of offenders).

- Criminal Justice Presidential Commission Report 2023, pg. 1

Following repeated calls for reform of Tanzania's criminal justice system in recent years, in July 2022 H.E President Samia Suluhu Hassan formed a 12-member commission, led by the Former Chief Justice, Hon. Mohamed Othman Chande, to probe into the performance of criminal justice institutions and how the criminal justice system can be improved to enhance access to justice. In July 2023, the presidential commission released its report,¹⁴⁶ showing probe findings and recommendations. The key findings and recommendations are summarized below.

Crime Prevention and Detection

- There is no national strategy for detecting and preventing crime.
- There is so much focus on arrest after crime has been committed and not on detecting and preventing it.

145 LHRC Human Rights Survey 2023: Singida Field Report.

146 JAMHURI YA MUUNGANO WA TANZANIA, MUHTASARI WA RIPOTI YA TUME YA KUANGALIA JINSI YA KUBORESHA TAASISI ZA HAKI JINAI NCHINI, JULAI, 2023, DODOMA.



Commission Recommendation(s)

- Ministry of Home Affairs, in collaboration with the President's Office-Public Service Management and Good Governance; President's Office - Regional Administration and Local Government (PO-RALG); Ministry of Finance and Planning; Office of the Attorney General; Office of the Controller and Auditor General (CAG); and other criminal justice stakeholders to develop and ensure implementation of the Crime Detection and Prevention Strategy.
- Government to strengthen community policing to engage community members more in crime prevention.
- Government to collaborate with the private sector to invest in CCTV and ICT use in detecting and preventing crime.

Arrest of Suspects

- Criminal justice institutions with arresting powers **usually use excessive force** when arresting suspects, causing them pain and suffering.
- Citizens have complained about existence of **many institutions with arresting powers**, making it difficult to know who is holding their loved ones and where, and increasing chances of accused persons 'disappearing' while under custody.
- Some institutions abuse their arresting powers, including arresting without probable cause and for civil offences.
- There is a tendency of Regional Commissioners (RCs) and District Commissioners (DC) abusing their powers, including powers of arrest.
- Stakeholders expressed concerns about Local Government Authorities (LGAs) creating criminal offenses through by-laws.

Commission Recommendation(s)

- Arresting powers vested in regulatory bodies to be exercised in collaboration with the Police Force.
- Other institutions with arresting powers to exercise such powers in collaboration with the Police Force.
- Only police cells to be used to detain crime suspects.
- The Regional Administration Act of 1997 to be amended to remove powers of arrest vested in RCs, DCs, and other leaders.
- Law enforcement officers and other individuals with arresting powers to be held accountable/disciplined for abusing such powers.
- Arrest and detention powers of LGA officials, including directors and ward executive officers, to be removed, instead police to extend services to ward level

Crime Investigation & Inquiry

- Non-separation of the Investigation Department and other activities of the Police Force has contributed to delays in investigations, lack of specialization, and decreased efficiency in conducting investigation.
- The Investigation Department has no budget of its own, depends on

budget allocated to the Police Force, which has many priorities of its own, contributing to shortage of key personnel and modern investigation equipment and tools within the department.

- The Prevention and Combating of Corruption Bureau (PCCB) is faced with various challenges, including corruption and shortages of experts and modern tools.
- Availability of multiple investigation institutions has caused challenges in coordination, crime control, and data management, as well as increasing costs and compromising effectiveness and accountability.

Commission Recommendation(s)

- Government to establish a single investigative body, called the National Bureau of Investigation (NBI), which shall have mandate to investigate all major crimes.
- NBI to have its own budget, recruitment capacity, training institution, and a modern laboratory.
- Laws should stipulate time limits for completion of investigation of crimes under the jurisdiction of the High Court.

Plea Bargaining

- There have been complaints about delays in resolution of cases through plea bargaining agreements due to delayed consent by the Director of Public Prosecutions (DPP).
- Some accused persons are said to be forced to enter into plea bargaining agreements.
- Stakeholders also raised the concern of lack of transparency.

Commission Recommendation(s)

- Raising public awareness on plea bargaining.
- Complaints about entering into plea bargaining involuntarily to be addressed by court of law in accordance with the law.
- DPP Office to keep records of plea-bargaining agreements.

Safety and Security of Whistleblowers/Informants and Witnesses

- The Whistleblower and Witness Protection Act, Chapter 446, does not mention a specific institution tasked with coordinating and ensuring safety and security of informants and witnesses.



Commission Recommendation(s)

- The Whistleblower and Witness Protection Act to be amended to state a specific institution that will be responsible for coordinating safety and security of informants and witnesses.
- The responsible institution to have adequate budget for protection of whistleblowers and witnesses.

Application of Nolle Prosequi (No longer prosecuting)

- Complaints about the application of *nolle prosequi*, where suspects whose charges were dropped are rearrested and charged with the same offences.

Commission Recommendation(s)

- Nolle prosequi application should continue as it is essential in protecting public interest and allowing the DPP to drop cases lacking validity.
- Consideration of further amendment of nolle prosequi provisions to ensure it is only granted with court consent.

Bail

- Some stakeholders recommended all criminal offences to be bailable, like in some other countries, while others said bail should not be granted for major offences such as terrorism, treason, and rape and sodomy of children below the age of 10.

Commission Recommendation(s)

- Amendment of the money laundering law (interpretation of predicate offences) to reduce the number of defendants being denied bail.
- Amendment of the Economic and Organized Crime Control Act to grant the court power to deny or grant bail.
- Amendment of the Criminal Procedure Act to require non-bailable cases to be heard within a specified timeframe, granting bail if the case has not commenced within that timeframe unless substantial grounds exist to deny bail.
- Enactment of the Bail Act, a standalone legislation on bail

Justice Institutions Operating in a Militarised Manner

- Existence of criminal justice institutions operating in a militarised manner has caused militarisation of criminal justice and use of excessive force against accused persons during arrest, search, and interrogation.

Commission Recommendation(s)

- Institutions involved in criminal justice or providing services to the public in a militarized manner, such as the Fire and Rescue Force, Immigration Department, and Wildlife and Forest Conservation Force, to return to their original mandate of providing services to the public.
- Training for Forest and Wildlife Conservation Officers to be provided by the Police Force, taking into account the principles of human rights and the rule of law.

Evidence/Exhibits Preservation & Storage

- Commission discovered inadequate preservation of exhibits at some police stations, contrary to laid down laws and guidelines, contributed by limited space for storage and negligence.

Commission Recommendation(s)

- Government to ensure the Police Force and other investigation institutions have modern infrastructure and intensify use of ICT in storage, presentation in court, and disposal of exhibits.
- Strengthen management and accountability in preservation and storage of exhibits.
- Provision of regular training on preservation and storage of exhibits.

Private Investigation

- Commission received recommendations about the need for private investigation.

Commission Recommendation(s)

Enactment of a law that shall introduce and govern private investigation.

Committal Proceedings

- Stakeholders recommended removal of committal proceedings, seen as an impediment against expeditious delivery of justice, instead cases to be filed directly at High Court.
- Commission found that removing committal proceedings may cause delays in taking accused persons to court, considering some regions have no High Court.

Commission Recommendation(s)

- Amendment of the Criminal Procedure Act, Chapter 20, to set investigation time limit for cases awaiting registration at High Court.
- Investigation bodies to be provided with adequate staff, funding, and equipment and tools to facilitate effective and timely investigation.

Preliminary Hearing

- Preliminary hearing is important in terms of allowing the prosecution to introduce evidence and allow the defence team to accept or reject such evidence. The goal is to ensure the accused person understands the evidence against them and the court to determine whether there is enough evidence for trial.



Commission Recommendation(s)

- Preliminary hearings to continue to be held to enable accused persons understand evidence against them.

Ethical Conduct and Corruption

- Many complaints by citizens about lack of customer care, verbal abuse, lack of confidentiality, use of excessive force, threats, denial of rights of accused persons, and not taking immediate action when crime occurs.

Commission Recommendation(s)

- Criminal justice institutions to strengthen internal mechanisms for detecting and holding accountable officials engaging in unethical conduct and corruption.

PWDs in the Justice System

- Shortage of sign language and Braille experts and lack of disability-friendly infrastructures at some criminal justice institutions, causing PWDs to experience more challenges in accessing services and justice.

Commission Recommendation(s)

- Criminal justice institutions to hire sign language and Braille experts, mental health and social welfare professionals and improve services for PWDs.

Death Penalty

- Some stakeholders recommended abolition of death penalty because it is cruel and inhuman, while others suggested it is fair and should not be abolished.

Commission Recommendation(s)

- The Penal Code, Chapter 16, to be amended to make death penalty not the only punishment for murder.
- Death sentence to be commuted to life imprisonment if the President does not authorize execution within a period of three years.

Other issues

- The Commission also probed into various other issues, including pension; compensation fund for crime victims; recruitment in the TPF and TPS; life imprisonment; use of ICT in investigation and judicial proceedings; road safety; restructuring of the Tanzania Police Force and Tanzania Prisons Services; compensation for road accident victims; improving services for prisoners and remandees; social welfare department; alternative sentences; delays in disposal of cases; and prosecution challenges.

Commission Recommendation(s)

- Establishment of an integrated criminal justice information system.
- Restructuring and legally reforming the Police Force to become the National Police Services, changing from police force to police service.
- Harmonizing road use and safety laws.
- Restructuring and legally reforming the TPS to move from prison services to correctional services.
- Social welfare to be designated an independent department within the ministry responsible for social welfare to improve effectiveness in service delivery, including in criminal justice.
- Government to facilitate establishment of offices for prosecutors in 96 districts.

Recommendations provided by stakeholders, including CSOs, individuals, and the Judiciary were widely reported by the media. These recommendations included **amendment of criminal justice laws**. For instance, the Tanganyika Law Society (TLS) and LHRC recommended amendment of laws such as the Police Force and Auxiliary Services Act, the Criminal Procedure Act, the Law of Evidence Act, the Penal Code, and the Economic and Organized Crimes Act; all criminal offences to be bailable; amendment of criminal laws to set a time limit for investigations; formation of an independent law enforcement oversight body; and accused persons to be arrested upon completion of investigation; among others.¹⁴⁷ Other recommendations provided by LHRC included: **review and improvement of police training curricula; the Police Force to provide accurate and timely information about an arrest; amendment of law to remove committal proceedings in economic crime cases; amendment of laws to ensure only the Police Force has powers to search and arrest people; only the police to have powers of holding accused powers in cells; amendment of the Regional Administration Act of 1997 to remove powers of RCs and DCs to order arrest and detention of people deemed to have broken the law; the DPP to seek court's consent before entering Nolle Prosequi; amendment of the Criminal Procedure Act to allow private prosecution without DPP's consent; and the Government to ratify the UN Convention Against Torture of 1984.**¹⁴⁸

Judges and magistrates also recommended amendment of criminal laws to set time limit for investigation and accused persons to only be sent to court upon completion of investigation.¹⁴⁹

¹⁴⁷ "TLS yataka watu wasikamatwe kabla ya ushahidi kukamilika" HABARILEO Newspaper, 12 Mar 2023; MAONI YA KITUO CHA SHERIA NA HAKI ZA BINADAMU (LHRC) KUHUSU MABORESHO YA MFUMO WA HAKI JINAI KWA TUME YA RAIS YA MABORESHO YA MFUMO WA HAKI JINAI NCHINI, at https://humanrights.or.tz/en/news-events/Criminal_Justice_recommendations.

¹⁴⁸ LHRC Criminal Justice Reforms Recommendations, ibid.

¹⁴⁹ "Majaji wataka sheria ya ukomo wa upelelezi" Mwananchi Newspaper, 17 Mar 2023; "Majaji, mahakimu wataka kesi baada ya upelelezi" HABARILEO Newspaper, 17 Mar 2023; "Courts: Overhaul criminal procedure, law of evidence" DAILYNEWS Newspaper, 17 Mar 2023.



LHRC's View: The Presidential Commission on Criminal Justice has done a commendable job of assessing key challenges in the criminal justice system and provide relevant recommendations.

LHRC's Call: The Government, through the Ministry of Constitutional and Legal Affairs, the Ministry of Home Affairs, and justice institutions to take immediate measures to implement recommendations made in the Commission's report, and consider other key recommendations made by stakeholders not taken on board by the Commission.

Presidential Criminal Justice Reforms Commission

- In 2023, the commission, led by former Chief Justice, Hon. Mohamed Chande Othman, released its report on the criminal justice chain and institutions. LHRC recognizes the Commission for the commendable job it did to interview various government and non-government stakeholders to identify issues and challenges in our criminal justice system, identify possible solutions, and making relevant recommendations to the Government and criminal justice institutions.

LHRC Recognition



2.4.2.2. DPP's Powers Questioned Once Again: The Case of the Babati MP

In November 2023, the Deputy Minister of Constitution and Legal Affairs, Hon. Pauline Philipo Gekul (MP), was accused of torturing and mistreating one of her employees, Hashim Philemon¹⁵⁰. A video of Mr. Philemon narrating allegations of harassment and torture allegedly perpetrated by the Babati Urban MP went viral, prompting calls by stakeholders for the MP to be held accountable and the police started their investigation. The Manyara Regional Police Commander, ACP George Katabazi, stated that the MP voluntarily appeared at the police station after being summoned for interrogation and was later released on bail. Following the incident, the President, H.E Samia Suluhu Hassan, removed her from her position as Deputy Minister of Constitutional and Legal Affairs¹⁵¹.

The Former Deputy Minister of Constitutional and Legal Affairs was charged and taken to court. However, in December 2023, it was reported that the court had dropped the criminal case against her because the Director of Public Prosecutions (DPP) entered a notice of *nolle prosequi*, indicating no willingness to continue prosecuting the case¹⁵².

150 See "Sacked deputy minister grilled, released on bail" DAILY NEWS Newspaper (online), 27 Nov 2023, at <https://dailynews.co.tz/sacked-deputy-minister-grilled-released-on-bail/>.

151 See "Rais Samia atengua uteuzi wa Gekul" Mwananchi Newspaper (online), 25 Nov 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/rais-samia-atengua-uteuzi-wa-gekul-4445340>; "President Samia drops deputy minister of Constitution and Legal Affairs" The Citizen Newspaper (online), 25 Nov 2023, at <https://www.thecitizen.co.tz/tanzania/news/national/president-samia-drops-deputy-minister-of-constitution-and-legal-affairs-4445342>.

152 "Court drops case against ex-Deputy Minister Gekul" DAILY NEWS Newspaper (online), 28 Dec 2023, at <https://dailynews.co.tz/>

The DPP's decision reignited public debate on his powers, with some, including lawyers, calling for the *nolle prosequi* powers to be checked¹⁵³. As pointed out above, while the criminal justice presidential commission recommended *nolle prosequi* to remain, it also recommended amendment of relevant provisions to ensure it is only granted with court consent.

2.4.2.3. Delays, Detention, Adjournment of Cases, and Other Challenges

Community Perceptions on Criminal Justice Challenges

In 2023, corruption was perceived to be a serious problem by the majority of community members engaged by LHRC, nearly two thirds (62%), followed by delays in investigations (43%), frequent adjournment of cases (41%), delays in disposal of case (39%), and lengthy pre-trial detention (35%). Other challenges seen as problems in the community include shortage of staff and denial of bail.

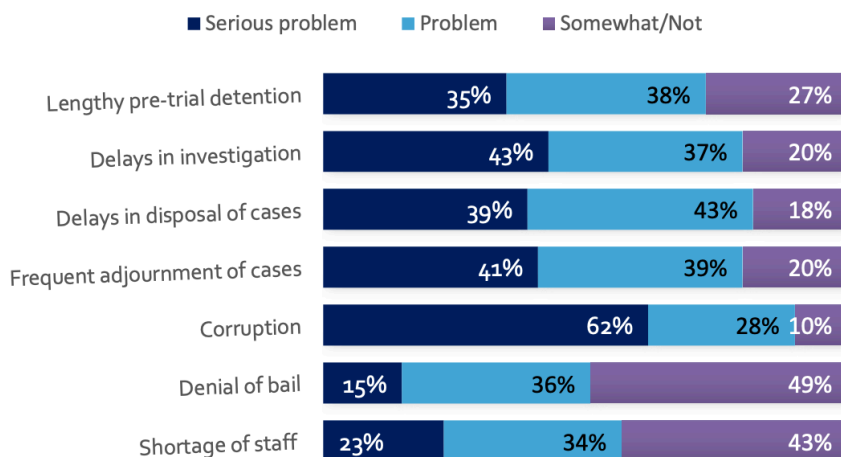


Figure 12: % Responses on seriousness of criminal justice problems

Source: Field data, 2023

Delays in investigations and disposal of cases

As pointed out in recent CAG performance audit report on criminal justice in Tanzania, delays in investigations and disposal of cases are serious impediments to effective and fair administration of criminal justice¹⁵⁴.

court-drops-case-against-ex-deputy-minister-gekul/.

153 "Mamlaka ya DPP yaibua mjadala akifuta kesi ya Mbunge Gekul" Mwananchi Newspaper, 28 Dec 2023; "Court drops criminal case against Babati legislator" THE CITIZEN Newspaper, 28 Dec 2023.

154 See UNITED REPUBLIC OF TANZANIA, NATIONAL AUDIT OFFICE, PERFORMANCE AUDIT REPORT ON THE CRIMINAL



In 2023, the Chairperson of the Presidential Commission on Criminal Justice Reforms, Chief Justice (retd.) Mohamed Chande Othman, revealed that the **majority of citizens interviewed by his commission complained about delays in investigation of cases**¹⁵⁵. Some of the interviewed community members and criminal justice stakeholders interviewed by LHRC during the human rights survey in 2023 pointed out that **such delays contributed to prolonged detention of accused persons**, violating the principle of **presumption of innocence** and other fundamental human rights, including the rights to equality before the law and right to liberty and personal security.

'A relative of mine is in remand prison for three months now because we are told the investigation is not completed, and there is nothing I can do to help him get justice.'

Community member – Tanga Urban, Tanga

LHRC's View: Delays in investigations and disposal of cases are a serious threat to the right to equality before the law and right to liberty and personal security, and violations of these fundamental human rights might also seriously impact other human rights, including socio-economic rights. Such delays are contributed by gaps in criminal justice laws and capacity of justice institutions.

Lengthy Detention of Remandees in Prisons

Pre-trial detention should **only be applied for the shortest possible time and suspects are entitled to a trial 'within a reasonable time'**¹⁵⁶. However, in Tanzania it is normal to hear some people have spent a long time remanded, usually in prisons, awaiting trial. Complaints about prolonged detention were aired by some of the interviewed community members in nearly all surveyed regions, including Rukwa, Tanga, Dar es Salaam, Pwani, Ruvuma, Njombe, and Arusha. Ten of the interviewees in these regions claimed their relatives, family members, or friends had been **detained for over a year**. The main reason for their continued detention is **investigation not being completed**.

In 2023, LHRC also documented three other incidents of prolonged detention of remandees, reported by the media, including two incidents reported in Dar es Salaam whereby the accused persons had **spent time behind bars for seven and ten years**¹⁵⁷.

LHRC's View: Detention of an accused person for a year to ten years constitutes

JUSTICE SYSTEM IN TANZANIA, CONTROLLER AND AUDITOR GENERAL, MARCH 2022, at <https://www.nao.go.tz/reports/view/performance-audit-report-on-the-management-of-backlog-of-cases-by-the-justice-system>

155 "Commission pokes holes in criminal justice system" DAILY NEWS Newspaper, 16 Jul 2023, at <https://dailynews.co.tz/commission-pokes-holes-in-criminal-justice-system/>.

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

157 "Adaiwa kusota gereza kwa miaka 10 bila kesi" Nipashe Newspaper, 11 Sep 2023; "Hoja 7 zilizosemwa zaidi mbele ya Tume Haki Jinai" Mwananchi Newspaper, 28 Feb 2023.



prolonged detention and not a trial ‘within a reasonable time,’ and has been found to constitute violation of key human rights conventions, including the African Charter on Human and Peoples’ Rights (Banjul Charter) of 1981¹⁵⁸.

Fundamental human rights infringed because of this include the right to fair trial, right to be presumed innocent until proven guilty, right to liberty and personal security, the right to private and family life, the right to work, and freedom from torture and inhuman treatment.

LHRC’s Call: The Government, through the Ministry of Home Affairs, to make the relevant reforms in the criminal justice system to eliminate excessive pretrial detention and reduce the use of pretrial detention.

Frequent Adjournments of Cases

Frequent adjournment of cases is one of the biggest factors behind delays in criminal trials in Tanzania. In 2023, LHRC documented complaints of frequent adjournment of cases in all surveyed regions. In Dodoma it was found that frequent adjournments contributed to backlog of cases and negative perception towards the justice system¹⁵⁹. In Rukwa, NGO officials pointed out that delays in investigations were a big factor behind frequent adjournment of cases¹⁶⁰.

LHRC observed that the adjournments are largely contributed by incomplete investigations and shortage of staff in criminal justice institutions.

Fabrication of cases/Trumped-up charges

In 2023, LHRC documented nine reported incidents of fabrication of cases, including an incident involving a former police commander, Vincent Lyimo, who claimed he had been punished based on fabricated charges¹⁶¹.

In half of the surveyed regions, including Kigoma, Dar es Salaam, Pwani, and Geita, some of the interviewed community members also lamented fabrication of cases, most of them levelling complaints against police officers. For instance, in Kigoma, a young man, resident of Mwandiga in Kigoma DC, claimed he was arrested on trumped-up charges together with seven other men and threatened with being charged with murder and risk life imprisonment if they did not come up with Tshs. 1 million each¹⁶².

Allegations of fabrication of cases were also confirmed by some of the interviewed NGO officials in the region.

Plea Bargaining

In 2019, Tanzania introduced plea bargaining in its criminal justice system via the Written Laws (Miscellaneous Amendments (No. 4) Act of 2019, amending

158 See 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.

159 LHRC Human Rights Survey 2023: Dodoma Field Report.

160 LHRC Human Rights Survey 2023: Rukwa Field Report. “

161 Ofisa wa polisi mstaafu adai kubambikiwa kesi” Mwananchi Newspaper, 23 Feb 2023.

162 LHRC Human Rights Survey 2023: Kigoma Field Report.



the Criminal Procedure Act (Cap 20). Consequently, accused persons can now enter plea agreements¹⁶³ with the Director of Public Prosecutions (DPP), with either party allowed to initiate the plea-bargaining after notifying the court.

In October 2022, it was reported that the CAG, Charles Kichere, was conducting audit on the money collected through the plea-bargaining arrangement¹⁶⁴. The audit came following complaints about the plea-bargaining arrangement being plagued by corruption and embezzlement¹⁶⁵. The CAG disclosed that the report would be ready and submitted to President Samia Suluhu Hassan in March 2023¹⁶⁶. The aim was to evaluate various aspects of Plea-Bargaining cases from 1 July 2019 to 31 March 2022.

Indeed, in March 2023, the CAG report was ready, having looked at the procedures and management of plea-bargaining agreements managed by the National Prosecutions Office. The report revealed that the former DPP and their officials had **mismanaged the plea-bargaining agreements** and procedures in arresting, prosecuting, and handling plea-bargaining cases, and that the 'violations demonstrate a lack of accountability and transparency, which call for further investigation into possible misconduct and abuse of power.'¹⁶⁷

One of the key findings by the CAG was **non-compliance with the plea-bargaining accounting process**, whereby, among other things, it was discovered that **three defendants had paid Tshs. 328.53 million into the account despite their cases being resolved through the normal process** of pleading guilty at the Judiciary, rather than through a plea-bargaining agreement, and that the **DPP had received Tshs. 1.62 billion from a beneficiary of an economic sabotage case, even though there was no pending case**, plea-bargaining agreement, or court order¹⁶⁸. Another key finding was possible misconduct in plea-bargaining agreements and procedures, whereby, among other things, the CAG discovered that there was **lack of transparency and concerns over fairness of the process as there was missing documentation in 92 out of 352 reviewed case files; unauthorized seizure of Tshs. 1.5 billion** in compensation payments and unlawful prosecution and detention of three defendants for tax offences; a suspected case of forgery in an agreement; and coercion

163 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).

164 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/>.

165 uma Isihaka & Daniel Mjema "Wakati uchunguzi wa fedha za plea bargaining ukiendelea...Waliokamuliwa walamsha dude," Mwananchi Newspaper, 15 Oct 2022.

166 Ibid.

167 See THE UNITED REPUBLIC OF TANZANIA, NATIONAL AUDIT OFFICE, ANNUAL GENERAL REPORT OF THE CONTROLLER AND AUDITOR GENERAL FOR THE FINANCIAL YEAR 2021/22: CENTRAL GOVERNMENT, MARCH 2023, at https://www.nao.go.tz/uploads/Annual_General_Report_for_Central_Government_FY_2021-22.pdf.

168 Ibid, p. 271.



of defendants into writing and signing of letters of intent to bargain¹⁶⁹.

Prosecution of accused persons before completion of investigation

In 2022, the Government positively amended the Criminal Procedure Act, 1985 through the Written Laws (Miscellaneous Amendments) Act No. 1, 2022. One of the key outcomes of this exercise was the requirement of a person not to be prosecuted before completion of investigation, save for capital offences. However, LHRC observed in 2023 that this is still a challenge, despite the positive amendment a year earlier.

Other challenges

Other criminal justice challenges that were reported in 2023 included corruption, denial of bail, shortage of staff, accused persons not being brought to court promptly, lack of legal representation, and political interference. In Kigoma, the study found that different forms of corruption are perpetrated in the criminal justice system, including sextortion¹⁷⁰.

‘I attempted to bail out my husband and even offered money to a police officer, but he refused, saying he wanted ‘something else,’ not money. So, I had to agree to what he wanted, gave him my number, and eventually I managed to get my husband out.’

Community member – Kigoma MC, Kigoma

In May and July 2023, the presidential criminal justice reform commission discovered that **suspects were being detained for a long time in police cells without being taken to court**, which is contrary to the law (taken to court within 24 hours of arrest) and that lack of legal representation was a big concern for some accused persons¹⁷¹.

‘I had a quarrel with this man, and he used his position to get me arrested and held without charge for two weeks, as my relatives unsuccessfully looked for me.’

Community member – Kigoma MC, Kigoma

In Dar es Salaam, some of the interviewed community members and paralegals pointed out that corruption in the justice system causes release of accused persons even when there is sufficient evidence, and this has tainted some justice institutions.¹⁷²

¹⁶⁹ Ibid, p. 272; “CAG: Biswalo achunguzwe” Mwananchi Newspaper, 8 Apr 2023; “Ukiukwaji mkubwa ‘plea bargaining’” Nipashe Newspaper, 7 Apr 2023; “Plea bargaining: Plot thickens as CAG recommends further probe” THE CITIZEN Newspaper, 8 Apr 2023.

¹⁷⁰ LHRC Human Rights Survey 2023: Kigoma Field Report.

¹⁷¹ “Commission pokes holes in criminal justice system” DAILY NEWS Newspaper (online), 16 Jul 2023, at <https://dailynews.co.tz/commission-pokes-holes-in-criminal-justice-system/>; “Hoja watuhumiwa kukosa mawakaili yatawala Haki Jinai” Mwananchi Newspaper, 3 May 2023.

¹⁷² LHRC Human Rights Survey 2023: Dar es Salaam Field Report



Criminal Justice Issues Uncovered through LHRC's Legal Aid Services

In 2023, LHRC uncovered several key criminal justice issues and concerns, most of which have been discussed above, through legal aid provision. Most of these issues were uncovered during prison visits conducted in four prisons in 2023, namely the Arusha Central Prison (Kisongo) in Arusha, the Isanga Prison in Dodoma, and the Ukonga and Segerea prisons in Dar es Salaam. Some of the key criminal justice issues raised were:

Delays in disposal of criminal cases

The prison visit team met with at least 3 remandees who had spent up to a year in prison waiting for trial to commence or proceed.

Delays were also said to be contributed by negligence on the part of judicial staff.

Accused persons not brought before the court promptly

Some of the interviewed prisoners and remandees claimed they had not been taken to court within 24 hours of arrest as required by law. One of them said he had spent six months in a police cell and another four months before they were taken to court

Misuse of Nolle Prosequi

There were complaints at some of the visited prisons about *Nolle Prosequi* powers of the Director of Public Prosecutions (DPP) being used to delay or deny justice, including through re-arrest of accused persons, even where investigation is incomplete.

Fabricated/Trumped-up charges

Some of the remandees and prisoners said they were slapped with trumped-up charges, including corruption.

Denial of bail for bailable offences

Some of the legal aid clients in visited prisons were not granted bail even though they were charged with bailable offences. Some of them, especially in Ukonga Prison, demonstrated ignorance about bail conditions, while others lamented difficult bail conditions.

Delays of records of appeal

This was said to be a hurdle in terms of filing appeal before the Court of Appeal of Tanzania.

Challenges of trial through videoconferencing

Network/internet failure was cited as a key challenge in conducting trials through videoconferencing, causing adjournments and delays.

Torture while under police custody

This was one of the biggest complaints among prisoners and remandees at all visited prisons. Torture forced some of them to confess to crimes they said they did not commit.

Mixing juvenile offenders with adults

Prison teams observed juvenile offenders being mixed with adult offenders, especially at Isanga and Segerea Prisons (men's and women's sections). This is partly contributed by failure to make inquiry about age.



Female inmates serving jail time with babies

Some female inmates were found with their babies in prisons, but the environment is not conducive for raising babies.

Working environment for prison wardens

Prisons wardens stated various challenges they face, including shortage of staff, working extra hours, inadequate/dilapidated housing, and high costs of living.

Prison overcrowding

Some of the prisons are overcrowded. This is largely contributed by the fact that just over a half of the inmates are remandees.

2.4.3. Juvenile Justice

Tanzania has taken various legal, policy, and institutional measures to facilitate administration of juvenile justice in line with international and regional child rights standards.¹⁷³ However, various challenges continue to affect compliance with standards, key among them being mixing of juvenile offenders with adults in detention facilities; shortage of detention facilities, approved schools, and juvenile courts; and inadequate support for Social Welfare Officers (SWOs), who play a crucial role in administration of juvenile justice.

In 2023, the presidential criminal justice reform commission discovered that the Social Welfare Department is faced with serious shortage of human and financial resources, shortage of safe houses in some areas, and a structure that does not allow them to effectively carry out their criminal justice responsibilities.¹⁷⁴ Among others, the commission recommended the Social Welfare Department to be designated an independent division within the Ministry of Community Development, Gender, Women and Special Groups; providing more human and financial resources for social welfare services; and construction of more juvenile detention facilities and approved schools to avoid **mixing children in conflict with the law with adults** in detention facilities.¹⁷⁵ On a positive note, the government has recently launched a new retention home in Mtwara.

In September 2023, the Law Reform Commission of Tanzania (LRCT), issued a law review report which, among other things, revealed various challenges within the juvenile justice system, including **complaints about juvenile offenders being mixed with adult offenders in prisons**, which puts them in the danger of becoming hardened criminals and jeopardizes their lives; and lack of child-friendly juvenile courts and shortage of social welfare officers

¹⁷³ Applicable standards 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).

¹⁷⁴ See Presidential Criminal Justice Reform Commission Report (*supra*), p. 39.

¹⁷⁵ *Ibid.*



(SWOs), contributing to delays in disposal of juvenile cases.¹⁷⁶

LHRC's View & Call: There is need to review and amend juvenile justice laws, including the Law of the Child Act of 2009. Other measures recommended by the LRCT should also be taken to improve juvenile justice.

2.4.4. 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 Ministry of Constitutional and Legal Affairs to take measures to facilitate legal reforms in the criminal justice system address various challenges, including lengthy pre-trial detention.
- The Ministry of Constitutional and Legal Affairs to spearhead enactment of a law establishing an independent civilian police oversight body to ensure and promote accountability in law enforcement.

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 2023, key right to liberty and personal security issues and violations in Mainland Tanzania included arbitrary arrest and detention; denial of bail; trumped-up charges; and human trafficking.

2.5.1. Safety and Security Concerns

In 2023, reported concerns regarding personal and security were raised, as different types were committed and reported in various Mainland Tanzania. In May 2023, the Minister Affairs stated that reported incidents of major **increased from 43,771 in the period of July**

The number of major crimes has increased by 1,684 crimes.

s a f e t y of crimes parts of of Home c r i m e s **2021 to May**

176 "Tume sheria yakabidhi ripoti kwa Waziri wa Katiba na Sheria" Nipashe Newspaper, 24 Sep 2023.

2022 to 45,455 from July 2022 to May 2023.¹⁷⁷ He noted key factors for the increase of major crimes were **people punishing other people (taking the law into their hands), jealousy, belief in witchcraft, land and inheritance disputes, and moral decay.**¹⁷⁸

Reported threats to personal safety and security included brutal killings and acts of violence, including gender-based violence (GBV), reported in regions such as Njombe, Geita, and Kilimanjaro. Incidents of violence against children, especially sexual violence, also continued to be a serious threat to their personal safety and security. LHRC documented 20 incidents of threats to personal safety and security. Digital insecurity also continued to pose a threat to personal security, as revealed by the Inspector General of Police (IGP), Camillus Wambura, who remarked in June 2023 that one of the key concerns for the Police Force currently is addressing cybercrime, which appears to be increasing in Mainland Tanzania.¹⁷⁹ Some of the community members who participated in LHRC's Human Rights Survey 2023, including in Dodoma and Shinyanga, also pointed out lack of or shortage of police stations as a safety and security concern, especially in rural areas.

In 2023, women, children, older people, and persons with albinism (PWAs) were more concerned about their safety and security, largely due to risks of different forms of violence, as explained above and in other parts of this report.

2.5.2. Arbitrary Arrest and Detention

Arbitrary arrest and detention mean arrest and/or detention of a person accused of a crime without following laid down procedures. Examples include not informing the person reasons for arrest, not allowing a person to communicate with family, using excessive and/or unnecessary force during arrest, and not taking the accused person to court promptly (within 24 hours in Tanzania).¹⁸⁰

In 2023, LHRC documented 51 incidents of arbitrary arrest and detention through human rights monitoring, media survey, and human rights survey, which are 39 more than those documented in 2022. These incidents were reported in various regions, including Arusha, Dar es Salaam, and Mbeya. 40 of these incidents (78%) were complaints received from within Ngorongoro District from the Maasai Community. For instance, in August 2023 it was reported that the Ngorongoro MP, Mr. Emmanuel Ole Shangay, was **detained for over two days without being taken to court** and his lawyers had to file an application to demand

¹⁷⁷ HOTUBA YA WAZIRI WA MAMBO YA NDANI YA NCHI MHE. MHANDISI HAMAD M. Y. MASAUNI (MB.), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/2024 (*supra*).

¹⁷⁸ *Ibid.*

¹⁷⁹ "IGP: Uhalifu wa mtandao, fedha pasua kichwa polisi" Nipashe Newspaper, 10 Jun 2023.

¹⁸⁰ 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; 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; Section 12 of the Criminal Procedure Act, CAP 20.



the High Court to order his arraignment in court.¹⁸¹ LHRC learned through its contact in the district that 39 other residents had been arbitrarily arrested and detained for longer periods of time, but some were later released.¹⁸² In Mbeya, it was reported in August 2023 that three individuals arrested for sedition and treason, Dr. Willbrod Slaa (former Ambassador), Boniface Mwabukusi (a lawyer and activist), and Mpaluka Nyangali (main opposition party cadre) were not taken to court within 24 hours of arrest, as required by law.¹⁸³

In Dar es Salaam, it was reported in January 2023 that Bahati Mbugi (29), resident of Temeke District, had been detained at a police station for 89 days.¹⁸⁴ In September, it was reported that a person accused of illegal immigration, John Robert Maitland, has been remanded in prison in the region for over 10 years.¹⁸⁵ In another incident, reported in October, the High Court reportedly ordered the Police Force to bring before it the director of a company called *Nezak Investment Limited*, Zakaria Kapama, who had been arbitrarily detained for 18 days.¹⁸⁶

Some quotes on arbitrary arrest and detention

‘We have discovered that suspects are being detained for a long time in police cells without being taken to court, which is contrary to the law’.

Former CJ, Mohamed Othman Chande – Chairperson of the Criminal Justice Reforms Commission – July 2023

‘I had a quarrel with this man, and he used his position to get me arrested and held without charge for two weeks, as my relatives unsuccessfully looked for me.’

Community member – Kigoma MC, Kigoma

2.5.3. Bail

Right to bail is essential in safeguarding the right to liberty and the principle of presumption of innocence. In 2023, key issues and concerns regarding bail in Mainland Tanzania included denial of bail and calls to make all or some of the criminal offences bailable.

Reported incidents of denial of bail

181 “Lawyers move to court over detained Ngorongoro MP” THE CITIZEN Newspaper, 24 Aug 2023; “Mawakili wa mbunge wa Ngorongoro watua kortini” Mwananchi Newspaper, 24 Aug 2023.

182 LHRC Human Rights Monitoring, August 2023; See also “Mawakili wa mbunge wa Ngorongoro watua kortini” Mwananchi Newspaper, 24 Aug 2023.

183 “Sintofahamu kina Slaaa kutofikishwa mahakamani” Mwananchi Newspaper, 18 Aug 2023.

184 “Simulizi ya kijana aliyekaa mahabusu ya polisi siku 89” Nipashe Newspaper, 8 Jan 2023.

185 “Adaiva kusota gerezani kwa miaka 10 bila kesi” Nipashe Newspaper, 11 Sep 2023.

186 “Mahakama Kuu yaiamuru Polisi kumfikisha mtuhumiwa kortini leo” Mwananchi Newspaper, 18 Oct 2023.

In 2023, LHRC documented 21 incidents and complaints of denial of bail, all of them police bail, reported in Arusha, Dar es Salaam, Kigoma, Manyara, Morogoro, and Katavi. These are three more incidents than those documented in 2022. Denial of police bail has been identified by stakeholders and the Commission for Human Rights and Good Governance (CHRAGG) as one of the key human rights challenges in Tanzania.¹⁸⁷ Community members and paralegals reached by LHRC in surveyed regions in 2023 also lamented the tendency of some police officers denying accused persons bail and deliberately creating difficult conditions for bail or demanding bribe to grant bail.¹⁸⁸ In Kigoma, one woman, resident of Kigoma MC told the survey team that she had to provide a sex bribe to get her husband out of police cell on bail.¹⁸⁹ In Dar es Salaam, a paralegal, resident of Mabibo area, said sometimes some people pay the police to arrest, detain, and deny bail to others 'to teach them a lesson.'¹⁹⁰ However, LHRC fears that these are just a small fraction of the actual number of incidents, as many go unreported.

Stakeholder recommendations on bailable and non-bailable offences

In 2023, stakeholders continued to give their views on bailable and non-bailable offences. In February 2023, the Judges and Magistrates Association of Tanzania (JMAT) recommended amendment of criminal laws to increase the number of bailable offences to ensure respect for the principle of presumption of innocence.¹⁹¹ In March, some lawyers recommended amendment of the Criminal Procedure Act to grant courts of law powers to grant and deny bail.¹⁹² In July 2023, the Presidential Commission on Criminal Justice Reforms revealed that it had received complaints from different stakeholders about some criminal offences being unbailable, and that some of them had recommended for all offences to be bailable like in other countries, like neighbouring Kenya, while others suggested bail should be granted for all offences except serious crimes such a terrorism, murder, treason, rape and sodomy of children below the age of 10 years.¹⁹³ The commission also observed that the definition of predicate offences in the Economic and Organized Crimes Control Act (Chapter 200) has contributed to denial of bail for many accused persons.¹⁹⁴

Presidential commission recommendations on bail

As pointed out in subsection 2.4.2 above, the presidential commission on criminal justice reforms made several recommendations on bail, including amendment of the predicate offences provision to reduce the number of

187 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>.

188 LHRC Human Rights Survey 2023: Arusha, Kigoma, & Dar es Salaam Field Reports.

189 LHRC Human Rights Survey 2023: Kigoma Field Report.

190 LHRC Human Rights Survey 2023: Dar es Salaam Field Report.

191 "Wataka sheria ya ubakaji kwa wanandoa" Mwananchi Newspaper, 22 Feb 2023.

192 "Sheria ya dhamana yakosolewa Tume ya Hakijina'i" Mwananchi Newspaper, 29 Mar 2023.

193 MUHTASARI WA RIPOTI YA TUME YA KUANGALIA JINSI YA KUBORESHA TAASISI ZA HAKI JINAI NCHINI (*supra*), p. 16.

194 *Ibid.*



defendants to be denied bail; amendment of the Economic and Organized Crime Control Act (CAP 200) and the Criminal Procedure Act (CAP 20) to grant the court power to deny or grant bail and require non-bailable offences are heard within a specified timeframe and bail granted if not; and enactment of the Bail Act, a standalone legislation on bail.¹⁹⁵

African Court decision on bail

In 2023, the African Court on Human and People's Rights delivered its judgment on *Application No. 039 of 2020 - Legal and Human Rights Centre (LHRC) and the Tanzania Human Rights Defenders Coalition (THRDC) versus the United Republic of Tanzania*. In the case, Applicants challenged the provision of **Section 148(5) of the Criminal Procedure Act Cap. 20(CPA)**. The complaint contained a list of non-bailable offences such as murder, treason, terrorism, and money laundering, and the applicants contended that the provision is discriminatory, violates the right to be heard, the right to a fair hearing, the right to presumption of innocence and does not afford accused persons the enjoyment of fundamental rights, including the right to equal protection under the laws of Tanzania as guaranteed under the ACHPR, the UDHR, the ICCPR. The case was filed after the Court of Appeal of Tanzania had declared that section 148(5) of the Criminal Procedure Act does not violate the Constitution of the United Republic of Tanzania in the case of *Attorney General versus Dickson Sanga Civil Appeal No 175 of 2020*.

The African Court ruled that Section 148(5) of CPA violates Article 2 of the Charter by virtue of the operation of Sub-Sections 148(5)(b) and (e) of the CPA, the violation of Article 7(1) and 7(1)(b) of the Charter by virtue of the operation of Sub-section 148(5)(b) and (c) of the CPA and violation of Article 1 by virtue of the operation of Sub-sections 148(5)(b), (c) and (e) of the CPA. The Government of Tanzania was ordered by the court to submit within twelve (12) months from the date of notification of the judgment to report on the status of implementation of the decision, every six (6) months, until the Court considers that there has been full implementation thereof.

LHRC's View: LHRC maintains its position on bail, that all offences should be bailable. 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

¹⁹⁵ Ibid, p.17.



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.

2.5.4. Trumped-up Charges

In recent years, complaints of trumped-up charges or fabrication of cases have been levelled against the law enforcement officers, especially the police, as also stated in the report of 20 years of the Commission of Human Rights and Good Governance (CHRAGG), released in September 2022,¹⁹⁶ and reiterated by President Samia Suluhu Hassan in November 2022.¹⁹⁷

As pointed out in subsection 2.4 above, in 2023, LHRC documented nine reported cases of trumped-up charges through human rights monitoring and human rights survey but believes there are many more cases. In half of surveyed regions, including Kigoma, Dar es Salaam, Pwani, and Geita, some of the interviewed community members also lamented fabrication of cases, most of them levelling complaints against police officers. For instance, in Kigoma, a young man, resident of Mwandiga in Kigoma DC, claimed he was arrested on trumped-up charges together with seven other men and threatened with being charged with murder and risk life imprisonment if they did not come up with Tshs. 1 million each.¹⁹⁸

In March 2023, the Chief Justice of Tanzania, Prof. Ibrahim Juma, suggested that some laws that have been enacted and amended cannot be implemented because relevant structures were not put in place to make them work. For instance, he said, in 2018 the Criminal Procedure Act was amended to allow suspect's statement to be recorded using a video instead of a hand-written statement, as a measure to reduce complaints of fabrication of cases. However, the equipment and tools to facilitate video recording are not in place.¹⁹⁹

2.5.5. Delays in Investigations and Disposal of Cases

As discussed, and pointed out in subchapter 2.4.2 above, delays in investigations and disposal of cases are big challenges in administration of criminal justice and complaints by citizens are widespread. Stakeholders have pointed out that such delays contribute to prolonged detention of accused persons.

LHRC's View: Delays in investigations and disposal of cases not only violate the right to equality before the law, but also the right to liberty and personal security, as they deny the accused persons freedom while they have not been convicted of the crime they are accused of.

LHRC's Call: Speeding up of relevant criminal justice reforms to remove or

¹⁹⁶ TAARIFA YA MIAKA ISHIRINI YA TUME YA HAKI ZA BINADAMU NA UTAWALA BORA 2001-2021 (*supra*), p. 41.

¹⁹⁷ MAHABUSU WENGI KESI ZAO NI ZA KUBAMBIKWA" RAIS SAMIA, BizTV Tanzania, at <https://www.youtube.com/watch?v=sQ9OQHKVUDY>.

¹⁹⁸ LHRC Human Rights Survey 2023: Kigoma Field Report.

¹⁹⁹ "Jaji Mkuu: Kuna baadhi ya sheria hazitekelezi" Mwananchi Newspaper, 30 Mar 2023.



reduce delays in investigations and disposal of cases and ensure the accused persons have an option of bail.

2.5.6. Human Trafficking

In 2023, human trafficking²⁰⁰ continued to be a threat to right to liberty and personal security as well as other fundamental human rights. LHRC documented 15 incidents of human trafficking, mostly of children, through human rights monitoring, three more than those documented in 2022. Among the incidents documented was of one child in Mwanza, aged 8 years, who was reportedly trafficked to Canada by his father.²⁰¹ In Dar es Salaam, it was reported that there is a growing problem of child trafficking and exploitation by begging (children trafficked for exploitative begging), especially in Kivukoni and Kigamboni areas.²⁰² LHRC has also observed that **persons with disabilities (PWDs)** also continue to be victims of trafficking for exploitative begging, usually in exchange for shelter, while **women and girls remain most vulnerable to trafficking for sexual exploitation.**

In May 2023, the Ministry of Home Affairs told the Parliament that a total of 190 victims of human trafficking, 184 of them Tanzanians, had been rescued by the ministry in collaboration with stakeholders in the period of July 2022 to May 2023.²⁰³ Earlier, in March, the Tanzania Network against Human Trafficking (TANAHUT) was registered, seeking to bring together government and non-government stakeholders to intensify efforts to curb human trafficking in Tanzania. The network comprises civil institutions, NGOs, religious institutions, international organizations, and institutions of higher education.²⁰⁴

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. Public awareness on human trafficking is also needed and very important.

200 Defined as "the recruitment, transportation, 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." (Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children).

201 LHRC Human Rights Monitoring 2023.

202 Ibid.

203 "Watanzaia 184 waokolewa usafirishaji haramu binadamu" HABARILEO Newspaper, 30 May 2023; HOTUBA YA WAZIRI WA MAMBO YA NDANI YA NCHI MHE. MHANDISI HAMAD M. Y. MASAUNI (MB.), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/2024 (*supra*).

204 "Govt, NGOs team up to fight human trafficking" THE CITIZEN Newspaper, 29 Jul 2023.



2.5.7. 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 Ministry of Constitutional and Legal Affairs to initiate the process of amending criminal laws to ensure all offences are bailable, and the court is given powers to grant or deny bail on a case by case basis.
- 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.

2.6. 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 2023, key right to take part in governance issues and violations in Mainland Tanzania included amendments to electoral and political party laws and court judgements on MPs running unopposed and DEDs being returning officers during elections.

2.6.1. Gaps in Legal Framework on Right to Take Part in Governance

Laws governing the right to take part in governance have been observed to contain gaps that hinder effective realization of this human right. These laws include the Constitution of the United Republic of Tanzania of 1977 and electoral laws such as the Political Parties Act and the National Elections Act. Some of these gaps have been confirmed by national and regional judicial bodies, calling for their amendment of relevant laws to address them. The gaps include:

- Prohibition of private or independent candidates²⁰⁵
- Prohibition of challenging presidential election results in a court of law²⁰⁶
- Excessive and intrusive powers over political parties of the Registrar of Political Parties

²⁰⁵ 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." [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.]

²⁰⁶ In July 2020, the African Court on Human and Peoples' Rights (the African Court) found in the case of *Jebra Kambole v United Republic of Tanzania* 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.



- Gender-blind provisions in electoral laws
- Independence of the electoral commission
- Challenging conduct and decisions of the National Electoral Commission (NEC) in courts of law
- Right to vote for prisoners and remandees²⁰⁷
- Special seats
- Unopposed candidates

2006 High Court Judgement of Private Candidates

In 2006, the High Court of Tanzania delivered its judgment in the case filed by the late Rev. Christopher Mtikila against the Attorney General, challenging constitutional amendment (Articles 39 and 67) which denied individuals to contest for the post of the President of Tanzania and Member of Parliament as private candidates, as opposed to being members of political parties.²⁰⁸ As was the case in the similar case filed by Rev. Mtikila in 1995, the High Court found that the amendment constituted unnecessary and unreasonable restrictions to the fundamental right of citizens of Tanzania to run for the relevant elective posts regardless of party membership.²⁰⁹

In 2022, the Presidential Taskforce on Multiparty Democracy in Tanzania made several recommendations to safeguard the right to take part in governance, including:

- Presidential election results should be able to be challenged in Supreme Court once such court has been established.
- 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.
- 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.
- 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.
- 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.
- Amendment of electoral laws to ensure equal participation of PWDs in politics and representation in decision making.
- New Constitution of the United Republic of Tanzania should include a

²⁰⁷ The practice of denying remandees above the age of 18 years their constitutional right to vote is not backed by a law or rule, is unconstitutional [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>]

²⁰⁸ *Mtikila vs Attorney General* (Misc. Civil Cause 10 of 2005) [2006] TZHC 5 (5 May 2006), at <https://tanzlii.org/akn/tz/judgment/tzhc/2006/5/eng@2006-05-05>.

²⁰⁹ *Ibid.*



provision on prohibiting corruption.

2.6.2. Amendment of Electoral and Political Party Laws

In November 2023, three bills were tabled in Parliament for first reading, namely the Presidential, Parliamentary and Local Government Elections Bill; the Political Parties Affairs Laws (Amendment) Bill; and the National Electoral Commission (NEC) Bill.²¹⁰

Stakeholders, including LHRC, met to analyse the bills and provided several recommendations,²¹¹ summarized below.

| | |
|--|--|
| Presidential, Parliamentary and Local Government Elections Bill | <ul style="list-style-type: none">■ Election and voting infrastructure and processes to be disability friendly.■ Electoral commission to set a specific election day, e.g. last Wednesday of October.■ Electoral commission to have powers to recruit its own staff at all levels.■ Citizens to be allowed to vote using recognized IDs other than electoral identity cards.■ ICT to be used in identifying voters, including the use of fingerprint technology.■ Political parties to be allowed to nominate another candidate if no applicants are available on the last day of nomination or a candidate withdraws their candidature.■ Introduce a provision that shall require public and private media to provide equal coverage of campaigns of all political parties and candidates.■ Election petitions to be determined within 90 days instead of proposed 12 months and appeals within 60 days instead of proposed 12 months. |
| | <ul style="list-style-type: none">■ Introduce a provision requiring candidates to participate in public debates, and presidential debates to be aired live by the media.■ The structure of the bill to be guided by the election cycle to make it easier to read and understand.■ Candidate to be declared winner of presidential, parliamentary, and councillorship seat only if they receive more than 50% of the votes. |
| | <ul style="list-style-type: none">■ Introduce a specific chapter on voter education and election observation.■ Candidate nomination forms at all levels to be submitted as a hard or soft copy. |

210 "Reforms set to transform NEC operations" DAILYNEWS Newspaper (online), 11 Nov 2023, at <https://dailynews.co.tz/reforms-set-to-transform-nec-operations/>.

211 MAONI YA WADAU (LHRC, TLS, Twaweza, CSL, JUKATA na Jamii Forums) KWENYE MISWADA YA SHERIA ZA UCHAGUZI NA MUSWADA WA SHERIA YA VYAMA VYA SIASA, Januari 8 2024, Dodoma, Tanzania.



| | |
|---|---|
| | <ul style="list-style-type: none"> ■ Removal of a provision (section 107(3)) which proposes destruction or disposition of electoral records within 6 months as it contravenes the Records and Archives Management Act No. 2 of 2022, which sets a 30-year retention period for all public records. ■ Amendments to consider and comply with election-related decisions/judgements of various national and regional courts, including on contesting presidential election results in court,²¹² private candidacy,²¹³ returning officers,²¹⁴ right to vote for prisoners,²¹⁵ election expenses,²¹⁶ winning a seat unopposed,²¹⁷ and some provisions within the Political Parties Act.²¹⁸ |
| <p>Political Parties Affairs Laws (Amendment) Bill</p> | <ul style="list-style-type: none"> ■ Parliament to reconsider implementation of the East African Court of Justice decision in the case of Freeman Mbowe, Hashimu Rungwe, Salum Mwalimu and Legal and Human Rights Centre v. Attorney General of the United Republic of Tanzania (consolidated reference No. 3 and 4) which nullifies provisions of section 3, 4,5,9, 15 and 29 of the Political Parties Act were against Article 6(d), 7(2) and 8 (1) (c) of the Treaty for Establishment of East African Community, 1999, directed the Government to take necessary measures to bring the Act into conformity with the Treaty. |
| | <ul style="list-style-type: none"> ■ Removal of provision on deregistration of political parties (harsh and excessive penalty) and power to deregister a political party to be vested to the High Court. |

212 Jebra Kambole vs. United Republic of Tanzania, Application No. 018/2018, Judgement, 15 July 2020, at <https://www.african-court.org/en/images/Cases/Judgment/App1.%20018%20-%202018%20-%20Jebra%20Kambole%20-%20Judgment.pdf>.

213 Tanganyika Law Society, Legal and Human Rights Centre, & Rev. Christopher R. Mtikila vs. United Republic of Tanzania, Application No. 011/2011, at <https://www.african-court.org/en/images/Cases/Judgment/Judgment%20Application%20009-011-2011%20Rev%20Christopher%20Mtikila%20v%20Tanzania.pdf>.

214 Bob Chacha Wangwe & Legal and Human Rights Centre vs. United Republic of Tanzania, Application 0/11/2020, Judgment, 20 June 2023, at https://archives.au.int/bitstream/handle/123456789/10476/Signed%20%20EN_%20Judgment%20App1.011-2020%20Bob%20Chacha%20Wangwe%20v%20Tanzania%20.pdf?sequence=1&isAllowed=y.

215 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>

216 Julius Ishengoma Francis Ndyanabo vs The Attorney General (Civil Appeal 64 of 2001) [2002] TZCA 14 (14 February 2002), at <https://tanzlii.org/akn/tz/judgment/tzca/2002/14/eng@2002-02-14>.

217 Joran Lwehabura Bashange vs The Chairman of National Electoral Commission and Another (Misc. Civil Cause 19 of 2021) [2023] TZHC 16367 (29 March 2023), at <https://tanzlii.org/akn/tz/judgment/tzhc/2023/16367/eng@2023-03-29>.

218 Mbowe and Others v Attorney General of the United Republic of Tanzania [2022] EACJ 4 (25 March 2022), at <https://africanlii.org/akn/aa-au/judgment/eacj/2022/4/eng@2022-03-25>.

| | |
|--|---|
| | <ul style="list-style-type: none"> ■ Meetings of political parties not to be subjected to the Police Force and Auxiliary Services Act. ■ Removal of a provision (section 19) which restricts remedies for the aggrieved political party following decision of the Registrar of Political Parties. There is only a remedy of judicial review, contrary to Article 13(6)(a) of the Constitution. ■ A clear threshold of inclusion of youth, women, and PWDs. The structure of 30% youth, 30% women and 20% PWDs in political party structure is proposed. ■ Adding a provision to consider youth, women, and PWDs in political party governing and decision-making structures and organs. |
| <p>National Electoral Commission (NEC) Bill</p> | <ul style="list-style-type: none"> ■ The name of the law to be the Independent Electoral Commission Act, 2024. ■ Bill to prioritize gender consideration in recruitment of members to ensure representation of different groups, including women, PWDs, and youth. ■ If the Chairperson is female, then the Deputy Chairperson should be male and vice versa. |
| | <ul style="list-style-type: none"> ■ Remove the Director of Elections from the member interview committee and replace them with the Executive Secretary of Commission for Human Rights and Good Governance (CHRAGG) to prevent conflict of interest and safeguard electoral commission independent. ■ Chairperson and Deputy Chairperson to be recruited by the interview committee or elected by registered members. |
| | <ul style="list-style-type: none"> ■ Commission to be vested with powers of electoral boundary delimitation, instead of the Minister responsible. ■ Civil service background should not be the only qualification for the position of Director of Elections. ■ Introduction of a provision requiring commission members to be non-partisan. ■ Director of Elections not to be directly appointed by the President, instead to be nominated by the interview committee first. ■ Commission to be free from possible interference by the Minister responsible on all matters regarding its structure and staff. |

The analysis generally found the proposed amendments to the Political Parties Act to be inadequate and do not change the Act in any major way. Stakeholders also proposed constitutional amendments to ensure better implementation of the recommendations for the National Electoral Commission (NEC) Bill.

LHRC's View: The proposed amendments to the Political Parties Act have left out other key recommendations proposed by the Report of the Presidential



Taskforce on Multiparty Democracy led by Professor Rwekaza Mkandala and decisions or judgments by domestic and regional courts. Second, proposed amendments fail to undo restrictive clauses from the previous amendments to the Act (in late 2018 / early 2019) that massively expanded the powers of the Registrar and subjected political parties to a heavy administrative burden and highly intrusive regulation.

LHRC's Call: The proposed amendments and enactments of the electoral and political party laws to comply with international standards on the right to take part in governance, the judgements of national and regional courts on various election issues, including private candidacy, right to vote for prisoners, and candidates winning seats unopposed. The proposed amendments and enactments should also consider the recommendations made by the Presidential Taskforce on Multiparty Democracy.

2.6.3. High Court Judgement on Unopposed MPs

In March 2023, the High Court delivered its judgement in the case of Joran Lwehabura Bashange against the Chairperson of the National Electoral Commission (NEC) and the Attorney General.²¹⁹ Brief facts of the case, key issues and court decision are summarized below.

Brief facts

- The petitioner, Joran Lwehabura, filed the petition against the respondents in 2021, challenging the constitutional validity of section 44 of the National Elections Act (CAP 343) and sections 45(5) and 13(7) of the Local Government (Elections) Act (CAP 292).
- The petitioner alleged that the provisions allow unopposed candidate for member of parliament and councilor to represent the constituency and the ward respectively, violating the rights of citizens to vote, to elect representatives, and to participate in public affairs through elected representatives to the parliament and the LGAs.
- The provisions were therefore said to contravene Articles 21(1) & (2) and 26(1) of the Constitution, thus unconstitutional, null, and void. They also contravene international human rights standards.²²⁰
- Respondents argued the impugned provisions are constitutional because they serve a legitimate purpose and enhance democratic elections.

219 Joran Lwehabura Bashange vs The Chairman of National Electoral Commission and Another (Misc. Civil Cause 19 of 2021) [2023] TZHC 16367 (29 March 2023).

220 Article 13(10) of the African Charter on Human and Peoples' Rights, 1981; Article 25(1) & (b) of the International Covenant on Civil and Political Rights, 1966; and Article 21(1) & (3) of the Universal Declaration of Human Rights, 1948.



Key issues

- Whether the impugned provisions violate the invoked provisions of the Constitution.
- Whether the Constitution requires a member of parliament or a councilor to be elected by vote in a secret ballot.

Court findings & decision

- Petitioner sufficiently showed that the impugned provisions contravene Article 21 of the Constitution as they introduce new factors or situations restricting people from exercising the right to vote to freely elect a candidate.
- The provisions are contrary to the constitutional guarantee for the right to vote enshrined under Article 21 and have thus introduced another category of members of parliament deemed to be elected by virtue of only being the sole nominated candidates, which category is not provided for under Article 61(1) of the Constitution.
- The impugned provisions are not saved by Article 30(1) & (2) of the Constitution by failing to meet the proportionality test.
- The provisions of section 44 of the National Elections Act (CAP 343) and sections 45(2) and 13(7) of the Local Government (Elections) Act (CAP 292) are unconstitutional, and therefore null and void for offending the provision of Article 21(1) and (2) of the Constitution, hence struck out.

LHRC's View: The High Court decision is a welcome decision and a positive step towards further safeguarding the right to take part in governance in Tanzania.

LHRC's Call: The Ministry of Constitutional and Legal and Affairs and the Parliament to consider the judgement of the High Court and regional and international human rights standards in enacting new election laws.

2.6.4. African Court Judgement on Civil Servants (DEDs) as Returning Officers

In June 2023, the African Court on Human and Peoples' Rights delivered its judgement on the case of Bob Chacha Wangwe and Legal and Human Rights Centre versus the United Republic of Tanzania.²²¹ Brief facts of the case, key issues and court decision are summarized below.

²²¹ Bob Chacha Wangwe & Legal and Human Rights Centre vs. United Republic of Tanzania, Application 0/11/2020, Judgment, 20 June 2023.



Brief facts

- The applicants alleged that sections 6(1), 7(1), 7(2), and 7(3) of the National Elections Act (NEA) violated their rights.
- They alleged violation of their right to freely participate in the government through two principal means: first in the appointment of the Director of Elections (section 6(1) of NEA); and second, in the manner in which returning officers are appointed (sections 7(1), 7(2), and 7(3) of the NEA)
- The applicants said the respondent had violated Articles 13(1) and 3 of the African Charter on Human and Peoples' Rights. Section 6(1) of NEA violated the Charter because the Director of Elections is appointed by the President, who is the Chairperson of the ruling party and also among the contestants in elections. The section also lacks criteria for the appointment of the Director of Elections, making it wide, broad, vague, and subject to abuse.
- They also alleged violation of their right to non-discrimination.

Key issues

- Whether sections 6(1), 7(1), 7(2), and 7(3) of the National Elections Act (NEA) violate the applicants' right to participate in government.
- Whether sections 6(1), 7(1), 7(2), and 7(3) of the National Elections Act (NEA) violate the applicants' right to non-discrimination.

Court findings & decision

- There is no violation of Article 13(1) of the Charter by the mere reason that the Director of Elections is appointed by the President.
 - Indeed, section 6(1) of NEA did not set out any qualifications that an appointee for the position of Director of Elections must possess in order to qualify for appointment, exposing the process to uncertainty and consideration of irrelevant factors. The lack of qualification criteria violates Article 13(1) of the Charter and is not a permissible limitation under Article 27(2) of the Charter.
 - Restricting the Director of Elections to civil service does not violate the Charter, hence no violation of Charter under section 6(1) of NEA in this regard.
- The use of civil servants in the operations of an electoral management body is not, by itself, inimical to the independence, autonomy, and accountability of an electoral management body.



- Section 7(1) of NEA did not violate Article 13(1) of the Charter by permitting certain office bearers, that is, city directors, municipal directors, town directors and district executive officers to serve as returning officers by virtue of their positions.
- The latitude created by sections 7(2) and 7(3) of NEA, creating a leeway to appoint returning officers from among public officers at large, could result in the appointment of returning officers not fit for duty.
- Limiting the selection of the Director of Elections and the returning officers from civil service is reasonable and not a violation of Article 2 of the Charter (non-discrimination).
- Sections 6(1), 7(2), and 7(3) of NEA in part violate Article 13(1) of the Charter and Tanzania should take all necessary constitutional and legislative measures to ensure amendment of the provisions.

LHRC's View: While not mostly in line with its prayers and recommended best practice, LHRC welcomes and respects the decision of the African Court on Human and Peoples' Rights.

LHRC's Call: The Government, through the Ministry of Constitutional and Legal and Affairs, to spearhead amendments of the National Elections Act (CAP 343) in line with the judgement of the African Court on Human and Peoples' Rights.

The 2019 Court of Appeal Judgement on DEDs as Returning Officers

In 2018, Bob Chacha Wangwe petitioned the High Court, challenging the constitutionality of Sections 6(1), 7(1) and (3) of the National Elections Act, [Cap. 343 R.E. 2002].²²² He argued that the provisions are unconstitutional for offending articles 21(1), (2) and 26 (1) of the Constitution of the United Republic of Tanzania, 1977. In May 2019, the High Court of Tanzania delivered its judgment, holding that the provisions of s. 7(1) and (3) of the National Elections Act violate articles 21(1), (2) and 26(1) of the Constitution and therefore declared them void for being unconstitutional and thus proceeded to strike them out.²²³ Aggrieved by the High Court's decision, the Government appealed against the decision at the Court of Appeal of Tanzania. In 2019, the Court of Appeal of Tanzania overturned the decision of the High Court after finding merit in the appeal based on grounds 3, 4, 5, 6 and 8 of appeal.

2.6.5. Key Issues and Concerns Ahead of 2024 and 2025 Elections

Ahead of the 2024 and 2025 elections, LHRC is concerned that most of the key recommendations made by the Presidential Taskforce on Multiparty Democracy

²²² See Court of Appeal Judgement, Attorney General and 2 Others vs. Bob Chacha Wangwe. Civil of Appeal No. 138 of 2019, at <https://tanzlii.org/tz/judgment/court-appeal-tanzania/2019/346/CIVIL%20%20OF%20APPEAL%20NO.%20138%20OF%202019%20-%20%20ATTORNEY%20GENERAL%20AND%20%20OTHERS%20VS.%20BOB%20CHACHA%20WANGWE%20-%20MWARIJA%2C%20J.A.%20NEW..pdf>.

²²³ Ibid; See also Christopher Kidanka "Tanzanian court annuls presidential appointees' role in elections" The East African Newspaper [online], 10 may 2019, at <https://www.theeastafrican.co.ke/news/ea/Tanzanian-court-bars-presidential-appointees-in-poll-role/4552908-5110006-ulyp57z/index.html>.



are yet to be implemented, including gender-related recommendations. It is also critical to address violence against women in politics, given its growing prevalence, to ensure women freely participate in the upcoming elections, free of violence.

Other key issues include voter apathy; allowing parallel vote tallying/tabulation and announcement of results at polling stations, as was the case in the 2022 Kenya elections; using technology to transport election results to reduce possibility of electoral fraud; allowing presidential results to be challenged in court; allowing private candidacy; and transparency of NEC, including by quickly scanning and posting copies of results forms from polling stations and constituencies on its website, allowing political candidates, media outlets, citizens, and other election stakeholders to see the primary data.

Civic and Voter Education

Another key issue ahead of the elections of 2024 and 2025 is civic and voter education. The National Electoral Commission (NEC) should ensure this type of education is provided to community members as soon as possible. This is important to ensure all groups in the community, mainly men, women, youth, the elderly, and persons with disabilities (PWDs), understand their rights, the political system, and the electoral cycle, as provided for under the Constitution of the United Republic of Tanzania of 1977 and other electoral laws, and guaranteed under international and regional human rights instruments. It is also important for these groups to understand the specifics and mechanics of the voting process. The education provided should be gender-sensitive and provided using different platforms, depending on the audience and issues such as literacy and access to information. CSOs have an important role to play in provision of civic and voter education and should therefore seek relevant permissions to start providing such education well before the elections.

2.6.6. Key Recommendations

- The Ministry of Constitutional and Legal Affairs to facilitate ratification of the African Charter on Democracy Elections and Governance (ACDEG) of 2007.
- The Ministry of Constitutional and Legal Affairs and the National Electoral Commission (NEC) 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 Ministry of Constitutional and Legal Affairs to ensure 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.
- NEC and CSOs to start provision of civic and voter education, which should be gender-sensitive, ahead of the elections of 2024 and 2025.



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 inflicting pain or suffering on an individual who is powerless and unable to escape or resist arrest.

In 2023, 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. Legal Protection against Torture

The Constitution of the United Republic of Tanzania, 1977 stipulates that ‘no person shall be subjected to torture or inhuman or degrading punishment or treatment.’²²⁴ The Law of the Child Act of 2009 also provides for protection of children from torture and degrading treatment, noting that ‘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.’²²⁵ Other laws and regulations, including the criminal law, also prohibits acts of torture, including assault, grievous bodily harm, and attempted murder.²²⁶

However, Tanzania is yet to ratify, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which was adopted in 1984 to protect people from various acts of torture and cruel, inhuman or degrading treatment. This convention, among others, requires States to take effective legislative, administrative, judicial, or other measures to prevent acts of torture in any territory under State’s jurisdiction.²²⁷ Currently, only two countries in Africa, Tanzania and Zimbabwe, are yet to ratify the CAT.

2.7.2. Reported Torture Incidents

In 2023, incidents and complaints about torture were widely reported across Mainland Tanzania. LHRC documented 57 such incidents, increasing from 44

²²⁴ Article 13(6)(e) of the Constitution of Tanzania, 1977.

²²⁵ Section 13(1) of the Law of the Child Act, 2009 [CAP 13, R.E 2019].

²²⁶ See COMMONWEALTH HUMAN RIGHTS INITIATIVE (2006), THE POLICE, THE PEOPLE, THE POLITICS: POLICE ACCOUNTABILITY IN TANZANIA, at https://www.humanrightsinitiative.org/publications/police/tanzania_country_report_2006.pdf.

²²⁷ Article 2(1) of CAT.



in 2023, reported in regions such as Dodoma, Songwe, Mbeya, Mara, Mwanza, Arusha, Kigoma, and Dar es Salaam. They include complaints of torture of arrested Maasai community members in Ngorongoro District; child torture; and complaints of torture by law enforcement officers, including to get confessions and punish.

In September 2023, LHRC received 30 complaints and reports of torture of some of the Maasai people in Ngorongoro District, who had been arbitrarily arrested by police and other law enforcement officers (mostly rangers) for various reasons, detained, and tortured while under custody.²²⁸ Some local observers disclosed that arrested individuals were subjected to various acts of torture, including slapping, severe beating, being drenched with cold water (water torture), kicking, and kissing the walls of police cell and say 'I love you.' Some of the victims of alleged torture and brutality were as young as 14 years old.²²⁹ According to the local observers, most of the victims were told they were beaten because they were 'resisting relocation to Msomera' in Tanga Region or 'disobeying government directives to relocate.' They were also tortured when they could not mention the names of people 'leading the resistance.' One businessman, resident of Karatu District, claimed that he was beaten because he was considered 'part of the problem' for providing goods and causing people to continue staying instead of relocating. Majority of the victims also claimed to have been forced to sign statements they did not understand.²³⁰

In 2023, LHRC also documented acts of child torture, including burning of hands, severe corporal punishment, and beating, detailed in Chapter Five of this report. In September, the Police Force announced that it was investigating the incident of a child being tied onto a wall (hands and legs) in a bending position which was circulating on social media. The police also claimed it was investigating another incident of a resident of Dodoma, was reportedly tortured while under police custody, and two young men in Songwe, whose toes were cut by a 10-cell leader following accusations of theft.²³¹

In Mbeya, there were allegations of acts of torture perpetrated by rangers of the Tanzania National Parks (TANAPA) against villagers in Mbarali District, widely reported by the media in May and June 2023.²³² The rangers were said to have subjected arrested villagers, including pastoralists and women, to acts of torture such as beating, stripping naked, and burning, after accusing them of trespassing into the national parks and reserve forests. In May, LHRC conducted a fact-finding mission in Mbarali District to ascertain some of the allegations, whereby it was able to meet with some of the victims and local authorities,

228 LHRC Ngorongoro Fact-Finding Report, September 2023.

229 Ibid.

230 Ibid.

231 LHRC Human Rights Monitoring, September 2023.

232 "KASHFA NZITO" Nipashe Newspaper, 12 May 2023; "MKASA ASKARI-PORI KUDHURU MBARALI...: DC afunguka sababu zake kuhalalisha operesheni askari dhidi ya wanakijiji, Nipashe Newspaper, 14 Jun 2023.

confirmed the allegations of torture and issued a statement to condemn the actions of implicated rangers and calling for accountability.²³³ In the same month, the Police Force in Mbeya reportedly arrested three TANAPA rangers, accused of attacking and harming five people, a day after the Prime Minister, Hon. Kassim Majaliwa, ordered the Minister of Natural Resources and Tourism and the head of TANAPA to go to the district and address the situation.²³⁴



Picture 5: One of the victims of torture inflicted by TANAPA rangers in Mbarali, Mbeya Regions, showing scars to LHRC fact-finding team, May 2023

In Arusha, it was reported in July 2023 that a ranger from the Ngorongoro National Park had tortured a 15-year-old boy, resident of Salei Village, who had to be hospitalized at the Karatu District Hospital. The ranger reportedly removed several teeth from the boy's mouth as punishment for trespassing into the national park while herding livestock.²³⁵

In 2023, death row inmates also continued to experience torture, as death penalty has been found to amount to a cruel, degrading, and inhuman punishment under the Convention against Torture (CAT).²³⁶ In 2023, the Presidential Commission on Criminal Justice Reforms disclosed that there were **691 death row inmates**, and that some stakeholders had recommended abolition of death penalty for being cruel and causing the inmates to live in

²³³ "LHRC condemns unlawful human acts committed by wildlife rangers" The Guardian Newspaper, 31 May 2023; "LHRC yalaani ukiukwaji wa haki za binadamu maeneo ya hifadhi" Nipashe Newspaper, 31 May 2023.

²³⁴ "Askari matatani wakituhumiwa kujeruhi raia" Mwananchi Newspaper, 13 May 2023.

²³⁵ "Askari watuhumiwa kumng'oa meno mfugaji" Mwananchi Newspaper, 16 Jul 2023; "Askari uhifadhi adaiwa kujeruhi mtoto wa miaka 15" Mwananchi Newspaper, 18 Jul 2023.

²³⁶ 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.



fear as they await execution, which has not been done in nearly thirty years. While the Commission did not recommend abolition of death penalty, it did recommend that **death penalty should not be the only punishment for murder** and **death sentence to be commuted to life imprisonment if the President does not sign the execution warrant within three years.**

LHRC's View: LHRC has observed that acts of torture of accused persons under law enforcement custody are largely influenced by the need to get confessions. In the absence of adequate resources for the law enforcement institutions, especially the Police Force, coupled with pressure to deliver and capacity gaps in investigation, torture appears to be an acceptable method of interrogation. Torture and ill-treatment are even considered deserved and inflicted as punishment in some circumstances simply because someone is a 'criminal,' a perception shared not only by some police officers but also a section of the society. It is normal for LHRC to be asked by some law enforcement officers when advocating for rights of accused persons why we defend 'criminals' when 'it is clear' that they have committed an offence and deserve punishment. LHRC has also observed that victims of torture, especially when inflicted by law enforcement officers, rarely report, and seek redress, and this can partly be explained by fear of going back to the same law enforcement officers to file complaints. Addressing law enforcement torture and brutality is also essential in preventing and reducing extrajudicial killings.

LHRC's Call: The Government needs to reconsider its position and ratify the Convention against Torture. This investigation of torture incidents is also warranted, but to ensure this is done impartially and effectively, LHRC insists on the establishment of a civilian independent police oversight body, which shall ensure victims obtain redress and those responsible are brought to justice. Comprehensive and effective training on human rights and policing shall also help to improve the conduct of police officers and prevent acts of torture and inhuman or ill-treatment.

2.7.3. Key Recommendations

- The Ministry of Constitutional and Legal Affairs to facilitate ratification of 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, and conduct regular human rights training to police officers.
- 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.

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.

In 2023, some members of different groups, including women, children, men, PWDs, and the elderly were subjected to different acts of physical, sexual, economic, and psychological violence.

2.8.1. Violence against Women

In 2023, LHRC documented 147 incidents of violence against women (VAW) through human rights monitoring and media survey alone, reported in nearly all regions of Mainland Tanzania. These are 39 more incidents than those documented in 2022. LHRC documented an additional 1,738 incidents of VAW reported in 10 of the 20 surveyed regions of Mainland Tanzania, increasing from a total of 1,391 incidents reported in 2022.

2.8.2. Violence against Children

In 2023, LHRC documented 464 incidents of violence against children (VAC), increasing from 350 documented in 2022 through media survey and human rights monitoring. Through human rights survey, conducted in 20 regions of Mainland Tanzania, LHRC documented an additional 2,807 incidents of VAC reported in 15 out of the 20 regions.

2.8.3. Violence against Men

While violence is usually perpetrated against women and children, men can also be victims of violence²³⁷, 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 violence²³⁸. Most of the existing literature also discuss domestic violence in relation to women²³⁹. However,

237 Kolbe, V., & Büttner, A. (2020). Domestic Violence Against Men-Prevalence and Risk Factors. *Deutsches Arzteblatt international*, 117(31-32), 534–541.

238 Deshpande S. Sociocultural and Legal Aspects of Violence Against Men. *Journal of Psychosexual Health*. 2019;1(3-4):246-249. doi:10.1177/2631831819894176.

239 Deshpande S. Sociocultural and Legal Aspects of Violence Against Men. *Journal of Psychosexual Health*. 2019;1(3-4):246-249. doi:10.1177/2631831819894176

239 Ibid,



men also suffer verbal, physical, emotional/psychological, and sexual abuse²⁴⁰.

Reported incidents documented by LHRC

In 2022, LHRC documented 9 incidents of violence against men (VAM). In 2023, more VAM incidents were reported as LHRC documented 27 incidents reported in Kilimanjaro, Mtwara, Rukwa, and Dodoma. 12 of these incidents were reported in Rukwa and 7 in Kilimanjaro.

In Kilimanjaro, it was reported in August 2023 that some men in five villages, located in Mwika Kusini Ward in Moshi District were subjected to various acts of violence by their wives, especially denying them sex (conjugal right)²⁴¹.

In the same month, it was reported that a man, resident of Maring'a in Moshi District had been repeatedly attacked and beaten by his wife²⁴².

In Kibosho District, an NGO director told the LHRC survey team that some men in the district are brutally beaten by their wives and sometimes the wives team up with children to physically assault their husbands²⁴³.

'...here in Kibosho (District) there is a tendency of women beating up their partners, and sometimes even the children side with their mother to attack the father, who is then forced to run away from his house to seek peace outside.'

NGO ED - Kilimanjaro

In Mtwara, it was reported in July that some women at Namkuku Street in Nanyamba TC were denying their husbands sex unless they do certain things, including squatting.²⁴⁴ In Dodoma, LHRC documented an incident of a man with disability who was physically assaulted by his wife after confronting her about her extra-marital affair.²⁴⁵

240 Ibid,

241 "Walalamika wake zao kuwanyima unyumba" Nipashe Newspaper, 19 Aug 2023; "Matukio ya kupigwa wanaume K'njaro yawaibua wanaharaki" Nipashe Newspaper, 24 Aug 2023.

242 "Mwanaume adaiwa kunyanyaswa, kujeruhiwa na mke wake wa ndoa" Nipashe Newspaper, 23 Aug 2023.

243 LHRC Human Rights Survey 2023: Kilimanjaro Field Report.

244 "Wanaume wadai kurushwa kichura ili kupata" Nipashe Newspaper, 12 Jul 2023.

245 LHRC Human Rights Survey 2023: Dodoma Field Report.





Picture 6: A man with disability who was attacked by his wife in Dodoma

Source: Field data, 2023

In September, it was reported that deprivation of conjugal rights is a big challenge for men in Mainland Tanzania and that men also experience violence at workplace, including sexual (sextortion) and physical violence from female boss/supervisor, including slapping and verbal abuse.²⁴⁶ It was also reported that most cases of VAM are not reported in developing countries, including Tanzania, partly due to belief that a woman cannot beat a man.²⁴⁷ LHRC also observed that the growing prevalence of VAM is largely driven by societal belief that men are immune to being victimized, causing most men to feel 'ashamed' to report violence perpetrated against them.

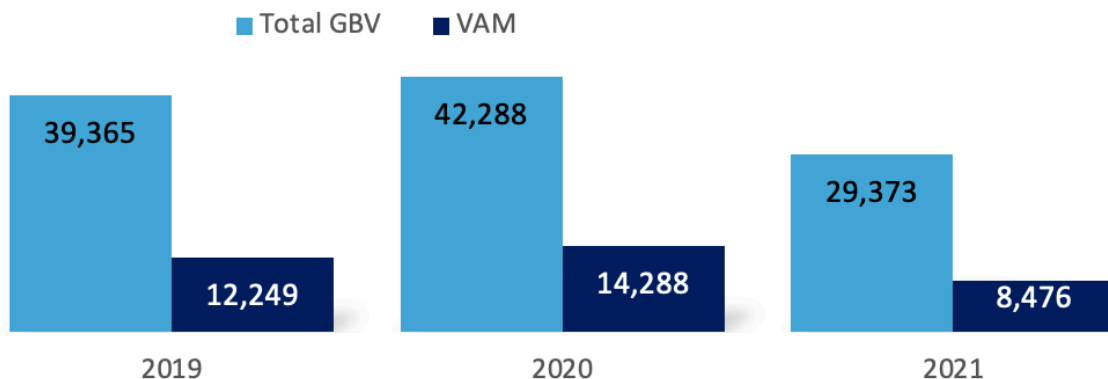
Official statistics

Official police statistics indicate that a total of 35,013 VAM cases were reported in the period of 2019 to 2021, averaging 11,671 incidents per year and 973 per month.

²⁴⁶ "Male GBV remains a silent crisis" THE CITIZEN Newspaper, 23 Sep 2023.

²⁴⁷ Ibid.





Total GBV vs VAM incidents documented by police – 2019 to 2021

Source: Police data, 2019 to 2021

The 2022 demographic and health survey found that 2% of women aged 15-49 who have ever had a husband or intimate partner initiated physical violence against their husband or intimate partner when he was not already beating or physically hurting them, and 1% reported having initiated such violence in the last 12 months.²⁴⁸ The highest percentage of women who committed physical violence against their husbands or intimate partner in Mainland Tanzania was in **Njombe** (7%), while most other regions recorded less than 1%.²⁴⁹

LHRC's Call: Government and non-government stakeholders to take measures to address VAM. Enactment of anti-GBV law should be one of the measures, and the proposed law should contain specific provisions on VAM.

2.8.4. Violence against PWDs

In 2022, LHRC documented 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. LHRC documented 27 incidents of violence against PWDs in 2023, more than double those documented in 2022.

2.8.5. Violence against the Elderly

In 2022, LHRC documented 24 incidents of violence against the elderly. In 2023, LHRC documented 45 incidents, reported in regions such as Kigoma, Singida, Geita, Dodoma, Shinyanga, Njombe, Tabora, Ruvuma, Iringa, Rukwa, and Kigoma.

²⁴⁸ 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.

²⁴⁹ Ibid.

2.8.6. Key Recommendations

- The Ministry of Constitutional and Legal Affairs to ensure enactment of a specific and comprehensive law on gender-based violence as the current legislation does 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

About the right

- Essential to effective and good democratic governance and in enjoyment of other fundamental human rights, including freedoms of expression and association.
- 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.
- Also protected under the Constitution of the United Republic of Tanzania, 1977.

2.9.1. Privacy Laws vis-à-vis International Standards

In September 2022, human rights stakeholders in Tanzania welcomed the news that the Ministry of Information, Communication, and Information Technology was going to table a bill on personal data protection in Parliament for debate. In November 2023, the Personal Data Protection Act was enacted, as Tanzania joined neighbours Kenya, Uganda, and Rwanda in having in place such law. Among other things, the law seeks to enhance the protection of personal data of individuals and safeguarding rights to privacy and personal security. This is very good. However, the stakeholders were left disappointed by the fact that only 4% of their recommendations on the bill were accepted and another 4% partially accepted.²⁵⁰ Consequently, the law has left many gaps, as many key provisions do not conform to international standards.

In 2023, stakeholders, including LHRC, continued to call for amendment of the law to bring it in line with international human rights standards, but no such move was taken by the Government and Parliament as of December 2023. Stakeholder concerns with the law include: 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

²⁵⁰ JamiiForums, LHRC, TLS, TAMNOA, Twaweza, TBA, & Multichoice Tanzania, *UCHAMBUZI WA BAADA YA UWASILISHAJI WA MAONI YA WADAU KUHUSU MSWADA WA SHERIA YA ULINZI WA TAARIFA BINAFSI*, 2022, Desemba 20, 2022.



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.²⁵¹

LHRC's View: Enactment of the Personal Data Protection Act is a positive development in safeguarding the right to privacy, which is a fundamental human right. However, the concerns raised by stakeholders are valid and addressing them shall make it a much better law.

LHRC's Call: The Government to consider amendment of the Personal Data Protection Act to address concerns raised by stakeholders and ensure the law is compatible with international human rights standards.

2.9.2. Reported Privacy-Related Issues and Incidents

In 2023, one of the key issues which raised concern over enjoyment of the right to privacy was imposition of a ban on the use of Virtual Private Networks (VPN) without a permit by the Tanzania Communications Regulatory Authority (TCRA) in October 2023.²⁵² The regulatory authority issued a public notice requiring individuals and companies using VPNs to declare such use and provide relevant information, including IP addresses.²⁵³ Following this statement, the Tanzania Digital Rights Coalition, of which LHRC is also a member, issued an official statement against restriction of VPN use.²⁵⁴ The coalition noted that TCRA's decision to limit the use of VPNs in Tanzania has far-reaching implications for the digital rights and freedoms of Tanzanian citizens, as VPNs play a crucial role in safeguarding online privacy, enabling secure communication, and granting access to information and services that may otherwise be restricted or censored. Coalition members cited arbitrary interference with fundamental human rights such as the right to privacy, freedom of expression, and access to information.²⁵⁵ They called on the Government and TCRA to reconsider their decision to restrict VPN usage and instead engage in constructive dialogue with civil society organizations, businesses, and citizens to address concerns while upholding digital rights.

²⁵¹ Ibid.

²⁵² See "Tanzania Imposes Ban On VPN Usage Without A Permit" CIO AFRICA, 15 Oct 2023, at [https://cioafrica.co/tanzania-imposes-ban-on-vpn-usage-without-a-permit/#:~:text=without%20a%20permit-,The%20Tanzania%20Communications%20Regulatory%20Authority%20\(TCRA\)%20has%20imposed%20a%20ban,digital%20community%20in%20the%20continent;TCRA%20wants%20VPN%20users%20to%20come%20clean%20and%20reveal%20their%20IP%20addresses-4400358](https://cioafrica.co/tanzania-imposes-ban-on-vpn-usage-without-a-permit/#:~:text=without%20a%20permit-,The%20Tanzania%20Communications%20Regulatory%20Authority%20(TCRA)%20has%20imposed%20a%20ban,digital%20community%20in%20the%20continent;TCRA%20wants%20VPN%20users%20to%20come%20clean%20and%20reveal%20their%20IP%20addresses-4400358).

²⁵³ Ibid.

²⁵⁴ See Tanzania Digital Rights Coalition: Official Statement Against Restriction of VPN Use In Tanzania, 14 October 2023, at <https://www.jamiiforums.com/threads/tanzania-digital-rights-coalition-official-statement-against-restriction-of-vpn-use-in-tanzania.2147699/>.

²⁵⁵ Ibid.



2.9.3. Key Recommendations

- The Ministry of Constitutional and Legal Affairs to facilitate review of the Personal Data Protection Act to address key concerns raised by stakeholders and spearhead amendment of the law.
- 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

| 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> |
| TDV 2025 | <p><u>Peace, Stability and Unity</u></p> <p><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 |
| Agenda 2063: The Africa We Want. | <p>ASPIRATION 2: An integrated continent, politically united, based on the ideals of Pan-Africanism and the vision of Africa's Renaissance</p> <p>ASPIRATION 3: An African of good governance, democracy, respect for human rights, justice and the rule of law</p> <p>ASPIRATION 4: A peaceful and secure Africa</p> |

2.11. RECOMMENDATIONS

State actors

- Being a de facto abolitionist state, 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 Ministry of Constitutional and Legal Affairs to spearhead ratification and domestication of 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 Ministry of Constitutional and Legal Affairs to collaborate with the Ministry of Information, Communication, and Information Technology to oversee amendment of the Online Content Regulations 2020 to bring them in line with international human rights standards.
- The Ministry of Constitutional and Legal Affairs spearhead to collaborate with the Ministry of Information, Communication, and Information Technology to amend Media Services Act of 2016 in line with the decision/judgement of the East African Court of Justice of 2019.
- 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.
- Government officials and police officers 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 Ministry of Constitutional and Legal Affairs to take measures to ensure 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 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 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 Ministry of Constitutional and Legal Affairs to measures to ensure ratification of the African Charter on Democracy Elections and Governance (ACDEG) of 2007.
- The Ministry of Constitutional and Legal Affairs spearhead legal reforms to safeguard the right to access to justice for presidential candidates and political parties by allowing presidential results to be challenges in Court in line with the judgment of the African Court on Human and Peoples' Rights.
- The National Electoral Commission (NEC) to allow all CSOs, especially those dealing with human rights, to freely observe elections in order to enhance credibility of such elections.
- The Ministry of Constitutional and Legal Affairs to take measures to ensure ratification of 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 allailable 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 efforts 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 the case of mob violence, for example, members of the public should be made aware of offences which areailable.
- 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 punishing other people (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.



CHAPTER THREE: 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 1976.²⁵⁶ 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.²⁵⁷ Domestically, most of these rights are also protected.²⁵⁸

In 2023, key issues affecting enjoyment of social, economic, and cultural rights included budgetary constraints; delays in disbursement of funds; poor working conditions; unemployment; shortages of workers; shortages of equipment, tools, and facilities; labour rights violations; and different forms of violence, especially against children, women, and persons with disabilities (PWDs).

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 2023, key issues affecting the right to education 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; re-entry policy; violence against schoolchildren; child labour; child pregnancy; child marriage; and inadequate parental support in education.

