

To Permanent Representatives of Member and Observer States of the United Nations Human Rights Council

13 May 2019

***Open letter to States on preventative engagement with, and action on, Tanzania at the Human Rights Council's 41<sup>st</sup> session***

Excellency,

**Ahead of the 41<sup>st</sup> regular session of the UN Human Rights Council (“the Council”), which will take place from 24 June-12 July 2019, we write to call on your delegation to deliver statements, both jointly and individually, and to engage in bilateral *démarches* to address the ongoing deterioration of the human rights situation in the United Republic of Tanzania.**

Since a group of 30 civil society organisations (CSOs) first addressed a letter on Tanzania to Council Members and Observers, in August 2018,<sup>1</sup> the space for human rights defenders (HRDs), civil society, journalists, bloggers, the media, LGBTI persons, and opposition and dissenting voices has continued to shrink. While we do not believe that at this point, the situation calls for a resolution, warning signs of a mounting human rights crisis exist.

In recent months, draconian legislation enacted since 2015 and legal and extra-judicial methods used to harass HRDs, threaten independent journalism, and restrict freedom of opinion and expression, peaceful assembly and association have been supplemented with measures that result in further closing the civic and democratic space in the country.<sup>2</sup>

Recent legislative, policy and practical developments have led to increased international and regional attention on Tanzania. The surge in the number, and strengthening of the wording, of statements delivered by the UN High Commissioner for Human Rights indicate that global concern is growing over the situation in the country, which for decades demonstrated a commitment to improving the human rights of all people, both nationally and within East Africa.

On 2 November 2018, UN High Commissioner for Human Rights Michelle Bachelet raised the alarm on the fact that “[I]esbian, gay, bisexual and transgender people [have] been subjected to growing violence, harassment and discrimination over the past two years.” She expressed concern over these steps, warning that they “could turn into a witch-hunt and could be interpreted as a licence to carry out violence, intimidation, bullying, harassment and discrimination against those perceived to be LGBT.”<sup>3</sup>

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<sup>1</sup> DefendDefenders *et al.*, “Tanzania: Open letter to States for joint action to address crackdown on civic space and prevent a further deterioration of the situation,” 16 August 2018, [https://www.defenddefenders.org/press\\_release/hrc39-address-crackdown-on-civic-space-in-tanzania/](https://www.defenddefenders.org/press_release/hrc39-address-crackdown-on-civic-space-in-tanzania/) (accessed 25 April 2019).

<sup>2</sup> *Ibid.*, and see below for recent developments. Relevant laws include the Electronic and Postal Communications Act (2010) and Online Content Regulations (2018), the Statistics Act (2015), the Cybercrimes Act (2015), the Media Services Act (2016), and the Access to Information Act (2016). See full analysis in DefendDefenders, “Spreading Fear, Asserting Control: Tanzania’s assault on civic space,” 26 June 2018, <https://www.defenddefenders.org/publication/spreading-fear-asserting-control-tanzanias-assault-on-civic-space/>, accessed 25 April 2018.

<sup>3</sup> Office of the UN High Commissioner for Human Rights (OHCHR), “Bachelet: Tanzania has duty to protect – not further endanger – LGBT people,” 2 November 2018, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23817&LangID=E> (accessed 25 April 2019).

On 4 February 2019, during an informal conversation Ms. Bachelet held with the Council President and Members, Ms. Bachelet raised concern about amendments to the Political Parties Act, stating: “Legislation passed by Tanzania’s Parliament last month sets up significant obstacles to the registration of political parties, and restricts them from carrying out basic activities like holding rallies and taking public stands on issues. This will clearly hamper prospects for free and fair elections in 2020.”<sup>4</sup>

Ms. Bachelet asked Council Members to “engage Tanzania bilaterally on its rights situation” and urged the country to “accept visits of the Special Rapporteurs to advise on measures to protect public freedoms and other human rights concerns,” citing legislative curbs on freedom of opinion and expression, attacks on several prominent civil society members and opposition figures, restrictions on women’s access to health, and an overall “climate [that] denies Tanzanians their rights.”

