LAWFARE: REPRESSION BY LAW AHEAD OF TANZANIA'S GENERAL ELECTIONS

AMNESTY INTERNATIONAL

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Cover photo: *A Police officer speaking to supporters of Tanzania's Chadema main opposition party after the state-run television (TBC) cuts off the live broadcasting of party's opening election campaign for the October election at Mbagala Zakhem in Dar es Salaam, Tanzania, on August 28, 2020. © Amnesty International*

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GLOSSARY

WORD	DESCRIPTION
ACT-WAZALENDO	Alliance for Change and Transparency
AU	African Union
BAVICHA	Baraza la Vijana wa Chadema
BBC	British Broadcasting Corporation
EAC	East African Community
CCM	Chama Cha Mapinduzi
CHADEMA	Chama cha Demokrasia na Maendeleo
COSTECH	Commission for Science and Technology
CPJ	Committee to Protect Journalists
CUF	Civic United Front
DPP	Director of Public Prosecutions
EACJ	East Africa Court of Justice
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic and Social Cultural Rights
IDC	Inclusive Development for Citizens
IMF	International Monetary Fund
LHRC	Legal and Human Rights Centre
MP	Member of Parliament
NCCR-MAGEUZI	National Convention for Constructions and Reform
NLD	National League for Democracy
NEC	National Electoral Commission
NGO	Non-Governmental Organization
OAU	Organization for African Unity
RFA	Radio Free Africa
SADC	Southern Africa Development Authority
TEC	Tanzania Episcopal Conference
TCF	Tanzania Constitution Forum

TCRA	Tanzania Communications Regulatory Authority
THRDC	Tanzania Human Rights Defenders Coalition
TPF	Tanzania Police Force
WHO	World Health Organization
UN	United Nations
ZEC	Zanzibar Electoral Commission

1. EXECUTIVE SUMMARY

Tanzania has been independent since 1961 with President John Magufuli as the country's fifth president, elected into office in October 2015.

On 28 October 2020, Tanzanians go to the polls in general elections. Under President Magufuli's administration, the state has used a raft of repressive laws to restrict the rights to freedom of expression, peaceful assembly and association – online and offline. This report shows how from January to September 2020 the government has ramped up this repression against political opposition parties, critical media outlets, non-governmental organizations (NGOs) and human rights defenders and activists. The repression has had a chilling effect on debate. It will constrain civic engagement and prevent scrutiny of the authorities' human rights record, including in the context of the elections.

Following on from Amnesty International's October 2019 report, *The Price We Pay – Targeted for Dissent by the Tanzanian State*, these two reports show how the human rights situation has deteriorated over the last five years. Frequent changes to laws, and the regulations that give effect to them, make it hard to keep up with Tanzania's ever shifting legal landscape. Cumulatively, such changes have significantly eroded the rule of law and undermined respect for human rights, as incumbent President Magufuli runs for his second and final constitutional term of office.

Before the start of the election campaign period, opposition politicians faced arbitrary arrest and detention, as police applied public assembly laws in a selective and partisan way. Opposition activities continue to be severely restricted, while politicians from the ruling Chama cha Mapinduzi (CCM) party and public officials disregard the same law and operate freely. In a positive step, Tundu Lissu, a leading opposition leader, was able to return from exile in July 2020 to stand as presidential candidate for the Chadema opposition party. He had previously fled the country in 2017 after an attempted assassination. However, opposition politicians continue to report physical attacks and the police's failure to promptly, thoroughly, transparently and effectively investigate these means that Tanzania's elections take place amidst an escalating crackdown on human rights and repression of opposition leaders and candidates, who continue to fear for their safety and security.

In the lead-up to the elections, NGOs perceived to be critical of the government have been threatened with suspension, suspended or denied clearance to conduct election-related activities. NGOs face the dilemma of disclosing extensive details about their activities and funding, potentially compromising human rights work and staff security, or risking deregistration. Some have scaled back work and are self-censoring. This will reduce scrutiny of the authorities' human rights record, including ahead of the elections.

Tanzania's government has also cracked down on media freedom, including in the context of the authorities' response to the COVID-19 pandemic. They have suspended media outlets, limiting the public's right to information, and exerting a chilling effect on the right to freedom of expression and media freedom. In a further attempt to restrict human rights in the context of the elections, foreign journalists must now be accompanied by a government minder when carrying out their official duties and political parties have been warned that meeting foreign diplomats may violate laws governing political parties.

Reducing avenues for civic organizing, access to information, and the right to freedom of peaceful assembly before, during and after the elections, revised internet regulations now criminalize planning or supporting protests "which may lead to public disorder". These sweeping and overly broad provisions hold internet users responsible for the conduct of protests, even if they do not directly participate, which would dissuade people from online activism.

This report is based on 29 telephone interviews including with affected persons and their families, lawyers, politicians, journalists, and representatives of NGOs conducted remotely between 20 April and 28 September 2020 and reviews of videos, photographs, official statements, court documents and media reports. On 2 October 2020, Amnesty International sent letters to the Attorney General, Minister of Constitutional Affairs and Justice and the Minister of Home Affairs requesting official responses to the

specific concerns that we investigated regarding the extent to which Tanzanian authorities have used legal and administrative restrictions to undermine respect for human rights enshrined in the Constitution of Tanzania and regional and international human rights law, as the country heads towards its general election in October 2020. At the time of writing, Amnesty International had received no response to the letters sent to the government officials.

Ahead of the forthcoming elections, Amnesty International calls on the authorities to respect, protect, promote and fulfil the human rights of everyone including the rights to freedom of expression, association, peaceful assembly and movement. The authorities must end arbitrary arrests of opposition politicians, allow media outlets and NGOs to operate freely, and permit independent observers to monitor and speak out about human rights issues. It is also essential that the government ensures accountability for election-related human rights violations, as part of a broader human rights reform to turn the page on the government's increasing repression and crackdown on the civic space.

Amnesty International urges the international community including the United Nations (UN), African Union (AU), Southern African Development Community (SADC) and East African Community (EAC) to put pressure on the Tanzanian authorities to respect, protect, promote and fulfil human rights before, during and after the elections, including by publicly speaking out against human rights violations and abuses and raising concerns about these violations and abuses in their engagement with the government.

The UN and Tanzania's development partners have been relatively muted on the human rights situation in Tanzania, and must increase their engagement, publicly and privately, at this critical juncture.

2. METHODOLOGY

Amnesty International conducted research for this report between January and September 2020. Unable to travel to Tanzania due to restrictions caused by the COVID–19 pandemic, Amnesty International researchers conducted 29 telephone interviews. Amnesty International interviewed eight politicians, six media workers, six representatives of NGOs, four lawyers, three human rights defenders and activists and two former detainees. Interviews were conducted in English and Kiswahili without interpretation.

Amnesty International also carried out extensive desk research reviewing video footage, photographs, official statements and media reports. All visual materials were reviewed by Amnesty International's Digital Verification Corps. The verification methodology checked for the capture date and in cases where the footage was uploaded, the review involved verifying the upload date to social media, geolocating the content and checking for corroborating evidence. Any ambiguous results were subjected to further specialist analysis.

On 2 October 2020, Amnesty International sent letters to the Attorney General, Minister of Constitutional Affairs and Justice and the Minister of Home Affairs requesting official responses to the specific concerns that we have investigated.

All interviewees gave consent to use their information. Where interviewees were concerned about fear of reprisals, their names and other identifying information have been omitted to protect their identity and safety.

3. BACKGROUND

3.1 POLITICAL AND LEGISLATIVE FRAMEWORK FOR TANZANIA AND ZANZIBAR

The United Republic of Tanzania comprises Tanzania Mainland (formerly known as Tanganyika) and Zanzibar. Zanzibar, an archipelago,[1] is part of the Republic with semi-autonomous status, having its own constitution, legislative, executive and judicial institutions to regulate non-union matters concerning the entire country.