3.1.1. Government Action

In 2023, the Government continued to take various measures to ensure

²⁵⁶ 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).

²⁵⁷ Dawood, A. et al (2017) *Social and Economic Rights*, International Institute for Democracy and Electoral Assistance (IDEA) 2nd Ed, Stockholm Sweden.

²⁵⁸ See for example Articles 22, 23 and 24 of the Constitution of the United Republic of Tanzania, 1977; Also land, education, and labour laws and regulations.



progressive realization of the right to education. The measures included implementing the fee-free education policy; constructing and renovating classrooms;²⁵⁹ construction of teacher houses;²⁶⁰ employment of new teachers; and provision of loans to higher education students. For instance, in April 2023, the President's Office – Regional Administration and Local Government (PO-RALG) announced plan to employ 13,130 primary and secondary school teachers.²⁶¹

In some of the surveyed regions, LHRC observed new classrooms and toilets constructed and renovated under various projects, including the '*Tanzania Boost Primary Student Learning Project*' and '*Shule Salama Project*.' In Iringa, the Headmaster at Kihesa Secondary School told the survey team that a project called '*Kikapu cha Mama*' had enabled construction of four new classrooms and renovation of two, while at Ipogoro Primary School it was revealed that the Government was undertaking the construction of a dormitory, classrooms, and a playground for children with disabilities.²⁶² The survey team in the region also observed new toilets for children with disabilities constructed at Mgama Primary School.



Picture 7: A renovated classroom at Kihesa Secondary School (left) and a toilet for children with disabilities constructed at Mgama Primary School (right) in Iringa

Source: Field data, 2023

In Rukwa and Kigoma, the survey team also observed construction of new classrooms, including at Matai Girls Secondary School and Mkapa Secondary School in Kalambo DC, Rukwa, and construction of new classrooms at Kiheba Primary School in Kigoma.²⁶³

²⁵⁹ Including construction of 40 new primary schools and 174 classrooms at 70 primary schools.

²⁶⁰ 53 teacher houses constructed at 53 primary schools in 2022/2023.

²⁶¹ "TAMISEMI YATANGAZA AJIRA 21,200, UALIMU NA AFYA" ITV NEWS, 12 Apr 2023, at <https://www.itv.co.tz/news/tamisemi-yatangaza-ajira-21200-ualimu-na-afya>.

²⁶² LHRC Human Rights Survey 2023: Iringa Field Report.

²⁶³ LHRC Human Rights Survey 2023: Rukwa & Kigoma Field Reports.



Picture 8: New classrooms at Kiheba Primary School in Kigoma

Source: Field data, 2023

To enable children to get parental care and create closer ties with parents, in 2023 the Government, through the Ministry of Education, Science, and Technology, issued a Circular No. 2 of 2023 prohibiting boarding school for nursery and lower primary school pupils. However, some stakeholders, including school owners, criticized the move, saying inadequate research was conducted before reaching the decision, and calling for the government to reconsider its position on the matter.²⁶⁴

In 2023, the Government also continued reviewing the Education and Training Policy of 2014 together with curricula for different levels of education to improve education in the country.²⁶⁵ From 12th to 14th May 2023, the Ministry of Education, Science, and Technology held a national dialogue in Dodoma, bringing together different education stakeholders from across Mainland Tanzania.²⁶⁶

3.1.2. Education and Training Policy Review

In 2023, the Education and Training Policy 2014 was reviewed to reflect the current situation and address concerns identified by right to education stakeholders since 2014. While stakeholders greeted the news of a new education and training policy with some delight,²⁶⁷ they were concerned with some of the key issues not being addressed, including the **language of instruction** (LOI), whereby it was reported that the LOI for primary education

²⁶⁴ “Why government’s directive on boarding schools flopped” THE CITIZEN Newspaper, 31 Dec 2023, at <https://www.thecitizen.co.tz/tanzania/news/national/why-government-s-directive-on-boarding-schools-flopped-4478204>.

²⁶⁵ See HOTUBA YA BAJETI YA WAZIRI WA ELIMU, SAYANSI NA TEKNOLOJIA PROF. ADOLF F. MKENDA (MB) AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/24, p. 9 at <https://www.moe.go.tz/sw/nyaraka/hotuba-ya-bajeti-20232024>.

²⁶⁶ Ibid, p. 10.

²⁶⁷ “Mitaala mipya, Sera ya Elimu hadharani” HABARILEO Newspaper, 10 May 2023.



shall remain Swahili, while both English and Swahili shall continue to be used as LOIs at other levels. **Studies have shown that proficiency in the language of instruction is an important factor in educational performance.**²⁶⁸

3.1.3. Budgetary Allocation and Disbursement

Education budget vis-à-vis national budget

In 2023, the Government allocated Tshs. 5.9 trillion for the education sector for the financial year 2023/2024,²⁶⁹ increasing from Tshs. 5.7 trillion during the financial year 2022/2023. While the Government has been slightly increasing budget for this important sector each year, the budgets have failed to meet the minimum standard of committing up to 20% of total budget on education.²⁷⁰ This commitment was made in 2015 by 184 States around the world, including Tanzania, and is vital in achieving SDG 4 targets by 2030.

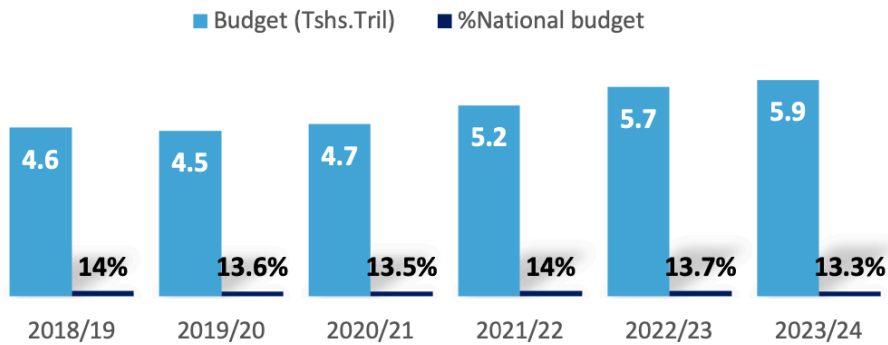


Figure 13: Budget allocation for the education sector for the financial years 2018/19 to 2023/24 and percentages of national budgets

Source: MoF

Education Stakeholders had a mixed reaction to the budget allocated for the education sector for the financial year 2023/24. While commending a 3.9% rise in budget allocated compared to 2022/23, stakeholders expressed concerns over lack of substantial investment as they feared the limited increase stands to fail to adequately address the pressing needs of an education system grappling with population growth and increased demands.²⁷¹ For instance, the stakeholders

²⁶⁸ See Martha Qorro, Does Language of Instruction Affect Quality of Education?, Working Paper No. 8, Hakielimu, at https://hakielimu.or.tz/download/does-language-of-instruction-affect-quality-of-education/?wpdmdl=8873&refresh=65f734a0e69d71710699680&ind=1618213846882&filename=wp_06_8_does_lang_instruc_fct_qual_edu_en.pdf.

²⁶⁹ See CITIZEN'S BUDGET BOOK: A SIMPLIFIED VERSION OF THE GOVERNMENT BUDGET FOR THE FINANCIAL YEAR 2023/24, Issued by Ministry of Finance, at https://www.mof.go.tz/uploads/documents/en-1696926857-Citizen%20Bugdet%20English%202023_24.pdf.

²⁷⁰ 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>.

²⁷¹ "Education Stakeholders Critically Assess Tanzania's National Education Budget At Policy Forum Breakfast Debate" Policy Forum, 6 Jun 2023, at <https://www.policyforum-tz.org/news/2023-06-06/education-stakeholders-critically-assess->

pointed out that the budget failed to allocate sufficient resources to address key issues such as the infrastructure deficiencies (including shortages of classrooms, pit latrines/toilet holes, and desks) and teacher shortages, and were concerned that the budget did not truly align with the 'priorities outlined in the Education Sector Development Program III (ESDP III) projections.'²⁷²

Budget for fee-free education

In 2023, education stakeholders were also critical of the budget allocated for implementation of the fee-free education policy. While they commended the Government for increasing allocation for both primary and secondary schools,²⁷³ they pointed out that the amounts of Tshs. 10,000 for primary school students and Tshs. 25,000 for secondary school students are insufficient to meet the needs of educational institutions and ensure equitable access to quality education.

Disbursement

Over the years, stakeholders have also expressed concerns over delayed and partial disbursement of budget funds.²⁷⁴ However, for the financial year 2022/23, the Ministry of Education, Science and Technology disclosed that by April 2023 it had received 104.05% of the funds allocated for development expenditure,²⁷⁵ increasing from 96% in previous financial year.

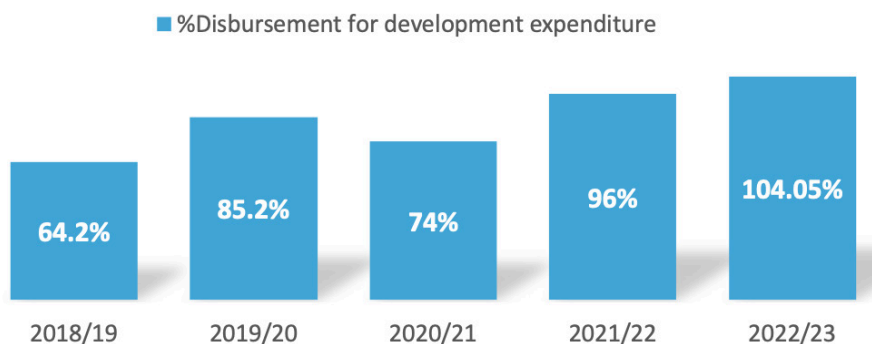


Figure 14: %Disbursement of funds allocated for development expenditure for education ministry for the financial years 2018/19 to 2022/23

Source: Education ministry budget speeches – 2018/19 to 2022/23

In the audit report for the financial year 2021/22, the CAG pointed out that he had found under-release of fee-free education grants for primary and secondary

tanzanias-national-education-budget-policy; "Hakielimu wataka bajeti iongezwe" Mwananchi Newspaper, 10 May 2023.

²⁷² Ibid.

²⁷³ "Bajeti elimu bila malipo yapanda 15%" HABARILEO Newspaper, 15 Apr 2023.

²⁷⁴ See Tanzania Education Network (TENMET), REPORT ON EDUCATION BUDGET ANALYSIS IN TANZANIA 2016/17 – 2020/21, July 2021, at <https://campaignforeducation.org/images/downloads/f2/1784/education-budget-analysis-final.pdf>.

²⁷⁵ HOTUBA YA BAJETI YA WAZIRI WA ELIMU, SAYANSI NA TEKNOLOJIA PROF. ADOLF F. MKENDA (MB) AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/24 (*supra*), p. 8.



schools of Tshs. 5.8 billion in 25 LGAs.²⁷⁶ He noted that this affected the learning environment, considering many schools lack essential learning facilities.²⁷⁷

LHRC's View & Call: To significantly improve the quality of education, there is need for a substantial investment in the education sector, including in infrastructure, and Tanzania needs to allocate at least 20% of its national budget on education. This shall also help to improve performance in national examinations, which has generally been low, and more importantly help achieve SDG 4 on education.

3.1.4. Education Quality

In 2023, education stakeholders continued to express concerns over education quality, especially at primary and secondary school levels in public schools, owing to various challenges, including insufficient budget; language of instruction (LOI); and shortages of teachers, classrooms, and learning facilities. In March 2023, it was reported in Manyara that 512 standard one pupils in the region (19%) did not know how to read, write, and count.²⁷⁸ In May, some youth in higher learning institutions expressed concern over quality of the education they were receiving, accusing lecturers of 'rushing' during lectures to meet deadlines.²⁷⁹

In August, some education stakeholders also raised concerns over the use of Artificial Intelligence (AI) in universities, noting that it could have a negative impact on critical thinking among students. A lecturer at St. Augustine University of Tanzania (SAUT) stated that students are no longer willing to engage with content, instead use AI to as a shortcut to get their assignments done, affecting critical thinking.²⁸⁰

3.1.5. Incorporation of GBV and Human Rights Education into Curricula

In 2023, various stakeholders proposed for education about gender-based violence (GBV) and human rights to be incorporated into the education curricula in Tanzania. For instance, in April 2023, the Police Force in Geita requested the Government to incorporate GBV education into primary school curricula as a way of preparing schoolchildren to play a role in preventing and combating acts of violence.²⁸¹ In the same month, the Vice-Chancellor of the St. Augustine University of Tanzania (SAUT) advised the Government to incorporate human rights education into education curricula at all levels of education, to increase human rights awareness in the community.²⁸²

276 THE UNITED REPUBLIC OF TANZANIA, NATIONAL AUDIT OFFICE, *ANNUAL GENERAL REPORT OF THE CONTROLLER AND AUDITOR GENERAL FOR THE FINANCIAL YEAR 2021/22: REGIONAL ADMINISTRATION AND LOCAL GOVERNMENT*, MARCH 2023, at [https://www.nao.go.tz/uploads/Annual_General_Report_for_Regional_Administration_and_Local_Government_\(LGA\)_FY_2021-22.pdf](https://www.nao.go.tz/uploads/Annual_General_Report_for_Regional_Administration_and_Local_Government_(LGA)_FY_2021-22.pdf).

277 Ibid; "CAG agusa fedha utoaji elimu bure" HABARILEO Newspaper, 9 Apr 2023.

278 "Zaidi ya wanafunzi 500 darasa la 1 wagundulika hawajui KKK" Nipashe Newspaper, 30 Mar 2023.

279 "Ujuzi wa elimu vyaoni shakani, wahadhiri tatizo" Mwananchi Newspaper, 31 May 2023.

280 "Use of AI in universities 'needs close monitoring'" THE CITIZEN Newspaper, 12 Aug 2023.

281 "Ukatili wa kijinsia uwepo kwenye mtaala" HABARILEO Newspaper, 16 Apr 2023.

282 "Prof. Mahalu: Somo la haki za binadamu lifundishwe kuanzia awali" Nipashe Newspaper, 17 Apr 2023.



3.1.6. Other Key Issues and Challenges

Community perceptions on key issues affecting right to education

Community members who participated in LHRC's human rights survey in 2023 had their say on key issues affecting the right to education in their communities. Overall, **shortage of teachers** (46%) was identified as the leading issue affecting effective realization of the right to education, followed by **inadequate cooperation from parents** (43%), **child/teenage pregnancy** (42%), and **shortage of classrooms** (41%). Shortage of toilets/toilet holes, school proximity, violence against children, child labour, and child marriage were also said to be key challenges by at least a third of the respondents (33 to 35%).

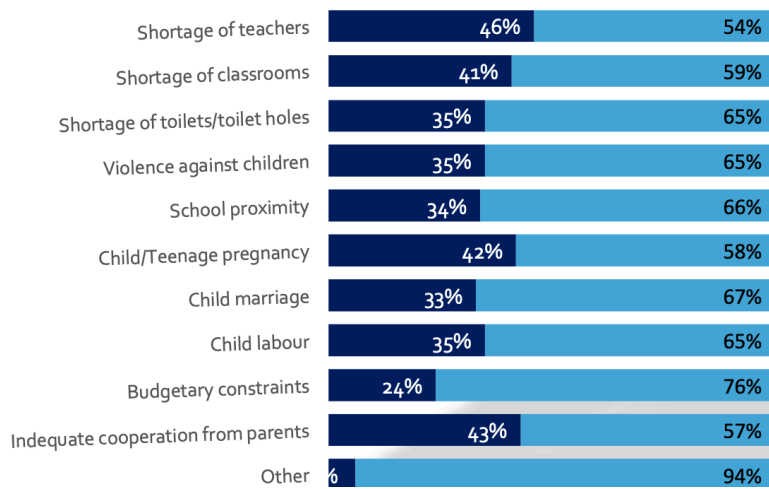


Figure 15: %Responses on community perception of key issues affecting the right to education

Source: Field data, 2023

Reported key issues affecting right to education

In 2023, LHRC documented many reported key issues affecting the right to education and incidents of violations of such right, including shortages of classrooms, toilets, toilet holes, desks, tables, chairs, teachers, and teacher houses; difficult working environment for teachers; teacher remuneration; truancy; school dropout; missing school because of menstrual hygiene problems; child pregnancy; parents telling their children to fail national examinations; violence against children; dilapidated school infrastructure; and re-entry of pregnant girls and teen mothers. These issues are summarized below.



Shortage of classrooms

- Contributed by increased enrollment following introduction of fee-free education policy
- Causing overcrowded classrooms
- Also causing students to take turns in classrooms

In 2023, LHRC documented shortages of classrooms reported in Mbeya, Dodoma, Singida, Tabora, Kigoma, Rukwa, and Manyara Regions. Shortage of a total of 7,183 classrooms was reported Dodoma alone.²⁸³ In Mbeya, Malele Primary School, located in Utengule-Usangu Village in Mbarali District was said to experience shortage of 4 classrooms.²⁸⁴ In Singida, some of the students at Mukimbili Primary School in Singida DC were reportedly sitting on the floor due to shortage of classrooms.²⁸⁵ In Rukwa shortage of teachers was said to be one of the biggest challenges in education.²⁸⁶ In Tabora, shortage of classrooms was found to be a key challenge at Msangi A Primary School in Tabora MC.²⁸⁷ In Rukwa, shortage of classrooms in primary schools was reported to be at 58.6%.²⁸⁸

LHRC observed that some classrooms were constructed at some of the schools reported were experiencing shortages in previous reports, including in Iringa and Rukwa.

Shortage of toilets and toilet holes

- Shortage of toilet holes disrupting learning environment
- Also contributing to truancy
- Shortage of toilet holes more common in primary schools²⁸⁹

LHRC documented reported incidents of shortage of toilets and toilet holes in regions such as Shinyanga, Mara, Njombe, Dar es Salaam, Morogoro, Mbeya, Tabora, Dodoma, and Kigoma. Shortages included shortage of 2,554 toilet holes in Kakonko District, Kigoma; 32 toilet holes at Kongwa Primary School in Kongwa DC, Dodoma; 56 toilet holes at Mabonde Primary School in Mbeya; and 1,682 toilet holes at 72 primary schools in Morogoro MC, Morogoro²⁹⁰. Uzogore Secondary School in Shinyanga, Manyunyu Girls Secondary School in Njombe, and Kiloleli Primary School in Shinyanga were also said to experience acute shortage of toilet holes.²⁹¹

Recommended toilet hole-student ratio: 1:20 girls and 1:25 for boys

283 "Dom haina madarasa 7,183 jumla" Mwananchi Newspaper, 19 Mar 2023.

284 "Shule taabani uchakavu wa miundombinu" Nipashe Newspaper, 6 Apr 2023.

285 "UHABA MIOUNDOMBINU: Wanafunzi wasoea nje, waketi sakafuni" Nipashe Newspaper, 19 Jul 2023.

286 LHRC Human Rights Survey 2023: Rukwa Field Report.

287 LHRC Human Rights Survey 2023: Tabora Field Report.

288 LHRC Human Rights Survey 2023: Rukwa Field Report.

289 The 2020/21 CAG LGAs audit report, released in March 2022, found that shortage stood at 63% in primary schools and 40% in secondary schools in 77 LGAs.

290 "Shule Kakonko zahitaji vyoo 2,554" Mwananchi Newspaper, 14 Aug 2023; LHRC Human Rights Survey 2023: Dodoma Field Report; "Wanafunzi 1,776 watumia matundu 16 ya vyoo shule ya Mabonde" Mwananchi Newspaper (online), 14 Jul 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/wanafunzi-1-776-watumia-matundu-16-ya-vyoo-shule-ya-mabonde-4303500>; "Makala | Matundu ya vyoo yatesa shule 72 Morogoro - 2" Mtanzania Digital, 21 Jul 2023, at <https://mtanzania.co.tz/makala-matundu-ya-vyoo-yatesa-shule-72-morogoro-2/>.

291 "Ukosefu wa vyoo waitesa Shule ya Sekondari Uzogore" Nipashe Newspaper, 24 Aug 2023; "Shule ya wasichana yakabiliwa na uhaba wa majisafi, vyoo" Nipashe Newspaper, 31 May 2023; "Ni kizaa za wasichana hawa wanapojisaidia vichakani" Nipashe Newspaper, 29 Aug 2023.



Shortage of desks, tables, and chairs

In 2023, shortages of desks were reported in regions such as Dodoma, Mbeya, Shinyanga, Singida, Mbeya, Manyara, Morogoro, Rukwa and Tabora. For instance, in Mbeya it was reported in April 2023 that Melele Primary School, located in Utengule-Usangu Village in Mbarali District was experiencing shortage of 45 desks.²⁹² In Dodoma, Bahi District was said to experience shortage of 7,328 desks.²⁹³ In Manyara, it was reported that there was shortage of 28,336 desks as of December 2023.²⁹⁴ Acute shortage of desks was also reported in Shinyanga; at Mukimbili Primary School in Singida MC, Singida; and at Lugala Primary School in Morogoro.²⁹⁵ In Rukwa, deficit of desks in primary schools was said to be at 41%.²⁹⁶



Picture 9: Students found sitting on the floor due to shortage of desks in Dodoma

Source: Field data, 2023

Shortages of tables and chairs were also reported in several regions, including in Shinyanga and Manyara.²⁹⁷

292 "Shule taabani uchakavu wa miundombinu" Nipashe Newspaper (online), 6 Apr 2023, at <https://habarileo.co.tz/upungufu-miundombinu-ya-shule-kushughulikiwa-manyara/>.

293 "Bahi ina uhaba mkubwa wa madarasa, madawati" HABARILEO Newspaper, 21 Jul 2023.

294 "Upungufu wa madawati kushughulikiwa Manyara" HABARILEO Newspaper, 26 Jan 2024.

295 "Shinyanga yalia na upungufu wa meza" HABARILEO Newspaper, 25 Dec 2023; "UHABA MIOUNDOBINU: Wanafunzi wasoea nje, waketi sakafuni" Nipashe Newspaper, 19 Jul 2023; "Sh milioni 450 kutengeneza madawati Morogoro" HABARILEO Newspaper (online), 10 Oct 2023, at <https://habarileo.co.tz/sh-milioni-450-kutengeneza-madawati-shule-morogoro/>.

296 LHRC Human Rights Survey 2023: Rukwa Field Report.

297 "Shinyangayalia na upungufu wa meza" HABARILEO Newspaper, 25 Dec 2023; "Upungufu wa madawati kushughulikiwa Manyara" HABARILEO Newspaper, 26 Jan 2024.



Shortage of teachers

- Contributed by increased enrollment following introduction of fee-free education policy
- Complaints about student-teacher ratio
- Shortage of special education teachers is also a problem
- Teacher shortage a bigger problem in primary schools, compared to secondary schools

Shortages of teachers were widely reported in 2023, including in Dodoma, Tanga, Simiyu, Dar es Salaam, Mbeya, Songwe, Tabora, Rukwa, and Kigoma. Shortage of 4,612 teachers was reported in three out these regions, namely Kilindi District – Tanga (724), Maswa District – Simiyu (1,148), and Rukwa Region (2,740)²⁹⁸. Shortage of female teachers was reported in Songwe, while in Dar es Salaam overall teacher shortage was said to stand at 28.75%²⁹⁹.

In Twabagondozi Village in Kigoma Region, some primary school pupils told the LHRC survey team that due to shortage of teachers, the focus of teachers is on standard four and standard seven pupils³⁰⁰.

It was also revealed that shortage of science teachers was a bigger problem³⁰¹.

In Rukwa, shortages of teachers in primary and secondary schools were said to be at 35% and 24% respectively³⁰².

“There is an acute shortage of teachers, could be about 45%.’

Paralegal – Mkalala DC, Singida

‘The primary school at our village only has five teachers, who are teaching from standard one to standard seven. You may find one teacher teaching in standard three up to seven.’

Community member – Mizezero Ward, Kibondo DC, Kigoma

In Geita, it was reported in April 2023, that Geita TC was faced with shortage of special education teachers, a situation that was affecting provision of inclusive education.³⁰³

298 “Kilindi yakabiliwa upungufu walimu 724” Nipashe Newspaper, 10 May 2023; “Walimu 1,140 wahitajika Maswa” Nipashe Newspaper, 10 May 2023; LHRC Human Rights Survey 2023: Rukwa Field Report.

299 Shule yakabiliwa na upungufu wa walimu wa kike” Nipashe Newspaper, 4 Oct 2023; “Wimbi la wanafunzi latishia ubora wa elimu” Mwananchi Newspaper, 29 Sep 2023.

300 LHRC Human Rights Survey 2023: Kigoma Field Report.

301 Ibid.

302 LHRC Human Rights Survey 2023: Rukwa Field Report.

303 “Geita yaeleza upungufu uwa walimu maalum” HABARILEO Newspaper, 3 Apr 2023.



Teacher working environment

- Difficult working environment
- Teacher remuneration and value
- Teacher allowances

Complaints about poor working environment continued to be reported in 2023. One of the key concerns for teachers in Mainland Tanzania is acute shortage of teacher houses. Among the shortages of teacher houses reported in 2023 is shortage of 1,101 teacher houses in Bahi District, Dodoma.³⁰⁴ Recent CAG report found shortage of teacher houses in 77 LGAs at a staggering 81% in primary schools and 82% in secondary schools.³⁰⁵

In Dar es Salaam, in October 2023, some teachers reportedly lamented difficult working environment, characterized, among other things, by shortage of teacher houses, increased teacher-student ratio, shortage of teachers, and not being paid allowances on time.³⁰⁶ In the same month, there complaints about non-payment of teacher benefits were reported.³⁰⁷ In December, *Hakielimu*, an education advocacy NGO, disclosed that the status of the teaching profession is lower compared to the situation in the past, as teachers are less valued and appreciated and that most of them are trapped in loans due to rising living costs and economic hardships.³⁰⁸

Menstrual hygiene problems

- Contributed by lack of sanitary pads, limited access to clean and safe water, dirty toilets, and lack of changing rooms for girls

Menstrual hygiene facilities are essential in keeping girls in schools and some girls in different parts of Mainland Tanzania, especially in rural and semi-urban areas, have been known to miss class, stay at home during days of heavy flow and miss school altogether during menstruation. In 2023, LHRC documented three reports of menstrual hygiene challenges reported in Mbeya, Morogoro, and Kigoma Regions. In Mbeya, it was reported in March 2023 that some girls at Sangambi Secondary School in Chunya District were affected by lack of sanitary pads and a changing room, causing them to miss school³⁰⁹.

304 "Bahi ina uhaba mkubwa wa madarasa, madawati" HABARILEO Newspaper, 21 Jul 2023.

305 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. 113, at https://www.nao.go.tz/uploads/reports/RIPOTI_YA_UKAGUZI_WA_SERIKALI_ZA_MITAA_MWAKA_2020_21.pdf.

306 "Mambo manne yanavyokwaza walimu kazini" Mwananchi Newspaper, 5 Oct 2023.

307 "Malalamiko walimu kutolipwa posho, serikali yatoa agizo" Nipashe Newspaper, 4 Oct 2023.

308 "CWT, Hakielimu waguswa hadhi ya walimu" HABARILEO Newspaper, 18 Dec 2023.

309 "Ukosefu taulo za kike chanzo utoro kwa wanafunzi" Nipashe Newspaper, 15 Mar 2023.



In Morogoro, it was reported that 360 to 900 students at Gairo Secondary School in Gairo District were unable to attend school during menstruation due to lack of sanitary pads. Others tend to use makeshift or 'traditional' pads³¹⁰. In Kigoma, some girls at Katabuka Secondary School told the LHRC survey team that they find it difficult and feel 'ashamed' going to school during menstruation.

'Most of us don't come to school during menstruation because when you come you are not comfortable. We often use pieces of clothing as pads, which are not very useful and sometimes cause you embarrassment in front of men.'

A form three girl – Kigoma

School proximity

Walking long distance to school negatively affects learning and performance among students³¹¹, and this is a big problem in African countries, including Tanzania, especially in rural areas. Among the reported incidents of schoolchildren having to travel long distance reported in 2023 was the report of children in Mbabane Village in Geita District, Geita, having to travel for up to 8Km to reach Shantamine Secondary School³¹².

In Manyoni District, Singida, a WEO revealed that most students who are truant stay very far from school, including those who have to walk up to 10km just to reach school³¹³.

In Kilimanjaro, a 10-year-old schoolboy was reportedly sodomized by a stranger while on the way to school (Kiyungi Primary School), which is far from home, between Hai DC and Moshi DC in March 2023³¹⁴.

Children coming from Sughana, Mgori tend to walk long distances, sometimes up to 10km, to reach school. At Mgori Madukani area there is a boarding facility, but only available to form five and six students.'

Paralegal – Singida

310 "Asilimia 40 wanafunzi wa kike hukosa masomo siku za hedhi" Nipashe Newspaper, 27 Mar 2023.

311 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>.

312 "Watembea umbali wa kilomita 16 kwenda sekondari" Mwananchi Newspaper, 13 Mar 2023.

313 LHRC Human Rights Survey 2023: Singida Field Report.

314 LHRC Human Rights Survey 2023: Kilimanjaro Field Report.



Truancy

Contributed by menstrual hygiene problems, long distance to school, inadequate cooperation from parents (especially in rural areas)

In 2023, incidents of truancy were reported in regions such as Tanga, Geita, Morogoro, Rukwa, and Singida. In Tanga, it was reported in May 2023 that 735 students did not report to start secondary education in Kilindi District³¹⁵. The same problem was reported in Geita Region, where door-to-door searches had to be conducted to boost the enrolment numbers³¹⁶. In Rukwa, an LGA leader in Sumbawanga MC mentioned parental negligence as one of the drivers of truancy in the municipality³¹⁷. School children in the region were also said to be tempted by economic activities in the agriculture, livestock, and fishing sectors³¹⁸. In Morogoro, a CDO revealed that child labour is one of the key contributors to truancy in Morogoro DC³¹⁹. In Singida, WEO associated truancy with long distance to school³²⁰.

'Child labour has hugely impacted children's education, as you find that a student goes to school for three days then the remaining school days they go to work.'

CDO – Morogoro DC

School dropout

■ Contributed by truancy and school proximity

■ Nationally, the most recent statistics indicate that by end of December 2022, a total of 329,918 school dropout cases were recorded, of which 59% were in primary schools and 41% were in secondary schools.³²¹ The 2022 dropout cases increased from 266,783 recorded in 2019.³²² Truancy accounts for over 90% of dropout cases.

315 "Wanafunzi 735 waliochaguliwa kidato cha kwanza hawajaripoti" Nipashe Newspaper, 13 May 2023.

316 "Wanafunzi wanne waripoti shule kati ya 88" Mwananchi Newspaper, 15 Jan 2023; "Geita school conducts door-to-door search" THE CITIZEN Newspaper, 17 Jan 2023.

317 Interview with Jangwani Street Chairperson, Sumbwanga MC.

318 LHRC Human Rights Survey 2023: Rukwa Field Report.

319 Interview with a CDO in Morogoro DC, Morogoro.

320 LHRC Human Rights Survey 2023: Singida Field Report.

321 See President's Office – Regional Administration and Local Government, Basic Education Data 2023, at https://www.tamisemi.go.tz/singleministers/basic_education_data_2023.

322 See President's Office – Regional Administration and Local Government, Basic Education Data 2020, at https://www.tamisemi.go.tz/storage/app/media/uploaded-files/BEST%202020%20Regional%20Data_Final.pdf.



School dropout by sex - 2022



42% Primary
49% Secondary



58% Primary
51% Secondary

%School Dropout by Region - 2022

Primary Top 5

Geita – 11.2%

Tabora – 11%

Kagera – 8.6%

Mwanza – 7.5%

Dodoma – 6.8%

Secondary Top 5

Mwanza – 6.7%

Geita – 6.6%

Dodoma 6.5%

Tabora – 6%

Simiyu-5.1%

In 2023, incidents of school dropout continued to be widely reported, including in Lindi, where it was reported that 700 secondary school students had dropped out of school in the past year³²³. Contributing factors for increased rate of school dropout were said to include lack of adequate support and cooperation by parents, household poverty, child pregnancy, long distance to school, poor parenting and personal reasons³²⁴.

‘Most girls drop out of school to go and get married, while for boys they drop out to engage in agricultural and livestock keeping activities, especially in rural areas.’

Paralegal – Tabora

323 “700 waacha shule Nachingwea” HABARILEO Newspaper, 13 Jan 2023

324 “Wanaoacha shule waongezeka, wadau wataja sababu, suluhisho” Mwananchi Newspaper, 7 Aug 2023; “CAG ataja sababu lukuki wanafunzi kukatisha masomo”



Violence against children

- Physical, including severe corporal punishment
- Sexual, including sexual VAC perpetrated by teachers
- Psychological, including going to school on empty stomachs
- Economic, including denial of education for girls 'because they shall get married'
- Contributed by school proximity (long distance to school)

As discussed in detail in Chapter Five of this report, violence is one of the biggest challenges children faces, including in school settings. Violence perpetrated in other settings, including home, also affects children's attendance, concentration, and performance in school. 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, children are also subjected to acts of violence by teachers, especially male teachers. Corporal punishment also presents a challenge for school children as some have been reported to be severely injured or killed due to severe corporal punishment. Child-on-child abuse is also a problem, especially in school settings, while children are exposed to danger of violence when schools are far.

'Violence is a big concern for children, affecting their learning, but even at school they are targeted and even impregnated by teachers.'

NGO Official – Dar es Salaam

Child pregnancy & marriage

- Some parents, especially in rural areas, telling their daughters to fail or drop out of school to get married
- Some girls not only impregnated but also infected with STDs, including HIV
- Harmful cultural practices, including 'Chagulaga' in Tabora, and FGM driving child marriage
- Poverty also a key factor in child marriage as parents started bride price as a source of income

Child/teenage pregnancy and child marriage hinder girls from effectively realizing their right to education. In 2023, girls in different parts of Mainland Tanzania dropped out of school because of child pregnancy and child marriage. LHRC documented 14 incidents of child marriage, two less than those documented in 2022, reported in Shinyanga, Ruvuma, Songwe, Mtwara, Lindi, Dodoma, Tabora, Singida, Mwanza, and Kigoma. It also documented 2,953 child pregnancy incidents reported in various regions across Mainland Tanzania, but many more are believed to have been documented by authorities.

'There was a Form Two student who was in a sexual relationship with her teacher and got pregnant. We helped her file a case in court, but they 'talked' with the teacher and then she stopped appearing in court, causing the case to be dismissed.'

NGO official – Kigoma



Child labour & trafficking

Child labour robs children of time to learn in school, causing some of them to underperform and others to drop out of school altogether. Other children are trafficked for labour. As discussed in Chapter Two of this report, in 2023, children also continued to constitute the majority of human trafficking victims. Chapter Five of the report discusses the situation of child labour in 2023.

‘If you were here when the standard seven exams had concluded and visited the bus stand in the morning you would see many children being boarded into buses, supposedly going to town for work, and some end up at brothels.’

Community member– Singida MC

Food

- In 2023, hunger was also identified as a key issue affecting students’ learning. In Manyara, it was reported in August that 50% of school children in Babati District were going to school on empty stomachs.³²⁵ Earlier in January, it was reported that parents in Mbeya had been directed by regional authorities to contribute food for primary school pupils to increase their level of performance.³²⁶ Children going to school hungry are more likely to show excessive tiredness, be easily distracted, and exhibit disruptive behaviour.³²⁷

Lack of parental cooperation

- Including **parents telling children to deliberately fail exams**
- Some parents even threaten their children, warning them against passing their exams
- Some parents encouraging their children not to go to school

- In 2023, community members who participated in LHRC’s human rights survey were asked whether they have ever heard about **incidents of parents telling their children to deliberately fail their national examinations**, whereby nearly two thirds (62%) said they had³²⁸. LHRC documented such reports from Pwani, Njombe, Mbeya, Dodoma, Mtwara, and Tabora Regions. For instance, in Pwani, it was reported in January 2023 that performance in the national examinations in the region had dropped due to various reasons, including some parents requiring their children to fail³²⁹.

325 “Asilimia 50 ya wanafunzi Babati wanaenda shule bila kula” Nipashe Newspaper, 24 Aug 2023.

326 “Wazazi kuchangia kwa lazima chakula shuleni” HABARILEO Newspaper, 14 Jan 2023; “Mbeya parents directed to offer meals to primary school pupils” The Guardian Newspaper, 14 Jan 2023.

327 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>.

328 Quantitative field data, 2023.

329 “Wazazi washawishi watoto kujifelisha mitihani ya taifa” HABARILEO Newspaper, 8 Jan 2023.



■ In Njombe, parents and guardians in Njombe DC were warned against persuading their children to deliberately fail their examinations so that they can go to other regions to work as domestic workers³³⁰.

In Mbeya, residents of Nyeregere Village in Mbarali District admitted to persuading their children to fail their standard seven national examinations, citing long distance to secondary schools as a major reason because they would have 'to rent them rooms nearby'³³¹.

In Dodoma, it was reported in December that 400 pupils in Kongwa District had deliberately failed their standard seven national examinations³³², while earlier, in May, a child in Mtwara was kicked out of her home by her parents 'for passing her national examinations'³³³.

In Mtwara a paralegal told the LHRC survey team that in his village, Namgogoli Village, located in Mtwara DC, the tendency of parents wanting their children to fail their national examinations is very common³³⁴.

He noted that parents do this for various reasons, including lacking educational background, fear of 'wasting' their money, poor performance of schools in national examinations, and avoiding further educational costs should their children pass their national examinations³³⁵.

'At times parents tend to push their children of standards four and seven to fail their exams so that they can get married.'

Education Officer– Rukwa

'It is true that some parents persuade their children to fail their exams for different reasons, including marriage and work. They usually claim that they have no more money to facilitate their children's education.'

Paralegal – Mtwara

330 "Wazazi waonywa tabia kushawishi watoto kufeli mitihani" Nipashe Newspaper, 14 Sep 2023.

331 "Wazazi wakiri kuwashawishi watoto kufeli mitihani" Nipashe Newspaper, 28 Dec 2023.

332 "Watoto 400 wajifelisha mtihani darasa la saba" Mwananchi Newspaper, 23 Dec 2023.

333 "Aeleza alivyofukuzwa kwao alipofaulu sekondari" Mwanachi Newspaper, 16 May 2023.

334 LHRC Human Rights Report 2023: Mtwara Field Report.

335 "WAZAZI 763 wakamatwa Tunduru kwa kutopeleka watoto shule" RALG Ruvuma Region website, 27 Jan 2023, at <https://ruvuma.go.tz/new/wazazi-763-wakamatwa-tunduru-kwa-kutopeleka-watoto-shule>.



Denial of education for girls and boys

- Drivers include child marriage, poverty

In Mainland Tanzania, some parents especially in rural areas, tend to deny their daughters education because 'they shall get married,' while others are reluctant to send their children to school 'because jobs are difficult to get anyway.' As discussed in Chapter Five of this report, denial of education is also common among children with disabilities. Due to this tendency, in 2023, the Government was forced to conduct an operation to arrest parents/guardians refusing to take their children to school. For instance, it was reported in Ruvuma that 763 parents had been arrested in Tunduru District for not sending to school their children, who had passed their standard seven examinations.

“There are parents who do not see the point of taking their children, especially girls, to school. Some would rather their children helped them with work or get married.”

Paralegal – Manyara

School re-entry for pregnant girls and teen mothers

- In 2023, education stakeholders recommended legal reforms to be made to incorporate provisions on re-entry for pregnant girls and teen mothers in education laws, following introduction of re-entry guidelines.³³⁶ They also stated that most teen mothers were struggling to return to school due to various challenges, including lack of family support, and needing help to re-adjust.³³⁷ In Rukwa, the NGOs Coordinator in Kalambo DC said one of the barriers to effective implementation of the re-entry policy is the customs and traditions of the Fiba tribe, which require a girl or woman to move out of parents' house after delivering a baby.³³⁸ This makes it difficult for the teen mother to afford rent, raise the child, and attend school.
- 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, the Circular does not adequately address some issues, as found out by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) in 2022.³³⁹ Lack of budget to facilitate the re-entry process is also a challenge.

336 “Msichana Initiative yataka waraka wa walioacha shule uwe kisheria” Nipashe Newspaper, 23 May 2023.

337 “Teen mothers face school re-entry struggle” THE CITIZEN Newspaper, 19 Aug 2023.

338 Interview with NGOs Coordinator.

339 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/>.



Other issues

Other key issues affecting enjoyment of the right to education in 2023 included concern over education quality, which is partly compromised by shortage of teachers; limited access or lack of access to clean and safe water at some schools; unsanitary toilets, which pose health risks, especially in rural areas; dilapidated school infrastructure; parents abandoning their children with grandparents, who are not able to provide adequate support; and lack of disability-friendly infrastructure, including toilets.

‘The number of students is not proportional to that of teachers, as there are too many students. This makes the teachers tire out and sometimes just do what they can. Schools need to have fewer students to improve the quality of learning.’

Deputy VEO – Ikoma Ward, Tabora

‘There is acute teacher shortage at most schools, which is affecting the quality of education provided to children, as classrooms become overcrowded.’

Street leader – Kasulu DC, Kigoma

- In Kigoma, it was reported in July 2023 that pupils at Lake Tanganyika and Kigoma Primary Schools in Kigoma MC were at risk of contracting infectious diseases because of unsanitary condition of toilets at the schools.³⁴⁰ A similar situation was reported in Songea, Ruvuma Region, whereby a study conducted at primary schools in the region has revealed that schools have inadequate and dirty pit latrines that pose health risks for pupils.³⁴¹ The challenge of access to clean and safe water at schools were reported in Njombe and Singida, where girls were said to be disproportionately affected.³⁴²

³⁴⁰ “Uchafu vyoo unavyoweka hatarini maisha ya wanafunzi” Nipashe Newspaper, 30 Jul 2023.

³⁴¹ “Dirty school latrines put pupils’ health at risk in Ruvuma Region” THE CITIZEN Newspaper, 29 Mar 2023.

³⁴² “Shule ya wasichana yakabiliwa na uhaba wa majisafi, vyoo” Nipashe Newspaper, 31 May 2023; “Tatizo upatikanaji maji shuleni laathiri kiwango cha elimu” Nipashe Newspaper, 5 Oct 2023.



3.1.7. Key Recommendations

- 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 collaborate with the Ministry of Health 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 Ministry of Community Development, Gender, Women and Special Groups to devise strategies of preventing and addressing violence against children perpetrated in school settings, including by teachers.
- The Ministry of Education, Science and Technology to consider use of Swahili as a language of instruction in both primary and secondary schools.
- The Ministry of Education, Science and Technology to initiate legal reforms to incorporate the re-entry provisions through amendment of the Education Act.

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 2023, key right to health issues and violations in Mainland Tanzania included budgetary constraints; shortage of healthcare workers; mental health problems; shortages of equipment, medicines, and medical supplies; and maternal health challenges.

3.2.1. Government Action

In 2023, the Government reported to have taken several measures to address some of the key challenges in the health sector and thereby ensure progressive realisation of the right to health. One of the measures is employing more healthcare workers to reduce the deficit, whereby it was reported in May 2023 that the Government was finalizing the process of employing 8,070 new health workers.³⁴³ It also continued procuring essential medicines and medical supplies, whereby by March 2023, Tshs. 159.9 billion (80%) were disbursed to facilitate procurement of the medicines and supplies from the Medical Stores Department (MSD).³⁴⁴ Construction and renovation of health facilities

343 "TAMISEMI YATANGAZA AJIRA 21,200, UALIMU NA AFYA" ITV NEWS, 12 Apr 2023, at <https://www.itv.co.tz/news/tamiseми-yatangaza-ajira-21200-ualimu-na-afya>; "Ajira 8,070 zamwagwa sekta ya afya" Nipashe Newspaper, 27 May 2023.

344 HOTUBA YA WAZIRI WA AFYA MHE. UMMY ALLY MWALIMU (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA AFYA KWA MWAKA 2023/24, p. 54 at [https://www.parliament.go.tz/uploads/budgetspeeches/1683894445-document%20\(64\).pdf](https://www.parliament.go.tz/uploads/budgetspeeches/1683894445-document%20(64).pdf).



were also said to be completed and underway in some parts of the country, contributing to an addition of more than 2,000 new health facilities.³⁴⁵ The number of hospital beds also reportedly increased during the financial year 2022/23 by 2,512 beds, while 6 new MRI machines and 32 CT scan machines were also procured.³⁴⁶

3.2.2. Budgetary Allocation and Disbursement

Health budget vis-à-vis national budget

International minimum standards, set under the Abuja declaration, require countries, including Tanzania, to set 15% of national budget for the health sector.³⁴⁷ For the financial year 2023/24, the Government allocated Tshs. 2.4 trillion for the health sector,³⁴⁸ increasing from 2.1 trillion in 2022/23. This is equivalent to 5.4% of the national budget.

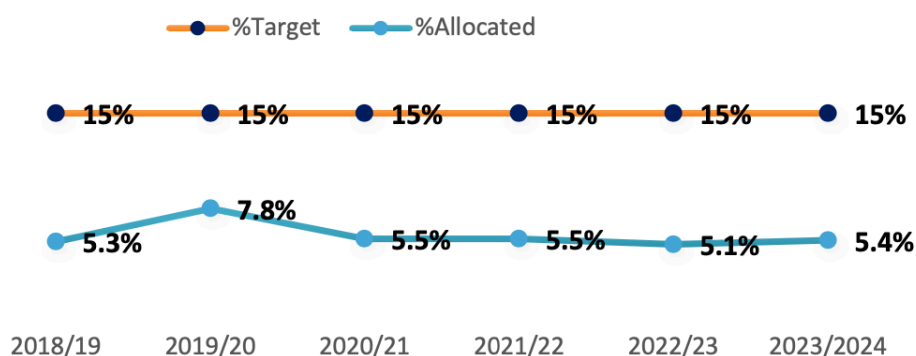


Figure 16: %Government budget allocation in the health sector vis-à-vis required target – 2018/19 to 2023/24

Like it was the case in the previous budgets, the 2023/24 budget has failed to reach the 15% health funding benchmark. This is a big concern, as it greatly impacts effective realisation of the right to health and indirectly impacts other fundamental human rights, including the right to life and right to adequate standard of living.

Disbursement

For the financial year 2022/23, the Ministry of Health was allocated Tshs. 1.1 trillion out of the Tshs. 2.1 trillion allocated for the health sector. By March 2023, a total of Tshs. 742 billion had been disbursed, equal to 67% of the budget; and only 51%

345 Ibid, p. 53.

346 Ibid.

347 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>.

348 CITIZEN'S BUDGET BOOK: A SIMPLIFIED VERSION OF THE GOVERNMENT BUDGET FOR THE FINANCIAL YEAR 2023/24 (supra).



of the funds allocated for the development expenditure had been disbursed.³⁴⁹

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.

3.2.3. Other Key Issues and Challenges

Other key issues affecting enjoyment and effective realisation of the right to health in 2023 included health insurance; shortage of healthcare workers; shortage of equipment, medicines, and medical supplies; availability and proximity of health facilities; maternal health; menstrual health and hygiene; primary healthcare education; sexual and reproductive health; mental health; and access to health services by PWDs and the elderly. These issues are briefly discussed below.

Health insurance

Universal health coverage (UHC) law finally enacted, a key milestone in safeguarding the right to health
Public outcry over removal of Toto Afya Card

Universal Health Coverage (UHC) law

International human rights law recognizes health insurance as an essential component of the right to health.³⁵⁰ Universal health coverage is also one of the targets of the Sustainable Development Goal (SDG) number 3, which seeks to ensure good health and well-being by ensuring healthy lives and promoting well-being for all at all ages, providing social protection in case one sustains a serious injury or becomes ill.

³⁴⁹ HOTUBA YA WAZIRI WA AFYA MHE. UMMY ALLY MWALIMU (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA AFYA KWA MWAKA 2023/24 (supra), p. 9.

³⁵⁰ Article 25(1) of the Universal Declaration of Human Rights (UHDR), 1948; Article 12(2) of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), 1966.



In September 2022, the Government tabled the long-awaited 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. In December 2023, the bill was finally assented into law by the President³⁵¹ following parliamentary deliberations and consultations that lasted over a year since the bill was first tabled in Parliament. Key features of the law³⁵² include mandatory coverage for all citizens; the Tanzania Insurance Regulatory Authority (TIRA) as the regulator; public health insurance scheme, which is the National Health Insurance Fund (NHIF); private health insurance schemes; standard benefit package, with members allowed to acquire additional benefits; and financing for poor households or individuals, which is 26.5% of the population.

- One of the key concerns by stakeholders when the bill was introduced in 2022 was financing, and the law establishes a special fund, sourced from electronic transaction revenues, excise duty on select products, taxes on gaming, motor vehicle insurance, parliamentary allocations, returns from fund investments, and contributions from stakeholders, including development partners.³⁵³ The next step is for the Ministry of Health to formulate regulations to operationalize the law.

Toto Afya Card Removal concerns

- In March 2023, the Government decided to remove the package of Toto Afya Card from the National Health Insurance (NHIF), stating that the package was threatening the sustainability of the health insurance scheme.³⁵⁴ Under this arrangement, parents and guardians were contributing Tshs. 50,400 to register their children. The decision was met with criticism and big concerns by stakeholders and parents, calling for the government to reconsider its position and find other ways to address the challenges associated with the package, including increasing the contribution amount.³⁵⁵ Other stakeholders criticized NHIF for not consulting stakeholders before reaching the decision.

351 "Samia assents to Universal Health Insurance Bill" THE CITIZEN Newspaper (online), 6 Dec 2023, at <https://www.thecitizen.co.tz/tanzania/news/national/samia-assents-to-universal-health-insurance-bill-4454922>.

352 SHERIA YA BIMA YA AFYA KWA WOTE YA MWAKA 2023, at <https://www.moh.go.tz/storage/app/uploads/public/656/de7/1aa/656de71aae4fb340630686.pdf>.

353 See "Tanzania enacts the Universal Health Insurance Bill" Social Health Protection Network, 7 Dec 2023, at <https://p4h.world/en/news/tanzania-enacts-the-universal-health-insurance-bill/#:~:text=On%20November%201%2C%202023%2C%20the,a%20comprehensive%20health%20insurance%20system>.

354 "Toto Afya kadi ilitishia uhai wa NHIF" Mwananchi Newspaper (online), 12 May 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/toto-afya-kadi-ilitishia-uhai-wa-nhif-4232300>.

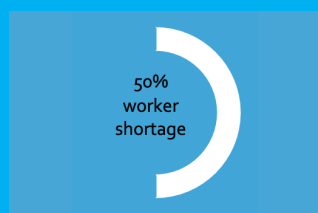
355 "Wazazi wasimulia machungu kuondolewa Toto Afya Kadi" Nipashe Newspaper, 21 May 2023; "Kilio Toto Afya Kadi chatikisa" Nipashe Newspaper, 17 Mar 2023.



Introduction of New NHIF rates

In December 2023, the Government, through the Ministry of Health and NHIF, introduced new rates for NHIF members to be attended at hospitals, scheduled to come into effect in January 2024. Based on the new rates, NHIF had reduced payments for consultation and treatment. Responding to this decision, the Association of Private Health Facilities in Tanzania (APHFTA) said they were not consulted over introduction of the new rates, and that the reduced payments would cause private hospitals to operate at losses and eventually close, given the high costs of running health facilities.³⁵⁶ Private health facilities threatened to stop attending NHIF members because of the new rates.

Shortage of healthcare workers



- In 2023, LHRC documented reports of shortage of healthcare workers from Mwanza, Shinyanga, Geita, and Songwe Regions. In Mwanza, it was reported that there was a shortage of 4,000 nurses (50%) shortage of nurses in the region.³⁵⁷ In Shinyanga, it was reported in May that a dispensary constructed through contributions by citizens and small-scale miners in Msalala District had been abandoned due to lack of health workers.³⁵⁸ A similar situation was reported in Songwe, where it was reported that a health centre constructed in Halungu Ward, Mbozi District, was not in use due to lack of healthcare workers and medical supplies.³⁵⁹ In Geita, it was reported in August that Geita TC Hospital was faced with shortage of 180 healthcare workers,³⁶⁰ equal to a 60% shortage.
- By March 2023, the health sector was faced with a shortage of 109,445 healthcare workers (50%), including doctors and nurses.³⁶¹ Increase of health facilities was cited as one of the reasons for the shortages.

356 "Private hospitals threaten to boycott NHIF members" THE CITIZEN Newspaper, 26 Dec 2023; "BEI MPYA MATIBABU: Wamiliki hospitali binafsi watishia kutopokea wenye bima za NHIF" Nipashe Newspaper, 26 Dec 2023.

357 "Mwanza ina uhaba wa wauguzi 4,000" Mwananchi Newspaper, 10 May 2023; "Concern as Mwanza faces acute shortage of nurses, midwives" THE CITIZEN Newspaper, 10 May 2023.

358 "Zahanati yatelekezwa kwa kukosa watumishi" Nipashe Newspaper, 8 May 2023.

359 "Ukosefu vifaa, madaktari walazimisha wananchi kufuata huduma ya afya mbali" Nipashe Newspaper, 7 Aug 2023.

360 "Uhaba watumishi waitesa Hospitali ya mji Geita" Mwananchi Newspaper, 8 Aug 2023.

361 HOTUBA YA WAZIRI WA AFYA MHE. UMMY ALLY MWALIMU (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA AFYA KWA MWAKA 2023/24 (supra), p. 128.



Shortages of equipment, medicines, and medical supplies

Shortages of equipment, medicines, and medical supplies were also reported in various parts of the country in 2023, including in Mara, where medical equipment and supplies worth Tshs. 500 million were reportedly stolen at Bunda District Hospital, and in Dodoma, where there was reported shortage of medicines in Kibaigwa, Kongwa District.³⁶²

- Shortage of beds is also a concern at some health facilities. By March 2023, there were 95,898 out of the required 148,062 beds at all health facilities, indicating shortage of 52,194 beds.³⁶³ Shortages stand at 27% in hospitals, health centres (30%), dispensaries (52%), clinics (41%), and other health facilities (57%). Delivery of referral services in Regional Referral Hospitals was found to be inadequate due to shortage of healthcare workers and specialized equipment.³⁶⁴

Availability and proximity of health facilities

- Citizens in some parts of the country, especially in remote and rural areas, find it difficult to access health services due to non-availability or long distance to health facilities. In 2023, this challenge was reported in districts such as Maswa in Shinyanga and Mpwapwa in Dodoma.³⁶⁵ In Mpwapwa, some of the citizens in Godegode Ward were said to travel up to 40km to access health services.

362 "Vifaa tiba mil. 500/- vyadaiwa kuibwa katika hospitali ya wilaya" Nipashe Newspaper, 15 Apr 2023; "Walia uhaba huduma za matibabu" Nipashe Newspaper, 6 May 2023.

363 HOTUBA YA WAZIRI WA AFYA MHE. UMMY ALLY MWALIMU (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA AFYA KWA MWAKA 2023/24 (supra), p. 54

364 See THE UNITED REPUBLIC OF TANZANIA, NATIONAL AUDIT OFFICE, ANNUAL GENERAL REPORT OF THE CONTROLLER AND AUDITOR GENERAL FOR THE FINANCIAL YEAR 2021/22: CENTRAL GOVERNMENT, MARCH 2023, at <https://www.nao.go.tz/en/reports>.

365 "Zahanati ziliztokamilia miaka minne hazitumiki" Nipashe Newspaper, 6 Oct 2023; "Safari ya kilomita zaidi ya 40 kusaka huduma ya afya" Mwananchi Newspaper, 11 Oct 2023.



Sexual and reproductive health

- Maternal health
- Violence against Women
- Adolescent sexual and reproductive health
- Low awareness and media coverage of SRH issues
- Tanzania's Ministry of Health Program data shows that for the past four years maternal deaths count has been declining steadily but slowly from 1,744 in 2018, 1,657 in 2019, 1,640 in 2020, 1,588 in 2021 to 1,477 in 2022.

At least 80 maternal deaths occur each month.

Sexual and reproductive health and rights **encompass efforts to eliminate preventable maternal and neonatal mortality and morbidity, to ensure quality³⁶⁶ 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.**³⁶⁷ Maternal health, which simply means health of women during pregnancy, childbirth, and the postnatal period, is essential in reduction of child and maternal mortality.³⁶⁸ 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.

Maternal health

- In 2023, effective enjoyment and realization of women's right to quality maternal healthcare continued to be affected by various issues and challenges in the health sector, especially in public hospitals, including long distance to health facilities; shortage of medicines and medical supplies; shortage of health workers, including nurses; and acts of violence perpetrated against them.
- One of the key issues regarding maternal healthcare that was reported in 2023 is shortage of beds in labour wards, as well as shortage of labour wards themselves. For instance, in March 2023, it was reported at Temeke Hospital in Dar es Salaam that two to three pregnant women were forced to share a bed due to acute shortage of beds and labour wards, causing them discomfort and increasing the risk of contracting diseases and suffer back pain.³⁶⁹ It was reported that the capacity of the wards is 75 women but often times more than 100 are accommodated and sometimes twice the capacity of the wards are accommodated.³⁷⁰ Similar reports were made at Tumbi Hospital in Pwani Region, where two women, including those who have already delivered, were sharing a bed.³⁷¹

366 See Ministry of Health, Division of Reproductive, Maternal, and Child Health, Maternal, Newborn and Child Health, at <https://conference.moh.go.tz/inner/subthemenewborn>.

367 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.

368 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>.

369 "Adha wajawazito kuchangia kitanda" Mwananchi Newspaper, 16 Mar 2023.

370 "Temeke hospital faces acute shortage of labour wards" THE CITIZEN Newspaper, 16 Mar 2023.

371 LHRC Human Rights Monitoring, December 2023.



In 2023, LHRC also documented reports of pregnant women being made to pay for delivery services, which are supposed to be provided free of charge, according to government policy. For instance, in Njombe, it was reported in December 2023 that some pregnant women in Makambako TC had complained to the Njombe Regional Commissioner, Hon. Anthony Mtaka, about being charged Tshs. 150,000 for cesarean delivery at Makambako Health Centre.³⁷² Others said they were also made to pay for maternity-related medicines that were supposed to be provided free of charge.³⁷³ Similar complaints were also made at several hospitals in Dar es Salaam, including at Amana Hospital, where pregnant women were said to pay for maternity services.³⁷⁴

- In Songwe, it was reported in September that pregnant women in Nsanzya Village in Momba District were suffering by travelling long distances, up to 20km, using motorcycles, to access maternal health services at Kamsamba Health Centre, which is located in Chilumo Village. Consequently, some women have experienced pregnancy loss due to the distance and the rough road, which becomes worse during rainy seasons, while others deliver babies on the way.³⁷⁵

- In Dar es Salaam and Singida, some pregnant women complained about mistreatment by healthcare workers, especially nurses, including being neglected when in labour pains and verbally abused.³⁷⁶ In Singida, some women in Manga Village lamented poor services at the village dispensary, especially during the nighttime, causing some of them to deliver outside the dispensary.³⁷⁷

372 "Wajawazito waliamkandwa gharama upasuaji" Nipashe Newspaper, 21 Dec 2023.

373 Ibid.

374 "Mateso makundi Maalum kulipishwa hospitalini" Mwananchi Newspaper, 5 Jul 2023.

375 "Miaka 62 ya mateso kwa wajawazito" Mwananchi Newspaper, 30 Sep 2023.

376 LHRC Human Rights Monitoring 2023; "Wajawazito walalama kutopewa huduma stahiki kwenye zahanati" Nipashe Newspaper, 6 Jan 2023.

377 "Wajawazito walalama kutopewa huduma stahiki kwenye zahanati" Nipashe Newspaper, 6 Jan 2023.



These challenges in the provision of maternal healthcare have contributed to maternal and child mortality. For instance, in Singida, a nurse at Sokoine Health Centre was suspended by Singida MC in January 2023 for allegedly causing death of a baby after neglecting to attend a pregnant woman.³⁷⁸ In May, a woman, resident of Mbande area in Dar es Salaam attributed the death of her baby to the negligence of health workers at Zakhem Hospital, noting that if they had attended her since she arrived at the hospital in the morning, instead of making her wait for 15 hours, she would not have lost her baby, who died in the womb.³⁷⁹ In November, a pregnant woman, Mariam Zahoro (39), died at Kabuku Health Centre in Handeni District, Tanga, because she was not attended for lacking Tshs. 150,000 for cesarean delivery.³⁸⁰

- In March 2023, the CAG disclosed that there was an increased average of maternal mortality rate in 20 LGAs, ranging from 102 to 989, above the target of 100 per 100,000 live births.³⁸¹ In May, the Minister of Health, Hon. Ummu Mwalimu, disclosed that 943 maternal deaths occurred in Mainland Tanzania in 2022/2023, decreasing from 982 in 2021/22.³⁸²

Violence against women

- Women’s sexual and reproductive health is also affected by violence, especially that perpetrated by their intimate partners, especially husbands. As reported in Chapter Five of this report, women and girls were subjected to different forms of violence, including physical, sexual, economic, and psychological. The Tanzania Demographic and Health Survey and Malaria Indicator Survey (TDHS-MIS 2022) also shows that some women experience violence during pregnancy, especially by intimate partners.

Adolescent sexual and reproductive health

As discussed in Chapter Five of this report, in 2023 some adolescents and youth, including girls and young women, were subjected to different forms of violence and harmful cultural practices, including FGM and child marriage, which hinder effective realization of adolescent sexual and reproductive health rights.

378 “Muuguzi matatani tuhuma za kusababisha kifo cha mtoto” Nipashe Newspaper 2 Jan 2023.

379 “Sintofahamu mama aliyesota saa 15, kichanga chafariki” Mwananchi Newspaper, 27 May 2023.

380 “Watumishi watatu wasimamishwa kazi kifo cha mjamzito Handeni” Mwananchi Newspaper (online), 14 Nov 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/watumishi-watatu-wasimamishwa-kazi-kifo-cha-mjamzito-handeni-4433170>; “KIFO CHA MJAMZITO, WATATATU WASIMAMISHWA KAZI” ITV Digital, 14 Nov 2023.

381 ANNUAL GENERAL REPORT OF THE CONTROLLER AND AUDITOR GENERAL FOR THE FINANCIAL YEAR 2021/22: REGIONAL ADMINISTRATION AND LOCAL GOVERNMENT (*supra*).

382 HOTUBA YA WAZIRI WA AFYA MHE. UMMY ALLY MWALIMU (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA AFYA KWA MWAKA 2023/24 (*supra*), p. 31.



Menstrual health and hygiene

- Access to sanitary pads a big challenge
- Cloth is the most commonly used method of menstrual protection (53%)
- Women in urban areas (58%) more likely than their counterparts in rural areas (23%) to use disposable pads
- Women in rural areas (63%) more likely to use cloth than those in urban areas (37%)
- Tax removal key in improving situation

Low Awareness and Coverage of SRH Issues

■ In July 2023, the Tanzania Media Women's Association (TAMWA) released its baseline survey report on sexual and reproductive health rights (SRHR) understanding and its media coverage in Mainland Tanzania.³⁸³ The study respondents were journalists and media houses in Mainland Tanzania, and one of the key findings was that the overwhelming majority of the journalists indicated having little knowledge about SRHR issues.³⁸⁴ Another key finding was that 85% of media houses were found to have no slots for SRHR content. Additionally, just over three quarters of journalists (78%) said they had not received any SRHR training.³⁸⁵

- As discussed in Chapter Three of this report, menstrual health and hygiene continued to be among key challenges for girls in 2023, especially in rural areas. Access to sanitary pads was reported to be a challenge for many women and girls, whereby most of them cannot bear the recurring cost of sanitary pads, hence resorting to using makeshift pads, including old rags or even leaves.³⁸⁶ This is said to put their health at risk. Various stakeholders, including LHRC, recommended removal of tax on sanitary products and raw materials used to make the pads more affordable. The 2022 demographic survey shows that only just over a third of women aged 15 to 49 years use disposable sanitary pads.³⁸⁷

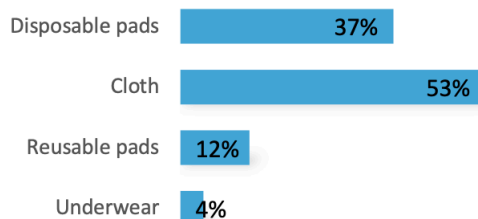


Figure 17: Pad use among women aged 15-49 in Tanzania

Source: TDHS-MIS 2022

383 See TANZANIA MEDIA WOMEN'S ASSOCIATION (TAMWA), *BASELINE SURVEY ON THE SEXUAL AND REPRODUCTIVE HEALTH RIGHTS (SRHR) UNDERSTANDING AND ITS MEDIA COVERAGE IN TANZANIA MAINLAND MEDIA OUTLETS BOTH ONLINE AND OFFLINE*, JULY 2023, https://tamwa.org/a/images/pdf/SRHR_Survey_Report_July_2023.pdf.

384 Ibid.

385 Ibid.

386 "Tampons a luxury beyond reach for many women and girls in Tanzania" THE CITIZEN Newspaper, 25 Sep 2023; "NIMR yabaini changamoto kwa wasichana kwenye hedhi" Mwananchi Newspaper, 21 Aug 2023.

387 TDHS-MIS 2022(*supra*), p. 533.



Mental health

- Contributed by GBV and VAC
- Drove some people to commit suicide
- Suicide victims had different background, including civil service, law enforcement, business, farming, and teaching
- Majority of the victims were male and youth

Mental health continued to be a public health concern and a threat to the right to health in 2023. The number of mental health patients was said to be increasing at health facilities, including at the Mwanamala Regional Referral Hospital,³⁸⁸

- Mental health was also said to be a key challenge for youth, as psychologists in Dar es Salaam pointed out that many young people are facing mental health issues because of the mental baggage that is a result of having younger parents who are also quietly suffering from same cases.³⁸⁹ Poor parenting was also said to be a key driver of mental health problems and suicide among children.³⁹⁰ Mental health problems were also said to be a contributing factor in intimate partner violence (IPV) and killings, including intimate partner homicide (IPH).³⁹¹

- In 2023, mental health problems continued to drive people into committing suicide. LHRC documented 57 incidents of suicide, 22 more than those documented in 2022. The incidents were reported in all but seven regions of Mainland Tanzania.³⁹² Analysis of the reported incidents shows that people committed suicide for various reasons, including causing an accident, debts, abandonment, lack of school fees, imitating scenes from a movie, sickness, incurring loss, relationship breakup, parental discipline, extra-marital affair, jealousy, job suspension, and economic hardships.

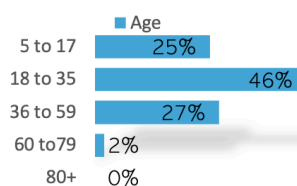


Figure 18: %Suicide incidents documented by LHRC by age

- Further analysis of the incidents shows that 79% of the victims were male, especially youth, and a quarter of the victims were children. The youngest victim was 10 years old and the oldest was 72 years old.

388 "...Kasi wagonjwa wa akili yaongezeka" Nipashe Newspaper, 6 Oct 2023.

389 "Mental health: Silent crisis among young Tanzanians" THE CITIZEN Newspaper, 11 Oct 2023.

390 "Wataalamu wafichua kilicho jificha matukio ya watoto kujinyonga" Nipashe Newspaper, 10 Jul 2023; "Kukosekana kwa malezi kunavyochangia tatizo afya ya akili" Mwananchi Newspaper, 26 Sep 2023.

391 "Afya ya akili yatajwa mauaji yaliyojitikisa Kilimanjaro" Mwananchi Newspaper, 19 Dec 2023.

392 There were no reported incidents documented by LHRC in Kagera, Katavi, Kigoma, Njombe, Rukwa, Singida, and Tabora.



Access to health services by the elderly and PWDs

As discussed in Chapter Five of this report, in 2023 the elderly lamented limited access to quality health services due to limited medical services and stigma and discrimination, while for PWDs key concerns included stigma and health insurance. These two groups are also disproportionately affected by various challenges in the health sector, including shortages of healthcare workers and medicines and medical supplies.

Other issues

- Other key issues reported in 2023 included delays in completion of health projects. For instance, in March 2023, the CAG disclosed that there were health facility projects worth Tshs. 82.95 billion which were delayed in completion in 91 LGAs during the financial year 2021/22. He also noted that projects worth Tshs. 2.64 billion had not yet started and completed projects worth Tshs. 4.93 billion were not put in use as planned in 16 LGAs.³⁹³

3.2.4. Key Recommendations

- 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.
- The Ministry of Health to increase investment in the primary health care and ensure that children's right to access quality health services is guaranteed.
- 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.”
- Essential in safeguarding the right to health by curbing spread of diseases.

In 2023, effective realisation of the right to clean and safe water continued to be affected and hindered by several key issues and challenges, including budgetary constraints; water leakages and loss; lack of or limited access to clean water in some areas; and climate change impacts.

393 ANNUAL GENERAL REPORT FOR THE CONTROLLER AND AUDITOR GENERAL FOR THE FINANCIAL YEAR 2021/22: REGIONAL ADMINISTRATION AND LOCAL GOVERNMENT (supra), p. xix.



3.3.1. Government Action

In 2023, 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; and improving and expanding water supply systems and construction of new ones.³⁹⁴ In May 2023, the Minister of Water, Hon. Jumaa Aweso (MP), disclosed that access to clean and safe water in rural areas had increased from an average of 74.5% in December 2021 to 77% in December 2022.³⁹⁵ He also noted that in urban areas water access had also increased from an average of 86.5% in December 2021 to 88% in December 2022.³⁹⁶

3.3.2. Budgetary Allocation and Disbursement

The water sector is among the priority sectors for the Government along with other key sectors such as education, health, agriculture, and energy. However, stakeholders have been expressing concern over financing of the water sector and disbursement of funds.

In 2023, the Government allocated Tshs. 766.21 billion for the water sector for the financial year 2023/24,³⁹⁷ increasing from Tshs. 723.8 billion in 2022/23. This is equivalent to only 1.7% of the national budget, as shown in Figure 19 below.

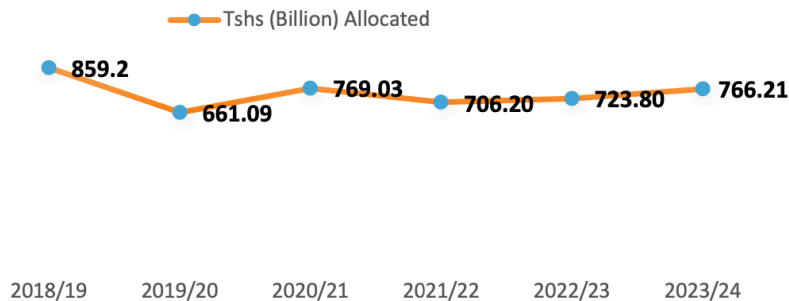


Figure 19: Budget allocation for the water sub-sector – 2018/19 to 2023/24

While trends show the budget for the water sector has been slightly increasing since 2021/22, the funds remain short of the recommended 5.5% of the national budget benchmark, as well as other standards.³⁹⁸ This makes it difficult to

394 See 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 2023/24, at [https://www.parliament.go.tz/uploads/budgetspeeches/1683798691-document%20\(62\).pdf](https://www.parliament.go.tz/uploads/budgetspeeches/1683798691-document%20(62).pdf).

395 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 2023/24 (supra), p. 11.

396 Ibid. 12.

397 CITIZENS' BUDGET BOOK 2023/24 (supra).

398 See TAWASANET (2019) No-one left behind: Putting the water Sector to Work for Inclusive Growth and Sustainable Industrialization, Water Sector Equity Report 2019.

ensure progressive realisation of the right to water and relevant SDG targets, as well as affecting enjoyment of other fundamental human rights such as right to health, right to adequate standard of living, and right to life.

On a positive note, improvement in disbursement of funds was reported in 2023. In May 2023, the Minister of Water disclosed that by April 2023, his ministry had received 94.81% of the funds allocated.³⁹⁹

3.3.3. Access to Clean and Safe Water TDHS-MIS 2022

The 2022 demographic and health survey report shows that nearly two thirds (64%) of the household population has access to basic drinking water service and that 75% has sufficient quantities of drinking water when needed (78% in rural areas and 68% in urban areas).⁴⁰⁰ The survey has also revealed that 73% of households in Mainland Tanzania obtain their drinking water from improved sources and that 44% of households have water on the premises.⁴⁰¹ The percentage of household population with basic drinking water service is highest in Dar es Salaam (96%), Kilimanjaro (93%), and Njombe (84%); and lowest in Singida (44%), Tabora (46%), and Tanga (46%).

3.3.4. Other Key Issues and Challenges

Lack of access to clean and safe water

In 2023, incidents of difficulties accessing clean and safe water were reported in several areas within Mainland Tanzania, especially in rural areas. For instance, in January, it was reported in Tanga that some residents of Vanga area in Muheza District had not had access to clean and safe water for 20 years, having to walk long distances in search of water.⁴⁰² Women and children were said to be vulnerable to attacks, including by animals, when fetching water from a distant river. A similar situation was reported in Arusha in July, where villagers in Karangai Village, located in Arumeru District had reportedly not had access to clean and safe water (tap water) for 48 years, leaving them vulnerable to various diseases, including schistosomiasis and typhoid.⁴⁰³

399 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 2023/24 (supra), p. 14.

400 TDHS-MIS 2022 (supra), p. 525.

401 Ibid, p. 526.

402 "Walalamika kukosa majisafi na salama kwa miaka 20" Nipashe Newspaper, 12 Jan 2023.

403 "Kijiji chakosa majisafi miaka 48, wakazi waugua magojwa" Nipashe Newspaper, 14 Jul 2023.



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| | <p>In September, it was also reported in Arusha that residents of Sinono Kusini area in Engutoto Ward, Monduli District, had been buying a bucket of water for Tshs. 1,000 for three months due to lack of clean and safe water, and Maasai women and children had to walk long distance in search of water.⁴⁰⁴ In Dar es Salaam, incidents of water shortages and rationing were reported in Tabata, Goba, Mpiji Magoje, Kimara, and Mabiba Areas, where some residents claimed they would not get water for over a week at a time.⁴⁰⁵</p> <p>Women and children, especially in rural areas, are disproportionately affected by limited access to clean and safe water, as they spend a lot more time fetching water, hence less time to engage in economic and social activities, including education. Walking long distances in search of water also increases the risk of being subjected to violence.</p> |
| <p>Human activities and contamination of water sources</p> | <p>In 2023, human activities were said to contaminate water sources in Njombe Region, where nine people were arrested and taken to court in March for causing damage to water supply sources.⁴⁰⁶ In December, the Ludewa District Commissioner in the region urged citizens to stop conducting human activities around water sources to protect the environment.⁴⁰⁷ In May 2023, the Minister of Water also acknowledged that increased human and economic activities were posing a big threat to water sources across the Mainland Tanzania.⁴⁰⁸</p> |
| <p>Shortage of water treatment facilities</p> | <p>In 2023, shortage of water treatment facilities was also reported as a challenge by experts in April 2023. They noted that inadequate water treatment facilities among water and sanitation authorities was putting people's health and lives at risk.⁴⁰⁹</p> |
| <p>Limited capacity of regional water supply authorities</p> | <p>Some water supply authorities have also been said to have a limited capacity to produce and supply water. For instance, in August 2023, it was reported in Mwanza that the Mwanza Urban Water Supply and Sanitation Authority (MWAUWASA) could produce and supply 90 litres of water per day while the need is 160 litres, causing water restrictions and rationing.⁴¹⁰</p> |

404 "Wakosa maji siku 90, wanunua ndoo moja kwa 1,000/-" Nipashe Newspaper, 7 Sep 2023.

405 "Wakazi walia uhaba wa maji" Mwananchi Newspaper, 29 Mar 2023.

406 "Tisa mbaroni uharibifu wa vyanzo vya maji" HABARILEO Newspaper, 23 Mar 2023.

407 "DC akemea uharibifu vyanzo vya maji" Nipashe Newspaper, 21 Dec 2023.

408 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 2023/24 (supra), p.73.

409 "Just how safe is your tap water?" THE CITIZEN Newspaper, 3 Apr 2023; "Uhaba vifaa vya kusafisha maji unavyotisha afya za watumiaji" Mwananchi Newspaper, 4 Apr 2023.

410 "Mwauwasa (Mwanza): Tunazalisha maji Lita Milioni 90 kwa siku, mahitaji ni Lita Milioni 160" Jamii Forums, 16 Aug 2023, at <https://www.jamiiforums.com/threads/mwauwasa-mwanza-tunazalisha-maji-lita-milioni-90-kwa-siku-mahitaji-ni-lita-milioni-160.2129437/>.

Climate change

Climate change also continued to pose challenges in accessing clean and safe water. In 2023, climate change caused delay in rainfall, drought, and floods, which contributed to drying up of water sources, damage of water infrastructure, and water rationing.⁴¹¹

Other

Growing population and increased economic activities have also contributed to water challenges, as demand for clean and safe water has significantly increased. Water loss and leakages as well as shortage of water experts also continued to affect access to clean and safe water.

3.3.5. Key Recommendations

- 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 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.

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 2023, key right to work issues and challenges included labour rights violations, poor working environment, and low awareness about labour laws and rights.

3.4.1. Government Action

In 2023, Government action to promote realisation of the right to work included monitoring compliance with labour standards, including those on occupational health and safety. The Government reported that for the financial year 2022/2023 a total of 3,327 out of the planned 4,800 labour standard inspections were conducted at workplaces, equal to 69.31% of the target.⁴¹² It was also reported that a total of 96,693 specific inspections on occupational health and

411 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 2023/24 (supra), p.74.

412 See HOTUBA YA MHESHIMIWA KASSIM MAJALIWA MAJALIWA (MB.), WAZIRI MKUU WA JAMHURI YA MUUNGANO WA TANZANIA, KUHUSU MAPITIO NA MWELEKEO WA KAZI ZA SERIKALI NA MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA ZA OFISI YA WAZIRI MKUU NA OFISI YA BUNGE KWA MWAKA 2023/2024, para 123, at <https://www.pmo.go.tz/documents/speeches-1>.



safety were also conducted.⁴¹³ The inspections reportedly led to action against 173 employers who did not comply with labour standards and increase of the number of employees undergoing health checkups from 125,616 in 2021/2022 to 169,735 in 2022/2023.⁴¹⁴ During the May Day commemorations, the Government also announced a salary increase for civil servants.

3.4.2. Reported Labour Rights Violations

Incidents of labour rights violations documented by LHRC

In 2023, through human rights monitoring and legal aid, LHRC received 2,653 new labour rights violations complaints, of which 624 were filed by women (24%) and 2,029 by men (76%).⁴¹⁵ Overwhelming majority of the complaints (54%) were of unfair termination, followed by benefits (29%).

2022 ITUC Global Rights Index

- In 2023, the International Trade Union Confederation (ITUC) released its 2022 edition of the global rights index report, documenting violations of internationally recognised labour rights by government and employers.⁴¹⁶ The index depicts the worlds' worst countries for workers by rating countries on a scale from 1 to 5+ on the degree of respect for workers' rights.



- Tanzania fell under Rating 4 (systematic violations of rights) together with 38 other countries in the world, including 20 other African countries.⁴¹⁷

Violation of labour rights of domestic workers

In 2023, violations of labour rights of domestic workers were widely reported in some regions. In Mwanza, some of the domestic workers and their leaders from six regions complained about some employers paying domestic workers below minimum wages despite the Wage of Oder of 2022 introducing new minimum wages, starting from Tshs. 60,000.⁴¹⁸ They called upon employers to comply with the new Wage Order to guarantee the right to fair remuneration

413 Ibid.

414 Ibid.

415 LHRC Labour Unit Annual Report 2023.

416 See International Trade Union Confederation, 2022 ITUC Global Rights Index, at https://files.mutualcdn.com/ituc/files/2022-ITUC-Rights-Index-Exec-Summ-EN_2022-08-10-062736.pdf.

417 Ibid.

418 "'Wafanyakazi wa ndani walipwe mishahara mipya' Nipashe Newspaper, 30 Aug 2023.

for domestic workers.⁴¹⁹ In Dodoma, Dar es Salaam, and Iringa, 23 of 26 domestic workers (88%) interviewed by *Mwananchi* Newspaper were found to be without employment contract and their wages ranged from Tshs. 30,000 to 50,000 per month, which is below the minimum wage of Tshs. 60,000. Most of them also complained about not being afforded adequate rest (no specific working hours) and denied leave.⁴²⁰

Table 4: Minimum wages for domestic workers in Tanzania

| Domestic Workers | Old Wages | New Wages |
|--|-----------|-----------|
| Domestic workers employed by diplomats and big businessmen | 150,000 | 250,000 |
| Domestic workers employed by entitled officers | 130,000 | 200,000 |
| Domestic workers not employed by above employers & not residing in employer households | 80,000 | 120,000 |
| Other domestic workers | 40,000 | 60,000 |

Source: Wage Order 2013 & Wage Order 2022

In May 2023, it was reported in Dar es Salaam that a domestic worker, Zuhura Ramadhani (30), had filed complaints against her employer, Khadija Katusi, with the local government of Mpji Magohe area for not paying her Tshs. 35,000-a-month wages for five years.⁴²¹

In July 2023, the Conservation, Hotels Domestic and Allied Workers Union (CHODAWU) called upon employers not to call domestic works '*dada*' (sister) because that name causes them to be perceived and treated less as workers and more as family members '**helping out**' with work, hence contributing to violation of their rights.⁴²²

419 Ibid.

420 "Masilahi, mikataba changamoto kwa wafanyakazi wa nyumbani-2" *Mwananchi* Newspaper, 12 Jan 2023.

421 "Dar es Salaam: House girl amshtaki boshi wake kwa kutomlipa mshahara kwa miaka Mitano" Jamii Forums, 26 May 2023, at <https://www.jamiiforums.com/threads/dar-es-salaam-house-girl-amshtaki-boshi-wake-kwa-kutomlipa-mshahara-kwa-miaka-mitano.2100452/>.

422 "Chodawu: Wafanyakazi wa ndani wasiitwe 'dada'" *Mwananchi* Newspaper (online), 23 Jul 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/chodawu-wafanyakazi-wa-ndani-wasiitwe-dada--4313120>.



3.4.3. Other Key Issues and Challenges

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| <p>Working environment and inadequate rest</p> | <p>In 2023, poor working environment continued to be a concern in public and business sectors. As discussed above, there were complaints about the working environment for workers in key sectors such as education and health, contributed by shortage of workers, which leaves a big burden for available workers and denies them the right to adequate rest. For teachers, shortage of teacher houses is an additional concern for their working environment. For instance, in October 2023, it was reported that five teachers at Nyakivyiru Primary School in Kakonko District, Kigoma Region, were staying in a single house due to shortage of teacher houses.⁴²³ Law enforcement officers, especially police officers, are also experiencing working condition challenges, as further discussed in Chapter Six of this report.</p> <ul style="list-style-type: none"> ■ In the business sector, LHRC also received complaints about poor working conditions, which shall be discussed in detail in the business and human rights report (2023/24), scheduled for August 2023. For small-scale business, including printing and salon, power rationing in different parts of the country affected their businesses and by extension their right to work and earn a living. |
| <p>Right to work for PWDs and the elderly</p> | <ul style="list-style-type: none"> ■ As discussed in Chapter Five of this report, in 2023 PWDs and older persons complained about discrimination in employment and limited access to economic opportunities. |
| <p>Awareness of labour laws and rights</p> | <ul style="list-style-type: none"> ■ Despite various efforts by government and non-government stakeholders to raise awareness about labour laws and rights, LHRC has observed that low awareness is still a concern for many workers. |
| <p>Workplace violence</p> | <ul style="list-style-type: none"> ■ In 2023, workplace violence continued to be a concern, especially for female workers in the private sector. This issue shall be covered in detail in the upcoming report on business and human rights. ■ In November 2023, the Tanzania Media Women's Association (TAMWA) released its report on sexual harassment, corruption, and gender mainstreaming in the media.⁴²⁴ One of the key findings of the report was that 77% of the respondents (journalists) reported experiencing sexual harassment within their respective media outlets (workplace). Additionally, 27% of the respondents reported encountering sexual harassment from their news sources or in the field; and 59.4% confirmed the occurrence of sexual harassment in the media sector. |

⁴²³ LHRC Human Rights Monitoring, October 2023.

⁴²⁴ Tanzania Media Women's Association (TAMWA), SEXUAL HARASSMENT, CORRUPTION, AND GENDER

| | |
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| <p>Non-remittance of social security contributions</p> | <ul style="list-style-type: none"> ■ Non-remittance of social security contributions continued to violate labour rights in 2023. In June 2023, the National Social Security Fund (NSSF) revealed that there were 350 cases against employers for non-remittance of social security contributions in different parts of the country.⁴²⁵ It noted that this was contributing to delays in payments of benefits to some members. |
| <p>Employment contracts</p> | <ul style="list-style-type: none"> ■ In May 2023, the Trade Union Congress of Tanzania (TUCTA) identified lack of pay rise, delays in payment of salary arrears, working conditions, and employment among key issues affecting workers' rights in Tanzania.⁴²⁶ In the same month, the the Prime Minister's Office – Labour, Youth, Employment and Persons with Disabilities (PMO-LYED) announced it had started inspections and take action against employers not offering employment contracts and taking advantage of workers as cheap labour.⁴²⁷ |
| <p>Delayed salaries and benefits</p> | <ul style="list-style-type: none"> ■ Delays in payment of salaries and allowances were reported in 2023, including among teachers and domestic workers, as discussed above. In August 2023, construction workers from Turkey involved in construction of the Standard Gauge Railway (SGR) in Tanzania went on strike and called for President Samia's intervention to help them get paid their 7-moth salary arrears by a construction company called <i>Yapi Merkezi</i>.⁴²⁸ ■ In the audit report for Regional Administration and Local Government (RALG) for the financial year 2021/22, released in March 2023, the CAG found that 113 LGAs had outstanding employees' benefits amounting to Tshs. 119.94 billion for more than a year, including salary arrears and employment benefits that were unpaid.⁴²⁹ He also found that six LGAs had not paid Tshs. 309.67 million to 223 retired employees being cost of transporting personal effects upon retirement. |

MAINSTREAMING IN THE MEDIA – TANZANIA: A Current Prevalence and Preventive Mechanisms Assessment, November 2023, at https://tamwa.org/a/images/pdf/SEXUAL_HARASSMENT_17_Dec_2023.pdf.

425 "Ucheleweshaji michango mifuko ya hifadhi wadhorotesha haki" Nipashe Newspaper, 12 Jun 2023.

426 Tucta lists crucial issues as nation marks May Day" THE CITIZEN Newspaper, 1 May 2023.

427 "Waajiri wasiotoa mikataba wakabwa koo" Nipashe Newspaper, 13 May 2023.

428 "(Video) Raia wa Uturuki wanaojenga Reli ya SGR waendeleza mgomo, wakidai mishahara, waomba msaada kwa Rais Samia" Jamii Forums, 17 Aug 2023, at <https://www.jamiiforums.com/threads/video-raia-wa-uturuki-wanaojenga-reli-ya-sgr-waendeleza-mgomo-wakidai-mishahara-waomba-msaada-kwa-rais-samia.2129709/>.

429 THE UNITED REPUBLIC OF TANZANIA, NATIONAL AUDIT OFFICE, ANNUAL GENERAL REPORT OF THE CONTROLLER AND AUDITOR GENERAL FOR THE FINANCIAL YEAR 2021/22: REGIONAL ADMINISTRATION AND LOCAL GOVERNMENT, MARCH 2023, p. xvii.



Labour rights of journalists

- In 2021, LHRC conducted a mini study on labour and other rights of journalists, which revealed various challenges that journalists face at workplace, including lack of employment contract, low pay, threats, unfair dismissal, workplace violence, and breach of contract. In 2023, most of these challenges continued to be reported, including gender discrimination and workplace violence, usually sexual corruption and harassment.⁴³⁰ In April 2023, the Journalists Workers Union of Tanzania (JOWUTA) reported that it had received complaints from 195 workers and former workers from Sahara Media Group (SMG) about **non-payment of salary arrears worth Tsh. 2.5 billion**.⁴³¹ Other complaints against the media company included non-provision of employment contracts and unfair termination of employment.⁴³² JOWUTA collaborated with LHRC to file complaints at the Commission for Mediation and Arbitration (CMA).

3.4.4. Key Recommendations

- 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.
- 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 2023, key right to own property issues and violations in Mainland Tanzania included land conflicts/disputes and property grabbing from women and elderly people.

⁴³⁰ See Lycke Holmen, *Media Freedom in Tanzania Today: A Qualitative Study on the Freedom of the Press Under President Samia Suluhu Hassam, 2021-2023*, at <https://uu.diva-portal.org/smash/get/diva2:1796242/FULLTEXT01.pdf>.

⁴³¹ "Jowuta yaanza kuwashughulikia wamiliki wa vyombo vya habari wanaodaiwa" Mwananchi Newspaper (online), 6 Apr 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/jowuta-yaanza-kuwashughulikia-wamiliki-wa-vyombo-vya-habari-wanaodaiwa-4187676>; "JOWUTA YAWATAKA WAAJIRI VYOMBO VYA HABARI KUZINGATIA SHERIA ZA KAZI" Shinyanga Press Club Blog, 16 Apr 2023, at https://www.shinyangapressclub.co.tz/2023/04/blog-post_743.html.