Since then, despite assurances provided by then Tanzanian Minister for Constitutional and Legal Affairs (now Foreign Minister), H.E. Mr. Palamagamba Kabudi, during the Council’s High-Level Segment,<sup>5</sup> the situation has continued to deteriorate. Further signs of serious backsliding include the NGOs Coordination Board’s decision, on 17 April 2019, to de-register six CSOs. As reported by Watetezi TV, the revocation is based on the claims that the organisations had purportedly violated national values, principles and regulations of NGOs and operated against their own constitutions. They include the Community Health Education Services and Advocacy (CHESA), Kazi Busara na Hekima (KBH Sisters), AHA Development Organization Tanzania, Pathfinder Green City, Hope and Others, and HAMASA Poverty Reduction (HAPORE).

On 25 April 2019, Dr. Wairagala Wakabi, the Executive Director of the Uganda-based Collaboration on International ICT Policy for East and Southern Africa (CIPESA), was detained, upon arrival, at Dar es Salaam Julius Nyerere International Airport. After hours of interrogation, Dr. Wakabi was deported back to Uganda as a “prohibited immigrant”. Lawyers reported that the authorities denied him entry into Tanzania on vague grounds of “national interest.”<sup>6</sup> CIPESA’s work in Tanzania and across Africa, advocates for human rights online.

Earlier, on 27 February 2019, the Information Services Department, which oversees newspaper licenses, temporarily suspended the publication license of *The Citizen* newspaper, on accusations that it had published reports that were “false,” “misleading,” and “seditious.” The suspension order cited, *inter alia*, a 22 July 2018 article on a statement by US Senator Bob Menendez, which pointed to the erosion of democracy in Tanzania. Tanzanian authorities alleged the article contained “falsehoods” and had “seditious intent” as defined in Article 52 of Tanzania’s Media Services Act.<sup>7</sup>

Meanwhile, the fate or whereabouts of journalist Azory Gwanda, who disappeared in November 2017, remain unknown, which further highlights the need for the establishment of protection mechanisms for journalists and HRDs in Tanzania.

The only recent, noticeable positive development is the 28 March 2019 judgment by the East African

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<sup>4</sup> See also Reuters, “Tanzania MPs grant government sweeping powers over political parties,” 30 January 2019, <https://www.reuters.com/article/us-tanzania-politics/tanzania-mps-grant-government-sweeping-powers-over-political-parties-idUSKCN1P00IA> (accessed 25 April 2019).

<sup>5</sup> Statement available on the HRC webcast, <http://webtv.un.org/search/tanzania-high-level-segment-5th-meeting-40th-regular-session-human-rights-council/6007149576001/?term=kabudi&sort=date> (accessed 25 April 2019).

<sup>6</sup> CIPESA, “CIPESA Executive Director Detained At Tanzania Airport – UPDATE,” 25 April 2019, <https://cipesa.org/2019/04/cipesa-executive-director-detained-at-tanzania-airport/> (accessed on 1<sup>st</sup> May 2019).

<sup>7</sup> Committee to Protect Journalists, “Tanzania imposes 7-day publication ban on The Citizen,” 1<sup>st</sup> March 2019, <https://cpi.org/2019/03/tanzania-citizen-7-day-publication-ban.php> (accessed on 1st May 2019).

Court, which ruled that Sections 7(3)(a), (b), (f), (g), (h), (i) and (j); 19, 20 and 21; 35, 36, 37, 38, 39 and 40; and 58 and 59 of the abovementioned Media Services Act violate the Treaty for the Establishment of the East African Community. The Court directed the Tanzanian Government to take such measures as necessary to bring the Media Services Act into compliance with the Treaty.<sup>8</sup> This judgment offers a ray of hope in regional and international mechanisms as avenues for ensuring respect for human rights in Tanzania.

Building on these steps, we call on your delegation to make use, at the Council's 41<sup>st</sup> session, of the following agenda items to raise concern over Tanzania, both jointly and in your national capacity:

- **General debate (GD) under item 2**, following the High Commissioner's update;
- **GD under item 3**, in relation to the report of the High Commissioner on the work of OHCHR in the implementation and enhancement of international cooperation in the field of human rights and in relation to cooperation with special procedures;
- **GD under item 4**;<sup>9</sup>
- **GD under item 10**;<sup>10</sup> and
- **Interactive dialogues (IDs) with:**
  - the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,
  - the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and
  - the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.