Before Tanganyika's independence in 1961 and Zanzibar's 1964 revolution, Tanganyika had a multiparty system of politics. After 1964, Tanzania adopted a single party-political system. Multi-party politics were reintroduced in 1992, but CCM has been in power since it was founded in 1977, making Tanzania a multi-party state that has only had one ruling party. Currently, there are more than 20 political parties. The main opposition parties include Party for Democracy and Progress, known as Chama cha Demokrasia na Maendeleo[2] (abbreviated as Chadema), Civic United Front (CUF), known as Chama cha Wananchi,[3] Alliance for Change and Transparency (ACT), known as Umoja wa Mabadiliko na Uwazi[4], also popularly referred to as ACT-Wazalendo, the National Convention for Construction and Reform (NCCR-Mageuzi[5]) and the National League for Democracy (NLD).[6]

Tanzania and Zanzibar's elections are based on a simple majority vote. In the mainland, voting is for the President of the Union, National Assembly members (members of parliament)[7] and Local Council members. In Zanzibar, voting is for the President of Zanzibar, House of Representative members, the President of the Union, National Assembly members and Local Council members.

The President of the Union is the President of Tanzania. The Union President and National Assembly members are elected for five-year terms with the President having a maximum of two terms constitutionally. The President of Zanzibar and members of the Zanzibar House of Representatives[8] are also elected for five-year terms.

Both the Tanzanian and Zanzibari constitutions require a minimum of 30 percent women in the National Assembly and the Zanzibar House of Representatives. Seats reserved for women are allocated to political parties on a proportional basis.

The National Electoral Commission (NEC)'s role is to supervise and coordinate voter registration and the conduct of presidential and parliamentary (National Assembly) elections in the United Republic of Tanzania and councillors' elections in Tanzania mainland. The Zanzibar Electoral Commission (ZEC)'s role is to supervise and coordinate voter registration and the conduct of presidential (the President of Zanzibar only), parliamentary (House of Representative) and councillors' elections in Zanzibar. According to the NEC, 29,188,347 voters have been registered to vote, with 80,155 polling centres across the country.[9] At the time of writing, the NEC had not published the final voter registry.

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[1] Mainly, Unguja but popularly referred to as Zanzibar, Pemba Island, Changu Island and Mnemba Island.
[2] Official English to Kiswahili translation.
[3] Official English to Kiswahili translation.
[4] Official English to Kiswahili translation.
[5] Kiswahili word for reforms. Unofficial Amnesty International translation from English to Kiswahili.
[6] Kiswahili word for 'patriot'. Unofficial Amnesty International translation from English to Kiswahili.
[7] The National Assembly is composed of 264 single-member constituencies, of which 214 are on the mainland and 50 are in Zanzibar.
[8] There are 50 single-member constituencies in the Zanzibar House of Representatives.
[9] NEC, Jamhuri ya Muungano wa Tanzania, Tume ya Taifa ya Uchanguzi, available at www.nec.go.tz/

3.2 PRESIDENT MAGUFULI'S FIRST TERM

President Magufuli was declared the winner of the October 2015 presidential election with 58 percent of the vote compared to Edward Lowassa of the Coalition of the People's Constitution (Ukawa)'s 40 percent. Edward Lowassa had left CCM to join the opposition Chadema party after not making it through the CCM presidential primary. CCM won a majority of parliamentary seats.[10] The CCM has been characterized as an "umbrella party" with "many opinions and even ideologies" within it.[11] In the three years after the 2015 elections, over a hundred political opposition members, including members of parliament (MPs), councillors, and other party leaders defected to CCM.[12]

Initially lauded for his bold anti-corruption statements, economic development and infrastructure plans, President Magufuli's autocratic credentials became visible early on.[13] Using their parliamentary majority, Magufuli's administration has passed a raft of repressive legislation exerting an alarming level of control over the country's politics and society. A July 2016 blanket ban on political rallies until the 2020 election campaigns has been selectively applied against opposition parties whose leaders have faced intimidation, harassment, arbitrary arrest and prosecution on trumped-up charges.[14] The judiciary has been weakened through executive appointments and without independent parliamentary vetting giving way to several politically motivated trials.[15] The 2016 Media Services Act enhanced censorship muzzling the media through suspension and closure of media outlets for reporting on allegations of corruption and human rights violations.[16] The 2018 Online Content Regulations and the 2015 Cybercrimes Act gave Tanzania's government sweeping and overly broad powers to police the internet, leading people to self-censor online.[17] New NGO laws, together with the 2015 Statistics Act which limits the rights to freedom of expression, association and peaceful assembly have subdued civil society and severely restricted the civic space.[18] Cumulatively, these changes have significantly eroded the rule of law and undermined respect for human rights.

As elections approach, opposition parties allege that hundreds of their candidates have been unfairly disqualified.[19] In Pemba Island, one of Zanzibar's islands, authorities have deployed a heavy contingent of military and anti-riot police amidst rising discontent around issuance of voter identification cards.[20] Opposition party leaders have accused the ZEC of reluctance to issue voter identification cards to qualified voters in opposition party strongholds in Zanzibar.[21] The 2015 elections in Zanzibar ended in a stalemate and violence between members of the public and security forces following the annulment of elections by the ZEC.[22]

President Magufuli strongly opposes foreign influence on Tanzania's socio-economic development. He is not the first Tanzanian president to do so. President Julius Nyerere, the country's first President, fought hard to curb western influence, including through resisting pressure from the International Monetary Fund (IMF) to embark on economic structural adjustment plans[23] which negatively impacted the rights to health and

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[10] Inter-Parliamentary Union, United Republic of Tanzania, available at www.archive.ipu.org/parline-e/reports/2337_E.htm
[11] Elsie Eyakuze, "Passing the Baton", *The Ballot*, 17 September 2020, available at www.theballot.world/articles/tanzania2.
[12] *The Citizen*, "One more CHADEMA MP decamps to CCM, as wave of defection continues," 7 October 2018, available at www.thecitizen.co.tz/News/One-more-Chadema-MP-decamps-to-CCM-/1840340-4795768-1ahlhx/index.html.
[13] Chrispin Mwakideu, "Magufuli's 'bulldozing' leadership questioned", *Deutsche Welle*, 1 July 2016, available at www.dw.com/en/magufulis-bulldozing-leadership-questioned/a-19371737
[14] Amnesty International, *The Price We Pay – Targeted for Dissent by the Tanzanian State* (hereinafter *The Price We Pay*), 28 October 2019 (AFR 56/0301/2019), available at www.amnesty.org/download/Documents/AFR5603012019ENGLISH.pdf, p. 6
[15] Africa Centre for Strategic Studies, "Once a Beacon of Hope, Tanzanians Now Resist Growing Authoritarian", 8 September 2020, available at www.africacenter.org/spotlight/once-a-beacon-of-hope-tanzanians-now-resist-growing-authoritarianism/. For more on the prioritization of the executive branch of government and the compromised judiciary see Elsie Eyakuze, "Passing the Baton".
[16] Amnesty International, *The Price We Pay*, p. 11.
[17] Amnesty International, *The Price We Pay*, p. 6.
[18] Amnesty International, *The Price We Pay*, p. 27; Human Rights Watch, "As Long as I am Quiet, I am Safe" – Threats to Independent Media and Civil Society in Tanzania, 28 October 2019, available at www.hrw.org/report/2019/10/28/long-i-am-quiet-i-am-safe/threats-independent-media-and-civil-society-tanzania#_ftn10
[19] Iddi Uwesu, "Tanzanian Opposition Parties Allege Candidates Have Been Unfairly Disqualified", Voice of America, 27 August 2020, available at www.voanews.com/africa/tanzanian-opposition-parties-allege-candidates-have-been-unfairly-disqualified
[20] Amnesty International five telephone interviews with opposition party officials and analysis of video clips, September 2020
[21] Amnesty International five telephone interviews with opposition party officials, September 2020.
[22] BBC, Coronavirus: John Magufuli declares Tanzania free of Covid-19, 8 June 2020, available at www.bbc.com/news/world-africa-52966016.
[23] Electoral Institute for Sustainable Democracy in Africa (EISA), African Democracy Encyclopedia Project: Tanzania: Failure of Ujamaa (1976-1986), September 2020, available at www.eisa.org/wep/tanoverview9.htm

education in many other countries.[24] However, President Magufuli's reluctance to engage with international actors has often reflected his government's reticence towards human rights and his predilection with enforcing his ideas of morality. Despite international pressure, President Magufuli's June 2017 decision that pregnant schoolgirls cannot return to school has become government policy.[25] In March 2020, at the start of the COVID-19 pandemic, Tanzania defied World Health Organization (WHO) guidelines, including by minimising the risks of COVID-19. The government proceeded to stop publishing data on COVID-19 cases on 29 April 2020 and President Magufuli then declared Tanzania COVID-19 free on 5 June 2020.[26] On 16 September 2020, Tanzania's Minister of Foreign Affairs dismissed a 14 September 2020 statement from the UN High Commissioner for Human Rights[27] highlighting Tanzania's deteriorated human rights environment ahead of the elections as being influenced by a biased agenda from western states. [28]