⁴³² Ibid.



3.5.1. Government Action

In 2023, government action to promote realisation of and safeguard the right to own property included overseeing land surveying, issuance of land title deeds, awareness-raising, regularization of informal settlements, and dispute resolution. For instance, it was reported in May that for the financial year 2022/23 the Government had prepared 500,000 title deeds and 520,000 customary title deeds.⁴³³

Implementation of the Land Tenure Improvement Project (LTIP)

- In 2021, the World Bank (WB) approved the USD 150 million (equivalent to Tshs. 345 billion) Land Tenure Improvement Project (LTIP) seeking to strengthen the national land administration system and increase tenure security for at least two million land holders, users, and their families.⁴³⁴ The project, implemented by the Ministry of Lands, Housing and Human Settlements Development targeted 14 regions, covering approximately 40 districts and supports the issuance of one million Certificates of Right of Occupancy (CROs), 500,000 Certificates of Customary Right of Occupancy (CCROs) and one million Residential License (RLs).⁴³⁵ LTIP has four (4) components, namely (i) Increase Tenure Security; (ii) Land Information Management; (iii) Physical Development of Land Administration System; and (iv) Project Management. The project shall also help to close the gender gap on women's land rights by increasing their access to land and help collection of gender disaggregated data.⁴³⁶
- The project kicked-off in January 2023, and before it did the Ministry of Lands, Housing and Human Settlements Development convened a national stakeholder meeting to discuss it.⁴³⁷ Various government and non-government stakeholders, including civil society organizations (CSOs), were invited to the meeting.

It was also reported that by 15th May 2023, the Ministry of Lands, Housing and Human Settlements Development had administratively resolved 2,684 land disputes, including 429 in Dodoma (52.6%) and 201 (52%) in Dar es Salaam.⁴³⁸ Additionally, the ministry collaborated with different stakeholders to raise public awareness about land use and acquisition and impacts of land disputes and conflicts.⁴³⁹ Twelve (12) more District Land and Housing Tribunals were also established and operationalized, taking the total to 139 tribunals, of which 92

433 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 2023/24, p. 12, at [https://www.parliament.go.tz/uploads/budgetspeeches/1685015599-document%20\(4\).pdf](https://www.parliament.go.tz/uploads/budgetspeeches/1685015599-document%20(4).pdf).

434 See World Bank, Tanzania: New World Bank Financing to Secure Land Rights for Up to Two Million Citizens, Press Release, December 21, 2021, at [https://www.worldbank.org/en/news/press-release/2021/12/21/tanzania-new-world-bank-financing-to-secure-land-rights-for-up-to-two-million-citizens#:~:text=The%20%24150%20million%20Land%20Tenure,\(CROs\)%2C%20500%2C000%20Certificates%20of](https://www.worldbank.org/en/news/press-release/2021/12/21/tanzania-new-world-bank-financing-to-secure-land-rights-for-up-to-two-million-citizens#:~:text=The%20%24150%20million%20Land%20Tenure,(CROs)%2C%20500%2C000%20Certificates%20of).

435 Ibid; The United Republic of Tanzania, Ministry of Lands, Housing and Human Settlements Development, LAND TENURE IMPROVEMENT PROJECT (LTIP), at <https://www.lands.go.tz/pages/ongoing-projects>.

436 New World Bank Financing to Secure Land Rights for Up to Two Million Citizens (supra).
437 TAARIFA YA MKUTANO WA KITAIFA WA WADAU ULIOJADILI UTEKELEZAJI WA MRADI WA UBRESHAJI USALAMA WA MILKI ZA ARDHI (LTIP) – KATIKA UKUMBI WA JIJI LA DODOMA MTUMBA TAREHE 17/01/2023, at https://itip.lands.go.tz/uploads/press_releases/en1698495953-TAARIFA%20YA%20MKUTANO%20WA%20WADAU%20LTIP%2017.1.2023.pdf.

438 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 2023/24 (supra).

439 Ibid, p. 18.



are active.⁴⁴⁰

In October, the Deputy Minister of Lands, Housing and Human Settlements Development, Hon. Geophrey Pinda, prohibited village chairpersons from selling plots and farms in disregard of procedures, thereby contributing to occurrence of land disputes.⁴⁴¹

3.5.2. Land Disputes and Property Rights Violations

Reported incidents documented by LHRC

In 2023, LHRC documented land disputes reported in Shinyanga, Mbeya, Kigoma, Arusha, Lindi, Mwanza, Dodoma, Manyara, Singida, and Tanga Regions. In Shinyanga, it was reported in August 2023 that land disputes were common in Kahama District, most of them involving families and clans.⁴⁴² In Mbeya it was reported earlier in June that there was a land dispute between the Tanzania Agricultural Research Institute (TARI) and residents of Sae and Ituha areas in Uyole District.⁴⁴³ In Mbeya, there was also a land dispute in Mbarali District between 850 community members and the Government, whereby a case was instituted by the community members at the High Court in Mbeya, claiming unfair compulsory land acquisition.⁴⁴⁴

In Kigoma, land disputes were also said to be a big concern in Kagerankanda and Mvinza Villages, located in Kasulu District.⁴⁴⁵ The land disputes were between the villagers and Kasulu DC on the one hand and between the villagers and the Tanzania Forest Services Agency (TFS) on the other.⁴⁴⁶

In Manyara, it was reported in November that 27 farmers in Kiteto District had been arrested by police following a land dispute with pastoralists and for entering a Wildlife Management Area (WMA).⁴⁴⁷ Land disputes, between farmers and pastoralists, were also said to be a challenge in Morogoro Region in 2023.⁴⁴⁸

In Mwanza, it was reported in October that more than 200 land dispute complaints had been received by the Ukerewe District Commissioner. 90% of the disputes were between community members themselves and between community members and the District Council.⁴⁴⁹

440 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 2023/24, (*supra*) p. 23.

441 "PINDA APIGA MARUFUKU WENYEVITI WA VIJJI NA MITAA KUUZA MAENEO" Ministry of Lands, Housing and Human Settlements Development Website, 24 Oct 2023, at <https://www.lands.go.tz/news/pinda-apiga-marufuku-wenyeviti-wa-vijiji-na-mitaa-kuuza-maeneo>.

442 "Ofisi DC yalia kuzidiwa kesi migogoro ya ardhi" Nipashe Newspaper, 20 Aug 2023.

443 "Bashe aingilia kati mgogoro wa eneo uliodumu kwa miaka 49" Nipashe Newspaper, 6 Jun 2023.

444 LHRC Human Rights Monitoring, 2023.

445 "Migogoro ya ardhi, uraia inavyoitesa Kigoma" Mwananchi Newspaper, 29 Dec 2023.

446 Ibid.

447 "Wakulima 27 Wilayani Kiteto washikiliwa na Polisi kutokana na mgogoro wa Ardhi" Jamii Forums, 25 Nov 2023, at <https://www.jamiiiforums.com/threads/wakulima-27-wilayani-kiteto-washikiliwa-na-polisi-kutokana-na-mgogoro-wa-ardhi.2161436/>.

448 "RC Morogoro ataka migogoro ya ardhi, wakulima na wafugaji ikomeshwe" PO-RALG Morogoro Region Website, 28 Sep 2023, at <https://morogoro.go.tz/new/rc-morogoro-ataka-migogoro-ya-ardhi-wakulima-na-wafugaji-ikomeshwe>.

449 "DC apokea malalamiko 200, mengi kuhusu migogoro ya ardhi" Nipashe Newspaper, 6 Oct 2023.

Land disputes were also reported to hinder effective enjoyment of property rights in Dodoma and neighbouring Singida Regions.⁴⁵⁰ In Singida, a Village Executive Officer (VEO) in Mkalama District said there were many land disputes, especially disputes between farmers and pastoralists and family land disputes.⁴⁵¹

In March 2023, it was reported that a countrywide survey covering 386 pastoralists villages in 89 districts in 14 regions had revealed that land disputes and conflicts is top challenge facing the pastoralists across Mainland Tanzania.⁴⁵² The survey covered the Maasai and Bargaig nomadic communities and their subtribes across the country.

Land Disputes Documented by LHRC's Legal Aid Clinics

- In 2023, LHRC's legal aid clinics in Dar es Salaam, Arusha, and Dodoma received a total of 12,205 land rights violations complaints, of which, 4,225 (35%) were filed by women and 7,980 (65%) by men⁴⁵³. Overwhelming majority of the land disputes (98%) related to land ownership. The subcategories included boundary disputes (2,975), trespass (3,243), and eviction (4,363).

Top 3 land disputes documented by LHRC in 2023

- Eviction (4,363)
- Trespass (3,243)
- Boundary disputes (2,975)

Land disputes leading to death and property destruction

In 2023, some land disputes were reported to lead to death and property destruction. Land disputes between farmers and pastoralists were particularly deadly, as has been the case in the past. In Lindi and Ruvuma, it was reported in September that three people, residents of Matekwe and Tingidanya Villages located in Nachingwea (Lindi) and Tunduru (Ruvuma) respectively died following clashes between farmers and pastoralists.⁴⁵⁴ Two of them were pastoralists and one a farmer. In the same month, it was reported in Tanga that a sheikh in Handeni District was attacked and killed in a farm during a conflict between farmers and pastoralists.⁴⁵⁵

3.5.3. Pastoralists' Property Rights

In 2023, pastoralists expressed **huge concerns over violations of their property rights**, especially confiscation and auctioning of livestock as a way of penalizing them for their livestock entering national parks and other protected

450 "Migogoro ya ardhi Dodoma yashtua, mkakati wasukwa" Nipashe Newspaper, 30 Jun 2023; LHRC Human Rights Survey 2023: Singida Field Report.

451 Singida Field Report, ibid.

452 "Land conflicts top challenges facing nomadic herders: study" THE CITIZEN Newspaper, 22 Mar 2023.

453 LHRC LAC data 2023.

454 "Watatu wafariki katika mapigano wakulima, wafugaji" Nipashe Newspaper, 30 Sep 2023; "Watatu wauawa mapigano kati ya wafugaji, wakulima" HABARILEO Newspaper, 26 Oct 2023.

455 LHRC Human Rights Monitoring, September 2023.



areas. In March, the Tanzania Livestock Keepers Association (CCWT) urged the Government to **amend all laws which allow confiscation and auctioning of livestock because they contravene their constitutional right to own property**.⁴⁵⁶ In December the Member of Parliament (MP) for Geita Rural Constituency, Hon. Joseph Musukuma, criticized some of the Tanzania National Parks Authority (TANAPA) officials for confiscating and auctioning livestock, a move that affects livelihood of livestock keepers by driving them into poverty.⁴⁵⁷

In Arusha, property rights of Maasai pastoralists were reportedly violated by forceful evictions in Ngorongoro District, while Government authorities continued to insist that the process was voluntary. Local observers told LHRC that the operation was causing massive property rights violations and affecting community livelihoods, which were also affected by arbitrary arrests and detentions.⁴⁵⁸

3.5.4. Other Issues and Challenges

Will and family property disputes

Writing a will is a good way to prevent family property disputes. However, many people are afraid of writing wills because 'it is tantamount to attracting death.' In 2023, community members were urged by different stakeholders, including the Law Reform Commission of Tanzania (LRCT) to write wills as a way of safeguarding property and inheritance rights, as well as preventing family disputes.⁴⁵⁹

Women's ownership and access to land

The 2022 Social Institutions and Gender Index (SIGI) for Tanzania shows 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.⁴⁶⁰ Difficulties for women to acquire and access land, especially in rural areas, is fuelled by discriminatory cultural practices that deem it unnecessary and undesirable for them to own land. As discussed in Chapter Five of this report, in 2023 women in some parts of Mainland Tanzania continued to be denied inheritance and property rights.

456 "Wafugaji wataka sheria za mifugo zirekebishwe" HABARILEO Newspaper, 24 Mar 2023.

457 "MSUKUMA; PENGINE HII NCHI NI YA MATAJIRI TU, WENGINE HATUKUTAKIWA KUWA TANZANIA/ MIGOGORO WAFUGAJI." [<https://www.youtube.com/watch?v=bECVGlanpRY>]

458 LHRC Human Rights Monitoring, 2023.

459 "Tume yataja kinachokwaza wananachi kuandika wosia" Nipashe Newspaper, 8 Aug 2023; "Jamii yatakiwa kuandika wosia kuepusha migogoro" Nipashe Newspaper, 27 Jul 2023.

460 *SIGI Country Report for Tanzania (supra)*.



Stand for Her Land Project

- Through the Stand for Her Land Project (S4HL), LHRC is currently collaborating with other 24 organizations to promote and protect inclusive secure land tenure and create an enabling environment so that all Tanzanian women can access, own, control, inherit, use, make decisions about and benefit from land and its produce by 2030.⁴⁶¹

Awareness about land laws and rights

In the past two years, LHRC has observed various key land issues in the course of providing legal aid services to indigent persons across Mainland Tanzania and working with paralegals. 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. For instance, some members of ward tribunals are not well informed or aware of the legal changes that have been made in the Land Dispute Courts Act [Cap 216];⁴⁶² while many paralegals have acknowledged that they need regular training on land laws and rights. Political interference has contributed to confusion among people seeking remedy and occasioned miscarriage of justice and loss of property rights.

Property grabbing from women and older persons

LHRC also documented 15 incidents of eviction of widows from their properties. There were also reports of some older persons who were threatened by their own children and forced to provide inheritance, while others were kicked out of their properties altogether. For instance, in Kigoma three incidents of children forcing their widowed mothers out of their property were reported in Kasulu District alone.⁴⁶³

Compensation for land acquisition

In March 2023, the CAG disclosed in the Central Government annual general report that TANROADS had not compensated 236 Project Affected People (PAP's) with the outstanding balance of Tshs. 3.76 billion, contrary to Regulation 13(1-3) of the Land (Assessment of the Value of Land for Compensation) Regulations of 2001.⁴⁶⁴ The project was for construction of one stop inspection stations at Idofi area in Makambako TC, Njombe.⁴⁶⁵ Land laws and the right to own property demand that people are paid fair, full, and prompt compensation when their land is acquired.

In 2023, LHRC received a total of 1,065 land acquisition-related disputes, of

461 See Stand for Her Land: Country Coalition Tanzania at <https://stand4herland.org/country-coalition-tanzania/>.

462 Amendment of Section 13 in 2021 to strip powers of the ward tribunals to determine land disputes and only allow them to mediate and facilitate reconciliation.

463 LHRC Human Rights Survey 2023: Kigoma Field Report.

464 THE UNITED REPUBLIC OF TANZANIA, NATIONAL AUDIT OFFICE, ANNUAL GENERAL REPORT OF THE CONTROLLER AND AUDITOR GENERAL FOR THE FINANCIAL YEAR 2021/22: CENTRAL GOVERNMENT, MARCH 2023.

465 Ibid.



which 313 were filed by women and 752 by men.⁴⁶⁶

Shortage of land planners and surveyors

Shortage of land planners and surveyors has been identified as a key challenge in land administration in Tanzania, contributing to a slow pace of land planning and surveying in urban and rural areas. In December 2023, it was revealed that the Ministry of Lands, Housing and Human Settlements Development only has 3 out of required 72 land survey centres across the country.⁴⁶⁷

Unplanned settlements

Proliferation of unplanned settlements is a big challenge in Tanzania, in both urban and rural areas.⁴⁶⁸ Such settlements are characterized by inadequate housing, susceptibility to flooding, and limited access to key social services, such as healthcare, sanitation, water, and education. One of the key strategies adopted by the Government to address this challenge is regularization of informal settlements.

Shortage of offices and equipment

The Ministry of Lands, Housing and Human Settlements Development was reportedly faced with shortage of regional offices and equipment, which affects its ability to provide prompt land services.⁴⁶⁹ Shortage of equipment includes shortage of electronic equipment and tools to fast-track provision of services at a lower cost. In December 2023, the ministry reported that it was planning to reduce this challenge, including by building new offices in 25 regions, completely moving to digital filing system, and installation of Integrated Land Management Information System (ILMIS) in 25 regions.⁴⁷⁰

Mortgage

In Tanzania, mortgage loans also affect enjoyment of land rights, especially for women. LHRC has observed that financial Institutions are not properly doing their work with due diligence, such as assurance and verification of spousal consent, usually relying only on the affidavit made by the mortgagor. This puts the property rights of the other spouse at risk.

⁴⁶⁶ LHRC LAC data 2023.

⁴⁶⁷ HOTUBA YA NAIBU WAZIRI WA ARDHI, NYUMBA NA MAENDELEO YA MAKAZI, MHESHIMIWA MHE. GEOPHREY MIZENGO PINDA (MB.) WAKATI WA UZINDUZI WA KONGAMANO LA MASUALA YA ARDHI NCHINI TANZANIA UKUMBI, WA EDEMA - MOROGORO, TANZANIA TAREHE 4 DISEMBA, 2023.

⁴⁶⁸ Said Nuhu, Neema Munuo & Lazaro Mngumi (2023) Governance challenges of regularisation of informal settlements in peri-urban Tanzania: perspectives from local stakeholders, *International Journal of Urban Sustainable Development*, 15:1, 35-47, DOI: 10.1080/19463138.2023.2167821; HOTUBA YA NAIBU WAZIRI WA ARDHI, NYUMBA NA MAENDELEO YA MAKAZI, MHESHIMIWA MHE. GEOPHREY MIZENGO PINDA (MB.) WAKATI WA UZINDUZI WA KONGAMANO LA MASUALA YA ARDHI NCHINI TANZANIA UKUMBI, WA EDEMA - MOROGORO, TANZANIA TAREHE 4 DISEMBA, 2023.

⁴⁶⁹ Ibid.

⁴⁷⁰ Ibid.



3.5.5. Key Recommendations

- The Ministry of Lands, Housing and Human Settlements Development to spearhead legal reforms for the introduction of resettlement during the compulsory acquisition of land, as currently the law only provides for compensation and relocation.
- 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).

3.6. RIGHT TO ADEQUATE STANDARD OF LIVING

About the right

- 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.
- Elements of the right to adequate food include **availability of food, food safety, acceptability, and accessibility.**
- Elements of the right to adequate housing include **security of tenure, affordability, habitability, accessibility, location, and cultural adequacy.**
- 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.

In 2023, key issues affecting right to adequate standard of living in Mainland Tanzania included food insecurity; access to nutritious food; food affordability; and inadequate housing.

3.6.1. Government Action

Government action to facilitate progressively 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; implementation of the National Multisectoral Nutrition Action Plan – NMNAP (2020/2021 – 2025/2026) through the Nutrition Sensitive Agriculture Action Plan – NSAAP,⁴⁷¹ to boost access to nutritious food; and construction of low-cost houses.⁴⁷²

471 HOTUBA YA MHESHIMIWA HUSSEIN MOHAMED BASHE (MB), WAZIRI WA KILIMO WAKATI WA KUHITIMISHA HOJA YA MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA KILIMO KWA MWAKA 2023/2024, p. 105 at <https://www.kilimo.go.tz/resources/view/hotuba-ya-mheshimiwa-hussein-mohamed-bashe-mb-waziri-wa-kilimo-wakati-wa-kuhitimisha-hoja-ya-makadirio-ya-mapato-na-matumizi-ya-fedha-ya-wizara-ya-kilimo-kwa-mwaka-2023-2024-08-may-2023-16>.

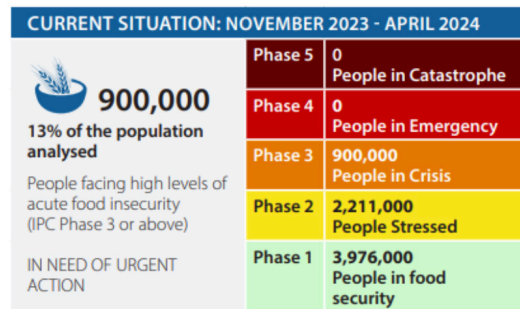
472 HOTUBA YA WAZIRI WA ARDHI, NYUMBA NA MAENDELEO YA MAKAZI, MHESHIMIWA DKT. ANGELINE S. L. MABULA (MB.), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA WIZARA KWA MWAKA 2023/24, (*supra*)



3.6.2. Food security

Food insecurity

In 2023, some parts of Mainland Tanzania were said to be experiencing food insecurity. An analysis conducted by Integrated Food Security Phase Classification (IPC) in 21 district councils of Mainland Tanzania, covering the period of November 2023 to April 2024, shows that 900,000 people in the analysed districts were experiencing high levels of acute food insecurity (IPC phase 3 or above).⁴⁷³ Two districts, Longido and Monduli, both located in Arusha, were found to be in the crisis phase (Phase 3), while the remaining 19 districts were in stressed phase (Phase 2).⁴⁷⁴ Unlike in the previous analysis no people were classified in the emergency phase (Phase 4) in this analysis and overall improvement was improved in terms of less people who are stressed and in crisis.



Picture 10: IPC acute food insecurity analysis in 21 districts of Mainland Tanzania

Source: IPC, 2023

Food insecurity was said to be driven primarily by a prolonged dry spell and erratic rainfall that highly affected crop and livestock production, pasture, and water availability. These factors were compounded by crop pests and livestock diseases in the 2022/23 production season.

The analysis report suggests improved food security situation for the projected period of May to October 2024, owing to increase of food production, as normal to above normal are expected in many parts of Mainland Tanzania.

Climate change threat to food production

Climate change poses a significant risk affecting agriculture, food, and nutrition security in Tanzania. It has brought about impacts such as drought, increased temperatures, affected soil, and ultimately contribute to reduced crop production, including production of food crops.⁴⁷⁵ Implementation of the

⁴⁷³ See IPC, UNITED REPUBLIC OF TANZANIA (MAINLAND); IPC ACUTE FOOD INSECURITY ANALYSIS, NOVEMBER 2023 - OCTOBER 2024, 29 December 2023, at https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Tanzania_Acute_Food_Insecurity_Nov2023_Oct2024_Report.pdf.

⁴⁷⁴ Ibid.

⁴⁷⁵ HOTUBA YA MHESHIMIWA HUSSEIN MOHAMED BASHE (MB), WAZIRI WA KILIMO WAKATI WA KUHITIMISHA HOJA

agriculture budget for the financial year 2022/23 was also said to be affected by climate change impacts, affecting production of quality seeds as well as food production.⁴⁷⁶ With decreased food production and some areas experiencing food insecurity, the **right to adequate access to nutrition**, which is a key component of the right to food, was also affected as **malnutrition** kicked in. Overreliance on rainfed agriculture is a concern, given these climate change impacts.

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.⁴⁷⁷ 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.⁴⁷⁸

Budget for the agriculture sector

Agriculture is the backbone of the Tanzania's economy and largest employer, hence not only essential for food production and realisation of the right to food but also generating income for majority of Tanzanians, which in turn helps them afford a decent housing. However, budget allocation for this important sector has not been sufficient, usually less than the benchmark set under the 2014 AU Malabo Declaration, which requires allocation of at least 10% of the budget share.⁴⁷⁹ For instance, none of the budgets of the financial years 2016/17 to 2022/23 have reached the minimum standard. In fact, the percentage of the agriculture sector budget in the national budget decreased from 5.3% in 2016/17 to 2.9% in 2022/23. For the financial year 2023/24, the budget allocated for the agriculture sector, including Livestock and Fisheries, was Tshs.1.47 trillion, increasing from Tshs. 1.2 trillion allocated in 2022/23. This is equal to 3.3% of the national budget, which again falls short of the 10% benchmark.

YA MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA KILIMO KWA MWAKA 2023/2024 (*supra*), p. 107.

476 Ibid, p. 109.

477 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.

478 Ibid.

479 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>.



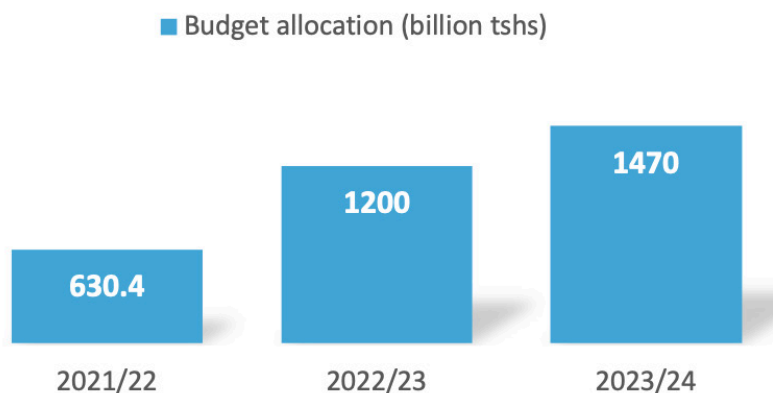


Figure 20: Budget allocation for the agriculture sector – 2021/22 to 2023/24

Source: MoF

Like other sectors, the agriculture sector is also sometimes not spared from delayed or partial disbursements. For the 2022/23 budget, 73.22% of the funds had been disbursed by April 2023.⁴⁸⁰

3.6.3. 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 quarter of the of the population experiencing basic needs poverty.⁴⁸¹ 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.

In July 2023, the Minister of Lands, Housing and Human Settlements Development, Hon. Dr. Angeline Mabula, disclosed that Tanzania is faced with shortage of 3.8 million houses, hence needs to build 500,000 houses each year to address the acute shortage.⁴⁸² In the same month it was also reported that prices for building materials across the country had significantly increased, making it more difficult for the common people to afford building their own houses.⁴⁸³

The situation of housing in Tanzania was further complicated by heavy floods

480 HOTUBA YA MHESHIMIWA HUSSEIN MOHAMED BASHE (MB), WAZIRI WA KILIMO WAKATI WA KUHITIMISHA HOJA YA MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA KILIMO KWA MWAKA 2023/2024 (*supra*), p. 19.

481 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>.

482 "Tanzania ina uhaba wa nyumba milioni 3.8" Nipashe Newspaper, 14 Jul 2023.

483 "Bei bidhaa za ujenzi zashitua" Nipashe Newspaper, 26 Jul 2023.

and landslides (**climate change impacts**) that hit different parts of Tanzania in 2023, destroying houses and other infrastructures along the way. The hardest hit place was Hanang District in Manyara Region, which saw at least 80 people die and more than 100 households lose their houses because of floods and landslides in December 2023.⁴⁸⁴ In the same month, it was reported that 17 houses had been destroyed by heavy rains in Lwelyamvula Village in Sumbawanga District, Rukwa Region⁴⁸⁵ and more than 20 houses in Dar es Salaam were destroyed by floods caused by heavy rains, affecting more than 200 people.⁴⁸⁶ In Mbeya, the heavy rains and floods left one person dead and 44 households homeless.⁴⁸⁷

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. Other Key Issues and Challenges

Other key concerns regarding food and housing in the year 2023 included high food prices and food safety. Prices for crops such as rice, beans, round potatoes, finger millet, and wheat increased in 2023.⁴⁸⁸ Community members also bemoaned rising sugar prices, while food safety was said to be an issue of concern at some marketplaces in Dar es Salaam, including at Ilala Market, where some traders were found selling food items placed on the wet and dirty grounds.⁴⁸⁹

484 "Serikali kuwajengea nyumba waathirika Hanang" Mwananchi Newspaper (online), 10 Dec 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/serikali-kuwajengea-nyumba-waathirika-hanang-4459792>.

485 "NYUMBA 17 ZABOMOKA NA FAMILIA 10 KUKOSA MAKAZI" ITIV News, 26 Dec 2023, at <https://www.facebook.com/itvtz/videos/habari-nyumba-17-zimeunguka-kufuatia-mvua-kubwa-iliyoambata-na-upepo-mkali-kunye/1087668729338255/>.

486 "NYUMBA 20+ ZABOMOKA, USIKU WANALALA NJE" Millard Ayo, 24 Dec 2023.

487 LHRC Human Rights Monitoring, December 2023.

488 BANK OF TANZANIA, MONTHLY ECONOMIC REVIEW, December 2023, at <https://www.bot.go.tz/Publications/Filter/1;Serikali-yazungumzia-kupanda-bei-za-vyakula> HABARILEO Newspaper (online), 4 May 2023, at <https://habarileo.co.tz/serikali-yazungumzia-kupanda-bei-za-vyakula/>.

489 LHRC Human Rights Monitoring, December 2023.



3.6.5. Key Recommendations

- 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 initiate 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.⁴⁹⁰
- Key elements of social security: **availability, adequacy, affordability, accessibility, and gender sensitive.**

In 2023, key issues affecting enjoyment of the right to social security included health insurance, including universal health insurance (UHC) law introduction, and non-remittance of social security contributions.

3.7.1. Government Action

In 2023, government action with regards to realisation of the right to social security included provision of social security services through existing social security schemes, including the National Social Security Fund (NSSF) and the National Health Insurance Fund (NHIF); provision of loans to women, youth, and PWDs through funds such as the Local Government Authority (LGA) revolving fund and Women Development Fund; and implementation of various social protection programmes, including the Tanzania Social Action Fund (TASAF) cash transfers programme, which seeks to address basic needs of poverty (food, clothing, shelter) among the poor. In 2023, the Government also introduced the Universal Health Coverage (UHC) law, which finally made true the dream of universal health insurance for Tanzanians.

3.7.2. Limited Social Security Coverage

Only a small part of the Tanzanian population is part of formal (contributory) social security schemes, particularly those employed in the formal sector, while those in the informal sector, who are the overwhelming majority, are not covered. The traditional/non-formal social protection schemes have also proven

⁴⁹⁰ Including the Universal Declaration of Human Rights (art. 22) and the International Covenant on Economic, Social and Cultural Rights (arts. 9 and 10).



inadequate.

3.7.3. Non-Remittance of Social Security Contributions

In 2023, some employers were accused of non-remittance of social security contributions, like it was the case in the previous years. In June, NSSF revealed that there 350 non-remittance of contributions cases that were ongoing in courts of law in different parts of the country and said that this also contributes to delays in payments of benefits to some of its members. This situation threatens enjoyment of the right to social security.

3.7.4. Other Key Issues and Challenges

Other key challenges that affected enjoyment of the right to social security in 2023 included lack of universal pension scheme and reliable income for the elderly; collapse of the traditional community social security structures, largely due to economic hardships; and neglect and abandonment of older persons by their children.

As discussed in Chapter Five of this report, in 2023 interviewed older people in 20 regions of Mainland Tanzania complained about the lack of a universal pension scheme and reliable income, contributing to causing them to face dire economic circumstances and live in abject poverty. They recommended the introduction of such a scheme, as is the case in Zanzibar, where monthly social pension is granted and has improved the lives of older people and made a positive impact on their wider households.⁴⁹¹ A feasibility study in this regard was conducted in Mainland Tanzania more than a decade ago, in 2010, by the Ministry responsible for employment in collaboration with the elderly rights organization called *Help Age International*, concluding that such a scheme is feasible for Mainland Tanzania. Based on these findings, in 2017 the Law Reform Commission of Tanzania (LRCT) recommended enactment of elderly law that would include a provision on establishing a universal pension scheme, but we are yet to have in place neither the law nor the pension scheme.

As also discussed in Chapter Five of this report, in 2023 older people complained about the tendency of their children neglecting their parental duties by leaving the grandchildren to stay with them without providing any financial support while they 'enjoy life' in urban areas, a situation that creates additional burden for them. In some surveyed regions, including Mtwara, Rukwa, Iringa, and Kilimanjaro, some older persons complained about being overlooked by TASAF, while youth who can work are selected.

Additionally, in 2023, some retired workers in surveyed regions expressed concerns over inadequacy of the retirement benefits and delays and

⁴⁹¹ 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>.



bureaucracy in provision of such benefits. They also expressed concern over the new formula for calculating benefits, under which entitled to only 33% of their total savings is paid in lumpsum, while the remaining 67% is paid as monthly pension.

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.

3.7.5. Key Recommendations

- The Ministry of Constitutional and Legal Affairs and Ministry of Health to ensure smooth implementation the universal health insurance law.
- 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>High Quality Livelihood</p> <p>A Well Educated and Learning Society</p> <p>Peace, Stability and Unity</p> |

**Agenda 2063:
The Africa
We Want**

ASPIRATION 1: A prosperous Africa based on inclusive growth and sustainable development

ASPIRATION 3: An African of good governance, democracy, respect for human rights, justice and the rule of law

ASPIRATION 5: An Africa with a strong cultural identity, common heritage, values, and ethics

3.9.RECOMMENDATIONS

State actors

- 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 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 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 to address the problem of youth unemployment.
- 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 Lands, Housing, and Human Settlement Development to develop a joint strategy between the Government and non-state actors to improve security of land tenure in Tanzania.
- The Ministry of Lands, Housing and Human Settlements Development to spearhead legal reforms for the introduction of resettlement during the compulsory acquisition of land, as currently the law only provides for compensation and relocation.
- 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 consider use of Kiswahili as a language of instruction in both primary and secondary schools.
- The Ministry of Education, Science and Technology to initiate legal reforms to incorporate the re-entry provisions through amendment of the Education Act.
- 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 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 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.

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 economic, social, and cultural rights, including through public awareness-raising programmes.
- The media to raise public awareness on economic, social, and cultural rights issues.

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.



CHAPTER FOUR: 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, the 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.⁴⁹² 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**.⁴⁹³

In 2023, key issues affecting enjoyment of collective rights included mismanagement, misuse, and embezzlement of public funds; environmental pollution and degradation; and climate change impacts.

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: 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.

4.1.1. The DP World Agreement Saga: A Human Rights Perspective

News of the agreement breaking out

In June 2023, it came to the public attention that Tanzania was entering into an Intergovernmental Agreement (IGA) with the Emirate of Dubai,⁴⁹⁴ granting the

⁴⁹² 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.

⁴⁹³ 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.

⁴⁹⁴ Intergovernmental Agreement between the United Republic of Tanzania and the Emirate of Dubai Concerning Economic and Social Partnership for the Development and Improving Performance of Sea and Lake Ports in Tanzania.



Dubai-based firm mandate to operate a section of the Dar es Salaam Port. The agreement was reportedly signed by H.E President Samia Suluhu Hassan and a representative from the Emirate of Dubai in October 2022 and later tabled in Parliament for debate and ratification in June 2023. Before ratification on 10th June, the Parliament invited stakeholders to voice their opinions on the agreement on 6th June and held a public hearing on 7th June in the capital, Dodoma.

Public debate and statements

When news about the agreement circulated on social media, debates immediately ensued, as various stakeholders criticized the agreement, while government leaders repeatedly dismissed their claims. Among the critics were prominent politicians and scholars, including Prof. Anna Tibaijuka, Dr. Wilbroad Slaa, Prof. Issa Shivji, and Dr. Rugemeleza Nshala. The critics⁴⁹⁵ identified various issues within the agreement that they deemed problematic, including consent to termination of agreement, duration and termination of the investment, governance, and resource nationalism.⁴⁹⁶ They also criticized **lack of public and parliamentary consultation before the agreement was signed**. Public statements were also issued in June 2023 by legal and human rights stakeholders, including LHRC and the Tanganyika Law Society (TLS), following analysis of the agreement.⁴⁹⁷ The analyses touched on various provisions within the agreement, including Article 2 (areas of cooperation), Article 20 (dispute resolution), Article 21 (governing law), Article 22 (IGA amendments), Article 23 (duration and termination), Article 25 (administrative and regulatory measures), Article 27 (non-conflict commitment), Article 28 (capacities of parties), and Article 30 (stability clause), mostly **recommending amendment of provisions but also removal of some of them**.⁴⁹⁸ Religious leaders, Muslim and Christian alike, also issued statements on the port deal, some of them supporting the deal and others not supporting it and calling for amendment like other stakeholders.

Stakeholder concerns

Overall, the stakeholders were concerned with the **vagueness, doubts, and ambiguities** within the agreement, subject to broad interpretations, and provisions that contradict or contravene national interests and laws.⁴⁹⁹ They warned that if unamended or removed, the **provisions have a potential to**

495 Some of the critics, including a prominent lawyer and activist, Dr. Rugemeleza Nshala, reportedly received threats.

496 See Muhidin Shangwe "Opposing Dubai's Presence in Dar es Salaam" Rosa Luxemburg Stiftung, 20 Nov 2023, at <https://www.rosalux.de/en/news/id/51267/opposing-dubais-presence-in-dar-es-salaam>.

497 See MAONI YA KITUO CHA SHERIA NA HAKI ZA BINADAMU KUHUSU MKATABA WA USHIRIKIANO WA KIUCHUMI NA KIJAMII KWA AJILI YA UENDELEZAJI NA UBORESHAJI WA UTENDAJI KAZI WA BANDARI TANZANIA KATI YA SERIKALI YA JAMHURI YA MUUNGANO WA TANZANIA NA SERIKALI YA DUBAI, 13 JUNI 2023, at https://humanrights.or.tz/en/news-events/Tanzania_Dubai; TLS GOVERNING COUNCIL STATEMENT ON THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE UNITED REPUBLIC OF TANZANIA AND THE EMIRATE OF DUBAI, 25th June 2023, at <https://tls.or.tz/2023/06/26/tls-governing-council-statement-on-the-intergovernmental-agreement-between-the-united-republic-of-tanzania-and-the-emirate-of-dubai/>.

498 Ibid.

499 TLS and LHRC statements on the IGA between Tanzania and the Emirate of Dubai (*supra*).



lead to costly disputes during the implementation of the agreement, subsequent Host Government Agreements (HGAs), and contracts thereunder. The stakeholders were also concerned with lack of timely and meaningful public consultation, contrary to constitutional provisions, including **Article 21(2)**, which recognizes **the right and freedom of every Tanzanian to participate fully in the process leading to the decision on matters affecting them, their wellbeing, and their nation**. There was only a one-day notice for stakeholders to travel to Dodoma and give their views, which was impossible for most stakeholders, including TLS and LHRC.⁵⁰⁰

High Court Petition

The port deal led to some of the critics, led by Advocate Boniface Mwabukusi, to file a case to contest the deal at the High Court in Mbeya in June 2023.⁵⁰¹ However, in August 2023 the High Court ruled that the agreement was not void and unconstitutional, as the petitioners vowed to move on to appeal against the decision.⁵⁰²

BITs hurting Tanzania

In July 2023, it was reported that bilateral investment treaties (BITs) continued to pose problems for the Government of Tanzania after another investor filed a civil case at the International Centre for Settlement of Investment Disputes (ICSID).⁵⁰³ A week earlier, it was reported that an Australian company called Indiana Resources won a claim worth USD 109.5 million (Tshs. 260 billion) against Tanzania for breach of contract on the Ntaka Hill nickel project (**unlawful expropriation of Ntaka Hill**) in 2018.⁵⁰⁴ In December 2023, the Government announced that it would pay the amount if its application of annulment of the ICSID award fails.⁵⁰⁵ It was also reported that Tanzania had **lost 5 BIT cases** filed by investors from several European countries in the past.⁵⁰⁶

LHRC's View: The voices raised by various stakeholders regarding the IGA did not suggest or mean that they did not want the investors from Dubai as the public were led to believe on numerous occasions, but rather their concerns were with the problematic provisions within the agreement, which needed amendment and/or removal. LHRC believes they all had good intentions of ensuring that we do not fall into 'legal traps' in agreements and contracts, as we have so many times in the past, at the expense of the whole nation. Indeed,

⁵⁰⁰ Ibid.

⁵⁰¹ "Kesi kupinga mkataba uwekezaji bandari kuanza kusikilizwa leo Mbeya" Mwananchi Newspaper (online), 3 Jul 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/kesi-kupinga-mkataba-uwekezaji-bandari-kuanza-kusikilizwa-leo-mbeya-4291288>.

⁵⁰² "Kesi ya Bandari: Korti yabariki mkataba wa Bandari, DP" Mwananchi Newspaper, 11 Aug 2023; "Court Dismisses Case Against DP World Deal: 'Barren of Fruits'" The Chanzo, 10 Aug 2023, at <https://thechanzo.com/2023/08/10/court-dismisses-case-against-dp-world-deal-barren-of-fruits/>.

⁵⁰³ "How bilateral investment pacts are hurting Tanzania" THE CITIZEN Newspaper, 28 July 2023; "Kesi za mikataba kimataifa zashtua wadau, watoa njia" Mwananchi Newspaper, 20 Jul 2023.

⁵⁰⁴ Ibid; "US\$109.5m Award Against Tanzania" Indiana Resources Limited, 18 July 2023, at <https://indianaresources.com.au/wp-content/uploads/2023/07/US-109.5M-Award-Against-Tanzania.pdf>.

⁵⁰⁵ "Serikali yajipanga kulipa kitita ikikwama ICSID" Mwananchi Newspaper, 28 Dec 2023.

⁵⁰⁶ "How bilateral investment pacts are hurting Tanzania" (*supra*).



there are several investor-state cases in which Tanzania has lost and has had to pay huge sums of money, as pointed out above.

There are also several cases involving the DP World Company and other countries, including in Africa, in which the company received huge compensations after winning contract termination dispute cases. For instance, the company entered into a similar agreement with Djibouti in the past and when the country terminated the contract with the company it was later made to pay huge compensation.⁵⁰⁷

So, **from a human rights perspective**, the Government should have meaningfully engaged and consulted stakeholders before entering into such an agreement to make a better-informed decision and prevent future disputes and huge losses. This way, the Government can safeguard the right to take part in governance or freedom to participate in public affairs, the right to development, the right to enjoy and benefit from natural resources, and by extension other fundamental human rights.

LHRC's Call: The Government is encouraged to consult stakeholders before entering into agreements and contracts with other countries and foreign companies for the greater good of the nation, considering the loss the nation has incurred in the past when Tanzania lost trade or investment disputes. Due diligence must be done before entering into such agreements and contracts that stand to affect peoples' lives to safeguard fundamental human rights, including the right to development and the right to enjoy and benefit from natural resources.

4.1.2. Corruption Red flags and Mismanagement, Misuse, and Embezzlement of Public Funds

Another key public concern regarding the right to development in 2023 was reports and incidents of mismanagement, misuse, and embezzlement of public funds highlighted in the Controller and Auditor General (CAG) reports, indicating corruption and fraud. In Tanzania, the Prevention and Combating of Corruption Act,⁵⁰⁸ provides **a list of corruption and related offences**, which include **procurement corruption, embezzlement and misappropriation, corrupt transactions in contracts, and diversion.**⁵⁰⁹

Reported incidents

Several GAG reports released in 2023⁵¹⁰ revealed red flags of corruption and

507 "Opposing Dubai's Presence in Dar es Salaam" (*supra*).

508 The Prevention and Combating of Corruption Act, CAP. 329 R.E. 2022].

509 Ibid, Sections, 16, 17, 28, & 29.

510 THE UNITED REPUBLIC OF TANZANIA, NATIONAL AUDIT OFFICE, ANNUAL GENERAL REPORT OF THE CONTROLLER AND AUDITOR GENERAL FOR THE FINANCIAL YEAR 2021/22: REGIONAL ADMINISTRATION AND LOCAL GOVERNMENT, MARCH 2023; THE UNITED REPUBLIC OF TANZANIA, NATIONAL AUDIT OFFICE, ANNUAL GENERAL REPORT OF THE CONTROLLER AND AUDITOR GENERAL FOR THE FINANCIAL YEAR 2021/22: CENTRAL GOVERNMENT, MARCH 2023; THE UNITED REPUBLIC OF TANZANIA, NATIONAL AUDIT OFFICE, ANNUAL GENERAL REPORT OF THE CONTROLLER AND AUDITOR GENERAL FOR THE FINANCIAL YEAR 2021/22: PUBLIC AUTHORITIES, MARCH 2023; THE UNITED REPUBLIC



serious mismanagement, misuse, and embezzlement of public funds. Some of the key reported incidents are summarized below.

| | |
|--|--|
| <p>Annual GAG Report for the FY 2021/22: Regional Administration and Local Government</p> | <ul style="list-style-type: none"> ■ 111 LGAs had expenditures totaling Tshs. 11.78 billion that were inadequately supported, casting doubts over legitimacy of the payments. ■ 71 LGAs paid Tshs. 10.08 billion without demanding EFD receipts ■ 40 LGAs paid Tshs. 1.70 billion without relevant supporting documents ■ 14 LGAs paid Tshs. 1.51 billion in cash for procurement of goods and services, contrary to the procurement regulations. ■ 9 LGAs spent a total of Tshs. 898.85 million on fruitless expenditure ■ Arusha City Council spent Tshs. 322.29 million on construction and procurement of building materials for non-existent roads. |
| <p>Annual GAG Report for the FY 2021/22: Central Government</p> | <ul style="list-style-type: none"> ■ The Ministry of Home Affairs procured three fire engine trucks worth Tshs. 2.98 billion from an unauthorized dealer, which had not been delivered for 24 months by December 2022. ■ Tshs. 2.23 billion had already been paid to the supplier in February 2021 (75% of total cost) ■ Irregularities in procurement of 300,000 tablets undertaken by the Ministry of Education, Science, and Technology for census exercise, including: <ul style="list-style-type: none"> ■ Changing technical specifications without involvement of user department ■ Undisclosed source of supplies ■ Failure to establish market price estimates ■ Giving bidders two days instead of 14 to respond to bidding document ■ Tender board approving tender without meeting quorum ■ Awarding supplier contract of Tshs. 46.86 billion without contract being vetted by the Attorney General ■ Not charging liquidated damages despite supplier delaying supply of tablets, contrary to contractual terms ■ Eight entities paid Tshs. 6.10 billion for procurement of goods and services using single source procurement method without proper justification. |

Annual GAG Report for the FY 2021/22: Public Authorities

- 19 entities incurred **nugatory expenditure amounting to Tshs. 63.77 billion**, comprising interests and penalties on delayed payments.
- 21 entities incurred **ineligible expenses of Tshs. 77.75 billion** mainly in the form of allowances paid to unentitled staff or payment not supported by sufficient documentation.
- Tshs. 1.95 billion **payments without supporting documents** and Tshs. 38.72 million paid as staff allowances above approved rates at TANAPA
- Seven entities signed **contracts without being vetted by the Attorney General or Legal Officer** with contract sum of Tshs. 45.71 billion.
- **Illegal arrangements in contract implementation** at MSD, whereby suppliers exchanged contractual obligations without any contract, resulting into a loss amounting to Tshs. 1.89 billion.
- MSD and Mloganzila Hospital made advance payments to suppliers amounting to Tshs. 61.99 billion without binding contracts.

Annual GAG Report for the FY 2021/22: Projects

- Procurement contracts worth Tshs. 2.51 billion **not vetted by legal officers.**
 - Motor vehicles **paid for but not delivered** worth Tshs. 26.28 billion.
 - Delayed advance payments resulting into **Tshs. 879.26 million interest charges.**
 - Construction of a new ship commenced without a concept note before completion of slipway, causing delays and **additional cost of over Tshs. 7.8 billion.**
 - Inadequate management of immigration issues led to 26 expatriates without work permits and 27 without residence permits, resulting into a **loss of Tshs. 232.27 million in government revenue.**
-
- Increase of USD 1.3 million and 1.6 million per km in construction of SGR for Lot 3 and 4 respectively because TRC did not use competitive tender procurement method.
 - Increase of Tshs. 492.46 billion and Tshs. 11.59 billion in procurement of rolling stocks and used passenger coaches respectively due to inadequate contract management. Additional loss of Tshs. 13.6 billion due to execution of contract without performance security, and **no liquidated damage was deducted.**



- Potential overspending of Tshs. 25.62 billion from provisional and contingency funds for Lot 1 of the SGR, due to an extension of over 1,441 days for completion.
- Advance payments worth Tshs. 857.21 million and Tshs. 4.83 billion not recovered and made **without being provided for in the contracts** in construction of government-owned buildings.
- **Overpayment** of Tshs. 2.26 billion to material suppliers above contract amount in construction of government-owned buildings. Also, **no justification** provided for the contractor's claimed loss of Tshs. 46.33 billion for the Kawe residence project.

Red flags of corruption, fraud, and embezzlement: WAJIBU report

In 2023, WAJIBU⁵¹¹ released its report on indicators of corruption, fraud, and embezzlement in CAG's audit reports for the financial year 2021/22.⁵¹² The corruption, fraud, and embezzlement indicators include misuse of public resources by overpaying for goods and/or services; mismanagement of public funds; abuse of office or position; receipt of below standard goods and services; collection of revenue outside the GePG system; lack of Electronic Fiscal Device (EFD) 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 procurement guidelines. According to the report, the CAG found indicators of corruption, fraud, and embezzlement worth Tshs. 3,084.55 billion (nugatory expenditure), **decreasing by 33%** compared to the situation in 2020/21.⁵¹³ **Public institutions** accounted for **65% of the nugatory expenditure**, and the 2021/22 expenditure increased by 43% compared to 2020/21.

Table 5: Status of red flags of corruption, fraud, and embezzlement in Tshs. billion – 2018/19-2021/22

| SOURCE | 2018/19 | 2019/20 | 2020/21 | 2021/22 |
|-------------------------------------|---------------|-----------------|-----------------|-----------------|
| Central Government | 34.3 | 560.19 | 1,781.77 | 770.91 |
| Local Government Authorities (LGAs) | 103.93 | 863.85 | 1,400.60 | 297.86 |
| Public Institutions | 94.29 | 346.80 | 1,400.60 | 2,015.78 |
| Total | 232.52 | 1,770.84 | 4,590.73 | 3,084.55 |

Source: WAJIBU, 2022 & 2023

511 A public financial accountability institute founded by the former Controller and Auditor General (CAG) of Tanzania, Ludovick Utouh and retired Managing Director of a National Oil Company – Tanzania Petroleum Development Corporation (TPDC) Yona Killagane.

512 See WAJIBU, Ripoti ya Uwajikaji: Viashiria vya Rushwa, Ubadhiribu na Udanganyifu katika Taasisi za Umma, 2021/22, at <https://www.wajibu.or.tz/ripoti-ya-uwajikaji-viashiria-vya-rushwa-ubadhirifu-na-udanganyifu-katika-taasisi-za-umma/>.

513 Ibid.

To address these problems, WAJIBU made several recommendations, including:

- The Parliament to amend the Prevention and Combating of Corruption Act to make its annual report public after being read presented by the President to the National Assembly.
- The Government, through the National Assembly, to enact the Fraud Act to hold accountable persons implicated in corruption, fraud, and embezzlement of public resources.
- The National Audit Office of Tanzania (NAOT) to prepare reports on specific acts of corruption, fraud and embezzlement and submit them to the Prevention and Combating of Corruption Bureau (PCCB) and the National Prosecutions Services (NPS).
- The Government to hold accountable all public officials implicated in corruption and mismanagement, misuse, and embezzlement of public funds, including taking them to court.
- CSOs to use the reports to advocate for reforms and raise public awareness of financial accountability issues.
- Media to increase reporting of financial accountability issues raised accountability reports.

Stakeholder reaction

Public debates ensued following release of the CAG reports in 2023, which also captured a lot of media attention. Different stakeholders voiced their opinions and continued to bemoan lack of accountability for individuals and institutions implicated in embezzlement and misuse of public funds in various CAG reports. They demanded government action against people implicated in the CAG reports for the financial year 2021/22 as well as previous financial years.

Among those who reacted to the CAG findings was the President, H.E Dr. Samia Suluhu Hassan, who told government officials **'we are killing our own country'** and **'you will not be buried with the money you are stealing from the country'** and directed relevant accountability institutions, including the Prevention and Combating of Corruption Bureau (PCCB), to hold accountable those implicated in the reports.⁵¹⁴ Some opposition officials, including the CHADEMA Secretary-General, John Mnyika, felt that the President was yet to use her constitutional powers to hold accountable officials implicated or who failed to take action to prevent corruption, fraud and embezzlement, including by removing them from office.⁵¹⁵ However, it was reported that the President did remove some of the officials from office, including through dissolution of the Tanzania Railways Corporation (TRC) following revelations that the agency twice rejected the tender to purchase locomotives and passenger couches

514 "MADUDU RIPOTI YA CAG, SAMIA ACHARUKA.:Tunaua nchi wenyewe" Mwananchi Newspaper, 30 Mar 2023.

515 "POLITICS, TRANSPARENCY AND ACCOUNTABILITY

'Enough Is Enough': Pressure Piles on Samia to Hold to Account Officials Responsible for Misuse of Public Funds" The Chanzo, 10 Apr 2023, at <https://thechanzo.com/2023/04/10/enough-is-enough-pressure-piles-on-samia-to-hold-to-account-officials-responsible-for-misuse-of-public-funds/>; "Ripoti ya CAG: Chadema yataka Rais atumie Mamlaka zaidi" HABARILEO Newspaper (online), 10 Apr 2023, at <https://habarileo.co.tz/ripoti-ya-cag-chadema-yataka-raais-atumie-mamlaka-zaidi/>.



from the lowest bidder at an offer of \$263.4 million and instead made a non-competitive purchase of \$478 million.⁵¹⁶ The President also sacked the Director General of the Tanzania Government Flight Agency (TGFA), John Nzulule, after the CAG found that the last instalment for the purchase of a cargo plane that was ordered by the agency was \$37 million, but a \$86 million invoice was submitted for payment.⁵¹⁷ Additionally, the President directed the Chief Secretary to tell all Permanent Secretaries to read the CAG reports and address the issues raised. The former CAG, Mr. Ludovick S. L. Utouh, also expressed concerns with corruption and misuse and embezzlement of public funds, noting that they are a big threat to the nation and citing **lack of integrity, accountability, and patriotism** as contributing factors.⁵¹⁸ Another former CAG, Prof. Mussa Assad, told the media that to address non-implementation of CAG recommendations, **relevant public officials should be held accountable**, including salary reduction and blacklisting.⁵¹⁹

In April 2023, various stakeholders who attended the monthly breakfast debate organized by Policy Forum and WAJIBU - Institute of Public Accountability⁵²⁰ in Dar es Salaam, voiced their opinions regarding the CAG findings for the year 2021/2022, noting **lack of accountability as a concern and key driver of misuse of public funds**.⁵²¹ The stakeholders, including Mr. Ludovick Utouh, made a number of recommendations, including reducing the presidential powers of appointing heads of public authorities, recommending a job advertisement and interview instead; PCCB report to be made public like the CAG report; reducing the time for the CAG to conduct its audit and come up with a report from nine months to six months; ensuring all public officials and officers implicated in the CAG reports are held accountable; increasing media scrutiny of government plans during three key periods, namely developing the plans, plan implementation, and evaluation; and enactment of a new law (**Fraud Act**) that will govern the fraud practices of public funds in order to be able to hold accountable anyone who is alleged to be involved in the acts.⁵²²

In May 2023, Thomas Nkola, a farmer, took to court to file charges against public and government officials implicated in corruption and mismanagement, misuse, and embezzlement of public funds in the CAG report. The case was

516 Ibid; Jamhuri ya Muungano wa Tanzania, Blogu Rasmi ya Rais, Ofisi ya Rais, TAARIFA KWA VYOMBO VYA HABARI, 9 Apr 2023, at <https://blog.ikulu.go.tz/?p=47048>.

517 Ibid.

518 "Utouh alitaja tatizo kubwa linalotishia uhai wa taifa" Nipashe Newspaper, 28 May 2023.

519 POLITICS, TRANSPARENCY AND ACCOUNTABILITY

'Enough Is Enough': Pressure Piles on Samia to Hold to Account Officials Responsible for Misuse of Public Funds" The Chanzo, 10 Apr 2023 (*supra*).

520 A network of over 60 Tanzanian civil society organizations established in 2003 and drawn together by their specific interest in augmenting the voice of ordinary citizens to influence policy processes that help in poverty reduction, equity, and democratization with a specific focus on public money accountability at both central and local levels.

521 "What Can Tanzania Do To End The Serious Problem Of Misuse Of Public Funds?" Breakfast Debate, Policy Forum, 30 Apr 2023, at <https://www.policyforum-tz.org/news/2023-04-30/what-can-tanzania-do-end-serious-problem-misuse-public-funds>.

522 Ibid.



filed at the Kisutu Resident Magistrate Court in Dar es Salaam.⁵²³ The move was commended by various stakeholders, including the former CAG, Mr. Ludovick Utouh.⁵²⁴

Impact

Corruption is the single greatest obstacle to economic and social development around the world.⁵²⁵ It causes loss of enormous amounts of limited public resources.⁵²⁶ The right to a society free of corruption is therefore a basic human right, essential in enjoyment of other human rights,⁵²⁷ 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.⁵²⁸

Corruption and embezzlement of public funds in Tanzania has a serious impact on progressive realisation of socio-economic rights, including right to education, right to health, and right to adequate standard of living. **The funds lost to corruption and mismanagement, misuse, and embezzlement of public funds could significantly boost budgets for key sectors of education, health, water, and agriculture**, which have consistently failed to reach the minimum standards.

LHRC's View: Findings of the CAG reports reveal a serious problem of lack of accountability for individuals and government institutions with regards to public funds.

LHRC's Call: The Government to take measures to ensure all those implicated in acts of corruption, fraud, and embezzlement are held accountable, including at the minimum, removal from office. As recommended by stakeholders, the PCCB report should also be made public and anti-fraud law to be enacted. Additionally, LHRC reiterates the need for a new, people-centred constitution to increase accountability and better safeguard human rights, including the right to development.

4.1.3. Progress and Challenges in achieving SDGs

Progress in SDGs Implementation

In March 2023, it was reported that Tanzania is doing reasonably well in

523 "Kesi anayewashitaki vigogo serikalini yapokelewa" Mwananchi Newspaper (online), 11 May 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/kesi-anayewashitaki-vigogo-serikalini-yapokelewa--4231518>.

524 "Utouh amsifu mkulima kushtaki aliowataja CAG" Nipashe Newspaper, 2 May 2023.

525 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.

526 Ibid.

527 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.

528 Ibid.



implementation of Sustainable Development Goals (SDGs) 2, 3, 4, 5, 6, 8, 10, 16. Goals 7, 9, 11, 12 are likely to be achieved with stepped-up efforts. Goals 1, 13, 14, 15 17 will need significant local efforts and international support to achieve.⁵²⁹

Challenges achieving SDGs: CAG Report

In March 2023, the Controller and Auditor General (CAG) released a performance audit report on the implementation of SDGs.⁵³⁰ The main objective of the audit was to determine whether the Ministry of Finance and Planning (MoFP) and the President's Office – Regional Administration and Local Government (PO-RALG) had adequately managed the implementation of SDGs, from the national planning context to the implementation in the lower levels of the Government, in order to ensure improved sustainable living conditions of the communities in the country. Key audit findings were:⁵³¹

- Inadequate mainstreaming of SDGs into FYDPs: 167 out of 240 indicators were mapped primary or secondarily with the National Five-Year Development Plan (FYDP). 11. 84% of the indicators were mapped with the FYDP II and 84% with the sector policies and strategies already under implementation.
- Lack of review of the strategic plans at LGA level.
- Limited capacity of the National Bureau of Statistics (NBS) to provide data on the implementation of SDGs: LGAs have limited capacity to contributed to the 61% of administrative data to supplement the 39% provided by NBS.
- Lack of mapping and tracking of some indicators for SDGs implementation.
- Ineffective functioning of SDGs National Coordination Framework.
- Inadequate mobilization and utilization of financial resources by implementing agencies for the SDGs.
- Ineffective establishment of new sources of domestic revenue.
- Inadequate capacities for the implementation of FYDP II.
- Inadequate funding for NBS for provision of data needed to track implementation of SDGs.
- Inadequate tracking of the progress on the implementation of SDGs: MoFP did not track progress on the implementation of SDGs.

The CAG concluded that MoFP and PO-RALG did not adequately manage the implementation of SDGs and made several recommendations, including enhancing domestic resource mobilization to ensure effective implementation of FYDPs; ensure timely and adequate disbursement of funds; and ensure effective functioning of the National Coordination Framework on Implementation of SDGs.⁵³²

529 "Sustainable Development Goals: Voluntary National Reviews 2023" Breakfast Debate, Policy Form, 10 Mar 2023, at <https://www.policyforum-tz.org/news/2023-03-10/sustainable-development-goals-voluntary-national-reviews-2023>.

530 THE UNITED REPUBLIC OF TANZANIA, NATIONAL AUDIT OFFICE, *PERFORMANCE AUDIT REPORT ON THE IMPLEMENTATION OF SUSTAINABLE DEVELOPMENT GOALS*, MARCH 2023, at https://www.nao.go.tz/uploads/Performance_Audit_Report_on_the_Implementation_of_Sustainable_Development_Goals.pdf.

531 Ibid.

532 Ibid.



4.1.4. 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.⁵³³ As discussed in Chapter Two of this report, the situation of civil and political rights generally took a hit due to various reasons, including extrajudicial killings, torture, violence, restrictive legal environment, and criminal justice challenges. These issues and challenges therefore affected realisation of the political aspect of the right to development.

4.1.5. Social and Economic 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.⁵³⁴ 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.⁵³⁵ As discussed in Chapter Three of this report, effective realization of these key socio-economic rights was hindered by various issues and challenges, including budgetary constraints and shortages of facilities, infrastructure, equipment, and workers. Additionally, the country also continues to suffer socially and economically due to corruption and mismanagement, misuse, and embezzlement of public funds. This has in turn significantly hampered enjoyment and realization of socio-economic rights and by extension the social and economic aspect of the right to development.

While Tanzania has enjoyed impressive economic growth in the past ten years, despite the setback caused by the Covid19 pandemic, this has not significantly translated into **human development**, as the pace of poverty reduction remains slow. For the period of 2021/22 Tanzania was ranked 160th with in the United Nations Development Programme (UNDP)'s Human Development Index (HDI),⁵³⁶ climbing from 163rd in 2020/21.⁵³⁷

533 Article 6(3) of the Declaration on the Right to Development.

534 Article 6(3) of the Declaration on the Right to Development.

535 See Article 8 (1) of the Declaration on the Right to Development.

536 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.

537 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.



4.1.6. Key Recommendations

- The Parliament to amend the Prevention and Combating of Corruption Act to make its annual report public after being read and presented by the President to the National Assembly.
- The Government to hold accountable all public officials implicated in corruption and mismanagement, misuse, and embezzlement of public funds, including taking them to court.
- CSOs to use CAG reports to advocate for reforms, demand accountability, and raise public awareness of financial accountability issues.

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 is geared towards the eradication of poverty, ignorance, and disease.

In 2023, key issues affecting the right to enjoy and benefit from natural resources in Mainland Tanzania included corruption and mismanagement, misuse, and embezzlement of public funds, as revealed in various CAG reports released in March.

4.2.1. Efforts to Safeguard the Right to Enjoy and Benefit from Natural Resources

Efforts to safeguard the right to enjoy and benefit from natural resources in 2023 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.

4.2.2. Key Issues and Challenges

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.⁵³⁸ 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.⁵³⁹

⁵³⁸ 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.

⁵³⁹ Article 9(i) of the Constitution of the United Republic of Tanzania, 1977



In 2023, key issues and challenges affecting the right to enjoy and benefit from natural resources included corruption and mismanagement, misuse, and embezzlement of public funds. This is because some of the funds come from natural resources, including through the mining and tourism industries. Lack of accountability has largely contributed to hindering effective realisation of this fundamental human right. Tax avoidance and evasion also continued to present a challenge in enjoyment of the right to enjoy and benefit from natural resources.

4.2.3. Key Recommendations

- CSOs, including the media, to raise public awareness on collective rights, including the right to development and right to enjoy and benefit from natural resources.
- The Ministry of Minerals and the Tanzania Revenue Authority (TRA) to address tax evasion and avoidance in the extractives sector and ensure companies which evade tax are held accountable.

4.3. RIGHT TO HEALTHY AND SUSTAINABLE 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.
- Recognized as a human right for the first time by the United Nations (UN) Human Rights Council in 2021

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 exposure⁵⁴⁰. This means that almost 1 in 4 of total global deaths are linked to environment conditions.

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 2004⁵⁴¹. The Act also establishes the National Environment Management Council (NEMC)⁵⁴², which is the government body responsible for regulation of environment.

⁵⁴⁰ See World Health Organization, Environmental health, at https://www.who.int/health-topics/environmental-health#tab=tab_2.

⁵⁴¹ 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.

⁵⁴² Section 17 of the Environmental Management Act, 2004.



In 2023, key issues affecting the right to healthy and sustainable environment included environmental pollution and degradation, disregard of environmental impact assessment, and climate change impacts.

4.3.2. Community Perceptions on Environmental Pollution

Community members who participated in LHRC’s human rights survey across 20 regions of Mainland Tanzania were asked whether environmental pollution was a concern in their community, whereby 79% said it was, 12% were not sure, and 9% believed it was not⁵⁴³.

The community members were then asked about common types of environmental pollution in their respective communities. Soil/land pollution was mentioned the most (44%), followed by water pollution (39%), air pollution (32%), and noise pollution (27%).

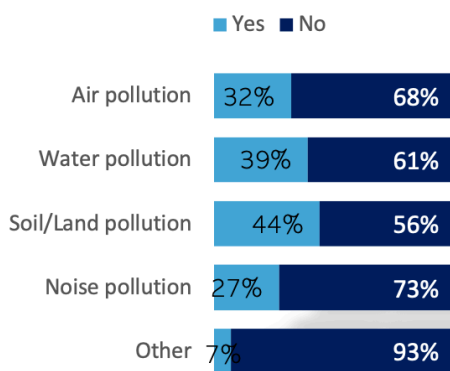


Figure 21: % Community responses on common types of environmental pollution in their community

Source: Field data, 2023

In all surveyed regions, key informants, including environmental officers and paralegals, acknowledged that environmental pollution and other environmental challenges were a concern in their community and a threat to the enjoyment of the right to a healthy and sustainable environment.

‘Environmental pollution is a big problem in the city. You can observe rubbish left lying on the ground everywhere, including in streams and drains. You find the same at the public beaches, so it appears people are not motivated to protect the environment.’

Paralegal – Dar es Salaam

Environmental officers in surveyed regions said various strategies are in place to support environmental management and conservation. The strategies include

543 N = 1,609.

raising public awareness through different platforms, such as the media, public meetings, and campaigns; radio and television advertisements; creating posters; and using banners and billboards.



Picture 11: Environmental campaign poster and banner observed in Iringa Region

Source: Field data, 2023

In urban areas, in regions such as Dar es Salaam, Arusha, and Mwanza, use of mainstream media such as TBC, Channel Ten, ITV, Azam TV, and Star TV, was said to be common, while in rural areas, community radios were said to be commonly used. Regional environmental officers (REOs) mentioned that awareness about environmental protection among community members is still generally low and due to financial constraints, they cannot reach as many people as they would like.

'The education provision efforts need to be sustainable, but the main challenge is shortage of human and financial resources. This is why we are not where we want to be.'

Environmental officer – Rukwa

REOs also called upon government leaders at all levels to ensure effective implementation of environmental laws and regulations and support the work of the National Environmental Management Council (NEMC).

4.3.3. Reported Incidents of Environmental Pollution

In 2023, LHRC documented various types of reported incidents of environmental pollution, including water pollution, land/soil pollution, air pollution, and noise pollution. LHRC documented 40 such incidents, representing a small fraction of incidents documented by authorities, especially NEMC.

In April 2023, the Minister of State (Union and Environment), Hon.



Dr. Selemani Jafo (MP), disclosed in the ministry budget speech that in the financial year 2022/23, NEMC received a total of **317 environmental pollution and degradation complaints**, including noise and vibration, air pollution, land pollution, and water pollution⁵⁴⁴.

Water and marine pollution

Pollution of water sources, largely contributed by human and industrial activities, was reported in all surveyed regions. These activities were said to pollute water and make it unsafe for human consumption. Coastal marine pollution was reported in Dar es Salaam and to a lesser extent in other coastal regions such as Mtwara, Lindi, and Tanga, while pollution of lake water at Lakes Victoria and Tanganyika in the Lake Zone (Mara, Mwanza) and Kigoma respectively, as well as Lake Nyasa in Ruvuma, was also said to be a concern. There were reports of dumping of plastic and other waste into these bodies, and in Kigoma an environmental officer revealed that some palm oil producers found dumping waste into Lake Tanganyika were fined⁵⁴⁵.



Picture 12: Solid waste, including plastic bags, observed at Lake Munangi in Singida MC

Source: Field data, 2023

In Dar es Salaam, plastic waste was said to make its way to the Indian Ocean via rivers and streams and nearly two thirds of waste is plastic waste, contributing to floods as the streams are jammed with solid waste, mostly plastic bottles, and other types of plastic waste⁵⁴⁶.

⁵⁴⁴ See HOTUBA YA WAZIRI WA NCHI, OFISI YA MAKAMU WA RAIS (MUUNGANO NA MAZINGIRA), MHE. DKT. SELEMANI SAIDI JAFFO (MB), KUHUSU MAPITIO YA UTEKELEZAJI WA MPANGO WA BAJETI KWA MWAKA 2022/23 NA MAKADIRIO YA MAPATO NA MATUMIZI KW AMWAKA 2022/24, 24 APRILI 2023 DODOMA, at <https://www.vpo.go.tz/uploads/speeches/docs/sw-1682403076-Hotuba%20ya%20Bajeti%202023.24.pdf>.

⁵⁴⁵ LHRC Human Rights Survey 2023: Kigoma Field Report.

⁵⁴⁶ LHRC Human Rights Survey 2023: Dar es Salaam Field Report.

Land pollution

Land pollution was also said and found to be a key environmental concern in nearly all surveyed regions, except for a few such as **Kilimanjaro and Iringa**, where the communities were said to be more conscious of the environment. Plastic pollution was also observed to be the most common form of land pollution, mostly caused by littering. Littering was mostly observed in regions such as Dar es Salaam, Tabora, Dodoma, Rukwa, Singida, and Kigoma Regions, especially in urban areas.



Picture 13: Solid waste observed littered in Kasulu, Kigoma (left) and Dodoma City, Dodoma (right)

Source: Field data, 2023

Other causes of land pollution reported and observed in the surveyed regions include overuse of chemical fertilizers, deforestation, mining activities, urbanization, illegal dumping of waste in open fields and ditches, and landfills. In some surveyed regions such as Dodoma and Rukwa, overuse of chemicals such as fertilizers, pesticides, and insecticides was said to significantly contribute to land and soil pollution⁵⁴⁷, while in regions such as Geita, Mara, Shinyanga, and Mbeya, mining activities were said to be key contributors to land pollution⁵⁴⁸.

LHRC has also observed that **people travelling to different regions by public and private transport tend to throw plastic food wrappers, fruit peels, and water bottles out of vehicle windows, contributing to land pollution**. This is done despite the existence of garbage bins in the vehicles, especially buses.

547 LHRC Human Rights Survey 2023: Dodoma & Rukwa Field Reports.

548 LHRC Human Rights Survey 2023: Geita, Mara, Shinyanga, & Mbeya Field Reports.

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'The issue of environment has not been prioritized like other sectors, hence the challenges in environmental protection. Most people perceive environmental protection to be only the duty of the government. That's why you find solid waste such as pampers, plastic bottles, e.t.c, littered on the streets. I even wish there was an environmental court, even a mobile one, to address these environmental challenges.'

Environmental Officer – Dodoma

Air Pollution

Air pollution was reported to be a problem in half of the surveyed regions, including Tanga, Dodoma, Tabora, and Dar es Salaam. For instance, in Dodoma, some community members complained about the decision of the Dodoma Urban Water Supply and Sanitation Authority (DUWASA) dumping solid and liquid waste near residential area in Dodoma City, causing air pollution⁵⁴⁹. In Tabora, some community members in Kitete Ward, Tabora MC, complained about the pleasant odours generated by dumping of liquid waste, including blood, from abattoirs⁵⁵⁰.

'This water comes from the abattoirs and is mixed with blood, creating a distinct foul smell, especially during the rainy season. This has caused nuisance in our homes and an increase in flies. You cannot even sit and eat outside, and at the same time children are playing in and around the dirty water, which is detrimental to their health.'

Community member – Kitete, Tabora MC

Noise Pollution

Incidents of noise pollution were reported in regions such as Dar es Salaam, Kigoma, Dodoma, Mwanza, Kilimanjaro, Arusha, and Mbeya. Complaints were mostly made about **noises coming from bars, churches, and mosques**. In Tanga, there were also complaints about **noise emanating from industrial machines** (industrial noise pollution)⁵⁵¹. Among the those **mostly affected by noise pollution are the elderly, pregnant women, and children**.

'There is an Adventist church near our homes that has been generating a lot of music noise until late at night, sometimes all night long. This is not right, even though there is freedom of religion.'

Community member – Dodoma

'We received a complaint from one older person levelled against owners of a nearby bar, whom he accused of generating so much noise that members of his household were not able to sleep and caused him a heart attack.'

WEO – Murubona, Kasulu, Kigoma

In March 2023, it was reported that noise pollution was rampant in residential

549 LHRC Human Rights Survey 2023: Dodoma Field Report.

550 LHRC Human Rights Survey 2023: Tabora Field Report.

551 LHRC Human Rights Survey 2023: Tanga Field Report.

areas and uncontrolled noise was putting residents at the risk of suffering from stress, heart problems, deafness, and other effects.⁵⁵² It was also reported that the number of complaints about noise pollution made to NEMC were sharply increasing, with **NEMC recording a 65% increase in noise pollution and vibration complaints. Use of modern speakers and music systems was said to contribute to noise pollution**, while some churches were said to **use noise regulators to curb the noise and protect not only outsiders but also the people attending worship**.⁵⁵³

In April, **noise pollution was reported to cause serious health problems, including cardiovascular problems, cognitive impairment, sleep disturbances, and hearing impairment**, as noise pollution from open-air bars, open-air brickmaking factories and industries, car garages, and prayer houses in residential areas was said to increase.⁵⁵⁴ It was also reported that **noise polluters largely continued to ignore noise pollution laws** despite the enforcement measures undertaken by NEMC.⁵⁵⁵

In May, it was reported that NEMC had **closed down 89 businesses across the country for causing noise pollution**.⁵⁵⁶ NEMC said among the businesses closed down were **bars and entertainment centres**, following a one-week operation conducted across Mainland Tanzania.⁵⁵⁷

4.3.4. Other Environmental Issues and Challenges

Deforestation

- Largely contributed by cutting down of trees for firewood and charcoal production

- Deforestation was said to be a challenge in most surveyed regions, especially Tabora, Dodoma, Ruvuma, Pwani, Morogoro, Mbeya, and Kigoma. Trees were reportedly rampantly cut down, mostly for purposes of **obtaining firewood and production of charcoal**. When asked about alternative sources of energy, some community members in these regions, especially in rural areas, pointed out that most of them poor and cannot afford such alternatives, especially using gas.

552 "Noise pollution: Is it mere ignorance or arrogance?" THE CITIZEN Newspaper (online), 5 Mar 2023, at <https://www.thecitizen.co.tz/tanzania/news/national/noise-pollution-is-it-mere-ignorance-or-arrogance--4146652>.

553 Ibid.

554 Epiphania Ngowi "Noise Pollution Is Affecting Our Health. Here's How We Can Fix It" The Chanzo, 25 Apr 2023, at <https://thechanzo.com/2023/04/25/noise-pollution-is-affecting-our-health-heres-how-we-can-fix-it/>.

555 Ibid.

556 "Tanzania's environment regulator closes down 89 businesses over noise pollution" Xinhua, 9 May 2023, at <https://english.news.cn/africa/20230509/ab56e3e42e3a449089a71910a93ee7cb/c.html>.

557 Ibid.



'Forests are destroyed for purposes of producing firewood and charcoal, and this is because people find other alternatives, such as gas, expensive and not easily accessible in rural areas.'

Community member – Bukene, Nzega

- A study conducted by the Office of the Vice President between 2002 and 2013 in Tabora, Kigoma, Katavi, and Shinyanga showed that deforestation is very common in these regions, especially in Tabora.⁵⁵⁸ Main drivers of deforestation and forest degradation include poverty, population growth, and economic growth. The pressure factors include energy demand, unsustainable farming practices, climate change, wildfires, forest land tenure, and overgrazing and nomadic pastoral practices. In Kigoma, refugees were also implicated in cutting down trees for firewood, selling, farming, and house construction. Environmental officers recommended reforestation measures to be intensified to address the impacts of deforestation.

Land degradation

- Land degradation was said to be mostly contributed by human activities, including mining, agriculture, and livestock keeping, including in Tabora, Kigoma, Geita, Singida, and Mbeya. Human activities such as shifting cultivation, overgrazing, and cutting down of trees, as well as rapid population growth and inadequate land use management were said to be the prime causes of land degradation.

Environmental impact assessment

- In the audit report on the Central Government, released in March 2023, the CAG revealed that eight entities commenced projects worth Tshs. 547.02 billion before obtaining the Environmental and Social Impact Assessment Certificate from NEMC, contrary to section 81(3) of the Environmental Management Act 2004.⁵⁵⁹

4.3.5. Community Perceptions on Climate Change

Community members who were reached by LHRC in 2023 were also asked about climate change. The first question they were asked was how well informed they felt about climate and its impacts. Less than a quarter (21%) said they were very well informed (8%) and well informed (13%), while nearly a half (47%) were not informed (38%) and not at all informed (9%), followed by nearly a third (32%) who said they were moderately informed.

⁵⁵⁸ LHRC Human Rights Survey 2023: Tabora Field Report.

⁵⁵⁹ ANNUAL GENERAL REPORT OF THE CONTROLLER AND AUDITOR GENERAL FOR THE FINANCIAL YEAR 2021/22: CENTRAL GOVERNMENT (*supra*).



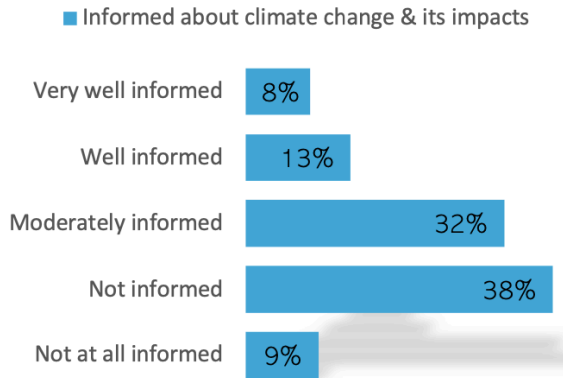


Figure 22: % Responses on how well-informed community members feel about climate change and its impacts (N=1,609)

Source: Field data, 2023

The second question community members were asked was how concerned they were with impacts of climate change on the environment and human rights. Majority of them (42%), among those who had said they were very well informed, well informed, and moderately informed about climate change and its impacts, said they were concerned about the impacts of climate change on the environment and human rights, followed by nearly a third (31%) who felt extremely concerned. 20% of the respondents said they were only somewhat concerned, while the remaining 7% were not concerned (5%) and not at all concerned (2%).

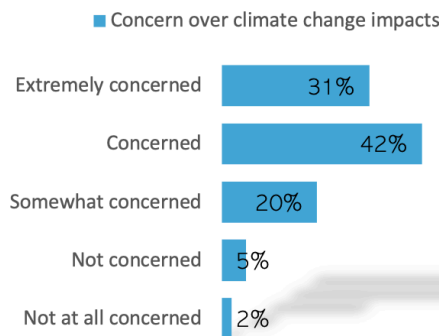


Figure 23: % Community responses on how concerned community members are about impacts of climate change on environment and human rights (N=853)

Source: Field data, 2023

Interviews with key informants and some community members revealed that



people residing in coastal areas, especially in Dares Salaam and Mtwara, were more concerned with impacts of climate change on their environment and human rights, especially the right to adequate standard of living and right to work⁵⁶⁰.

“...Of course, the worry is there my brother, especially for those of us who are literally surrounded by water. I am terrified of even thinking about the extreme sea levels that could occur due to climate change, considering potential impacts on our lives and residences.”

Community member – Kigamboni, Dar

Interviewed local LGA leaders in some regions such as, Kilimanjaro, Njombe, Mtwara, and Ruvuma, particularly street and village leaders, acknowledged they were not well informed about climate change and its impacts. For instance, the leader of Bomani Street, Bomang’ombe Ward, located in Hai District, Kilimanjaro Region, said:

“Truth be told, our community, including myself, is not well informed about climate change.”

Street leader – Hai, Kilimanjaro

Contrastingly, in Iringa, in some rural areas like Ibuma Village in Mafinga DC, Mgama and Ithemi Villages, Iringa DC, community members demonstrated a solid understanding of climate change. The rural community’s awareness was said to be attributed to frequent training sessions on climate change, given that 80% of them depend on agriculture for business or domestic purposes.⁵⁶¹ Some of the interviewed paralegals from rural agricultural communities in Ruvuma, Njombe, and Manyara also demonstrated a good understanding of climate change and its impacts and shared some of the strategies in mitigating climate change impacts. They did indicate, however, that more training and awareness sessions are needed for paralegals and other community members to create a better understanding of climate change, its impacts, and mitigation.

560 LHRC Human Rights Survey 2023: Dar es Salaam & Mtwara Field Reports.

561 LHRC Human Rights Survey 2023: Dar Iringa Field Report.



4.3.6. Climate Change Impacts

Government action to address climate change impacts

- Tanzania, being one of the countries mostly affected by climate change in the world, has undertaken various measures to address climate change and its impact, including creating legal and policy frameworks. Key legal and policy documents in this regard include the Environmental Management Act of 2004, the National Climate Change Strategy of 2012, and the National Environmental Policy of 2021. The Government has also adopted Guidelines for Integrating Climate Change Adaptation into National Sectoral Policies, Plans and Programmes of Tanzania (2012), ratified the United Nations Framework Convention on Climate Change (UNFCCC), and set budget for climate adaptation and mitigation.

In 2023, climate change impacted livelihoods, environment, and human rights in various ways, including through floods, house and infrastructure destruction, drought, and decreased production.

Erratic and reduced amounts of rainfall

Right to food
Right to work

- In surveyed regions, erratic and reduced rainfall was said to be a huge concern for farmers. These concerns were expressed by CDOs, paralegals, farmers, and livestock keepers in regions such as Morogoro, Dodoma, Ruvuma, Arusha, Kilimanjaro, and Pwani.

‘Our farming seasons are greatly impacted by climate change. For instance, at times we experience heavy rainfalls, which destroy our crops.’

CDO – Mvomero, Morogoro

- An analysis of food insecurity in 21 district councils of Mainland Tanzania, showed that food insecurity in the districts was primarily driven by a prolonged dry spell and erratic rainfall that highly affected crop and livestock production, pasture, and water availability.⁵⁶²

Family abandonment and breakdown

Right to family
Right to education
Right to adequate standard of living

- In August 2023, it was reported that some men in Ukerewe District, Mwanza Region, had abandoned their families to work and live in other islands due to reduced fish catch⁵⁶³. Similar reports were made in Kigoma⁵⁶⁴. Consequently, the women were left to take care of family alone.

⁵⁶² See IPC, UNITED REPUBLIC OF TANZANIA (MAINLAND): IPC ACUTE FOOD INSECURITY ANALYSIS, NOVEMBER 2023 - OCTOBER 2024, 29 December 2023, at https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Tanzania_Acute_Food_Insecurity_Nov2023_Oct2024_Report.pdf.

⁵⁶³ “How climate change is breaking families in fishing communities” THE CITIZEN Newspaper, 29 Aug 2023.

⁵⁶⁴ LHRC Human Rights Survey 2023: Kigoma Field Report.



'My husband decided to abandon us and move to Mwanza after we continually produced less crops due to reduced rainfall. It is now a year since he left, and life has become very hard for us.'

Community member – Kasulu, Kigoma

Disease outbreaks

Right to health
Right to life
Right to property

- Climate change was said to aggravate outbreak of diseases in some regions, including in Kigoma and Ruvuma. For instance, in Kigoma, an environmental officer in Kigoma DC stated that climate change had contributed to Malaria outbreak, including in areas which had not experienced the disease before.⁵⁶⁵ In Arusha, a pastoralist mentioned that climate had also made livestock susceptible to animal diseases.⁵⁶⁶

Decreased agricultural production

Right to food
Right to work
Right to development

- In all surveyed regions, reduced agricultural production was said to be a key consequence of climate change. Decreased milk production was also reported due to decrease of pasture for livestock.

'Last year we did not produce many crops, especially maize, vegetables, and fruits, because of lack of rain.'

Chairperson – Ibumila, Iringa

- In 2023, the Minister of Agriculture, Hon. Hussein Bashe, disclosed that in the financial year 2022/23, climate change had brought impacts such as drought, increased temperatures, affected soil, and ultimately contributed to reduced crop production, including production of food crops⁵⁶⁷.
- A decline in fish catches was reported by interviewed paralegals and fisherpersons at Lake Nyasa in Nyasa District, Ruvuma⁵⁶⁸. Similar reports were made in Kigoma (Lake Tanganyika) and Bagamoyo-Pwani (Indian Ocean)⁵⁶⁹. In Kigoma, the NEMC Western Zone Manager confirmed decline in fish catches in Lake Tanganyika and corresponding increase in fish prices, noting that one would need to spend at least Tshs. 10,000 to eat fish with family⁵⁷⁰. He also mentioned illegal fishing as a contributor to decreased fish stock.

565 LHRC Human Rights Survey 2023: Kigoma Field Report.

566 LHRC Human Rights Survey 2023: Arusha Field Report

567 HOTUBA YA MHESHIMIWA HUSSEIN MOHAMED BASHE (MB), WAZIRI WA KILIMO WAKATI WA KUHITIMISHA HOJA YA MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA KILIMO KWA MWAKA 2023/2024 (supra), p. 107.

568 LHRC Human Rights Survey 2023: Ruvuma Field Report.

569 LHRC Human Rights Survey 2023: Kigoma & Pwani Field Reports.

570 Interview with NEMC Western Zone Manager in Kigoma.



'We used to catch a lot of big fish in the past, but now there are hardly fish to catch, and life has become very difficult for us. We don't know what to do.'

Fisherperson – Kibirizi, Kigoma

Loss of employment and reduced income

Right to work
Right to adequate standard of living

- The agriculture sector employs at least two thirds of people in Tanzania. In 2023, reduced agricultural activity and production contributed to loss of employment and reduced income across the agricultural chain.
- In half of the surveyed regions, reduced income among farming communities was reported. For instance, in Iringa, communities heavily reliant on business activities, such as Boma in Mafinga and Kihesa in Iringa District, exhibited higher income levels and living standard compared to communities like Mgama, Ihemi, and Ibuma in Iringa District and Mtakuja, Lungemba and Itunduma in Kilolo ward where dependence on agricultural activities is higher.⁵⁷¹

Food insecurity

Right to food
Right to health

- As discussed above, in 2023, some parts of Mainland Tanzania reportedly experienced food insecurity. An analysis conducted by Integrated Food Security Phase Classification (IPC) in 21 district councils of Mainland Tanzania, covering the period of November 2023 to April 2024, shows that 900,000 people in the analysed districts were experiencing high levels of acute food insecurity (IPC phase 3 or above).⁵⁷²

Drought and water scarcity

Right to clean and safe water
Right to adequate standard of living
Right to health
Right to food
Right to clean and healthy environment

- Drought and water scarcity were mentioned as key climate change impacts in some surveyed regions, especially Iringa, Dodoma, Shinyanga, and Arusha. In Iringa, drought, scarcity of pasture, and shifts in rainfall patterns were identified as the predominant and most pronounced effects of climate change. In Arusha, water scarcity was said to hugely affect access to water for animals in pastoral households⁵⁷³. In Shinyanga, the Regional Environmental Officer confirmed that the region has largely been impacted by climate change, including drought, water scarcity and extreme temperatures in some areas⁵⁷⁴.

571 LHRC Human Rights Survey 2023: Iringa Field Report.

572 IPC ACUTE FOOD INSECURITY ANALYSIS, NOVEMBER 2023 - OCTOBER 2024 (supra).

573 LHRC Human Rights Survey 2023: Arusha Field Report.

574 LHRC Human Rights Survey 2023: Shinyanga Field Report.



'We are finding it difficult to adapt to climate change and the impacts are there for everyone to see, as we see changes in temperatures and rainy seasons.'

SMAUJATA hero – Mpwapwa, Dodoma

- In 2023, climate change caused delay in rainfall, drought, and floods, which contributed to drying up of water sources, damage of water infrastructure, and water rationing.⁵⁷⁵

Rising temperatures
Right to health

- Rising temperatures is a big health concern, especially for children and older people.

'The temperature is much hotter nowadays, presenting huge health concerns, especially for us older people.'

Older person – Buza, Dar

Migration and conflicts
Right to property
Right to liberty and personal security
Right to peace

- In June 2023, it was reported that land disputes and conflicts across Mainland Tanzania (including between community members and wildlife authorities and farmer-pastoralist disputes) were partly driven by climate change impacts.⁵⁷⁶ These conflicts threaten various fundamental human rights, including the right to property, the right to personal security and the right to peace.

Floods and landslides
Adequate standard of living (shelter/housing)
Right to life
Right to health

- In 2023, some communities in Tanzania were affected by heavy floods and landslides (climate change impacts) that hit different parts of Tanzania, causing deaths and destroying houses and other infrastructures along the way. For instance, in Hanang District, more than 80 people reportedly died due to floods and landslides, while more than 100 households lost their houses in December. Other regions which were mostly affected by heavy rains included Dar es Salaam, Mwanza, Rukwa, and Mbeya, where incidents of floods and property destruction were also widely reported. In Rukwa, it was also reported that floods had destroyed crops.⁵⁷⁷

575 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 2023/24 (supra), p.74.

576 "Mabadiliko tabianchi chanzo migogoro katika jamii" Nipashe Newspaper, 22 Jun 2023.