Specifically, your delegation could encourage the Tanzanian Government to set a date for special procedure visits, starting with the visit of the Special Rapporteur on peaceful assembly and association, whose visit request has been agreed in principle in 2018 and in line with the statements delivered by the Tanzanian delegation at the Council's 39<sup>th</sup> session.<sup>11</sup>

Additionally, bilateral engagement in multilateral fora such as the Council and at the embassy level, in Tanzania, should be used to raise relevant issues with the Government.

**The options outlined in the present letter fit in a form of preventative engagement the Council has been seeking to promote as it works towards operationalizing its "prevention mandate." The 41<sup>st</sup> session should be leveraged to help prevent a further deterioration of the human rights situation in Tanzania.**

We thank you for your attention to these pressing issues and stand ready to provide your delegation with further information.

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<sup>8</sup> East African Court of Justice, First Instance Division, Reference No.2 of 2017, Media Council of Tanzania, Legal and Human Rights Centre Tanzania Human Rights, and Defenders Coalition vs. The Attorney General of the United Republic of Tanzania, 28 March 2019, available at: <http://eaci.eac.int/wp-content/uploads/2019/03/Referene-No.2-of-2017.pdf> (accessed 24 April 2019).

<sup>9</sup> Although we do not believe that, at this point, Tanzania deserves to be considered under the same item as countries with some of the gravest human rights records, a diplomatically-worded statement under item 4, which would refer to the need for Tanzania to engage in dialogue and cooperation and to take corrective action before the situation calls for a more robust multilateral response, could make a useful contribution to sending the Government the right message.

<sup>10</sup> Tanzania should be encouraged to accept advisory services to review and amend its legislation in order to bring it in line with its constitutional and international obligations, as well as to review and amend policies and practices, in particular those of law enforcement officials and regulatory authorities working with civil society and the media.

<sup>11</sup> In a statement delivered under item 3 (GD), on 14 September 2018, Tanzania stated: "The United Republic of Tanzania remains fully committed to the promotion and protection of human rights in the country and globally. We call upon the International Community to continue supporting us in this endeavour." In a right of reply the Tanzanian delegation exercised on 11 September 2018, under item 2, Tanzania addressed a series of concerns that had been expressed over its domestic situation and pledged to "continue working diligently to improve its human rights situation" (full statements available on the HRC extranet).

Sincerely,

1. African Defenders (the Pan-African Human Rights Defenders Network)
2. African Freedom of Expression Exchange (AFEX)
3. Amnesty International
4. ARTICLE 19
5. Asian Forum for Human Rights and Development (FORUM-ASIA)
6. Association for Human Rights in Ethiopia (AHRE) – Ethiopia
7. Association for Progressive Communications (APC)
8. Center for Civil Liberties – Ukraine
9. Central Africa Human Rights Defenders Network (Réseau des Défenseurs des Droits Humains en Afrique Centrale – REDHAC)
10. The Centre for Peace and Advocacy (CPA) – South Sudan
11. CIVICUS
12. Civil Rights Defenders
13. Collaboration on International ICT Policy for East and Southern Africa (CIPESA)
14. Committee to Protect Journalists
15. Commonwealth Human Rights Initiative
16. DefendDefenders (the East and Horn of Africa Human Rights Defenders Project)
17. Geneva for Human Rights / Genève pour les Droits de l'Homme
18. Human Rights Defenders Network – Sierra Leone
19. Human Rights Watch
20. International Commission of Jurists
21. International Federation for Human Rights (FIDH)
22. International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)
23. International Service for Human Rights
24. The International Youth for Africa (IYA) – South Sudan
25. JASS (Just Associates)
26. Legal and Human Rights Centre (LHRC)
27. Ligue burundaise des droits de l'homme ITEKA – Burundi
28. MARUAH – Singapore
29. The Network of South Sudan Civil Society Organizations in Uganda (NoSSCOU)
30. The Nile Centre for Human Rights (NCHR – South Sudan)
31. Odhikar – Bangladesh
32. The ONE Campaign
33. Southern Africa Human Rights Defenders Network (SAHRDN)
34. Reporters Without Borders
35. Robert F. Kennedy Human Rights
36. Tanzania Human Rights Defenders Coalition (THRDC)
37. West Africa Human Rights Defenders Network (ROADDH/WAHRDN)
38. World Organisation Against Torture (OMCT)