Regionally too, under President Magufuli's administration, Tanzania has increasingly opted out of multilateral engagement and the normative pan-African values that underpin it, running counter to the CCM's pan-African roots and solidarity. Previously, Tanzania under former President Nyerere, one of the founders of the Organization of African Union (OAU), had extended solidarity to several African liberation movements. [29] Marking a transition from pan-African "liberation diplomacy" to "economic diplomacy" rooted in nationalism, President Magufuli has favoured bilateral regional engagement focused on infrastructure projects, such as the Tanzania-Uganda Oil Pipeline and Standard Gauge Railway.[30] Tanzania is no longer an active participant in the AU or the EAC and the SADC, key regional economic communities in which Tanzania has previously shown strong membership, if not leadership. Under President Magufuli, the Tanzanian government has failed to comply with several East African Court of Justice (EACJ) rulings.[31] President Magufuli has not attended some SADC meetings,[32] even during his chairpersonship between August 2019 and August 2020. In another blow to regional bodies, human rights and access to justice in December 2019, Tanzania withdrew its declaration to the African Court on Human and Peoples' Rights thereby blocking direct access of individuals and NGOs to the Arusha-based Court.[33]

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[24] World Bank Group, "World Bank's Experience with Structural Reforms for Growth and Development: MFM Discussion Paper No. 11", May 2016, pp. 5 – 6.
[25] Human Rights Watch, "Tanzania: Q and A on Ban on Pregnant Girls and World Bank Education Loan", 24 April 2020, available at www.hrw.org/news/2020/04/24/tanzania-q-ban-pregnant-girls-and-world-bank-education-loan
[26] BBC, Coronavirus: John Magufuli declares Tanzania free of Covid-19, 8 June 2020, available at www.bbc.com/news/world-africa-52966016
[27] UN Office of the High Commissioner for Human Rights (OHCHR), 45th session of the Human Rights Council
Item 2: Global Human Rights Update, Statement by Michelle Bachelet, UN High Commissioner for Human Rights, 14 September 2020, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26226&LangID=E
[28] Tanzania Minister of Foreign Affairs Palamagamba Kabudi, speaking on BBC News, Swahili, 16 September 2020, available at www.bbc.com/swahili/habari-54172653
[29] Nyerere Centre for Peace Research, About Nyerere, available at www.juliusnyerere.org/about
[30] Sabatho Nyamsenda, *Bulldozing like a fascist? Authoritarian populism and rural activism in Tanzania*, Emancipatory Rural Politics Initiative (ERPI), March 2018, available at www.tni.org/files/article-downloads/erpi_cp_78_nyamsenda.pdf, p. 7; Khalifa Said and Ephrahim Bahemu, "President Magufuli out to leave mega projects legacy," 6 November 2018, available at www.thecitizen.co.tz/news/President-Magufuli-out-to-leave-mega-projects-legacy/1840340-4838814-dbnbu0z/index.html
[31] Amnesty International, *The Price We Pay*, p. 17.
[32] Social Science Research Council, The Waning Foreign Policy Influence of Tanzania under President Magufuli, 26 March 2019, available at www://kujenga-amani.ssrc.org/2019/03/26/the-waning-foreign-policy-influence-of-tanzania-under-president-magufuli/
[33] Amnesty International, "Tanzania: Withdrawal of individual rights to African Court will deepen repression", 2 December 2019, available at www.amnesty.org/en/latest/news/2019/12/tanzania-withdrawal-of-individual-rights-to-african-court-will-deepen-repression/

4. REPRESSION OF POLITICAL OPPOSITION

Before the official election campaign period, opposition politicians faced intimidation, harassment, arbitrary arrest and detention, as police applied public assembly laws in a selective and partisan manner. The authorities are restricting opposition activities while allowing CCM politicians to meet unhindered. CCM politicians and public officials have continued carrying out political activities, including promotional messages in favour of the party at the launch of government projects.[34] Amnesty International has not been able to identify any cases of CCM members arrested for organizing alleged illegal assemblies or processions during the first term of President Magufuli.[35]

A supporter of Tanzania's ruling party Chama Cha Mapinduzi (CCM) holds a sign during the official launch of the party's campaign for the October general election at the Jamhuri stadium in Dodoma, Tanzania, on August 29, 2020. © ERICKY BONIPHACE/AFP via Getty Images

In a positive step, Tundu Lissu was able to return from exile in July 2020 to stand as presidential candidate for the opposition party, Chadema. He had previously fled the country after being shot by unidentified assailants in September 2017 in an assassination attempt. However, in the lead-up to elections, opposition politicians continued to report physical attacks, including abductions and beatings, which have not been thoroughly, impartially and effectively investigated.

[34] Five video clips showing public officers engaging in politics between 24 July 2016 and 26 August 2020, including a June 2020 video clip showing former Regional Commander, Paul Makonda meeting CCM party youth to launch a song he sang for the party, 13 June 2020 available at www.youtube.com/watch?v=YnZcFbQcQ3U

[35] Amnesty International ongoing monitoring of the situation in Tanzania and interviews with three journalists, 23 September 2020.

4.1 THREATS TO POLITICAL OPPOSITION

Al Jazeera reported that unidentified assailants attacked Freeman Mbowe, Chadema party's chairperson and member of parliament for Hai, on 8 June 2020, in what Chadema termed "a politically-motivated" attack.[36] Freeman Mbowe told Amnesty International that he was attacked around midnight as he headed home in the capital, Dodoma, and was immediately taken to hospital where he was admitted for a week and treated, including for a broken leg.[37] A few days before the incident, Freeman Mbowe had accused the government of trying to cover up the extent of COVID-19 in Tanzania and failing to take the pandemic seriously.[38] Following the incident, Dodoma's Regional Police Commander told reporters in a press conference that the police would investigate the case.[39] Three days later, the Tanzania Police Force (TPF) issued a statement dismissing Freeman Mbowe's reported attack, alleging that he was drunk on arrival at the hospital, and speculating that he may have come from a bar.[40] While it has not been possible for Amnesty International to verify these details, the police's dismissal of Freeman Mbowe's claims without explanation of his injuries calls into question the credibility of their investigation.