577 LHRC Human Rights Survey 2023: Rukwa Field Report.



Decrease of livestock asset

Right to property
Right to adequate standard of living

- Climate change largely affected pastoral communities in 2023, causing decrease of livestock asset. In some surveyed regions such as Iringa, Arusha, and Manyara, some pastoralists complained about decreased livestock prices. For instance, in Iringa the market price for a cow was said to drop from between Tshs. 400,000-600,000 to Tshs. 100,000-300,000⁵⁷⁸.

‘The cattle prices have significantly dropped, largely due to lack of pastures. At the cattle markets the prices are not allocated based on the weight but rather on appearance of the cattle.’

Livestock keeper – Kilolo, Iringa

Loss of homes and relocation

Right to adequate standard of living
Right to family
Right to education

- As highlighted above, in 2023 some regions such as Manyara, Dar es Salaam, Morogoro, Rukwa, and Mwanza experienced heavy floods, which also destroyed houses, leading to loss of homes. In Rukwa, it was also reported that some villagers, including from Kipwa Village in Kalambo DC, had to be relocated because of floods. Similar reports were made in Kigoma.

‘There are about 115 people who have lost their homes because of the heavy rains this year, while roofs of some houses were blown off by strong winds.’

Community member – Kibondo, Kigoma

Economic cost

Right to development

- In June 2023, it was reported that climate change was costing Tanzania up to Tshs. 5 trillion annually, as experts warned it was having an adverse economic impact across multiple sectors.⁵⁷⁹ In the same month, it was reported that the Government had spent more than Tshs. 300 billion to address the adverse impacts of climate change.⁵⁸⁰

4.3.7. Key Recommendations

- The Ministry of Constitutional and Legal Affairs and the 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 National Environment Management Council to effectively implement environmental and climate change laws and regulations to safeguard the right clean and healthy environment.
- CSOs to collaborate with other government and non-government stakeholders to raise public awareness on environmental protection and climate change.

578 LHRC Human Rights Survey 2023: Iringa Field Report.

579 “Climate change costing Tanzania up to Sh5 trillion annually” THE CITIZEN Newspaper, 2 Jun 2023.

580 “Zaidi ya bilioni 300/- zatumika kukabili mabadiliko tabianchi” Nipashe Newspaper, 22 Jun 2023.



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:

| Key SDGs and TDV 2025 Targets relating to Collective Rights | |
|---|--|
| SDGs | <ul style="list-style-type: none"> ■ <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. |
| TDV 2025 | <ul style="list-style-type: none"> ■ High quality livelihood ■ Peace, stability and unity |
| Agenda 2063: The Africa We Want. | <ul style="list-style-type: none"> ■ 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 |

4.5. RECOMMENDATIONS

State actors

- The Government, through the Ministry of Constitutional and Legal Affairs, to revive the constitution-making process and adopt a new, people-centred constitution, to better safeguard collective and other human rights.
- The Parliament to amend the Prevention and Combating of Corruption Act to make its annual report public after being read presented by the President to the National Assembly.
- The Government, through Prevention and Combating of Corruption Bureau (PCCB) and other justice institutions, to hold accountable all public officials implicated in corruption and mismanagement, misuse, and embezzlement of public funds, including taking them to court.
- CSOs to use CAG reports to advocate for reforms, demand accountability, and raise public awareness of financial accountability issues.
- The Ministry of Minerals and the PCCB to address corruption in the mining sector, which is threatening right to development and right to enjoy and

benefit from natural resources.

- The Ministry of Natural Resources and Tourism to ensure effective implementation of natural resources laws.
- The Ministry of Constitutional and Legal Affairs and THE 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 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 Ministry of Minerals and the Tanzania Revenue Authority (TRA), 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.



CHAPTER FIVE: RIGHTS OF SPECIAL GROUPS

In Tanzania, like in other parts of the world, there are groups which are more likely than others for their rights to be violated, thus the need to provide special protection for them, including by adopting and enacting specific conventions and laws respectively. In Tanzania, special groups include women, children, persons with disabilities (PWDs), the elderly, youth, refugees, and persons living with HIV/AIDS. These are the main special groups for purposes of this report. There is even a ministry for most of these groups, such as the Ministry of Community Development, Gender, Women and Special Groups and the Prime Minister's Office-Labour, Youth, Employment and Persons with Disability. This chapter discusses how rights of these groups were impacted, negatively and positively, in 2023, focusing on fundamental human rights and principles such as freedom from violence, non-discrimination, right to health, right to education, access to justice, and gender equality.

5.1. WOMEN'S RIGHTS

Tanzania has ratified several conventions that protect the rights of women and girls⁵⁸¹. 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 rights⁵⁸², 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 women⁵⁸³.

5.1.1. Gender-Based Violence

Gender-based violence (GBV)⁵⁸⁴ is a serious health and human rights concern, and one of the barriers to women's rights and achieving gender equality. Police and other government data on GBV indicates that women constitute the overwhelming majority of victims (over two thirds).

581 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.

582 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).

583 See Article 2(1) & 4(2) of the Maputo Protocol.

584 Defined as harmful acts directed at an individual based on their gender by the NATIONAL PLAN OF ACTION TO END VIOLENCE AGAINST WOMEN AND CHILDREN IN TANZANIA 2017/18 – 2021/22, December 2016, p. vi.



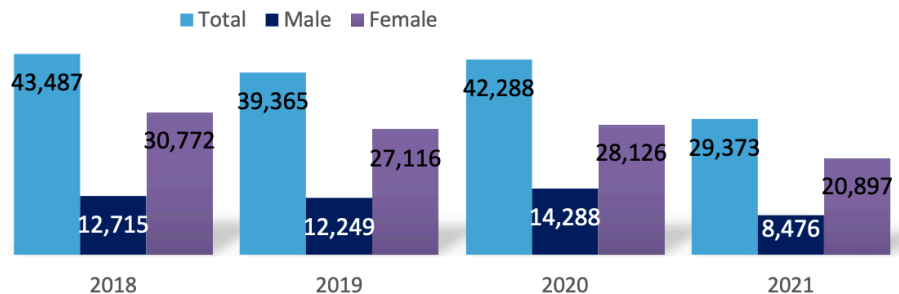


Figure 24: GBV victims in Tanzania by sex - 2018 to 2021

Source: Police data, 2018 to 2021

Police gender desk data for the period of July 2022 to May 2023 showed that a total of 14,184 incidents of GBV and violence against children (VAC) were reported at police stations, increasing from 12,642 incidents in 2021/22, equal to a 12.2% increase⁵⁸⁵. 4,120 of the incidents (29%) were taken to court, 2,144 resulted in conviction, and 988 resulted in acquittal⁵⁸⁶.

Overall, incidents of GBV, especially violence against women (VAW), and VAC were widely reported across Mainland Tanzania in 2023.

5.1.2. Violence against Women

5.1.2.1. General Findings

Women do not always experience different forms of violence in isolation. Some women experience multiple forms of violence, usually a combination of physical and sexual violence.

Incidents documented by LHRC

In 2023, LHRC documented 147 incidents of violence against women (VAW) through human rights monitoring and media survey alone, reported in nearly all regions of Mainland Tanzania. These are 39 more incidents than those documented in 2022. Like in 2022, physical violence constituted the largest percentage of documented incidents (61%), followed by sexual violence (20%), and economic violence (19%). The main perpetrators of VAW were men, particularly intimate partners, and most of the incidents occurred in home settings (domestic violence).

⁵⁸⁵ See HOTUBA YA WAZIRI WA MAMBO YA NDANI YA NCHI MHE. MHANDISI HAMAD M. Y. MASAUNI (MB.), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/2024, p. 36, at [https://www.parliament.go.tz/uploads/budgetspeeches/1685369435-document%20\(5\).pdf](https://www.parliament.go.tz/uploads/budgetspeeches/1685369435-document%20(5).pdf).

⁵⁸⁶ Ibid.



■ Sexual violence ■ Physical & emotional violence ■ Economic violence

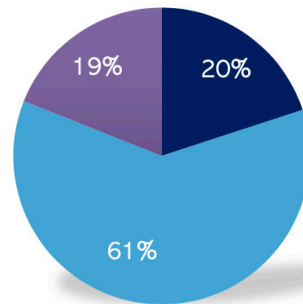


Figure 25: %Incidents of VAW documented by LHRC in 2023 by form

In 2023, LHRC documented an additional 1,738 incidents of VAW reported in 10 of the 20 surveyed regions of Mainland Tanzania, increasing from a total of 1,391 incidents reported in 2022. These were reported in Rukwa, Dodoma, Kigoma, Arusha, Ruvuma, Dar es Salaam, Tabora, Kilimanjaro, Morogoro, and Geita Regions. Physical and psychological violence accounted for nearly two thirds of the incidents (63%), followed by sexual violence (20%), and economic violence (17%). Women were subjected to different acts of VAW, including beatings (spousal battery), rape, sextortion, sodomy, sexual harassment, and being denied fruits of their labour.

Key informants, including Regional Social Welfare Officers (RSWOs) and NGO officials, in most of the surveyed regions indicated that VAW was on the rise, especially physical violence. For instance, the RSWO in Rukwa claimed that the situation of VAW in the region had become worse compared to the year 2022⁵⁸⁷. However, in some regions, RSWOs pointed out that VAW had decreased. For instance, the RSWO in Iringa told the survey team that VAW had decreased by 27% in the financial year 2022/2023 compared to the previous financial year⁵⁸⁸. In Tabora, where VAW was also found to be high, the RSWO recommended enactment of a specific anti-GBV legislation to better prevent and combat VAW⁵⁸⁹.

Police statistics

Incidents documented by LHRC are usually only a fraction of those documented by the police. A total of 76,139 incidents of violence against women (VAW) were documented by the Tanzania Police Force (TPF). This is equivalent to an average of 25,379 incidents each year and 2114 incidents each month.

⁵⁸⁷ LHRC Human Rights Survey 2023: Rukwa Field Report.

⁵⁸⁸ LHRC Human Rights Survey 2023: Iringa Field Report.

⁵⁸⁹ LHRC Human Rights Survey 2023: Tabora Field Report.



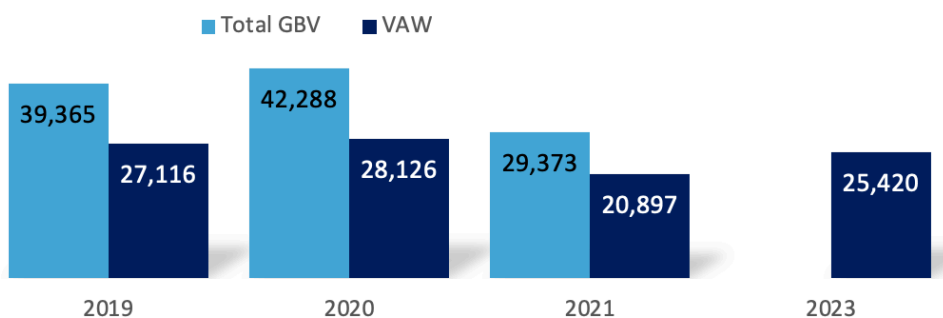


Figure 26: Total GBV and VAW incidents documented by police – 2019 to 2023

Source: Police data, 2019 to 2023

Community Perceptions on Violence against Women

Community members, including paralegals, who participated in the human rights survey conducted in 20 regions of Mainland Tanzania, had their say on the magnitude of VAW. Asked to what extent VAW is a problem in their community, just over a third said it is a problem (37%) and a serious problem (36%), while nearly a quarter (24%) said it is only a moderate problem.

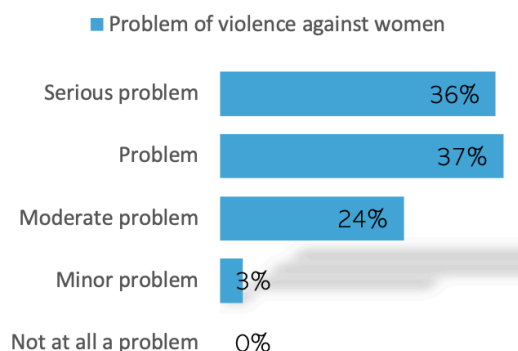


Figure 27: % Responses on the extent to which VAW is a problem in the community (N=1,609)

Source: Field data, 2023

Nearly half of the respondents (49%) indicated that physical violence is the most common form of violence against women and domestic violence, followed by economic violence (18%), psychological violence (17%), and sexual violence (16%)⁵⁹⁰.

Interviews with key informants, including social welfare officers (SWOs) also revealed that women are often subjected to physical violence.

Community members and key informants were also asked about common acts of VAW in their communities. The community members identified beating

⁵⁹⁰ LHRC Human Rights Survey 2023 Field Data.



or battery as the most common act (64%), followed by verbal abuse (42%), humiliation (38%), sexual corruption (25%), and rape (23%).

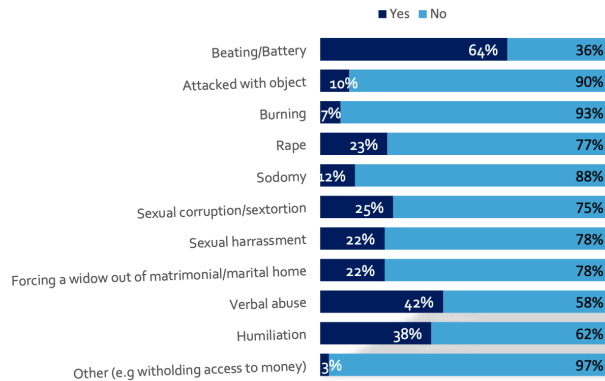


Figure 28: % Community responses on common acts of VAW

Source: Field data, 2023

Qualitative field findings show that beatings usually occur for married women and other women in relationships, inflicted by spouse (spousal battery). This is also supported by the most recent demographic and health survey, which shows that over one-third (35%) of women who are married or living with an intimate partner have experienced physical violence, compared to only 4% of those who never married⁵⁹¹. Verbal abuse and humiliation are also common forms of violence in domestic settings among spouses.

‘The most common act of violence for women, especially for those in relationships and marriage, is beating. In some areas wife beating is perceived to be normal.’

Community member – Songea, Ruvuma

Trust on institutions addressing violence against women and children

Community members were asked about some of the key institutions that address or resolve disputes of violence against women and children (VAWC), including courts, social welfare offices, and police gender desks. Religious leaders were identified as the most trusted institution (74%), followed by social welfare office (68%), and paralegals and NGOs (65%). At least 50% of the respondents also said they trust or trust a lot of police gender desk and family, while traditional leaders were the only institution said to be trusted or trusted a lot by less than half of the respondents.

⁵⁹¹ Ministry of Health, Community Development, Gender, Elderly and Children (MoHCDGEC) [Tanzania Mainland], Ministry of Health (MoH) [Zanzibar], National Bureau of Statistics (NBS), Office of Chief Government Statistician (OCGS), and ICF. 2022. Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Summary Report. Dodoma, Tanzania, and Rockville, Maryland, USA: MoHCDGEC, MoH, NBS, OCGS, and ICF. https://www.nbs.go.tz/nbs/takwimu/dhs/Tanzania_DHS- MIS_2022_Summary_Report_English_and_Swahili.pdf

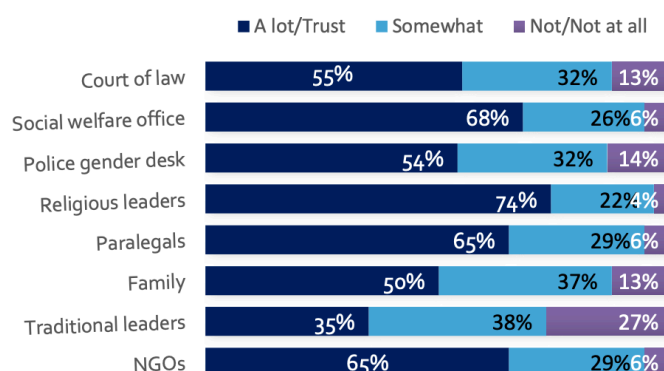


Figure 29: % Responses on trusting institutions that address VAW

Source: Field data, 2023

5.1.2.2. Physical and Psychological Violence

As pointed out above, physical violence is the most prevalent form of VAW in Tanzania, and it is mainly perpetrated in home settings by intimate partners. **Current husbands/intimate partners have been mentioned the most as the perpetrators of physical VAW (64.4%), followed by former husbands/intimate partners (36.45).**⁵⁹² Other perpetrators have been mentioned by less than 5% of the women, including former boyfriend, father/stepfather, daughter/son, other relative, mother-in-law, father-in-law, and employer/someone at work.

Over a quarter of women in Tanzania (27%) aged 15 to 49 years old have ever experienced physical violence since age 15, and 18% have experienced such violence in the last 12 months.⁵⁹³ Based on the 2022 population and housing census, 14,992,288 women in Tanzania fall in the age category of 15 to 49 years,⁵⁹⁴ and 27% equals to 4,047,918 women who have experienced such violence.

592 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. 2022. Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Final Report. Dodoma, Tanzania, and Rockville, Maryland, USA: MoH, NBS, OCGS, and ICF.

593 Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Summary Report (*supra*).

594 Ministry of Finance and Planning, Tanzania National Bureau of Statistics and President's Office - Finance and Planning, Office of the Chief Government Statistician, Zanzibar. The 2022 Population and Housing Census: Age and Sex Distribution Report. Tanzania, December 2022, at https://www.nbs.go.tz/nbs/takwimu/Census2022/Age_and_Sex_Distribution_Report_Tanzania_volume2a.pdf.



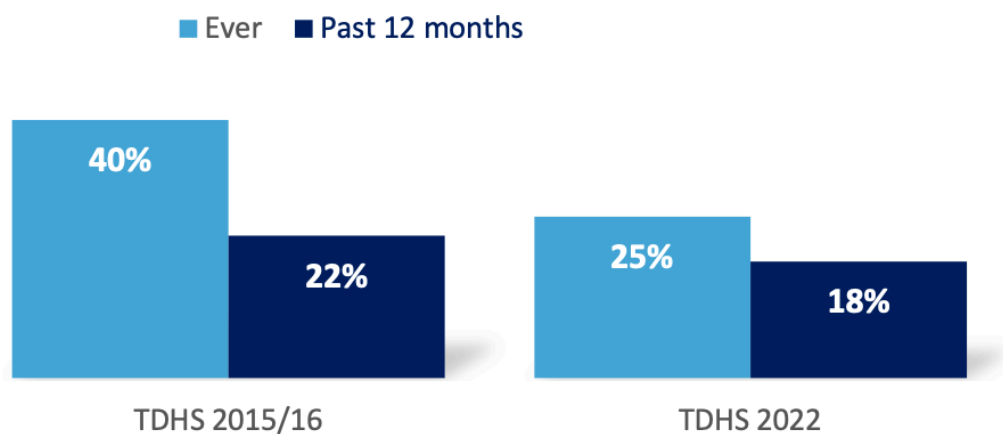


Figure 30: % Women aged 15-49 who have ever experienced physical VAW

Source: TDHS-MIS 2015/16 & TDHS-MIS 2022

Intimate Partner Violence (IPV)

Currently, **two in five ever-partnered women in Tanzania have experienced IPV**, and a third (33%) have experienced such violence in the last 12 months.⁵⁹⁵ Majority of IPV incidents were said to be physical violence, followed by emotional violence, then sexual violence.⁵⁹⁶ 41% of women who have experienced IPV have experienced injuries, mostly cuts, bruises or aches (40%).⁵⁹⁷

⁵⁹⁵ Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Summary Report (*supra*).

⁵⁹⁶ *Ibid.*

⁵⁹⁷ Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Final Report (*supra*).



Intimate Partner Violence – TDHS-MIS 2022

Zones [Top 5]

Lake – 48.6%
Central – 48%
Western - 42.1%
S/Highlands 41.9%
Northern 38.3%

Regions [Top 5]

Mara (66%)
Dodoma (54%)
Kagera (53%)
Iringa (50%)
Njombe & Tabora (48%)

Injuries

Cuts, bruises, or aches; eye injuries; sprains, dislocations, or burns; deep wounds, broken bones, broken teeth, or any other serious injury.

Prevalence

- Has decreased from 50% in 2015/16 to 40% in 2022.
- IPV mostly prevalent (40%+) in Mara, Dodoma, Kagera, Iringa, Njombe, Tabora, Mwanza, Kilimanjaro, Arusha, Singida, Geita, Morogoro, and Manyara.

Urban/Rural Variations

- Women in rural areas (41%) more likely than those in urban areas (35%) to experience IPV (physical, sexual, or emotional) by current or most recent husband/intimate partner.

Age & Other Variations

- IPV experienced more by women (girls) aged 15-19 (37%) than older women in last 12 months – **dangers of child marriage!**
- Percentage of victims decreasing with **increasing education** and household wealth

Common acts of IPV [Top 5]

- 1. Slapping; 2. Verbal abuse; 3. Punched with a fist or object; 4. Humiliation; and 5. Being kicked, dragged, or beat up & physically forced to perform any other sexual acts (apart from sexual intercourse)

Incidents of IPV were widely reported in 2023 and LHRC documented 115 such incidents through media survey, human rights monitors, and human rights survey. These incidents were reported in regions such as Kilimanjaro, Tanga, Tabora, Arusha, Dodoma, Mbeya, Mwanza, Mtwara, Katavi, Pwani, Songwe, Njombe, and Manyara. Women suffered harm at the hands of their partners in various ways, including being stabbed, burned, decapitated, strangled, punched, and inserted with a sharp object in private parts.



IPV Victim Testimony



Sagara Ward, Kongwa District –
Dodoma Region

- ‘One morning I was about to head to the farm and realized my child was sick and there was nothing to eat in the house. So, I asked my husband what we should do, and that’s when the quarrel started. He grabbed an axe and attempted to hit my head with it, but I dodged. Unfortunately, I could not completely dodge as the axe hit my face, severely damaging it, and knocking the teeth out. The incident was reported to the police but later my husband fled and continued to making threats that he would ‘deal with me’ for reporting him to the police. I could not live in peace because of these threats, always fearful that he might appear and hurt me more. It reached a point where I was afraid of even being outside the house and staying out late. I had to be inside the house by 5pm. I hear he has returned to this area, but I don’t want to bother with the case anymore because I am now living with another man, and all I want is peace and to continue living my life.’

Jealousy was mentioned as one of the major reasons for IPV, sometimes leading to IPH. About 40% of reported incidents of IPV documented by LHRC in 2023 were said to be motivated by jealousy. For instance, in Kigoma, a man in Kibondo District was said to often beat his wife, accusing her of extra marital affair, and one day he broke her leg⁵⁹⁸. In another incident reported in the region, a man beat his wife until she lost consciousness because of jealousy and went around the street parading her underwear⁵⁹⁹.

‘Physical violence against women is usually caused by jealousy and the husbands are the major perpetrators. Some women are even strangled and get sick because of it.’

Community member (machinga) – Nzega,

One of the major consequences of IPV is intimate partner homicide (IPH). As reported in Chapter Two of this report, LHRC documented **50 incidents of IPH** in 2023, of whom 45 of the victims (90%) were female, and 5(10%) were male. **The number of incidents is 17 more than those documented in 2022.** The 50 incidents documented in 2023 takes the number of incidents documented by LHRC since 2019 to 162. LHRC believes that a lot more incidents may have gone unreported. However, there is a genuine fear among stakeholders that some incidents go unreported, while some might not be documented as IPH. In one of the documented incidents, a man in Tabora reportedly killed his wife and buried her in their bedroom in March 2023,⁶⁰⁰ while in another incident, reported in Songwe in September, a man killed his wife and their children after

598 LHRC Human Rights Survey 2023: Kigoma Field Report.

599 Ibid.

600 “Mume aua mke na kumzika chumbani” HABARILEO Newspaper, 11 Mar 2023.



accusing the wife of extra-marital affair and bearing a child out of wedlock.⁶⁰¹

In 2023, there were also many reported incidents of IPV which did not result in IPH but caused great bodily harm and in some circumstances even permanent disability. For instance, in Arusha it was reported in May 2023 that Isaack Mnyagi (45), forcibly removed his wife's, Jackline Mkonyi (38), teeth and stabbed her in the eyes, causing her significant harm and pain.⁶⁰² In Dodoma, it was reported in June that Lusajo Makiwelu, a driver at the University of Dodoma, had been arrested for pouring acid on his divorcee and their child, Witness Nguvalwa (31), when she had gone to give him court summons.⁶⁰³ In another incident, reported in Mwanza in August, Said Seleman (32), resident of Arusha, was arrested and taken to court for stabbing his girlfriend, Faudhia Juma (24), and causing her severe bodily harm.⁶⁰⁴

Other incidents of physical VAW

In Mainland Tanzania, 27.2% of women have experienced physical violence by any perpetrator.⁶⁰⁵ In 2023, LHRC also documented other reported incidents of physical VAW, not perpetrated by intimate partner. The incidents include brutal attack and killing of women in several regions, including Kilimanjaro and Njombe. For instance, in Njombe, Asifiwe Haule (25), resident of Ludewa District, reportedly attacked and killed his mother, Ubatizo Sanga (55), in August in Mawengi Village.⁶⁰⁶ A similar incident occurred a month later in Kilimanjaro where it was reported that police had arrested a man, Deogratus Shirima (26) for attacking his mother with a machete and killing her.⁶⁰⁷ There were also reports of women being attacked, raped, and killed, including in Mwanza, where three people, including a witchdoctor, were arrested for doing that to Esther Lukomu (51), resident of Bugumangala Village in Magu District.⁶⁰⁸ They cut and walked away with some of her private body parts, raising fears of **organ trafficking for purposes of witchcraft**. A similar incident was reported in Tanga in July, where a woman, resident of Mgongola A Village in Handeni District, was killed by unknown people while in a farm with her baby, and the perpetrators **cut and walked away with her head**.⁶⁰⁹

Mothers-in-law are also at risk of facing violence, especially when they intervene to protect their daughters from IPV. This is what happened in Tanga, where it was reported in August 2023 that Saleh Ally (38) had been arrested and taken to Muheza District Court for killing two women, including

601 "Mbaroni tuhuma za kuua mke, mtoto" Nipashe Newspaper, 26 Sep 2023.

602 "Polisi wamnasa mume aliyeng'oa jino mkewe" HABARILEO Newspaper, 29 May 2023; "Aliyedaiwa kumng'oa jino mkewe atoka kwa dhamana" Mwananchi Newspaper, 14 Jun 2023.

603 "Mume mbaroni akituhumiwa kumwagia tindikali mke, mtoto" Nipashe Newspaper, 30 Jun 2023.

604 "Aliyemchoma mpenzi wake kisu asomewa mashitaka wodini" HABARILEO Newspaper, 18 Aug 2023.

605 Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Final Report (*supra*).

606 "Adaiwa kumuua mama yake kwa mchi hatimamaye kumbaka" Nipashe Newspaper, 11 Aug 2023.

607 "Adaiwa kumuua mama yake mzazi kwa panga" Mwananchi Newspaper, 6 Sep 2023.

608 LHRC Human Rights Monitoring, 2023.

609 "Auawa kwa kukatwa kichwa akichuma mboga" HABARILEO Newspaper, 30 Jul 2023.



his mother-in-law.⁶¹⁰

In some cases, women may be attacked and even killed simply for **refusing sexual advances**. In one incident, reported in Dar es Salaam, a man was killed by an angry mob in Magomeni area for stabbing a housemaid to death for refusing him sex and thereafter stabbing his mother for questioning him about the housemaid and a pool of blood in the house.⁶¹¹

Violence During Pregnancy

Some women in Tanzania are even subjected to different forms of violence while being pregnant. The recent demographic and health survey findings (2022) show that 3% of women aged 15 to 49 who have ever been pregnant have experienced physical violence during pregnancy, and the percentage is higher in rural areas (4%) than urban areas (2%).⁶¹² Violence during pregnancy was also found to be most common in the Central Zone (5%).

- In 2023, incidents of VAW documented by LHRC included acts of violence perpetrated against pregnant women. For instance, in one incident, reported in Morogoro in May 2023, a pregnant 17-year-old girl, resident of Dumila District, was stabbed five times by her former intimate partner after refusing to go and have sexual intercourse with him.⁶¹³ In Singida, it was reported in October 2023 that one pregnant woman, resident of Nduguti in Mkalama District, was severely beaten by her husband, experiencing miscarriage thereafter.⁶¹⁴

Psychological VAW

In 2023, incidents of psychological or emotional VAW were also widely reported across Mainland Tanzania, including in Kilimanjaro Region, where the RSWO told the survey team that emotional violence against women is high in the region, especially acts of verbal abuse (insults) and humiliation⁶¹⁵.

Common acts of psychological VAW included **verbal abuse, humiliation, neglect, and abandonment**. For instance, in Morogoro, majority of interviewed key informants mentioned family abandonment as a key challenge for women⁶¹⁶. Others, in regions such as Dar es Salaam, Ruvuma, Manyara, and Dodoma, said some men tend to abandon their intimate partners when they become pregnant, causing them mental problems such as depression and anxiety and contributing to some women, especially young ones, to abandon their babies or even throw or dump them in toilets (infanticide)⁶¹⁷. In Dodoma, a SWO mentioned that some men tend to leave their houses upon giving birth to go and leave with other

610 "Anayedaiwa kuu wanawake wawili afikishwa kizimbani" Nipashe Newspaper, 22 Aug 2023.

611 "AMUUA DADA WA KAZI KJSHA KUMCHOMA KISU MAMA YAKE, NAYE AULIEWA NA WANACHI" Jamii Forums.

612 Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Final Report (*supra*).

613 "MJAMIZITO ACHOMWA KISU MARA 5" MillardAyo, 9 Jun 2023.

614 LHRC Human Rights Survey 2023: Singida Field Report.

615 LHRC Human Rights Survey 2023: Kilimanjaro Field Report.

616 LHRC Human Rights Survey 2023: Morogoro Field Report.

617 Interviews with some community members and NGO officials in Dar es Salaam, Ruvuma, Manyara, and Dodoma.



women, popularly known as 'nyumba ndogo,' until the babies have grown⁶¹⁸.

In Tabora, one community member claimed that sometimes men abandon their wives because 'they are afraid of being killed by them to inherit their properties⁶¹⁹.' In Iringa, the study discovered family abandonment by men to be a predominant challenge, contributed by **economic hardships, high interest loans, alcoholism, and moral decay**⁶²⁰. In Kigoma, it was reported that there is a **growing tendency of men abandoning their families or neglecting their duties to them** (practice popularly known as 'Kuhanzura')⁶²¹.

A SWO and street chairpersons in Kibondo District told the survey team that cases of maintenance and family abandonment increase during the harvesting period⁶²². One of the interviewed street chairpersons in the district said men usually return to their wives after spend all the family money, seeking forgiveness and claiming '**Satan caused them to abandon their family**.'⁶²³

'It has become normal for men to abandon their wives and children to find and marry another woman.'

Paralegal – Igunga, Tabora

'During the sowing and planting seasons both the husband and wife are and plan together but come March all those benches outside my office are filled with women, while others are standing, all waiting to be attended. During this period, I must come to the office at 6am to attend them and the main complaints are child maintenance and family abandonment, whereby men are accused of taking money generated from selling the harvested crops and seeking other women, while abandoning their families.'

SWO – Kibondo, Kigoma

Women accused or suspected of practicing witchcraft are also subjected to physical and psychological violence, including being flogged in public, humiliated, and secluded socially. LHRC has documented several such incidents in regions such as Tabora, Kigoma, and Singida in the 2022 and 2023 periods.

'In our community, women are tried and punished based on the customs and traditions. For example, women implicated in witchcraft practices are flogged in public, poured mud on, and then paraded on the streets for everyone to see. They are also subjected to social exclusion.'

Paralegal – Mkalama, Singida

618 LHRC Human Rights Survey 2023: Dodoma Field Report.

619 Interview with a community member in Tabora Municipal Council, Tabora.

620 LHRC Human Rights Survey 2023: Iringa Field Report.

621 LHRC Human Rights Survey 2023: Kigoma Field Report.

622 Ibid.

623 Interview with Matunda Street Chairperson, Kibondo District.



Some women fail to leave or completely leave their abusive relationships because of threats by their partners. In Rukwa, the study found that some young women are usually threatened with exposure and circulation of their nude pictures or even videos, taken by their boyfriends, when they want to break their relationships⁶²⁴.

5.1.2.3. Sexual Violence

Incidents documented by LHRC

Sexual violence is a serious threat to mental health and a grave human rights violation. In Tanzania, 12% of women aged 15 to 49 years have ever experienced sexual violence by any perpetrator, declining from 17% in 2015, based on the 2022 demographic and health survey findings⁶²⁵.

Women falling in the age category of 40 – 49 years and divorced/separated/widowed women are more likely to experience sexual violence. Regions with highest percentages of sexual violence (20%) are Kagera, Mwanza, and Mara, while Mtwara has the lowest percentage (1%). Most acts of sexual VAW are perpetrated by persons with whom women have a close personal relationship⁶²⁶.

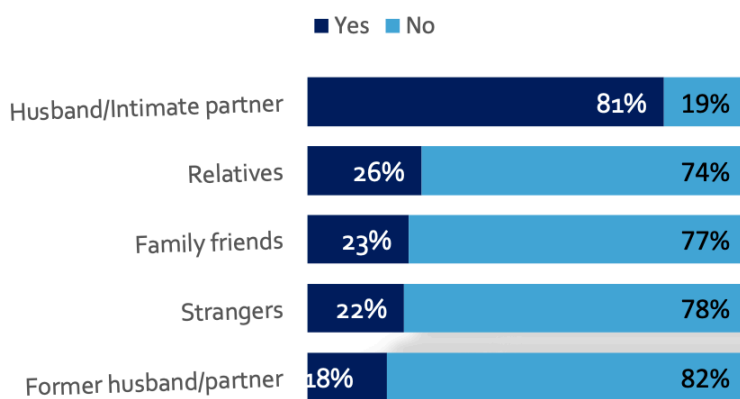


Figure 31: Perpetrators of sexual VAW in Tanzania

Source: TDHS-MIS 2022

As pointed out above, 20% of incidents of VAW documented by LHRC were sexual violence. A total of 29 incidents were documented through media survey and human rights monitors, decreasing from 30 documented in 2022. However,

⁶²⁴ LHRC Human Rights Survey 2023: Rukwa Field Report.

⁶²⁵ Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Final Report (supra).

⁶²⁶ Ibid.

LHRC documented additional 347 incidents in 10 of the 20 surveyed regions of Mainland Tanzania, decreasing from 406 incidents documented in 2022. The incidents were reported in regions such as Dar es Salaam, Dodoma, Pwani, Morogoro, Mwanza, Singida, Kagera, Katavi, Arusha, Kilimanjaro, Lindi, Iringa, Njombe, Kigoma, Rukwa, Tabora, and Mbeya. Reported incidents of sexual VAW included rape, attempted rape, sexual harassment, sextortion, sodomy, and gangrape. In at least one incident, a woman was also killed after being raped.

Among the reported incidents of sexual VAW was **rape of a seven-month pregnant woman** in Mkuranga District, Pwani Region in June 2023, causing the victim to experience severe pain and death of her two unborn babies⁶²⁷.

The parents of the perpetrator reportedly tried to bribe the victim's husband 'to resolve the issue at home.' A similar incident was reported in Tabora a month later, whereby a nurse at the Sikonge District Hospital was arrested by police for **raping a nine-month pregnant woman** admitted at the hospital⁶²⁸.

In Dodoma a woman, resident of Mayamaya Village in Bahi District was reportedly gang raped by four unknown men in May 2023⁶²⁹. A similar incident was reported in Iringa the following month, where police arrested five people for breaking into a hostel at the University of Iringa and **gang-raping** a university student⁶³⁰.

For older women, rape is mostly associated with belief in witchcraft, as further discussed in a sub-chapter on rights of the elderly below. In one of the reported incidents, Saidi Chilemba (49), resident of Lindi Municipality, was sentenced to 30 years in prison in May 2023 after being found guilty of raping a 70-year-old woman earlier in February⁶³¹.

In Njombe, Juma Msemwa (27) was sentenced to 180 years in prison in October 2023 for raping and sodomizing six women that he had abducted earlier in May⁶³². He also inserted objects into their private parts. When asked the reasons for his action, he said he had been **instructed by a witchdoctor to rape women and children**.

Marital rape & sodomy

Marital rape continued to be a subject of public debate in 2023, whereby some of the stakeholders who presented their views and recommendations on criminal justice reform to the presidential commission on criminal justice reform, including the Tanzania Women Lawyers Association (TAWLA), recommended marital rape to be recognized as a crime, calling for the law to be amended to that effect⁶³³.

627 "MJAMIZITO ALIYEBAKWA: Polisi wilayani Mkuranga wazua jambo" Nipashe Newspaper, 26 Dec 2023.

628 "Muuguzi mbaroni tuhuma kubaka mjamzito miezi 9" Nipashe Newspaper, 14 Jun 2023; "Muuguzi atuhumiwa kumbaka mgonjwa mjamzito" HABARILEO Newspaper, 15 Jun 2023.

629 "Mauaji, ubakaji tishio kwa wakazi wa Kata ya Zanka" Mwananchi Newspaper, 3 Jun 2023.

630 "Police hold five for allegedly stealing, gang-raping student" THE CITIZEN Newspaper, 8 Jun 2023.

631 "Afungwa juela miaka 30 kwa kumbaka kikongwe" Nipashe Newspaper, 8 May 2023.

632 LHRC Human Rights Monitoring, October 2023.

633 "Tawla yatoa mapendekezo 30 kwa Tume ya Haki Jinai" HABARILEO Newspaper, 22 Feb 2023.



Women in some regions reached by LHRC in 2023 acknowledged that they feel sad and powerless when their husbands forcefully engage in sexual intercourse with them, but some of them said they cannot bring themselves to publicly accuse their husbands of rape⁶³⁴. This coercive behavior is often driven by societal expectations and traditional gender roles that place a substantial burden on married women to fulfill their husbands' sexual needs and desires. Community members, paralegal, and SWOs acknowledged occurrence of marital rape and sodomy.

'It's true that our children are being raped, but we are also being raped in our marriages, and some men even force their wives to engage in anal intercourse, but the wives decide to suffer in silence because of shame.'

Community member – Mpwapwa, Dodoma

'Rape and sodomy of women is common, and the major perpetrators are their husbands.'

SWO – Singida DC, Singida

Marital sodomy also continues to be a growing problem in Mainland Tanzania. In Arusha, a Catholic pastor in Arusha, Fr. Festus Mangwangi, warned men against sodomizing their wives, as it is a big sin⁶³⁵. In Iringa, the study found that marital sodomy is a concern for women, but often unreported due to feelings of shame⁶³⁶.

Sexual corruption/Sextortion

In 2023, women continued to be the major victims of sextortion. In May, Members of Parliament (MPs) raised concerns over women who are victims of high interest loans (popularly known as '*mikopo umiza*') being asked for sex bribes when they fail to make repayments⁶³⁷. Sexual corruption was also said to occur in higher education institutions and in the job market.

'We hear a lot about incidents of sexual corruption perpetrated against students in colleges and universities, especially UDOM. Young ladies are also faced with this challenge in the job market, and some get the jobs when they agree to sleep with prospective bosses, while others don't, even when they do sleep with them.'

Community member – Dodoma City, Dodoma

In Kigoma, the LHRC team was able to meet with ward leaders and some

634 Interviews with community members, paralegals, and SWOs in Morogoro, Arusha, Ruvuma, Kilimanjaro, Dodoma, and Pwani.

635 "Paroko aonya waume kuingilia wake zao kinyume na maumbile" Nipashe Newspaper, 29 Apr 2023.

636 LHRC Human Rights Survey 2023: Iringa Field Report.

637 "Rushwa ya ngono yatikisa mikopo umiza" Nipashe Newspaper, 19 May 2023.



community members, who acknowledged existence of the high interest loans and explained how they perpetuate sexual corruption. Some interviewed men said they were unaware that their wives had taken such loans, which is also a source of stress for them⁶³⁸.

‘Women are really distressed by these high interest loans, and some of them even resort to sleeping with the loan officers or other men to get money for daily loan repayments, usually around Tshs. 8,000 to 10,000. This is big challenge for them, especially those without any income generating activity.’

Ward Executive Officer – Kigoma MC, Kigoma

Sexual Violence against Female Journalists: TAMWA Report 2023

- As reported in Chapter Three above, one of the key labour rights concerns for journalists in Tanzania, especially female journalists, is workplace violence. In November 2023, the Tanzania Media Women’s Association (TAMWA) released its report on sexual harassment, corruption, and gender mainstreaming in the media.⁶³⁹ One of the key findings of the report was that 77% of the respondents (journalists) reported experiencing sexual harassment within their respective media outlets (workplace). Additionally, 27% of the respondents reported encountering sexual harassment from their news sources or in the field; and 59.4% confirmed the occurrence of sexual harassment in the media sector. **TAMWA has also established that nearly a half of women media correspondents have encountered sexual corruption and most of them keep silent about it.**⁶⁴⁰

Trafficking of young women and girls for domestic work

Women who work in the domestic work sector are among the most vulnerable to different forms of sexual violence, including by their agents, employers, and employers’ family members and relatives. In February 2023, the Executive Director of *Light for Domestic Workers*, said some women working as housemaids in Dar es Salaam have requested the Government to ban domestic work agents, accusing them of violating their dignity, including by asking them for sex bribes in exchange for a well-paying job in major cities, including Dar es Salaam⁶⁴¹.

5.1.2.4. Economic Violence

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.

638 LHRC Human Rights Survey 2023: Kigoma Field Report.

639 Tanzania Media Women’s Association (TAMWA), SEXUAL HARASSMENT, CORRUPTION, AND GENDER

MAINSTREAMING IN THE MEDIA – TANZANIA: A Current Prevalence and Preventive Mechanisms Assessment, November 2023, at https://tamwa.org/a/images/pdf/SEXUAL_HARASSMENT_17_Dec_2023.pdf.

640 See Alexander Joseph “Sexual corruption: Rampant crime committed against women journalists” in TAMWA, *Sexual Corruption/Sextortion in the Media*, Sauti ya Siti, Issue NO. 40, November 2023, at https://tamwa.org/a/images/pdf/Sauti_ya_Siti_Release_No_40_latest.pdf.

641 “Madalali wadaiwa kuwadhilisha kingono wafanyakazi wa ndani” Nipashe Newspaper, 28 Feb 2023.



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 employment⁶⁴².

In 2023, LHRC documented 28 incidents of economic violence against women through human rights monitoring, increasing from 17 in 2022, and additional 295 incidents through human rights survey in 12 out of 20 regions of Mainland Tanzania, 55 less than those documented in 2022. Most of the incidents were reported in rural areas, including in regions such as Iringa, Njombe, Kigoma, and Dodoma. The incidents included denial of inheritance, property grabbing, and withholding access to money. LHRC discovered that in some regions, such as Tabora and Iringa, some men tend to misuse family income generated from agricultural activities by spending it on mistresses and alcohol, **leaving their wives with little or no money to take care of their families.**

Withholding access to money

In some surveyed regions, such as Morogoro, Dodoma, Tabora, Iringa, Singida, Kigoma, and Ruvuma, women were said to actively participate in economic activities to contribute to family income but were often denied fruits of their labour by their husbands or intimate partners by limiting their access to money or family income. In Morogoro, some women in Morogoro and Mvomero Districts claimed that women usually have little or no say when it comes to selling agricultural produce and spending the resulting family income⁶⁴³. The same situation was found in the other regions, including Dodoma, where it was discovered that women frequently find themselves disempowered when it comes to managing the income they earn⁶⁴⁴. In Mpwapwa District, a village chairperson said accused some men of misusing family income by spending it on their mistresses, leaving their wives to carry the burden of providing for their families⁶⁴⁵. Similar accusations were made by a village leader in Ikoma Ward, Tabora, who said:

'In our patriarchal society, women are economically exploited by men, whereby they engage in tobacco farming but hardly enjoy the fruits of their labour. We have received many complaints of women accusing their husbands of taking the money generated from tobacco farming and going to spend it with other women, including at traditional bars.'

Deputy VEO - Kapunze Village, Ikoma Ward

642 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.

643 LHRC Human Rights Survey 2023: Morogoro Field Report.

644 LHRC Human Rights Survey 2023: Dodoma Field Report.

645 Interview with a village chairperson in Mpwapwa District.



Denial of inheritance and property rights

Denial of inheritance and property rights, mostly fueled by discriminatory customs and traditions, continued to harm women economically in 2023 in most of the surveyed regions, especially in rural and semi-urban areas. One of the groups affected by this are widows, who are frequently denied inheritance rights, as they are often dispossessed of their land, homes, and other assets by their late husbands' family members⁶⁴⁶.

'Our customs and traditions do not allow women to acquire and own property, thus accelerating violations of widows' property rights.'

Paralegal – Kongwa, Dodoma

'In most communities in Singida, including among the Nyaturu, women are not allowed to inherit property, including land, because they shall get married and move into another clan, and to prevent their husbands from inheriting the property. We call them the Munyang'yatu.'

NGO official – Singida MC, Singida

In Iringa, during discussions conducted in Ruaha Ward, Iringa MC, it was observed that the cultural expectation for a girl child to marry into another family and change her last name means she loses her identity within her clan⁶⁴⁷. Consequently, there is a perceived lack of necessity for girls or women to own properties since any inheritance they might receive would contribute to the power and wealth of another family. This perspective was strongly echoed by an elder in Kihesa 'A' Ward, Iringa Municipal District, who vehemently opposed the idea of a girl child inheriting properties from her family. According to him, girls are considered weak in decision-making and protecting family properties. He even extended this viewpoint to the broader context of marriage, asserting that even a wife does not have the right to own or fully control her husband's properties.

Eviction of widows from marital home

In 2023, LHRC documented 15 incidents of eviction of widows through human rights monitoring and human rights survey, decreasing from 21 in 2022. These incidents were reported in regions such as Singida, Iringa, Mara, and Katavi. In Singida, majority of NGO officials reached by LHRC, including paralegals, insisted that widows are not allowed to inherit their deceased husbands' properties, including farms and houses⁶⁴⁸.

646 LHRC Human Rights Survey 2023: Dodoma Field Report.

647 LHRC Human Rights Survey 2023: Iringa Field Report.

648 Interviews with NGO officials in Singida MC and Manyoni.



'Widows are told to vacate their marital homes by in-laws of their deceased husbands and if they want to remain in the houses then they should pay a fine of five cows. This is very common in Mpambala, Ibaga, Matongo, and Mwangeza.'

Paralegal – Mkalama, Singida

In Iringa, it was reported within the Iringa MC that despite having legal rights, women often face property dispossession, largely due to the significant influence of customary laws, and in some instances, **witchcraft is used as a weapon to threaten widows and manipulate legal cases**, leading many women to withdraw from legal proceedings due to intimidation⁶⁴⁹.

5.1.3. Cyberviolence against Women and Girls

While both women and men can be victims of cyber violence, evidence shows that women and girls are more likely to be targeted by cyber violence, resulting into physical, sexual, psychological, or economic harm and suffering⁶⁵⁰. 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 equipment⁶⁵¹. 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 equality issues such as ICT gender segregation and gender pay gap⁶⁵².

Community perceptions on CVAWG

Community members in surveyed regions were asked several questions about CVAWG, the first question being how well informed they feel about it. Nearly half of them (45%) said they were not informed about the problem, followed by a quarter (25%), who felt they are moderately informed. Less than a third (30%) said they were very well informed (8%) and well informed (22%).

649 LHRC Human Rights Survey 2023: Iringa Field Report.

650 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.

651 Ibid.

652 EIGE, Cyber Violence against Women and Girls (supra).



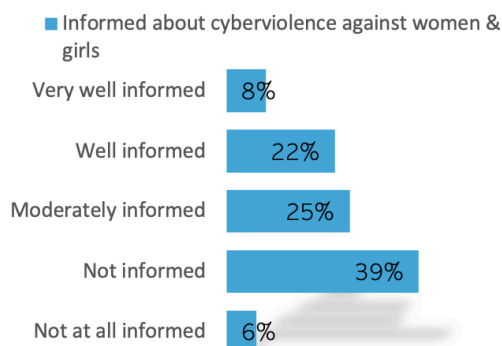


Figure 32: % Community responses on being informed about CVAWG (N=1,609)
 Source: Field data, 2023

Another question that the community members (those who said they were informed) were asked is to what extent they believe CVAWG is a problem, whereby nearly two thirds (62%) said it is a problem (34%) and a serious problem (28%)⁶⁵³. Nearly a third (31%) said such violence is only a moderate problem. Verbal abuse was said to be the most common act of CVAWG, at 47%, followed by non-consensual intimate image (NCII) abuse (31%), cyber harassment (28%), defamation/online character assassination (26%), cyberbullying (24%), and cyber stalking (21%)⁶⁵⁴. Other acts (less than 20%) identified included identity theft and online gender-based speech.

Qualitative data obtained in surveyed regions also suggest the growing problem of CVAWG. ICT experts, SWOs, NGO officials, and other key informants in nearly all surveyed regions acknowledged that most community members, including women and girls, are not well informed about CVAWG and cybersecurity. The key informants agreed that women and girls residing in urban and semi-urban areas, where access to social media platforms is higher, are more vulnerable to cyberviolence.

‘Many women are subjected to various acts of cyberviolence, but they are not aware that it’s actually violence.’

RSWO – Tabora

Reported issues and incidents of CVAWG

Through human rights survey, LHRC documented **22 incidents of CVAWG reported in some surveyed regions**. All victims were women, and majority of them reported in Kigoma (10), followed by Dar es Salaam (6), and Dodoma (2). In Singida, the **RSWO warned some women and girls against posting some pictures and videos of themselves and their children online and giving**

653 N=884.

654 Human Rights Survey 2023: Field Quantitative Data.



perpetrators, including pedophiles, ‘the ammunition’ to target and attack them in cyberspaces⁶⁵⁵. A young woman interviewed in Arusha echoed this warning, noting that women and girls need to be more careful than men when using social media.

‘This type of violence mostly affects us women because men tend to suffer less harm, for instance when they are posted naked. But when this happens to a woman she is subjected to ridicule and stigmatized, hence the need for women to be more careful and needed more protection in digital platforms.’

A young woman – Arusha City, Arusha

In Dodoma, some interviewed NGO officials and community members in Dodoma City and Mpwapwa District expressed concerns over non-consensual intimate image (NCII) abuse, noting that some women and girls have been victimized by their current or former intimate partners by posting or circulating their intimate images.

‘There is a young lady working for a government institution whose nude photo was posted by her boyfriend on a fake Instagram account following a quarrel. It had her name and profile picture and there was a caption on the photo reading that she was looking for a fiancé. The lady was so distressed that she considered quitting her job and leaving the country. When we reported the matter to the police one police officer called and told me that even the lady had committed a crime by recording herself and suggested they reconcile. After counselling her for a long time the lady has finally managed to continue with her life and work in Dodoma.’

SMAUJATA hero – Dodoma City

Non-consensual intimate image (NCII) abuse was also highlighted as a big issue in Dar es Salaam, where some NGO officials said some women and girls allow their intimate partners or boyfriends to take intimate or nude pictures of them, others take the pictures and send them themselves, while in some cases pictures are taken without their knowledge, and when they fight or break up their intimate partners post or circulate them on social media platforms.⁶⁵⁶

‘The main issue with the spread of nude photos of women is their desire to please their men, including by sending them requested nude photos, although some of the photos are taken and videos recorded by men without women’s knowledge. Another factor that discourages women to speak up is the fact that taking and sharing nude photos is a crime.’

NGO official – Dar es Salaam

In Iringa, the study discovered that parents, through the sharing of pictures and extensive personal information about their children on social media

655 LHRC Human Rights Survey 2023: Singida Field Report.
656 LHRC Human Rights Survey 2023: Dar es Salaam Field



platforms, unwittingly expose them to potential harm⁶⁵⁷. Some of the interviewed community members also laid blame on women themselves for posting intimate images and videos on social media for purposes of **'garnering followers and likes,'** making it easy for attackers to edit or manipulate the shared pictures or videos without their consent⁶⁵⁸. Some of the attackers in the region and elsewhere, including former intimate partners or lovers, were also said **to use intimate images obtained from women to extort money from them** and most women choose to pay rather than risk being posted on social media. Discussion with the *bodaboda* drivers in Kihesa Ward, Iringa MC, elucidated that possessing such images grants individuals a perceived sense of dominance.

In Kigoma, the survey team came across a woman who was a victim of cyber stalking, perpetrated by her own husband. She noted that she had to stop using a smart phone after realizing that her husband had diverted all calls to his phone and had even gained access to her social media accounts⁶⁵⁹.

In Kigoma, the survey team documented nine other incidents of cyberviolence against women, reported in Kasulu, Kigoma MC, and Kibondo. For instance, in Kasulu, a community member said there was a young woman who has disappeared after her intimate images with her lover were posted on Facebook, and that her family were looking for her⁶⁶⁰. In another incident, a community member in Kasulu claimed that there is a woman who has been **'enslaved' by a man and sexually exploited because the man has her nude pictures** and he has told her that if she tries to leave him or refuse him sex he shall circulate them⁶⁶¹.

A government employee in Kibondo also expressed that some young women are now **'stuck'** with men and cannot leave them even when they find out they have other women because they possess their nude pictures. In Kigoma MC, a young lady told the survey team that she **had to stop using Instagram because of cyber bullying and harassment**⁶⁶².

'There is a young woman who was blackmailed with her nude photos for money.'

LGA street leader – Kasulu, Kigoma

Community members also highlighted various impacts of CVAWG, including depression, self-isolation, and abandoning cyber spaces. In Tabora, the Executive Director of *Jamii Salama Development Volunteers* pointed out that **cyberviolence has affected the ability of some women and girls of freely**

657 LHRC Human Rights Survey 2023: Iringa Field Report.

658 Ibid.

659 Interview with a woman in Kigoma.

660 LHRC Human Rights Survey 2023: Kigoma Field Report.

661 Ibid.

662 Ibid.



using social media, fearing attacks and verbal abuse⁶⁶³. Similar concerns were expressed by interviewed paralegals in Arusha and Njombe Regions⁶⁶⁴.

In Rukwa, the RSWO revealed that some women have been stigmatized and socially excluded after being subjected to cyberviolence, especially abuse of intimate image⁶⁶⁵. In Dodoma, one woman in Mpwapa District was **kicked out of her home by her landlord after her intimate image was circulated in social media (WhatsApp) by her ex-lover and she had to close her hair saloon business and relocate**⁶⁶⁶.

Cyberviolence can have a huge negative impact on education. For instance, there is a fellow female student whose nude photo was posted on our WhatsApp group. Because of the stress, she could not attend classes for a whole semester.'

Community member – Tabora MC

In Kigoma, it was reported that a young woman in Kasulu District was **forced into prostitution to obtain money to pay her ex-lover, who possesses her nude pictures and was threatening to circulate and post them**⁶⁶⁷. In another incident, reported in Kigoma MC, **a wedding was cancelled after a man hacked the Facebook account of a woman and manipulated her images to generate and post fake nudes**⁶⁶⁸.

'My sister lost her fiancé because a man took photos from her Facebook account, used an app to create nudes from the photos, and then posted them on his account.'

A young woman – Kasulu DC

LHRC View: In today's world, access to the 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, 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, the Ministry of Community Development, Gender, Women and Special Groups, and the Ministry of Information, Communication, and Information

663 LHRC Human Rights Survey 2023: Tabora Field Report.

664 Interviews with five paralegals in Arusha and Njombe Districts.

665 Interview with RSWO in Rukwa.

666 LHRC Human Rights Survey 2023: Dodoma Field Report.

667 LHRC Human Rights Survey 2023: Kigoma Field Report.

668 Ibid.



Technology, 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.

5.1.4. Measures to Eliminate Violence against Women and Children

5.1.4.1. Measures Taken by Stakeholders

In 2023, various stakeholders, both government and non-government, continued to play their role in preventing and combating violence against women and children (VAWC), including through conducting campaigns and awareness-raising programmes. For instance, the Ministry of Community Development, Gender, Women and Special Group continued conducting anti-GBV/VAWC campaigns such as “**Twende Pamoja Ukatili Sasa Basi**” and “**Shujaa wa Maendeleo na Ustawi wa Jamii (SMAUJATA)**.”⁶⁶⁹ Justice institutions also continued to take action to arrest, prosecute, and punish perpetrators of VAWC. In Kilimanjaro, it was reported in October 2023 that villagers in Kiruweni Village in Moshi District, had started a process of developing **anti-VAWC bylaws**, following the prevalence of VAWC, especially acts of rape and sodomy.⁶⁷⁰ Earlier in September, it was reported that six wards in Siha District, namely Gararagua, Okrolili, Ormelili, Karansi, Donyomoruwa na Biriri, had adopted anti-GBV/VAWC bylaws.⁶⁷¹

In Dodoma, it was reported that a one-stop centre had been established at the General Hospital. However, interviews with some respondents and LGA (street) leaders revealed that there is an issue of inadequate awareness about the existence of such facility and its services.⁶⁷²

5.1.4.2. CAG Report on the Management of Measures for Eliminating Violence against Women and Children

In March 2023, the Controller and Auditor General (CAG), released the audit report on management of measures for eliminating VAWC in Tanzania. The report was a product of an audit conducted in six regions, namely Dar es Salaam, Ruvuma, Tabora, Arusha, Mara, and Iringa, with each region representing Eastern, Southern, Western, Northern, Lake, and Southern Highlands Zones respectively.⁶⁷³ These regions were selected because they had the highest number of reported cases of violence in their respective zones. The main objective

669 See HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WANAWAKE NA MAKUNDI MAALUM, MHE. DKT. DOROTHY O. GWAJIMA (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/24, para 54 at <https://www.parliament.go.tz/uploads/budgetspeeches/1684404778-Hotuba%20ya%20Bajeti%20-%20Wizara%20ya%20Maendeleo%20ya%20Jamii.pdf>.

670 “Waunda rasimu ya sheria ndogo kuzuia ukatili wa kijinsia” Nipashe Newspaper, 3 Oct 2023.

671 “Kata 6 zapitisha sheria kupinga ukeketaji, ukatili wa kijinsia” Nipashe Newspaper, 28 Sep 2023.

672 LHRC Human Rights Survey 2023: Dodoma Field Report.

673 UNITED REPUBLIC OF TANZANIA, NATIONAL AUDIT OFFICE, *PERFORMANCE AUDIT REPORT ON THE MANAGEMENT OF MEASURES FOR ELIMINATING VIOLENCE AGAINST WOMEN AND CHILDREN IN TANZANIA*, CONTROLLER AND AUDITOR GENERAL, MARCH 2023.



of the audit, covering the period of 2018/2019 to 2021/22, was to assess whether the Ministry of Community Development, Gender, Women, and Special Groups (MoCDGWSG) and the President's Office – Regional Administration and Local Government (PO-RALG) have adequately managed measures to eliminate VAWC to enhance equality, peace, and prosperity for all citizens. The findings of the report are summarized in Table 6 below.

Table 6: Summary of key findings of the CAG Report on Eliminating VAWC in Tanzania

| | | | | | | | | | | | | | | | |
|--|--|-------|------|-------|-------|-------|----------|------|---------|------|-------------------|-------|--------|-------|---|
| <p>Persistence of high rate of VAWC</p> | <ul style="list-style-type: none"> ■ A total of 189,522 cases of physical, emotional, and sexual violence against women and children reported in 4 financial years. | | | | | | | | | | | | | | |
| <p>Insufficient implementation of efforts to ensure reduction of reported cases of violence</p> <p>SWO Shortages</p> <table border="0"> <tr> <td>Regions</td> <td>41.9%</td> </tr> <tr> <td>LGAs</td> <td>75.9%</td> </tr> <tr> <td>Wards</td> <td>97.2%</td> </tr> <tr> <td>Villages</td> <td>100%</td> </tr> <tr> <td>Streets</td> <td>100%</td> </tr> <tr> <td>Health facilities</td> <td>97.6%</td> </tr> <tr> <td>Courts</td> <td>88.6%</td> </tr> </table> | Regions | 41.9% | LGAs | 75.9% | Wards | 97.2% | Villages | 100% | Streets | 100% | Health facilities | 97.6% | Courts | 88.6% | <p>Despite recorded achievements, various challenges hindered efforts, mainly:</p> <ul style="list-style-type: none"> ■ Insufficient social welfare staff at different levels of government operations (97.3% shortage overall) ■ Insufficient funds for NPA-VAWC implementation ■ Inadequate training and meetings of women and children protection committees <ul style="list-style-type: none"> ■ Committees failing to meet periodically and provide performance reports. ■ Absence of motivation to committee members and no funds to facilitate their activities. ■ NPA-VAWC coordinators are placed with respect to available LGAs and wards, instead of the number of reported cases of VAWC, hence huge differences of ratios of handled cases to coordinators. ■ Both ministries not achieving targets of disseminating VAWC and EIC materials to target groups and reducing different forms of violence ■ Insufficient disbursement of funds is mainly attributed to inadequate prioritization of gender-related activities, according to SWOs and community development officers (CDOs). |
| Regions | 41.9% | | | | | | | | | | | | | | |
| LGAs | 75.9% | | | | | | | | | | | | | | |
| Wards | 97.2% | | | | | | | | | | | | | | |
| Villages | 100% | | | | | | | | | | | | | | |
| Streets | 100% | | | | | | | | | | | | | | |
| Health facilities | 97.6% | | | | | | | | | | | | | | |
| Courts | 88.6% | | | | | | | | | | | | | | |
| <p>Insufficient measures for elimination of VAWC</p> | <p>The following weaknesses noted:</p> <ul style="list-style-type: none"> ■ Absence of roadmap towards elimination of VAWC specific to the areas ■ Absence of customized implementation strategy at schools and regional levels ■ VAWC data fragmentation: Discrepancy observed between data by PO-RALG and MoCDGWSG, mainly attributed to differences in systems/sources ■ Presence of culture of silence that hinders reporting of VAWC | | | | | | | | | | | | | | |

| | |
|--|---|
| <p>Inadequate measures to ensure elimination of VAWC</p> <p>Government disbursed 17% of budget</p> | <p>The following weaknesses observed in planned measures for eliminating VAWC:</p> <ul style="list-style-type: none"> ■ Measures not sustainable to eliminate VAWC – both ministries relying on NPA-VAWC, which is donor dependent, despite existence of other strategies ■ Inadequate mobilization and utilization of resources (half of VAWC implementation programmes relying on support of development partners and CSOs) ■ Unclear structure and functions of NPA-VAWC coordinators from district to steel levels ■ Available measures have also failed to address persistence of traditional and cultural practices which perpetuate VAWC, including child marriage and FGM, and address existence of discriminatory laws contributing to violence, such as Law of Marriage Act, said to contribute to child marriage and pregnancy. |
| <p>Ineffective coordination, collaboration, and communication between implementing agencies</p> | <ul style="list-style-type: none"> ■ There is inadequate sector coordination on gender-related issues, considering gender issues are cross-cutting, requiring multisectoral response. For instance, there is insufficient coordination in gender issues information sharing. ■ The presence of inactive committees is hindering coordination efforts. Only 223 out of 576 committees (38.7%) in visited LGAs were found to be active. |
| <p>Inadequate monitoring of the measures to eliminate VAWC</p> | <ul style="list-style-type: none"> ■ There is limited use of monitoring guidelines, and some coordinators at ward and community levels had limited awareness about them. There is also no joint monitoring and evaluation and insufficient use of results from M&E to inform decision-making. |
| <p>Unavailability of reliable data to inform decision against VAWC</p> | <ul style="list-style-type: none"> ■ There is unavailability of reliable data to inform the two ministries on decision-making, since there are different actors that collect data separately and there is on centralized system for data collection. |

Source: CAG VAWC Measures Audit Report, March 2023

In the audit report, the CAG concluded that despite significant efforts to eliminate VAWC in Tanzania, the two ministries, MoCDGWSG and PO-RALG, have not adequately ensured such measures are effectively implemented. He made several recommendations, key among them being ensuring resource mobilization for effective implementation of measures; ensuring effective monitoring and evaluation of measures; ensuring provision of capacity building and increasing human resources; and ensuring activities aimed at reducing GBV are incorporated into LGA plans⁶⁷⁴.

⁶⁷⁴ Ibid.



5.1.4.3. Role and Effectiveness of Women and Children Protection Committees: Field Findings

Role of NPA-VAWC Committees

In all surveyed regions, interviewed community members and key informants acknowledged the important role played by women and children protection committees in implementing the NPA-VAWC 2017/18-2021/22. The study generally discovered that the committees have played a big role in sensitizing community members about VAWC and its impacts, exposing VAWC incidents, as well as enhancing access to legal and other services for survivors. For instance, in Rukwa, the NGOs Coordinator in Kalambo DC told the survey team that the NPA-VAWC committees have been very useful in exposing acts of violence.

‘The women and children protection committees have significantly helped to expose acts of violence perpetrated against women and children...’

NGOs Coordinator – Kalambo DC

Key Issues and Challenges Faced by NPA-VAWC Committees

LHRC’s Human Rights Survey 2023 confirmed some of the key findings of the CAG VAWC audit report regarding women’s and children’s protection committees. The following key issues and challenges were discovered during interviews with community members and key informants.

Insufficient funds for implementation of NPA-VAWC

Coordinators lacking budget to hold meetings

‘I was also selected to join the committee and even received a letter to that effect, but we have never had a meeting, other than the kick-off meeting.’

NGO official - Manyoni

Committees being unable to meet

Contributed by insufficient funds

‘I am the coordinator of this ward and to tell you the truth we have never met because of lack of budget.’

CDO – Muhalala, Manyoni

Inadequate training for committee members

‘Lack of training for the women and children protection committees is a challenge in most parts of the country where we operate...and this has affected the effectiveness of the committees.’

NGO official – Dar es Salaam



Some committee members not having adequate knowledge of their responsibilities or not performing them

Contributed by inadequate training/lack of regular training

Committees regularly trained by NGOs or included in their projects having better knowledge and performing better

'...just a few days ago the chairperson of our women and children protection committee, who has not been very active, experienced violence within his family...he can now see the importance of the committee.'

DSWO – Nkasi, Rukwa

'We have a challenge of lack of budget for the committee, which in turn affects training for the committees as we mostly rely on training provided by NGOs.'

Committee member – Mara

Lack of motivation for committee members

'Most committee members are only motivated by allowances, which they ask for every time we plan a meeting.'

DSWO – Nkasi, RUKwa

Existence of inactive committees

Committees failing to meet

Committees failing to perform their responsibilities agreed in action plans

'Most women and children protection committees are inactive.....we have provided training to some of them.'

DSWO – Nkasi, RUKwa

Coordination challenges

Inadequate coordination SWO vs CDO as coordinator

Contributed by severe shortage of SWOs, especially at lower LGA levels

'The committees are not well coordinated, which makes them less effective. The guidelines are part of the problem because they stipulate that the coordinator shall be either a social welfare officer (SWO) or a community development officers (CDO) and shall be answerable to the Regional Administrative Secretary (RAS). At the same time, social welfare officers work under the regional medical officers (RMOs). It's a bit confusing finding a CDO as the coordinator in some regions and SWOs in others, while RAS also has a say over the coordination and running of the committees.'

RSWO - Singida



5.1.4.4.Challenges in Addressing VAW

Through document review and human rights survey, LHRC documented the following challenges in addressing VAW:

Customs and traditions

A huge problem, especially in Lake, Central, and Western Zones
Also occasions miscarriage of justice when the matter is settled using particular customs and traditions

“Based on our customs and traditions, its ok for a woman to be beaten by her husband, as a symbol of his authority over her.”

Community leader – Serengeti, Mara

‘Most of the domestic violence cases are settled by elders at family level and punishment is based on the customs and traditions. Usually, if the husband is found guilty then the punishment is providing a goat, which is cooked and eaten together with the elders from both sides.’

NGO official – Singida MC

Overreliance on donor and CSO support for NPA-VAWC budget

‘The NPA-VAWC is a very good initiative, however, it has been difficult to effectively implement it due to overreliance on stakeholder financial support. So, the committees have been established but generally struggle to implement the plan.’

SWO - Tabora



Shortage of SWOs & CDOs

SWO Shortage

| | |
|-----------------------------|-------|
| Regional | 0% |
| Regional referral hospitals | 73.2% |
| LGA | 63.2% |
| District hospitals | 59.4% |
| Ward/Health centres | 95% |
| Street/Village/Dispensary | 99.9% |

Source⁶⁷⁵

CDO Shortage

| | |
|----------|-------|
| Regional | 7.6% |
| LGA | 0% |
| Ward | 64.9% |

Source⁶⁷⁶

Remote areas

'There are very few of us (SWOs), while we are expected to be everywhere, including at our offices, on the streets, and courts of law, which presents a very big challenge for us. The Government needs to do something about this issue.'

SWO - Kigoma

'Shortage of SWOs has substantially affected the effectiveness and implementation of NPA-VAWC. The Government should find ways to reduce this problem, especially in regions that lead in reported violence incidents.'

NGO official – Dar es Salaam

'This region is large, which makes it difficult to timely reach some remote villages and provide our services.'

SWO – Morogoro

675 HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WANAWAKE NA MAKUNDI MAALUM, MHE. DKT. DOROTHY O. GWAJIMA (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/24 (*supra*).

676 Ibid.



Social acceptance of VAW

'Our husbands are justified in beating us when we make mistakes so that we can correct ourselves.'

A woman – Kibondo, Kigoma

'There are women who are subjected to physical violence by their partners but neither report to us nor the police gender and children desk. When you ask them why, they tell you it is normal for them to be beaten because of seeing women being beaten since during childhood.'

RSWO – Morogoro

'When a wife is beaten a little bit so that she mends her ways, it does not amount to violence. Violence is acts such as murder, rape, not one or two slaps on your wife.'

A man – Mkalama, Singida

The cultures of silence and 'concealing family shame'

'Sometimes we wish to stop taking GBV cases because you might use your resources to help victims and create enmity then when you get to court the victims either do not show up or turn hostile.'

NGO official – Hai, Kilimanjaro



Corruption

'We helped file 15 rape cases in court this year but only three have resulted into convictions and we believe it's because many accused persons offer bribes to the justice actors, especially police and court officers.'

NGO official - Kigoma

'There was one case involving an 8- year-old child whereby we had all the evidence to secure a conviction in court, but the accused person targeted and offered a Tshs. 1 million bribe to the victim's mother. We initially managed to prevent her from taking the bribe, but I think she later did because suddenly she stopped following up on the case.'

RSWO – Singida

Fear of providing testimony in court

'Sometimes people are afraid of going to court to provide testimony, while others fear being bewitched by the perpetrator or their family.'

Paralegal – Mbinga, Ruvuma

Fear of retaliation among victims/ survivors

'I don't wish to file any charges against that man because he is dangerous and unpredictable. I am at peace now, so that's what matters.'

A woman – Kongwa, Dodoma



Poverty

- Some women are stuck in abusive relationships because their partner is the sole breadwinner.
- Studies have shown that women without income or unemployed are more vulnerable to GBV and are less likely to put a fight when subjected to acts of violence because they feel they do not have the means to escape GBV.
- Contributes to some of them choosing not to report them or testify in court.
- For some, going back home to their parents is not an option either.
- In some regions, such as Singida, Manyara, Iringa, Mbeya, and Njombe, some women were said to be reluctant to report their husbands because of fear of being kicked out of home or risk of their husbands receiving severe punishment (fine or sentence)

“Women without any income generating activity find it more difficult to leave their abusive husbands and decide to persevere.”

Paralegal- Babati, Manyara

‘Married women are not allowed to return to their parents unless their husbands give permission, so you find them persevering because of lack of that option.’

NGO official- Singida MC

‘If you accuse your husband and report him to the authorities people ask you how you shall survive with children if he is imprisoned.’

NGO official- Mbeya MC

Inadequate men engagement

‘We are not making much progress in combating GBV because of the approach, which is focused on empowering a woman, while ignoring or not engaging enough the perpetrators, who have the power and resources.’

RCDO – Tabora

Fear of justice institutions

- Reported in some regions, including Dar es Salaam, Ruvuma, Geita, and Tabora

‘There are people in the community who are still afraid of going to a police gender desk or a court to give testimony.’

Paralegal- Dar es Salaam

Limited awareness about women’s rights and VAW

‘Another key challenge in the community is low awareness about women’s rights and GBV, including among women themselves.’

Community member- Nyasa, Ruvuma



Non-reporting of violence

- Some victims still not comfortable reporting for various reasons, including fear and risk of social exclusion.
- Contributed by village leaders deciding to settle VAWC cases e.g. in Rukwa.
- Nearly a half (49%) of women who have ever experienced physical or sexual violence neither seek help nor tell anyone about the violence.⁶⁷⁷ Only 38% seek help, while remaining 13% seek help but do not tell someone about the violence.⁶⁷⁸

'GBV incidents, especially those involving close relatives as perpetrators, are rarely reported in our community.'

Human rights defender - Pwani

'Village leaders tend to resolve GBV and VAC disputes, which undermines the willingness of the community members to report such incidents to the relevant authorities.'

RSWO- Rukwa

Alcoholism



Figure 33: % Intimate partner violence by husband's/intimate partner's alcohol consumption

Source: TDHS-MIS 2022

'Wife beating is very common in our community and some even get kicked out of the house in the middle of the night. Alcoholism among men is a key driver.'

Street leader- Msaranga, Moshi DC

'There is a man in our street who really beats his wife when he is drunk, causing her severe pain.'

NGO official- Kibondo DC

Shortage/lack of one-stop centres & police gender desks

'We don't have a one-stop centre at our Regional Referral Hospital like in other regions, thus the victims cannot get key services such as PF3, treatment, and counseling timely.'

RSWO – Rukwa

677 Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Final Report (*supra*).

678 Ibid.



Low prosecution and conviction rates

- Only 29% of 14,184 GBV and VAC incidents reported to police stations in the period of July 2022 to May 2023 were taken to court, 2,144 resulted in conviction (52%), and 988 resulted in acquittal (24%)⁶⁷⁹

'There is a huge gap between reported incidents of violence and cases taken to court. This is contributed by poor cooperation from victims' relatives and witnesses. There are also many convicts who overturn their conviction on appeal.'

NGO official – Dar es Salaam

In Singida, the survey team also followed up on a case reported in the previous report of 2022, whereby a woman had reported her husband to the Social Welfare Office in Singida DC for sexually assaulting her, including regularly sodomizing her against her will, leading to arrest of the husband. However, in October 2023, the CDO told the team that she had dropped charges against her husband and returned to him, noting that she never wanted her husband to be apprehended and her colleagues to ask why she did that to him, while he is the one feeding her and their children⁶⁸⁰.

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 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)⁶⁸¹.

LHRC's Call: The Government to enact anti-GBV law to prevent and address GBV in line international human rights standards.

5.1.5. Women's Political Participation

As Tanzania heads towards the local government and general elections of in 2024 and 2025 respectively, women's effective political participation continues to be hindered by various socio-economic and legal hurdles, including gender gaps in electoral and political parties laws, including the Constitution of the United Republic of Tanzania of 1977, the Political Parties Act, and the National Elections Act. In some communities across Mainland Tanzania, discriminatory customs and traditions also hinder women's political participation.

⁶⁷⁹ See HOTUBA YA WAZIRI WA MAMBO YA NDANI YA NCHI MHE. MHANDISI HAMAD M. Y. MASAUNI (MB.), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/2024 (supra), p. 36.

⁶⁸⁰ Interview with Singida DC CDO in Singida.

⁶⁸¹ See UN Women, Definition of domestic violence, 11 December 2010, at <https://www.endvawnow.org/en/articles/398-definition-of-domestic-violence.html>.



'In a rural community like ours, women are afraid of vying for leadership positions because of the restrictive customs and traditions, as leadership is believed to be only for men.'

NGO official – Singida MC

Other challenges facing women in politics and those who aspire to become leaders include sexual corruption, violence against women in politics (VAWP), inadequate support from political parties, inadequate representation in party decision-making structures, and gender gaps in political party instruments.

In 2022, the presidential taskforce on multiparty democracy in Tanzania made several recommendations to improve women's political participation, including relevant legal reforms. However, in 2023 LHRC generally observed that legal framework remains the same. Political party decision-making structures also continued to be dominated by men, with very few women holding top positions within the parties.

LHRC's View: While not a panacea for all political participation problems, legal reforms shall significantly boost women's political participation.

LHRC's Call: The Government should take measures to make legal and policy reforms to safeguard women's right to political participation, including by incorporating gender equality provisions within electoral and political parties laws and penalizing violence against women in politics.

5.1.6. Women's Safety and Security

Like other groups in the community, women in Tanzania are entitled to the right to liberty and personal security, guaranteed under the Constitution of the United Republic of Tanzania of 1977 and various regional and international human rights instruments. However, women's safety and security in the country continues to be jeopardized by various factors, including the high rate of VAW. The various incidents of violence perpetrated against women in 2023, including intimate partner violence (IPV), sexual violence, killings, and being attacked over witchcraft suspicion and property show a serious concern over their safety and security. As pointed out above, even the women and children protection committees have not adequately ensured women's safety and security, due to the various challenges they face, while discriminatory customs and traditions also contribute to jeopardizing women's safety and security.

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 to enhance protection for women and safeguard rights of women, including right to personal security, freedom from violence, and freedom of movement.

5.1.7. Women's Access to Justice

Women's access to justice in Tanzania is generally low, based on the 2022 Social Institutions and Gender Index (SIGI) report, which shows that women's ability and willingness to resort to the courts and the police are limited.⁶⁸² In situations of conflict, only 20% of women seek access to the lowest court and just a quarter (25%) seek help from the police. According to the report, Family and friends are the most preferred option for most women when seeking justice or settling a dispute,⁶⁸³ as also confirmed by the Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022, released in 2023 and a 2023 report on women's rights and access justice by the Tanzania Network of Legal Aid Providers (TANLAP). However, women are less likely to get justice at family level, as families usually encourage them to forgive and forget as well as tolerate violence.

Like other special groups, women, especially those residing in rural areas, are also disproportionately affected by the various barriers to access to justice discussed in Chapter Two (civil and political rights) under the sub-chapter on right to equality before the law. One of the key challenges for women's access to justice is affording costs of legal representation, given the fact that majority of them live in poverty.

According to TANLAP's women's access to justice report, 'the most significant barriers to women's access to justice include not **knowing where to file a complaint** (66.7%), **poverty and costs of legal representation** (64.9%), **patriarchy** (51.4%), **low legal awareness** (50.5%), **case duration** (47.7%), **corruption** (46.8%), **discriminatory customs and traditions** (40.5%), and **access to legal aid services** (40.5%).'⁶⁸⁴ As pointed out above, social acceptance of VAW also limits women's access to justice, especially in rural areas.

5.1.8. Women's Economic Empowerment

Economically empowering women is essential in the fight against GBV as a key preventive measure and escape route.⁶⁸⁵ Economic empowerment can

682 OECD (2022), SIGI Country Report for Tanzania, Social Institutions and Gender Index, OECD Publishing, Paris, <https://doi.org/10.1787/06621e57-en>.

683 Ibid.

684 TANALP (2023), *ASSESSMENT OF WOMEN'S RIGHTS AND ACCESS TO JUSTICE IN TANZANIA*, TANLAP: Dar es Salaam, Tanzania.

685 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>.

afford women the financial independence to leave abusive relationships or prevent GBV.⁶⁸⁶ According to UN Women, investing in women's economic empowerment sets a direct path towards gender equality, poverty eradication and inclusive economic growth.⁶⁸⁷ 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, various women's economic empowerment initiatives have been established, but the most popular are the 10% interest free loans⁶⁸⁸ (4% for women, 4% for youth, and 25 for PWDs) provided by Local Government Authorities (LGAs)⁶⁸⁹ and the Women Development Fund, which is a programme run by the Ministry of Community Development, Gender, Women and Special Groups (MoCDGWSG).

In 2022, the Controller and Auditor General (CAG), Charles Kichere, released the audit report on the Women, Youth, and People with Disabilities Revolving Fund (WYDF), through which LGAs grant loans to women, youth, and PWDs. In the 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.⁶⁹⁰ These issues and challenges culminated into Government's decision to seize granting of such loans from April to June 2023 to re-assess and make adjustments, before being re-introduced later in the year.

In her budget speech for the financial year 2023/2024, the Minister of Community Development, Gender, Women, and Special Groups, Hon. Dorothy Gwajima (MP) noted that her ministry had collaborated with the President's Office – Regional Administration and Local Government to coordinate and grant loans worth Tshs. 30.9 billion to 5,120 women's economic groups in 184 LGAs within the period of July 2022 and April 2023.⁶⁹¹ She also mentioned that a total of Tshs. 664.5 million had been granted to 104 women entrepreneurs in Dodoma, Pwani, Singida, and Dar es Salaam Regions within the same period.

In 2023, LHRC observed that access to the LGA loans is partly hampered by payments of funds to 'ghost' groups and non-payment of the loans. For instance,

686 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/>.

687 See UN Women "Economic empowerment" at <https://www.unwomen.org/en/what-we-do/economic-empowerment>.

688 Women, Youth, and People with Disabilities Revolving Fund (WYDF).

689 See Section 37A of The Local Government Finance Act, CAP 290 [R.E 2019].

690 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.

691 HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WANAWAKE NA MAKUNDI MAALUM, MHE. DKT. DOROTHY O. GWAJIMA (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/24 (*supra*), p. 71.



in March 2023, it was reported in Shinyanga that 212 groups of women (133), youth (71), and PWDs (8) in Kahama MC had been taken to court for failure to repay the loans.⁶⁹² A similar report was made in Simiyu in the following month, whereby 82 groups in Maswa District were taken to court for failure to repay Tshs. 129.9 million provided during the financial year 2021/22.⁶⁹³ In the same month, it was reported that the CAG had found payment of Tshs. 895.94 million to 48 'ghost' groups, majority of them in Dar es Salaam.⁶⁹⁴

5.1.9. Key Recommendations

- The Ministry of Constitutional and Legal Affairs to ensure enactment of a specific and comprehensive law on gender-based violence, given the inadequacy of the current legal framework.
- 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 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 rights⁶⁹⁵. 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 exploitation⁶⁹⁶.

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 marriage⁶⁹⁷.

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.

692 "Vikundi 212 kuburuzwa kortini kwa kushindwa kufanya marejesho" Nipashe Newspaper, 7 Mar 2023.

693 "Vikundi 82 vilivyoshindwa kufanya marejesho vyafikishwa mahakamani" Nipashe Newspaper, 17 Apr 2023.

694 "Vikundi hewa 48 vyatafuna mil. 896/-" Nipashe Newspaper, 7 Apr 2023.

695 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.

696 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.

697 Article 5 of Maputo Protocol; Article 21 of the African Charter on the Rights and Welfare of

Sexual violence Physical & emotional violence Economic violence 2% 19% 79% the Child.



5.2.1. Violence against Children

In 2023, children across Mainland Tanzania continued to be subjected to various forms of violence, including physical, sexual, psychological, and economic violence. This sub-chapter presents some key findings on violence against children during this reporting period.

5.2.1.1. General Findings

Incidents documented by LHRC

In 2023, LHRC documented 464 incidents of violence against children (VAC), increasing from 350 documented in 2022 through media survey and human rights monitoring. Analysis of these incidents showed that sexual violence continued to account for the majority of reported incidents, at 79%, followed by physical and emotional violence (19%), and economic violence (2%).

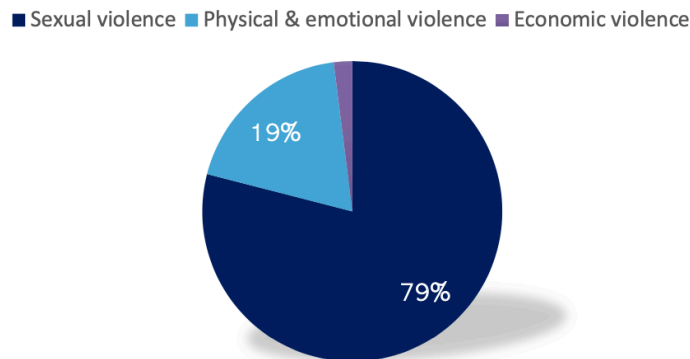


Figure 34: %Incidents of VAC documented by LHRC in 2023 by form

Further analysis of the incidents documented by LHRC showed that VAC victims were children as young as one year old and perpetrators included parents, close relatives, fellow children, teachers, neighbours, and strangers.

Through human rights survey, conducted in 20 regions of Mainland Tanzania, LHRC documented an additional 2,807 incidents of VAC reported in 15 out of the 20 regions. The incidents were reported in regions such as Tabora, Tanga, Arusha, Kilimanjaro, Morogoro, Dodoma, Rukwa, and Kigoma.

57% of the reported incidents were sexual VAC, followed by physical and emotional violence (37%), and economic violence (6%). However, interviews with RSWOs and other key informants, such as NGO officials, indicated regional variations in terms of the most reported form of VAC, whereby in most regions sexual violence was said to be the most reported, while in some physical and emotional violence were said to be bigger concerns.



Qualitative findings of the human rights survey painted a picture of VAC increasing compared to the previous year. Interviewed key informants, including SWOs, identified various perpetrators of VAC including family members and close relatives; parents; *bodaboda* drivers; teachers, especially male teachers engaging in sexual relationships with female students and implicated in child pregnancy; and older children, especially boys (child on child sexual abuse).

‘Most of the perpetrators of violence against children are close relatives, which is why people fear reporting the incidents to the authorities to avoid family quarrels. However, this is unacceptable, and we should all fight against such violence day and night.’

Community member – Bumbuli, Tanga

Police and government data

Analysis of police data on VAC in recent years has shown that over 30 incidents of VAC occur in Tanzania each day, and that over two thirds of the victims (8 out of 10 children) are girls. Regions (police regions) usually recording most VAC incidents are Tanga, Mwanza, Mbeya, Arusha, and Temeke (Dar es Salaam)⁶⁹⁸. An average of 14,349 incidents of VAC have been recorded by the Police Force each year in the period of 2019 to 2021. In 2023, the Minister of Community Development, Gender, Women and Special Groups, Hon. Dr. Dorothy Gwajima (MP), revealed in Parliament that **a total of 15,901 VAC incidents were recorded by police in the period of January 2022 to March 2023**⁶⁹⁹. The minister also warned about the **threat of online violence against children**⁷⁰⁰.

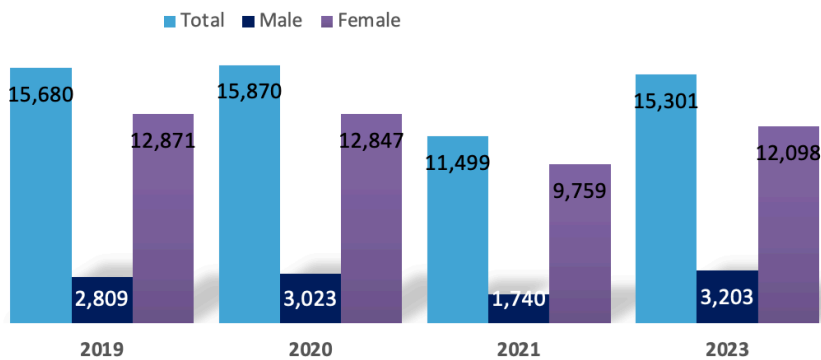


Figure 35: VAC victims in Tanzania by sex – 2019 to 2023

Source: Police data, 2019 to 2023

⁶⁹⁸ 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.

⁶⁹⁹ HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WANAWAKE NA MAKUNDI MAALUM, MHE. DKT. DOROTHY O. GWAJIMA (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/24 (supra), p. 33.

⁷⁰⁰ Ibid, p. 41.

Community Perceptions on Violence against Children

Community members who participated in the human rights survey in 2023 were asked about the extent to which VAC is a problem in the community, whereby, like in previous surveys, over two thirds of them (77%) said it is a problem (39%) and a serious problem (38%).

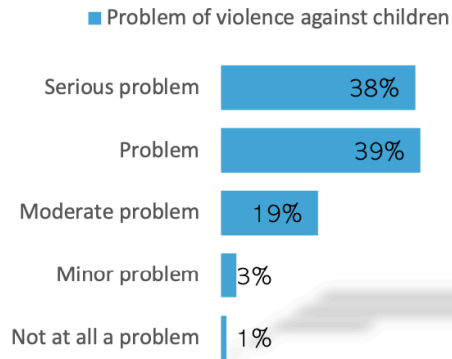


Figure 36: % Community responses on extent of VAC problem (N=1,609)
Source: Field data, 2023

Community members were also asked which form of VAC they hear about the most or is perceived to be most prevalent and which acts of VAC are common in their communities. Sexual violence (35%) was mentioned the most, followed by physical violence (30%), and psychological violence (23%), while economic violence (12%) was perceived to be the least of the community concern. Regarding common acts of VAC, beating, slapping, and kicking were mentioned the most (50%), followed by child neglect/abandonment (42%), rape and attempted rape (38%), and sodomy (37%), as shown in Figure 37 below.

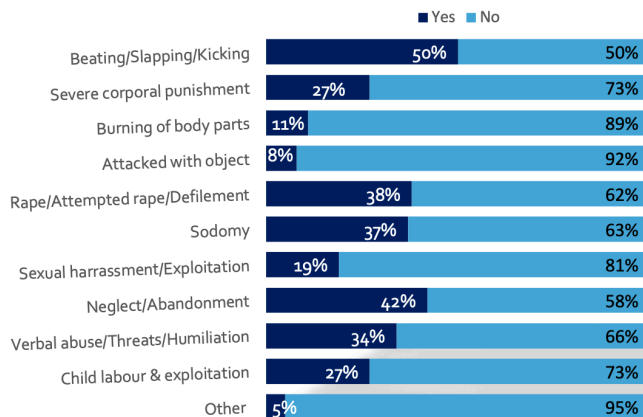


Figure 37: Community perceptions on common acts of VAC
Source: Field data, 2023



The majority of key informants in most surveyed regions, including SWOs and NGO officials, suggested that **VAC is a bigger concern than VAW in the community**. This was mentioned by the key informants in regions such as Singida, Ruvuma, Dar es Salaam, Pwani, Tanga, Mwanza, and Geita.