Chadema main opposition party presidential candidate in Tanzania, Tundu Lissu, speaks during the opening of party's election campaign for the October election at Mbagala Zakhem in Dar es Salaam, Tanzania, on August 28, 2020 © Amnesty International

On 14 August 2020, video footage shows a mob of people attacking the entourage of Tundu Lissu and Freeman Mbowe in Hai district, Kilimanjaro region, north-eastern Tanzania where Tundu Lissu had gone to fundraise for his presidential campaign.[41] Their vehicles were badly damaged with stones but no one was reported injured from the incident. In a media interview five days later, Kilimanjaro's Regional Commissioner, a public officer responsible for securing the maintenance of law and order in the region including Hai District, said she had asked the Hai District Commissioner to provide her with an explanation of the events

[36] Al Jazeera, "Tanzania opposition leader attacked months before the elections", 9 June 2020, available at www.aljazeera.com/news/2020/06/tanzania-opposition-leader-attacked-months-elections-200609104715758.html
[37] Amnesty International interview with Freeman Mbowe, 22 June 2020.
[38] Massare, A. (2020), "Mbowe Outlines Suggestions for Virus Fight," 30 April 2020, available at www://allafrica.com/stories/202004300371.html
[39] Statement from Dodoma Regional Police Commander, Giles Muroto, 9 June 2020, on file with Amnesty International.
[40] Statement by Tanzania Police Force spokesperson, Senior Assistant Commissioner of Police (SACP), David Misime, 12 June 2020, on file with Amnesty International.
[41] Video clip showing the attack, on file with Amnesty International.

that led up to the attacks and demanded investigations.[42] On 23 August 2020, the Regional Police Commander stated to the media that the police had arrested 12 people in connection with the incident.[43]

By failing to promptly, thoroughly, impartially, transparently and effectively investigate allegations of attacks against opposition politicians and prosecute those suspected to be responsible, and with Tundu Lissu's attempted assassination still looming large over politics, Tanzania's elections will take place in a tense atmosphere and in the context of increasing repression where opposition leaders and candidates fear for their safety and security.

4.2 ARBITRARY ARRESTS OF POLITICAL OPPOSITION MEMBERS

Opposition politicians have been intimidated, harassed, arbitrarily arrested and briefly detained on spurious grounds constraining their ability to freely meet each other and their supporters ahead of elections.

President Magufuli placed a blanket ban on political parties organizing political activities and rallies on 24 June 2016 until the 2020 election period. Under the ban, politicians were only authorized to hold activities in their respective constituencies.[44] Police have applied this and public assembly laws in selective and partisan ways to restrict opposition gatherings, while allowing CCM politicians to meet freely.[45] The ban remains in force but has since partially been superseded by the 21 July NEC directives scheduling presidential and vice-presidential campaigns from 26 August to 27 October.[46] Candidates have submitted their campaign plans to the NEC, including the dates and times that they will be in specific locations.[47]

On 23 June 2020, police arrested Zitto Kabwe, leader of opposition party, ACT-Wazalendo, in Kilwa region, southern Tanzania, along with seven other party members, Shaweji Mketo, Ishaka Mchinjita, Abubakar Kama, Suleiman Bungala, Swaleh Mketo, Mahadhi Nang'ona and Akida Mawanja.[48] According to Zitto Kabwe, they were arrested on allegations of "unlawful assembly" while attending an internal party meeting which he says the police told them was "illegal".[49] They were released the following day on bail.[50] According to an ACT-Wazalendo party statement, the police did not provide them with particulars of the offence.[51] Tanzanian law does not require authorisation for internal political party meetings. However, the police have arbitrarily implemented President Magufuli's ban on political activities selectively targeting opposition parties.[52]

On 6 July 2020, police arrested Nusrat Hanje, Secretary General of Chadema's national youth wing, known as Baraza la Vijana wa Chadema (BAVICHA)[53], the party's mobilization coordinator, Twaha Mwaipaya, and

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[42] Kilimanjaro Regional Commissioner, Anna Mghwira, recorded speaking to the press, 19 August 2020, available at www.youtube.com/watch?v=1L2avgHBB8c
[43] Kilimanjaro Regional Police Commander, Emmanuel Lukula, recorded speaking to the press, 23 August 2020, available at www.youtube.com/watch?v=BiRiqSp64gY
[44] MCL Digital, "Mikutano ya Hadhara na Maandamano, Vigogo CCM Wamtega Magufuli," Video recording, 12 February 2019, www.youtube.com/watch?v=G2yEtDCJxmQ
[45] Five video clips showing public officers engaging in politics between 24 July 2016 and 26 August 2020, including a June 2020 video clip showing former Regional Commander, Paul Makonda meeting CCM party youth to launch a song he sang for the party, 13 June 2020 available at:www.youtube.com/watch?v=YnZcFbQcQ3U
[46] NEC, Public notice, 21 July 2020, available at: www.nec.go.tz/uploads/documents/en/1595348389-tumeyauchaguzi_tanzania_20200721_191210_0.jpg
[47] NEC, Ratiba ya Kampeni za Wagombea Urais na Makamu wa Rais Uchaguzi, September 2020, available at www.nec.go.tz/publications/61
[48] Amnesty International, "Opposition politicians arrested as crackdown escalates ahead of elections," 24 June 2020, available at www.amnesty.org/en/latest/news/2020/06/tanzania-opposition-politicians-arrested-as-crackdown/
[49] Amnesty International interview with Zitto Kabwe, Dar es Salaam, Tanzania, September 2020.
[50] Amnesty International telephone interview with Maharagande Mbarala, ACT-*Wazalendo* National Secretary for Human Rights and Special Groups, 23 June 2020.
[51] Press statement by Dorothy Semu, ACT-*Wazalendo* Vice-Chairperson (mainland), 24 June 2020. On file with Amnesty International.
[52] Amnesty International, *The Price We Pay*, p. 30, 28 October 2019, available at www.amnesty.org/download/Documents/AFR5603012019ENGLISH.pdf
[53] Amnesty International interview with John Pambalu, Baraza la Vijana wa Chadema (BAVICHA) chairperson, 10 September 2020.

five other party members in Singida region, central Tanzania. Arrested during a youth campaign event after hoisting a Chadema party flag while singing Tanzania's national anthem, they are charged with eight offences, including illegal assembly, ridiculing the national flag and the national anthem, and conduct likely to cause a breach of the peace.[54] Tanzania does not criminalize contempt or ridicule of the national anthem, however, the Tanzania National Flag and Coat of Arms Act of 1971 makes it an offence for any person in Tanzania to insult the national flag or coat of arms.[55] Initially denied bail, the High Court in Dodoma granted them bail on appeal on 26 August 2020, but the police continue to detain them in violation of this court order.[56]

Police arrested Joseph Mbilinyi, popularly known as Sugu, the incumbent parliamentary candidate for Mbeya Urban constituency on 14 August 2020 in Mbeya, southwest Tanzania, and accused him of holding an unauthorised demonstration. A video clip shows he was arrested as his supporters peacefully accompanied him to collect his nomination forms from the regional NEC offices.[57] He was later released the same day. This did not constitute an assembly or procession which, under the Tanzania Police Force and Auxiliary Service Act, requires notifying the police 48 hours before.[58]

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While assemblies and processions require advance notification under Tanzanian law, Article 21 of the International Covenant on Civil and Political Rights (ICCPR),[59] Article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)[60] and Article 11 of the African Charter on Human and Peoples' Rights [61] guarantee the right to freedom of assembly[62], including spontaneous assemblies and underscore the need for notification rather than authorization. Participating in, and organizing, assemblies is

[54] Criminal Case No. 15 of 2020, in the Resident Magistrate's Court of Singida at Singida, Charge sheet, 9 July 2020.
[55] Section 7, National Flag and Coat of Arms Act, 1971
[56] JamiiForums, *"Viongozi wa BAVICHA Taifa Washinda Rufaa na Kupata Dhamana"*, 26 August 2020, available at www.jamiiforums.com/threads/viongozi-wa-bavicha-taifa-na-wenzao-wapata-dhamana.1775347/
[57] Video clip on file with Amnesty International showing police forcefully arresting Joseph Mbilinyi and giving him reasons for the arrest.
[58] Section 43 of the Police Force and Auxiliary Service Act 2002.
[59] International Covenant on Civil and Political Rights (ICCPR), 19 December 1966, 999 UNTS 171, Can TS 1976 No 47 (entered into force 23 March 1976).
[60] International Covenant on Economic, Social and Cultural Rights, United Nations, Treaty Series, vol. 993, p. 3, 16 December 1966. (entered into force: 3 January 1976).
[61] African Charter on Human and Peoples' Rights (Banjul Charter) adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct. 21, 1986.
[62] Provisions of the African Charter on Human and Peoples' Rights omit the word "peaceful".

a right, and does not need state authorization.[63] Article 21 of the ICCPR requires states not just to permit peaceful assembly, but to actively facilitate it.[64] Only certain restrictions may be applied, "… which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others".[65]

The UN General Assembly Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, states that "… freedom is to be considered the rule and its restriction the exception and therefore, in adopting laws providing for restrictions to the right to freedom of assembly and association, states should always be guided by the principle that the restrictions must not impair the essence of the right. "The relation between right and restriction, between norm and exception, must not be reversed".[66]

Harassment, intimidation, and arbitrary arrests of political opposition members ahead of the elections are a calculated move to undermine their human rights including the rights to liberty, freedom of expression, peaceful assembly and association and to limit their political campaigning.