‘Violence against children is more prevalent in our community than violence against women.’

RSWO – Singida

Settings of Violence against Children

In May 2023, the Minister of Community Development, Gender, Women and Special Groups, Hon. Dr. Dorothy Gwajima (MP), stated that **60% of incidents of VAC occur at home**, while the remaining 40% occurs in setting such as streets and school⁷⁰¹. She mentioned the **cultures of silence and ‘settling VAC at home’** as key contributing factors to most of the incidents occurring in home settings, by family members and close relatives. She urged parents to fulfil their duties towards their children, including protecting them from violence, and set aside more time for them to understand the challenges they face⁷⁰².

VAC at Day Care Centres and Children’s Homes

In April 2023, the Ministry of Community Development, Gender, Women and Special Groups issued a press release on strengthening child protection at day care centres and children’s homes. The statement indicated that it had come to the attention of the ministry that various VAC incidents had been reported at day care centers and children’s homes, especially rape, sodomy, beatings, exposure to pornography, name-calling, discrimination, isolation, neglect, exploitation, FGM, child marriage and bullying⁷⁰³. This is contrary to various laws, regulations, and guidelines governing child protection and care services, including the Law of the Child Act of 2009. Childcare providers were reminded to comply with these national instruments and those providing day care were told to not provide such services beyond 6pm⁷⁰⁴.

5.2.1.2. Sexual Violence

Incidents documented by LHRC

As pointed out above, 79% of incidents of VAC documented by LHRC in 2023 were sexual violence. A total of 366 incidents were documented through media survey and human rights monitoring, increasing from 283 documented in 2022.

701 HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WANAWAKE NA MAKUNDI MAALUM, MHE. DKT. DOROTHY O. GWAJIMA (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/24 (supra), p. 48; “Gwajima: Asilimia kubwa ukatili watoto ni ndugu” HABARILEO Newspaper, 10 May 2023.

702 Ibid.

703 JAMHURI YA MUUNGANO WA TANZANIA, WIZARA YA MAENDELEO YA JAMII, JINSIA, WANAWAKE, NA MAKUNDI MAALUM, TAARIFA KWA UMMA: KUIMARISHA ULINZI WA WATOTO WANAOPATIWA HUDUM KATIKA VITUO VYA KULEA WATOTO WADOGO MCHANA, VITUO VYA KULELEA WATOTO WACHANGA NA MAKAO YA WATOTO, 13 Aprili, 2023.

704 Ibid.



However, LHRC documented additional 1,599 incidents in 10 of the 20 surveyed regions. Most reported incidents of sexual VAC were rape and sodomy, and perpetrators included strangers, fathers and stepfathers, family friends, close relatives, teachers, health workers, bus drivers, and other children (boys). Regions where most incidents were reported included Iringa, Dar es Salaam, Geita, Kigoma, Kilimanjaro, Arusha, Dodoma, and Tanga. The perpetrators ranged from 14 to 70 years old.

Reported rape and sodomy incidents

Children as young as 4 years were reportedly raped and sodomized.

LHRC documented rape and sodomy incidents across Mainland Tanzania, including in surveyed regions. For instance, in Songwe, police arrested a *bajaj* (tricycle) driver, Ayubu Mng'osi (30), for raping and defiling two children aged 7 and 9 years in July 2023⁷⁰⁵. In Iringa, police arrested another *bajaj* driver, Alex Msingwa (34), in December for raping more than 20 girls aged 6 to 14 years⁷⁰⁶. In the previous month, the Iringa Resident Magistrate Court sentenced to life imprisonment a man, Mkude Nziku, after finding him guilty of raping an 11-year-old girl earlier in the year⁷⁰⁷.

Girls working as housemaids are also vulnerable to rape. In Manyara, it was reported in April 2023 that the Babati District Court had sentenced to 30 years in prison, Issaya Mtinangi (35), for raping a 15-year-old housemaid⁷⁰⁸. In Pwani, the Kibaha Resident Magistrate Court sentenced Otienal Ibrahimu (36), to 30 years in prison in July for raping a 15-year-old housemaid in February⁷⁰⁹.

Witchdoctors were also implicated in rape and sodomy. For instance, in February 2023, it was reported in Mtwara that police had arrested a witchdoctor, Issa Mando (41), resident of Chipuputa Village, for raping a 17-year-old girl in the name of **removing 'bad luck' from her body through sexual intercourse**⁷¹⁰. A similar incident occurred in Kilimanjaro in August, where police arrested a witchdoctor, Stephano Mjema (36), for raping two students, of standards six and seven, to 'inject' medicine into their body as part of 'treatment.'⁷¹¹ The incident came to light when **one of the victims attempted suicide** and narrated the ordeal at a police station.

In some cases, girls were **raped and killed**, as was the case in Kilimanjaro where a 6-year-old child, resident of Kibosho Sinde Village, was reportedly

705 "Dereva mbaroni kwa kubaka, kutomasa watoto" HABARILEO Newspaper, 19 Jul 2023.

706 LHRC Human Rights Monitoring, December 2023.

707 "MKUDE AHUKUMIWA JELA MAISHA IRINGA" MillardAyo, 28 Nov 2023.

708 "Kifungo cha miaka 30 kwa kumbana 'house-girl'" Nipashe Newspaper, 22 Apr 2023.

709 LHRC Human Rights Monitoring, July 2023.

710 "Mganga wa kienyeji mbaroni madai kumnajisi mteja wake" Nipsahe Newspaper, 28 Feb 2023.

711 "Mganga mbaroni akidaiwa kubaka" Mwananchi Newspaper, 15 Aug 2023.



raped, sodomized, and then killed by unknown men in May 2023⁷¹².

Children with disabilities are also vulnerable to different forms of child abuse, including rape. In November 2023, the Iringa Resident Magistrate Court sentenced a 66-year-old man to five years in prison for raping a 14-year-old girl with disability in Mkongwe Village, Mufindi District⁷¹³.

Other children are infected with STDs, including HIV/AIDS, when subjected to acts of rape and sodomy. This is what happened to an 11-year-old in Iringa, who was raped and infected with HIV by an older man, Selemani Gwabuga (78), in Iringa DC⁷¹⁴. A similar incident occurred in Geita Region, where Deogratus William (45), resident of Geita District, was accused of raping a 17-year-old girl and infecting her with HIV⁷¹⁵. Another similar incident was reported by a SWO in Kigoma.

“One of the saddest incidents that we have documented this year is rape of a form two student, who was also found pregnant and infected with HIV. The perpetrator is a bodaboda driver.”

SWO – Kigoma MC

Other girls were subjected to **gang rape**, an extreme form of sexual violence. For instance, in Dar es Salaam police arrested two *bodaboda* drivers, Abbasi Mbunda (22) and Musa Mohamed (20), in May 2023 for gang raping a girl in Temeke District⁷¹⁶.

Rape and sodomy perpetrated by fathers and step-fathers

“There are some fathers and stepfathers who rape and sodomize their own children.”

Community member – Singida MC

Fathers and stepfathers were among the common perpetrators of sexual VAC in 2023. LHRC documented 26 incidents of rape and sodomy perpetrated by fathers and stepfathers, reported in Kilimanjaro, Pwani, Njombe, Katavi, Mara, Dodoma, Ruvuma, Geita, Pwani, Shinyanga, Dar es Salaam, Tabora, Mtwara, Iringa, and Kigoma Regions. For instance, in **Pwani**, a man, resident of Mbunju Mvuleni Village in Rufiji District, was accused of raping and impregnating his daughter⁷¹⁷, committing incest in the process. In July, Kibaha District Court, located in the region, imposed a 60-year prison sentence on Alexander Ndogole (53) for raping and impregnating his 14-year-old stepdaughter⁷¹⁸.

712 “Mtoto adaiwa kubakwa, kuuwawa, watuhumiwa mbaroni” Mwananchi Newspaper, 6 Jun 2023.

713 “EMMA (66) JELA MIAKA MITANO IRINGA” Millard Ayo, 18 Nov 2023.

714 “JELA MAISHA KWA KUMPA UKIMWI MTOTO” Millard Ayo, 27 Oct 2023; “Aliyebaka mtoto na kumwambukiza ukimwi afungwa maisha mara mbili” Mwananchi Newspaper, 27 Oct 2023.

715 “AFIKISHWA MAHAKAMANI KWA KUBAKA NA KUMWAMBUKIZA MTOTO VIRUSI VYA UKIMWI” Jamii Forums, 22 Jun 2023.

716 LHRC Human Rights Monitoring, September 2023.

717 “Polisi wamdaka baba anayedaiwa kuzaa na bintiye” Mwananchi Newspaper, 18 Oct 2023

718 “Baba wa kambo jela miaka 60 kumpa mimba mwanawe” HABARILEO Newspaper, 12 Jul 2023.



A stricter punishment, life imprisonment, was imposed by the court on Dickson Chilongola (37), after finding him guilty of raping his 10-year-old stepdaughter in April 2023⁷¹⁹.

In **Shinyanga**, it was reported in April that Abel John (35) had been arrested for allegedly sodomizing his two daughters aged 8 and 11, whom he had been living with after separating with his wife seven years before⁷²⁰.

In **Ruvuma**, Tunduru District Court sentenced Mohammed Ngwelekwe (25), resident of Namiungo Village, to life imprisonment after finding him guilty of sodomizing his own child aged four years⁷²¹.

Some of the sexual VAC incidents were said to be **motivated by witchcraft beliefs**. Some fathers said they committed acts of sexual violence to their children because those were the **directives of their witchdoctors**. In Geita, police arrested and took to court Mabula Maduhu (23), resident of Shinyanga A Village in Mbogwe District, for raping his daughter, claiming that he did so because that is what a witchdoctor had told him to do so that he can **enjoy success in his mining activities**⁷²².

A similar incident was reported in Songea, Ruvuma, in March 2023, whereby a *bodaboda* driver was found guilty of raping his 17-year-old daughter⁷²³.

In Kigoma, the Executive Director of an organization called WAPAO narrated two incidents of fathers raping their daughters to become rich, as directed by witchdoctors.

‘I was once in a police cell in Kasulu, where I met a man and he told me, after asking him why he was there, that he had been arrested for raping his 3-year-old child, and he did so because a witchdoctor told him if he slept with his daughter, he would get rich.’

NGO director – Kigoma

In **Dodoma**, LHRC came across an incident of rape perpetrated by a father in in Dodoma City in January 2023, as narrated by the RSWO. It was revealed that the husband deliberately raped his daughter because of being denied conjugal rights for three months by his wife. He reportedly did the act in front of the wife⁷²⁴. In **Iringa**, the team came across a case of a 10-year-old girl who was brave enough to go to a ward office and report that her father had been raping her. The father fled as the ward office worked with the NPA-VAWC committee and a SWO to ensure the safety of the child⁷²⁵.

In another reported incident in the region, a standard 7 student had been

719 “Baba afungwa maisha kwa kumnajisi mtoto wake wa kufikia” HABARIELO Newspaper, 29

Apr 2023.

720 “Baba mbaroni akidaiwa kulawiti wanawe” HABARILEO Newspaper, 6 Mar 2023; “Baba ashikiliwa tuhama kulawiti watoto wake” Nipashe Newspaper, 28 Feb 2023.

721 “Jela maisha kumlawiti mwanawe wa miaka minne” Nipashe Newspaper, 7 Mar 2023.

722 “Aliyenajisi mtoto wake akitaka utajiri afungwa maisha” HABARILEO Newspaper, 22 Dec 2023.

723 LHRC Human Rights Monitoring, May 2023.

724 LHRC Human Rights Survey 2023: Dodoma Field Report.

725 LHRC Human Rights Survey 2023: Iringa Field Report



allegedly **raped by her father for three years.**

Government data on rape

Girls constitute the majority of rape victims in Tanzania. A total of 57,335 rape incidents have been reported in Tanzania in the period of 2015 to 2022⁷²⁶, **averaging 7,166 incidents each year and 597 each month.** Analysis of police data shows that **girls constitute over 80% of rape victims in Tanzania**⁷²⁷.

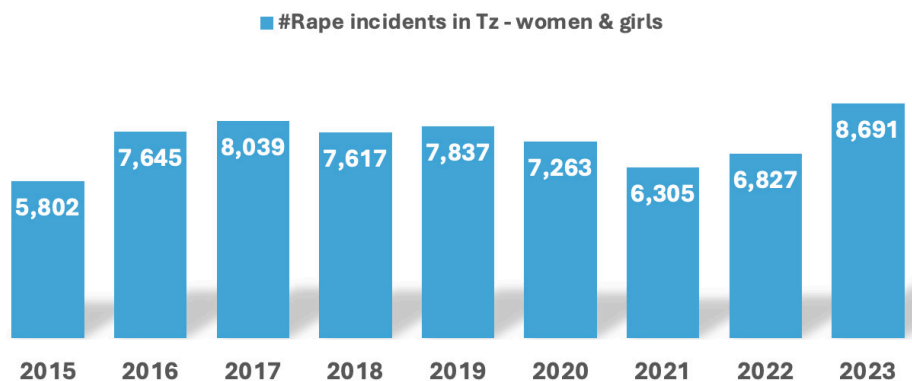
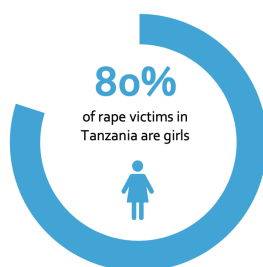


Figure 38: # Rape incidents reported in Tanzania – 2015 to 2023

Source: NBS & TPF



Other reported incidents of sexual VAC

Other reported incidents of sexual VAC included acts of violence perpetrated by **teachers** such as rape, sodomy, and sexual harassment. LHRC documented at least five incidents involving teachers as perpetrators, reported in Pwani, Arusha, Mwanza, Njombe, and Dar es Salaam Regions. For instance, in Pwani, the Mkuranga District Court sentenced to life imprisonment a teacher from St. Mathew Primary School, Livingston Kyarwenda (40), after finding him guilty of sodomizing his 9-year-old student⁷²⁸.

⁷²⁶ Jamhuri ya Muungano wa Tanzania, Jeshi la Polisi Tanzania & Ofisi ya Taifa ya Takwimu, TAKWIMU ZA HALI YA UHALIFU NA MATUKIO YA USALAMA BARABARANI JANUARI — DESEMBA 2020, Januari 2021, at https://www.nbs.go.tz/nbs/takwimu/Crime/Crime_Report_January_to_%20December_2020.pdf; United Republic of Tanzania, National Bureau of Statistics, Tanzania in Figures 2022.

⁷²⁷ TAKWIMU ZA HALI YA UHALIFU NA MATUKIO YA USALAMA BARABARANI JANUARI — DESEMBA 2020 (supra).

⁷²⁸ “Mwalimu jela miasha kwa kumlawiti mwanafunzi” Mwananchi Newspaer, 29 Nov 2023.

In Njombe, a teacher at Mwembetongwa Primary School, located in Njombe TC, was arrested by police for allegedly sexually assaulting five students by inserting his fingers into their private parts⁷²⁹. In Mwanza, Charles Maige, the Headteacher of Kilimo Primary School, reportedly raped and impregnated a standard seven pupil (15) at the school⁷³⁰. He reportedly threatened her with a knife if she screamed. Another teacher at the school, Venance Komba, was also arrested for attempting to sexually assault the same pupil⁷³¹. In Dar es Salaam, the Kinondoni Municipal Council reportedly suspended head of the Makumbusho Secondary School over allegations of sexually harassing his students, levelled against him by students and parents⁷³².

Cases of **mothers sexually abusing their children** are rare, but they occur. The LHRC human rights survey team documented one incident of a woman sexually assaulting her 14-year-old son in Iringa MC, which according to a WEO, was motivated by **belief in witchcraft**⁷³³.

Child-on-child sexual abuse

Incidents of child-on-child sexual abuse were also widely reported in 2023. LHRC documented 51 incidents of child-on-child sexual abuse, mostly of rape and sodomy, decreasing from 88 documented in 2022. However, these may only be a fraction of incidents of child-on-child sexual abuse reported to government institutions, including the Police Force. The incidents were reported in regions such as Dar es Salaam, Geita, Tanga, Iringa, Mtwara, Dodoma, Tabora, Kilimanjaro, and Ruvuma. For instance, in Geita, police arrested a 14-year-old boy for raping a 4-year-old girl⁷³⁴. In Mtwara, police arrested a 14-year-old, resident of Nalingu Ward in Mtwara, for allegedly raping and sodomizing two children⁷³⁵. In Iringa, a 17-year-old boy was sent to the Iringa Juvenile Court, sitting in Mufindi District, on account of sodomizing a 13-year-old pupil of Mwitikirwa Primary School in November 2023⁷³⁶. It was also reported in the region that a standard seven pupil had been **repeatedly raped by her three brothers**⁷³⁷.

729 LHRC Human Rights Monitoring, September 2023.

730 "Mwalimu Mkuu mbaroni akidaiwa kumpa mimba mwanafunzi wake" Mwananchi Newspaper,

731 LHRC Human Rights Monitoring, December 2023.

732 "Mkuu wa shule asimamishwa kwa tuhuma za udhalilishaji" Mwananchi Newspaper, 22

Aug 2023.

733 Interview with WEO of Semtema Ward in Iringa MC.

734 "Mtoto adaiwa kumnajisi mtoto mwenzake" HABARILEO Newspaper, 13 May 2023.

735 LHRC Human Rights Monitoring 2023, October 2023.

736 LHRC Human Rights Monitoring 2023, November 2023.

737 LHRC Human Rights Survey 2023: Iringa Field Report.



“A 14-year-old boy sodomized his 4-year-old brother at home when they were sleeping at night. His father went to report the matter to the village leaders but when it was reported to the police the family fled the village.”

Community member – Kongwa, Dodoma

In Kilimanjaro, it was reported that sodomy has become a common sexual violence perpetrated to children by other children, usually older boys⁷³⁸. In Dodoma, an NGO official expressed concern over child-on-child sexual abuse in primary schools in the region⁷³⁹. In Iringa, the Chairperson of Mkobwe Street, Boma Ward, Mafinga District, suggested that there is a cycle of violence which perpetuates child-on-child sexual abuse, whereby **children who are sexually abused by adults turn on their fellow children to do the same**, especially in school settings⁷⁴⁰.

In Dar es Salaam, it was reported in July 2023 that majority of boys taken to the juvenile court in the region are accused of sodomy and this situation is **contributed by poor parenting, peer pressure, and family income poverty**⁷⁴¹.

Boy child sexual abuse

Globally, protection of boys from sexual abuse is said to be inadequate⁷⁴², and this is largely contributed by 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 officers⁷⁴³.

Police statistics

Over 900 child sodomy cases are reported each year, on average, from 2016 to 2021.

Over 80% of the victims are boys.

In Tanzania, stakeholders have also expressed concerns over this type of sexual abuse and continued to do in 2023.

Through media survey, human rights monitoring, and human rights survey, LHRC documented 87 incidents of boy child sexual abuse in 2023, which are 79 less than those documented in 2022. The incidents were reported in regions such as Dar es Salaam, Kilimanjaro, Kagera, Tabora, Mbeya, Arusha, Ruvuma, Iringa, Pwani, Manyara, Mtwara, Shinyanga, and Singida. Perpetrators included strangers, fathers, neighbours, teachers, and boys.

⁷³⁸ Interview with RSWO in Kilimanjaro.

⁷³⁹ Interview with HakiElimu official in Dodoma.

⁷⁴⁰ LHRC Human Rights Survey 2023: Iringa Field Report.

⁷⁴¹ “Uhalifu watoto wa kiume tishio jipya” Nipashe Newspaper, 24 Jul 2023.

⁷⁴² 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/>.

⁷⁴³ Ibid.



‘There is a case of one young man, above 18 years, who would go to schools, lure standards three and four pupils, and sodomize them. By the time he was arrested by police, he had done this to six children. However, his current whereabouts are unknown because he absconded after being released on bail.’

RSWO – Singida

In one of the reported incidents, the Igunga Resident Magistrate Court in Tabora sentenced Daudi Masanja (28) to life imprisonment, after finding him guilty of sodomizing two children aged 8 and 13 years in May 2023⁷⁴⁴. In another incident reported in the region, it was reported in April that police were looking for a teacher who had fled after allegedly sodomizing one of his students⁷⁴⁵.

‘There is a man who sodomized three boys as punishment for leading cattle they were herding into his farm. One of the boys reported him to the local government.’

NGO director – Tabora

In Arusha, police arrested several boys in September for sodomizing more than 10 fellow boys at one primary school in Monduli District⁷⁴⁶. In Kagera, a SWO in Bukoba Municipality revealed that they had documented 11 cases of boy child sexual abuse (sodomy) in the period of April to June 2023⁷⁴⁷.

In Dar es Salaam the Head of Police Gender and Children Desk at the Ilala Regional Police, Dr. Christina Onyanga, revealed that **many sodomy cases are reported** at the desk⁷⁴⁸. There were also reports of children, including boys, being sodomized at beaches in the region⁷⁴⁹. In Mbeya, the Police Force was also reportedly **concerned with increasing reported incidents of sodomy**⁷⁵⁰.

In Rukwa, the RSWO revealed that **sodomy is common in schools settings and is mostly committed against boys**⁷⁵¹. A SWO in Nkasi DC in the region acknowledged existence of sodomy of boys in school and other settings but added that **there are older women who use boys for sexual pleasure**⁷⁵².

‘Boy child sodomy is very common in school settings. We need to increase protection for boys.’

Human rights defender– Dar es Salaam

744 “Ahukumiwa maisha jela kwa kulawiti wanafunzi” Nipashe Newspaper, 6 Sep 2023.

745 “Mwalimu wa twisheni asakwa madai ya ulawiti” Nipashe Newspaper, 22 Apr 2023.

746 “Matatani wakidaiwa kulawiti wanafunzi” Mwananchi Newspaper, 30 Sep 2023; “Ndugu wadaiwa kulawiti wanafunzi 10” Mwananchi Newspaper, 27 Sep 2023.

747 “Jamii yakumbushwa kulinda watoto dhidi ya ukatili” Nipashe Newspaper, 11 Sep 2023.

748 “Kufuru ya ulawiti watoto” Nipashe Newspaper, 12 Mar 2023.

749 LHRC Human Rights Monitoring, 2023.

750 “Kasi matukio ukatili watoto Yazidi” Nipashe Newspaper, 9 Mar 2023.

751 LHRC Human Rights Survey 2023: Rukwa Field Report.

752 Ibid.



Child sexual abuse in religious settings

In recent years, stakeholders, including LHRC, have expressed concerns over acts of sexual violence perpetrated in religious settings. In the period of 2017 to 2022, LHRC documented more than 30 incidents of child sexual abuse in religious settings,⁷⁵³ reported in Morogoro, Dar es Salaam, Ruvuma, Shinyanga, Kilimanjaro, and Geita Regions. However, LHRC fears that more such incidents go unreported, considering also there have been reports of clerics committing sexual abuse outside religious settings.

Detection Difficulties

- Detecting and ultimately addressing child sexual abuse in religious settings has been found to be difficult because abusers or perpetrators of such abuse use their positions of power, trust and authority to 'groom' or exploit children sexually, while maintaining secrecy.⁷⁵⁴ Victims are less likely to be believed given the faith placed in perpetrators⁷⁵⁵ by their parents or guardians.

Participants of LHRC's Human Rights Survey 2023 were asked questions about child sexual abuse in religious settings. The first question was whether they have ever heard about allegations of child sexual abuse in religious institutions. Over a third of them (35%) said they had, while a half (50%) said they had not. 21% of those who claimed to have ever heard about child sexual abuse in such settings said they had heard about the allegations in the past year.

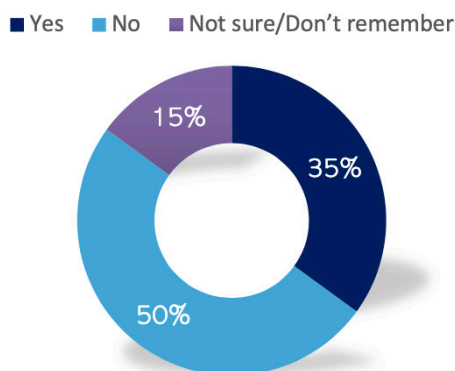


Figure 39: %Community responses on ever hearing about allegations of child sexual abuse in religious institutions (N=1,609)

Source: Field data, 2023

5.2.1.3. Physical and Psychological Violence

Physical violence against children refers to all acts perpetrated against

⁷⁵³ Each victim is considered to be a separate incident, so more than 30 victims.

⁷⁵⁴ 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>.

⁷⁵⁵ Perpetrators include religious and spiritual leaders, volunteers, staff in religious schools, and others associated with religious communities.

children that bring them physical harm. Such acts may include slapping, pushing, hitting with a fist (punching), kicking, whipping, or threatening a child with a weapon⁷⁵⁶. Emotional or psychological violence includes restricting a child's movements, denigration, ridicule, threats and intimidation, discrimination, rejection, and other non-physical forms of hostile treatment⁷⁵⁷.

Incidents documented by LHRC

As indicated above, in 2023, physical and psychological violence constituted 19% (88 incidents) of the VAC incidents documented by LHRC through media survey and human rights monitoring, increasing from 63 documented in 2022. An additional 1,038 incidents were documented through human rights survey in 11 out of the 20 surveyed regions, a significant increase compared to 460 incidents documented in 2022.

Analysis of documented incidents revealed that children across Mainland Tanzania were subjected to acts of violence such as **beating, burning of body parts, torture, rape, attempted rape, sextortion, sexual harassment, humiliation, and verbal abuse**. Perpetrators included **parents, grandparents, uncles, relatives, teachers, and strangers**.

Burning of body parts as punishment

Nearly a quarter (23%) of physical VAC incidents documented by LHRC in 2023 involved burning of body parts, including hands, as punishment. These incidents were mostly reported in regions such as Mwanza, Kilimanjaro, and Kigoma. Other regions included Dodoma, Lindi, Pwani, Morogoro, and Geita. Most of the perpetrators were parents, especially mothers, but others included uncles and a witchdoctor. One of the victims was a 17-year-old housemaid in Kibaha District, Pwani Region.

'On 3rd February 2023 I received a case about a 14-year-old female child who had been beaten and her hands burned by her stepmother.'

SWO – Dodoma City, Dodoma

For instance, in **Mwanza**, it was reported in February 2023 that a standard two pupil at Bakala Primary School experienced extreme pain after her mother burned her hands for taking food without permission⁷⁵⁸. A similar incident was reported in August when the Sengerema District Court imposed a 5-year sentence on Maneno Thomas (35) for burning his child's hands with hot water for 'stealing' food (greens)⁷⁵⁹.

⁷⁵⁶ See the National Plan of Action to End Violence Against Women and Children in Tanzania 2017/18 – 2021/22, p. vi.

⁷⁵⁷ 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.

⁷⁵⁸ "Mama adaiwa kumchoma moto mtoto kisa wizi wa karanga" Nipashe Newspaper, 22 Feb 2023.

⁷⁵⁹ "Jela miaka mitano kwa kumchoma moto mwanawe kisa mboga" Nipashe Newspaper, 20 Aug 2023.



In **Kilimanjaro**, it was reported in September 2023 that Feirus Msuya (37), resident of Reli Juu Village in Mwanga District, had poured kerosene onto her 13-year-old child and torched him, for allegedly stealing Tshs. 20,000 that he used to buy and cook food, causing the child severe bodily harm which necessitated admission into the Intensive Care Unit (ICU) at the KCMC Hospital⁷⁶⁰. The mother reportedly fled after the incident and **the child died at the hospital several days later**⁷⁶¹.

In another incident, documented by the LHRC survey team in the region, a 13-year-old child was subjected to severe pain by her father after she was attacked with a sharp object and burned on her hands⁷⁶².

In **Kigoma**, LHRC documented four incidents, reported in Kigoma DC and Kasulu DC. The victims were reportedly beaten and burned by their parents (especially mothers), mostly on their hands, for various reasons, including stealing money and not doing what they were told⁷⁶³. In Kibondo, one of the interviewed women said that **sometimes women in her community tend to beat their children and burn their hands due to stress caused by their husbands, finding themselves taking it out on the children**⁷⁶⁴.

“There is one woman who punished her child by dipping hands into a hot cooking pot, causing the child severe pain.”

Community member – Kibondo DC

Severe corporal punishment

Severe corporal punishment perpetrated in school and home settings continued to be a threat to children’s physical and emotional wellbeing. LHRC documented 11 incidents of severe corporal punishment reported in Kilimanjaro, Mbeya, Dar es Salam, Morogoro, Kagera, Kigoma, and

8
Teacher corporal punishment deaths documented by LHRC (2018-2023)

Dodoma. For instance, in **Kilimanjaro**, police arrested the Headmaster of the Bishop Alpha Memorial High School for questioning after three teachers at the school severely beat a student, Walter Swai, and caused his death⁷⁶⁵. It was reported that the teachers kicked him in the ribs and made him do push-ups until he could not walk. In another incident reported in the region in Rombo District, police were looking for a teacher at Samanga Primary School, James Fabian Urasa, who fled in

760 “Amchoma moto mwanaye kwa tuhuma za wizi” Mwananchi Newspaper, 7 Sep 2023.

761 “Mtoto Shamsudini aliyechomwa moto na mama yake afariki akipatiwa matibabu” Mwananchi Newspaper, 3 Oct 2023.

762 LHRC Human Rights Survey 2023: Kilimanjaro Field Report.

763 LHRC Human Rights Survey 2023: Kigoma Field Report.

764 Ibid.

765 “Utatafa kifo cha mwanafunzi Moshi” Mwananchi Newspaper, 24 Feb 2023.



July after learning that a pupil he had caned for making noise in class had died at a hospital⁷⁶⁶.

In the same month, a 16-year-old student at Reginald Mengi Secondary School reportedly suffered a broken arm after his teacher beat him for imitating his voice⁷⁶⁷.

In **Mbeya**, it was reported that a teacher at Rohila Secondary School in Mbeya District, Emmanuel Kamili (29), and the school guard, Haruni Kerupe (30), had been arrested by police for severely beating and injuring a student at the school in February 2023⁷⁶⁸. In the following month, police in Mwanza arrested the Headmaster of Mwinuko Secondary School, located in Ilemela District, for severely punishing, Gloria Faustine (14), and causing her death, for speaking Swahili Language at school⁷⁶⁹.

In **Kigoma**, the LHRC survey team met with a woman in Kigoma MC who narrated the incident of her child being brutally caned on his hand by a teacher. She mentioned that the injuries were so severe that her son required medical attention and had to stay at home for two weeks to allow the wounds to heal⁷⁷⁰.

LHRC also documented severe corporal punishment incidents imposed by fathers in Dodoma, Njombe, and Mtwara. In Dodoma, a father in Dodoma City was accused by a neighbour of regularly and severely beating his son⁷⁷¹.

‘His father severely beat him because he delayed doing his cattle herding duties. The neighbours had to intervene to stop the beating and now the boy has scars all over his body.’

Community member – Dodoma CC

Beaten to death/Killed

Apart from deaths caused by severe beating by teachers, there were other deaths caused by physical VAC perpetrated by other people⁷⁷², mostly parents. LHRC documented 25 child deaths caused by physical VAC, including killing of a 14-year-old housemaid by her employer in Hai – Kilimanjaro; killing of two children by their grandfather in Songwe; killing of a 12-year-old child by his stepmother in Mbeya; two children killed by their father in Dar es Salaam because ‘they did not look like him;’ beating and torching of a 17-year-old accused of theft by an angry mob in Songwe; killing of a 9-year-old child by her mother in Mbeya for allegedly stealing money; and killing of a child with disability, aged five years, by his father in Geita⁷⁷³.

766 LHRC Human Rights Monitoring, July 2023.

767 LHRC Human Rights Survey 2023: Kilimanjaro Field Report.

768 “Mwalimu, mlinzi kizimbani kesi ya kujeruhi mwanafunzi” Nipashe Newspaper, 10 May 2023.

769 “Mwalimu mkuu mbaroni kwa madai ya kifo cha mwanafunzi” Nipashe Newspaper, 18 Mar 2023; “HakiElimu yalaani adhabu kubwa iliyomsababishia kifo mwanafunzi” Nipashe Newspaper, 24 Mar 2023.

770 LHRC Human Rights Survey 2023: Kigoma Field Report.

771 LHRC Human Rights Survey 2023: Dodoma Field Report.

772 Reported in Songwe, Mbeya, Dar es Salaam, Kilimanjaro, Singida, Songwe, Mbeya, Kagera, Morogoro, Simiyu, Manyara, Arusha, and Geita.

773 “Babu adaiwa kuua wajukuu zake kwa kuwapiga na mchi kichwani” Nipashe Newspaper, 3 May 2023; “Aua mtoto wa kambo,



5 out of the 25 deaths (20%) were reported in Kilimanjaro Region alone, with mental health mentioned as a possible contributor to the killings⁷⁷⁴.

Psychological VAC

Common acts of psychological VAC reported in 2023 included child neglect and verbal abuse. LHRC documented 53 incidents of psychological violence, nearly all of them of child neglect and abandonment, reported in regions such as Arusha, Shinyanga, Lindi, Katavi, Iringa, Ruvuma, Njombe, Kilimanjaro, Kigoma, and Pwani. SWOs and NGOs interviewed during the human rights survey in 20 regions of Mainland Tanzania **mentioned child neglect and family abandonment as very common**. In October 2023, the Kahama District Court in Shinyanga sentenced Theresia Kapalata (40) to three years in prison or a fine of Tshs. 500,000 after finding her guilty of neglecting a 7-year-old child she was staying with⁷⁷⁵.

In Bagamoyo District, Pwani Region, a human rights defender and two other community members mentioned that there were many incidents of **children being abandoned by their parents and left with their grandparents**⁷⁷⁶. A similar claim was made by an NGO official in Manyoni, Singida, who said there is a tendency of parents abandoning their children with their parents (grandparents)⁷⁷⁷.

‘We have not gone to school because our father left us, and our mother has also gone to Mahembe for casual labour but is yet to send us some money for food. She has also not bought uniform for this younger sibling of ours.’

Street child – Kigoma

LHRC discovered that this form of violence increases the risk of children being subjected to physical and sexual violence as well as the risk of ending up in streets as children living and working on the streets. In April 2023, the Mayor of Arusha City, Maxmillian Iranqhe, also suggested that child neglect and abandonment was contributing to the problem of children living and working on the streets⁷⁷⁸. Incidents of infant abandonment also continue to be widely reported⁷⁷⁹.

5.2.1.4. Economic Violence

Incidents of economic violence against children which were documented by LHRC in 2023 included denial of education, including for children with disabilities, and child marriage. LHRC documented 177 such incidents.

adakwa akijificha kuingia msikitini” HABARILEO Newspaper, 13 Apr 2023; “Baba adaiwa kuwaua wanawe kwa sumu kisa hafanani nao” Nipashe Newspaper, 26 Apr 2023; “Afya ya akili yatajwa mauaji yaliyojitikisa Kilimanjaro” Mwananchi Newspaper, 19 Dec 2023; “Mwanafuzi auawa madai kuiba duka la M-Pesa” Nipashe Newspaper, 8 Mar 2023; “Mama mbaroni tuhuma kumuua mtoto wake” Nipashe Newspaper, 12 Jan 2023.

774 “Afya ya akili yatajwa mauaji yaliyojitikisa Kilimanjaro” Mwananchi Newspaper, 19 Dec 2023.

775 “Aliyemfanyia ukatili wa miaka 7 atupwa jela” HABARILEO Newspaper, 11 Oct 2023.

776 LHRC Human Rights Survey 2023: Pwani Field Report.

777 LHRC Human Rights Survey 2023: Singida Field Report.

778 “Mstahiki Meya akerwa tabia kutelekezwa” Nipashe Newspaper, 15 Apr 2023.

779 “Mtoto wa mwezi na nusu akutwa barabarani katelekezwa” Nipashe Newspaper, 10 Apr 2023; “Mtoto aokolewa baada ya kutupwa chooni” HABARILEO Newspaper, 24 Mar 2023.



'...some children are denied the right to education by their parents, who sometimes even threaten them with exclusion.'

NGOs Coordinator – Kalambo DC, Rukwa

5.2.2. Measures to Prevent and Combat Violence against Children

5.2.2.1. Measures Taken by Stakeholders

In 2023, various stakeholders, both government and non-government, continued to play their role in preventing and combating violence against children (VAC). For instance, in May 2023, the Minister of Community Development, Gender, Women and Special Groups, Hon. Dr. Dorothy Gwajima (MP) stated in her budget speech that the Government had started establishing children safety and security desks in and outside schools, and by April 2023, a total of 1,585 desks had been established at 1,128 primary and 457 secondary schools.⁷⁸⁰ She also mentioned that the more children councils at different levels were established, anti-VAWC campaigns were conducted, and a ministry call centre had been established, expected to become operational in June 2023.⁷⁸¹ In Kilimanjaro, some districts established anti GBV/VAWC bylaws, while the Land Transport Regulatory Authority (LATRA) announced it was proposing legislation amendments to make it mandatory for school bus conductors to be female to prevent and reduce VAC perpetrated in such vehicles.⁷⁸² The justice institutions also continued to arrest, prosecute, and sentence perpetrators of VAC, including imposing 30-year-prison and life imprisonment sentences.

Government action to address online violence against children

In May 2022, the Minister of Community Development, Gender, Women and Special Groups, Hon. Dr. Dorothy Gwajima (MP) stated in Parliament that the Government had established a national taskforce on protection of children from online abuse.⁷⁸³ One of the tasks of the taskforce is to coordinate stakeholders and ensure implementation of the Cybercrimes Act of 2015 and the Law of the Child Act of 2009 to protect children from abuse in digital platforms. She added that the Government had developed materials for raising public awareness on the matter. The minister also stated that her ministry had collaborated with the Office of the Attorney General to initiate the process of amending the Law of the Child Act of 2009 to incorporate provisions on online child abuse and the ministry had already started receiving recommendations from stakeholders. However, the legal reforms were yet to be accomplished by the end of December 2023.

780 HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WANAWAKE NA MAKUNDI MAALUM, MHE. DKT. DOROTHY O. GWAJIMA (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/24 (*supra*), para 46.

781 *Ibid*, paras 58 & 59.

782 "Sheria kurekebishwa wahudumu wa mabasi ya shule kuwa wanawake" HABARILEO Newspaper, 28 Aug 2023.

783 See HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WANAWAKE NA MAKUNDI MAALUM, MHE. DKT. DOROTHY GWAJIMA (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2022/23, at <https://>



5.2.2.2.CAG Report Findings on Measures to Eliminate Violence against Children

As discussed above, in March 2023, the Controller and Auditor General (CAG), released the audit report on management of measures for eliminating VAWC in Tanzania. While acknowledging the efforts and progress made, the CAG identified several key challenges, while noting the high rate of VAWC that persists. The challenges, which are also highlighted below, include shortage of SWOs, insufficient funds for NPA-VAWC implementation, inadequate training for NPA-VAWC committees, the culture of silence that hinders reporting of VAWC, sustainability concerns, and inadequate coordination.⁷⁸⁴

5.2.2.3.Challenges in Addressing VAC

Through document review and human rights survey, LHRC documented the following challenges in addressing VAC:

| | |
|--|--|
| <p>Inadequate legal protection</p> <ul style="list-style-type: none"> ■ E.g. Law of Marriage Act, Cybercrimes Act, customary laws ■ Complaints about overprotection of perpetrators (juvenile offenders) ■ Lack of legal protection against discriminatory customs and traditions and harmful cultural practices e.g FGM, child marriage | <p><i>‘There are laws, such as the Law of Marriage Act, which perpetuate violence against children by allowing child marriage. There are also discriminatory customary laws which deny women and children their fundamental rights.’</i></p> <p>Gender expert – Dar es Salaam</p> <p><i>‘We received a case involving a child who impregnated another child, both students, and we receive at least five such cases each year. The challenge that I see is that we tend to protect the perpetrator more than the victim.’</i></p> <p>SWO - Singida</p> |
| <p>Corruption</p> <ul style="list-style-type: none"> ■ Perpetrators often attempt to bribe parents or guardians ■ Parents/guardians more likely to accept bribe because of poverty⁷⁸⁵ | <p><i>‘It is common for perpetrators of violence against children, especially sexual violence, to attempt to bribe their way out of trouble, taking advantage of the economic hardships of victims’ parents.’</i></p> <p>Community member - Dar</p> |

[www.parliament.go.tz/uploads/budgetspeeches/1653910229-document%20\(25\).pdf](http://www.parliament.go.tz/uploads/budgetspeeches/1653910229-document%20(25).pdf).

784 PERFORMANCE AUDIT REPORT ON THE MANAGEMENT OF MEASURES FOR ELIMINATING VIOLENCE AGAINST WOMEN AND CHILDREN IN TANZANIA (*supra*).

785 “Wazazi, mwalimu wadaiwa kulipwa 600,000/- kumwachia mtuhumiwa” Nipashe Newspaper, 15 Jan 2023.

| | |
|--|--|
| <p>Allowing children to sleep with guests, including relatives</p> | <p><i>‘Things have changed nowadays, such that it is no longer safe to allow children to sleep with guests, as they are more likely to be sexually abused. It is better and safer for the children to sleep with their parents in such circumstances.’</i></p> <p><i>Community member – Karatu, Arusha</i></p> <p><i>‘Staying together with relatives increases the chances of a child being subjected to abuse and when this happens it is difficult for parents or guardians to act accordingly because of fear of breaking family relations.’</i></p> <p><i>SWO – Mvomero, Morogoro</i></p> |
| <p>Technical errors in investigation and prosecution</p> <ul style="list-style-type: none"> ■ Including non-compliance with the Law of Evidence Act ■ Contributing to acquittal of accused persons, including at appeal level⁷⁸⁶ | |
| <p>Children witnessing parental sexual activity</p> <ul style="list-style-type: none"> ■ Contributed by housing challenges ■ Parents sleeping in the same room as children⁷⁸⁷ | <p><i>‘We received a case of boys sexually abusing each other and we realized that parents staying in a single room with the boys was a key contributor.’</i></p> <p><i>SWO – Mkalama, Singida</i></p> |
| <p>School proximity</p> <ul style="list-style-type: none"> ■ Children targeted on the way to and from school, especially in rural areas | <p><i>‘There are many reported cases of child rape among girls going to schools located in remote areas. They are targeted and sexually abused on their way to school and some of them have even been impregnated, all this because of long distance to school.’</i></p> <p><i>NGO official – Dodoma</i></p> |
| <p>Shortages of safehouses and fit persons/families</p> <ul style="list-style-type: none"> ■ Contributes to VAC survivors turning hostile witnesses or not appearing in court | <p><i>‘Shortage of safe houses for survivors of VAC is a key challenge as the children end up in the same premises where they were abused and pressured into not going to court, causing cases to be dismissed.’</i></p> <p><i>NGO director – Tabora</i></p> |

786 “Makosa ya mahakamu yageuka neema kwa wabakaji” Mwananchi Newspaper, 11 Mar 2023.

787 “Wazazi wadaiwa kuwa chanzo watoto kufanyiana ukatili” Nipashe Newspaper, 18 Aug 2023.



| | |
|---|--|
| <p>Low prosecution and conviction rates</p> <ul style="list-style-type: none"> ■ Contributed by reluctance to testify in court ■ 15,901 incidents documented from January 2022 to March 2023, but only 671 taken to court (368 decided, 303 ongoing)⁷⁸⁸ | |
| <p>Poor parenting and broken homes/Parental separation</p> | <p><i>'Here in Mbagala parenting is a serious concern as parents often do not spend time with their children, while some of them, especially mothers, are busy with the 'vigodoro' traditional dance.'</i></p> <p><i>Community member – Dar es Salaam</i></p> |
| <p>Witchcraft beliefs</p> | <p><i>'I was once in a police cell in Kasulu, where I met a man and he told me, after asking him why he was there, that he had been arrested for raping his 3- year-old child, and he did so because a witchdoctor told him if he slept with his daughter, he would get rich.'</i></p> <p><i>NGO director – Kigoma</i></p> |
| <p>Cultures of silence, forgiveness, and 'concealing family shame'</p> <ul style="list-style-type: none"> ■ Contributing to non-reporting of some incidents | |

5.2.3. Child Labour and Exploitation

Child labour is work that is inappropriate for a child's age, affects children's education, or is likely to harm their health, safety or morals⁷⁸⁹. It 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 hazards⁷⁹⁰. Child labour may lead to impairment of a child's physical, mental, moral, spiritual, and social development⁷⁹¹. In Tanzania, child labour 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. Children are only allowed to work under certain conditions, including only doing light work and work that is not hazardous.

Reported incidents documented by LHRC

In 2023 LHRC documented 33 incidents of child labour and exploitation, 13 more than those documented in 2022. Such incidents were reported in Tanga, Arusha, Dodoma, Morogoro, Tabora, Kilimanjaro, Rukwa, and

788 HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WANAWAKE NA MAKUNDI MAALUM, MHE. DKT. DOROTHY O. GWAJIMA (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/24 (*supra*), paras 34 & 34.
789 See FAO "Child Labour in Agriculture" at <http://www.fao.org/childlabouragriculture/en/>, accessed 17th September 2019.

790 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.

791 Ibid.



Kigoma. For instance, in Tanga, it was reported that 18 children had left their homes and school to go work as street vendors in Muheza District⁷⁹². Police and community development officials found them in November 2023 living in a single room, popularly known as ‘geto.’ In Dodoma, two teachers at Mayamaya Primary School in Bahi District were dismissed for subjecting their pupils to child labour of charcoal making and causing one of them to sustain a serious fire injury⁷⁹³.

In most regions, especially in cities and urban areas, it is common to see children working on the street as vendors during the time when they are supposed to be at school, spending hours on the streets under difficult conditions. In Morogoro, interviews with authorities revealed that child labour had declined but is still a problem as children are still employed, including as vendors, and preferred because of being cheap labour, hence missing out on school⁷⁹⁴. In Dodoma, one community member in Dodoma City claimed there are some places where children are accommodated for purposes of providing cheap labour⁷⁹⁵.

‘Child labour greatly impacts children’s education because you find a child going to school for three days and using the remaining two days for work.’

CDO – Morogoro

Some of the children, including children with disabilities, are also trafficked for labour, including domestic work, and for begging. In Dodoma, Arusha, and Dar es Salaam, some interviewed community members said some children are forced to beg by their families, while others are accommodated by some people and exploited in begging. In Dar es Salaam, Kivukoni and Kigamboni were identified among the hotspots for children being used or forced to beg.

‘There are children who are trafficked from other parts of the country and rural areas and forced to beg on the streets.’

NGO official – Arusha

In rural and semi-urban areas, children are usually found working in agriculture, mining, and fishing sectors. This was revealed by key informants, including paralegals and human rights defenders, in Singida, Tabora, Geita, and Mara Regions.

‘There are children who provide labour in plantations, while others, as young as 12 years old, are sent to urban areas for domestic work.’

Paralegal – Mkalama, Singida

792 “WATOTO 18 WAKAMATWA WAKIWA GETO MUHEZA” ITV DIGITAL, 6 Nov 2023.

793 “Walimu wawili Dodoma wang’olewa kisa kuwatumikisha wanafunzi” Mwananchi Newspaper (online), 22 Oct 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/walimu-wawili-dodoma-wang-olewa-kisa-kuwatumikisha-wanafunzi-4409786>.

794 LHRC Human Rights Survey 2023: Morogoro Field Report.

795 LHRC Human Rights Survey 2023: Dodoma Field Report.





Picture 14: Children observed working at a mine in Lusu Ward, Nzega District

Source: Field data, 2023

In Dar es Salaam, some of the community members who participated in the human rights survey claimed that children working in the domestic work sector are usually exploited by not being paid on time and paid less than the wages stipulated in the Wage Order of 2022⁷⁹⁶. In Kilimanjaro, LHRC discovered that cases of exploitation of children working as domestic workers is common⁷⁹⁷.

In 2023, some of the children were found doing works that are deemed hazardous under labour and employment laws and regulations and are prohibited for children, including working in places such as bars, hotels, and places of entertainment; portering of heavy loads; fetching and carrying firewood; and stone crushing⁷⁹⁸.

For instance, in Arusha, it was reported in October that a student at Longido Secondary School who had been missing for over 30 days was found working as a barmaid at a popular bar in Moshi District, Kilimanjaro Region⁷⁹⁹.

In Dar es Salaam, the survey team observed children crushing stones, some doing so together with their mothers, along the Bagamoyo Road, including at the Kunduchi Mtongani and Tegeta Skanka areas, which are popular for stone crushing⁸⁰⁰.

In Rukwa, LHRC found that some children are employed to herd livestock,

⁷⁹⁶ LHRC Human Rights Survey 2023: Dar es Salaam Field Report.

⁷⁹⁷ Based on interviews with RSWO and Chairperson of Msufini Street in Msaranga Ward, Moshi District.

⁷⁹⁸ See Employment and Labour Relations (General) Regulations, GN. 47 of 2017 and under section 82(3) of the Law of the Child Act 2009.

⁷⁹⁹ "Mwanafunzi aliyepotea Arusha akutwa akiuza baa" Mwananchi Newspaper (online), 23 Oct 2023, at <https://www.mwananchi.co.tz/mw/habari/kitaifa/mwanafunzi-aliyepotea-arusha-akutwa-akiuza-baa-4410880>.

⁸⁰⁰ LHRC Human Rights Survey 2023: Dar es Salaam Field Report.

especially by the *Sukuma* Tribe pastoralists⁸⁰¹. The payment is one cow per year, such that if a child herds for five years they get five cows⁸⁰². In Dodoma, the survey team came across some children who had been sent by their parents to collect and sell firewood to get money for examination fees⁸⁰³.



Picture 15: Children found collecting firewood during school hours to get money for examination fees in Dodoma

Source: Field data, 2023

In June 2023, the Vice Chairperson of the Commission for Human Rights and Good Governance (CHRAGG), Hon. Mohamed Khamis, said that child labour and exploitation is common in domestic work, mining, and agricultural sectors, characterized by working children missing school, being paid less than the labour provided (unfair remuneration), and vulnerability to mental health problems, which affects child development⁸⁰⁴.

LHRC's View: Child labour and exploitation remains a key child rights problem in Tanzania. LHRC has observed that this problem is partly contributed by lack of or limited awareness about child labour and exploitation and governing laws, especially employment and labour laws and regulations and the Law of the Child Act, not only among children but also adults. For instance, some people believe all children are not allowed to work at all, while the truth is that a child is allowed to work and entitled to labour rights, including fair remuneration, under certain conditions.

801 LHRC Human Rights Survey 2023: Rukwa Field Report.

802 Interview with a CDO in Rukwa.

803 LHRC Human Rights Survey 2023: Dodoma Field Report.

804 Kazi za ndani, migodini kinara kwenye utumikishaji watoto" Nipashe Newspaper, 14 Jun 2023.



LHRC's View: LHRC and other stakeholders to continue raising awareness about child labour and exploitation, including the relevant laws and regulations, as well as applicable regional and international standards.

5.2.4. Child Marriage, Child Pregnancy, and Female Genital Mutilation

In 2023, girls across Tanzania continued to face various challenges in enjoying their fundamental human rights because of child marriage, child pregnancy, and female genital mutilation (FGM).

5.2.4.1. Child Marriage

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 marriage⁸⁰⁵. 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 years⁸⁰⁶. Nevertheless, the Law of Marriage Act, 1971 still allows girls aged 14 and 15 years to get married.

In Tanzania, nearly one third of women aged 25 to 49 years were married by age 18.

THDS-MIS 2022

Reported child marriage incidents documented by LHRC

In 2023, LHRC documented 4 incidents of child marriage, two less than those documented in 2022, reported in Shinyanga, Ruvuma, Songwe, Mtwara, Lindi, Dodoma, Tabora, Singida, Mwanza, and Kigoma. At least one incident was reported in each of these regions, except for Shinyanga and Ruvuma, where at least two incidents were reported. For instance, in Ruvuma, police collaborated with three journalists to prevent a child marriage in Songea MC in July 2023⁸⁰⁷. In the same month, a student at Masasi Girls Secondary School, resident of Tunduru District in the region, was reportedly married to a man for Tshs. 30,000 as dowry⁸⁰⁸.

In Songwe, another secondary school student was married to a man in Shasya Village, Mbozi District, also in July 2023⁸⁰⁹. In Lindi, Shaibu Halid Makunda (28) was arrested by police for marrying a 17-year-old girl who was expected to report at school but did not⁸¹⁰. In Tabora, an NGO official told the LHRC survey team that some twin girls in Ziba Ward, Nzega District, were married off immediately after completing their primary education⁸¹¹.

805 See Articles 1,5, & 6 of the Maputo Protocol.

806 Article 21(2) of African Charter on the Rights and Welfare of the Child, 1990.

807 "Polisi wazuia ndoa ya mwanafunzi" Mwananchi Newspaper, 25 Jul 2023.

808 "DC, polisi wavunja ndoa ya mwanafunzi na muuza urembo" Nipashe Newspaper, 8 Jul 2023.

809 "Mbaroni tuhuma kuoa mwanafunzi" Nipashe Newspaper, 19 Jul 2023.

810 "SHAIBU AKAMTWA LINDI" Millard Ayo, 23 Jan 2023.

811 LHRC Human Rights Survey 2023: Tabora Field Report.



'This year, there was an incident of twins who had just finished standard seven, who were forced to marry two men from the same family. Their pregnant mother was so distressed by the marriages that she had a miscarriage.'

NGO director – Nzega, Tabora

In Mkalama, Singida, interviewed SWO and paralegals pointed out that there are many cases of child marriage in the district, and that it is normal to see a 'child with a child'⁸¹². A paralegal in Nduguti, Mkalama District claimed that most of the marriages are contracted in a traditional manner, hence difficult to detect. In Mwanza, an NGO official told the survey team that in 2023 they received one girl at their organization who was brave enough to report her parent for refusing to take her to school and pushing her to get married⁸¹³.

Drivers of child marriage

At national level, 19% of the population believe it is appropriate for a girl to marry before the age of 18 years.

SIGI Tanzania Report 2022

Interviewed community members and key informants identified several drivers of child marriage across Mainland Tanzania, including poverty, discriminatory customs and traditions, child neglect, and gaps in the legal protection of girls' rights. In some regions, such as Tabora, Singida, and Manyara, social acceptance of child marriage and other forms of violence against women and children was said to be a driver of child marriage. Bride price was also mentioned as a contributing factor by the majority of respondents, mostly fueled by economic hardships in poor households.

'Child marriage has become a normal practice.'

NGO director – Tabora

In Singida, Mara, and Manyara, interviewed community members, including paralegals, mentioned FGM as a key driver of child marriage. In Singida, an NGO official, who is also anti-FGM champion, said once circumcised, girls are considered ready for marriage⁸¹⁴. Circumcisers also use different strategies to evade capture when performing FGM.

'FGM is a key driver of child marriage because once a girl has undergone circumcision, she transitions to being an adult, hence ready for marriage.'

Anti-FGM champion – Singida DC

812 LHRC Human Rights Survey 2023: Singida Field Report.

813 LHRC Human Rights Survey 2023: Mwanza Field Report.

814 LHRC Human Rights Survey 2023: Singida Field Report.



In Tabora, child marriage was also said by paralegals and a police gender and children desk officer to be driven by a traditional dance, especially popular in rural areas, called '**Chagulaga**' whereby a man can pick and forcefully take any girl he sees. In one incident, a girl was reportedly attacked by a mob after refusing to leave with a man who had selected her during the dance and running away to hide at home⁸¹⁵. The incident occurred in Igunga District and the girl required medical attention following the attack.

'There is the Chagulaga dance, especially in rural areas, whereby men get to choose any girl they see and forcibly take them home as their wife. This is also performed in auctions.'

Police gender desk officer – Tabora

Calls to amend the law to abolish child marriage

In 2023, various stakeholders, including LHRC and the Tanzania Ending Child Marriage Network (TECMN), continued to call for legal reforms to prohibit child marriage. Developments relating to child marriage in Tanzania are summarized in Table 7 below.

Table 7: Developments relating to child marriage in Tanzania

| | |
|------|--|
| 1994 | <ul style="list-style-type: none"> ■ 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. |
| 2003 | <ul style="list-style-type: none"> ■ 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 | <ul style="list-style-type: none"> ■ Tanzania ratifies the Maputo Protocol of 2003, which prohibits child marriage and sets 18 years as minimum age of marriage for women. |
| 2016 | <ul style="list-style-type: none"> ■ Tanzania participates in developing and adopting the SADC Model Law on Eradicating Child Marriage and Protecting Children Already in Marriage |
| 2016 | <ul style="list-style-type: none"> ■ Rebecca Gyumi case, challenging provisions within LMA allowing child marriage, is filed before the High Court of Tanzania. |
| 2016 | <ul style="list-style-type: none"> ■ High Court of Tanzania delivers its judgement on the <i>Rebecca Gyumi</i> case, 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. |

815 LHRC Human Rights Survey 2023: Tabora Field Report.

| | |
|-------------|--|
| 2019 | <ul style="list-style-type: none"> ■ The 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 | <ul style="list-style-type: none"> ■ 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 | <ul style="list-style-type: none"> ■ The 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. |
| 2023 | <ul style="list-style-type: none"> ■ Law of Marriage Act yet to be amended to outlaw child marriage. ■ The CAG audit performance report on measures to eliminate VAWC in Tanzania finds that available measures have failed to address 'existence of discriminatory laws contributing to violence, such as Law of Marriage Act, said to contribute to child marriage and pregnancy.'⁸¹⁶ |

LHRC's View: Delays and hesitancy to amend the Law of Marriage Act to outlaw child marriage following repeated calls of both government and non-government stakeholders are causing girls to continue to suffer and being vulnerable to child marriage, especially in rural areas and among poor households.

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.

5.2.4.2. Child Pregnancy

In 2023, child pregnancy continued to be one the key barriers to girls' rights across Mainland Tanzania.

⁸¹⁶ PERFORMANCE AUDIT REPORT ON THE MANAGEMENT OF MEASURES FOR ELIMINATING VIOLENCE AGAINST WOMEN AND CHILDREN IN TANZANIA, CONTROLLER AND AUDITOR GENERAL, MARCH 2023 (supra).



Government data

- The Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 indicates that 22% of women aged 15-19 in Tanzania have ever been pregnant and 6% are currently pregnant.⁸¹⁷ Percentage is highest in South-west Highlands (31.1%), followed by Southern Highlands (29.4%), Southern (25.4%), and Western (24.0%).
- Analysis of TDHS-MIS 2022 data shows that child pregnancy is most prevalent in Songwe (44.7%), 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%).

Reported incidents of child pregnancy

In 2023 incidents of child pregnancy were widely reported and LHRC documented 2,953 child pregnancy incidents reported in various regions across Mainland Tanzania, but many more are believed to have been documented by authorities. The incidents were reported in region such as Dar es Salaam, Kigoma, Songwe, Tabora, Rukwa, Katavi, Ruvuma, Dodoma, Singida, Arusha, and Mwanza. SWOs, CDOs, NGO officials, and some community members in Dodoma and Tabora stated that there are many cases of child pregnancy but there is a challenge in addressing them because the pregnant girls are usually reluctant to mention the perpetrators⁸¹⁸.

'Most of the cases that were receive are on child pregnancy.'

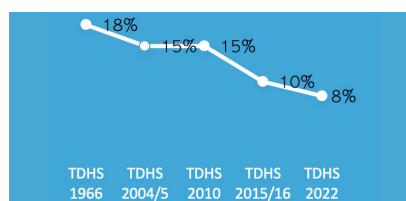
RCDO – Tabora

5.2.4.3. Female Genital Mutilation/Cutting

Government data

- Government statistics indicate a declining rate of FGM in Tanzania. For instance, the rate of FGM/C has declined from 18% in 1996 to 8% in 2022, equivalent to a 10% decline (currently less than half that of 1996). The most common type of FGM/C is cutting or removing flesh (89%) and circumcision is performed through childhood.⁸¹⁹
- Prevalence is three times higher in rural areas (11%) than in urban areas (4%). FGM/C is most prevalent in Central and Norther Zones (25%) and increases with age.

Trends in FGM/C



Source: TDHS-MIS 2022

- Regions where FGM/C is most prevalent are Manyara (43%), Arusha (43%), Mara (28%), Singida (20%), Tanga (19%), Dodoma (18%), and Iringa (12%).

⁸¹⁷ 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.

⁸¹⁸ LHRC Human Rights Survey 2023: Dodoma and Tabora Field Reports.

⁸¹⁹ Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022: Final Report (*supra*).

Reported incidents of FGM

In 2023, LHRC documented 76 incidents of FGM/C reported in Mara, Dodoma, and Singida. All of the victims were young girls. In Dodoma, FGM/C was said to be more prevalent in Chemba, Kondoa, and Kongwa⁸²⁰. In 2023, the Minister of Community Development, Gender, Women and Special Groups, Hon. Dr. Dorothy Gwajima (MP), revealed in Parliament that in February 2023, when it was thought girls were safe from FGM since it was not ‘the season,’ **a total of 71 girls in Tarime District in Mara Region were subjected to the harmful practice**, as soon as they returned home⁸²¹. She mentioned that the Mara Regional Commissioner had overseen arrest of 51 parents and guardians in connection with the incidents.

‘There are fewer reported cases of FGM, but that doesn’t mean it is no longer practiced, rather it is done in utmost secrecy, like the marijuana business.’

NGO official – Manyoni, Singida

In Singida, anti-FGM champion in Singida DC mentioned that circumcisers are getting more creative to ensure **‘the custom is complied with’** since they know there is now a watchful eye of the government and other stakeholders⁸²². She also recommended enactment of a specific-anti FGM law.

5.2.5. Children’s Access to Quality Education

As discussed in Chapter Three above (on socio-economic rights) effective enjoyment of children’s rights in Tanzania continued to be hindered by various barriers, including proximity of schools, especially for children in rural areas; budgetary constraints; shortages of school facilities; violence against children; and household poverty. There are also challenges which affect girls disproportionately, such as availability of menstrual hygiene facilities; child marriage; and child pregnancy. Access to quality education for children with disabilities is even more limited, as they face challenges such as stigma, discrimination, shortage of special education teachers, and non-availability of disability friendly infrastructure.

5.2.6. Children’s Safety and Security

Like other people in Tanzania, children are guaranteed the right to liberty and personal security under the Constitution of the United Republic of Tanzania, 1977 and various regional and international human rights instruments. However, in 2023 their safety and security were mostly compromised by different forms of violence, including harmful cultural practices, as discussed above.

820 Interview with RSWO, Dodoma.

821 HOTUBA YA WAZIRI WA MAENDELEO YA JAMIL, JINSIA, WANAWAKE NA MAKUNDI MAALUM, MHE. DKT. DOROTHY O. GWAJIMA (MB), KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/24 (supra), p. 44.

822 Interview with anti-FGM champion in Singida DC, Singida.



Child trafficking

Another key safety and security concern for children was child trafficking, defined as the exploitation of girls and boys, primarily for forced labour and sexual exploitation⁸²³ and prohibited by laws, including the Anti-Trafficking in Persons Act, No. 6 of 2008.

Children constitute over two thirds of human trafficking victims in Tanzania.

In 2023, LHRC documented 15 incidents of human trafficking through human rights monitoring, 11 of which (73%) were child trafficking incidents. The incidents were reported in Dar es Salaam, Mwanza, Arusha, and Kigoma Regions. In Dar es Salaam, it was reported that there is a growing problem of child trafficking and exploitation by begging (children trafficked for exploitative begging), especially in Kivukoni and Kigamboni areas.⁸²⁴

In May 2023, the Minister of Home Affairs, Hon. Hamad Masauni (MP), told the Parliament that in the period of July 2022 and May 2023, his ministry collaborated with other stakeholders to rescue and help 190 victims of human trafficking, of which 184 were Tanzanians and the remaining six were Burundians.⁸²⁵ He also mentioned that **statistics show children and women to be the major victims**, pointing out that **78% of the victims (138) were female and 73% were children**.⁸²⁶ In the period of financial year 2021/2022 his ministry led efforts to rescue 153 victims of child trafficking, equivalent to **84% of the rescued human trafficking victims**.⁸²⁷

5.2.7. Juvenile Justice

Juvenile justice in Tanzania is mainly administered through the Law of the 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.⁸²⁸ 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.**

823 See SavetheChildren "THE FIGHT AGAINST CHILD TRAFFICKING" at <https://www.savethechildren.org/us/charity-stories/child-trafficking-awareness>.

824 Ibid.

825 See HOTUBA YA WAZIRI WA MAMBO YA NDANI YA NCHI MHE. MHANDISI HAMAD M. Y. MASAUNI (MB), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/2024, para 226 at [https://www.parliament.go.tz/uploads/budgetspeeches/1685369435-document%20\(5\).pdf](https://www.parliament.go.tz/uploads/budgetspeeches/1685369435-document%20(5).pdf).

826 Ibid, para 227.

827 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>.

828 Key standards include 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; and United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), 1990.



Key issues and challenges in administration of juvenile justice

Key Challenges

- Mixing juvenile offenders with adults in detention facilities
 - Shortage of detention facilities, approved schools, and courts
 - Shortage of retention homes
 - Shortage of SWOs
 - 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
 - Perceived lenient punishment for juvenile offenders, especially those accused of sexual offences
- In 2023, the presidential criminal justice reform commission recommended, among others, provision of more human and financial resources for social welfare services and construction of more juvenile detention facilities and approved schools to avoid mixing children in conflict with the law with adults in detention facilities.⁸²⁹
 - In September 2023, the Law Reform Commission of Tanzania (LRCT) report revealed various challenges within the juvenile justice system, including complaints about juvenile offenders being mixed with adult offenders in prisons, which puts them in the danger of becoming hardened criminals and jeopardizes their lives; and lack of child-friendly juvenile courts and shortage of SWOs, contributing to delays in disposal of juvenile cases.⁸³⁰

Access to justice and criminal justice challenges discussed in Chapter Two above also affect and hinder effective administration of juvenile justice.

LHRC's View & Call: There is need to review and amend juvenile justice laws, including the Law of the Child of 2009. Increasing the number of SWOs is also essential for better administration of juvenile justice. Juvenile offenders should also not be mixed with adult prisoners to protect their rights and decrease the risk of them becoming hardened criminals.

5.2.8. Key Recommendations

- 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 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.'

⁸²⁹ See Presidential Criminal Justice Reform Commission Report (*supra*), p. 39.

⁸³⁰ "Tume sheria yakabidhi ripoti kwa Waziri wa Katiba na Sheria" Nipashe Newspaper, 24 Sep 2023.



5.3. RIGHTS OF PERSONS WITH DISABILITY

5.3.1. Promotion and Protection of Rights of Persons with Disability

Rights of persons with disabilities (PWDs)⁸³¹ are guaranteed internationally, regionally, and nationally⁸³². Tanzania is obligated to take appropriate measures to ensure PWDs do not suffer any form of discrimination and are protected from forms of exploitation, violence, and abuse⁸³³.

In 2023, key measures to promote PWDs' rights included provision of interest free loans (2%) to PWDs by Local Government Authorities (LGAs) to enable them to undertake economic activities. In December 2023, it was reported that the Government had provided Tshs. 8 billion to support the welfare of PWDs in the country⁸³⁴.

5.3.2. Key Issues Affecting Rights of PWDs

Community perception on key issues affecting Rights of PWDs

Community members who participated in the human rights survey conducted in 20 regions of Mainland Tanzania were asked about knowing any challenges or key issues affecting the rights of PWDs in their community and what these challenges are. The overwhelming majority (91%)⁸³⁵ acknowledged knowing challenges faced by PWDs in their respective communities. Regarding the key issues or challenges, stigma and discrimination were mentioned the most, at 48%, followed by poverty and unreliable source of income (44%), unfriendly infrastructure (42%), and limited access to quality healthcare. Neglect and social exclusion, food insecurity, abuse or mistreatment, and limited access to quality education were also identified as key issues and challenges by nearly a third of respondents.

831 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

832 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.

833 Articles 16(1) & 27(1) of CRPD.

834 "Serikali yatoa bilioni 8/- ustawi wenye ulamavu" HABARILEO Newspaper 18 Dec 2023.

835 N = 1,609.



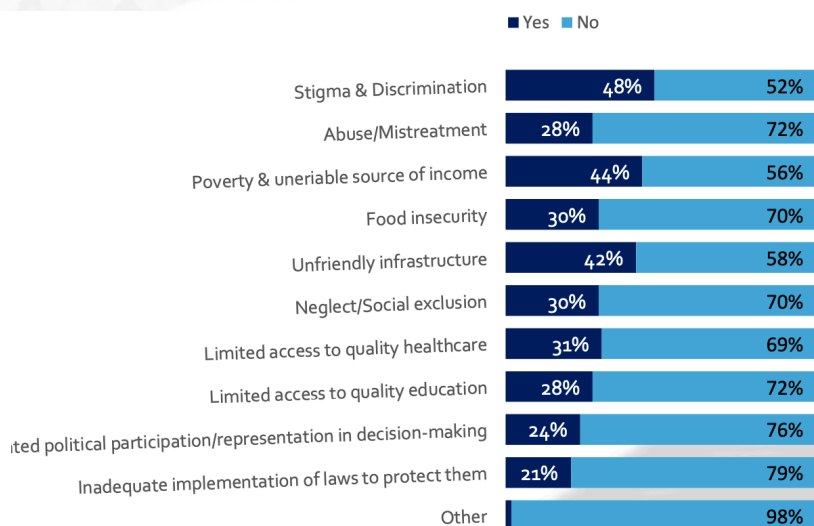


Figure 40: % Community responses on key issues affecting rights of PWDs

Source: Field data, 2023

Stigma and discrimination

In all surveyed regions, community members and key informants, including PWDs themselves, identified stigma and discrimination as their biggest concern. Interviewed PWDs also indicated that the stigma and discrimination start at family level and is mainly driven by various misconceptions about PWDs⁸³⁶.

‘The main challenge faced by PWDs in the community is discrimination. We are perceived to be incapable of doing what others can.’

NGO director – Tabora

In Ruvuma, Pwani, and Dar es Salaam, some of the interviewed PWDs said stigma and discrimination largely **contributes to experience of stress and depression among PWDs**⁸³⁷.

One of the key misconceptions about PWDs that was identified in surveyed regions is that **women with disabilities should not attempt to get pregnant, given their condition**. In one incident, reported in Tabora, a nurse was heard by a pregnant woman with disability (blind) asking another nurse why the woman decided to get pregnant in **‘her condition**⁸³⁸.’ Stigma and discrimination of pregnant women with disabilities were also reported in regions such as Njombe, Singida, Mbeya, and Dar es Salaam⁸³⁹. For instance, in Singida, the survey team met with a female PWD, who is blind, said that one day she went to a clinic when she was pregnant and

836 Human Rights Survey 2023 field reports; see also “Wenye ulemavu waanika kiini ukatili wa kijinsia” Nipashe Newspaper, 2 Jan 2023.

837 LHRC Human Rights Survey 2023: Ruvuma, Pwani, & Dar es Salaam Field Reports.

838 LHRC Human Rights Survey 2023: Tabora Field Report.

839 LHRC Human Rights Survey 2023: Njombe, Singida, & Dar es Salaam Field Reports. .



heard some nurses murmuring and laughing at her, **wondering why a blind person decided to get pregnant.** She also noted that even her family members were wondering why she become pregnant and conceived a baby⁸⁴⁰.

'I once witnessed two midwives at the hospital gossiping about a pregnant woman with disability, and then they asked her why she decided to get pregnant and how she could see the man while she is blind. They told her she had made a huge mistake and would struggle to deliver the baby.'

CHAWATA official – Tabora

'Most nurses stigmatize pregnant women with disabilities, telling them they don't feel pity on themselves by deciding to get pregnant. It's like we have no right to get pregnant simply because of disability.'

PWD – Mbeya

In Tabora, the Executive Director of an NGO called People with Disabilities Can Make It (PEDICAMA) told the survey team that there is a misconception that PWDs cannot make proper use of loans provided by LGAs to women, youth and PWDs (10%) and less likely to repay them⁸⁴¹.

Children with disabilities were also said to be stigmatized and discriminated against, including in school settings. For instance, in Tabora a treasurer at the Tabora chapter of CHAWATA said that he witnessed a teacher dismissing the ability of a child with disability to learn when the child had gone for registration⁸⁴².

Some parents in some surveyed regions were also said to lack faith in their children with disabilities and **consider it unnecessary to take them to school.** For instance, in Kigoma MC, Kigoma Region, the SHIVYAWATA Secretary General said there was one man who refused to take his child to school, despite passing standard seven national examinations, because of disability and his belief that he would not be of any help to help in the future⁸⁴³. It was also reported in the region that children with disabilities were also facing stigma and discrimination, including isolation and name-calling, at school from fellow students.

'We conducted a house-to-house search for children with disabilities, found 21 of them, and enrolled them at the Kiganza Primary School. Unfortunately, most of them were stigmatized and avoided by fellow pupils, something which made them unhappy, so we had to transfer them to Bitale Special School.'

KIWALEKI Chairperson – Kigoma DC

840 LHRC Human Rights Survey 2023: Singida Field Report.

841 LHRC Human Rights Survey 2023: Tabora Field Report.

842 LHRC Human Rights Survey 2023: Tabora Field Report.

843 LHRC Human Rights Survey 2023: Kigoma Field Report.



In Tabora and Rukwa, interviews with the Secretary of CHAWATA and TASAF coordinator in Nkasi District respectively revealed that because of stigma and discrimination some PWDs have resorted to self-stigmatization and isolation⁸⁴⁴.

LHRC also discovered that most PWDs, including women with disabilities and older persons with disabilities, face multiple forms of discrimination. Apart from being discriminated against based on disability, they are also discriminated based on sex and age.

Violence

In nearly all surveyed regions, PWDs were said to be subjected to **physical, sexual, economic, and psychological violence**. LHRC documented 27 incidents of violence against PWDs in 2023. In Dodoma, in one incident, a young woman with physical disabilities, resident of Kongwa District, who relied on a wheelchair, became the victim of a heinous act of sexual violence, wherein she was brutally assaulted in September⁸⁴⁵.

In another incident, a young man with cognitive impairments faced ongoing sexual abuse, perpetuated by individuals who took advantage of his vulnerability, leaving him deeply traumatized. In Dar es Salaam, one community member in Mabibo area stated that women and girls with disabilities, especially the ones with mental disability, are usually subjected to different acts of sexual violence, including rape⁸⁴⁶. A similar claim was made in Tabora, where a CHAWATA official said young women with disabilities are usually sexually taken advantage of, impregnated, and abandoned⁸⁴⁷.

There is a woman with disability who was impregnated and then neglected. The perpetrator is unknown, and no action has been taken.'

WEO – Bukene Ward, Nzega District

Neglect and abandonment of children with disabilities, which is a form of psychological violence, was also said to be common in some surveyed regions, including Pwani, Dodoma, Kilimanjaro, and Kigoma. For instance, in Pwani it was reported in September 2023 that the Kibiti District Commissioner, Col. Joeseeph Kolombo, had ordered arrest of parents of a child with disability, Teresia Noel, for neglecting and abandoning her, including failing to take her to school⁸⁴⁸. In Dodoma and Kilimanjaro it was revealed that it is common to hear cases of PWDs, including children with disabilities, being abandoned by family.

844 LHRC Human Rights Survey 2023: Tabora & Rukwa Field Report.

845 LHRC Human Rights Survey 2023: Dodoma Field Report.

846 LHRC Human Rights Survey 2023: Dar es Salaam Field Report.

847 LHRC Human Rights Survey 2023 Tabora Field Report.

848 "Mkuu wilaya aagiza kukamatwa wazazi waliomtelekeza mtoto mwenye ulemavu"

Nipashe Newspaper, 7 Sep 2023.



‘Most children with disabilities are neglected by their parents and abandoned at their grandparents, as their parents see them as a burden.’

NGO official - Kilimanjaro

In Kasulu DC, Kigoma, a SWO revealed that some male PWDs have complained about **being abandoned by their wives** due to economic hardships and rising costs of living. He pointed out that he had received four such complaints⁸⁴⁹.

For **persons with albinism (PWAs)**, the biggest fear and concern is **being physically attacked and possibly killed for their body parts**, which are used for witchcraft purposes.

‘Although reports of attacks of PWAs for their body parts have significantly dropped in recent years, they still live in fear of attack.’

Disability rights expert – Dar es Salaam

Another form of psychological violence against PWDs, especially children with disabilities, that was widely reported was denying them freedoms of movement and liberty by **preventing them from getting out of the house** and even making their existence a secret. This concern was expressed in nearly two thirds of the surveyed regions, including Dar es Salaam, Kigoma, Rukwa, Singida, Shinyanga, Mara, and Tabora. In Rukwa, as SHIVYAWATA official said that one of the reasons provided for doing this by some community members is **‘doing it for their own safety’**⁸⁵⁰. In Kigoma, an NGO official in Kasulu District revealed that there was an incident whereby a child with disability was **held inside the house for 14 years**⁸⁵¹. The Chairperson of Kiwaleki Village in Kigoma DC also told the survey team that a recent exercise of identifying children with disabilities ‘hidden’ by their parents and guardians resulted into the rescue of 22 victims. Overall, LHRC **documented 38 reported incidents of ‘hidden’ children with disabilities in the past two years**, with Kigoma leading with 22 victims. This relatively common practice has resulted into violation of their right to education, which also amounts to economic violence.

‘The biggest challenge for PWDs is being hidden in homes, not being free to go out. There is also a misconception that they are like that because they have been cursed.’

Official at TSB – Tabora

Low awareness about PWDs’ rights, including children with disabilities

LHRC surveys conducted in 2023, including human rights survey, discovered that low awareness about PWDs’ rights, including children with disabilities,

849 LHRC Human Rights Survey 2023: Kigoma Field Report.

850 Interview with a SHIVYAWATA official in Rukwa.

851 Interview with an NGO official in Kasulu, Kigoma.



is still a challenge in different parts of Mainland Tanzania. In Ruvuma, Arusha, Njombe, Geita, Shinyanga, and Mwanza, some of the interviewed community members, including paralegals and PWDs⁸⁵², said low awareness about PWDs' rights has contributed to stigma and discrimination and disrespect for PWDs. In Dodoma, a SWO in Dodoma City stated in July 2023 that low awareness about rights of children with disabilities among parents and guardians has contributed to denial of their fundamental rights, including right to education⁸⁵³.

'Awareness about rights of PWDs is low, including among PWDs themselves. So, there is need to intensify awareness-raising efforts to enhance respect and protection of their rights.'

Paralegal – Songea, Ruvuma

Access to employment and economic opportunities

Interviewed PWDs in surveyed regions lamented limited access to employment and economic opportunities, which is a key contributor to most PWDs living in poverty. In some regions, such as Tanga, Dar es Salaam, Kilimanjaro, Kigoma, and Pwani, employers in the private sector were accused of discriminating PWDs in employment, citing **'inability to effectively participate in production'**⁸⁵⁴. In Rukwa, it was revealed that discrimination of PWDs does not end in the job market, but also extends to the workplace, whereby workers with disabilities are sometimes stigmatized and not involved in some issues and decision-making⁸⁵⁵.

In Mwanza, it was reported in August that some youth with albinism had requested the Government to ensure effective implementation of the Persons with Disabilities Act, that requires employers with a certain number of employees to ensure 3% of the employees are PWDs⁸⁵⁶.

'I can't hire a PWD because if I do, then production shall decline as they shall struggle to keep up with others.'

Community member – Lushoto, Tanga

In some regions, such as Kilimanjaro, Dar es Salaam, Ruvuma, and Njombe, some community members expressed concerns with the Government decision to halt provision of LGA interest free loans, noting that it further limited their access to economic opportunities through self-employment⁸⁵⁷. Some of the PWDs in the regions also lamented discrimination and nepotism in provision of the loans. In Kigoma, an NGO official pointed out that limited access to economic opportunities, unemployment, and unreliable income had caused PWDs to sink deeper into poverty and majority of them resorting to begging for survival⁸⁵⁸.

852 LHRC Human Rights Survey 2023: Ruvuma, Arusha, Njombe, Geita, Shinyanga, & Mwanza Field Reports.

853 "Ofisa Ustawi wa Jamii ataja kiini wenye ulemavu kunyimwa haki" Nipashe Newspaper, 10 Jul 2023.

854 LHRC Human Rights Survey 2023: Tanga, Dar es Salaam, Kilimanjaro, Kigoma, & Pwani Field Reports.

855 LHRC Human Rights Survey 2023: Rukwa Field Report.

856 Wenye ualbino wataka mkazo sheria ya ajira wenye ulemavu" Nipashe Newspaper, 6 Aug 2023.

857 LHRC Human Rights Survey 2023: Kilimanjaro, Dar es Salaam, Ruvuma, & Njombe Field Reports.

858 LHRC Human Rights Survey 2023: Kigoma Field Report.



Participation in decision-making and politics

Complaints about non-participation in decision-making and politics were widely made by PWDs in 2023, including in Singida, Dodoma, Tabora, Pwani, Tanga, Rukwa, and Kigoma. For instance, in Singida, it was reported in September that PWDs in the region had lamented non-involvement in making development plans by LGAs because of the misconception that **‘they are stubborn⁸⁵⁹’**. In Singida and Dodoma, some of the interviewed PWDs also claimed **discrimination and discouragement of PWDs to speak during community meetings⁸⁶⁰**.

In Tabora, Pwani, Rukwa, and Kigoma, some of the PWDs indicated violation of their right to political participation, including right to hold office, noting that **‘they are usually discredited and hardly make it through the nomination phase’**. In Tabora, a PWD indicated that a friend of his was once discouraged from running for councillorship for being blind, as **‘people were wondering how they can be led by someone who cannot see⁸⁶¹’**.

In Rukwa, a SHIVYAWATA official questioned the process of nominating PWD MPs, noting that there are three MPs representing PWDs in Parliament but all of them are from the Union of Tanzania Women (UWT)⁸⁶².

‘There are PWDs who come out and seek leadership positions during elections, but even if they have the qualities they are usually dismissed simply because of their disability.’

NGO director – Tabora

‘Even at political party level they are hesitant when it comes to proposing candidates with disabilities, fearing they shall not be able to represent the party well.’

SHIVYAWATA official – Rukwa

Lack of disability-friendly infrastructure and mobility and other aids

PWDs and other community members in surveyed regions also indicated great concerns over lack of disability-friendly infrastructure and lack of mobility and other aids for PWDs. Some of the buildings were said to be non-accessible or not easily accessible by PWDs. In some public institutions, including schools, toilet facilities were also said to be disability friendly. In Rukwa, a TASAF coordinator also mentioned that even most public vehicles or buses are not easily accessible by PWDs⁸⁶³.

859 “Watu wenye ulemavu walia kutoshikishwa katika mipango” Nipashe Newspaper, 26 Sep 2023.

860 LHRC Human Rights Survey 2023: Dodoma & Singida Field Reports.

861 LHRC Human Rights Survey 2023: Tabora Field Report.

862 LHRC Human Rights Survey 2023: Rukwa Field Report.

863 LHRC Human Rights Survey 2023: Rukwa Field Report.



'Most African leaders like to have their offices in upper floors of the public buildings, which makes it difficult for those of us with disabilities to easily reach and meet them.'

PWD – Kasulu, Kigoma

Limited access to justice

In 2023, LHRC discovered that PWDs are disproportionately impacted by various barriers to access to justice discussed in chapter two of this report, largely due to stigma and discrimination. Additionally, PWDs' limited access to justice is contributed by lack of sign language experts at justice institutions, including courts and police stations⁸⁶⁴. Costs of legal representation is also a challenge for most PWDs, given their poverty background and little or no support from family.

'The deaf face more challenges compared to other PWDs groups. The biggest challenge is the language barrier in institutions such as schools, hospitals, courts, and even churches, as there are no sign language experts.'

SWO – Singida MC, Singida

In 2023, the report of the presidential commission on criminal justice reforms revealed that shortage of sign language and Braille experts and lack of disability-friendly infrastructures at some criminal justice institutions was causing PWDs to experience more challenges in accessing services and justice.

Commission Recommendation(s)

Criminal justice institutions to hire sign language and Braille experts, mental health and social welfare professionals and improve services for PWDs.

Trafficking, especially for begging

As discussed above in chapter two and sub-chapter 5.2 of this report, human trafficking, especially trafficking for begging is also a concern for PWDs. PWDs, including children with disabilities, are sometimes given accommodation, and forced to beg by traffickers, especially in cities such as Dar es Salaam, Arusha, and Dodoma. In Iringa, it was reported that some parents even encourage trafficking of their children with disabilities for begging, as a source of income⁸⁶⁵.

Access to quality education and health services

As discussed above, access to quality education for children with disabilities was limited by various factors including stigma and discrimination and lack of or shortage of special education facilities and staff. For instance,

⁸⁶⁴ Interviews with leaders of PWDs organizations in some surveyed regions, including Dar es Salaam and Singida; see also "Vikwazo wenye ulemavu kupata haki polisi, mahakamani vyatajwa" Nipashe Newspaper, 21 Jul 2023.

⁸⁶⁵ LHRC Human Rights Survey 2023: Iringa Field Report.



in Dodoma and Singida, inadequate access to education for PWDs was said to be compounded by the insufficiency of special needs schools equipped with adequately trained teachers. The identified need in the region underscores the imperative of establishing enough special needs schools with well-trained educators and appropriate learning materials⁸⁶⁶.

In all surveyed regions, this was said to affect future prospects of employment of PWDs in the job market. The deaf and hard of hearing were said to be mostly affected by shortage of sign language experts, and a PWD in Singida mentioned that majority of the experts are male, hence affecting **provision of gender-sensitive services**⁸⁶⁷.

'There is a shortage of special education equipment and tools, including braille books. There is also a shortage of special education teachers. For instance, we only have one teacher who is a sign language expert, who had already retired but was called back to assist.'

FGD – Singida MC, Singida

In Singida, some interviewed PWDs, including women with disabilities, claimed that **most beds at health facilities are not disability-friendly**, causing pregnant women with disabilities to experience challenges during labour and delivery⁸⁶⁸. Proximity of schools was also said to affect more PWDs, and establishment of dormitories was identified as a possible solution⁸⁶⁹.

Access to quality health services for PWDs was said to be affected by stigma and discrimination, especially for those with mental disability. In Tabora and Ruvuma, some PWDs, including from CHAWATA, recommended provision of health insurance to PWDs like it is the case for the elderly⁸⁷⁰.

'Persons with mental disability are discriminated against in provision of health services, therefore are less likely to go or be taken to health facilities due to lack of disability-friendly services.'

WEO – Nzega District

Other issues

Other violations of rights of PWDs that were raised by PWDs in surveyed regions and other stakeholders included **disrespect** for PWDs, including when they express their views; **mixing PWDs accused of crime with other criminal suspects** in detention facilities; **bullying** of children with disabilities; and **fraud** committed against PWDs, especially the blind.

866 LHRC Human Rights Survey 2023: Dodoma & Singida Field Reports.

867 LHRC Human Rights Survey 2023: Singida Field Report.

868 LHRC Human Rights Survey 2023: Singida Field Report.

869 Ibid.

870 LHRC Human Rights Survey 2023: Tabora & Ruvuma Field Report.



5.3.3. Key Recommendations

- The Ministry of Constitutional and Legal Affairs and the Ministry of Foreign Affairs to ensure ratification of 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

5.4.1. Promotion and Protection of the Rights of the Elderly

Globally, legal protection of the elderly is deemed to be inadequate, with lack of elderly-specific international and regional human rights instruments as well as lack of domestic legislation on the same in some countries, including Tanzania said to be a major factor.

Community perceptions on key challenges faced by the elderly

Participants of the 2023 edition of LHRC's Human Rights Survey, conducted in 20 regions of Mainland Tanzania, were asked about different challenges that the elderly faced in their respective communities, and 93% of them claimed to have a good knowledge of such challenges. Poverty and unreliable source of income was mentioned as a key issue affecting elderly rights by over a half of the respondents (57%), followed by limited access to quality health services (45%), food insecurity (40%), childcare burden imposed by their own children (38%), and neglect/social exclusion (36%).

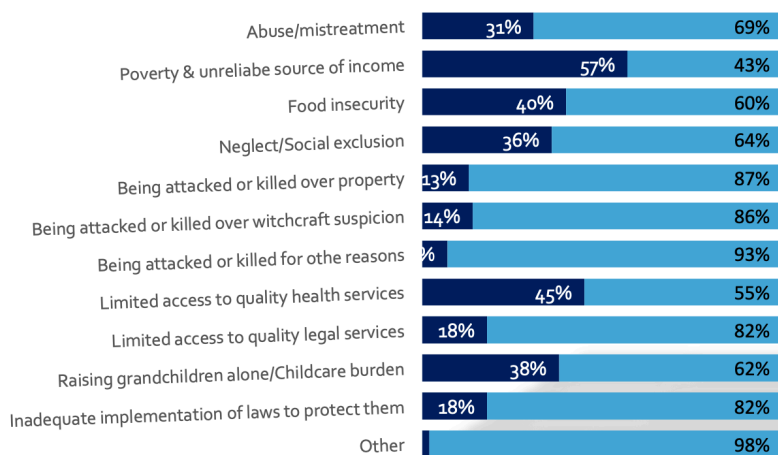


Figure 41: % Community responses on key issues affecting elderly rights in Mainland Tanzania

Source: Field data, 2023



Some of the key recommendations to improve the situation provided by community members and key informants, including older persons themselves, included enactment of elderly protection law; increasing social protection for the elderly; public awareness raising about the rights of the elderly; and allocation of special budget for provision of pension to older persons, akin to what is happening in Zanzibar.