[63] Guidelines on Freedom of Association and Assembly in Africa, African Commission on Human and Peoples' Rights, ACHPR 61, para. 71; Joint Report to the HRC, Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, UN Doc. A/HRC/31/66, para. 21
[64] Article 21 of the ICCPR.
[65] ICCPR, Article 4 as read together with HRC, Resolution 15/21 (OP 4), A/HRC/RES/15/21, 6 October 2010.
[66] UN General Assembly, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, 21 May 2012 (A/HRC/20/27) at p. 6.

5. ASSAULT ON NON-GOVERNMENTAL ORGANIZATIONS

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In the lead-up to elections, NGOs critical of the government have been threatened with suspension, suspended or denied clearance to conduct election-related activities. Excessive NGO regulations, increasingly under the auspices of the President's Office, require NGOs to disclose extensive information about their activities and funding, or face deregistration. Other NGOs have scaled back activities and are self-censoring to avoid falling foul of repressive laws. This is one way that authorities will eschew scrutiny around the elections, including mass disqualification of prospective opposition candidates.

Amendments to NGO laws in June 2019[67] have made it increasingly difficult for NGOs to operate freely and independently. Amongst other things, they are required to disclose to the Office of the Treasury Registrar, the sources of any money raised, what it was spent on, and why it was obtained within 14 days of fundraising.[68] In April 2020, this was compounded by new NGO regulations in mainland Tanzania which place management of NGOs under the President's Office - Regional Administration and Local Governance, an indication of growing executive influence over NGO operations. They also mandate the Ministry of Finance and Planning to supervise NGO plans and financing.[69] These regulations and laws restrict the rights to freedom of expression, association and peaceful assembly and undermine the independence and freedom of action of civil society organizations.

Under the Election Expenses Act, No. 6 2010, NGOs face additional restrictions on election-related activities, defined as "advocacy" and "public awareness" for the "furtherance of election campaigns".[70] These vague and overly broad provisions could potentially be interpreted to cover voter education, advocacy to influence voters to vote for or against political parties or candidates who support specific policies impacting human rights and engagement with election petitions, as well as election observation. Section 13 of this Act gives powers to the Minister responsible for political parties to prescribe limits to NGO expenditure on election-related activities.[71] NGOs are also required to disclose all funding sources for their election-related activities and report such expenditure to the registrar of political parties within 90 days of elections.[72] This has had a

[67] Miscellaneous Amendments Act No. 3 of 2019.
[68] Regulations No. 609 of 2018, on file with Amnesty International.
[69] Guidelines of coordinating Non-Governmental Organization, 18 June 2020. On file with Amnesty International.
[70] Section 13, Election Expenses Act, No. 6 2010.
[71] Section 13, Election Expenses Act, No. 6 2010.
[72] Section 10 (1) (a) (i-iv) of the Election Expenses Act, No. 6 2010 as read together with Regulation 13 (b) and (c) of the NGOs (Amendments) Regulations G.N. 685/2019.

chilling effect the operations of civil society organizations, prompting organizations to reduce their human rights work.[73]

In moves that further impede human rights work, on 23 June 2020, the NEC stopped several Tanzanian civil society organizations, including the Tanzania Constitution Forum (TCF), the Legal and Human Rights Centre (LHRC), the Tanzania Human Rights Defenders Coalition (THRDC) and the Tanzania Episcopal Conference (TEC), from conducting election-related activities, including voter education.[74] Organizations such as THRDC and LHRC cannot train lawyers to handle election petitions as they have done previously.[75] This followed the National Elections (Presidential and Parliamentary Elections) Regulations[76] and the Local Authorities (Councillors' Elections) Regulations[77] published by the NEC on 5 June 2020 which prohibit international observers from commenting on any aspect of the elections until the results are announced. This will prevent them from commenting on the human rights context before and during the elections.[78]

On 21 May 2020, the Registrar of NGOs wrote to Inclusive Development for Citizens (IDC - Tanzania), a Tanzanian advocacy organization engaged in online activism to promote freedom of expression and citizen demand for inclusive development, accusing them of participating in "political activities" contrary to NGO laws. The letter gave them 30 days to demonstrate why legal action should not be taken against them.[79] IDC is associated with Maria Sarungi-Tsehai, an outspoken critic of President Magufuli's administration.

On 24 June 2020, the Registrar of NGOs wrote to several organizations asking for details of their activities, funding sources, and financial records, or face deregistration. That day, IDC was suspended for failing to provide the Registrar with its 2019 annual activity and financial audited reports, quarterly reports from October 2019 to March 2020, funding contracts and 2020 strategic plans.[80] Also on 24 June 2020, the Registrar wrote to the THRDC, a national coalition of over 160 organizations and individuals, giving them seven days to explain why legal measures should not be taken against them for failing to provide copies of its members' registration certificates and funding contracts with donors, amongst other things, in accordance with the NGO Act.[81] On the same day, the Registrar wrote to the LHRC, Tanzania's largest human rights organization, ordering the organization to suspend its election observation plans and to justify why they should not be deregistered for non-compliance with NGO laws.[82] NGOs face the difficult dilemma of disclosing extensive information about their activities and funding, thereby undermining their independent operations and legitimate human rights work and security of staff, or facing deregistration.

THRDC temporarily suspended its operations on 18 August 2020 after the police ordered CRDB Bank to freeze its accounts, accusing them of entering into agreements with donors without consulting the Office of the Treasury Registrar and the Office of the Registrar of NGOs.[83] THRDC's national coordinator had previously been interrogated on allegations of financial malpractice.[84] The Proceeds of Crime Act of 1994 grants the Inspector General of Police or DPP powers to " … authorize and direct a police officer of the rank of Assistant Superintendent of Police or above to freeze a bank account and seize any document from that bank or financial institution for seven days during which leave of the court for continued seizure shall be obtained."[85] It is unclear whether a court order was obtained to keep THRDC's bank accounts frozen.

Frequent amendments to NGO regulations and guidelines are confusing for NGOs forcing them to self-censor or scale back their activities. THRDC, LHRC, *Jamii*Forums and *Twaweza* East Africa have all had to

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[73] Amnesty International five interviews with NGO representatives between 1 August and 25 September 2020.
[74] NEC, *Taasisi/asasi zilizopata vibali vya kutazama uchaguzi mkuu wa mwaka 2020* (institutions/organizations that have been authorized to observe the 2020 general elections), June 2020, on file with Amnesty International. Also, NEC press release making the announcement, 29 June 2020, available at www.nec.go.tz/uploads/documents/sw/1593661429-CamScanner%2006-29-2020%2018.36.36.pdf
[75] THRDC, *Report on the situation of human rights defenders and civic space in Tanzania in 2019*, 2019, p. 53
[76] NEC, The National Elections (Presidential and Parliamentary Elections) Regulations, 5 June 2020, on file with Amnesty International, also available at www.nec.go.tz/uploads/documents/en/1595919061-SUPP%20GN%20NO%20402%20TEXT%205%20JUNE%202020%20-%20THE%20National%20Elections%20Regulations%2015%20May%202020.pdf
[77] NEC, The Local Authorities (Councillors' Elections) Regulations, 5 June 2020, on file with Amnesty International, also available at https://www.nec.go.tz/uploads/documents/en/1596024708-The%20local%20Authorities%20Councillors%20Elections%20Final%2015%20May%202020.pdf
[78] Section 16(1), Local Authorities (Councillors' Elections) Regulations.
[79] Letter from NGOs registrar to IDC - Tanzania, 24 June 2020, on file with Amnesty International.
[80] The Registrar of NGOs letter to IDC - TZ, reference number Ref. No. EF. 168/196/02/03, 24 June 2020, on file with Amnesty International.
[81] Letter from NGOs registrar to THRDC, 24 June 2020, on file with Amnesty International
[82] Amnesty International interview with Anna Henga, LHRC Executive Director, 10 September 2020.
[83] Notice to the public by the Tanzania Human Rights Defenders Coalition (THRDC), 18 August 2020, on file with Amnesty International.
[84] Amnesty International interview with Onesmo Olengurumwa, THRDC National Coordinator, 19 August 2020.
[85] Section 31 (A) 31A.