5.4.2. Key Issues Affecting Elderly Rights

Access to quality health services

In nearly all surveyed regions, interviewed older persons lamented limited access to quality health services and dismissed the claim that the elderly are fully provided with free medical services. In some regions, some older persons said they were sometimes told that the Government has not provided adequate budget to facilitate provision of free health services to them, while in some instances older persons were said to lose their lives due to lack of access to quality health services.

‘I am the one of the victims, because I have failed to get free medical check-up from the government hospitals on the grounds that the government is yet to budget for such programme.’

NGO official – Morogoro

In Dodoma, lack of nearby health facilities was mentioned as a factor contributing to limited access to quality health services for the elderly, considering also financial and transportation challenges⁸⁷¹. Some older persons in the region as well as administrative officials also raised concern over the bureaucracy characterizing provision of free health services to the elderly.

‘There are times when we enjoy free medical checkups but when it comes to medicine, we are told to buy them. Otherwise, they only give you painkillers like Panadol, which are usually provided free of charge.’

Older person – Bumbuli, Tanga

In most surveyed regions, older persons said despite the existence of the government policy on provision of free medical services and provision of some IDs to that effect to some of them, they still face numerous challenges when accessing health services, including being told they are only entitled to a checkup but have to go and buy medicines themselves; limitations on health insurance scheme; being provided with only painkillers most of the time, especially *Panadol* and *Mseto*; and being overlooked in patient queues, instead of being given priority as the policy demands. Because of the challenges and inconsistencies

871 LHRC Human Rights Survey 2023: Dodoma Field Report.

in provision of health services to the elderly, some of them were reported to resort to seeking treatment from witchdoctors and traditional healers⁸⁷².

'Sometimes you might decide to let sick older persons stay at home and just give them Panadol or take them to a witchdoctor or traditional healer because of the medical costs if you choose to take them to a health facility.'

Community member – Nzega DC

'They say the medical services are free, but in reality, the only thing you get for free is Panadol, while you are told there are no other medicines. However, if you say you have money, they give the medicines they said they didn't have.'

Older person – Singida MC

In most surveyed regions, health challenges encountered by the older persons and limited access to medical services were said to be contributed by neglect inflicted by their own children⁸⁷³. In Sumbawanga, Rukwa Region, some older persons complained about being made to wait in queues while standing⁸⁷⁴.

A similar claim was made by some interviewed older persons in Kasulu, Kigoma, adding that it contributes to stress and depression. Some interviewed older persons also claimed being subjected to verbal abuse by medical personnel, including nurses, when questioning their mistreatment, while others were said to be neglected because **'they shall die anytime anyway.'**⁸⁷⁵

'Older persons using CHF cards are made to stand in long queues until all other patients are attended. In short, they are not valued, and this contributes to depression and other diseases.'

Older person – Kasulu, Kigoma

LHRC also discovered that shortages of human and other resources in the health sector disproportionately affect the elderly.

The Law Reform Commission of Tanzania: Health Services

In 2017, the Law Reform Commission of Tanzania (LRCT) observed that access to affordable health services is one of the essential needs of the elderly due to prolonged diseases and ill-health associated with old age.⁸⁷⁶ It also observed that there is no law to ensure effective implementation of the National Ageing Policy and recommended the law to impose statutory duty to health facilities to ensure access to free health services by the elderly.⁸⁷⁷

872 LHRC Human Rights Survey 2023: Tabora & Iringa Field Reports.

873 LHRC Human Rights Survey 2023: Manyara, Ruvuma, Njombe, Tabora, Pwani, & Dar es Salaam Field Reports.

874 LHRC Human Rights Survey 2023: Rukwa Field Report.

875 LHRC Human Rights Survey 2023: Kigoma Field Report.

876 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>

877 Ibid.



Violence

The elderly in Tanzania are subjected to different forms of violence, including physical, sexual, economic, and psychological violence. In 2022, LHRC documented 24 incidents of violence against the elderly. In 2023, LHRC documented 45 incidents, reported in regions such as Kigoma, Singida, Geita, Dodoma, Shinyanga, Njombe, Tabora, Ruvuma, Iringa, Rukwa, and Kigoma. The different forms of violence and reported issues are summarized in the table below.

Physical violence

- Physical assault
- Killing
- Most of the killings perpetrated over witchcraft suspicion, but others over property

- For instance, in February 2023, police in Geita arrested a man and his wife for killing the 70-year-old man's mother, whom they accused of witchcraft (killing their son)⁸⁷⁸. Similar incident reported in Dodoma in August⁸⁷⁹. According to the Minister of Community Development, Gender, Women and Special Groups, Hon. Dr. Dorothy Gwajima, 130 incidents of elderly killings were reported in 2022⁸⁸⁰, equal to 11 each month.
- In March 2023, police in Njombe arrested four people for killing their mother, aged 80 years, in Makambo District to get inheritance⁸⁸¹. In Shinyanga, a 100-year-old man was nearly killed by his son in Kishapu District because of demanding inheritance⁸⁸².
- In Singida, six family members were arrested by police for killing their 68-year-old father for marrying a second wife in Iramba District, in October⁸⁸³.

'Most of the older persons killed over witchcraft suspicion are female, and this is because they are ones who usually have red eyes, which are associated with being a witch. However, the red colour in the eyes is caused by years of cooking using firewood or charcoal.'

FGD – Igunga, Tabora

'We are very suspicious of this older woman because all her children and grandchildren are dead, while she continues to survive. She must be a witch and responsible for their deaths.'

Community member – Kasulu, Kigoma

878 "Wanandoa mbaroni mauaji ya mama wa mume" HABARILEO Newspaper, 26 Feb 2023.

879 "Dk Gwajima akerwa mauaji ya kikongwe" HABARILEO Newspaper, 5 Aug 2023.

880 Ibid.

881 Wadaiwa kumuua mama warithi mali" Nipashe Newspaper, 16 Mar 2023.

882 "Kikongwe asimulia alivyonusurika kuuawa na mtoto wake" Mwananchi Newspaper, 3 Jul 2023.

883 "Matatani mauaji ya baba yao kisa kua mke wa pili" Nipashe Newspaper, 3 Oct 2023.



Sexual violence

- The victims are usually female older persons

'Female older persons are sometimes targeted for sexual violence, but this is usually connected to belief in witchcraft.'

Community member – Geita

Economic Violence

- Children forcefully demanding properties from their parents
- Children wishing their parents dead because of property

- In Kahama, Shinyanga, some older persons reported to have been forced to provide inheritance, especially land and farms, as demanded by their children⁸⁸⁴.

'There are many children who wish their parents dead, asking themselves when they shall die...'

FGD – Nkasi, Kigoma

'...The older people are really suffering...How can your own child beat you, demanding part of their inheritance while you are still alive? You are beating your parent because of the property they worked very hard to acquire.'

Community member – Moshi, Kilimanjaro

- In Iringa, the survey team came across an older woman called Bi. Zakia who was being subjected to physical abuse and threatened with eviction by her daughter-in-law.⁸⁸⁵
- In Kigoma, three incidents of children forcing their widowed mothers out of their property were reported in Kasulu District alone.⁸⁸⁶

884 "WAZEE WADAI WANALAZIMISHWA KUGAWA URITHI ILI WASIUWawe NA WATOTO WAO" JamiForums, 21 Jun 2023.

885 LHRC Human Rights Survey 2023: Iringa Field Report.

886 LHRC Human Rights Survey 2023: Kigoma Field Report.



Psychological violence

- Neglect and abandonment
- Verbal abuse
- Childcare burden due to raising grandchildren 'dumped' by their parents
- Some children accused of abandoning their parents when they get sick
- Incidents of grandchild care burden widely reported, especially in Singida, Rukwa, Kigoma, Njombe, and Pwani.

- Incidents of psychological violence against the elderly were reported in nearly all surveyed regions.
- During the Commemoration of the International Day of Older Persons in Singida in October 2023, older persons lamented the tendency of their children neglecting their parental duties by leaving the grandchildren to stay with them without providing any financial support while they 'enjoy life' in urban areas, as a situation that creates additional burden for them⁸⁸⁷.

'There are some young women who abandon their children with their parents (grandparents) and move to urban areas. This is a big issue here in Singida.'

FGD – Manyoni, Singida

'My child left me with his three children for three years now without any support. He doesn't know what they are eating, whether and how they are going to school, or how they get treated when they fall sick. So, I must deal with all that, which is difficult considering I don't have a stable income. But what can I do? He is my son, and these are my grandchildren.'

Older woman – Kasulu, Kigoma

'Grandchild care burden is a big problem for older people, and the worst part is that they are not given any support by their children.'

Community member – Njombe

In most surveyed regions, it was discovered that **older persons rarely report violence due to several reasons, including fear of retaliation and isolation; feelings of shame; fears of action not being taken after reporting incident; and perpetrators mostly being family members**, especially in the case of physical and economic violence.

Social protection, poverty, food, and shelter

In Tanzania, social protection for older people comprises old age pension schemes for retired older persons and traditional/non-formal social protection schemes. Overwhelming majority of older persons are ineligible for old age pension/retirement benefits as only 4% of the older persons

⁸⁸⁷ "Wazee walia mzigo kutunza wajukuu" Nipashe Newspaper, 7 Oct 2023.



in Tanzania are said to receive a pension⁸⁸⁸. Consequently, they are forced to engage in economic activities such as farming, pastoralism, and other business activities that are physically too demanding to them⁸⁸⁹. However, majority of them do not have the strength to engage in such activities, leaving them more vulnerable to poverty. To address this problem, stakeholders have recommended in consideration of older persons who are not under any pension scheme and without any other means of earning income, the Government should adopt a universal pension scheme to help them financially. **A 2010 study into feasibility of a universal social pension, conducted by the Ministry responsible for employment in collaboration with the elderly rights organization called *Help Age International* concluded that such a scheme is feasible for Tanzania, and based on these findings, in 2017 the Law Reform Commission of Tanzania (LRCT) recommended enactment of elderly law that would include a provision on establishing a universal pension scheme⁸⁹⁰.**

However, six years on, we are yet to have in place neither the law nor the universal pension scheme for the elderly. The traditional/non-formal social protection schemes have also proven inadequate.

Lack of universal pension scheme and reliable income

The majority of interviewed older people in all surveyed regions complained about the lack of a universal pension scheme and reliable income, contributing to causing them to face dire economic circumstances and live in abject poverty. They recommended the introduction of such a scheme, as is the case in Zanzibar.

‘There is a universal pension scheme currently being implemented in Zanzibar, whereby older people get a monthly pay. Sometimes you wish you could also go there and register to get the pay.’

Older person – Manyoni, Singida

In some regions, such as Kigoma, Pwani, Njombe, Rukwa and Tabora, the challenges of lack of monthly pension and unreliable source of income are compounded by several other factors, including **neglect and abandonment by their children or family, lack of economic opportunities, and inadequate shelter/living in dilapidated houses**. Consequently, older people **struggle to get food and other basic needs**, including **clothing**, contributing to **nutritional challenges, mental health problems, and increased vulnerability to diseases**. Others are forced to move around and **beg for money or sometimes just food**. In Dar es Salaam, an NGO official mentioned that although some NGOs have also been collaborating with the Government to support the elderly, the support is limited in coverage and

888 See HelpAge International “Why do we work in Tanzania?” at <https://www.helpage.org/where-we-work/helpage-global-network-members-in-africa/tanzania/>.

889 Ibid; REPORT OF THE REVIEW OF THE LEGAL FRAMEWORK ON ELDELRY SOCIAL CARE IN TANZANIA (supra).

890 REPORT OF THE REVIEW OF THE LEGAL FRAMEWORK ON ELDELRY SOCIAL CARE IN TANZANIA, ibid.



usually inadequate or unsustainable⁸⁹¹. In surveyed regions, interviewed key stakeholders agreed that older people in rural areas are struggling more with food insecurity than their counterparts in urban and semi-urban areas. In 2017, the Law Reform Commission of Tanzania (LRCT) observed that **'majority of the elderly do not have access to adequate food let alone nutritious food'**⁸⁹².

'We have lost all hope due to the poverty we are swimming in, just waiting to die...'

Older person – Kigoma DC, Kigoma

'There are older people in rural areas who are ageing without dignity, lacking proper clothing, and it is just considered normal. Things need to improve for older people and quick. I wonder why we are even yet to have in place a law for elderly protection and welfare.'

NGO official – Dar es Salaam

Complaints about the TASAF social protection programme

In some surveyed regions, including Mtwara, Rukwa, Iringa, and Kilimanjaro, some older persons complained about being overlooked by the Tanzania Social Action Fund (TASAF) cash transfers programme, which seeks to address basic needs of poverty (food, clothing, shelter) among the poor. They blamed the local TASAF committees for usually selecting youth as beneficiaries of the programme, while leaving out those who are in real need of the TASAF funds, including the elderly. In Kigoma, an older person accused the committee of being corrupt, wondering why someone who owns two motorcycles can be qualified for the programme while older persons living in poverty are not⁸⁹³.

'Youth, who are strong and capable of doing work are provided with TASAF funds, while older people, who need the funds more, are left out.'

Youth – Kigoma DC, Kigoma

Older person – Sumbawanga DC

In Iringa, the study discovered several operational challenges and concerns, namely demographic imbalance and delayed payments, as the programme was said to favour youth and women; public distribution of funds and non-prioritization of elders; and nepotism and criteria discrepancies⁸⁹⁴. These concerns collectively point to the need for a thorough review of the programme, with specific attention to addressing demographic imbalances, improving the distribution process, ensuring timely payments, and refining the criteria to genuinely target those in need, including the elderly.

891 LHRC Human Rights Survey 2023: Dar es Salaam Field Report.

892 REPORT OF THE REVIEW OF THE LEGAL FRAMEWORK ON ELDELY SOCIAL CARE IN TANZANIA (supra).

893 LHRC Human Rights Survey 2023: Kigoma Field Report.

894 LHRC Human Rights Survey 2023: Iringa Field Report.



Complaints about pension/retirement benefits

Key challenges for older people who have retired are inadequacy of the retirement benefits and delays and bureaucracy in provision of such benefits. Older people in most surveyed regions mentioned these two as key challenges. Most of the interviewed older people also expressed concern over the new pension formula, introduced in July 2022. In Dodoma, some older persons complained about the procedures and bureaucratic complexities associated with pension scheme processes⁸⁹⁵.

“When older people retire, they wait for six months to receive their benefits, making them easy targets for con artists who lend them money and charge high interest rates, to be paid when they finally receive their benefits. I am one the victims of this con. I obtained a loan of Tshs. 7 million and ended up paying back Tshs. 14 million.”

Older person – Igunga, Tabora

According to the new formula, retirees shall be entitled to only 33% of their total savings paid in lumpsum, while the remaining 67% shall be paid as monthly pension⁸⁹⁶, abandoning the previous 50% lumpsum formula⁸⁹⁷.

Previously, in 2018 the Government had further reduced the formula to 25% lumpsum payment and 75% monthly pension payments for 12 years, prompting stakeholders to call for review of the retirement benefit formula⁸⁹⁸.

The pressure prompted the intervention of former President, the late John Magufuli, who ordered revert to old pension formula of 50% lumpsum and recommended a five year transition period during which pension schemes management and workers will agree to a win-win formula⁸⁹⁹.

In June 2023, ACT-Wazalendo, an opposition party, expressed concern about the new pension formula, noting it puts retirees at a disadvantage⁹⁰⁰.

LHRC’s View: Both the contributory (social insurance) and non-contributory (social assistance) social protection schemes are characterized by inadequate coverage and benefits, affecting the right of the elderly to social security, which is a fundamental human right. Non-realization of this right also threatens other fundamental rights, including the right to food, right to health, and right to adequate standard of living.

LHRC’s Call: The Government to review social protection schemes and programmes to ensure better promotion and protection of elderly welfare. A good starting point would be to enact elderly protection legislation.

895 LHRC Human Rights Survey 2023: Dodoma Field Report.

896 “You will only take home 33 percent in new pension scheme from July” THE CITIZEN Newspaper (online), 26 May 2022, at <https://www.thecitizen.co.tz/tanzania/news/national/you-will-only-take-home-33-percent-in-new-pension-scheme-from-july-3827974>.

897 The new pension scheme came into effect after the amendment of Section 25A of the Social Security Benefit Schemes Regulations.

898 “Tughe strongly urges for review of retirement benefit formula” THE CITIZEN Newspaper (online), 22 Dec 2018, at <https://www.thecitizen.co.tz/tanzania/news/national/tughe-strongly-urges-for-review-of-retirement-benefit-formula--2665572>.

899 “Magufuli orders a revert to old pension formula amid pressure from workers” THE CITIZEN Newspaper (online), 28 Dec 2018, at <https://www.thecitizen.co.tz/News/Magufuli-orders-a-revert-to-old-pension-formula-amid-pressure/1840340-4912986-t6ch2oz/index.html>.

900 “ACT: Kikokotoo mafao ni kikwazo kwa wastaafu” Nipashe Newspaper, 7 Jun 2023.



Stigma and discrimination

Stigma and discrimination were mentioned as concerns by interviewed community members, including paralegals, as a key concern for older people in their community. It was revealed that they face stigma and discrimination in several sectors, including health and employment sectors. For instance, in Rukwa, older persons in Sumbawanga and Nkasi revealed during FGDs that healthcare personnel, including nurses, discriminate against poor older people seeking medical treatment. In Kigoma, some older persons in Kasulu complained about discrimination in employment and accessing loans.

‘As an older person, you are only respected at health facilities if you have money.’

Older person – Sumbawanga, Rukwa

‘Older people are stigmatized and told that they are not qualified for loans due their age and lack of income generating activity or simply because they are old.’

Older person – Kasulu, Kigoma



Picture 16: Some of the interviewed older people in Kigoma

Inadequate legal protection

In 2023 inadequate legal protection was also mentioned by stakeholders, including older people themselves, as a key challenge for the elderly. Most of the interviewed older people in surveyed regions recommended enactment of the elderly rights and protection law. In Rukwa and Dar es Salaam, older people recommended the proposed law to include provisions on universal pension,

health services, and establishment of the Elderly Council⁹⁰¹.

'The Government should enact a specific law to cater for the protection and welfare of the elderly and PWDs and impose strict punishment for contravening such law.'

'The elderly law is very much needed now, we are really suffering, please help us with this! I believe things shall change for the better once we in place such law.'

Paralegal – Morogoro

Older person – Kilimanjaro

The Law Reform Commission of Tanzania: Elderly Law

In 2017, the Law Reform Commission of Tanzania (LRCT) identified legal protection of the elderly to be inadequate and recommended the Government enacts 'a single statute for elderly social care to consolidate existing scattered provisions on elderly social and translate the National Ageing Policy Statement into a proper legal and regulatory framework for elderly social care.'⁹⁰² It recommended provisions on **universal social pension scheme, respect and dignity for the elderly, obligation of the youth to take care of the elderly, participation of the elderly in dispute settlement, councils for the elderly, enhancing the economic status of the elderly through participation in income generating activities, exempting the elderly who have no reliable sources of income from paying all taxes and contributions, and community support to the elderly**, among others.

LHRC's View & Call: Having in place specific legislation for the elderly is essential for safeguarding their human rights. There are various countries in the world who have enacted such legislation, including China and South Africa which have enacted the Elderly Rights Law and the Older Persons Act No. 13 of 2006 respectively, which among other things prohibit adult children from neglecting or snubbing elderly people. Tanzania (Mainland) should do so, also considering Zanzibar already has in place such law.

Other

Other key issues that older people complained about included disrespect and mistreatment, including at family level; being considered old-fashioned, less educated, and less knowledgeable, especially in rural areas; and being socially excluded and their opinions being disregarded.

⁹⁰¹ LHRC Human Rights Survey 2023: Rukwa & Dar es Salaam Field Reports.

⁹⁰² REPORT OF THE REVIEW OF THE LEGAL FRAMEWORK ON ELDELRY SOCIAL CARE IN TANZANIA (*supra*).



5.4.3. Key Recommendations

- 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. Promotion and Protection of Youth Rights

Youth rights in Tanzania are protected under various international, regional, and domestic human rights instruments.⁹⁰³ At continental level, a key youth rights instrument is the Youth Charter of 2006,⁹⁰⁴ according to which, youth or young people refer to every person between ages 15 and 35 years.⁹⁰⁵ Fundamental rights recognized under this convention including right to non-discrimination, right to gainful employment, right to adequate standard of living, and right to education of good quality.

5.5.2. Key Issues Affecting Youth Rights

In 2023 LHRC observed that employment; underemployment; quality education; mental health and access to quality health services; violence; and limited participation in decision-making continued to be key concerns for youth.

Violence

Physical
Sexual
Economic
Psychological
Harmful cultural practices

- Analysis of reported incidents of violence and recent demographic and health survey data shows that majority of violence victims are youth (15 to 35 years), especially children (boys and girls) and young women. They are subjected to various acts of physical, sexual, economic, and psychological violence. Girls are also subjected to harmful cultural practices such as child marriage and FGM. In some areas, girls and youth with disabilities are denied access to education, while girls are also encouraged examinations to get married.

Mental health

- Mental health problems among youth are contributed by violence and lack of employment, causing stress, anxiety, and depression, and increasing vulnerability to crime and substance abuse.

⁹⁰³ 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.

⁹⁰⁴ African Youth Charter, adopted by the Seventh Ordinary Session of the Assembly, held in Banjul, The Gambia on 2nd July 2006.

⁹⁰⁵ Ibid.



| | |
|---|--|
| Political participation, leadership, and decision-making | <ul style="list-style-type: none"> ■ Most youth feel 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.⁹⁰⁶ |
| Access to quality education | <ul style="list-style-type: none"> ■ In 2023, stakeholders, including youth, continued to express concern about quality of education in Tanzania and proposed legal and policy reforms to improve education. In May 2023, some youth in higher learning institutions expressed concern over quality of the education they were receiving, accusing lecturers of ‘rushing’ during lectures to meet deadlines.⁹⁰⁷ |
| Access to quality and youth-friendly health services | <ul style="list-style-type: none"> ■ Most youth, especially those who are 18 years and above and unemployed struggle to access quality health services, largely due to unemployment and not being covered in their parents’ health insurance. LHRC has also observed, and sadly so, that even youth with disabilities are not covered by their parents’ health insurance as long as they are 18 and above. Consequently, medical costs become a big burden for the unemployed youth, especially those from poor families. |
| Access to employment and economic opportunities | <ul style="list-style-type: none"> ■ Unemployment is one of the biggest challenges for youth in Tanzania. Most of them find it difficult to get jobs, while more graduate each year. Youth are not adequately encouraged and trained to engage in self-employment. |
| Other issues/concerns | <ul style="list-style-type: none"> ■ Other issues and concerns for youth include poor parenting/inadequate parental guidance, the pressure of social networking and trying to fake lives, and preference of white-collar jobs. |

5.5.3. Key Recommendations

- 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 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.

906 LHRC Human Rights Survey 2022.

907 “Ubora wa elimu vyaoni shakani, wahadhiri tatizo” Mwananchi Newspaper, 31 May 2023.



5.6. RIGHTS OF PERSONS LIVING WITH HIV AND OTHER SPECIAL GROUPS

5.6.1. Promotion and Protection of PLHIVs and Other Special Groups

Other special groups in Tanzania include persons living with HIV (PLHIVs) and refugees. Like other groups, these groups are entitled to fundamental human rights guaranteed under various international, regional, and domestic human rights instruments.⁹⁰⁸

5.6.2. Key Issues Affecting Rights of PLHIVs and Other Special Groups

In 2023, LHRC observed the following key issues affecting rights of PLHIVs and refugees.

| | |
|----------------------------------|---|
| Stigma and discrimination | <ul style="list-style-type: none">■ Stigma and discrimination remain key concerns for PLHIVs in Tanzania. According to the recent demographic and health survey, 28% of women and 27% of men aged 15 to 49 years express discriminatory attitudes towards PLHIVs.⁹⁰⁹ The discriminatory attitudes tend to be more common in rural areas and decrease with increasing education and wealth.■ Kigoma has the highest percentage (57%) of women with discriminatory attitudes, while Iringa has the lowest (5%). For men, Shinyanga has the highest percentage of men with discriminatory attitudes, followed by Simiyu (76%), while Iringa again has the lowest (3%).■ Widespread stigma and discrimination are said to adversely affect people's willingness to be tested and their adherence to antiretroviral therapy (ART) and ART programmes. |
| Violence | <ul style="list-style-type: none">■ In 2023, LHRC received reports of violence against refugees perpetrated in some refugee camps in Kigoma. Seven cases of sexual violence were reported in Nduta Camp (Burundian refugees) in Kobondo District and perpetrators were taken to court. <p><i>'In short, different forms of violence are prevalent within and around the refugee camps, and this is contributed by lack of jobs among refugees, causing them to be idle and spend most of the time sleeping.'</i></p> <p>SWO – Kobondo, Kigoma</p> |

908 Include the Universal Declaration of Human Rights, 1948 (which states that everyone has the right to seek and enjoy asylum from persecution in other countries); the International Covenant on Civil and Political Rights (ICCPR), 1966; the International Covenant on Economic, Social, and Cultural Rights (ICESCR), 1966; the UN Refugee Convention, 1951; OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969; the Refugees Act, 1998; and the HIV and AIDS (Prevention and Control) Act, 2008.

909 TDHIS-MIS 2022, p. 436 (*supra*).



Unemployment and lack of economic activities

- Unemployment and lack of economic activities were said to be key concerns for refugees in 2023, contributing to violence forms of violence, including sexual violence against female refugees perpetrated by male refugees.

'Some refugees perpetrate violence against other refugees because they have nothing to do, as they are not allowed to engage in any economic activity. So, they end up eating and sleeping, and find themselves with a lot of energy which they use for rape.'

SWO – Kobondo, Kigoma

5.6.3. Key Recommendations

- 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 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

- **SDG3 GOOD HEALTH AND WELL-BEING:** Ensure Healthy Lives and Promote Well-Being for All at All Ages.
- **SDG4 QUALITY EDUCATION:** Ensure Inclusive and Equitable Quality Education and Promote Lifelong Learning Opportunities for All.
- **SDG5 GENDER EQUALITY:** Achieve Gender Equality and Empower All Women and Girls.
- **SDG6 CLEAN WATER AND SANITATION:** Ensure Availability and Sustainable Management of Water and Sanitation for All.
- **SDG10 REDUCED INEQUALITIES:** Reduce Inequality Within and Among Countries.
- **SDG16 PEACE, JUSTICE AND STRONG INSTITUTIONS:** Promote Peaceful and Inclusive Societies for Sustainable Development, Provided Access to Justice for All and Build Effective, Accountable and Inclusive Institutions At All Levels.



| | |
|---|--|
| TDV 2025 | <ul style="list-style-type: none"> ■ High quality livelihood. ■ A well educated and learning society ■ Peace, Stability and Unity ■ Good Governance ■ A strong and Competitive economy |
| Agenda 2063: The Africa We Want. | <ul style="list-style-type: none"> ■ 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. |

5.8.RECOMMENDATIONS

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, 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 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 the provision of relevant services to the special 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 perform their duties of protecting and safeguarding children's rights refraining from conducting acts of abuse to children.
- Community members 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 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.
- Community members to obey and comply with various laws and regulations to safeguard rights of special groups.



CHAPTER SIX: HUMAN RIGHTS MECHANISMS

Human rights mechanisms comprise 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 2023, action by the Judiciary to promote and protect human rights included administration of civil and criminal cases, 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.

6.1.2.2.Key Issues and Challenges

- Shortage of judicial staff.
- Corruption, especially in lower courts: Corruption in justice institutions was mentioned as the biggest barrier to justice by majority of human rights survey respondents (78%).
- Delays in dispensation of justice, mainly attributed to delays in police investigations, delays in scheduling criminal sessions, and delays in disposal of criminal cases.
- Frequent 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. Another good example is the case of private candidates in elections filed by the late Rev. Christopher Mtikila in 1994.
- Backlog of cases, contributed by shortage of judicial workers and delays in completing investigations.
- Imbalance of the Judges and Magistrates-Prosecutors ratio.
- Witness budget has also been insufficient, creating a challenge for both the Judiciary and NPS.

6.1.3. Ministry of Constitutional and Legal Affairs (MoCLA)

6.1.3.1.Mandate and Positive Action

Mandate

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 other ministries and government institutions, including the Judiciary and CHRAGG.

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;
- Sensitizing 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 2023 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. MoCLA also facilitated implementation of the *Mama Samia Legal Aid Campaign*, which was conducted various parts of Mainland Tanzania.

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.
- Shortage of staff.

6.1.4. Commission for Human Rights and Good Governance (CHRAGG)

6.1.4.1.Mandate and Positive Action

Mandate

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. 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 the Act, the Commission has protective, promotive, advisory, and mediatory/conciliatory functions.

Positive action to promote or protect human rights

In 2023, 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 violations of human rights and contravention of principles of good governance. CHRAGG also continued to work closely with some CSOs in Tanzania, including LHRC, to promote and protect human rights and principles of good governance, including serving the citizens whose rights have been violated. Citizens can now easily submit and track their complaints through the Complaints Management Information



System (CMIS).

6.1.4.2.Challenges

- Budgetary constraints: Like for most other government institutions, budgetary constraints are 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, whereby 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

Mandate

- Maintain law and order.
- Protect life and property.
- Prevent, detect, and investigate crime.

Police mandate includes investigation of human rights violations, as well as arresting and taking to court perpetrators of such violations. 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 2023, TPF continued to take action to protect citizens and their property, including by arresting and taking to court perpetrators of crime and human rights violations. The Police Force also constructed police stations in various parts of the country⁹¹⁰. To enhance access to justice and safeguard the right to liberty and personal security, constructions of police stations were completed in areas such as Lushoto – Tanga; Wanging'ombe-Njombe, and Kigamboni-Dar es Salaam⁹¹¹.

From July 2022 to May 2023, the Police Force also sent 3,956 police officers to wards, and construction of a police gender and children desk in Msalala District, Shinyanga Regio, was also reported⁹¹².

910 HOTUBA YA WAZIRI WA MAMBO YA NDANI YA NCHI MHE. MHANDISI HAMAD M. Y. MASAUNI (MB.), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/2024 (supra).

911 Ibid.

912 Ibid.



6.1.5.2. Key Issues and Challenges

- Shortage of facilities and equipment, including vehicles.
- Inadequate/poor housing.
- Inadequate income.
- Budgetary constraints.
- Corruption: In 2023, the police officers, including traffic police, continued to be implicated in corruption allegations.
- 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 and dangerous working conditions: This problem is exacerbated by shortage of police officers and budgetary constraints.
- Negative perception and poor cooperation from community members and witnesses to crimes.
- Excessive use of force during arrest or interrogation, sometimes leading to extrajudicial killings.
- Violence against police officers.
- Mental health problems: In 2023, LHRC observed that dangerous and poor working conditions, coupled with dissatisfaction with pay, makes police officers vulnerable to mental health problems, including stress and anxiety, which could seriously affect their work. In 2023, two police officers committed suicide, pointing to mental health concern among the men and women in uniform.
- Arbitrary arrests and detentions: Complaints about arbitrary arrests and detention continued to be levelled against police officers in 2023.
- Trumped-up charges/fabrication.
- Holding accused persons beyond 24 hours before taking them to court.
- Lengthy investigations, causing delays in dispensation of criminal justice: This problem is contributed by shortage of investigators, inadequate specialized training, and budgetary constraints.
- **Lack of the national strategy for detecting and preventing crime:** The criminal justice system reforms presidential commission recommended development of such a strategy in its report, released in July 2023.
- **Lack of a single investigative body:** The criminal justice system reforms presidential commission recommended in 2023 establishment of a single investigative body, called the **National Bureau of Investigation (NBI)**, which shall have mandate to investigate all major crimes, also have own budget, recruitment capacity, training institution, and a modern laboratory.
- Inadequate preservation of exhibits at some police stations as found by criminal justice reforms presidential commission in 2023.



6.1.6. Tanzania Prison Services (TPS)

6.1.6.1. Mandate and Positive Action

Mandate

- 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 facilitates trainings for prisoners.

Positive action to promote or protect human rights

In 2023, TPS continued to provide prison services, including managing and supervising detainees and ensuring inmates are taken to court whenever required. From July to May 2023, a total of 780 prisoners were released from prison through the Extra Mural Labour (EML) arrangement⁹¹³. During this period, TPS also moved 2,027 prisoners to less crowded prisons⁹¹⁴. Additionally, TPS trained 170 prison wardens on gender equality and mainstreaming and established gender and children desks in prisons.

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 wardens.
- Poor working environment.
- Shortage of vehicles for transporting detainees to court.
- Prison overcrowding: By May 2023, there were **30,901 people** in Tanzanian prisons, of which **18,857 were convicts** and **12,044 were remandees**⁹¹⁵. The prison capacity is 29,902 people.
- Poor or lack of health care service, lack of quality food, absence of spiritual services, and inappropriate inspections, according to the criminal justice reform presidential commission in 2023.
- Mixing juvenile offenders with adult inmates.

913 HOTUBA YA WAZIRI WA MAMBO YA NDANI YA NCHI MHE. MHANDISI HAMAD M. Y. MASAUNI (MB.), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA KWA MWAKA 2023/2024 (supra).

914 Ibid.

915 HOTUBA YA WAZIRI WA MAMBO YA NDANI YA NCHI MHE. MHANDISI HAMAD M. Y. MASAUNI (MB.), AKIWASILISHA BUNGENI MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA

KWA MWAKA 2023/2024 (supra).



6.1.7. National Prosecutions Services (NPS)

6.1.7.1. Mandate and Positive Action

Mandate

- NPS has the 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.
- Entering plea bargaining agreements with criminal offenders.

Positive action to promote or protect human rights

In 2023, 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.
- Inadequate management of case files during investigations.
- Shortage of state attorneys: 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

Mandate

- Functions of PCCB include:
- Preventing and combating corruption in all its forms.
- Raising public awareness on corruption and its impacts on the society.
- 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 2023, PCCB continued to take various measures to prevent and address corruption, including awareness-raising and arrest and prosecution of perpetrators of corruption. It also continued to prepare corruption report and submit it to the Government.

Tanzania in the Corruption Perceptions Index 2023

CPI 100-point scale

0 is highly corrupt and 100 is very clean.

Tanzania's performance in the Corruption Perceptions Index continues to indicate improvements in combating corruption, although corruption is still a big problem. In 2023, Tanzania jumped seven places to be ranked 87th from 94th in 2022, after scoring two more points.⁹¹⁶

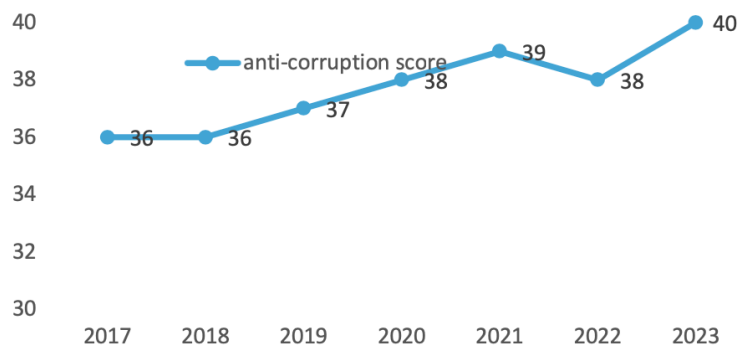


Figure 42: Tanzania's scores in the Corruption Perceptions Indexes 2017-2023

Source: Corruption Perceptions Indexes 2017 to 2023

6.1.8.2. Key Issues and Challenges

Delays in investigation and prosecution of corruption cases.

Low conviction rate due to prosecution challenges, contributing to public suspicion.

⁹¹⁶ See Transparency International's Corruption Perceptions Index 2023 at https://www.transparency.org/en/cpi/2023?gad_source=1&gclid=EAIaIQobChMI8fnEyuOvhAMVPjcGAB29xgzEAAAYASAAEgKyFPD_BwE.

Corruption and shortages of experts and modern tools, as found by the criminal justice system reforms presidential commission in 2023. Corruption report not being made public.

6.1.9. Key Recommendations

- 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 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, the African Committee of Experts on the Rights and Welfare of the Child and the East African Court of Justice.

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 non or semi-judicial 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, Tanzania decided to withdraw access of individuals and NGOs to the African Court on Human and Peoples' Rights, issuing a notice of withdrawal.⁹¹⁷ 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.⁹¹⁸ 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. In 2023, enforcement of such decisions continued to be a challenge. However, at least the EACJ judgement on the Media Services Act, delivered in 2019 was partially implemented in 2023 through partial amendment of the law. Most other judgements remained unenforced, as discussed in Chapter Two above.

Non-ratification of some key international and regional human rights instruments

Tanzania is yet to ratify some of the key regional and international human rights conventions, 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 of the 193 United Nations (UN) Member States.⁹¹⁹ 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.⁹²⁰

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.⁹²¹ During the interactive dialogue,

917 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>.

918 Ibid.

919 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.

920 Ibid.

921 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>.

92 delegations made statements. Tanzania supported 108 recommendations (43%), promised to examine 12 recommendations (5%), and noted 132 recommendations (52%). In March 2022, the Working Group on the Universal Periodic Review released its report on the outcome of Tanzania's Universal Periodic Review.⁹²² According to the report, Tanzania accepted to implement 187 recommendations (20 with partial support) and noted 65 recommendations.⁹²³ 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.

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) Regulations of 2018. The Government should also commit and take measures to implement all accepted recommendations.

6.2.3.3. Implementation of Accepted UPR Recommendations

In 2023 the Government partially implemented a few of the accepted UPR recommendations, most notably amendment of the Media Services Act. However, many other recommendations were yet to be implemented.

6.2.4. Key Recommendations

- The Ministry of Constitutional and Legal Affairs to spearhead re-signing of 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 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 Ministry of Constitutional and Legal Affairs to ensure Government implementation of the 187 accepted recommendations following the Universal Periodic Review (UPRC) process of 2021.

⁹²² 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>.

⁹²³ Ibid.



6.3. RELEVANT SDGS, TDV 2025, AND AGENDA 2063 TARGETS

| Key SDGs and TDV 2025 Targets relating to Human Rights Mechanisms | |
|---|---|
| SDGs | <ul style="list-style-type: none"> ■ <u>SDG 10 REDUCED INEQUALITIES</u>: Reduce Inequality Within and Among Countries. ■ <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. |
| TDV 2025 | <ul style="list-style-type: none"> ■ <u>Peace, Stability and Unity</u> ■ <u>Good Governance</u> ■ Strong adherence to and respect for the rule of law |
| Agenda 2063: The Africa We Want. | <ul style="list-style-type: none"> ■ 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 |

6.4. RECOMMENDATIONS

State actors

- 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 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 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 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 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.



CHAPTER SEVEN: IMPLEMENTATION OF RECOMMENDATIONS

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.

7.1. OVERALL PICTURE

In 2023, the percentage of implemented recommendations stood at 36%, increasing from 35% in 2022. Percentage of partially implemented recommendations also increased from 38% in 2022 to 40% in 2023, while the percentage of recommendations not implemented decreased from 26% in 2022 to 23% in 2023.

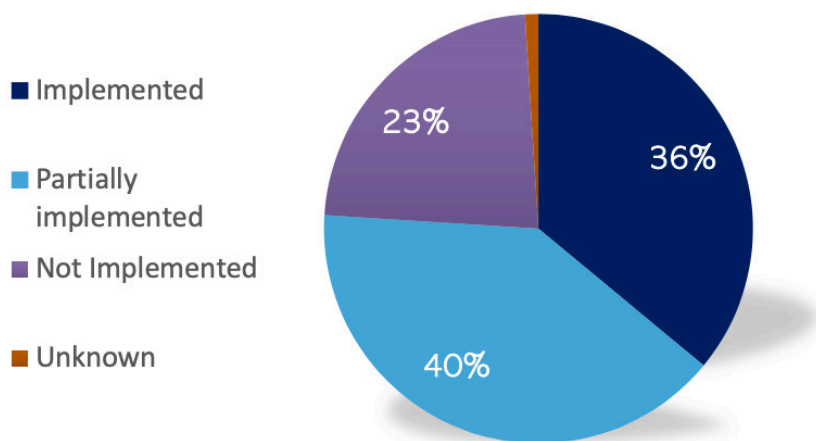


Figure 43: Status of implementation of THRR recommendations (2015 – 2022)

Table 8 below shows the number of recommendations that were implemented (I), partially implemented (PI), not implemented (NI), and whose status is unknown (U).

Table 8: Status of recommendations of LHRC's Tanzania Human Rights Reports

| Human Rights Category | #Recommendations | I | PI | NI | U |
|---------------------------------------|------------------|-----------|-----------|-----------|----------|
| Civil and Political Rights | 71 | 26 | 30 | 15 | 0 |
| Economic, Social, and Cultural Rights | 45 | 17 | 18 | 10 | 0 |
| Rights of Special Groups | 28 | 8 | 10 | 9 | 1 |
| Other human rights | 7 | 3 | 2 | 1 | 1 |
| Total | 151 | 54 | 60 | 35 | 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. Recommendations on civil and political rights also constituted the majority of recommendations which were implemented (48%) and not implemented (43%).

Overall, five more recommendations were implemented or partially implemented in 2023, of which two were implemented and three were partially implemented.

LHRC's Call: 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 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 2022 were assessed to determine their status. Out of these, only 26 recommendations were found to be implemented, while 30 were found to be partially implemented. A total of 15 recommendations were found to be unimplemented. However, the percentage of implemented recommendations increased by 2%, while percentage of partially implemented recommendations also increased from 38% in 2022 to 42% in 2023. Percentage of recommendations not implemented decreased from 27% in 2022 to 21% in 2023.



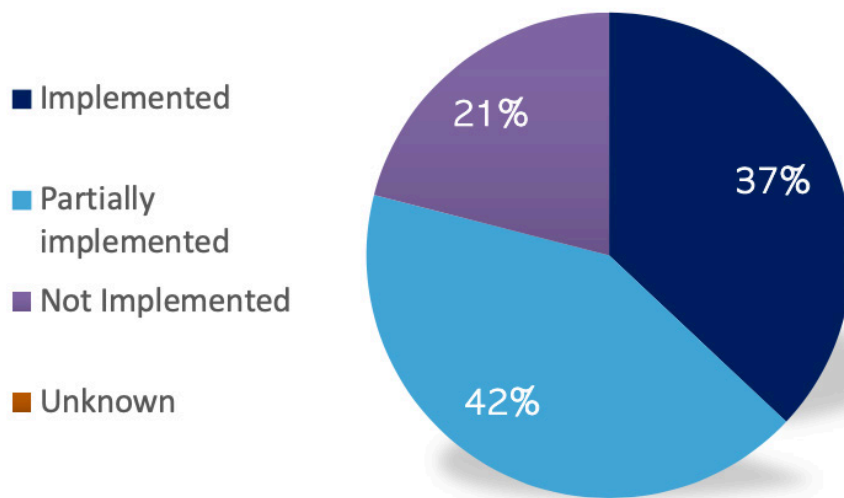


Figure 44: Status of civil & political rights THRR recommendations (2015-2022)

Among key recommendations that were implemented in 2023 were the lifting of ban on political rallies, as opposition political parties once again enjoyed freedom to hold rallies. Three electoral and political party laws, including the Political Parties Act, were enacted and/or partially amended, while the Media Services Act was also partially amended.

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 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.

Some of the key recommendations on civil and political rights which were partially implemented include:

- Government to amend the Media Services Act 2016 to bring it in line with international standards on freedom of expression.
- 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 2022 were assessed to determine their status. Out of these, only 17 recommendations have been implemented, while 18 have been partially implemented, and total of 10 recommendations have not been implemented.

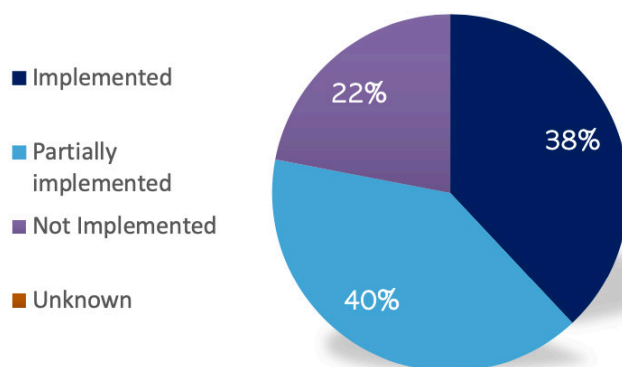


Figure 45: Status of THRR recommendations on economic, social and cultural rights (2015-2022)

Percentage of implemented recommendations increased by 2%, from 36% in 2022 to 38% in 2023. Partially implemented recommendations decreased from 42% to 40%, while recommendations not implemented remained the same, at 22%. The key difference was the enactment of the Universal Health Coverage (UHC) law, to ensure provision of healthcare to all Tanzanians and achieve a key SDG target.

For economic, social, and cultural rights, one of the key recommendations which are yet to be implemented is the Government to increase budgetary allocations for education, water, health, and agriculture sectors in line with international minimum 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 SPECIAL GROUPS RECOMMENDATIONS

During this reporting period, a total of 28 key recommendations on rights of special groups made in the Tanzania Human Rights Reports of years 2015 to 2022 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.

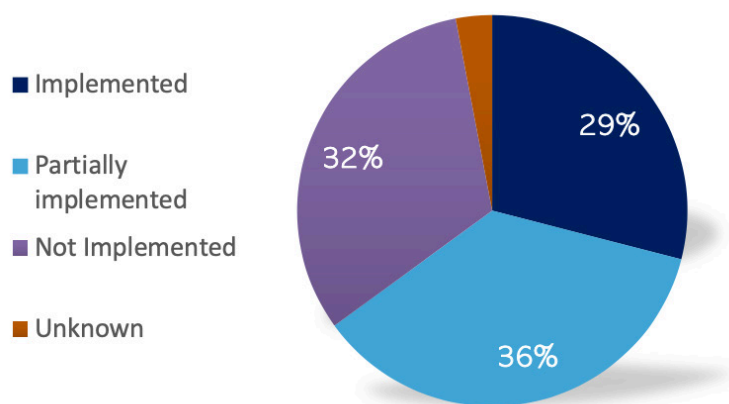


Figure 46: Status of THRR recommendations on rights of special groups (2015-2022)

Percentages of implemented, partially implemented, and not implemented recommendations remained the same, at 29%, 36%, and 32% respectively.

Some of the key recommendations on the rights of special 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.

TANZANIA HUMAN RIGHTS REPORT 2023

PART TWO: ZANZIBAR

**ZANZIBAR – THE ZANZIBAR FIGHTING
AGAINST YOUTH CHALLENGES
ORGANIZATION (ZAFAYCO)**

ACKNOWLEDGEMENT

ZAFAYCO would like to recognize the immense contributions of several individuals, institutions, departments, and governmental and non-governmental organizations in making development of this report successful. The information they provided was invaluable in preparing this report. We are also grateful to a team of data collectors, including our network of human rights monitors and paralegals, that tirelessly worked with ZAFAYCO to collect primary data in Pemba and Unguja to inform this report and keeping us updated on key human rights issues in their communities. We also recognize the special and leading role played by Mr. Fundikila Wazambi and Shadida Ali in the process of preparing this report. Much appreciation goes to the members of the editorial team, who worked with the writing team to edit and finalize this report, namely: Abdalla Abeid, Mohamed Jamal Nassor, and Shadida Ali. Likewise, we recognize and appreciate the financial support from our Mainland Tanzania partner, LHRC, without which preparation of this report would have been a difficult task. We acknowledge the different reports, speeches, and other information from various individuals, organizations, and institutions, including the statistical reports produced by the Office of the Chief Government Statistician (OCGS) Zanzibar, police reports, budget speeches of ministries of Zanzibar, and reports by local and international non-governmental organizations. Finally, special thanks go to the writer, Mr. Fundikila Wazambi, for his efforts and working together with the Zanzibar team to complete this report.



LIST OF ACRONYMS & 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 |
| 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 |
| 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 |
| LRCZ | Law Review Commission of Zanzibar |
| LHRC | Legal and Human Rights Centre |
| MDG | Millennium Development Goal |
| MoHR | Members of House of Representatives |
| NEA | National Elections Act |
| OCGS | Office of the Chief Government Statistician |
| PLHIV | Persons living with HIV/AIDS |
| PWAs | Persons with Albinism |
| PWDs | Persons with Disabilities |



| | |
|----------------|--|
| SDG | Sustainable Development Goal |
| TLS | Tanganyika Law Society |
| TPS | Tanzania Prisons Services |
| UDHR | Universal Declaration of Human Rights |
| UN | United Nations |
| UNESCO | United Nations Educational, Scientific and Cultural Organization |
| UPR | Universal Periodic Review |
| VAW | Violence against Women |
| ZAFAYCO | The Zanzibar Fighting Against Youth Challenges 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 on 23rd December, 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 40 active members (19 female, 21 male) and 4 Board of Trustees members (1 male, 3 female). 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 centred, 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.



MAJOR DEVELOPMENTS IN 2023

| | |
|--|--|
| | Enactment of the Kadhi's Court Act of 2023. |
| | The promise of the new media law to replace current media laws deemed outdated and restrictive. |
| | Adoption of the Youth development policy of 2023. |
| | Establishment of the Zanzibar Presidential Taskforce on Reforms of Political and Election Processes. |
| | Increase of monthly pension pay for older people from Tshs. 20,000 to Tshs. 50,000. |



EXECUTIVE SUMMARY

Introduction

This report (Part Two) discusses the situation of human rights in Zanzibar for the year 2023. The report assesses the situation of human rights in line with international human rights standards, the Constitution of Zanzibar, and other laws applicable in Zanzibar. A diverse of sources of data, both primary and secondary, informed this report. These include primary data generated internally and through interaction with ZAFAYCO stakeholders, and secondary data from government reports, budget speeches, media reports, judgements, and analyses.

Key Findings

In comparison with the situation in 2022, the situation of human rights in Zanzibar in 2023 was observed to have slightly deteriorated, mainly due to the increased incidents of gender-based violence (GBV) and violence against children (VAC). To this end, freedom from violence was the most violated human right in 2023, followed by right to equality before the law and right to liberty and personal security. Community members constituted the overwhelming majority of perpetrators of human rights violations.

1. CIVIL & POLITICAL RIGHTS

Significant human rights issues that were observed with regards to civil and political rights in 2023 included right to life violations, freedom from violence violations, restrictive freedom of expression laws, and criminal justice challenges.

Right to Life

In 2023, key issues that were observed to affect right to life included mob violence and road accidents.

- An average of 16 mob violence incidents are reported each year in Zanzibar.
- In 2023, a total of 193 road accidents were reported in Zanzibar, slightly increasing from 172 documented by police in 2022 (21 more incidents). The number of people killed was 62 more than those affected in 2022, equivalent to a 19.2%.
- The impact of road accidents, the majority of which are caused by negligence, can be felt at family, community, and national levels, including losing breadwinners and experts, and causing family breakdown, unemployment, and mental health problems.



Freedom of Expression

- In 2023, key freedom of expression issues and concerns were mainly restrictive laws and regulations and the Government promise to introduce the new media law to replace current legislations which are deemed outdated and restrictive. In 2023, stakeholders continued to push for amendment of laws governing freedom of expression, including the media law and the penal law. During the commemoration of the World Press Freedom Day 2023 in Unguja, the Revolutionary Government of Zanzibar promised to introduce a new media law to replace the Registration of News Agents, Newspapers and Books Act of 1988 and the Zanzibar Broadcasting Commission Act of 1997, which stakeholders have deemed outdated and restrictive.

Freedoms of Assembly and Association

- In early 2023, the Government of the United Republic of Tanzania lifted a ban on conducting political rallies outside one's constituency, imposed in 2016. This was a huge boost for freedoms of assembly and association in Zanzibar and a welcome development. However, stakeholders continued to lament existence of restrictive provisions within the Political Parties Act, which was amended in 2019, not conforming with international standards.

Rights to Equality before the Law and Effective Remedy

- In 2023, the Revolutionary Government of Zanzibar and the Judiciary of Zanzibar continued taking various measures to improve access to justice in Unguja and Pemba. However, various key challenges persisted. Community stakeholders identified several barriers to access to justice, key among them being corruption (75%), followed by lengthy court proceedings (54%), costs of legal representation (35%), and low awareness about laws (31%). Corruption was also mentioned as the biggest challenge (82.7%) in criminal justice, followed by delays in investigation (64.6%), lengthy pre-trial detention (63.6%), and delays in disposal of cases (63.1%).

Right to Liberty and Personal Security

- In 2023, key issues affecting the right to liberty and personal security in Zanzibar included safety and security concerns, bail, delays in investigations, and trumped-up charges. In September 2023, the Police Force in Zanzibar stated that there had been an increase of criminal activities in Zanzibar, and that this was partly contributed by citizens not showing up in court to provide testimony.



Right to Take Part in Governance

- In 2023, the main issue affecting enjoyment of the right to take part in governance was gaps in relevant laws and regulations, including gender gaps. Most of these barriers exist in electoral laws, including the Political Parties Act and Elections Act (CAP 343 R.E 2015). However, in November 2023, three bills were tabled in Union Parliament for first reading, namely the Presidential, Parliamentary and Local Government Elections Bill; the Political Parties Affairs Laws (Amendment) Bill; and the National Electoral Commission (NEC) Bill.

Freedom from Torture and Inhuman or Degrading Treatment

- In 2023, the main concern regarding the enjoyment of the right to freedom from torture was non-ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) by Tanzania.

Freedom from Violence

- In 2023, different forms of violence were perpetrated against women, children, men, persons with disabilities (PWDs), and older persons in Unguja and Pemba. Children continued to constitute the majority of the victims of violence. Statistics released by the Office of the Chief Government Statistician (OCGS) Zanzibar show that incidents of violence against children (VAC) constituted 83.7% of all reported incidents of violence (VAC, VAW, & VAM) in 2023.

Right to Privacy

In 2023, the main key issue of concern regarding the right to privacy was lack of personal data protection law.

2. ECONOMIC, SOCIAL, & CULTURAL RIGHTS

Key issues that continued to affect progressive realization of economic, social, and cultural rights in 2023 included budgetary constraints and shortages of resources.

Right to Education

- In May 2023, it was reported that the RGZ was planning to overhaul the education sector, starting by amendment of the Education Act of 1982 and the Education Policy of 2006.
- Despite the increasing trend of budgetary allocation, the budget allocation for the education sector is yet to reach the 20% of the national budget benchmark, stipulated in the Incheon Declaration.



- Key education challenges in 2023 included shortage of teachers, child/teenage pregnancy, inadequate cooperation from parents, and shortage of classrooms.
- Based on the teacher/pupil ratio, shortage of teachers in primary schools is highest in Micheweni District (77), followed by Mkoani (67), and Chake-Chake (51), above the standard ratio of one teacher for 40 pupils/students.
- Access to loans for higher education students in Zanzibar is affected by non-repayment of loans by former beneficiaries. About 7,000 out of 12,000 beneficiaries of the loans are yet to repay their loans from 2011 to the current period.

Right to Health

- The Revolutionary Government of Zanzibar has done well to increase budgetary allocation for the health sector. However, the budget is still less than the recommended minimum of 15% of the overall budget.
- Other key health challenges include shortages of medicines and healthcare workers, and mental health problems, especially for youth.

Right to Water

- In 2023, key issue affecting progressive realisation of the right to water in Zanzibar included budgetary challenges; climate change impacts; contamination of water sources; dilapidated water infrastructure, and non-payment of water bills by some citizens. Like other priority sectors such as education and health, the water sector has also been faced with budgetary constraints, affecting effective and progressive realisation of the right to clean and safe water. Growing population is also presenting problems in terms of access to clean and safe water.

Right to Work

- In March 2023, it was also reported that the RGZ had raised the minimum wage in the private sector from Tshs. 300,000 to Tshs. 347,000.
- Key labour rights violations that were reported and observed included paying wages below the minimum wage structure set by the Government, unfair termination, lack of employment contracts, and delays in payment of such wages.

Right to Own Property

- In 2023, land disputes continued to be the biggest issue affecting effective enjoyment of the right to own property. The Ministry of Lands and Housing Development reported that the Land Tribunal, which was established to hear land disputes, received 165 land disputes from both Unguja and Pemba in the period of July 2022 to March 2023.

Right to Adequate Standard of Living

- In 2023, the RGZ took various measures to facilitate progressive realization of the right to adequate standard of living. These measures included boosting food production and importation, increasing access to nutritious food, and construction of residential buildings. However, some challenges persisted.
- Key issues that affected enjoyment of the right to adequate standard of living in Zanzibar included food insecurity for a section of the population, unemployment, increased food prices, informal settlements, inadequate housing, and poor enforcement of land use plans.

Right to Social Security

- Action taken by the RGZ to ensure progressive realisation of the right to social security in 2023 included provision of social security services through the Zanzibar Social Security Fund (ZSSF), in line with the Zanzibar Social Protection Policy (ZSPP).
- Key issues affecting enjoyment of the right to social security included provision of pension to older persons, low coverage of social security, limited access to health services, climate change, growing population, neglect of older persons by their families, and limited budget for social security.

3. COLLECTIVE RIGHTS

In 2023, key issues affecting the right to development included poverty, budgetary constraints, corruption, and climate change impacts.

Right to Development

- Issues and challenges affecting effective realization of the right to development included budgetary constraints, gender-based violence (GBV) and violence against children (VAC); climate change impacts; corruption and mismanagement of resources; and gaps in legal and policy frameworks.

Right to Enjoy and Benefit from Natural Resources

- 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. Key issues affecting enjoyment of the right to enjoy and benefit from natural resources included overexploitation of resources and environmental degradation and climate change impacts.



Right to Clean and Healthy Environment

- Key issues affecting the right to clean and healthy environment included environmental pollution; environmental degradation; and climate change impacts.

4. RIGHTS OF SPECIAL GROUPS

In 2023, key issues affecting rights of special groups included violence and discrimination.

Women's Rights

- A total of 1,958 incidents of violence (GBV and VAC) were reported in Zanzibar in the period of January to December 2023, increasing from 1,360 reported in 2022.
- Nearly three quarters (74%) of the reported GBV incidents were of violence against women (VAW), while violence against men (VAM) accounted for just over a quarter (26%) of the incidents. Common acts of VAW include rape, humiliation, verbal abuse, and beating or slapping.
- 15.6% of women aged 15 to 49 in Zanzibar who have ever had a husband or intimate partner have experienced physical or sexual or emotional violence committed by their current or most recent husband or intimate partner.

Children's Rights

In 2023, violence against children continued to be the biggest threat to children's rights in Zanzibar.

- Common acts of VAC included rape, attempted rape, sodomy, and defilement.
- Incidents of violence against children (VAC) constituted 83.7% of all reported incidents of violence (VAC, VAW, & VAM) in 2023.
- 1,639 VAC incidents were reported, significantly increasing from 1,173 incidents reported in 2022. This is equivalent to a 39.7% increase.
- On average, nearly 4 incidents of VAC occur each day in Zanzibar.
- In 2023, girls continued to constitute the overwhelming majority of VAC victims, accounting for over two thirds of the victims.
- Most of the VAC incidents are perpetrated at the perpetrator's home and other places.
- Most of the VAC incidents were said to be perpetrated in Magharibi A, Magharibi B, and Mjini Districts.



Rights of Persons with Disabilities

- In 2023, key issues and challenges that were found to affect enjoyment of human rights among PWDs included discrimination and stigma, lack of disability friendly social services, access to quality health services, and inadequate enforcement of laws and policies. Top challenges faced by PWDs include stigma, poverty and unreliable source of income, limited access to quality education, unfriendly infrastructure, and abuse or mistreatment. For the financial year 2022/2203, the Zanzibar National Council of Persons with Disabilities received a total of 15 complaints from PWDs.

Rights of the Elderly

- In 2023, the Revolutionary Government of Zanzibar continued to take various measures to promote and protect the rights of the elderly, most notably provision of monthly pension to older people aged 70 years and above.
- In 2023, key issues and challenges which affected enjoyment of the rights among the elderly included exclusion and marginalization; inadequate monthly pensions, considering the current high costs of living; limited access to quality health services; poverty; and food insecurity.

Youth Rights

- In 2023, key issues and challenges affecting youth rights in Zanzibar included unemployment and underemployment, different forms of violence, and drugs/substance abuse.

Rights of PLIHVs

- In 2023, the main concern for persons living with HIV (PLHIVs) was stigma and discrimination. Various challenges in the health sector, including shortages of medicines, supplies, and human resources, also affect provision of quality services to PLHIVs.

5. HUMAN RIGHTS MECHANISMS

National Human Rights Mechanisms

- In 2023, national human rights mechanisms, including the Police Force and the Judiciary of Zanzibar, continued to take various measures to protect and promote human rights. However, they are faced with various challenges, including shortage of staff, delays in investigations and dispensation of justice, corruption, and budgetary constraints.



6. IMPLEMENTATION OF RECOMMENDATIONS OF PREVIOUS HUMAN RIGHTS REPORTS

Most of the recommendations made in previous reports have been partially implemented. In 2023, the percentage of implemented recommendations stood at 14%. Percentage of partially implemented recommendations was 58%, while the percentage of recommendations not implemented stood at 28%.

Key Recommendations

Legal reforms, including in the criminal justice system, considering recommendations by the criminal justice reforms commission

Ratification of key human rights instruments yet to be ratified, including the Convention against Torture

Enforcement of laws, regulations, rules, and policies to safeguard human rights

Increasing budgetary allocations for education, health, water, and agriculture sectors in line with international minimum standards/benchmarks

Setting aside adequate resources/budget for addressing GBV and VAC

Increasing public awareness on human rights issues



CHAPTER ONE: 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.⁹²⁴ 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. 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 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.⁹²⁵

Politically, the people of Zanzibar have a long political relationship with Arabs from Oman.⁹²⁶ 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.⁹²⁷ 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.

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. 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 1963.⁹²⁸ 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

924 Michael F (1965), Zanzibar Background to Revolution, p.29

925 . Ibid.

926 . S.C. Nicholls (1971), The Swahili Coast, Politics, Diplomacy and Trade on the East African Littoral, p.217

927 . <https://www.britannica.com/place/Zanzibar-island-Tanzania>

928 Majamba H.I. (2007), Perspectives on the Kadhis' Courts in Zanzibar, p.2



main cause behind this social link appears to be inter-marriage and, therefore, blood relationships between Zanzibaris of African origin and Zanzibari of Arabs. 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, whereby 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.⁹²⁹ 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.⁹³⁰ 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.⁹³¹ ASP's Abeid Amani Karume became 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 in 1984, which is still in use to date.⁹³² 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 protect the constitution through court process.⁹³³

929 See Britannica, *Independence of Tanzania*, <https://www.britannica.com/place/Tanzania/Independence>.

930 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>.

931 Ibid.

932 See University of Minnesota Human Rights Library, *Tanzania Human Rights Jurisprudence*, at <http://hrlibrary.umn.edu/research/TanzaniaB.html>.

933 Ibid.



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.⁹³⁴ 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.⁹³⁵ 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.⁹³⁶ 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.⁹³⁷ 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 rains, and some time comes with consequences, normally occurs between March and May,⁹³⁸ *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.⁹³⁹

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.⁹⁴⁰ 51.6% of the population is female and the remaining 48.4% is male.⁹⁴¹

934 See Zanzibar in Figures 2020, at <http://www.ocgs.go.tz/php/ReportOCGS/Zanzibar%20In%20Figures%202020.pdf>.

935 Ibid.

936 Ibid.

937 Lugoe F.N (2012) Land Diputes in Zanzibar for SMOLE p.13

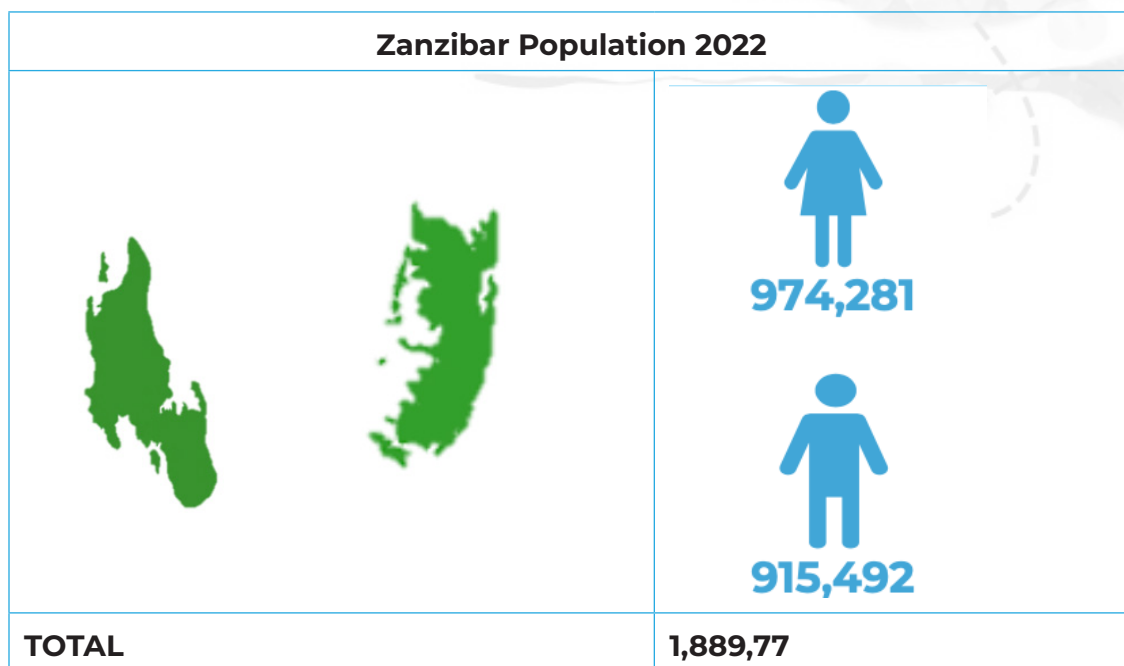
938 Zanzibar Institute for Tourist Development (2014) p.33

939 Zanzibar Human Rights Report, 2016

940 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>.

941 Ibid.





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 Swahili or English.⁹⁴²

1.1.3. Literacy

The literacy rate in Zanzibar has been impressive, being over 80%.⁹⁴³ Literacy rate has been reported to increase by 11 percentage points from 74.3% in 2014/15 to 85.3% in 2020/21, surpassing Tanzania's rate of 76%.⁹⁴⁴ Literacy rate is highest in Mjini Magharibi (88.9%) and lowest in Kusini Pemba (64.6%).⁹⁴⁵

1.1.4. 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

⁹⁴² THRR Zanzibar Human Rights Report, 2016

⁹⁴³ See Office of the Chief Government Statistician (OCGS), Zanzibar Statistical Abstract 2021, at <https://ocgs.go.tz/ReportOCGS/ZANZIBAR%20STATISTICAL%20ABSTRACT%202021.pdf>.

⁹⁴⁴ See Akuffo Amankwahamparo, Palacios-Lopez, & Maryam Gul "The latest Tanzanian National Panel Survey shows progress in education" World Bank Blogs, 1 Feb 2023, at <https://blogs.worldbank.org/opendata/latest-tanzanian-national-panel-survey-shows-progress-education#:~:text=Improved%20literacy%20rate&text=The%20largest%20improvement%20was%20displayed,85.3%25%20in%202020%2F21..>

⁹⁴⁵ Zanzibar Statistical Abstract 2021 (*supra*).

to 7.0% in 2019.⁹⁴⁶ During this period, the average economic growth rate was impressive, at 6.9%. Impressive economic growth has also seen Zanzibar attain the lower-middle income status by 2020, which was the goal of the Zanzibar Development Vision 2020.⁹⁴⁷

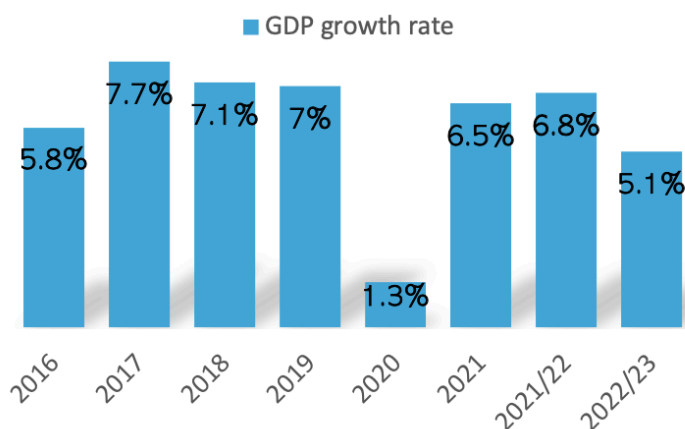


Figure 47: Zanzibar GDP Growth Rate – 2016 to 2022/23

Source: Zanzibar in Figures 2020 & Bank of Tanzania 2021 & 2022/23 Annual Reports

1.1.5. Political and Governance Systems

1.1.5.1. 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).

1.1.5.2. Governance System

The Zanzibari governing structure comprises of Executive, the Legislature and the Judiciary, established by the Constitution of Zanzibar of 1984.

⁹⁴⁶ Zanzibar in Figures 2020 (supra).

⁹⁴⁷ The Revolutionary Government of Zanzibar, *Zanzibar Development Vision 2050*, at <http://planningznz.go.tz/doc/new/ZDV2050.pdf>.



The Executive

The Executive arm of Zanzibar (currently Government of National Unity (GNU)) 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.⁹⁴⁸

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 a 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 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.⁹⁴⁹ 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 and Objectives

The report covers the situation of human rights in Zanzibar for the period of January to December 2023. Reference is also made to the situation in previous years, especially the year 2022, for purposes of showing trends and where

⁹⁴⁸ Tanzania in Figures 2020 (supra).

⁹⁴⁹ 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.



specific data for the year 2023 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 or affected human rights. The report can be used to promote understanding of human rights and human rights issues, identify legal and human rights issues for advocacy, 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 (OCCS) 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 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 of 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, including on different forms of violence, education, health, environment, elderly welfare, and PWDs rights. A total of 618 stakeholders, including community stakeholders, participated in the assessment, of whom 51% were male and 49% were female. Out of the 618 stakeholders, 471 were community stakeholders who provided their opinions on human rights issues. The overwhelming majority of those who participated in the assessment (59%) were youth – since ZAFAYCO primarily a youth rights organization, hence engaging more with youth (15 – 35 years). In terms of sex, 43.9% of them were male, while 56.1% were female. Primary data were also obtained through ZAFAYCO's various programmes and projects, especially on youth, were also used. These programmes include public awareness-raising and human rights monitoring.



1.2.3. Report Structure

| | |
|--|---|
| Chapter 1 <i>Introduction</i> | Provides a short contextual overview of Zanzibar and highlights report preparation, objectives, and structure |
| Chapter 2 <i>Civil and Political Rights</i> | 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 <i>Economic, Social, and Cultural Rights</i> | 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 <i>Collective Rights</i> | Looks at and discusses realisation of rights to development, right to benefit from natural resources, and right to clean and healthy environment. |
| Chapter 5 <i>Rights of Special Groups</i> | Covers rights of special groups, including women, children, PWDs, and the elderly. |
| Chapter 6 <i>Human Rights Mechanisms</i> | Looks at human rights mechanisms at domestic, regional, and international levels and discusses their role in human rights protection. |
| Chapter 7 <i>Implementation of Recommendations</i> | Assesses the status of implementation of the recommendations made in the previous human rights reports. |

1.3. OVERVIEW OF HUMAN RIGHTS SITUATION IN 2023

In comparison with the situation in 2022, the situation of human rights in Zanzibar in 2023 was observed to have slightly deteriorated, mainly due to the increased incidents of gender-based violence (GBV) and violence against children (VAC). To this end, freedom from violence was the most violated human right in 2023, followed by right to equality before the law and right to liberty and personal security. Civil and political rights were therefore the most affected in 2023. For social and economic rights, the biggest concern was budgetary constraints, especially for key services such as education and health, which fell short of international minimum standards.

Based on the analysis of the reported human rights violations incidents, children and youth constituted the majority of victims of human rights violations.

CHAPTER TWO: 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. These rights are protected and guaranteed under international⁹⁵⁰ and regional⁹⁵¹ human rights instruments, as well as the Constitution of Zanzibar.⁹⁵² 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 2023 included right to life violations, freedom from violence violations, restrictive freedom of expression laws, and criminal justice challenges.

2.1. RIGHT TO LIFE

About the right

- Most fundamental human right, upon which realization of other rights depends on.
- Protected under various international and regional human rights instruments as well as domestically under the Constitution of Zanzibar, under 13(1).

In 2023, key issues that were observed to affect right to life included mob violence and road accidents.

2.1.1. Mob Violence

In recent years, mob violence has been one of the key obstacles in enjoyment

⁹⁵⁰ 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.

⁹⁵¹ 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; 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.

⁹⁵² 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 the right to life. Going by the police data from 2015 to 2020, an average of 16 mob violence incidents are reported each year in Zanzibar. However, from 2021 to 2023, ZAFAYCO did not document any reported incidents of mob violence that resulted in killings.

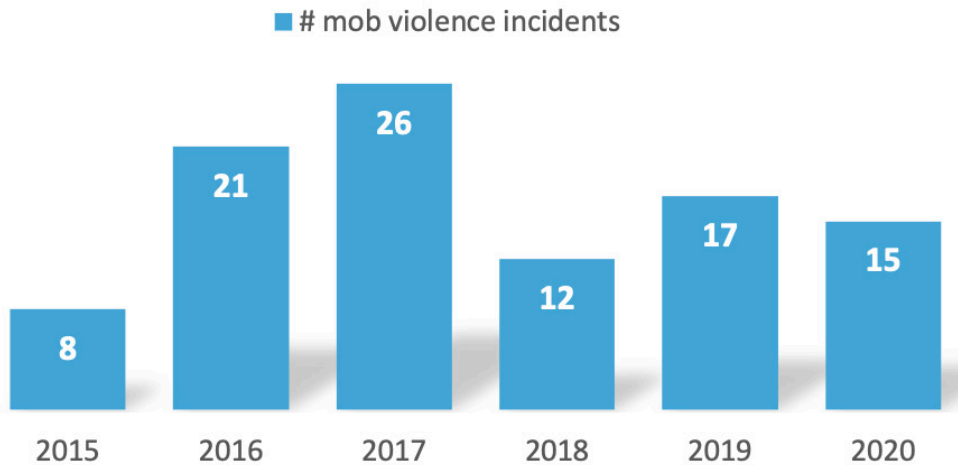


Figure 48: Mob violence killings in Zanzibar, 2015 to 2020

Source: Police data

In comparison with the incidents usually reported in Mainland Tanzania, the incidents reported in Zanzibar are much fewer. However, considering the smaller size and population of Zanzibar, the number of reported incidents is still significant.

2.1.2. Extrajudicial Killings and Violence against Law Enforcement Officers

Law enforcement officers in Zanzibar are obligated by various international and regional human rights instruments to safeguard the lives of its citizens as well as foreigners and only use force proportionately and only when strictly necessary and to the extent required for the performance of their duty. When they do not observe this principle of proportionality and people die, they commit extrajudicial killings.

Unlike in Mainland Tanzania, incidents of extrajudicial killings and violence against law enforcement officers are rare in Zanzibar. As it was in the previous year, in 2023 ZAFAYCO did not document any reported incident of extrajudicial killing and violence against law enforcement officers.

2.1.3. 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 usually escalate into violence. Like it was in the previous year, in 2023 ZAFAYCO did not document any reports of killings motivated by witchcraft and attacks of PWAs. Therefore, this also continued to be mainly the problem in Mainland Tanzania.

2.1.4. 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. However, in Zanzibar, like it is the case in Mainland Tanzania, death penalty continued to be one of the punishments in the penal laws.

Like in 2022, ZAFAYCO could not obtain any official data on death penalty and did not document any reported incidents in 2023.

2.1.5. Intimate Partner Homicide

Intimate partner homicide (IPH) is an outcome of intimate partner violence (IPV), which is a form of violence perpetrated by one partner against another, usually in domestic settings. IPV can be physical, sexual, economic, or psychological/emotional. The main perpetrators of IPV are usually former or current husband or partner. IPV is further discussed in Chapter Five of this report.

In 2023, ZAFAYCO did not document any reported incidents of IPH. No such incidents have been reported and documented in the past three years.

2.1.6. Disappearances

Disappearances create a right to life obligation for the law enforcement bodies, usually the police, to investigate the incidents to find out what happened persons who have disappeared and take relevant action.

Like it was the case in 2022, there were no reported incidents of disappearance that ZAFAYCO documented in 2023.

2.1.7. Road Accidents

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,⁹⁵³ hence jeopardizing right to life.

⁹⁵³ Jeshi la Polisi Tanzania & Ofisi ya Taifa ya Takwimu, *TAKWIMU ZA HALI YA UHALIFU NA MATUKIO YA USALAMA BARABARANI*, Januari – Disemba 2020.



In recent years, starting from the year 2020, fewer road accidents and resulting deaths have been reported in Zanzibar. This is largely due to the efforts of the Police Force and other relevant stakeholders working together in various ways, including conducting campaigns and inspections, to reduce such accidents. For instance, the number of road accidents declined by nearly a half from 314 in 2020 to 172 in 2022. In 2023, a total of 193 road accidents were reported in Zanzibar,⁹⁵⁴ slightly increasing from 172 documented by police in 2022 (21 more incidents). A total of 385 people were killed by road accidents, majority of them from Magharibi 'A' District (58), followed by Kusini District (53), and Kaskazini 'B' District (51).⁹⁵⁵ The number of people killed was 62 more than those affected in 2022, equivalent to a 19.2% increase. Passengers constituted the majority of those killed (151). 153 people were reportedly injured, increasing from 136 in 2022.

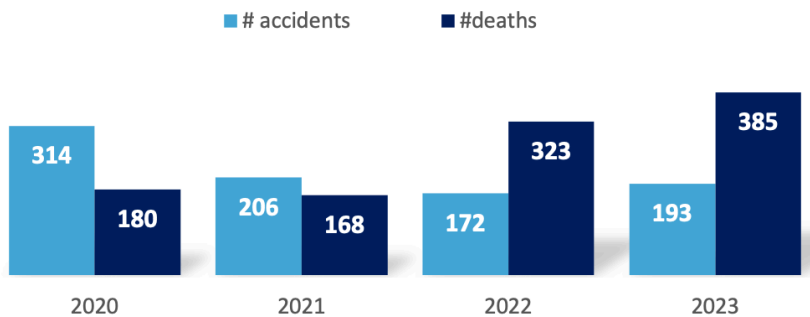


Figure 49: # Road accidents and resulting deaths in Zanzibar, 2020 – 2023

Source: Official OCGS statistics 2022 & 2023

Majority of the accidents were reported in Magharibi 'A' District (32), followed by Kati District (31), and Kaskazini 'B' District (22).⁹⁵⁶

⁹⁵⁴ See OFISI YA MTAKWIMU MKUU WA SERIKALI ZANZIBAR, TOLEO LA TAKWIMU ZA AJALI NA MAKOSA YA BARABARANI ZANZIBAR, MWAKA 2023, at <https://www.ocgs.go.tz/ReportOCGS/13%20TOLEO%20LA%20TAKWIMU%20ZA%20AJALI%20BARABARANI%20MWAKA%202023.pdf>.

⁹⁵⁵ Ibid.

⁹⁵⁶ Ibid.

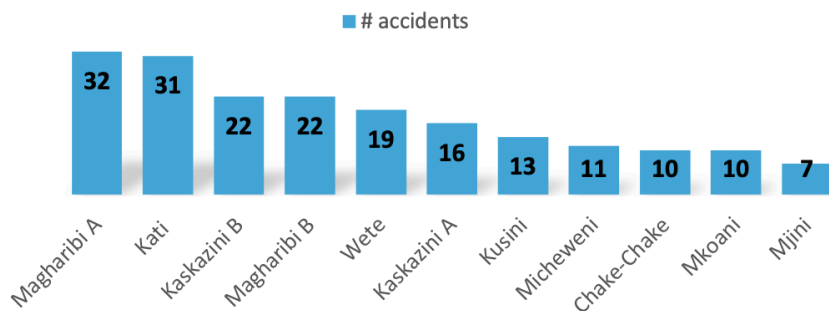


Figure 50: # Road accidents in Zanzibar in 2023 by district

Source: OCGS, 2023

The impact of road accidents, the majority of which are caused by negligence, can be felt at family, community, and national levels, including losing breadwinners and experts, and causing family breakdown, unemployment, and mental health problems. In 2023, just over three quarters (77%) of road accidents were caused by negligence through over speeding.

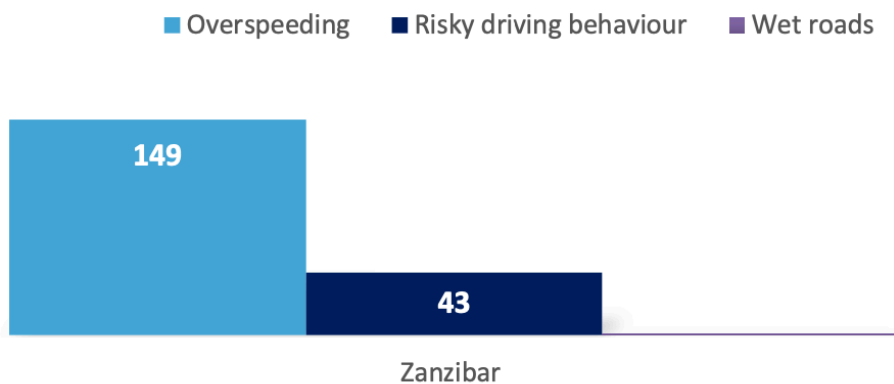


Figure 51: Causes of road accidents in Zanzibar in 2023

Source: OCGS, 2023



2.1.8. Key Recommendations

- The Police Force to continue collaborating with other stakeholders to raise awareness about the dangers of people taking law into their own hands and engage in mob violence.
- The Police Force to continue collaborating with other stakeholders to raise awareness on road safety and reduce road accidents.
- RGZ and other stakeholders should continue with different peace building programmes so as to improve the situation and ensure road signs are in place.

2.2. FREEDOM OF EXPRESSION

About the right

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 regardless of the medium of the information used.

Provided for and protected under various international and regional human rights instruments as well as Section 18 of the Constitution of Zanzibar, 1984.

In 2023, key freedom of expression issues and concerns were mainly restrictive laws and regulations and the Government promise to introduce the new media law to replace current legislations which are deemed outdated and restrictive.

2.2.1. Freedom of Expression Laws vis-à-vis International Standards

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 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. 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.⁹⁵⁷

In April 2023, media stakeholders in Zanzibar also identified the Zanzibar Penal Code No. 6 of 2004 as one of the laws that restrict press freedom and needed amendment. They specifically mentioned Section 44(1) of the penal law, which criminalizes uttering, writing, and publishing of 'seditious' content, without defining 'sedition.'⁹⁵⁸ The Executive Director of the Zanzibar Youth Forum recommended amendment of the law to define 'sedition' to remove the vagueness of the crime, which is susceptible to wide interpretation and

⁹⁵⁷ 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>.

⁹⁵⁸ "Wadau habari walia na sheria kandamizi" Nipashe Newspaper, 6 Apr 2023.

misuse.⁹⁵⁹ In May 2023, stakeholders from across Tanzania gathering in Zanzibar to commemorate the World Press Freedom Day 2023 adopted 30 resolutions to improve media landscape in Tanzania, including the Union Government and the Revolutionary Government of Zanzibar to fast-track the process of amending media laws.⁹⁶⁰

2.2.2. The Promise of the New Media Law

During the commemoration of the world Press Freedom Day 2023 in Unguja, Zanzibar, the Zanzibar Information Minister, Hon. Tabia Mwita Maulid, reiterated the Government's commitment to enact a new media law.⁹⁶¹ She told the attending guests from across Tanzania that the process was under way and that it had reached 80%. She added that her ministry had worked on advice and suggestions of key stakeholders and incorporated 99% of their recommendations. The laws expected to be replaced by the new media law are the Registration of News Agents, Newspapers and Books Act of 1988 and the Zanzibar Broadcasting Commission Act of 1997, which stakeholders have deemed outdated and restrictive. One of the key concerns under the former is empowering the minister responsible for information to suspend or prohibit newspaper publication in the "public interest" or the "interest of peace and order," while in the latter is allowing government leaders to interfere with the day-to-day operations of media houses.⁹⁶²

2.2.3. Ban, Suspension, Harassment, Intimidation, and Detention of Journalists

While in 2022 ZAFAYCO documented only one incident of a ban imposed on a media outlet, in 2023 there were no reported incidents of ban, suspension, harassment, intimidation, and detention of journalists or media outlets that were documented by the organization.

2.2.4. Performance in the World Press Freedom Index 2023

In 2023, Tanzania, Zanzibar inclusive, significantly dropped from 123 out of 180 countries to 143 out of 180 countries in the World Press Freedom Index, prepared by Reporters Without Borders (RSF).⁹⁶³ One of the key reasons for the drop is non-amendment of restrictive freedom of expression laws, as highlighted above.

2.2.5. Right and Access to Information

Violations and potential violations of press freedom also continued to jeopardize enjoyment of the right to information for Zanzibaris. Amendment of the freedom of expression laws cannot therefore come soon enough as they also affect access to information, which is a key component of freedom of

⁹⁵⁹ Ibid.

⁹⁶⁰ "Wadau waja na maazimio 30 uhuru wa vyombo vya habari" Nipashe Newspaper, 4 May 2023.

⁹⁶¹ "Zanzibar Reiterates Commitment to Come Up With New Media Law" The Chanzo Initiative, 1 May 2023, at <https://thechanzo.com/2023/05/01/zanzibar-reiterates-commitment-to-come-up-with-new-media-law/>; "Muswada Sheria ya Habari Zanzibar mbioni kukamilika" Nipashe Newspaper, 6 Jul 2023.

⁹⁶² Ibid.

⁹⁶³ See RSF, World Press Freedom Index 2023, at [HTTPS://RSF.ORG/EN/COUNTRY/TANZANIA](https://rsf.org/en/country/tanzania).



expression.

To improve access to information, in 2023, the Revolutionary Government of Zanzibar also continued to implement various programmes, geared towards informing citizens about implementation of its various activities. These programmes include '**Unatekelezaje**' and '**Sema na Rais Mwinyi**'.⁹⁶⁴

2.2.6. Key Recommendations

- The Revolutionary Government of Zanzibar (RGZ) 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.
- The RGZ and private media houses should think on initiating participatory programmes so as to improve the level of freedom of expression of society in Zanzibar
- The RGZ to provide feedback to the public on key reported issues and challenges submitted by citizens through system of *Sema na Rais Mwinyi* (SNR).
- The Members of Parliament and House of Representative of Zanzibar should be required to conduct monthly meetings in their constituencies so as to facilitate community access to information regarding government activities.

2.3. FREEDOMS OF ASSEMBLY AND ASSOCIATION

About the right

- Freedom of assembly includes freedom to hold public rallies and peacefully demonstrate.
- 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.
- Both rights are protected under various international and regional human rights instruments⁹⁶⁵ as well as the Constitution of Zanzibar of 1984.

In 2023, the main concern regarding freedoms of assembly and association in Zanzibar was restrictive electoral and political parties' legislations.

2.3.1. Freedoms of Assembly and Association Laws vis-à-vis International Standards

In early 2023, the Government of the United Republic of Tanzania lifted a ban on conducting political rallies outside one's constituency, imposed in 2016. This was a huge boost for freedoms of assembly and association in Zanzibar and a welcome development. However, stakeholders continued to lament existence of restrictive provisions within the Political Parties Act, which was amended in 2019, not conforming with international standards. The report of the presidential

⁹⁶⁴ SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA NCHI AFISI YA RAIS - IKULU MHESHIMIWA JAMAL KASSIM ALI KUHUSU MAKADIRIO YA MATUMIZI YA FEDHA KWA MWAKA WA FEDHA 2023/2024, MEI 2023, <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1684225211.pdf>.

⁹⁶⁵ Including the International Covenant on Civil and Political Rights (ICCPR) and African Charter on Human and Peoples' Rights (ACHPR).



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).

2.3.2. Enjoyment of Freedoms of Assembly and Association

As it was the case in 2022, there were no reported incidents of arbitrary restrictions or infringement on freedoms of association and assembly in 2023.

2.3.3. Key Recommendations

- Amendment of freedoms of assembly and association laws such as the Political Parties Act and the Police Force and Auxiliary Services Act to bring them in line with international standards.

2.4. RIGHTS TO EQUALITY BEFORE THE LAW AND EFFECTIVE REMEDY

About the right

- Guaranteed and protected under various regional and international human rights instruments.
- The Constitution of Zanzibar of 1984 also recognizes the right to equality before the law.⁹⁶⁶
- The right to effective remedy is provided for where other rights of an individual have been violated.⁹⁶⁷
- Rights derived from these two rights include right to access to justice, right to legal representation,⁹⁶⁸ right to presumption of innocence and right to fair trial.⁹⁶⁹

In 2023, key issues affecting the rights to equality before the law and effective remedy in Zanzibar included various barriers to access to justice and criminal justice challenges.

2.4.1. Access to Justice: Key Issues and Concerns

2.4.1.1. Action to improve access to justice

In 2023, the Revolutionary Government of Zanzibar and the Judiciary of Zanzibar continued taking various measures to improve access to justice. These included using ICT to enhance administration of justice, including through digital justice systems such as *ZanWakili* (E-Wakili) and *ZanLii*; use of Swahili Language in case hearings; construction and renovation of court buildings; provision of legal aid; and increased disposal of cases.⁹⁷⁰ There was also reported increase of use

⁹⁶⁶ Section 12 of the Constitution of Zanzibar, 1984.

⁹⁶⁷ Article 2(3) (a) of ICCPR.

⁹⁶⁸ See Article 14(3) (b) of the Constitution of Tanzania 1977; Article 7(1)(c) of ACHPR; and Article 14(3)(d) of ICCPR.

⁹⁶⁹ 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.

⁹⁷⁰ See HOTUBA YA JAJI MKUU WA ZANZIBAR MHE. KHAMIS RAMADHAN ABDALLA KATIKA UFUNGUZI WA MKUTANO MKUU WA ZAJOA WA MWAKA 2023, at <https://judiciaryzanzibar.go.tz/web/posts/8>; SERIKALI YA MAPINDUZI YA ZANZIBAR AFISI YA RAIS - KATIBA, SHERIA, UTUMISHI NA UTAWALA BORA HOTUBA YA WAZIRI WA NCHI - AFISI YA RAIS - KATIBA, SHERIA, UTUMISHI NA UTAWALA BORA MWL. HAROUN ALI SULEIMAN (MBM) KATIKA BARAZA LA WAWAKILISHI KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 MEI, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1684481350.pdf>.



of electronic systems such as the Case Management System and the Islamic Inheritance Management System.⁹⁷¹

Regarding provision of legal aid, in May 2023, the Minister of the President's Office – Constitution, Legal Affairs, Public Services and Good Governance, Hon. Haroun Ali Suleiman, revealed that Zanzibar had launched and started conducting the Mama Samia Legal Aid Campaign in Unguja and Pemba.⁹⁷² In May, it was also reported that the Ministry of Constitutional and Legal Affairs and the Judiciary of Zanzibar were in the final stages of developing *e-mahakama*.⁹⁷³ It was also reported that the Judiciary of Zanzibar had commenced construction seven court buildings.

Sema na Rais Mwinyi (SNR)

- In 2023, the President of Zanzibar, H.E Dr. Hussein Ali Mwinyi, continued engaging with citizens of Zanzibar through a programme and system called 'Sema na Rais Mwinyi (SNR)'.⁹⁷⁴ Through this system, Zanzibaris can file their complaints and explain various challenges they face by calling, sending short texts, or sending messages through the website. There is a team of people who analyse the complaints and refer them to relevant institutions for action, including resolution, where there is a dispute. A total of 10,434 complaints have been received since the system was established, of which 79.6% were resolved. For the financial year 2022/2023, a total of 2,128 complaints were received, of which 66% were resolved.

2.4.1.2. Barriers to access to justice

Despite increased efforts to enhance access to justice in Zanzibar, several barriers continued to be experienced by citizens in 2023. These barriers include corruption, lengthy court proceedings, low awareness about laws and legal procedures, and high costs of legal representation.

Stakeholder perceptions

In 2023, community stakeholders once again identified corruption to be the leading barrier to access to justice (75%), followed by lengthy court proceedings (54%), costs of legal representation (35%), low awareness about laws (31%), and cumbersome legal procedures (24%).

971 Ibid.

972 Ibid.

973 "E-Mahakama yanukia Z'bar" Mwananchi Newspaper, 20 May 2023.

974 SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA NCHI AFISI YA RAIS - IKULU MHESHIMIWA JAMAL KASSIM ALI KUHUSU MAKADIRO YA MATUMIZI YA FEDHA KWA MWAKA WA FEDHA 2023/2024, MEI 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1684225211.pdf>.



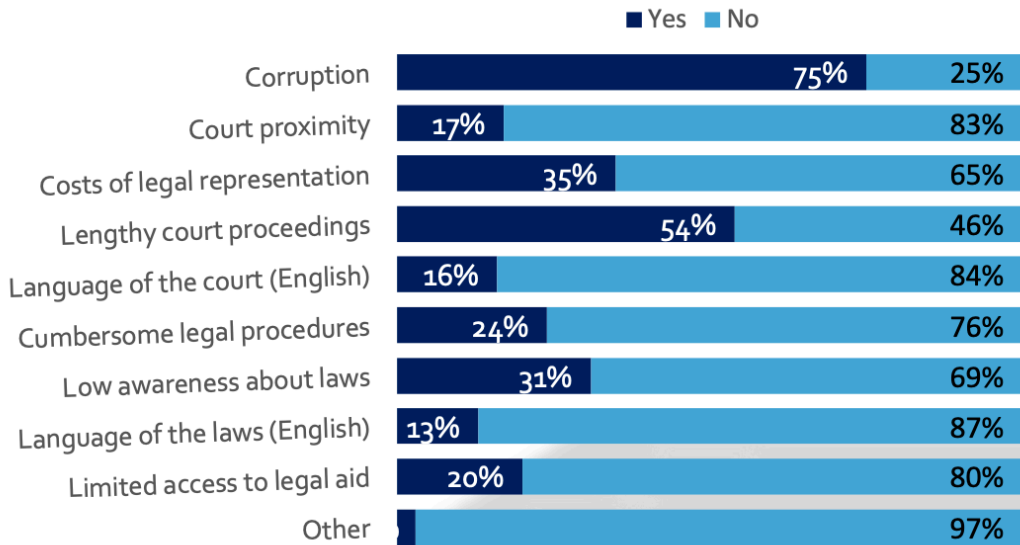


Figure 52: %Community stakeholder responses on key barriers to access to justice

Community stakeholders were also asked about knowing any legal aid providers and their satisfaction with the legal aid services provided. Over half of them (56.4%) acknowledged that they were aware of legal aid providers operating in their community. Regarding satisfaction, the majority of them (39.4%) said they were moderately satisfied, followed by a quarter who said they were satisfied, and nearly a quarter (24.5%), who said they were very satisfied.

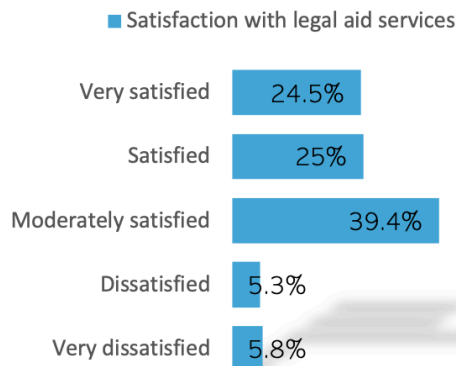


Figure 53: %Community stakeholder responses on satisfaction with legal aid services (N=205)

2.4.2. Criminal Justice: Key Issues and Concerns

2.4.2.1. Calls for criminal justice reforms

In 2023, stakeholders continued to demand criminal justice reforms to safeguard



the right to equality before the law and the right to liberty and personal security, which are fundamental human rights guaranteed under various international and regional human rights instruments as well as the Constitution of Zanzibar of 1984. One of the platforms they used in this regard in 2023 were meetings organized and conducted by the 12-member team formed by H.E Samia Suluhu Hassan, President of the United Republic of Tanzania, in July 2022 to investigate the performance of criminal justice institutions in the country and advise on the best way to improve the performance of Tanzania’s criminal system.

Most of the grievances regarding the criminal justice system that were aired by stakeholders in 2023 were directed to the Police Force and the Judiciary, calling for restructuring and reforms.⁹⁷⁵ Key concerns included arbitrary arrests and detentions, lengthy pre-trial detention, and corruption. Others also lamented delays in investigations, calling for a time limit to be set for completion of investigations.

2.4.2.2. Report of the Criminal Justice Reforms Commission

The criminal justice reforms commission, led by the Former Chief Justice, Hon. Mohamed Othman Chande, released its report in July 2023. Generally, **the commission found that there are many problems and challenges in the criminal justice chain, from crime prevention; crime detection and reporting; investigation and manner of arrest of suspects; prosecution; adjudication and sentencing; imprisonment of convicted persons; and life of released prisoners upon re-entry into society** (social reintegration of offenders).⁹⁷⁶

⁹⁷⁵ “Kero polisi, mahakama zatawala” Mwananchi Newspaper, 13 Apr 2023; “Walalamikia utendaji polisi, wakosa imani” Nipashe Newspaper, 13 Apr 2023.

⁹⁷⁶ JAMHURI YA MUUNGANO WA TANZANIA, MUHTASARI WA RIPOTI YA TUME YA KUANGALIA JINSI YA KUBORESHA TAASISI ZA HAKI JINAI NCHINI, JULAI, 2023, DODOMA, p. 1.



Criminal Justice Reforms Report 2023

General Concerns

Some of the key concerns raised by stakeholders included:

- Lack of national strategy for detecting and preventing crime.
- Criminal justice institutions with arresting powers usually using excessive force when arresting suspects, causing them pain and suffering.
- The existence of many institutions with arresting powers, making it difficult to know who is holding loved ones and where and increasing chances of accused persons 'disappearing' while under custody.
- Non-separation of the Investigation Department and other activities of the Police Force, contributing to delays in investigations, lack of specialization, and decreased efficiency in conducting investigation.
- Availability of multiple investigation institutions, causing challenges in coordination, crime control, and data management, as well as increasing costs and compromising effectiveness and accountability.
- Unbailable offences, contributing to lengthy pre-trial detention.
- Inadequate preservation of exhibits at some police stations, contrary to laid down laws and guidelines, contributed by limited space for storage and negligence.
- Need for private investigation.
- Shortage of sign language and Braille experts and lack of disability-friendly infrastructures at some criminal justice institutions, causing PWDs to experience more challenges in accessing services and justice.
- Need to restructure the Police Force to become the National Police Services, changing from police force to police service.

Zanzibar-specific Concerns

Specific concerns for Zanzibar regarding the criminal justice system were: the issue of presidential pardon granted by the President of the United Republic of Tanzania not covering prisoners in Zanzibar; sessions of the Court of Appeal of Tanzania; combating corruption and drug abuse; collaboration between the Police Force, the Zanzibar Navy, and the *Kikosi Maalum cha Kuzuia Magendo* (KMKM) Special Unit; and the Zanzibar Correctional Facilities.

- Stakeholders recommended for the prisoners in Zanzibar to be qualified for presidential pardon issued each year by the President of the United Republic of Tanzania.
- Some stakeholders in Zanzibar also complained about lack of Court of Appeal sessions in Pemba, noting that they are only conducted in Unguja.
- Stakeholders recognized the magnitude of the problems of corruption and drug abuse in both Mainland and Zanzibar, hence recommended merging the relevant institutions from both parts of the union to better address the problems.
- Stakeholders and the commission recommended strengthening collaboration between the Police Force and the KMKM Special Unit to better combat criminal activities in the Indian Ocean.
- Stakeholders and the commission recommended restructuring of the Zanzibar Correctional Facilities in line with recommendations provided in the commission's report.

The commission recommended not making any changes regarding the issues of presidential pardon and having separate institutions in Mainland and Zanzibar dealing with corruption and drug abuse because they are non-union matters. It also did the same for the issue of Court of Appeal sessions.



2.4.2.3. Stakeholder perceptions on criminal justice 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. In 2023, community stakeholders pointed out several challenges in the criminal justice system. These challenges include corruption, which was mentioned as the biggest challenge (82.7%); delays in investigation (64.6%), lengthy pre-trial detention (63.6%), and delays in disposal of cases (63.1%).

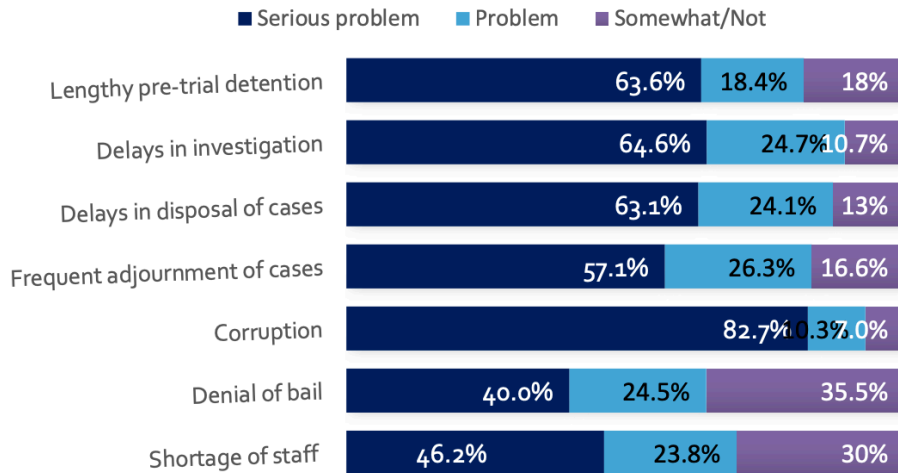


Figure 54: % Community stakeholder responses on seriousness of various challenges in the criminal justice system

2.4.3. Key Recommendations

- The Government and its institutions to take immediate action to implement recommendations provided by the Presidential Commission on Criminal Justice Reforms.
- The Government to consider other recommendations on criminal justice reforms provided by stakeholders that were not taken aboard by the criminal justice reforms commission.

2.5. RIGHT TO LIBERTY AND PERSONAL SECURITY

About the right

Provided for under Section 14 of the Constitution of Zanzibar, 1984. Guarantees the right of every person to be free and to live like a free person. It is also an essential human right, guaranteed under regional and international human rights instruments, including UDHR and ICCPR.⁹⁷⁷ 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'.

In 2023, key issues affecting the right to liberty and personal security in Zanzibar included safety and security concerns, bail, delays in investigations, and trumped-up charges.

2.5.1. Safety and Security Concerns

In September 2023, the Police Force in Zanzibar stated that there had been an increase of criminal activities in Zanzibar, and that this was partly contributed by citizens not showing up in court to provide testimony.⁹⁷⁸ It also pointed out that some people decided against filing a case in court or have it dismissed for fear of retaliation by the perpetrators of crime.⁹⁷⁹ ZAFAYCO has also observed that some people, especially youth, are driven to crime due to economic hardships, peer pressure, and drug abuse.

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."⁹⁸⁰ Accused person must also not be discriminated against, must be allowed to communicate with family, and presumed innocent until proven guilty in court.⁹⁸¹

Like it was the case in 2022, ZAFAYCO did not document any reported incidents of arbitrary arrests and detention in 2023.

2.5.3. Bail

As discussed above, denial of bail is a concern for community stakeholders. 40% of stakeholders said denial of bail was a serious problem in the community, while a quarter (24.5%) said it is a problem. There is also just over a third of the respondents (35.5%) who said denial of bail is a moderate.

⁹⁷⁷ Article 3 of UDHR; Article 9(1) of ICCPR.

⁹⁷⁸ "Polisi yataja chanzo cha kushamiri kwa matukio ya uhalifu" Nipashe Newspaper, 26 Sep 2023.

⁹⁷⁹ Ibid.

⁹⁸⁰ See Article 9(2) of ICCPR of 1966.

⁹⁸¹ 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.



2.5.4. Trumped-up Charges

In 2023, the report of the presidential commission on criminal justice reforms revealed that they had been several complaints against the Police Force made by citizens, most of them lamenting the habit of some police officers slapping them with trumped-up charges and demanding bribe.⁹⁸² One of the citizens, resident of Kikaangoni Ward, said her son had been imprisoned based on a trumped-up charge of rape.⁹⁸³

2.5.5. Delays in Investigations and Disposal of Cases

As discussed above, delays in investigations and disposal of cases is a concern for community stakeholders. Delays in investigations and disposal of cases was cited as a serious problem by nearly two-thirds of the community stakeholders (64.6% for delays in investigation, 63.1% for delays in disposal of cases).

2.5.6. Human Trafficking

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.⁹⁸⁴ 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. 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).

In 2023, human trafficking continued to be a concern in Zanzibar, despite the incidents of human trafficking not usually being reported. ZAFAYCO has observed that non-reporting of such incidents is largely contributed by lack of awareness about human trafficking among citizens. Women and children are more vulnerable to human trafficking.

In 2023, there were at least 8 reported incidents of human trafficking, all reported in Unguja.⁹⁸⁵ It was also reported that 117 victims of child trafficking (115 girls, 2 boys) had been rescued and placed at safe houses.⁹⁸⁶

982 "Tume hakijini yaibua malalamiko Zanzibar" HABARILEO Newspaper, 10 Aug 2023.

983 Ibid.

984 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.

985 SERIKALI YA MAPINDUZI ZANZIBAR WIZARA YA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO MH. RIZIKI PEMBE JUMA (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA MWAKA WA FEDHA 2023/2024. MEI, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1685027953.pdf>.

986 Ibid.



2.5.7. Key Recommendations

- The Revolutionary Government of Zanzibar (RGZ) and its law enforcement bodies to intensify efforts to prevent and combat human trafficking.
- The RGZ to collaborate with other stakeholders to create more awareness-raising programmes on human trafficking.

2.6. RIGHT TO TAKE PART IN GOVERNANCE

About the right

- Also known as the right to take part in public affairs or the right to participate in the government.⁹⁸⁷
- Includes the right for citizens to vote and be voted for public office and the right to participate in political life.⁹⁸⁸ Everyone, either directly or through a chosen representative, has a right and opportunity to take part in the public affairs of the state.⁹⁸⁹

In 2023, the main issue affecting enjoyment of the right to take part in governance was gaps in relevant laws and regulations.

2.6.1. Gaps in Legal Framework on Right to Take Part in Governance

Several gaps continue to exist in the legal framework governing the right to take part in governance, as both Mainland Tanzania and Zanzibar head towards the elections in 2024 and 2025.

Amendment of electoral and political parties laws

- In November 2023, three bills were tabled in Union Parliament for first reading, namely the Presidential, Parliamentary and Local Government Elections Bill; the Political Parties Affairs Laws (Amendment) Bill; and the National Electoral Commission (NEC) Bill.⁹⁹⁰ Stakeholder analysis of the bills generally found the proposed amendments to the Political Parties Act to be inadequate and do not change the Act in any major way.⁹⁹¹ The proposed amendments to the Political Parties Act have left out other key recommendations proposed by the Report of the Presidential Taskforce on Multiparty Democracy led by Professor Rwekaza Mkandala and decisions by domestic and regional courts.

⁹⁸⁷ 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).

⁹⁸⁸ Article 12 of the Constitution of Zanzibar, 2010.

⁹⁸⁹ Article 25 (a) of the International Covenant on Civil and Political Rights, 1966; Article 21(1) of the Constitution of Tanzania.

⁹⁹⁰ "Reforms set to transform NEC operations" DAILYNEWS Newspaper (online), 11 Nov 2023, at <https://dailynews.co.tz/reforms-set-to-transform-nec-operations/>.

⁹⁹¹ MAONI YA WADAU (LHRC, TLS, Twaweza, CSL, JUKATA na Jamii Forums) KWENYE MISWADA YA SHERIA ZA UCHAGUZI NA MUSWADA WA SHERIA YA VYAMA VYA SIASA, Januari 8 2024, Dodoma, Tanzania.



2.6.2. African Court: It is Okay for Civil Servants to be Returning Officers

In June 2023, the African Court on Human and Peoples' Rights delivered its judgement on the case of Bob Chacha Wangwe and Legal and Human Rights Centre versus the United Republic of Tanzania.⁹⁹² The applicants alleged that sections 6(1), 7(1), 7(2), and 7(3) of the National Elections Act (NEA) violated their right to freely participate in the government and right to non-discrimination, guaranteed under the Constitution and the African Charter on Human and Peoples' Rights, by allowing civil servants to be returning officers. However, the African Court found no violation of the Charter where the Director of Elections is appointed by the President and where civil servants are used in the operations of an electoral management body.⁹⁹³

2.6.3. Key Issues and Concerns Ahead of the 2024 and 2025 Elections

In 2022, the several key measures to improve multiparty democracy in Tanzania were proposed in the report on multiparty democracy in Tanzania by the presidential taskforce. These recommendations include:

- In presidential election, candidate should get more than 50% of votes to win.
- 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.
- 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.
- 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.
- Amendment of electoral laws to ensure equal participation of PWDs in politics and representation in decision making.

In 2023, ZAFAYCO observed that most of these recommendations are yet to be implemented or at least partially implemented.

⁹⁹² Bob Chacha Wangwe & Legal and Human Rights Centre vs. United Republic of Tanzania, Application 0/11/2020, Judgment, 20 June 2023.

⁹⁹³ Ibid.

2.6.4. Key Recommendations

- The Union Government and the Revolutionary Government of Zanzibar to take measures to implement the recommendations by the presidential taskforce on multiparty democracy in Tanzania.

2.7. FREEDOM FROM TORTURE AND INHUMAN OR DEGRADING TREATMENT

About the right

- is a basic human right protected under the regional and international human rights treaties.⁹⁹⁴
- Prohibited under the Constitution of Zanzibar, 1984.

In 2023, the main concern regarding the enjoyment of the right to freedom from torture was non-ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) by Tanzania.

2.7.1. Legal Protection against Torture

Protection against torture in Zanzibar is inadequate due to two key challenges. The first and main challenge 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 or close family members/relatives.

2.7.2. Reported Torture Incidents

As was the case in 2022, ZAFAYCO did not document any reported incidents of torture by state agents in 2023. However, incidents of child torture through physical violence were reported in 2023, as discussed in Chapter Five of this report.

2.7.3. Key Recommendations

- The Union Government and the Revolutionary Government of Zanzibar to take immediate measures to ratify the UN Convention Against Torture (CAT) to safeguard the right to freedom from torture.
- CSOs to collaborate with government stakeholders to raise community awareness on torture and its impacts.
- Community members to expose acts of torture perpetrated by fellow community members.

⁹⁹⁴ Article 5 of ACHPR and Article 7 of ICCPR.



2.8. FREEDOM FROM VIOLENCE

About the right

- Protected under various international and regional human rights instruments.⁹⁹⁵
- Also protected under the Constitution of Zanzibar and other key legislations, such as the child law and labour laws.
- Protects everyone from all forms of violence, whether physical, sexual, economic, or psychological/emotional.
- Is also 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.

In 2023, different forms of violence were perpetrated against women, children, men, persons with disabilities (PWDs), and older persons in Unguja and Pemba.

2.8.1. Violence against Women

In 2023, women accounted for 74% of gender-based violence (GBV) incidents. Such violence is usually perpetrated in domestic settings, especially by intimate partner or husband. This type of violence is further discussed in Chapter Five of this report.

2.8.2. Violence against Children

In 2023, children continued to constitute the majority of the victims of violence. Statistics released by the Office of the Chief Government Statistician (OCGS) Zanzibar show that incidents of violence against children (VAC) constituted 83.7% of all reported incidents of violence (VAC, VAW, & VAM) in 2023. Overall, a total of 1,639 VAC incidents were reported, significantly increasing from 1,173 incidents reported in 2022. This is equivalent to a 39.7% increase. This type of violence is further discussed in Chapter Five of this report.

2.8.3. Violence against Men

In 2023, a total of 319 GBV incidents were reported, whereby 235 were of violence against women (VAW) and 84 were of violence against men (VAM).

2.8.4. Violence against PWDs

In 2023, ZAFAYCO did not document any reported incidents of violence against persons with disabilities (PWDs). However, community stakeholders who were engaged identified several acts of violence as key challenges for PWDs. These include abuse or mistreatment (37%) and neglect or social exclusion (28%). Stigma and discrimination (55%), which were also said to be key challenges, increase the risk of violence against PWDs.

⁹⁹⁵ Including the Universal Declaration of Human Rights (UDHR) of 1948, International Covenant on Civil and Political Rights (ICCPR) of 1966, the African Charter on Human and Peoples' Rights of 1981, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2003.



2.8.5. Violence against the Elderly

In 2023, ZAFAYCO also did not document any reported incidents of violence against the elderly. However, community stakeholders who were engaged identified several acts of violence as key challenges for older people. These include abuse or mistreatment (31%) and neglect/social exclusion (24%).

2.8.6. Key Recommendations

- The Revolutionary Government of Zanzibar, The RGZ, through the Ministry of Community Development, Gender, Elderly, and Children, to intensify efforts to prevent and combat all forms of violence against women, men, children, PWDs, and the elderly.

2.9. RIGHT TO PRIVACY

About the right

- Essential to effective and good democratic governance and in enjoyment of other fundamental human rights, including freedoms of expression and association.
- Guaranteed under various international and regional human rights instruments.⁹⁹⁶
- Also protected under the Constitution of Zanzibar of 1984.

In 2023, the main key issue of concern regarding the right to privacy was lack of personal data protection law.

2.9.1. Legal Protection of Privacy

The right to privacy is protected under Section 15 of the Constitution of Zanzibar. According to this section, '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 and protection of his residence and private communication.' Despite this constitutional guarantee, protection of this fundamental right is not complete without a specific legislation on personal data protection, ensuring that data collected by different people and institutions for different purposes are not misused.

In July 2023, stakeholders in Zanzibar expressed concerns over lack of personal data protection legislation.⁹⁹⁷ This was revealed by a study by the Law Reform Commission of Zanzibar (LRCZ), conducted in collaboration with the Centre for Youth Dialogue.⁹⁹⁸ LRCZ recommended the Government to enact the Personal Data Protection Act to safeguard protection of personal data collected

⁹⁹⁶ 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.

⁹⁹⁷ "Wataja athari Zanzibar kukosa sheria ya faragha" Mwananchi Newspaper, 15 Jul 2023.

⁹⁹⁸ Ibid.



by institutions and assure investors and citizens that such data shall not be misused.⁹⁹⁹

2.9.2. Reported Privacy-Related Issues and Incidents

In 2023, ZAFAYCO did not document any reported incidents of right to privacy violations. However, ZAFAYCO has observed that right to privacy is among the less known human rights in Zanzibar, and this means violations may well have occurred, but people are not aware they are actually violations.

2.9.3. Key Recommendations

- The Revolutionary Government of Zanzibar to enact the Personal Data Protection Act to address key concerns raised by stakeholders and spearhead amendment of the law.
- CSOs to collaborate with other stakeholders to raise public awareness on privacy.

2.10. RECOMMENDATIONS

State Actors

- 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.
- 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

⁹⁹⁹ "Tume yataka sheria kulinda taarifa binafsi za wananchi" HABARILEO Newspaper, 15 Jul 2023.



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.
- 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 enact the Personal Data Protection Act to address key concerns raised by stakeholders and spearhead amendment of the law.
- The Union Government and the Revolutionary Government of Zanzibar to take measures to implement the recommendations by the presidential taskforce on multiparty democracy in Tanzania.
- The Union Government and the Revolutionary Government of Zanzibar to take measures to implement the recommendations by the presidential criminal justice reforms commission to improve access to justice and administration of criminal justice in Zanzibar.

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.
- 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.

Community members

- Community members to refrain from engaging in mob violence practices.
- Community members to perform their duty of reporting crimes whenever and wherever they occur.
- Community members to cooperate with law enforcement officers when conducting investigations and be willing to provide testimony in court to ensure justice is done.



CHAPTER THREE: ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Economic, social, and cultural rights are rights which enable us to access social services and economic opportunities, as well as enjoying cultural activities. They include the right to education, the right to health, the right to clean and safe water, the right to own property, and the right to work. This chapter discusses key issues affecting these rights in the period of January to December 2023.

3.1. RIGHT TO EDUCATION

About the right

- A fundamental human right protected under international and regional human rights instruments and **essential for effective realization of all other human rights**. Enables all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and groups.¹⁰⁰⁰
- It is only mentioned under section 10(f) of the Zanzibar Constitution as a political objective of the Revolutionary Government of Zanzibar.

In 2023, key issues affecting right to education in Zanzibar included budgetary constraints; shortages of classrooms, desks, and toilet holes; shortage of teachers, especially in primary schools; lack of meals at some schools; truancy and school dropout; and violence against children.

3.1.1. Government Action

In 2023, government action to ensure progressive realization of the right to education in Zanzibar included construction and renovation of classrooms, provision of funds to facilitate school learning, and provisions of loans to higher education students.

In May 2023, it was reported that the RGZ was planning to overhaul the education sector. The Minister of Education and Vocational Training, Hon. Lela Mohammed Mussa, told journalists that the full review of the education system would be done upon amendment of the Education Act of 1982 and the Education Policy of 2006, and that a taskforce had been formed to this effect.¹⁰⁰¹ For the financial year 2022/23, a total of 4,875 higher education students (1,815

¹⁰⁰⁰ Article 13(1) of ICESCR

¹⁰⁰¹ "Zanzibar yajipanga kufanya mabadiliko sekta ya Elimu" Zanzi News Online, at <http://www.zanzinews.com/2023/10/zanzibar-yajipanga-kufanya-mabadiliko.html>.



new, 3,060 continuing) were provided with loans; new curricula (pre and primary education were developed, and relevant books prepared; 8,936 public and private school teachers were trained on the new curricula; and inspections at 878 schools (640 public, 238 private) were conducted.¹⁰⁰² Additionally, a total of 4,032 desks were procured and distributed to public primary schools in Unguja and Pemba, and 17,425 sets of tables and chairs were distributed to secondary schools.¹⁰⁰³

In August 2023, the Minister of Education and Vocational Training, Hon. Lela Muhamed Mussa, said her ministry had ensured return to school of 25,961 students who had dropped out of school to engage in hazardous work.¹⁰⁰⁴ The Minister also revealed that there had been an increased enrollment in primary schools, whereby the enrollments of both boys and girls exceeded the target, at 106.1% and 104 respectively.¹⁰⁰⁵ The ministry was also working to increase use of ICT in education to better safeguard the right to education, including through online learning.

3.1.2. Budgetary Allocation and Disbursement

The budget for the education sector in Zanzibar covers six main items, namely: **Pre and Primary Education; Secondary Education; Higher Education; Alternative and Vocational Training; Quality Education;** and **Administration and Coordination in Education.** In recent years, the Revolutionary Government of Zanzibar has done a good job of increasing budgetary allocation for the education sector. For instance, the budget increased from Tshs. 265.5 billion in the financial year 2021/22¹⁰⁰⁶ to Tshs. 309.8 billion in the financial year 2022/23.¹⁰⁰⁷ This is an increase of Tshs. 44.3 billion or 16.7%. For the financial year 2023/24, the budget further significantly increased to Tshs. 457.2 billion,¹⁰⁰⁸ equal to a 47.5% increase.

1002 Ibid.

1003 Ibid.

1004 "Watoro 25,961 warejeshwa shule" HABARILEO Newspaper, 30 Aug 2023.

1005 SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA 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 2023/2024 Mei, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1685516257.pdf>.

1006 SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA 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://zanzibarassembly.go.tz/storage/documents/Budgets/all/1677744290.pdf>.

1007 SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA 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 2023/2024 Mei 2023 (*supra*).

1008 See Zanzibar Ministry of Finance, AGGREGATED BUDGET 2023/2024, at https://www.mofzanzibar.go.tz/newpofp/pdf/AGGREGATED_BUDGET_2023_2024.pdf.



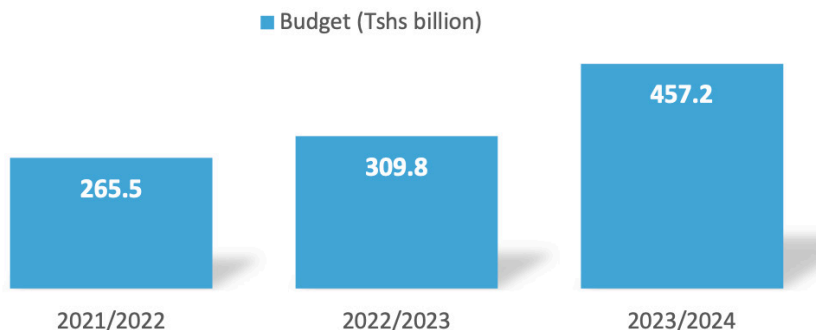


Figure 55: Budgetary allocation for the education sector in Zanzibar (2021/22 to 2023/24)

Source: Zanzibar MOEVT & MoF

Despite the increasing trend of budgetary allocation, the budget allocation for the education sector is yet to reach the 20% of the national budget benchmark, stipulated in the Incheon Declaration.¹⁰⁰⁹

Like in Mainland Tanzania, there are also concerns over disbursement of the education budget. For instance, for the financial year 2021/22, the funds disbursed by April 2022 were only 58% of the budget.¹⁰¹⁰ For the financial year 2022/2023, the funds disbursed by April 2023 were 79% of the budget.¹⁰¹¹

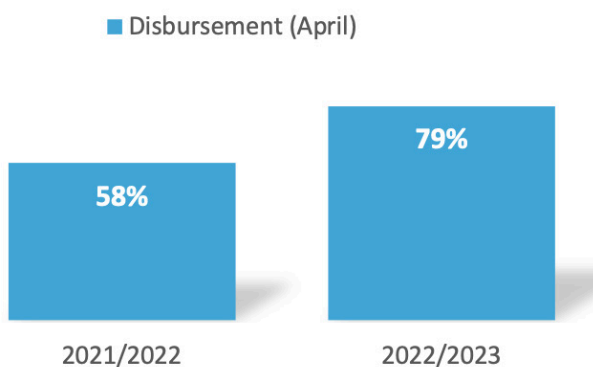


Figure 56: % Education budget disbursement in Zanzibar by April 2022 & 2023

¹⁰⁰⁹ See Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4, at https://uis.unesco.org/sites/default/files/documents/education-2030-incheon-framework-for-action-implementation-of-sdg4-2016-en_2.pdf.

¹⁰¹⁰ SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA 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 (*supra*).

¹⁰¹¹ SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA 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 2023/2024 Mei 2023 (*supra*).

3.1.3. Other Key Issues and Challenges

Community stakeholders' perceptions on key education challenges

In 2023, stakeholders engaged by ZAFAYCO during the assessment of human rights situation were asked about key education challenges in their community. Shortage of teachers (56%) was cited as the biggest challenge, followed by inadequate cooperation from parents (36%), shortage of classrooms 35%), child marriage (35%), and child labour (33%).

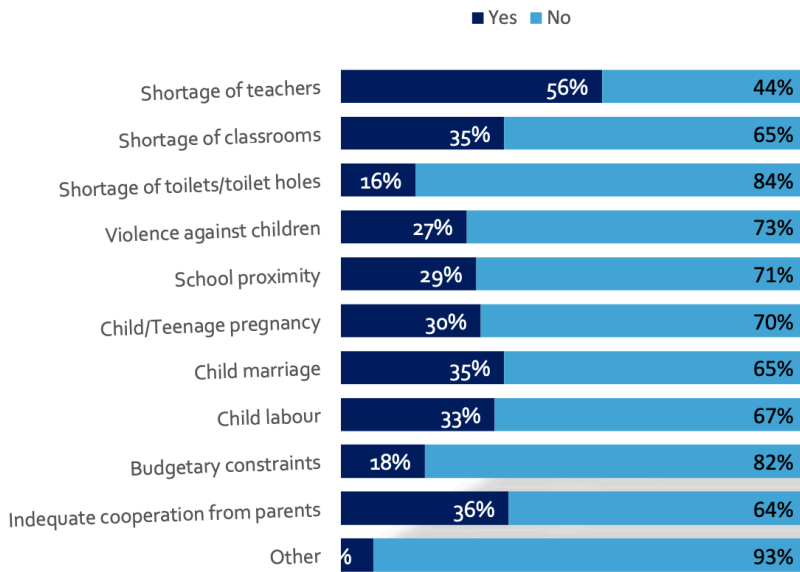


Figure 57: %Community stakeholder responses on key challenges in the education sector

Shortage of classrooms

In 2023, shortage of classrooms continued to be a challenge at some public schools in Zanzibar, especially primary schools. Analysis of data on enrollment, number of classrooms, and the number of pupils or students in a class in public and private schools attests to this problem. As shown in Table 1 below, the number of pupils in a single class in 11 districts of Zanzibar is much higher in public schools, averaging 81 pupils, compared to private schools, which averages 18 pupils. The number of classrooms is nearly the same in public and private schools, despite the latter enrolling less than a quarter of pupils enrolled in the former. Primary schools in Magharibi 'A' District have the highest average of pupils in a single class (117), followed by Micheweni (100), and Mjini (93).



Table 1: Proportion of pupils and classrooms in primary schools (public & private) in Zanzibar

| District | Enrolment | | #Classrooms | | #Pupils in 1 class | |
|---------------|----------------|---------------|--------------|--------------|--------------------|-----------|
| | Public | Private | Public | Private | Public | Private |
| Mjini | 28,909 | 9,891 | 312 | 406 | 93 | 24 |
| Magharibi 'A' | 46,894 | 13,209 | 401 | 545 | 117 | 24 |
| Magharibi 'B' | 40,433 | 21,544 | 443 | 839 | 91 | 26 |
| Kaskazini 'A' | 29,704 | 1,739 | 507 | 57 | 59 | 31 |
| Kaskazini 'B' | 17,537 | 1,202 | 268 | 44 | 65 | 27 |
| Kati | 23,468 | 2,020 | 418 | 94 | 56 | 21 |
| Kusini | 8,882 | 1,017 | 192 | 45 | 46 | 23 |
| Micheweni | 30,447 | 898 | 304 | 898 | 100 | 1 |
| Wete | 34,892 | 1,141 | 430 | 45 | 81 | 25 |
| Chake-Chake | 30,182 | 2,908 | 336 | 94 | 90 | 31 |
| Mkoani | 33,112 | 612 | 376 | 27 | 88 | 23 |
| TOTAL | 324,460 | 56,181 | 3,987 | 3,094 | 81 | 18 |

Source: Ministry of Education and Vocational Training, March 2023¹⁰¹²

In secondary schools, the proportion is much better, as the number of students in a single class averages 42, compared to 81 in primary schools. Expectedly, the average for private secondary schools is just over a half that of public schools, as shown in Table 2 below. The highest average of students in a single class was 70 in Mjini District.

Table 2: Proportion of students and classrooms in secondary schools (public & private) in Zanzibar

| District | Enrolment | | #Classrooms | | #Pupils in 1 class | |
|---------------|-----------|---------|-------------|---------|--------------------|---------|
| | Public | Private | Public | Private | Public | Private |
| Mjini | 16,311 | 1,503 | 232 | 68 | 70 | 22 |
| Magharibi 'A' | 11,814 | 2,128 | 198 | 86 | 60 | 25 |
| Magharibi 'B' | 16,198 | 6,320 | 268 | 276 | 60 | 23 |

1012 SERIKALI YA MAPINDUZI YA ZANZIBAR HOTUBA 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 2023/2024 Mei (*supra*).

| | | | | | | |
|---------------|---------------|---------------|--------------|------------|-----------|-----------|
| Kaskazini 'A' | 7,341 | 100 | 195 | 6 | 38 | 17 |
| Kaskazini 'B' | 4,270 | 112 | 99 | 8 | 43 | 14 |
| Kati | 6,328 | 507 | 192 | 22 | 33 | 23 |
| Kusini | 2,766 | 150 | 81 | 7 | 34 | 21 |
| Micheweni | 6,164 | 137 | 151 | 4 | 41 | 34 |
| Wete | 9,252 | 449 | 235 | 24 | 39 | 19 |
| Chake-Chake | 9,343 | 862 | 185 | 29 | 51 | 30 |
| Mkoani | 8,304 | 152 | 193 | 12 | 43 | 13 |
| TOTAL | 98,091 | 12,420 | 2,029 | 542 | 42 | 23 |

Source: Ministry of Education and Vocational Training, March 2023¹⁰¹³

Shortage of classrooms affects the learning environment, including by causing classes to be overcrowded, hence lower concentration.

Shortage of teachers

Shortage of teachers in public schools, especially in primary schools also continued to be a concern in 2023. Analysis of data on enrollment, number of teachers, and teacher/pupil ratio in public and private schools attests to this problem. As shown in Table 3 below, the teacher/pupil ratio in public schools (45) is much higher than in private schools (17). Based on the teacher/pupil ratio, shortage of teachers appears to be the highest in Micheweni District (77), followed by Mkoani (67), and Chake-Chake (51). The standard is one teacher for 40 pupils/students.

Table 3: Proportion of pupils and teachers in primary schools (public & private) in Zanzibar

| District | Enrolment | | #Teachers | | Teacher/Pupil Ratio | |
|---------------|-----------|---------|-----------|---------|---------------------|---------|
| | Public | Private | Public | Private | Public | Private |
| Mjini | 28,909 | 9,891 | 958 | 603 | 30 | 16 |
| Magharibi 'A' | 46,894 | 13,209 | 938 | 752 | 50 | 18 |
| Magharibi 'B' | 40,433 | 21,544 | 981 | 1,210 | 41 | 18 |
| Kaskazini 'A' | 29,704 | 1,739 | 732 | 89 | 41 | 20 |
| Kaskazini 'B' | 17,537 | 1,202 | 488 | 63 | 36 | 19 |
| Kati | 23,468 | 2,020 | 657 | 126 | 36 | 16 |

1013 Ibid.



| | | | | | | |
|--------------|----------------|---------------|--------------|--------------|-----------|-----------|
| Kusini | 8,882 | 1,017 | 285 | 86 | 31 | 12 |
| Micheweni | 30,447 | 898 | 395 | 33 | 77 | 27 |
| Wete | 34,892 | 1,141 | 698 | 60 | 50 | 19 |
| Chake-Chake | 30,182 | 2,908 | 592 | 143 | 51 | 20 |
| Mkoani | 33,112 | 612 | 496 | 55 | 67 | 11 |
| TOTAL | 324,460 | 56,181 | 7,220 | 3,220 | 45 | 17 |

Source: Ministry of Education and Vocational Training, March 2023¹⁰¹⁴

In secondary schools, the teacher/student ratio in public schools is much lower, at 18, compared to primary schools. The ratio gap between public and private schools is also not significant, as shown in Table 4 below.

Table 4: Proportion of students and teachers in secondary schools (public & private) in Zanzibar

| District | Enrolment | | #Teachers | | Student/Pupil Ratio | |
|---------------|---------------|---------------|--------------|--------------|---------------------|-----------|
| | Public | Private | Public | Private | Public | Private |
| Mjini | 16,311 | 1,503 | 1,000 | 159 | 16 | 9 |
| Magharibi 'A' | 11,814 | 2,128 | 639 | 195 | 18 | 11 |
| Magharibi 'B' | 16,198 | 6,320 | 949 | 603 | 17 | 10 |
| Kaskazini 'A' | 7,341 | 100 | 471 | 17 | 16 | 6 |
| Kaskazini 'B' | 4,270 | 112 | 242 | 10 | 18 | 11 |
| Kati | 6,328 | 507 | 521 | 52 | 12 | 10 |
| Kusini | 2,766 | 150 | 181 | 16 | 15 | 9 |
| Micheweni | 6,164 | 137 | 221 | 5 | 28 | 27 |
| Wete | 9,252 | 449 | 435 | 48 | 21 | 9 |
| Chake-Chake | 9,343 | 862 | 383 | 82 | 24 | 11 |
| Mkoani | 8,304 | 152 | 336 | 28 | 25 | 5 |
| TOTAL | 98,091 | 12,420 | 5,378 | 1,215 | 18 | 10 |

Source: Ministry of Education and Vocational Training, March 2023¹⁰¹⁵

The problem of shortage of teachers in Zanzibar has been contributed by

1014 SERIKALI YA MAPINDUZI YA ZANZIBAR HOTUBA 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 2023/2024 Mei (*supra*).

1015 Ibid.



growing enrolment caused by the government's efforts in enhancing access to education. It has also been compounded by teaching quality and teacher absenteeism.

Tuancy and school dropout

Tuancy and school dropout were also reported as concerns in 2023. In May, it was reported that truancy was a big problem in Kigongoni Village, located in Kaskazini Region, Unguja.¹⁰¹⁶ Some pupils at Kidagoni Primary School were said to miss school, despite leaving home and claiming they are going to school.¹⁰¹⁷ However, it was reported that long distance to school was a major contributing factor and there was no way to get to the school except by walking. Truancy was also said to be prevalent in Kaskazini Unguja and Micheweni Districts.

Long distance to school

School proximity, especially in some rural areas, also presents a challenge for schoolchildren. In May, it was reported in Kigongoni Village, located in Kaskazini Region, Unguja, that some pupils were forced to walk long distance to reach Kidagoni Primary School.¹⁰¹⁸ This issue was also said to be a challenge in Micheweni, Pemba.

Violence against children

Children in Zanzibar constitute the overwhelming majority of victims of different forms of violence, including sexual violence. Violence affects children's mental and physical health and is therefore associated with poor learning outcomes. Long distance to school also increases the risk of children being subjected to violence along the way.

Higher education loan repayment

One of the major challenges facing the Zanzibar Higher Education Loans Board (ZHELNB) is the non-repayment of higher education loans. In July 2023, the Board announced that it was going to take to the Zanzibar Anti-Corruption and Economic Crimes Authority (ZAECA) about 7,000 out of 12,000 beneficiaries of the loans who were yet to repay their loans from 2011 to the current period.¹⁰¹⁹

WASH and menstrual hygiene facilities

Despite significant improvements in access to Water, Sanitation and Hygiene (WASH) services in schools in Zanzibar, some schools are still faced with challenges such as shortage of toilet holes and urinals (for boys). Lack of menstrual hygiene facilities is also a challenge at some schools, affecting girls' learning through poor concentration, discomfort, and missing school.

¹⁰¹⁶ "Chanzo utoro wanafunzi Kijiji cha Kigongoni chatajwa" Nipashe Newspaper, 24 Aug 2023.

¹⁰¹⁷ Ibid.

¹⁰¹⁸ "Chanzo utoro wanafunzi Kijiji cha Kigongoni chatajwa" Nipashe Newspaper, 24 Aug 2023.

¹⁰¹⁹ "ZHELNB kuwashtaki wanafunzi waliokacha kufanya marejesho" Nipashe Newspaper, 17 Jul 2023.



3.1.4. Key Recommendations

- Increase budgetary allocation for the education sector to reach 20% benchmark set by the international community through the Incheon Declaration.
- Address some key challenges in the education sector, including shortage of teachers, shortage of classrooms, truancy, and violence against children to improve learning outcomes.
- Collaborative stakeholder efforts to address the challenge of school dropout.
- The RGZ to intensify efforts to promote and provide inclusive education to safeguard right to education for PWDs.

3.2. RIGHT TO HEALTH

About the right

- Essential for realization of other rights, including the fundamental right to life.
- 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.
- Protected internationally, regionally, and domestically.

In 2023, key issues affecting progressive realization of the right to health included shortage of healthcare workers, shortage of medicines and medical supplies, medical costs, shortage and proximity of health facilities, and delays in receiving treatment.

3.2.1. Government Action

Government action to facilitate progressive realisation of the right to health in 2023 included allocation and disbursement of funds for the health sector and construction and renovation of health facilities. The Government, through the Ministry of Health, also took measures to improve maternal health; increased availability of medicines and medical supplies; employed 710 new healthcare workers during the financial year 2022/2023, including 122 doctors and 264 nurses; provided health education to 149,996 community members; and completed construction of 10 district hospitals and one regional hospital.¹⁰²⁰ The Government also continued to provide health-related services to victims of gender-based violence (GBV) and violence against children (VAC) at one stop centres and implementing the Zanzibar Digital Health Strategy 2020/2025.¹⁰²¹ The RGZ also continued to ensure access to health insurance through the

¹⁰²⁰ SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA AFYA MHESHIMIWA NASSOR AHMED MAZRUI (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 KATIKA BARAZA LA WAWAKILISHI ZANZIBAR, JUNI 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1685628234.pdf>.

¹⁰²¹ Ibid.



Zanzibar Health Services Fund (ZHSF).

3.2.2. Budgetary Allocation and Disbursement

For the financial year 2021/22, the RGZ **allocated** Tshs. 182.8 billion for the Ministry of Health.¹⁰²² In the financial year 2022/2023, the budget allocated the ministry was Tshs. 154 billion, decreasing by 15.8%. For the financial year 2023/24, the budget for the ministry is Tshs. 189.3 billion, increasing by 23%. Budget for the Mnazi Mmoja Hospital stood at Tshs. 20.3 billion, Tshs. 34.1 billion, and Tshs. 49.7 billion in the financial years 2021/2022, 2022/2023, and 2023/24 respectively. Nevertheless, budgetary allocation for this sector is still less than the recommended minimum of 15% of the overall budget.

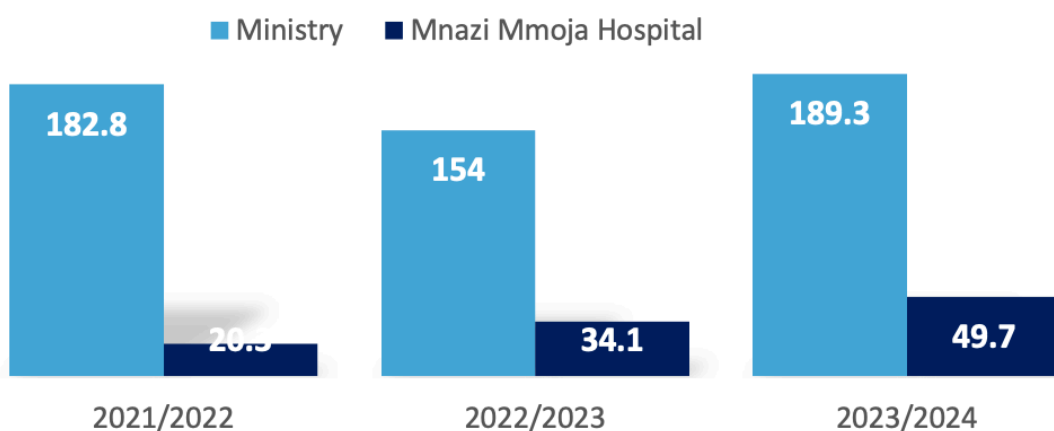


Figure 58: Budget allocation for the health sector in Zanzibar (2021/22 to 2023/24)

Regarding **disbursement**, by March 2022, the Ministry of Health had only received 41.1% of the budget of the financial year 2021/2022, while the Mnazi Mmoja Hospital had received 61%.¹⁰²³ For the financial year 2022/2023, the Ministry of Health had received 46.3% of the budget and the Mnazi Mmoja Hospital had received 57.1% by March 2023.¹⁰²⁴

1022 SERIKALI YA MAPINDUZI ZANZIBAR HOTUBA YA WAZIRI WA AFYA MHESHIMIWA NASSOR AHMED MAZRUI KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2021/2022 KATIKA BARAZA LA WAWAKILISHI ZANZIBAR Mei, 2022, at <https://zanzibarassembly.go.tz/sw/ministerial-budgets>.

1023 See SERIKALI YA MAPINDUZI ZANZIBAR HOTUBA YA WAZIRI WA AFYA MHESHIMIWA NASSOR AHMED MAZRUI KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2021/2022 KATIKA BARAZA LA WAWAKILISHI ZANZIBAR Mei, 2022 (*supra*).

1024 SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA AFYA MHESHIMIWA NASSOR AHMED MAZRUI (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 KATIKA BARAZA LA WAWAKILISHI ZANZIBAR, JUNI 2023 (*supra*).



3.2.3. Other Key Issues and Challenges

Community perceptions on key issues affecting the right to health

In 2023, stakeholders engaged by ZAFAYCO during the assessment of human rights situation were asked about key health challenges in their community. Shortage of medicines (62%) was mentioned as the biggest challenge, followed by verbal abuse by nurses (48%), delays/long queues (46%), and shortage of healthcare workers (44%).

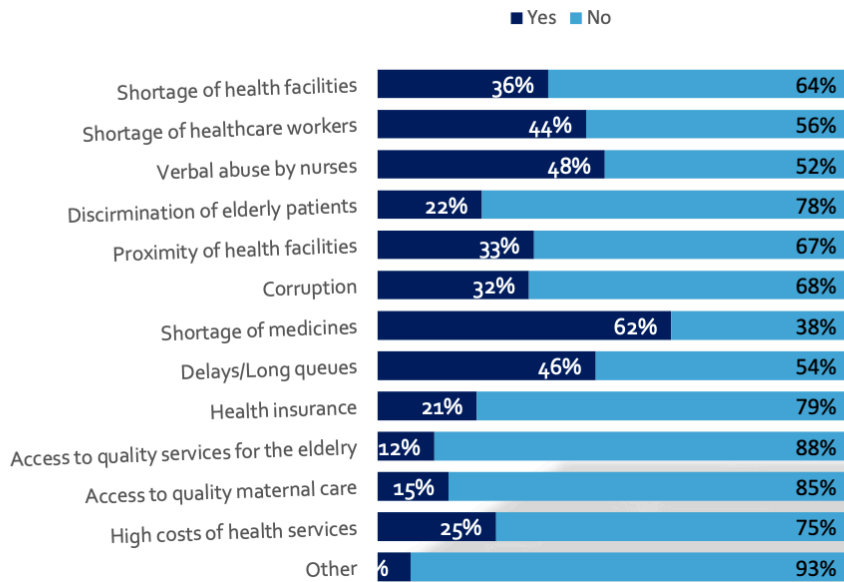


Figure 59: % Community stakeholder responses on key health challenges

Shortage of health workers

As pointed out above, many community workers indicated that shortage of health workers is a key concern for them. In June 2023, the Ministry of Health acknowledged that it was faced with shortage of health workers, including doctors, anaesthesiologists, and nurses.¹⁰²⁵ Earlier, in May, it was reported that shortage of qualified nurses had seriously affected provision of health services in Zanzibar and contributed to child mortality.¹⁰²⁶

Mental health

Mental health is a key component of the right to health, essential in enabling people to cope with stress. In 2023, the Ministry of Health continued to ensure provision of mental health services in Unguja and Pemba. A total of 754 mental health patients were registered and attended to in the period of July 2022 to

¹⁰²⁵ SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA AFYA MHESHIMIWA NASSOR AHMED MAZRUI (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 KATIKA BARAZA LA WAWAKILISHI ZANZIBAR, JUNI 2023 (*supra*).

¹⁰²⁶ "Shortage of qualified nurses bites in Zanzibar" THE CITIZEN Newspaper, 8 May 2023.

March 2023.¹⁰²⁷

ZAFAYCO has observed that mental health problems are slowly growing in Zanzibar, especially among youth. These problems are driven by various challenges that youth face, including drug abuse, violence, and economic hardships.

Mental health problems sometimes drive people to commit suicide. In 2023, ZAFAYCO documented at least one incident of suicide. The incident was reported in July 2023, whereby Veronika Peter (46), a resident, killed herself because of being overwhelmed with debts.¹⁰²⁸

Drug abuse

Drug abuse is a key health concern in Zanzibar. Heroin addiction is particularly a big concern, including for youth.

Maternal health services

Provision of quality maternal health services is sometimes hindered by neglect and abuse by nurses and other healthcare workers. In May 2023, it was reported that some healthcare workers at the Mnazi Mmoja Hospital in Unguja had neglected and caused the death of a pregnant woman, Kidawa Haji Khamis (35).¹⁰²⁹ Three doctors at the hospital were reportedly suspended in connection with the incident.¹⁰³⁰

Shortage of clean and safe water

In October 2023, it was reported that the Wesha Health Centre, located in Chake-Chake District in Pemba, was facing a problem of lack of clean and safe water.¹⁰³¹ Shortage of water was said to significantly affect provision of quality health services, including maternal services. It was revealed that some pregnant women had chosen to give birth at home because of the challenge.¹⁰³²

Shortage of medical equipment

In June 2023, the Minister of Health, Hon. Nassor Ahmed Mazrui, stated that shortage of medical equipment was hindering provision of quality health services at some of the health facilities in Zanzibar.¹⁰³³ He noted that ICT equipment were among the equipment that were in short supply at some of the health facilities.

1027 SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA AFYA MHESHIMIWA NASSOR AHMED MAZRUI (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 KATIKA BARAZA LA WAWAKILISHI ZANZIBAR, JUNI 2023 (*supra*).

1028 "Ajiua kwa madai ya kuelewa na madeni" Mwananchi Newspaper, 13 Jul 2023.

1029 "Wauguzi wadaiwa kusababisha kifo mama, mtoto" Nipashe Newspaper, 19 May 2023.

1030 "Madaktari wafutiwa usajili wakidaiwa kusababisha kifo cha mama, mtoto" Mwananchi Newspaper, 26 May 2023.

1031 "Ukosefu maji wakwamisha huduma za afya Wesha" Mwananchi Newspaper, 14 Oct 2023.

1032 *Ibid.*

1033 SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA AFYA MHESHIMIWA NASSOR AHMED MAZRUI (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 KATIKA BARAZA LA WAWAKILISHI ZANZIBAR, JUNI 2023 (*supra*).



Limited funds for training

In June 2023, the Minister of Health, Hon. Nasser Ahmed Mazrui, revealed that his ministry did not have sufficient funds to facilitate regular trainings for healthcare workers and experts.¹⁰³⁴

3.2.4. Key Recommendations

- Increase budgetary allocation for the health sector to reach 15% of the overall budget, in line with international standards.
- The Ministry of Health to ensure availability of more funds to facilitate training for health workers.

3.3. RIGHT TO CLEAN AND SAFE WATER

About the right

- Defined as the right of everyone to **sufficient, safe, acceptable, and physically accessible and affordable** water for personal and domestic uses.¹⁰³⁵
- Also known as right to water and sanitation and is essential and indispensable in ensuring life with dignity.¹⁰³⁶
- Not specifically provided for in the Constitution of Zanzibar but implied in both the Constitution and other water-related laws and regulations.

In 2023, key issues affecting progressive realisation of the right to water in Zanzibar included budgetary challenges; climate change impacts; contamination of water sources; dilapidated water infrastructure, and non-payment of water bills by some citizens.

3.3.1. Government Action

In Zanzibar, the duty to produce clean and safe water falls under the government executive agent called the Zanzibar Water Authority (ZAWA).¹⁰³⁷ ZAWA, which works under the Ministry of Water, Energy and Minerals, continued to ensure provision of clean and safe water in Zanzibar. In June 2023, the Minister of Water, Energy and Minerals, Hon. Shaib Hassan Kaduara, revealed that implementation of various water projects had contributed to increasing access to water in Unguja and Pemba, targeting 85% access by 2025.¹⁰³⁸

1034 SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA AFYA MHESHIMIWA NASSOR AHMED MAZRUI (MBM) KUHUSU MAKADIPIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 KATIKA BARAZA LA WAWAKILISHI ZANZIBAR, JUNI 2023 (*supra*).

1035 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].

1036 Article 1.1 of the *General Comment No. 15. The right to water, UN Committee on Economic, Social and Cultural Rights, November 2002*.

1037 Zanzibar Water Authority Act No. 4 of 2006.

1038 SERIKALI YA MAPINDUZI YA ZANZIBAR WIZARA YA MAJI, NISHATI NA MADINI HOTUBA YA WAZIRI WA MAJI, NISHATI NA MADINI. MHESHIMIWA SHAIB HASSAN KADUARA KUHUSU MAKADIPIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024. JUNI, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1686232870.pdf>.



3.3.2. Budgetary Allocation and Disbursement

Like other priority sectors such as education and health, the water sector has also been faced with budgetary constraints, affecting effective and progressive realisation of the right to clean and safe water. For the financial year 2021/2022, the budget allocated for the water sector was Tshs. 3.6 billion.¹⁰³⁹ For the financial year 2022/2023, the budget allocated significantly increased to 106.7 billion.¹⁰⁴⁰ However, the increase was due to the funding of Tshs. 79.9 billion obtained from development partners.¹⁰⁴¹

Regarding disbursement, only 74% of the budget for the financial year 2021/2022 was disbursed.¹⁰⁴² In the financial year 2022/2023, disbursement stood at only 33% as both the RGZ and the donor funds fell significantly short.¹⁰⁴³

3.3.3. Other Key Issues and Challenges

In 2023, other key issues and challenges affecting enjoyment of the right to water were said to include: growing population, which translates into more need for clean and safe water; urbanization; increased economic activities, including in the investment and tourism sectors; climate change impacts; contamination of water sources; dilapidated water infrastructure, and non-payment of water bills by some citizens.¹⁰⁴⁴

Shortage or limited access to clean and safe water also affects provision of other social services, including education and health services. For instance, in October 2023, it was reported that the Weshu Health Centre, located in Chake-Chake District in Kusini Region, Pemba, was facing the challenge of lack of adequate clean and safe water, which affected provision of health services.¹⁰⁴⁵

3.3.4. Key Recommendations

- Increase budgetary allocation for the water sector to enhance access to clean and safe water among Zanzibaris in both urban and rural areas.

1039 SERIKALI YA MAPINDUZI YA ZANZIBAR WIZARA YA MAJI, NISHATI NA MADINI HOTUBA YA WAZIRI WA MAJI, NISHATI NA MADINI MHESHIMIWA SHAIB HASSAN KADUARA KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2022/2023 MEI, 2022, at <https://zanzibarassembly.go.tz/storage/documents/Budgets/all/1677745433.pdf>.

1040 SERIKALI YA MAPINDUZI YA ZANZIBAR WIZARA YA MAJI, NISHATI NA MADINI HOTUBA YA WAZIRI WA MAJI, NISHATI NA MADINI. MHESHIMIWA SHAIB HASSAN KADUARA KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024. JUNI, 2023 (*supra*).

1041 Ibid.

1042 SERIKALI YA MAPINDUZI YA ZANZIBAR WIZARA YA MAJI, NISHATI NA MADINI HOTUBA YA WAZIRI WA MAJI, NISHATI NA MADINI MHESHIMIWA SHAIB HASSAN KADUARA KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2022/2023 MEI, 2022 (*supra*).

1043 SERIKALI YA MAPINDUZI YA ZANZIBAR WIZARA YA MAJI, NISHATI NA MADINI HOTUBA YA WAZIRI WA MAJI, NISHATI NA MADINI. MHESHIMIWA SHAIB HASSAN KADUARA KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024. JUNI, 2023 (*supra*).

1044 SERIKALI YA MAPINDUZI YA ZANZIBAR WIZARA YA MAJI, NISHATI NA MADINI HOTUBA YA WAZIRI WA MAJI, NISHATI NA MADINI. MHESHIMIWA SHAIB HASSAN KADUARA KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024. JUNI, 2023 (*supra*).

1045 "Ukosefu maji wakwamisha huduma za afya Weshu" Mwananchi Newspaper, 14 Oct 2023.



3.4. RIGHT TO WORK

About the right

- 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).¹⁰⁴⁶
- Includes right to gain living by work and right to just and favourable working conditions.
- Guaranteed under Section 21 (3) and (4) of the Constitution of Zanzibar (1984).

In 2023, key issues affecting the right to work in Zanzibar included increase of minimum wage and labour rights violations.

3.4.1. Government Action

To ensure progressive realization of the right work, in 2023 the RGZ took various measures, including enforcement of labour laws and regulations, and providing employment. During the financial year 2022/23, the RGZ, through the Ministry of Health, facilitated medical checkup for 36,998 workers from different government and non-government institutions.¹⁰⁴⁷ The ministry also conducted inspections at 21 workplaces as part of its efforts to promote occupational health and safety.¹⁰⁴⁸ The President's Office Labor, Economic Affairs and Investment also reportedly conducted occupational safety and health inspections at 234 workplaces (135 in Unguja, 99 in Pemba).¹⁰⁴⁹ The ministry also coordinated employment opportunities for 7,428 youth (6,348 in Zanzibar, 1,080 in Asia) and continued to provide loans to entrepreneurs and groups through different programmes, including INUKA to facilitate the right to work in the informal sector.¹⁰⁵⁰

In March 2023, it was also reported that the RGZ had raised the minimum wage in the private sector from Tshs. 300,000 to Tshs. 347,000.¹⁰⁵¹ Minimum wages for workers also increased from Tshs. 80,000 to Tshs. 100,000 for those residing with their employers and from Tshs. 80,000 to Tshs. 120,000 for those not residing with them. Another key action was to continue attracting investment to create job and economic activities, whereby a total of 232 investors were registered in the period of October 2020 to March 2023, compared with 90 in the period

¹⁰⁴⁶ Article 15 of ACHPR.

¹⁰⁴⁷ SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA AFYA MHESHIMIWA NASSOR AHMED MAZRUI (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 KATIKA BARAZA LA WAWAKILISHI ZANZIBAR, JUNI 2023 (*supra*).

¹⁰⁴⁸ *Ibid.*

¹⁰⁴⁹ SERIKALI YA MAPINDUZI YA ZANZIBAR AFISI YA RAIS KAZI UCHUMI NA UWEKEZAJI HOTUBA YA MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 ILIYOSOMWA BARAZA LA WAWAKILISHI ZANZIBAR NA WAZIRI WA NCHI, AFISI YA RAIS, KAZI UCHUMI NA UWEKEZAJI MHE. MUDRIK RAMADHAN SORAGA (MBM), MEI, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1684225307.pdf>.

¹⁰⁵⁰ *Ibid.*

¹⁰⁵¹ "Wafanyakazi Z'bar kicheko mishahara juu" Mwananchi Newspaper, 25 Mar 2023.

of March 2018 to October 2020.¹⁰⁵² A total of 74 investments were reportedly registered in 2022/2023, increasing from 62 in 2021/2022.¹⁰⁵³

3.4.2. Reported Labour Rights Violations

In 2023, key labour rights violations that were reported and observed included paying wages below the minimum wage structure set by the Government, unfair termination, lack of employment contracts, and delays in payment of such wages.

In May 2023, the Minister of the President's Office Labor, Economic Affairs and Investment, Hon. Mudrik Ramadhan Soraga, stated that one of the key challenges for workers in the private sector in Zanzibar is not being given employment contracts by their employers, which also puts them at a disadvantage when it comes to access to remedy in case of labour disputes and receiving benefits.

3.4.3. Other Key Issues and Challenges

Other key issues affecting the right to work in Zanzibar included low awareness of community members about labour laws and rights and shortage of workers. Workers in sectors such as education and health, including teachers, doctors, and nurses, continued to be burdened with more work due to shortage of workers. For youth, unemployment and underemployment are key concerns. In July 2023, the Minister of Agriculture, Irrigation, Natural Resources, and Livestock, Hon. Shamata Shaame Khamis, urged youth to seek employment and self-employment in the agriculture sector.¹⁰⁵⁴

In May 2023, the Minister of the President's Office Labor, Economic Affairs and Investment, Hon. Mudrik Ramadhan Soraga, stated that his ministry were faced with the challenge of shortage experts, especially within the Department of Occupational Safety and Health (OSH) and the Zanzibar Economic Empowerment Agency (ZEEA).¹⁰⁵⁵

¹⁰⁵² SERIKALI YA MAPINDUZI YA ZANZIBAR, AFISI YA RAIS KAZI UCHUMI NA UWEKEZAJI, HOTUBA YA MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 ILIYOSOMWA BARAZA LA WAWAKILISHI ZANZIBAR NA WAZIRI WA NCHI, AFISI YA RAIS, KAZI UCHUMI NA UWEKEZAJI MHE. MUDRIK RAMADHAN SORAGA (MBM), MEI, 2023 (*supra*).

¹⁰⁵³ *Ibid*.

¹⁰⁵⁴ "Waziri ahimiza vijana kuchangamkia kilimo" Nipashe Newspaper, 26 Jul 2023.

¹⁰⁵⁵ SERIKALI YA MAPINDUZI YA ZANZIBAR, AFISI YA RAIS KAZI UCHUMI NA UWEKEZAJI, HOTUBA YA MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 ILIYOSOMWA BARAZA LA WAWAKILISHI ZANZIBAR NA WAZIRI WA NCHI, AFISI YA RAIS, KAZI UCHUMI NA UWEKEZAJI MHE. MUDRIK RAMADHAN SORAGA (MBM), MEI, 2023 (*supra*).



3.4.4. Key Recommendations

- The Government, through the President's Office Labor, Economic Affairs, and Investment, to intensify efforts of job creation and creating economic opportunities, especially for youth, who are faced with the problem of unemployment.
- The RGZ to collaborate with stakeholders, including CSOs, to raise public and workers' awareness about labour laws and rights.

3.5. RIGHT TO OWN PROPERTY

About the right

Protected under various international and regional human rights instruments, including the Universal Declaration of Human Rights, 1948.

Also guaranteed under the Constitution of Zanzibar of 1984 and land laws, including the Land Tenure Act 1992 and the Land Acquisition Decree of 1909.

In 2023, land disputes continued to be the biggest issue affecting effective enjoyment of the right to own property.

3.5.1. Government Action

Measures taken by the Revolutionary Government of Zanzibar (RGZ) to promote and protect the right to own property in 2023 included implementation of various land related programmes and projects, land dispute resolution, issuance of land titles and certificates of occupancy, and survey of plots. Through the Ministry of Land and Housing Development and institutions under it, the RGZ raised awareness about land ownership, laws, and disputes through different platforms, including media, especially the Zanzibar Broadcasting Corporation (ZBC), and community outreach programmes.¹⁰⁵⁶

3.5.2. Land Disputes and Conflicts

In 2023, land disputes and conflicts continued to be a key challenge in enjoyment of the right to own property in Zanzibar. The Ministry of Lands and Housing Development reported that the Land Tribunal, which was established to hear land disputes, received 165 land disputes from both Unguja and Pemba in the period of July 2022 to March 2023.¹⁰⁵⁷ Land disputes were mainly reported in Magharibi 'A',¹⁰⁵⁸ Magharibi 'B',¹⁰⁵⁹ Kaskazini 'A',¹⁰⁶⁰ and Mjini¹⁰⁶¹ Districts. Other disputes were reported in Kusini, Kaskazini 'B,' and Kati Districts.

1056 SERIKALI YA MAPINDUZI YA ZANZIBAR, WIZARA YA ARDHI NA MAENDELEO YA MAKAAZI HOTUBA YA WAZIRI WA ARDHI NA MAENDELEO YA MAKAAZI MHESHIMIWA RAHMA KASSIM ALI (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1686035450.pdf>.

1057 SERIKALI YA MAPINDUZI YA ZANZIBAR, WIZARA YA ARDHI NA MAENDELEO YA MAKAAZI HOTUBA YA WAZIRI WA ARDHI NA MAENDELEO YA MAKAAZI MHESHIMIWA RAHMA KASSIM ALI (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 (*supra*).

1058 Mbuzini, Kijinci, Chuini, Mwera, Mtoni Sharifumsa, Dole, Mfenesini, Bububu Melinane.

1059 Nyamanzi, Mazizini, Chukwani, Kiembe Samaki, Fuoni, Bweleo, & Shakani.

1060 Nungwi, Pwnai Mchangani, Banda kuu, & Matemwe.

1061 Baghani Shangani, Magomeni, Chumbani, Jang'ombe, & Saateni.



Table 5: Land Disputes at the Land Tribunal in Zanzibar (2022/2023)

| Part | Regions | Filed (New) | Resolved | Ongoing |
|--------------|------------------|-------------|------------|------------|
| Unguja | Mjini Magharibi | 49 | 48 | 68 |
| | Kaskazini Unguja | 30 | 28 | 34 |
| | Kusini Unguja | 21 | 20 | 35 |
| Pemba | Kaskazini Pemba | 25 | 26 | 18 |
| | Kusini Pemba | 40 | 38 | 38 |
| TOTAL | | 165 | 160 | 193 |

Source: Ministry of Lands and Housing Development

3.5.3. Other Key Issues and Challenges

Other key issues pertaining to land in Zanzibar in 2023 included illegal or unauthorised constructions, including building without a permit; low awareness about land laws and rights; weaknesses in dispute resolution, especially at lower levels; bureaucracy in accessing legal land ownership documents; corruption; existence of large tract of unutilized land; and shortage of experts in the land and housing development sectors.¹⁰⁶² Land or property brokers facilitating illegal land sales, at the expense of unsuspecting citizens also continued to be a challenge in 2023.

3.5.4. Key Recommendations

- The RGZ, through the Ministry of Lands and Housing Development and the Judiciary of Zanzibar, to intensify efforts to prevent and resolve land disputes.
- The RGZ, through the Zanzibar Anti-Corruption and Economic Authority (ZAECA), to intensify efforts to address corruption in the land sector, which also contributes to land disputes and illegal constructions.
- The RGZ, through the Ministry of Lands and Housing Development to ensure there is no bureaucracy in acquisition and accessing of land ownership documents.

¹⁰⁶² SERIKALI YA MAPINDUZI YA ZANZIBAR, WIZARA YA ARDHI NA MAENDELEO YA MAKAAZI HOTUBA YA WAZIRI WA ARDHI NA MAENDELEO YA MAKAAZI MHESHIMIWA RAHMA KASSIM ALI (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 (*supra*).



3.6. RIGHT TO ADEQUATE STANDARD OF LIVING

About the right

- 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.
- Closely associated and dependent on the rights to education, health, water, work, and own property.
- 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**.¹⁰⁶³
- The human right to adequate housing is the right of every woman, man, youth, and child to gain and sustain a safe and secure home and community in which to live in peace and dignity. Key elements are **legal security of tenure; availability of services, materials, facilities, and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy**.¹⁰⁶⁴

In 2023, key issues that affected enjoyment of the right to adequate standard of living in Zanzibar included food insecurity for a section of the population, unemployment, increased food prices, informal settlements, inadequate housing, and poor enforcement of land use plans.

3.6.1. Government Action

In 2023, the Revolutionary Government of Zanzibar (RGZ) took various measures to facilitate progressive realization of the right to adequate standard of living. These measures included boosting food production and importation, increasing access to nutritious food, and construction of residential buildings. To boost irrigation farming, in May 2023 it was reported that the RGZ had completed construction of irrigation infrastructure in Cheju, Kibokwa, Kinyasini, and Mlemele to facilitate rice farming.¹⁰⁶⁵ It was also reported that RGZ had completed construction of a food reserve in Kizimbani, Unguja, which can store up to 1,500 tonnes of cereal.¹⁰⁶⁶

¹⁰⁶³ 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>.

¹⁰⁶⁴ See Housing Rights Watch, *UN Housing Rights*, at <https://www.housingrightswatch.org/page/un-housing-rights>.

¹⁰⁶⁵ SERIKALI YA MAPINDUZI YA ZANZIBAR HOTUBA YA MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA KILIMO UMWAGILIAJI MALIASILI NA MIFUGO KWA MWAKA WA FEDHA WA 2023/2024 ILIYOWASILISHWA NA MHE. SHAMATA SHAAME KHAMIS (MBM) WAZIRI WA KILIMO, UMWAGILIAJI, MALIASILI NA MIFUGO ZANZIBAR MEI, 2023, at <https://www.zanzibarassembley.go.tz/storage/documents/Budgets/all/1684914227.pdf>.

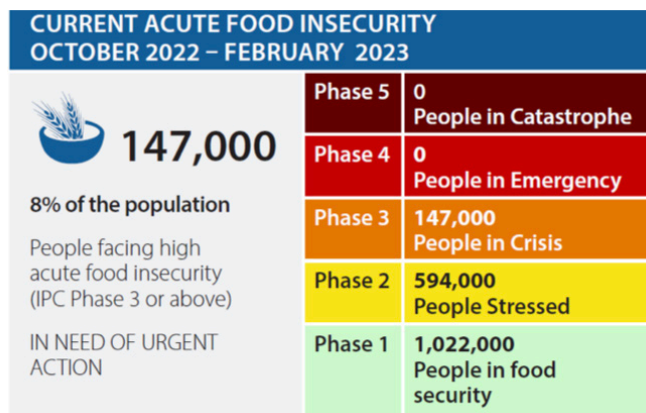
¹⁰⁶⁶ *Ibid.*



3.6.2. Food Security

The agriculture sector is one of the key sectors in Zanzibar, employing at least 40% of the population.¹⁰⁶⁷ In recent years, food production has increased from 328,495 tonnes in 2021 to 342,181 tonnes in 2022.¹⁰⁶⁸ This is partly contributed by planting of drought-resilient crops such as cassava and pumpkins. These developments have helped to boost food security in Zanzibar.

Despite efforts to boost food security, some Zanzibaris were said or projected to face food insecurity. An analysis conducted by Integrated Food Security Phase Classification (IPC)¹⁰⁶⁹ in Unguja and Pemba in Zanzibar in the period of October 2022 to 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.¹⁰⁷⁰ 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.¹⁰⁷¹



Source: IPC, 2022

1067 SERIKALI YA MAPINDUZI YA ZANZIBAR HOTUBA YA MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA KILIMO UMWAGILIAJI MALIASILI NA MIFUGO KWA MWAKA WA FEDHA WA 2023/2024 ILIYOWASILISHWA NA MHE. SHAMATA SHAAME KHAMIS (MBM) WAZIRI WA KILIMO, UMWAGILIAJI, MALIASILI NA MIFUGO ZANZIBAR MEI, 2023 (*supra*).

1068 Ibid.

1069 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.

1070 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>.

1071 Ibid.



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. 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 in IPC Phase 3, while the rest of the two regions (Kusini Unguja and Mjini Maghribi) had 5% of their population in IPC Phase 3.¹⁰⁷² 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. During the projection period of March to June 2023, food security situation was expected to slightly improve in some regions, while all the five regions were anticipated to remain in PC Phase 2(Stressed) during the projection period.

A baseline report on the impact evaluation of Productive Social Safety Net in Tanzania Phase II, released in June 2023, shows that about one third of the sample beneficiaries in Zanzibar reported that there were times when they did not have anything to eat for a whole day in the past 12 months, and 85% said they had run out of food at some point.¹⁰⁷³

3.6.3. Adequate Housing

Inadequate housing in Zanzibar is a key challenge, largely driven by poverty. It is difficult for poor people to afford adequate housing due to limited access to land upon which they can build a house, mainly due to the high costs. This situation is further compounded by high and rising costs of building materials. Consequently, some people continued to settle for low quality housing and accompanying infrastructure.

Another key challenge affecting right to adequate housing in Zanzibar is citizens building houses on planned or unplanned areas without securing formal planning approval from authorities.¹⁰⁷⁴ It is estimated that that 60% to 70% of houses in Zanzibar have been built that way.¹⁰⁷⁵ 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

¹⁰⁷² Ibid.

¹⁰⁷³ Government of the United Republic of Tanzania & World Bank Group et al, *The Impact Evaluation of Productive Social Safety Net in Tanzania Phase II: Baseline Report*, June 2023, at <https://www.ocgs.go.tz/ReportOCGS/Tanzania%20PSSN2%20I%20Baseline%20Report%20-2022.pdf>.

¹⁰⁷⁴ 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>.

¹⁰⁷⁵ 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.



rural areas. Women, children, PWDs, and older persons are disproportionately affected by limited access to social services due to inadequate housing.

3.6.4. Other Key Issues and Challenges

Other key issues and challenges that were said and observed to hinder effective enjoyment of the right to food in 2023 included theft of crops and livestock; shortage of experts in the agriculture and livestock sectors; invasion of agricultural land and expansion of residential areas; high costs of agricultural inputs; and climate change impacts.¹⁰⁷⁶ Land disputes also affected food production as parties to the dispute would be forced to stop using the land in question pending determination of the matter in court, tribunal, or other platforms.

Rising food prices was also a key concern for citizens in 2023. In October, it was reported that inflation in Zanzibar had increased in the past twelve months, driven by increasing food prices and prices for alcoholic beverages.¹⁰⁷⁷ The rising food prices in turn caused rising of the costs of living.¹⁰⁷⁸ In May, the Office of the Chief Government Statistician (OCGS) released the Zanzibar Consumer Price Index (ZCPI) for April 2023, which showed that annual inflation rate for food stood at 11.5% for the year ending in April 2023, compared to 10.26% for the year ending in March 2023.¹⁰⁷⁹ Earlier, in February 2023, the President of Zanzibar, H.E Dr. Hussein Mwinyi, banned exports of all food commodities as an immediate measure to curb shortages and price hike.¹⁰⁸⁰

3.6.5. Key Recommendations

- The RGZ, through the Ministry of Lands and Housing Development, to ensure proper enforcement of relevant laws to prevent informal settlement, which limit enjoyment of the right to adequate standard of living.
- The RGZ, through the Ministry of Agriculture, Irrigation, Natural Resources and Livestock, to ensure increased budgetary allocation for the agriculture sector to boost food production and employment in the sector.

1076 SERIKALI YA MAPINDUZI YA ZANZIBAR HOTUBA YA MAKADIRIO YA MAPATO NA MATUMIZI YA FEDHA YA WIZARA YA KILIMO UMWAGILIAJI MALIASILI NA MIFUGO KWA MWAKA WA FEDHA WA 2023/2024 ILIYOWASILISHWA NA MHE. SHAMATA SHAAME KHAMIS (MBM) WAZIRI WA KILIMO, UMWAGILIAJI, MALIASILI NA MIFUGO ZANZIBAR MEI, 2023 (*supra*).

1077 "Zanzibar records increased inflation" DAILYNEWS Newspaper (online), 11 Oct 2023, at <https://dailynews.co.tz/zanzibar-records-increased-inflation/>.

1078 "Tanzania: Inflation rate at 5-year high, Zanzibar bans food export" THE EXCHANGE, at <https://theexchange.africa/countries/tanzania/tanzania-inflation-rate-at-5-year-high-zanzibar-bans-food-export/>.

1079 Revolutionary Government of Zanzibar, Office of the Chief Government Statistician (OCGS), *Zanzibar Consumer Price Index (ZCPI) for April 2023*, Statistical Release No. 4, April 2023, at <https://www.ocgs.go.tz/ReportOCGS/Zanzibar%20Consumer%20Price%20Index,%20April%202023.pdf>.

1080 "Mwinyi bans food exports" DAILYNEWS Newspaper (online), 5 Feb 2023, at <https://dailynews.co.tz/mwinyi-bans-food-exports/>.



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.¹⁰⁸¹
- Key elements of social security: **availability, adequacy, affordability, accessibility**, and **gender sensitivity**.

In 2023, key issues affecting enjoyment of the right to social security included provision of pension to older persons, low coverage of social security and limited access to health services.

3.7.1. Government Action

Action taken by the RGZ to ensure progressive realisation of the right to social security in 2023 included provision of social security services through the Zanzibar Social Security Fund (ZSSF), in line with the Zanzibar Social Protection Policy (ZSPP).

Objectives of the ZSPP

- To contribute to minimum income security for all by providing social transfers to extremely poor Zanzibaris who are unable to provide for themselves and have no other means of support.
- To ensure that all Zanzibaris have adequate protection against life-course shocks and livelihood risks, by installing effective safety nets and extending social security coverage.
- To progressively extend access to basic social services such as education, health care, social welfare and child and other protection services, and ensure that their quality will not be compromised.
- To strengthen multisectoral coordination of all stakeholders working on social protection.

The RGZ also continued providing elderly care at elderly homes (Sebleni, Welezo, and Limbani), provided training to 68 people (36 female, 32 male) on the importance of taking care of the elderly, and created identity cards for 3,668 older people (1,497 female, 2,171 male)¹⁰⁸². It also provided pension to 28,696 older

¹⁰⁸¹ Including the Universal Declaration of Human Rights (art. 22) and the International Covenant on Economic, Social and Cultural Rights (arts. 9 and 10).

¹⁰⁸² SERIKALI YA MAPINDUZI ZANZIBAR WIZARA YA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO MH. RIZIKI PEMBE JUMA (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA MWAKA WA FEDHA 2023/2024. MEI, 2023, at <https://www.zanzibarassembley.go.tz/storage/documents/Budgets/all/1685027953.pdf>.



people aged 70 and above (17,076 in Unguja, 11,620 in Pemba).

3.7.2. Social Security Coverage

In Zanzibar, the main social security programmes implemented by the RGZ are the Social Security Fund (ZSSF), the Tanzania Social Action Fund (TASAF) Productive Social Safety Net (PSSN), and the Zanzibar Universal Pension Scheme (ZUPS). Most of the government social protection spending goes to the pension schemes, especially the ZSSF¹⁰⁸³.

Like in Mainland Tanzania, coverage of social security in Zanzibar is low. Only a small part of the population is part of formal (contributory) social security schemes, particularly those employed in the formal sector.

Table 6: Coverage and adequacy of the Zanzibar Social Protection System (as of 2020)

| SPP specific objective / life cycle stage | Children and pregnant women | Working age adults | Older people | PWDs |
|--|---|---|------------------|---|
| Minimum income security for all | TASAF CTs (currently suspended) | TASAF CTs and PWs (currently suspended) | ZUPS | None currently operating at scale |
| | Familia Yenye Mazingira Magumu Zaidi | | ZSSF pensions | |
| Protection against life-course shocks and livelihood risks | As adults and ZSSF maternity grant | ZSSF in-work benefits (limited coverage) | ZUPS | Workers Compensation Fund |
| | | Disaster relief (not coordinated with SP) | ZSSF pensions | |
| Access to basic social services | School feeding | Free health care | Free health care | Free health care as others, but likely higher costs |
| | TASAF CCTs | | | |
| | Numerous CSO programmes, focusing especially on orphans | | | |
| | Free health care | | | |
| Multisectoral coordination | | | | |

Key Gap
 Scope for Improvement
 Relative Strength

Source: RGZ¹⁰⁸⁴

According to the mid-term evaluation of the Zanzibar Social Protection Policy, conducted in 2020, provision of social protection for older people is a key strength of the Zanzibar social protection system.¹⁰⁸⁵ However, social protection for other groups, including children, people of working age and, most especially, people

1083 See Revolutionary Government of Zanzibar, Mid-Term Evaluation of the Zanzibar Social Protection Policy, August 2020, at <https://www.unicef.org/tanzania/media/2566/file/ZSP%20Mid-Term%20Evaluation.pdf>.

1084 Revolutionary Government of Zanzibar, Mid-Term Evaluation of the Zanzibar Social Protection Policy, August 2020 (*supra*).

1085 Ibid.



with disabilities (PWDs) was found to be less well developed.¹⁰⁸⁶ While finding the ZSPP to remain broadly relevant, the evaluation also found that it remained poorly implanted and that most of the progress in social protection provision since 2017 had been noted in the implementation of individual programmes, particularly the ZUPS, rather than in coordination or systems building.¹⁰⁸⁷

3.7.3. Other Key Issues and Challenges

Other key issues which affected the right to social security in 2023 included climate change, growing population, limited access to quality health services, neglect of older persons by their families, and limited budget for social security.

Currently, there is a close link between climate change and social protection. According to the UN Food and Agriculture Organization (FAO), climate change poses a major threat to reducing poverty, eradicating hunger, and achieving sustainable development.¹⁰⁸⁸

For the financial year 2022/2023, the social security component within the Ministry of Community Development, Gender, Elderly and Children was allocated Tshs. 13.4 billion.¹⁰⁸⁹ By March 2023, the ministry had received Tshs. 6.1 billion, equivalent to 59%.¹⁰⁹⁰

Neglect and abandonment of older persons by their children or families is also a challenge for older people in Zanzibar.

3.7.4. Key Recommendations

- As proposed in the 2020 mid-term evaluation of the Zanzibar Social Protection Policy, there is need to increase social assistance to underserved groups, especially PWDs, but also children and their families.
- The RGZ to increase budgetary allocation for the social security component to provide better social protection services.
- Community members to make efforts to join various formal and informal social security schemes.
- TASAF to increase the number of beneficiaries in Tanzania and funds for the programme, considering the rising costs of living.

¹⁰⁸⁶ Ibid.

¹⁰⁸⁷ Revolutionary Government of Zanzibar, Mid-Term Evaluation of the Zanzibar Social Protection Policy, August 2020 (*supra*).

¹⁰⁸⁸ See Federico Spano and Claudia Patrone, *Social Protection and Climate Change*, FAO, at <https://www.fao.org/3/cb3527en/cb3527en.pdf>.

¹⁰⁸⁹ SERIKALI YA MAPINDUZI ZANZIBAR WIZARA YA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO MH. RIZIKI PEMBE JUMA (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA MWAKA WA FEDHA 2023/2024. MEI, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1685027953.pdf>.

¹⁰⁹⁰ Ibid.



3.8.RECOMMENDATIONS

State actors

- 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 of Education and Vocational Training, 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 of Lands and Housing Development, 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 Zanzibar Anti-Corruption and Economic Authority (ZAECA), to intensify efforts to address corruption in the land sector, which also contributes to land disputes and illegal constructions.
- 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.
- As proposed in the 2020 mid-term evaluation of the Zanzibar Social Protection Policy, there is need to increase social assistance to underserved groups, especially PWDs, but also children and their families.
- The RGZ to increase budgetary allocation for the social security component to provide better social protection services.

Non-state actors

- 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.

Community members

- 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 no-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.
- To promote and ensure quality education, the Ministry of Education and Vocational Training 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.
- Community members to make efforts to join various formal and informal social security schemes.



CHAPTER FOUR: 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,¹⁰⁹¹ 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.

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 2023.

4.1. RIGHT TO DEVELOPMENT

About the right

- 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.”¹⁰⁹²
- 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.¹⁰⁹³

In 2023, key issues affecting the right to development included poverty, budgetary constraints, corruption, and climate change impacts.