tone down work confronting human rights violations for fear of state reprisals.[86] After the Commission of Science and Technology (COSTECH) prevented *Twaweza*, a regional organization with offices in Kenya, Tanzania and Uganda but registered in Tanzania, from publishing an opinion poll which found that President Magufuli's public approval rating had dropped significantly, they have refrained from publishing surveys on political issues.[87]

On 10 June 2020, Tanzania's National Assembly passed another repressive law, the Written Laws (Miscellaneous Amendments Act (No. 3) of 2020), amending 13 laws. By requiring claimants under the Basic Rights and Duties Enforcement Act ("the Enforcement Act") to submit an affidavit showing that violations have personally affected them,[88] the law seriously undermines public interest lawsuits and government accountability for human rights violations and abuses. This overly broad provision arbitrarily limits NGOs ability to pursue legal aid and law-based activities where they have not been personally harmed. Coming barely a year after Tanzania withdrew its declaration to the African Court on Human and Peoples' Rights thereby blocking direct access of individuals and NGOs to the African Court, Tanzanian authorities are determined to stop people from seeking redress for human rights violations.[89]

The right to freedom of association is guaranteed under Article 22 of the ICCPR. This right is also guaranteed under Article 10 of the African Charter and Article 8 of the African Charter on the Rights and Welfare of the Child. In as much as the right to freedom of association is not absolute and can be subject to certain restrictions,[90] excessive government regulation of, and interference with, NGO operations limits the rights to freedom of expression, association and peaceful assembly. The introduction of numerous laws and regulations that give effect to them and frequent changes to them is confusing for NGOs. It reduces the effectiveness of NGOs' self-regulation and weakens their ability to confront the state on rule of law and human rights issues. The right to freedom of association equally protects associations that are not registered, including the right to hold and participate in peaceful assemblies, and is particularly important when the procedure to establish an association is stringent and subject to administrative discretion.[91]

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[86] Amnesty International five interviews with NGO representatives between 1 August and 25 September 2020.
[87] Amnesty International, "Climate of fear, censorship as repression mounts", 28 October 2019, available at www.amnesty.org/en/latest/news/2019/10/tanzania-climate-of-fear-censorship-as-repression-mounts/; Twaweza, Sauti za Wananchi, available at www.twaweza.org/index.php?p=1&c=82&k=0&t=0&u=0&d=0
[88] Amnesty International, "Planned law amendments to prevent solidarity lawsuits must be rejected", 10 June 2020, available at www.amnesty.org/en/latest/news/2020/06/tanzania-planned-law-amendments-to-prevent-solidarity-lawsuits-must-be-rejected/
[89] Amnesty International, "Withdrawal of individual rights to African Court will deepen repression", 2 December 2019, available at www.amnesty.org/en/latest/news/2019/12/tanzania-withdrawal-of-individual-rights-to-african-court-will-deepen-repression/
[90] HRC, Resolution 15/21 (OP 4), A/HRC/RES/15/21, 6 October 2010.
[91] UN General Assembly, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, 21 May 2012 (A/HRC/20/27), p. 6.

6. CRACKDOWN ON MEDIA AND CRITICS

In the pre-election period, Tanzania's government has cracked down on the media, in the context of authorities' response to the COVID-19 pandemic, suspending media outlets, limiting the public's right to information, and exerting a chilling effect on human rights including the rights to freedom of expression, peaceful assembly and association. In various instances, authorities have penalised media outlets using repressive laws. Revised internet regulations now criminalize planning or supporting protests "which may lead to public disorder", a vague and overly broad term holding internet users responsible for the conduct of protests, even if they do not directly participate. This reduces avenues for organizing during and after the elections. In a further attempt to limit international scrutiny of human rights in the context of the elections, foreign journalists must now be accompanied by a government minder and political parties have been warned that meeting foreign diplomats may violate laws governing political parties.

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The ICCPR permits states to impose certain limitations on the exercise of the right to freedom of expression. It also explicitly requires states to prohibit advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. But the ICCPR also sets out strict conditions that all limitations must fulfil for restrictions on expression to be lawful. Such restrictions must be set out in law and in a clear and accessible way. They can be imposed only for certain specified legitimate purposes (such as preserving national security, public order or, as in the case of advocacy of hatred, to protect the rights of

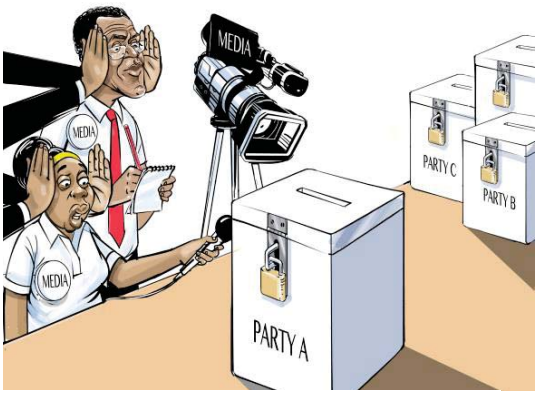
others). They must be demonstrably necessary (that is, the least intrusive measure that will achieve the specified purpose) and proportionate. And they must not jeopardize the right to expression itself.[92]

6.1 PRE-ELECTION MEDIA RESTRICTIONS

In an apparent government bid to rid Tanzania of media outlets critical of the government ahead of the elections, on 23 June 2020, the Director of Information Services, who also serves as the Government Spokesperson, indefinitely banned the printing and distribution of *Tanzania Daima* newspaper in Tanzania and outside the country. The order accused the newspaper of breaching the law and professional ethics without citing specific laws or content.[93] *Tanzania Daima* had previously been banned for 90 days in 2017 on allegations of publishing false information.[94] A 2018 report by Reporters Without Borders lists the majority shareholder in *Tanzania Daima* as the wife of Freeman Mbowe, Chair of Chadema.[95]

On 6 July 2020, Tanzania Communications Regulatory Authority (TCRA) suspended Kwanza TV, an online television network for 11 months for allegedly generating and disseminating "... biased, misleading and disruptive content..."[96] In a clear violation of the right to freedom of expression, the story that the TCRA Content Committee found unbalanced was a health alert from the United States Embassy in Dar es Salaam on 1 July 2020.[97] This is not the first time that TCRA has shutdown *Kwanza TV,* which is owned and managed by Maria Sarungi-Tsehai. On 27 September 2019, the regulator suspended the media outlet for six months on allegations of "airing misleading information", according to Committee to Protect Journalists (CPJ).[98]

On 27 August 2020, the TCRA suspended Clouds TV and Clouds FM Radio for seven days after they announced results of some political party primaries without NEC approval.[99] TCRA alleged that in their "360" and "Power Breakfast" morning programmes on 26 August 2020, the two stations violated the Broadcasting Services (Content) (The Political Party Elections Broadcasts) Code 2015, a controversial piece of legislation introduced shortly before the 2015 elections. Section 16 of the law states that in its obligation to inform the public of "… the election results, as they become available, special care should be taken to ensure the accuracy of all results broadcast."[100] The code does not prescribe any penalty. Hours before the suspension, a video carrying Cloud TV's logo circulated on social media platforms showing several men preventing Devotha Minja, Chadema's parliamentary candidate for Morogoro Urban, from accessing the office of Morogoro Municipal Council's District Administrative Secretary (DAS) who doubles as the NEC's returning officer.[101]



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[92] Human Rights Committee, General Comment No. 34, note 4, para 21.
[93] Statement by the Director of Information Services, Hassan Abbasi, 23 June 2020, on file with Amnesty International.
[94] Amnesty International interview with Martin Malara, editor with Tanzania Daima, 9 September 2020, and media reports, including Louis Kolumbia, "Government bans Tanzania Daima newspaper for 90 days", *The Citizen*, 24 October 2017, available at www.thecitizen.co.tz/news/Govt-bans-Tanzania-Daima-newspaper-for-90-days/1840340-4154086-ltvcsoz/index.html
[95] Reporters Without Borders. Media Ownership Monitor: Freeman Mbowe, 2020, available at www://tanzania.mom-rsf.org/en/owners/individual-owners/detail/owner/owner/show/freeman-mbowe/
[96] TCRA Content Committee Vice-Chairperson Joseph Mapunda, recorded speaking at a press conference, 6 July 2020, available at www.youtube.com/watch?v=F0bqWENxiP4 with unofficial Amnesty International translation from Kiswahili to English.
[97] Embassy of the United States of America in Tanzania, "Health alert", 1 July 2020, on file with Amnesty International.
[98] Committee to Protect Journalists (CPJ), "Tanzanian authorities ban online TV stations, fine 2 others", 8 January 2020, available at www://cpj.org/2020/01/tanzanian-authorities-ban-online-tv-station-fine-2/.
[99] TCRA suspension order to Clouds Media Group accessed, on file with Amnesty International.
[100] Section 16, Broadcasting Services (Content) (The Political Party Elections Broadcasts) Code 2015.
[101] Video clip showing TPF officers blocking Devotha Minja from on file with Amnesty International.

New regulations also sought to limit international media coverage of Tanzania's elections. The TCRA amended the Electronic and Postal Communications (Radio and Television Broadcast) Regulations on 11 August 2020, after they had been in force less than two months. New subsections to Section 37 compel licensed local broadcasters to seek the regulator's permission to air content produced in collaboration with regional and international broadcast partners.[102] The move came after Radio Free Africa (RFA)'s management was summoned for questioning by the TCRA on 10 August 2020 after airing a BBC interview with Tundu Lissu. In the interview, Tundu Lissu claimed that authorities denied him access to the funeral of former President Benjamin Mkapa preventing him from paying his last respects.[103] TCRA created new regulations (Sections 15(2) (b), (c) and 16 of the Electronic and Postal Communications (Radio and Television Broadcast) Regulations, 2018) and then retrospectively applied them accusing RFA of airing Tundu Lissu's claims without seeking clarification from the government spokesperson.[104] In a further attempt to stymie critical reporting, the regulations now require foreign journalists to be accompanied by government minders when interviewing people and reporting.[105]

6.2 COVID-19 AS A PRETEXT FOR MEDIA REPRESSION

Before the pre-election clampdown, between March and May 2020, authorities used laws prohibiting and criminalizing "false news" to restrict media coverage of the government's handling of the COVID-19 pandemic. Authorities suppressed information about the government's disregard of global best practice in countering COVID-19, in another clear violation of the right to freedom of expression.[106] They cracked down on critical media without disseminating reliable, accessible and evidence-based information to the public, including on government measures to protect public health, which is crucial to countering inaccurate information and to fostering trust.

On 2 April, Star Media Tanzania Limited, Multichoice Tanzania Limited, [107]owned by MultiChoice Group in South Africa, and Azam Digital Broadcast Limited were each fined five million Tanzania shillings (approximately 2,150 US dollars) and ordered to apologize for "transmission of false and misleading information" on the country's approach to managing COVID-19.[108]

TCRA suspended *Mwananchi Newspaper Online,* a subsidiary of *Mwananchi Communications Ltd* on 17 April 2020 for six months and fined the media outlet five million Tanzanian shillings (approximately 2,150 US dollars) for publishing a photo of the President buying fish in his home village of Chato, north-western Tanzania, on 13 April, apparently in breach of global social distancing guidelines. Authorities said the photo was not recent and that *Mwananchi Newspaper Online* violated the Electronics and Postal (Online Content) Regulations of 2018.[109]

One media outlet sacked a journalist for criticizing President Magufuli's response to COVID-19 on his Twitter account. On 20 March 2020, journalist Khalifa Said was dismissed by *Mwananchi* Communications Limited[110] a day after challenging Magufuli's insistence that Tanzanians continue to attend places of worship during the pandemic and calling on the public to organize rallies to get the government to respond to their demands.[111]

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[102] Section 37(2) of the Electronic and Postal Communications (Radio and Television Broadcasting Content) Regulations, 2020.
[103] TCRA summons to Radio Free Africa (RFA), 10 August 2020, on file with Amnesty International.
[104] TCRA summons order to Radio Free Africa, 10 August 2020, on file with Amnesty International.
[105] Regulation 37(4) of the Electronic and Postal Communications (Radio and Television Broadcasting Content) Regulations, 2020.
[106] Joint Declaration on freedom of expression and "fake news", disinformation and propaganda. UN Special Rapporteur on Freedom of Opinion and Expression, OSCE Representative on Freedom of the Media, Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights, and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights (2017), para. 2.a.
[107] MultiChoice Group and its partners, 2020, available at www.multichoice.com/companies-brands/, also, www://multichoiceafrica.com/tanzania/
[108] Amnesty International, Authorities must end crackdown on journalists reporting on COVID-19, 21 April 2020, available at www.amnesty.org/en/latest/news/2020/04/tanzania-authorities-must-end-crackdown-on-journalists-reporting-on-covid19/
[109] Amnesty International, Authorities must end crackdown on journalists reporting on COVID-19, 21 April 2020, available at www.amnesty.org/en/latest/news/2020/04/tanzania-authorities-must-end-crackdown-on-journalists-reporting-on-covid19/
[110] Public Notice by *Mwananchi* Communications Ltd, 20 April 2020, on file with Amnesty International.
[111] Amnesty International telephone interview with Khalifa Said, 12 September 2020.

Repressive measures that unduly limit human rights including the rights to freedom of expression and access to information on the pretext of curbing "false news" or "spreading misinformation" on COVID-19 are another tactic to restrict media outlets, as well as scrutiny of the government's handling of the pandemic, before, during and after the elections. Amnesty International has not been able to identify cases of state owned or pro-government media outlets having been subjected to similar repressive measures.

6.3 CRIMINALIZING ONLINE ORGANIZING

On 17 July 2020, the Ministry of Information, Culture, Arts and Sports issued revised online content regulations[112] - the Electronic and Postal Communications (Online Content) Regulations 2020 – which seek to gag freedom of expression online through a list of prohibited content.[113] Amongst other things, the regulations criminalize online organizing, planning and supporting of protests "which may lead to public disorder".[114] This carries a 12 month prison sentence or five million Tanzania shilling (approximately 2,319 US dollars) fine or both, which will be used to intimidate and harass online users. This criminalization of freedom of expression online is incompatible with Tanzania's international human rights obligations.

6.4 ATTACKS ON OTHER CRITICS

The assault on the right to freedom of expression is not limited to the media. There is no safe environment for political debate in Tanzania and the government crackdown has targeted other influential figures.

On 19 May 2020, police arrested popular Tanzanian comedian Idris Sultan after a video clip of him laughing at a throwback photo of President Magufuli went viral on social media.[115] He was released on 27 May on a police bond of 15 million Tanzanian shillings (about 6,550 US dollars). At the time of writing, Idris Sultan has been in court at least four times to answer trumped-up charges of "failure to register a SIM card previously owned by another person" and "failure to report change of ownership of a SIM card". Investigation officers have been granted more time by the court to allow them to investigate the offence.[116]

To further limit international scrutiny of the situation of human rights in the context of the elections, political parties have been cautioned that meeting foreign diplomats may violate the law regulating political parties in Tanzania. On June 12, 2020, the Office of Political Parties Registrar wrote to opposition party ACT - Wazalendo asking the party's leader to clarify reports in a government-affiliated newspaper *Jamvi la Bahari* on 12 June 2020 that Zitto Kabwe had held talks with Sarah Cooke, the British High Commissioner in Tanzania, at her residence. The Registrar of Political Parties said that this contravened Section 6(C)4 of The Political Parties (Amendment) Act 2019 which states that "a non-citizen shall not participate in the decision making process of a political party with the aim of promoting the objectives of that party."[117] This incident reflects the lengths that authorities in Tanzania are prepared to go to restrict the rights to freedom of expression, association and peaceful assembly, including that of politicians speaking to foreign envoys, by expansively interpreting sweeping and overly broad laws and regulations.