4.1.1. Government Action

In 2023, the Revolutionary Government of Zanzibar continued to take various measures to ensure enjoyment and realization of the right to development,

1091 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.

1092 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.

1093 Ibid.



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.

On a positive note, political development was boosted by lifting of the ban political rallies outside one's constituency in January 2023.

4.1.2. Key Issues and Challenges

In 2023, ZAFACYO observed that key issues and challenges affecting effective realization of the right to development included budgetary constraints, gender-based violence (GBV) and violence against children (VAC); climate change impacts; corruption and mismanagement of resources; and gaps in legal and policy frameworks.

4.1.3. Key Recommendations

The Revolutionary Government of Zanzibar to take measures to address key challenges hindering social, political, cultural, and economic development, including corruption and mismanagement of resources.

4.2. RIGHT TO ENJOY AND BENEFIT FROM NATURAL RESOURCES

About the right

- Recognized under various international and regional human rights instruments, as well as under the municipal laws in Zanzibar.
- 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.¹⁰⁹⁴

In 2023, key issues affecting enjoyment of the right to enjoy and benefit from natural resources included overexploitation of resources and environmental degradation and climate change impacts.

1094 Ibid



4.2.1. Government Action

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 2020¹⁰⁹⁵ 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.**”¹⁰⁹⁶ Some of the efforts taken to spearhead development have been discussed above, especially in Chapter Three of this report.

4.2.2. Key Issues and Challenges

In 2023, 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 persisted, including overexploitation of resources and environmental degradation, largely contributed by the growing population; climate change; tax evasion and avoidance; and corruption.

4.2.3. Key Recommendations

- The Revolutionary Government of Zanzibar to take measures to address key challenges hinder effective realization of the right to enjoy and benefit from natural resources, including overexploitation of resources , environmental degradation and climate change.

4.3. RIGHT TO CLEAN AND HEALTHY ENVIRONMENT

About the right

Recognized as a fundamental human right.
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 2023, key issues affecting the right to clean and healthy environment included environmental pollution; environmental degradation; and climate change impacts.

4.3.1. Government Action

In 2023, the Revolutionary government of Zanzibar (RGZ) continued to take various measures to ensure enjoyment of the right to clean and healthy

¹⁰⁹⁵ See the Zanzibar Blue Economy Policy, October 2020, at <http://planningznz.go.tz/doc/new/BE%20Policy-2020.pdf>.
¹⁰⁹⁶ Ibid.



environment. The Government primarily did this through the Zanzibar Environmental Management Authority (ZEMA). The main function of ZEMA is enforcement, compliance, review, and monitoring of all environmental activities in Zanzibar.¹⁰⁹⁷ Despite the various efforts by the RGZ to manage and protect the environment, various challenges persist, including environmental pollution and climate change.

4.3.2. Environmental Pollution

- 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.¹⁰⁹⁸ This means that almost 1 in 4 of total global deaths are linked to environment conditions.

In 2023, community stakeholders were asked whether environmental pollution is a concern in their community, and if so, what types of pollution are common. Regarding the first question, over two thirds of them (86.2%) said environmental pollution is a concern in their community.

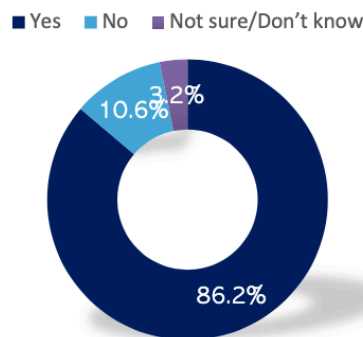


Figure 60: %Community stakeholder responses on whether environmental pollution is a concern (N=470)

Regarding the common type of environmental pollution, water pollution and soil/land pollution were mentioned as the most common, at 52%, followed by air pollution (35%), noise pollution (23%), and other (7%).

¹⁰⁹⁷ See FFICE OF THE FIRST VICE PRESIDENT, ZANZIBAR ZANZIBAR ENVIROMENT MANAGEMENT AUTHORITY, at <https://www.zema.go.tz/#:~:text=Zanzibar%20Environmental%20Management%20Authority%20by,supervising%20the%20environmental%20management%20concerns.>

¹⁰⁹⁸ See World Health Organization, Environmental health, at https://www.who.int/health-topics/environmental-health#tab=tab_2.

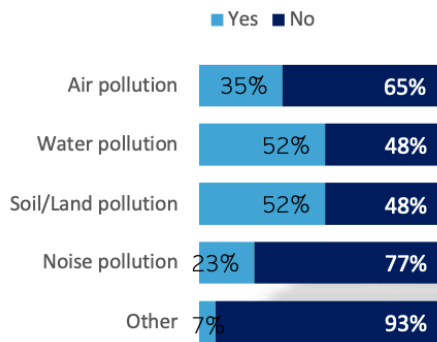


Figure 61: %Community stakeholder responses on common types of environmental pollution

4.3.3. Climate Change Impacts

In different parts of the world, climate change has significantly impacted the environment and human rights in various ways. Its impacts include reduced agricultural productivity, damage to infrastructure, destruction of homes, harming health, causing water scarcity, exacerbating poverty, and causing displacement.

The United Nations (UN) considers climate change to be one of the biggest global threats to humanity.¹⁰⁹⁹

According to the World Health Organization (WHO), between 2030 and 2050, climate change is expected to cause approximately 250 000 additional deaths per year, from undernutrition, malaria, diarrhea, and heat stress alone.¹¹⁰⁰ It also estimates the direct damage costs to health (excluding costs in health-determining sectors such as agriculture and water and sanitation) to be between US\$ 2–4 billion per year by 2030.¹¹⁰¹

In 2023, community stakeholders were asked how informed they were about climate change and its impacts, and then how concerned about it they feel if they feel informed. Regarding the first question, the majority of the community stakeholders (34.5%), said they were moderately informed, followed by 21.9% who said they were well informed. Only a quarter of them (26.6%) said they were not informed and not at all informed, while 17% said they were very well informed.

¹⁰⁹⁹ See UN, *Causes and Effects of Climate Change*, at <https://www.un.org/en/climatechange/science/causes-effects-climate-change>.

¹¹⁰⁰ See WHO, *Climate change: Key Facts*, 12 Oct 2023, at <https://www.who.int/news-room/fact-sheets/detail/climate-change-and-health>.

¹¹⁰¹ Ibid.



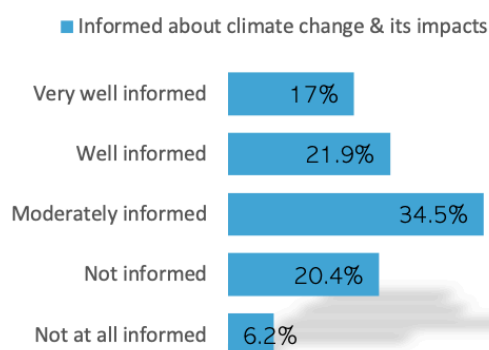


Figure 62: %Community stakeholder responses on being informed about climate change and its impacts (N=452)

Regarding how concerned they feel about the impacts of climate change on the environment and human rights, the majority of them (41.2%) said they were extremely concerned. Only 3.4% said they were not concerned.

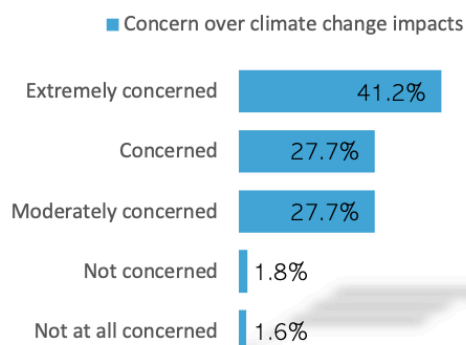


Figure 63: Community stakeholder responses on being concerned about climate change impacts (N=332)

Human rights affected and potentially to be affected the most by climate change impacts include right to life, right to health, right to adequate standard of living, right to clean and safe water, right to work, right to property, and right to development.

4.3.4. Other Key Issues and Challenges

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.¹¹⁰² It highlights various challenges in relation to environmental management and pollution, which are still relevant today, including:¹¹⁰³

- 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.¹¹⁰⁴ Air pollution is also said to be not a big challenge in Zanzibar, as very little greenhouse gases are said to be produced. Noise problem was also said not to be as a big problem as it is in other countries.¹¹⁰⁵

4.3.5. Key Recommendations

- The Revolutionary Government of Zanzibar, through the First Vice President's Office (FVPO) and ZEMA, take measures and intensify efforts to address environmental challenges and climate change in Zanzibar.
- CSOs to collaborate with the RGZ and other stakeholders to increase public awareness about environmental issues and climate change.

4.4. RECOMMENDATIONS

State actors

- 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

1102 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_HALLI_HALISI_YA_MAZINGIRA_ZANZIBAR_YA_MWAKA_2021..pdf.

1103 Ibid.

1104 *RIPOTI YA HALI YA MAZINGIRA ZANZIBAR (supra)*.

1105 Ibid.



and respect human rights in their operations.

- The Revolutionary Government of Zanzibar, through the First Vice President's Office (FVPO) and ZEMA, take measures and intensify efforts to address environmental challenges and climate change in Zanzibar.

Non-state actors

- CSOs and the Commission for Human Rights and Good Governance (CHRAGG) to raise public awareness on the right to development and right to benefit from natural resources.
- CSOs to collaborate with the RGZ and other stakeholders to increase public awareness about environmental issues and climate change.

Community members

- 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.



CHAPTER FIVE: RIGHTS OF SPECIAL GROUPS

Special 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 to safeguard their human rights. This is why there are several regional and international human rights conventions that specifically provide for their rights,¹¹⁰⁶except for the elderly.

This chapter provides an assessment of the situation of rights of special groups for the year 2023, while making comparisons with previous years or showing trends. The main focus is on the right to freedom from violence and the right to non-discrimination. Other fundamental rights which are discussed in relation to those groups include the right to education, the right to own property, the right to equality before the law (especially the right to access to justice), the right to take part in governance (right to political participation), and the right to liberty and personal security.

5.1. WOMEN'S RIGHTS

About the rights

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.

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.¹¹⁰⁷

In 2023, key issues affecting effective realisation of women's rights included gender-based violence (GBV), safety and security, and access to justice.

5.1.1. Gender-Based Violence

Like in Mainland Tanzania, gender-based violence (GBV) continued to be a

¹¹⁰⁶ 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.

¹¹⁰⁷ Section 12(5) of the Zanzibar Constitution 1984,



big threat to human rights in Zanzibar in 2023, especially for women and girls. Incidents of different acts of violence were reported and documented in all regions across Zanzibar.

Reported GBV Incidents

In 2023, a total of 1,958 incidents of violence (GBV and VAC) were reported in Zanzibar in the period of January to December¹¹⁰⁸. The number of reported incidents increased from 1,360 reported in 2022, equivalent to a 44% increase. The 2022 reported GBV and VAC incidents had already been surpassed by four incidents by October 2023¹¹⁰⁹.

In 2023, VAC accounted for over 80% of the incidents of violence, while **GBV (violence against women and violence against men) accounted for less than 20%. GBV incidents increased from 60 in the first quarter of 2023 to 97 in the last quarter.** Overall, 319 GBV incidents were reported, whereby 235 were of violence against women (VAW) and 84 were of violence against men (VAM).

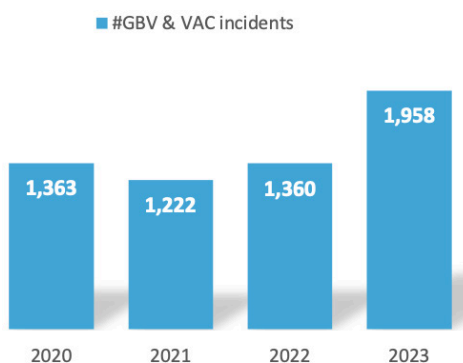


Figure 64: Reported GBV & VAC incidents in Zanzibar, 2020-2023

Source: OCGS, 2021, 2022, & 2023

4

An average of GBV & VAC incidents occurring in Zanzibar each day in the period of 2020 to 2023.

1108 Monthly statistical releases by the OCGS – January to December 2023.

1109 See OCGS monthly data from January to June 2023 at <https://www.youtube.com/@ocgszanzibar94>; “WAZIRI WA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO MHE. RIZIKI PEMBE JUMA ALITAKA JESHI LA POLISI ZANZIBAR KUHARAKISHA MASUALA YA UPELELEZI KWA KESI ZA VITENDO VYA UKATILI NA UDHALILISHAJI ILI KUONA ZINAMALIZA NDANI YA MUDA MFUPI.” SERIKALI YA MAPINDUZI YA ZANZIBAR, WIZARA YA MAENDELEO YA JAMII JINSIA WAZEE NA WATOTO, at <https://jamiismz.go.tz/matukio/waziri-wa-maendeleo-ya-jamii-jinsia-wazee-na-watoto-mhe-riziki-pembe-juma-alitaka-jeshi-la-polisi-zanzibar-kuharakisha-masuala-ya-upelelezi-kwa-kesi-za-vitendo-vya-ukatili-na-udhalilishaji-ili-kuona-zinamaliza-ndani-ya-muda-mfupi>; “Udhalilishaji wanawake, watoto waitesa Zanzibar” Mwananchi Newspaper, 20 Dec 2023.



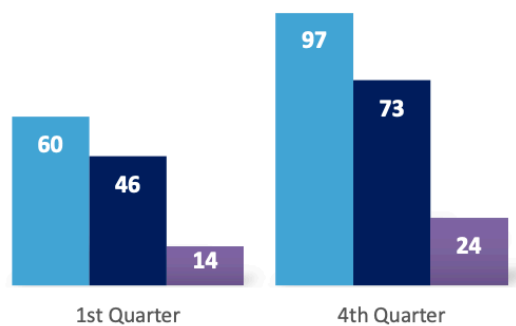


Figure 65: Comparison of reported GBV incidents in the first and last quarters of 2023

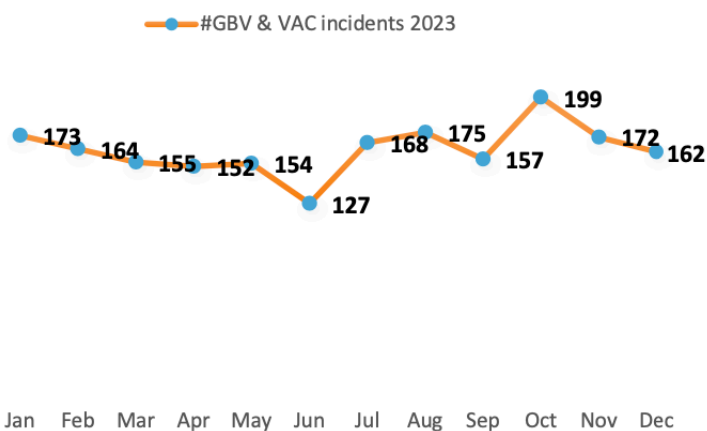


Figure 66: Trend of reported GBV & VAC incidents in 2023

Victims of GBV

Women accounted for the overwhelming majority of GBV victims. Nearly three quarters (74%) of the reported GBV incidents were of violence against women (VAW), while violence against men (VAM) accounted for just over a quarter (26%) of the incidents.

GBV settings

Statistics released by the OCGS in 2023 showed that the majority of the GBV incidents were perpetrated at the perpetrator's home and other places. For instance, in January, 43% of the incidents were said to occur at perpetrator's home.¹¹¹⁰

1110 See OFISI YA MTAKWIMU MKUU WA SERIKALI ZANZIBAR, TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA



Leading districts

Most of the incidents of GBV and VAC were said to be perpetrated in Magharibi A, Magharibi B, and Mjini Districts. These three districts were also leading districts (top three) in 2022.

5.1.2. Violence against Women

5.1.2.1. Community Perceptions on Violence against Women

Community stakeholders engaged by ZAFAYCO in 2023 were asked about extent of violence against women (VAW) and common acts of VAW in the community. Regarding the first question, just over a half of them (53.3%) said it is a serious problem, followed by 22% who said it is a problem. Only 4.7% said it is a minor problem or not at all a problem.

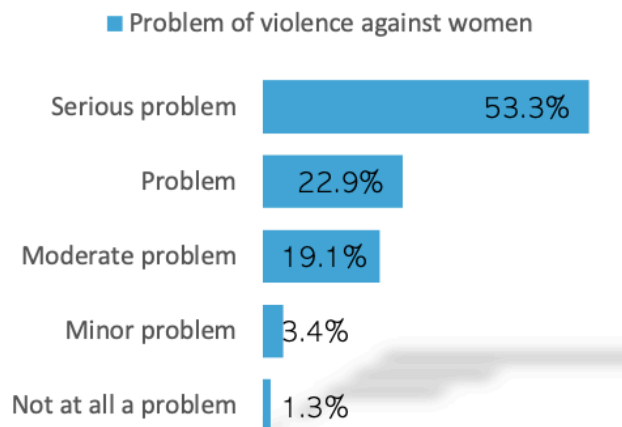


Figure 67: %Community stakeholder perceptions on extent of the VAW problem (N=471)

Regarding common acts of VAW, rape (47%) was mentioned as the most common act by community stakeholders, followed by humiliation (45%), verbal abuse (35%), and beating/slapping (32%). Other acts, including sodomy, sextortion, and sexual harassment, were mentioned to be common by less than 30% of the stakeholders.

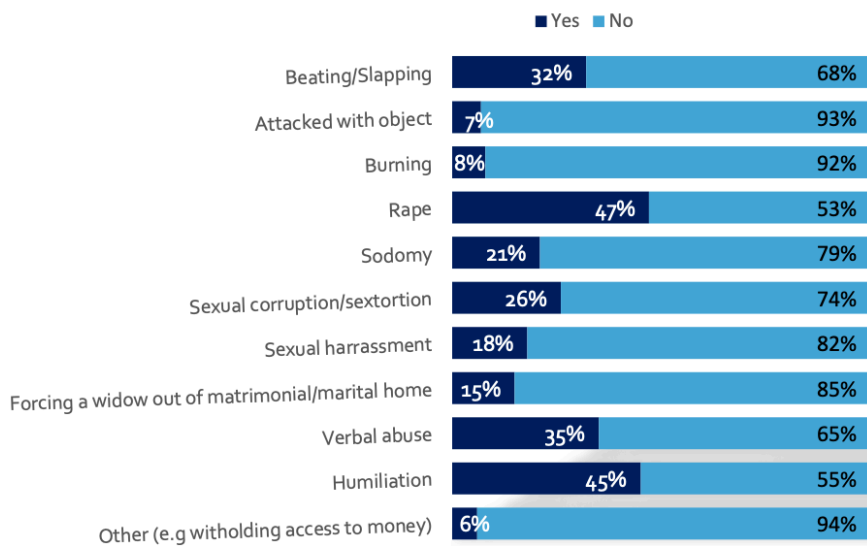


Figure 68: %Community stakeholder responses on common acts of VAW in the community

5.1.2.2. Sexual Violence

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 2023, incidents of sexual violence against women, most of them rape, were **77 in nine months alone**.

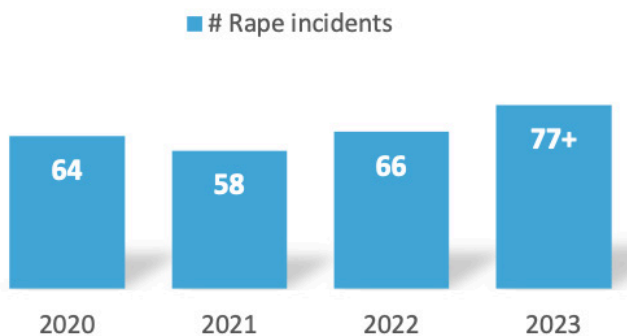


Figure 69: Reported incidents of rape of women in 2023

Source: OCGS



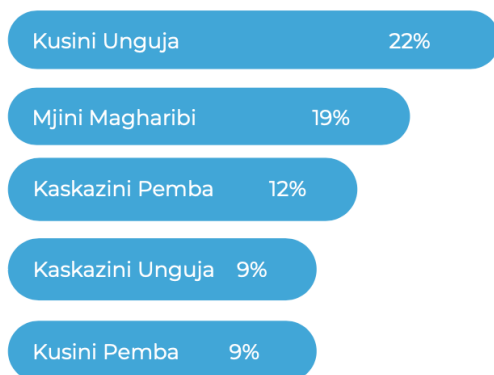
5.1.2.3. Physical Violence

Like in 2022, physical violence continued to be a concern for women in Zanzibar in 2023. According to the Tanzania Demographic and Health Survey and Malaria Indicator Survey (TDHS-MIS) 2022, 8.4% of women in Zanzibar have experienced physical violence since age 15, and 6% have often or sometimes experienced such violence in the past 12 months.¹¹¹¹ The percentage of those who have experienced violence since age 15 is higher in Unguja (9.4%) compared to Pemba (5.8%).¹¹¹²

Intimate Partner Violence

The Tanzania Demographic and Health Survey and Malaria Indicator Survey (TDHS-MIS) 2022 shows that 15.6% of women aged 15 to 49 in Zanzibar who have ever had a husband or intimate partner have experienced physical or sexual or emotional violence committed by their current or most recent husband or intimate partner.¹¹¹³ The percentage is slightly higher in Unguja (17.5%) compared to Pemba (10.4%). In terms of regional percentages, IPV experience was found to be highest in Kusini Unguja (22%) and lowest in Kaskazini Unguja and Kusini Pemba (9%).

%Women 15-49 years who ever experienced IPV in Zanzibar by region



The TDHS-MIS 2022 also shows that 15% of women aged 15 to 49 in Zanzibar who have ever had a husband or intimate partner have experienced at least three forms of controlling behaviours by their husband or partner. These behaviours include being jealous or angry if she talks to other men, wrongly accusing her of being unfaithful, not permitting her to meet her female friends, trying to limit her contact with her family, and insisting on knowing where she is at all times.

1111 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.2022. *Tanzania Demographic and Health Survey and Malaria Indicator Survey 2022 Final Report*. Dodoma, Tanzania, and Rockville, Maryland, USA: MoH, NBS, OCGS, and ICF.

1112 Ibid.

1113 TDHS-MIS 2022 (*supra*).



IPV is said to be partly driven by social acceptance of physical violence against women. For instance, 28% of women and 13% of men in Zanzibar believe that wife beating is justified in at least one of the five specified circumstances, namely: **she burns the food, she argues with him, she goes out without telling him, she neglects the children,** and **she refuses to have sex with him.**¹¹¹⁴

In terms of help-seeking, the TDHS-MIS 2022 revealed that women in Zanzibar (45%) are more likely to seek help to stop the violence than women in Mainland Tanzania (38%).

A baseline report on the impact evaluation of the Productive Social Safety Net in Tanzania Phase II, released in June 2023, shows that approximately 29% of women in Zanzibar experienced IPV in the past 12 months.¹¹¹⁵

5.1.2.4. Psychological Violence

Common acts of psychological or emotional VAW include **verbal abuse, humiliation, neglect,** and **abandonment.** In 2023, ZAFAYCO could not obtain a specific number of reported incidents of psychological VAW. However, it understands that verbal abuse is relatively common in Zanzibar. Additionally, women who are subjected to different acts of violence are often also humiliated and for the financial year 2022/2023, the Ministry of Community Development, Gender, Elderly, and Children identified acts of violence and humiliation as one of the key challenges.¹¹¹⁶ In both Unguja and Pemba, some men have also been accused of neglecting their children or families, especially by not providing for them.¹¹¹⁷ For instance, for the financial year 2022/2023, the ministry also received 308 complaints of child maintenance, whereby 127 were filed in Unguja and 181 in Pemba.¹¹¹⁸ The Ministry of Health also reported that it had documented 82 incidents of neglect during the financial year 2022/2023 through the One Stop Centre.¹¹¹⁹

In December 2023, Kati District Education Officer, Somoe Said Mussa, said that most children in the district had been neglected and abandoned by their fathers, which also increases the risk of being subjected to other forms of violence and engage in juvenile delinquency.¹¹²⁰

1114 TDHS-MIS 2022 (*supra*).

1115 Government of the United Republic of Tanzania & World Bank Group et al, *The Impact Evaluation of Productive Social Safety Net in Tanzania Phase II: Baseline Report*, June 2023 (*supra*).

1116 SERIKALI YA MAPINDUZI ZANZIBAR, WIZARA YA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO MH. RIZIKI PEMBE JUMA (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA MWAKA WA FEDHA 2023/2024. MEI, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1685027953.pdf>.

1117 *Ibid.*

1118 *Ibid.*

1119 SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA AFYA MHESHIMIWA NASSOR AHMED MAZRUI (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 KATIKA BARAZA LA WAWAKILISHI ZANZIBAR, JUNI 2023 (*supra*).

1120 "Ugumu wa maisha chanzo cha udhaliishaji wanawake, watoto" Nipashe Newspaper, 20 Dec 2023.



5.1.2.5. Economic Violence

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.¹¹²¹

Like in Mainland Tanzania, various gender norms and attitudes towards women and girls, discrimination in employment, and child neglect and abandonment, perpetuate economic violence against women. However, ZAFAYCO has observed that this is less of a problem in Zanzibar, based also on the recent demographic and health survey statistics, which show that **married women in Zanzibar (76%) are more likely to make decisions themselves on how their earnings are spent than women in Mainland Tanzania (36%).**¹¹²² Various economic empowerment programmes of women, youth, and PWDs have also helped to reduce economic violence against women in Zanzibar.

5.1.3. Cyberviolence against Women

Cyberviolence can simply be defined as violence perpetrated on and through online platforms. UN WOMEN defines it as ‘when a person (or group of persons) uses an online-connected device to cause someone to suffer sexual, psychological, economic or any other form of harm, often by exploiting their target’s circumstances, characteristics, or vulnerabilities.’¹¹²³ This is still a relatively new phenomenon or concept, that has been driven by technological advancements, rapid spread of mobile information, and widespread use of social media.¹¹²⁴ It is a growing global problem with potentially significant consequences and women and girls are most at risk of being victims.¹¹²⁵ According to UN WOMEN, the most common types of cyberviolence include cyber-harassment; cyberbullying; revenge porn; cyberstalking; online child sexual exploitation, sexual abuse and child pornography; and sextortion.¹¹²⁶

In March 2023, the Head of the Cybercrimes Unit within the Police Force in Zanzibar, Issa Mohammed Salum, said that the problem of cyberviolence in Zanzibar had been growing.¹¹²⁷ He added that women were the major victims of such violence.¹¹²⁸

1121 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..>

1122 TDHS-MIS 2022 (*supra*).

1123 See Amira Diallo, *A Guide for Women and Girls to Prevent and Respond to Cyberviolence*, UN WOMEN, 2021, at <https://eca.unwomen.org/sites/default/files/2022-02/ONLINE%20cyberV%20women%20ENG.pdf>.

1124 See EIGE, *Cyber violence against women*, at https://eige.europa.eu/gender-based-violence/cyber-violence-against-women?language_content_entity=en.

1125 *Ibid.*

1126 *A Guide for Women and Girls to Prevent and Respond to Cyberviolence (supra)*.

1127 “Polisi yatoa tahadhari vitendo vya udhalilishaji mitandaoni” Nipashe Newspaper, 21 Mar 2023.

1128 *Ibid.*



5.1.4. Measures to Eliminate Violence against Women and Children

In 2023, the Revolutionary Government of Zanzibar (RGZ), through the Ministry of Community Development, Gender, Elderly, and Children, and other ministries, government institutions, and CSOs, including the Police Force, continued to take various measures to prevent and combat violence against women and children, including public awareness-raising, campaigns, arrest and prosecution of perpetrators, and trainings for various key stakeholders. However, various challenges continued to affect these measures, including budgetary constraints, shortage of personnel, moral decay,¹¹²⁹ the culture of silence and not cooperating with law enforcement bodies, inadequate monitoring, and coordination challenges.

Social tolerance of violence against women and children is also a contributing factor. According to the recent demographic and health survey, **28% of women and 13% of men in Zanzibar believe that wife beating** is justified in at least one of the five specified circumstances. The circumstances are: **she burns the food, she argues with him, she goes out without telling him, she neglects the children, and she refuses to have sex with him.**

5.1.5. Women's Political Participation

The right of Zanzibari women to participate in political life is protected and guaranteed internationally, regionally, and domestically. Internationally, Tanzania, Zanzibar inclusive, is a party to various international¹¹³⁰ and regional¹¹³¹ human rights instruments that guarantee women's political participation. These instruments require women to be afforded equal opportunities to political participation. The Constitution of Zanzibar, 1984 also guarantees the right of all citizens, including women, to participate in politics and hold leadership positions.¹¹³²

Like the Union Government, the Revolutionary Government of Zanzibar has taken various measures over the years to enhance women's political participation, which have seen more women into leadership and decision-making positions. However, various challenges continue to hinder women's effective political participation, including gender and other gaps in laws governing political participation, inadequate support from political parties, inadequate representation in party decision-making structures, violence against women in politics (VAWP), cultural beliefs, and gender gaps in political party instruments. Addressing these challenges is critical ahead of elections of 2024 and 2025 in Zanzibar and Mainland Tanzania.

1129 "Kuiga tamaduni kwatajwa kuchangia udhalilishaji" Mwananchi Newspaper, 21 Dec 2023.

1130 Including the Universal Declaration of Human Rights (UDHR) of 1948, the Convention on the Political Rights of Women (CPRW, 1952), and the International Covenant 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.

1131 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.

1132 Section 21 of the Constitution of Zanzibar, 1984.



5.1.6. Women’s Safety and Security

Like other people, women are guaranteed the right to liberty and personal security, including under the Constitution of Zanzibar. However, women’s safety and security are compromised by several factors, key among them being different forms of violence perpetrated against them in different settings. Inadequate housing also disproportionately affects women and compromises their safety and security.

5.1.7. 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 31 on the “Access to justice” indicator, with Songwe recording the lowest level of discrimination, with the score of 13.¹¹³³ In Zanzibar, the score was 35 and the highest level of discrimination was observed in Kaskazini Unguja, with the score of 39, followed by Kusini Unguja, Kaskazini Pemba, and Kusini Pemba, all with the score of 36. The lowest level of discrimination was in Mjini Magharibi, which scored 33 points.¹¹³⁴

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 18% of women said they seek access to the lowest court** and just over a third (36%) seek help from the police. **Family and friends (92%) are the most preferred option for the majority of women when seeking justice or settling a dispute.**

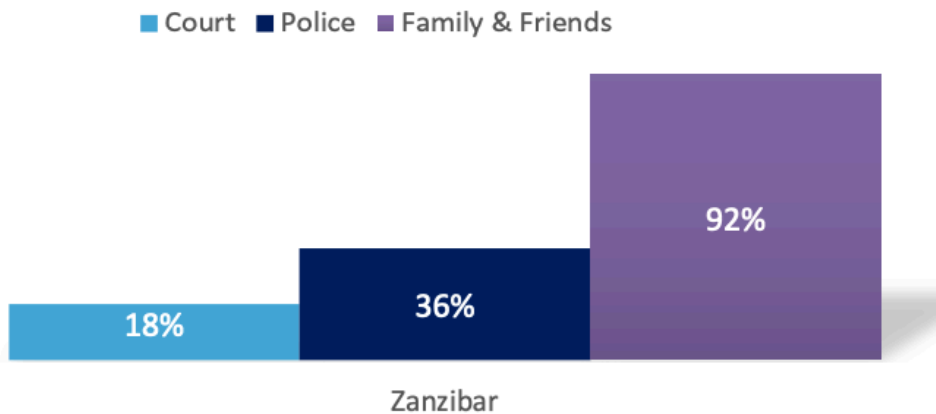


Figure 70: %Share of women who would turn to a court, the police, or family and friends in cases of conflict in Zanzibar

Source: SIGI Tanzania Report, 2022

1133 OECD (2022), *SIGI Country Report for Tanzania*, Social Institutions and Gender Index, OECD Publishing, Paris, <https://doi.org/10.1787/06621e57-en>.

1134 Ibid.

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%) and the **percentages are particularly high in Zanzibar (court 98%, police 99%). Norms opposing women's representation in the system as judges are also high in Zanzibar.** For instance, in Zanzibar, over a half of the population (59%) agree (24%) and strongly agree (35%) that **men make better judges than women**, indicating the presence of strong belief that only men can effectively administer justice (their gender role).

5.1.8. 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 economic growth.¹¹³⁵ 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 2023, the Revolutionary Government of Zanzibar and other stakeholders, including CSOS, continued taking various measures to economically empower women so that they can escape poverty, including through provision of loans to groups and individuals. A key challenge is the availability of limited funds, while the demand is high. Another challenge in the 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.

5.1.9. Key Recommendations

- The RGZ, through the Ministry of Constitution and Legal Affairs, to facilitate enactment of a specific and comprehensive law on gender-based violence.
- The RGZ, through the Ministry of Community Development, Gender, Elderly, and Children, to intensify efforts to prevent and combat violence against women.
- The RGZ, through the Ministry of Community Development, Gender, Elderly, and Children, to spearhead legal and policy reforms to address cyberviolence, which mostly affects women and girls.
- CSOs to intensify efforts to prevent and combat violence against women, including through public awareness-raising programmes.

1135 See UN Women "Economic empowerment" at <https://www.unwomen.org/en/what-we-do/economic-empowerment>.



5.2.CHILDREN'S RIGHTS

About the rights

Protected at international, regional, and domestic levels.¹¹³⁶
At domestic level, children's rights are mainly protected under the Constitution of Zanzibar (1984) and Children's Act of No. 6 of 2011.

In 2023, violence against children continued to be the biggest threat to children's rights in Zanzibar.

5.2.1. Violence against Children

5.2.1.1.Community Perceptions on Violence against Children

In 2023, community stakeholders engaged by ZAFAYCO were asked about the extent to which violence against children (VAC) is a problem in the community and common acts of VAC. Regarding the first question, just over a half of them (54.2%), said it is a serious problem, followed by nearly a quarter (23%), who said it is a problem. Only 5.1% of them said it is only a minor problem or not at all a problem.

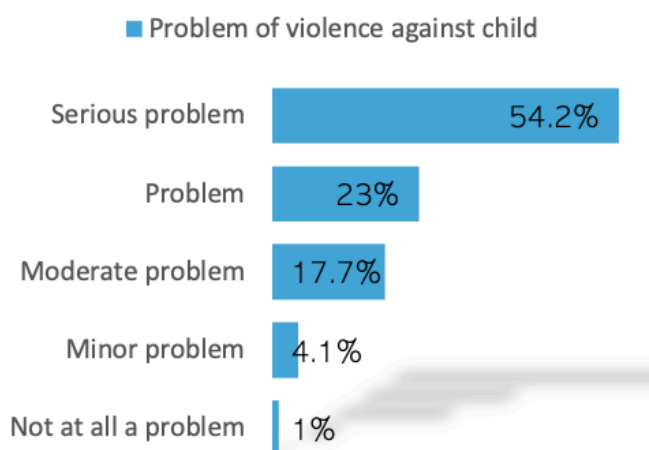


Figure 71: %Community stakeholder responses on extent of problem of VAC (N=469)

Regarding common acts of VAC, rape, attempted rape, and defilement were mentioned as the most common (54%), followed by beating, slapping, or kicking (42%), and sodomy (36%). Other acts, such as severe corporal punishment,

¹¹³⁶ Including 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.

sexual harassment, and neglect and abandonment were cited as common by a quarter and less percent of the stakeholders.

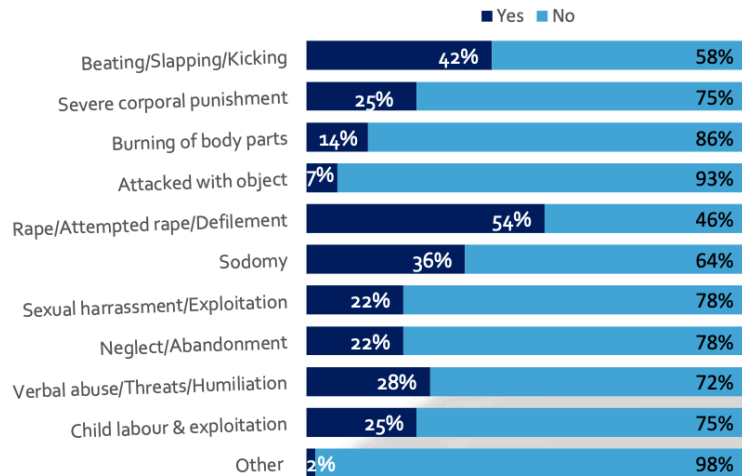


Figure 72: %Community stakeholder responses on common acts of VAC in the community

Additionally, the community stakeholders were asked how much they trust key institutions in resolution of disputes of violence against women and children (VAWC). These institutions are court of law, social welfare office, police gender desk, religious leaders, paralegals, family, shehia/community police, and NGOs. Religious leaders were said to be trusted or trusted a lot the most (70.9%), followed by family (66.7%), social welfare office (62.7%), police gender desk (57.6%), NGOs (56.3%), paralegals (54.1%), court of law (53.5%), and shehia or community police (46.3%).

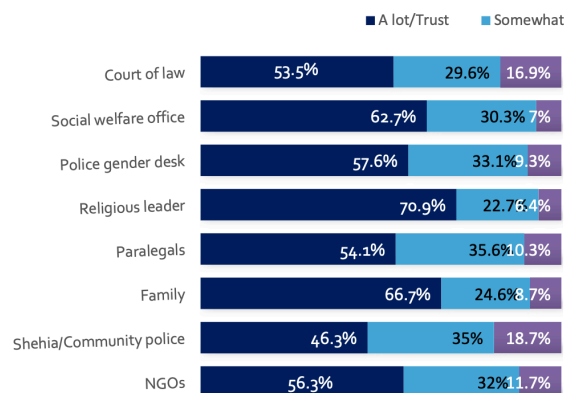


Figure 73: %Community stakeholder responses on trusting institutions dealing with resolution of disputes of VAWC



5.2.1.2. Reported Incidents of Violence against Children

Reported incidents

Statistics released by the Office of the Chief Government Statistician (OCGS) Zanzibar show that incidents of violence against children (VAC) constituted 83.7% of all reported incidents of violence (VAC, VAW, & VAM) in 2023. Overall, a total of 1,639 VAC incidents were reported, significantly increasing from 1,173 incidents reported in 2022. This is equivalent to a 39.7% increase.

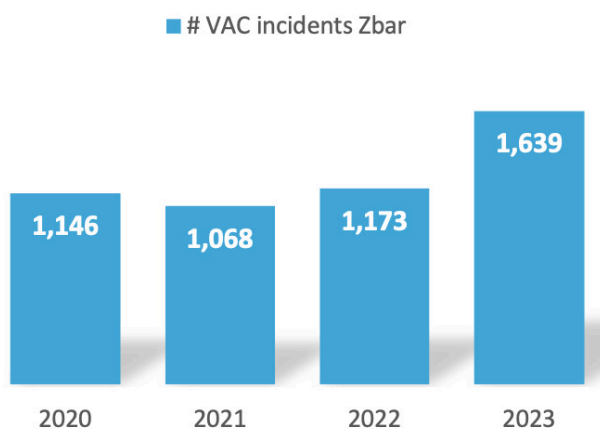


Figure 74: Reported VAC incidents in Zanzibar, 2020-2023

Source: OCGS, 2020 – 2023

3.5

An average of VAC incidents occurring in Zanzibar each day in the period of 2020 to 2023 (nearly 4 incidents each month).

More than 100 VAC incidents were reported each month in 2023, peaking in November, when 157 incidents were reported.



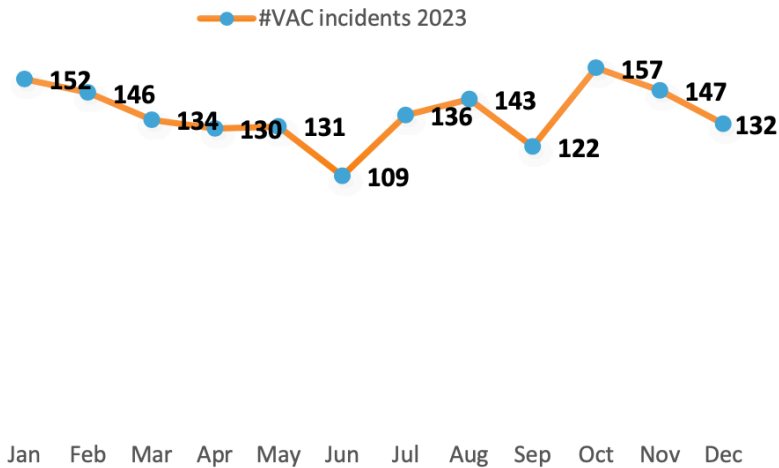


Figure 75: Reported VAC incidents in Zanzibar by month

Victims

In 2023, girls continued to constitute overwhelming majority of VAC victims, accounting for over two thirds of the victims. This was largely driven by rape incidents, which accounted for a half of all reported VAC incidents.

VAC settings

Statistics released by the OCGS in 2023 showed that the majority of the VAC incidents were perpetrated at the perpetrator's home and other places. For instance, in January, 43% of the incidents were said to occur at perpetrator's home.¹¹³⁷ Unfinished or abandoned buildings were also used to commit violence against children, especially sexual violence.

Perpetrators

Perpetrators of VAC included strangers and neighbours. These were mentioned the most as perpetrators in 2023.

Leading districts

Most of the VAC incidents were said to be perpetrated in Magharibi A, Magharibi B, and Mjini Districts. These three districts were also leading districts (top three) in 2022.

5.2.1.3. Sexual Violence

Like it was the case in 2022, sexual violence was the most common form of

¹¹³⁷ See OFISI YA MTAkwIMU MKUU WA SERIKALI ZANZIBAR, TAKWIMU ZA UKATILI NA UDHALILISHAJI WA KIJINSIA ZANZIBAR KWA MWEZI WA JANUARI 2023, at <https://ocgs.go.tz/ReportOCGS/1676821434.pdf>.



violence against children (VAC) in Zanzibar in 2023. Rape incidents constituted the majority of the reported sexual VAC incidents, all the victims being girls. ZAFAYCO was able to document incidents of child rape reported in 9 out of 12 months, with the exception of April, May, and December. But even then, the number of reported incidents, 632, exceeded the number of incidents reported in the whole of 2022. On average, at least 70 rape incidents were reported each month.

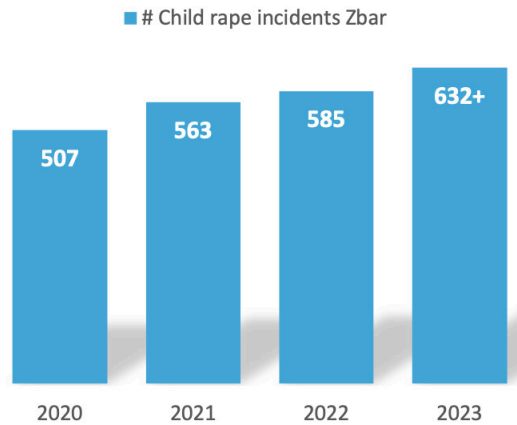


Figure 76: # Reported child rape incidents in Zanzibar, 2020-2023

Source: OCGS, 2021-2023

Most of the victims of sexual VAC, especially rape and sodomy, fell in the age category of 15 to 17 years, while for sodomy specifically, it was the age category of 6 to 10 years.

Sodomy was once again found to be the most common form of sexual abuse against boys in Zanzibar. In 2023, ZAFAYCO was only able to document incidents of sodomy of boys reported in 11 out of 12 months, with the exception of May. But even then, the number of reported incidents, 233, exceeded the number of reported incidents in the whole of 2022 by 33 incidents, as shown in Figure 77 below. On average, at least 21 sodomy incidents were reported each month.

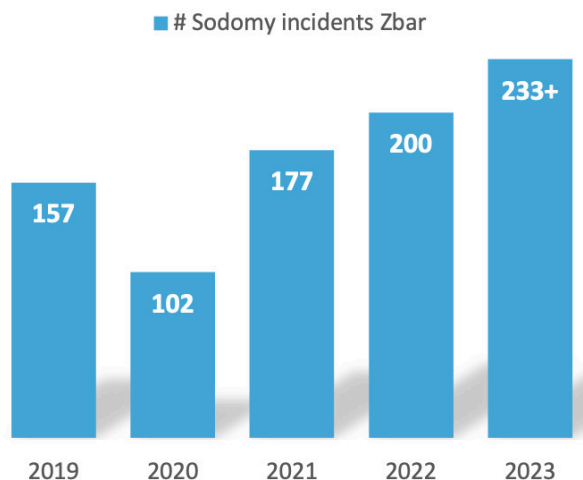


Figure 77: # Reported incidents of sodomy of boys in Zanzibar, 2019-2023

Source: OCGS, 2021-2023

The number of reported child sodomy incidents peaked in March, when 29 incidents were reported, followed by August, when 26 were reported.

5.2.1.4. Physical Violence

In the period of 2019 to 2021, a total of 509 incidents of physical violence (assault) against children were reported in Zanzibar,¹¹³⁸ equivalent to 170 incidents each year, 14 each month, and nearly 1 every two days. However, in 2022 and 2023, ZAFAYCO observed that much fewer incidents of physical VAC were reported. For instance, in 2023, physical GBV and VAC incidents documented by ZAFAYCO constituted only 19% of all reported incidents. ZAFAYCO documented a total of 346 physical GBV and VAC incidents in 11 out of 12 months, the majority of the victims being children, equivalent to an average of 31 incidents each month.

5.2.1.5. Psychological Violence

Common acts of psychological or emotional VAC include **verbal abuse, humiliation, neglect, and abandonment**. In 2023, ZAFAYCO could not obtain a specific number of reported incidents of psychological VAC. However, it understands that verbal abuse is relatively common in Zanzibar. For the financial year 2022/2023, the Ministry of Community Development, Gender, Elderly, and Children identified acts of violence and humiliation, especially against women and children, as one of the key challenges.¹¹³⁹ In both Unguja and Pemba,

¹¹³⁸ ZANZIBAR STATISTICAL ABSTRACT 2021 (*supra*).

¹¹³⁹ SERIKALI YA MAPINDUZI ZANZIBAR, WIZARA YA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO MH. RIZIKI PEMBE JUMA (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA MWAKA WA FEDHA 2023/2024. MEI, 2023, at <https://www.zanzibarassembley.go.tz/storage/>



some men have also been accused of neglecting their children or families, especially by not providing for them.¹¹⁴⁰ For instance, for the financial year 2022/2023, the ministry also received **308 complaints of child maintenance, whereby 127 were filed in Unguja and 181 in Pemba.**¹¹⁴¹ The Ministry of Health also reported that it had documented **82 incidents of neglect during the financial year 2022/2023 through the One Stop Centre.**¹¹⁴²

In December 2023, Kati District Education Officer, Somoe Said Mussa, said that most children in the district had been neglected and abandoned by their fathers, which also increases the risk of being subjected to other forms of violence and engage in juvenile delinquency.¹¹⁴³

5.2.1.6. Economic Violence

Economic violence can be defined as ‘any act or behaviour which causes economic harm to an individual.’¹¹⁴⁴ It 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. While this form of violence is more common among women, children can also be victims of such violence, and this can materialize, for example, through denial of education and property rights, as well as child marriage. Child marriage constitutes economic VAC because it limits future economic opportunities, as does denial of education.

In 2023, ZAFAYCO did not document any reported incidents of economic VAC, but believes they occur but usually go unreported. This may be explained by low community awareness about economic violence.

5.2.2. Measures to Prevent and Combat Violence against Children

As discussed above, in 2023, the RGZ took various measures to prevent and combat violence against women and children. It was also reported by the Ministry of Community Development, Gender, Elderly, and Children that in the period of July 2022 and March 2023, a total of 35 male champions had been recruited to fight against GBV and VAC.¹¹⁴⁵ Implementation of the **He for She Programme** by UN Women has also helped to bring on board various influential people in Zanzibar in fighting against GBV.

However, the efforts to prevent and combat VAC are hampered by various

documents/Budgets/all/1685027953.pdf.

1140 Ibid.

1141 Ibid.

1142 SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA AFYA MHESHIMIWA NASSOR AHMED MAZRUI (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 KATIKA BARAZA LA WAWAKILISHI ZANZIBAR, JUNI 2023 (*supra*).

1143 “Ugumu wa maisha chanzo cha udhalilishaji wanawake, watoto” Nipashe Newspaper, 20 Dec 2023.

1144 See EIGE, *economic violence*, at https://eige.europa.eu/publications-resources/thesaurus/terms/1229?language_content_entity=en.

1145 SERIKALI YA MAPINDUZI ZANZIBAR, WIZARA YA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO MH. RIZIKI PEMBE JUMA (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA MWAKA WA FEDHA 2023/2024. MEI, 2023 (*supra*).

challenges, including **poor parenting**; 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**; **the culture of preventing/concealing family shame**; **separation/divorce**; **moral decay and globalization**; and inadequate enforcement of laws. Disbursement of budgeted funds to the Ministry of Community Development, Gender, Elderly, and Children is also a challenge. For instance, for the financially year 2022/2023, the ministry had only received 46.06% of funds allocated for the community development and gender programme (PH0403).¹¹⁴⁶

5.2.3. Child Labour and Exploitation

In Zanzibar, child labour is prohibited under 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, except when work interferes with a child's education and rest, and if the work is hazardous. For instance, 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.¹¹⁴⁷ It also sets **15 years as the minimum age for employment**, and requires a child to only do **light work**.¹¹⁴⁸

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 were subjected to child labour in Zanzibar.¹¹⁴⁹ He also noted that about 2,256 children, including 840 girls, had been rescued from child labour in different parts of Zanzibar's twin islands of Unguja and Pemba.¹¹⁵⁰ In 2023, the Minister revealed that there were 30 children in Unguja and Pemba that it was planning to rescue from child labour and facilitate their return to school. He also noted that the ministry was planning to conduct a study on child labour during the financial year 2023/2024.

5.2.4. Child Marriage, Child Pregnancy, and Female Genital Mutilation

According to the 2022 Social Institutions and Gender Index (SIGI) Tanzania Report, 21% of women aged 15 and older in Zanzibar have been married before the age of 18 years.¹¹⁵¹ **Kaskazini Pemba** has the highest percentage, at 37%, followed by **Kusini Pemba** (26%), **Kaskazini Unguja** (21%), **Kusini Unguja** (15%), and **Mjini Magharibi** (14%).¹¹⁵²

¹¹⁴⁶ Ibid.

¹¹⁴⁷ Section 97 of the Children's Act (No 6) of 2011.

¹¹⁴⁸ Ibid, Section 98.

¹¹⁴⁹ 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>.

¹¹⁵⁰ Ibid.

¹¹⁵¹ SIGI Country Report for Tanzania (*supra*).

¹¹⁵² Ibid.



- Zanzibar does not have a minimum age for marriage.¹¹⁵³
- Girl child marriage and adolescent pregnancies are closely intertwined.¹¹⁵⁴
- Girl child marriage is perpetuated by social acceptance of the practices.¹¹⁵⁵
- Girls are granted limited decision-making power over their own marriage. In Zanzibar, only 28% of the population thinks a girl should make decisions over her own marriage, while 40% thinks it should be the father alone, and another 28% thinks both parents. When it comes to boy's marriage, 48% of the population thinks boys themselves should make the decision, followed by father at 32%.¹¹⁵⁶
- Likelihood that child marriage will be upheld as an appropriate practice is higher in rural than urban areas and higher in Zanzibar than in Mainland Tanzania.¹¹⁵⁷

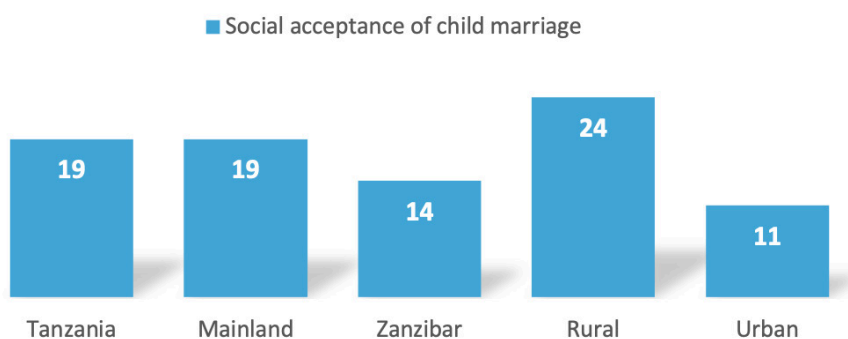


Figure 78: % Social acceptance of girl child marriage in Tanzania

Source: SIGI country report, 2022

Reported incidents of child marriage and child pregnancy

In May 2023, it was reported by the Ministry of Community Development, Gender, Elderly, and Children that there had been **4 incidents of child marriage** documented during the financial year 2022/2023, of which 1 was reported in Unguja and 3 in Pemba.¹¹⁵⁸ In the same month, the Ministry of Education and

1153 Ibid.

1154 SIGI Country Report for Tanzania (*supra*)

1155 Ibid.

1156 Ibid.

1157 SIGI Country Report for Tanzania (*supra*).

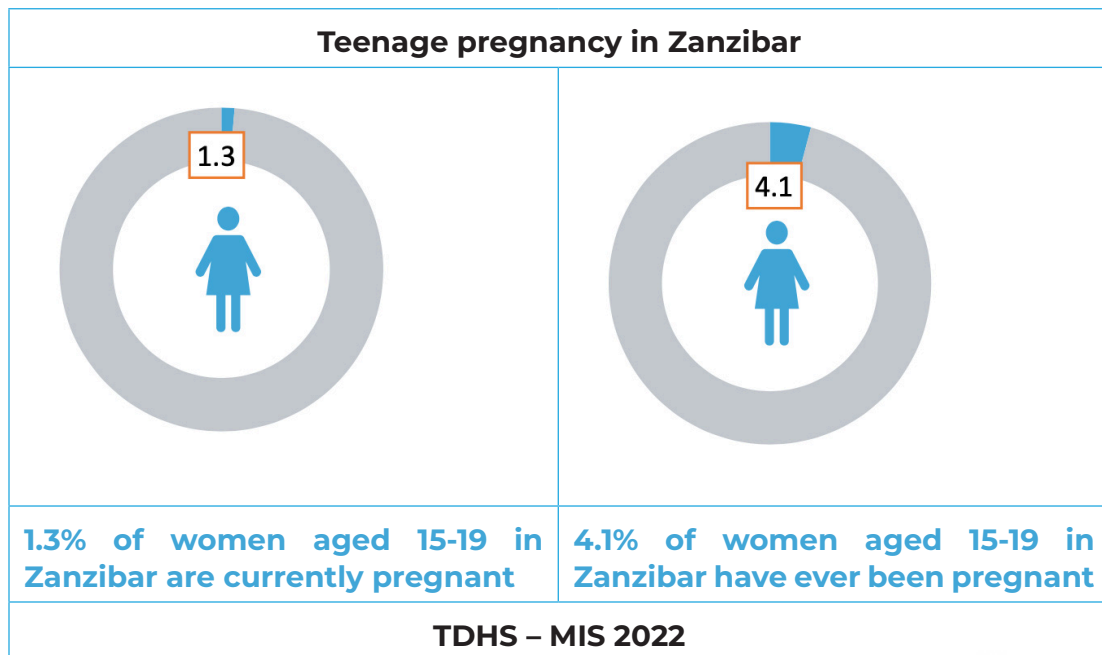
1158 SERIKALI YA MAPINDUZI ZANZIBAR WIZARA YA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO MH. RIZIKI PEMBE JUMA (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA MWAKA WA FEDHA 2023/2024. MEI, 2023 (*supra*).

Vocational Training reported that it had **documented 7 reported incidents of child marriage** (3 in Unguja, 4 in Pemba).¹¹⁵⁹

In May 2023, it was reported by the Ministry of Community Development, Gender, Elderly, and Children that there had been **7 incidents of child pregnancy**, reported in Unguja (4) and Pemba (3).¹¹⁶⁰ In the same month, the Ministry of Education and Vocational Training reported that it had **documented 44 incidents of child pregnancy** (21 in Unguja, 23 in Pemba).

Teenage pregnancy: TDHS – MIS 2022

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).¹¹⁶¹



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%).¹¹⁶²

1159 SERIKALI YA MAPINDUZI YA ZANZIBAR HOTUBA 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 2023/2024 Mei, 2023 (*supra*).

1160 SERIKALI YA MAPINDUZI ZANZIBAR WIZARA YA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO MH. RIZIKI PEMBE JUMA (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA MWAKA WA FEDHA 2023/2024. MEI, 2023 (*supra*).

1161 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.

1162 Ibid.



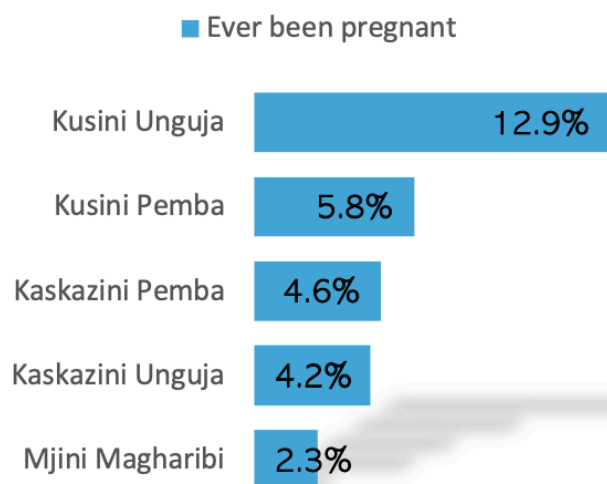


Figure 79: % Women aged 15-19 who have ever been pregnant – Zanzibar

Source: TDHS – MIS 2022

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.

5.2.5. Children’s Access to Quality Education

Right to education is a fundamental human right for children. As discussed in Chapter Three above, in 2023, children’s access to quality education was limited by various challenges, including budgetary constraints; school proximity, especially in rural areas; different forms of violence; truancy; shortage of teachers; and shortage of classrooms.

5.2.6. Children’ Safety and Security

In 2023, ZAFAYCO observed that violence against children continued to be the biggest threat to children’s safety and security. Child trafficking, including for labour, is also a challenge for children. In 2023, there were at least 8 reported incidents of human trafficking, including child trafficking, all reported in Unguja.¹¹⁶³ It was also reported that 117 victims of child trafficking (115 girls, 2 boys) had been rescued and placed at safe houses.¹¹⁶⁴ Children’s safety and security is also compromised by domestic violence and parental neglect and abandonment.

¹¹⁶³ SERIKALI YA MAPINDUZI ZANZIBAR WIZARA YA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO MH. RIZIKI PEMBE JUMA (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA MWAKA WA FEDHA 2023/2024. MEI, 2023 (*supra*).

¹¹⁶⁴ *Ibid.*

5.2.7. Juvenile Justice

Juvenile justice in Zanzibar is governed by various domestic, regional, and international standards.¹¹⁶⁵ 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.** Domestically, the key legislation governing juvenile justice is the Children's Act of 2011, which has been hailed as a very comprehensive legislation and accommodative of international standards. In 2023, the main concern regarding juvenile justice that was raised was an increase of children in conflict with the law, accused of committing various crimes.¹¹⁶⁶

5.2.8. Key Recommendations

- The RGZ, through the Ministry of Community Development, Gender, Elderly, and Children, to intensify efforts to prevent and combat violence against children.
- The RGZ, through the Ministry of Community Development, Gender, Elderly, and Children, to recruit more anti-GBV and VAC male champions as part of strategy to increase men engagement in addressing VAC.

5.3. RIGHTS OF PERSONS WITH DISABILITY

About the rights

- Protected under regional and international human rights conventions, including the UN Convention on the Rights of Persons with Disabilities (CRPD) of 2006.
- Also protected domestically under the Constitution of Zanzibar and specifically the Persons with Disabilities (Rights and Privileges) Act, No.9 of 2006. Under the Act, every PWD in Zanzibar has the right to education,¹¹⁶⁷ right to employment,¹¹⁶⁸ right to medical care,¹¹⁶⁹ accessibility and mobility.¹¹⁷⁰

In 2023, key issues and challenges that were found to affect enjoyment of human rights among PWDs included discrimination and stigma, lack of disability friendly social services, access to quality health services, and inadequate enforcement of laws and policies.

¹¹⁶⁵ Including 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; and United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), 1990.

¹¹⁶⁶ SERIKALI YA MAPINDUZI ZANZIBAR WIZARA YA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO MH. RIZIKI PEMBE JUMA (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA MWAKA WA FEDHA 2023/2024. MEI, 2023 (*supra*).

¹¹⁶⁷ *Ibid*, section 9

¹¹⁶⁸ *Ibid*, section 7

¹¹⁶⁹ *Ibid*, section 11

¹¹⁷⁰ *Ibid*, section 12



5.3.1. Promotion and Protection of Rights of PWDs

There are several organizations established for the purpose of promoting and protecting the 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), and the Zanzibar Centre for Disability and Inclusive Development (ZACEDID). In 2023, the RGZ, through the First Vice President’s Office and the National Council of Persons with Disabilities (NCPD), continued to collaborate with these and other stakeholders to advance PWDs’ rights.

Government action to promote and protect rights of PWDs in Zanzibar in 2023 included setting aside 10% of revenue collected by LGAs for youth, women and PWDs.¹¹⁷¹ For the financial year 2022/2023, a total of Tshs. 723,921,203 million were collected in this regard and deposited into the economic empowerment fund.¹¹⁷²

5.3.2. Key Issues and Challenges

While conducting assessment of the human rights situation in Zanzibar in 2023, ZAFAYCO engaged with various stakeholders and asked them about key issues and challenges faced by PWDs. Stigma (55%) was mentioned as the biggest challenge, followed by poverty and unreliable source of income (48%), limited access to quality education (42%), and unfriendly infrastructure (40%).

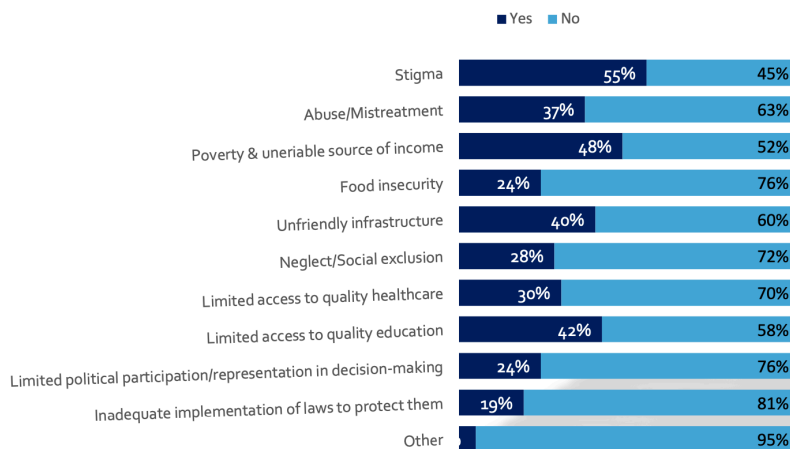


Figure 80: % Community stakeholder responses on key challenges faced by PWDs in the community

1171 SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA NCHI, AFISI YA RAIS TAWALA ZA MIKOA, SERIKALI ZA MITAA NA IDARA MAALUM ZA SMZ MHESHIMIWA MASOUD ALI MOHAMMED (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 IMEWASILISHWA KATIKA BARAZA LA WAWAKILISHI ZANZIBAR MEI, 2023, <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1684332929.pdf>; SERIKALI YA MAPINDUZI YA ZANZIBAR HOTUBA YA WAZIRI WA NCHI, OFISI YA MAKAMU WA KWANZA WA RAIS MHESHIMIWA HARUSI SAID SULEIMAN (MBM) KATIKA BARAZA LA WAWAKILISHI KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 MEI, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1683820223.pdf>.
 1172 Ibid.

In May 2023, it was reported that the Zanzibar National Council of Persons with Disabilities received a total of 15 complaints from PWDs during the financial year 2022/2023.¹¹⁷³ However, it is also faced with lack of sufficient budget to address challenges faced by PWDs.

5.3.3. Key Recommendations

- The RGZ, through the First Vice President's Office (FVPO), to ensure effective enforcement of laws and policies relating to PWDs.

5.4. RIGHTS OF THE ELDERLY

About the rights

- Unlike other vulnerable groups such as women, children, and PWDs, there is no international or regional convention that is specific on the rights of the elderly.
- Nevertheless, their rights, like those of other groups, are guaranteed under various international and regional conventions, as well as domestically under the Constitution of Zanzibar of 1984.

In 2023, key issues and challenges which affected enjoyment of the rights of the elderly included exclusion and marginalization; inadequate monthly pensions, considering the current high costs of living; limited access to quality health services; poverty; and food insecurity.

5.4.1. Promotion and Protection of Rights of the Elderly

In 2023, 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. By March 2023, there were 28,696 beneficiaries of the pension, of whom 17,076 were from Unguja and 11,620 from Pemba¹¹⁷⁴. Other measures to promote elderly rights and welfare included renovation of elderly homes, conduct trainings on elderly care, provision of IDs to 3,668 older people (1,497 female, 2,171 male) to facilitate access to social services, and identification of more older people eligible for the monthly pension¹¹⁷⁵. The RGZ also increased the monthly pension for older people from Tshs. 20,000 to Tshs. 50,000 per month.

1173 SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA NCHI AFISI YA RAIS - IKULU MHESHIMIWA JAMAL KASSIM ALI KUHUSU MAKADIRIO YA MATUMIZI YA FEDHA KWA MWAKA WA FEDHA 2023/2024, MEI 2023, <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1684225211.pdf>.

1174 SERIKALI YA MAPINDUZI ZANZIBAR WIZARA YA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO HOTUBA YA WAZIRI WA MAENDELEO YA JAMII, JINSIA, WAZEE NA WATOTO MH. RIZIKI PEMBE JUMA (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI YA MWAKA WA FEDHA 2023/2024. MEI, 2023 (supra).

1175 Ibid.



5.4.2. Key Issues and Challenges

While conducting assessment of the human rights situation in Zanzibar in 2023, ZAFAYCO engaged with various stakeholders and asked them about key issues and challenges faced by older people. Poverty and unreliable source of income was mentioned the most (70%), followed by limited access to quality health services (39%), food insecurity (35%), and abuse or mistreatment (31%).

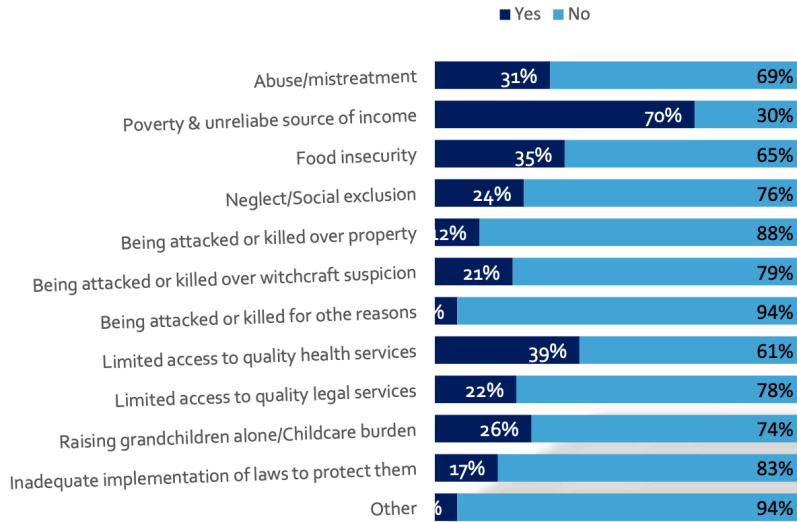


Figure 81: %Community stakeholder responses on key challenges faced by older people in the community

‘The Government should increase budgetary allocation for the health sector to facilitate better access to health services by the elderly.’

Community stakeholder - Unguja

Challenges Faced by the Elderly Pension Department

- 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 older people not meeting the age qualification.
- Some older persons not benefitting from pension due to lack of IDs, especially in rural areas.
- Provision of monthly pension through banks, which is a challenge for most older people.

5.4.3. Key Recommendations

- The RGZ, through the Ministry of Constitution and Legal Affairs, to ensure effective implementation of the elderly protection law.

5.5. YOUTH RIGHTS

About the rights

- Protected under various international and regional human rights instruments, including specifically under the African Youth Charter of 2006.¹¹⁷⁶
- 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.

In 2023, key issues and challenges affecting youth rights in Zanzibar included unemployment and underemployment, different forms of violence, and drugs/substance abuse,

5.5.1. Promotion and Protection of Youth Rights

Government action to promote and protect youth rights in Zanzibar in 2023 included setting aside 10% of revenue collected by LGAs for youth, women and PWDs¹¹⁷⁷. For the financial year 2022/2023, a total of Tshs. 723,921,203 million were collected in this regard and deposited into the economic empowerment fund¹¹⁷⁸. The President's Office Labor, Economic Affairs and Investment also reportedly coordinated employment opportunities for 7,428 youth (1,080 in Zanzibar, 6,348 in Asia)¹¹⁷⁹. Youth studying in higher education institutions also continued to benefit from higher education loans granted by the RGZ.

5.5.2. Key Issues and Challenges

While conducting assessment of the human rights situation in Zanzibar in 2023, ZAFAYCO engaged with various stakeholders and asked them about key issues and challenges faced by youth. Unemployment (88%), was mentioned the most as a key challenge, followed by drug abuse and alcoholism (60%), and engaging in criminal activities (42%).

¹¹⁷⁶ African Youth Charter, adopted by the Seventh Ordinary Session of the Assembly, held in Banjul, The Gambia on 2nd July 2006.

¹¹⁷⁷ SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA NCHI, AFISI YA RAIS TAWALA ZA MIKOA, SERIKALI ZA MITAA NA IDARA MAALUM ZA SMZ MHESHIMIWA MASOUD ALI MOHAMMED (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 IMEWASILISHWA KATIKA BARAZA LA WAWAKILISHI ZANZIBAR MEI, 2023 (supra).

¹¹⁷⁸ Ibid.

¹¹⁷⁹ SERIKALI YA MAPINDUZI YA ZANZIBAR AFISI YA RAIS KAZI UCHUMI NA UWEKEZAJI HOTUBA YA MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 ILIYOSOMWA BARAZA LA WAWAKILISHI ZANZIBAR NA WAZIRI WA NCHI, AFISI YA RAIS, KAZI UCHUMI NA UWEKEZAJI MHE. MUDRIK RAMADHAN SORAGA (MBM), MEI, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1684225307.pdf>.



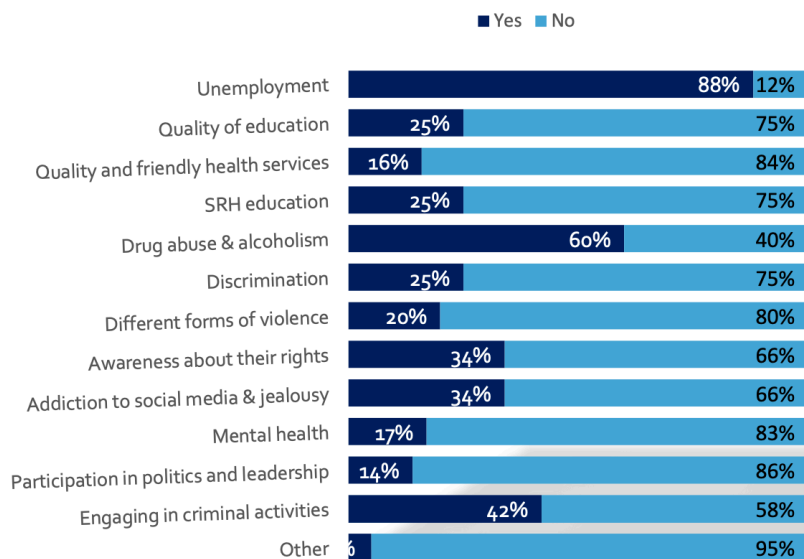


Figure 82: %Community stakeholder responses on key challenges youth face in the community

The Government should create a conducive environment for youth self-employment.'

Youth stakeholder - Pemba

Unemployment remained a key concern for youth in Zanzibar in 2023. The President's Office Labor, Economic Affairs and Investment reported in May 2023 that the rate of unemployment among youth had increased from 21.3% in 2014/2015 to 27.4% in 2020/2021.¹¹⁸⁰ In July 2023, the Minister of Agriculture, Irrigation, Natural Resources and Livestock, Hon. Shamata Shaame Khamis, urged youth to engage in agricultural activities as a way of curbing the problem of unemployment.¹¹⁸¹ Access to loans was also said to be a challenge for youth, especially those provided by the RGZ at council level.

Violence a key concern for youth

- As highlighted above, youth (children) aged 15-17 years constitute the majority of victims of sexual violence, especially rape.

1180 SERIKALI YA MAPINDUZI YA ZANZIBAR AFISI YA RAIS KAZI UCHUMI NA UWEKEZAJI HOTUBA YA MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 ILIYOSOMWA BARAZA LA WAWAKILISHI ZANZIBAR NA WAZIRI WA NCHI, AFISI YA RAIS, KAZI UCHUMI NA UWEKEZAJI MHE. MUDRIK RAMADHAN SORAGA (MBM), MEI, 2023 (supra).

1181 "Waziri ahimiza vijana kuchangamkia kilimo" Nipashe Newspaper, 26 Jul 2023.

5.5.3. Key Recommendations

- The RGZ, through the ministries responsible for youth, labour, and trade, to create more employment and economic opportunities for youth.
- The RGZ, through the ministry responsible for youth, to create more programmes for youth to impart in them employability skills to increase their chances of employment and better performance in the private sector.
- Youth to take advantage of existing youth economic empowerment programmes to become entrepreneurs instead of waiting for government employment (white collar jobs).

5.6. RIGHTS OF PERSONS LIVING WITH HIV

About the rights

- Protected under various international and regional instruments.
- Fundamental rights include right to non-discrimination and right to treatment.

In 2023, the main concern for persons living with HIV (PLHIVs) was stigma and discrimination.

5.6.1. Promotion and Protection of Rights of PLHIVs

In 2023, the RGZ continued to take various measures to promote and protect rights of PLHIVs, in collaboration with the Zanzibar AIDS Commission (ZAC). The measures included provision of HIV-related health services, including counselling and provision of antiretrovirals (ARVs).¹¹⁸² Various challenges in the health sector, discussed above, also affect provision of quality services to PLHIVs.

5.6.2. Key Issues and Challenges

For PLHIVs in Zanzibar, 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.

5.6.3. Key Recommendations

- The RGZ to take measures to address the problem of stigma and discrimination of PLHIVs, especially through public awareness-raising programmes.

¹¹⁸² SERIKALI YA MAPINDUZI YA ZANZIBAR, HOTUBA YA WAZIRI WA AFYA MHESHIMIWA NASSOR AHMED MAZRUI (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 KATIKA BARAZA LA WAWAKILISHI ZANZIBAR, JUNI 2023 (*supra*).



5.7. RECOMMENDATIONS

State actors

- 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 Ministry of Finance and Planning to increase budget for addressing GBV and VAC.
- 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.

Non-state actors

- 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

- 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.



CHAPTER SIX: HUMAN RIGHTS MECHANISMS

Human rights mechanisms comprise 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. Legal Framework

| Mechanisms | Legal Framework |
|---|---|
| Judiciary of Zanzibar | 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. |
| Commission for Human Rights and Good Governance | 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 1 st 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. |



| | |
|--|---|
| Tanzania Police Force | The Tanzania Police Force (TPF) is established under the Police Force and Auxiliary Services Act. ¹¹⁸³ Its main function is to protect citizens and their properties, ensuring there is peace in the community. |
| Institute of Education for Offenders (Chuo cha Mafunzo Zanzibar) | The Institute of Education for Offenders, popularly known as <i>Chuo cha Mafunzo Zanzibar</i> , was established under the Offenders Education Act, No.1 of 1980, which was amended in 2007 through the Offenders Education (Amendment) Act No. 3 of 2007. Its main objective is to correct criminal behaviour so that offenders become noble citizens upon release from the institute. |
| Office of Director of Public Prosecutions | <p>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 1984.¹¹⁸⁴</p> <p>This office performs its functions in accordance with the Constitution of Zanzibar of 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.</p> |
| Zanzibar Anti-corruption and Economic Crimes Authority | In 2011, the Revolutionary Government of Zanzibar (RGZ) 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. ¹¹⁸⁵ The Act establishes the Zanzibar Anti-Corruption and Economic Crimes Authority (ZAECA) operationalized in 2012 with a three-pronged mandate of Prevention, Education, and Investigations for both public and private sector. ¹¹⁸⁶ |
| The Law Review Commission of Zanzibar | Another National Human Right Mechanism in the country is Law Review Commission of Zanzibar (LRCZ). This commission 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. |

1183 Section 3 of the Police Force and Auxiliary Services Act, [CAP 322].

1184 1984 Section 56A

1185 See the Zanzibar Anti-Corruption and Economic Crimes Authority (ZAECA) website at <https://zaeca.go.tz/background.html>.

1186 Ibid.



6.1.2. Judiciary of Zanzibar

6.1.2.1. Mandate and Positive Action

Mandate

The Judiciary of Zanzibar has the 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.

The Court of Appeal of the United Republic of Tanzania has the mandate 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.¹¹⁸⁷

Positive Action

The Judiciary of Zanzibar continued carrying out its mandate of dispensation of justice in Zanzibar. It facilitated arraignment, prosecution, and sentencing of suspected offenders, ensuring the victims of crimes enjoy their rights to access to justice and access to remedy, which are fundamental human rights. It has also constructed a new court building in Tungua area to ensure better provision of court services and embraced the use of modern technology to enhance access to justice.

6.1.2.2. Key Issues and 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 judgements.
- Backlog of cases, contributed by shortage of judicial workers and delays in completing investigations.

6.1.3. Commission for Human Rights and Good Governance

6.1.3.1. Mandate and Positive Action

Mandate

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

¹¹⁸⁷ See Section 99 of the Constitution of Zanzibar (1984).



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.

Positive Action

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. CHRAGG continued 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.

6.1.3.2.Key Issues and Challenges

- Budgetary constraints: Like for most other government institutions, budgetary constraints are 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.
- Limited ability to reach many people and provide timely services.
- Low awareness about CHRAGG and its mandate among Zanzibaris.

6.1.4. Tanzania Police Force

6.1.4.1.Mandate and Positive Action

Mandate

Police mandate includes investigation of human rights violations, for instance arresting and taking to court perpetrators of violence against women and children or violators of right to life. Preventing crime includes raising awareness on crimes and criminal laws as well as road safety.

Positive Action

The Police Force 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.

6.1.4.2. Key Issues and Challenges

- Corruption.
- Shortage of police officers.
- Trumped-up charges/fabrication of cases.
- Delays in investigations.
- Poor working environment.
- Accessibility challenges for both police officers and residents, in some areas.

6.1.5. Institute of Education for Offenders (Chuo cha Mafunzo Zanzibar)

6.1.5.1. Mandate and Positive Action

Mandate

The institute has mandate to hold offenders convicted by courts of law in Zanzibar for the purpose of correcting their criminal behaviour. The correctional programmes are implemented in four key areas, namely: education, agriculture, livestock keeping, and industry.¹¹⁸⁸ Offenders are supposed to be trained and equipped to become better citizens or reformed.

Positive Action

The institute of Education for Offenders continued to provide correctional services to various offenders in Zanzibar correctional facilities. By doing this it also continued to protect other citizens from the criminal behaviour of the offenders.

6.1.5.2. Key Issues and Challenges

- Budgetary constraints.
- Some buildings at correctional facilities and houses of institute workers being in dilapidated conditions.
- Shortage of working tools and equipment.
- Overcrowding: This is mainly contributed by lengthy pre-trial detention. For instance, during the financial year 2022/2023, more detainees (1,825) were received in the correctional facilities in Zanzibar than convicted offenders (504).¹¹⁸⁹
- Shortage of institute workers.
- Failure to correct criminal behaviour of some offenders.

6.1.6. Office of Director of Public Prosecutions

6.1.6.1. Mandate and Positive Action

Mandate

¹¹⁸⁸ See CHUO CHA MAFUNZO ZANZIBAR at https://www.chuochamafunzohq.go.tz/Historia_ya_Mafunzo#.

¹¹⁸⁹ See SERIKALI YA MAPINDUZI YA ZANZIBAR HOTUBA YA WAZIRI WA NCHI, AFISI YA RAIS TAWALA ZA MIKOA, SERIKALI ZA MITAA NA IDARA MAALUM ZA SMZ MHESHIMIWA MASOUD ALI MOHAMMED (MBM) KUHUSU MAKADIRIO YA MAPATO NA MATUMIZI KWA MWAKA WA FEDHA 2023/2024 IMEWASILISHWA KATIKA BARAZA LA WAWAKILISHI ZANZIBAR MEI, 2023, at <https://www.zanzibarassembly.go.tz/storage/documents/Budgets/all/1684332929.pdf>.



The fundamental role of the DPP office is the administration of criminal cases by charging and prosecuting persons accused of crime. The DPP has constitutional powers to institute, prosecute, discontinue, and take over any criminal case in all courts in Zanzibar other than martial courts. 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 for educating members of society on matters relating to criminal justice.

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.

Positive Action

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.

6.1.6.2. Key Issues and Challenges

- Delays in police investigations.
- Shortage of staff.

6.1.7. Zanzibar Anti-corruption and Economic Crimes Authority

6.1.7.1. Mandate and Positive Action

Mandate

ZAECA has a three-pronged mandate of Prevention, Education, and Investigation for both public and private sector.¹¹⁹⁰ 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 the 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.

Positive Action

ZAECA continued to take various measures to prevent and address corruption, including awareness-raising and arrest and prosecution of perpetrators of corruption.

¹¹⁹⁰ Ibid.

6.1.7.2. Key Issues and Challenges

Despite the various government efforts to combat it, corruption is still a big problem, including in provision of social services. However, in 2023, Tanzania, including Zanzibar, jumped two places in the Corruption Perceptions Index to be ranked 87th from 94th in 2022, after scoring two more points.¹¹⁹¹

6.1.8. The Law Review Commission of Zanzibar

6.1.8.1. Mandate and Positive Action

Mandate

The main function of the Commission is to review the laws of Zanzibar and to propose necessary amendments to make sure that they respond timely to changes taking place in Zanzibar.

Positive Action

The Commission continued to carry out its mandate of reviewing various laws that are operational in Zanzibar. The commission has also been working with various CSOs, including ZAFAYCO, to address legal challenges and gaps in various laws.

6.1.8.2. Key Issues and 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.

6.1.9. Key Recommendations

- The RGZ to take measures to strengthen the national human rights mechanisms, taking into consideration the recommendations provided by the Presidential Commission on Criminal Justice Reforms.

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

¹¹⁹¹ See Transparency International's Corruption Perceptions Index 2023 at https://www.transparency.org/en/cpi/2023?gad_source=1&gclid=EAlalQobChMI8fnEyuOvhAMVPjcGAB29xgzBEEAYASAAEgKyFPD_BwE.



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. 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. Non-ratification of some key international and regional human rights instruments, including the UN Convention against Torture (CAT) and the African Charter on Democracy Elections and Governance (ACDEG) of 2007, is also a challenge.

6.2.3. Key Recommendations

- The Union Government and the RGZ 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 RGZ, through the Ministry of Constitution and Legal Affairs, to implement the recommendations accepted by Tanzania following the Universal Periodic Review (UPRC) process of 2021.

6.3. RECOMMENDATIONS

State actors

- 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.

Non-state actors

- 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.

Community members

- 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.



CHAPTER SEVEN: IMPLEMENTATION OF RECOMMENDATIONS

This chapter provides a brief status of implementation of recommendations made in the Zanzibar part of the Tanzania Human Rights Report for the period of 2016 to 2022.

7.1. OVERALL PICTURE

In 2023, the percentage of implemented recommendations stood at 14%. Percentage of partially implemented recommendations was 58%, while the percentage of recommendations not implemented stood at 28%.

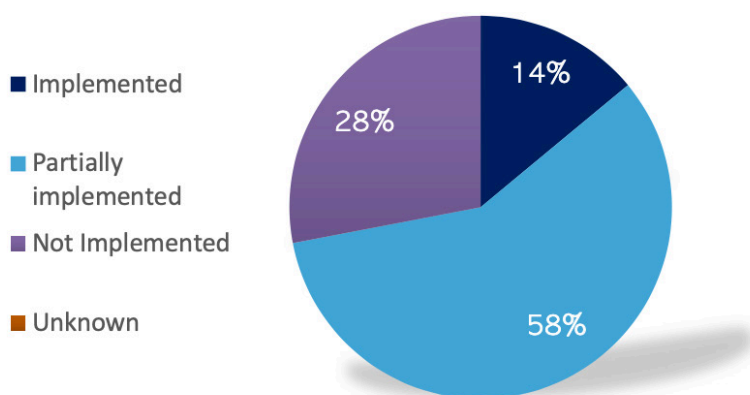


Figure 83: Status of implementation of THRR recommendations in Zanzibar (2016 – 2022)

Table 7 below shows the number of recommendations that were implemented (I), partially implemented (PI), not implemented (NI), and whose status is unknown (U).

Table 7: Status of recommendations of THRR in Zanzibar

| Human Rights Category | #Recommendations | I | PI | NI | U |
|---------------------------------------|------------------|---|----|----|---|
| Civil and Political Rights | 12 | 1 | 5 | 6 | 0 |
| Economic, Social, and Cultural Rights | 26 | 2 | 16 | 8 | 0 |
| Rights of Special Groups | 17 | 2 | 12 | 3 | 0 |

| | | | | | |
|--------------------|-----------|----------|-----------|-----------|----------|
| Other human rights | 12 | 4 | 6 | 2 | 0 |
| Total | 67 | 9 | 39 | 19 | 0 |

Majority of the recommendations made during this period (39%) were on economic, social, and cultural rights, followed by rights of special groups (25%), civil and political rights (18%), and other human rights (18%).

Call: To safeguard fundamental human rights, enhance social justice, and achieve sustainable development goals (SDGs), ZAFAYCO calls upon the Revolutionary Government of Zanzibar and other actors to fully implement recommendations which are not implemented and those which are partially implemented.

7.2. CIVIL AND POLITICAL RIGHTS RECOMMENDATIONS

During this reporting period, a total of 12 key recommendations on civil and political rights made in the Tanzania Human Rights Reports (Part Two) of years 2016 to 2022 were assessed to determine their status. Out of these, only 1 recommendation (8%) was found to be implemented, 5 were partially implemented, and the remaining 6 not implemented.

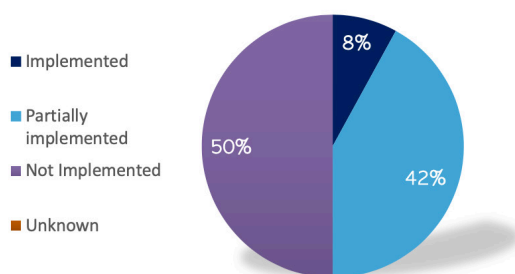


Figure 84: Status of civil & political rights THRR recommendations in Zanzibar (2016-2022)

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.
- 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.

Some of the key recommendations on civil and political rights which were



partially implemented include:

- 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 26 key recommendations on economic, social, and cultural rights made in the Tanzania Human Rights Reports of years 2016 to 2022 were assessed to determine their status. Out of these, only 2 recommendations have been implemented, while the majority, 16, have been partially implemented, and 8 recommendations have not been implemented.

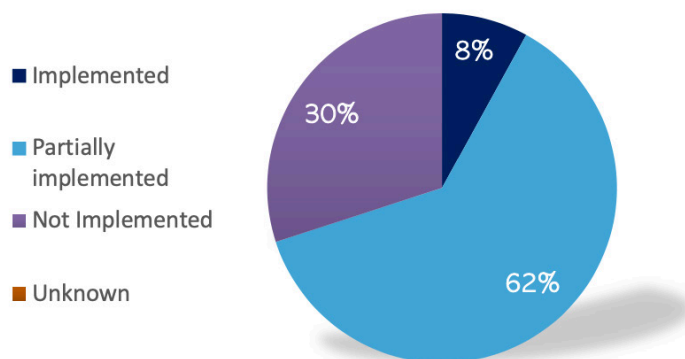


Figure 85: Status of THRR recommendations on economic, social, and cultural rights in Zanzibar (2016-2022)

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, health, and agriculture 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 SPECIAL GROUPS RECOMMENDATIONS

During this reporting period, a total of 17 key recommendations on rights of special groups made in the Tanzania Human Rights Reports of years 2016 to 2022 were assessed to determine their status. Out of these, only 2 recommendations have been implemented, while 12 have been partially implemented. A total of 3 recommendations were not implemented.

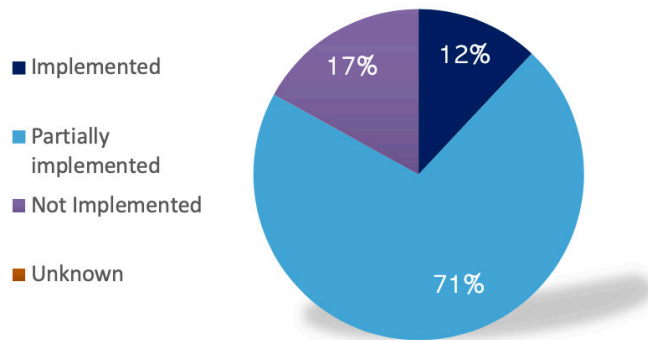


Figure 86: Status of THRR recommendations on rights of special groups in Zanzibar (2016-2022)

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 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.





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