Police arrested Sheikh Ponda Issa Ponda, the popular secretary of the Islamic Council in Tanzania, on 11 July 2020 at his Bungoni office in Ilala, Dar es Salaam, for circulating content that they allege amounted to

[112] TCRA, Electronic and Postal Communications (Online Content) Regulations, 2020.
[113] Regulation 3(c) Electronic and Postal Communications (Online Content) Regulations.
[114] Regulation 3(c) Electronic and Postal Communications (Online Content) Regulations.
[115] Amnesty International, Charges against comedian for laughing must be thrown out, 8 July 2020, www.amnesty.org/en/latest/news/2020/07/tanzania-charges-against-comedian-for-laughing-must-be-thrown-out/
[116] Amnesty International four telephone interviews with different sources between 19 May and 12 September 2020.
[117] Registrar of Political Parties Registrar letter to ACT-Wazalendo of 12 June 2020 with reference number Kumb: MA.322/362/20/50, on file with Amnesty International.

incitement and breach of peace towards the 2020 general election.[118] In this document, Sheikh Ponda discusses several issues related to the upcoming general elections and the need for an independent electoral body.[119] He also talks about claims of religious discrimination against Muslims in Tanzania, especially in recruitment for state employment. Sheikh Ponda writes, "Muslims are not free to enjoy their freedom to worship and the right to self-determination, the security of their leaders, schools, mosques and their people is always at stake. They do not see any equality on power sharing and in state employment."[120] Sheikh Ponda was released on 21 July 2020 after 10 days in police detention.[121] At the time of writing, Sheikh Ponda is in hiding after receiving threats that he may be arrested again for his continued public discussions about the forthcoming elections.[122]

[118] Amnesty International interview with four interviewees who did not want to be identified, and Zitto Kabwe between 11 July and 10 September 2020.
[119] *Waraka wa Uchaguzi wa Shura ya Maimamu Tanzania*, "Election guidelines for Islamic Council in Tanzania", unofficial Amnesty International translation from Kiswahili to English, 9 July 2020, on file with Amnesty International.
[120] Unofficial Amnesty International translation from Kiswahili to English.
[121] Bakari Kiango, "Police release Sheikh Ponda after nine days in custody", *The Citizen*, 21 July 2020, available at https://www.thecitizen.co.tz/news/Police-release-Sheikh-Ponda-after-nine-days-in-custody/1840340-5596650-bl4fg1z/index.html
[122] Amnesty International interview with four interviewees who did not want to be identified, and Zitto Kabwe between 11 July and 10 September 2020.

7. CONCLUSION

Tanzanian authorities have intensified the clampdown on members of the political opposition, media outlets and journalists, NGOs and their representatives, religious leaders and artists among others ahead of the country's general elections on 28 October 2020.

Before the official election campaign period, opposition politicians faced intimidation, harassment, arbitrary arrest and detention, as police applied public assembly laws in a selective and partisan manner. The authorities restricted opposition activities, while allowing members of the ruling CCM party to meet unhindered. CCM politicians and public officials have continued carrying out political activities, including promotional messages in favour of the party at the launch of government projects. NGOs critical of the government have also been threatened with suspension, suspended or denied clearance to conduct "election-related activities", a broad term encompassing human rights work. Excessive NGO regulations, increasingly under the auspices of the President's Office, require NGOs to disclose extensive information about their activities and funding, or face deregistration. Other NGOs have scaled back activities and are self-censoring to avoid falling foul of repressive laws. This is one way that authorities will avoid scrutiny around the elections, including mass disqualification of prospective opposition candidates.

In the pre-election period, Tanzania's government has cracked down on the media, partly under the guise of the COVID-19 pandemic, suspending media outlets, limiting the public's right to information, and exerting a chilling effect on human rights, including the rights to freedom of expression, peaceful assembly and association of journalists. In various instances, authorities have penalised media outlets using repressive laws that lack punitive provisions. Revised internet regulations now criminalize planning or supporting protests "which may lead to public disorder", a vague and overly broad term holding internet users responsible for the conduct of protests, even if they do not directly participate. This reduces avenues for organizing during and after the elections. In a further attempt to limit international scrutiny of human rights in the context of the elections, foreign journalists must now be accompanied by a government minder and political parties have been warned that meeting foreign diplomats may violate laws governing political parties.

Amnesty International urges the Tanzanian authorities to end arbitrary arrests of opposition politicians, allow media outlets and NGOs to operate freely, and permit independent observers to monitor and speak out about human rights issues. It is also crucial that the government ensures accountability for election-related human rights violations and guarantees post-election human rights reforms to reverse the government's increasing repression and crackdown on the civic space. Amnesty International calls on inter-governmental organizations, including the UN, AU, SADC and EAC, to put pressure on the Tanzanian authorities to respect, protect, promote and fulfil human rights before, during and after the elections, including by publicly speaking out against human rights violations and abuses and raising concerns about these violations and abuses in their engagement with the government.

8. RECOMMENDATIONS

8.1 TO THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA

- Publicly commit that your government will respect, protect, promote and fulfil human rights before, during and after the elections, will not tolerate any human rights violations and abuses, and will ensure prompt, thorough, transparent and effective investigation of any allegations of violations and abuses and bring suspected perpetrators to justice;
- Publicly condemn all threats, intimidation, harassment and attacks against opposition politicians, religious leaders, human rights defenders, activists, NGOs, media outlets, journalists, and online users;
- Publicly recognize and defend the importance and legitimacy of the human rights work of human rights defenders, activists and civil society organizations, and ensure that they can carry out their work freely and independently without any fear of reprisals;
- Ensure the urgent repeal and review of all repressive laws and regulations and bring any such laws and regulations in conformity with Tanzania's constitution and international human rights obligations and commitments;
- Publicly commit that your government will domesticate the UN Declaration on Human Rights Defenders, and end intimidation and harassment of associations lawfully carrying out their mandates to defend other people's rights;
- Ensure that your government's decision to withdraw Tanzania's declaration to the African Court on Human and Peoples' Rights is immediately rescinded and that individuals and NGOs can enjoy direct access to the Court to challenge any violations of human rights against your government.

8.2 TO MINISTER OF HOME AFFAIRS

- Ensure the immediate and unconditional release of anyone detained solely for peacefully expressing political and religious views or other beliefs;
- Ensure prompt, thorough, impartial, transparent, and effective investigations into allegations of political violence, and other human rights violations and abuses including cases of arbitrary arrest of members of the political opposition and other government critics so that anyone suspected to be responsible is brought to justice in fair trials;
- Publicly commit to ensure that the authorities will allow everyone, including opposition politicians, religious leaders, human rights defenders, activists, NGOs, media outlets, journalists, and online users to freely exercise their human rights, including the rights to freedom of expression, association and peaceful assembly without fear of reprisals;
- Publicly commit to ensure that the authorities will observe and respect international human rights standards related to the use of force, crowd control and policing, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and the UN Code of Conduct for Law Enforcement Officials.

8.3 TO MINISTER OF INFORMATION, CULTURE, ARTS AND SPORTS

- Ensure that media outlets are free to operate independently, and that journalists and other media practitioners can enjoy their human rights including the right to freedom of expression and access to information and can carry out their job without any fear of reprisals before, during and after the elections.

8.4 TO MINISTER OF CONSTITUTIONAL AFFAIRS AND JUSTICE

- Immediately establish an independent mechanism to promptly, thoroughly, transparently and effectively conduct investigations into allegations of excessive use of force, arbitrary arrests, and other violations by police;
- Ensure the authorities fully and effectively respect, protect, promote and fulfil the human rights of everyone including the rights to freedom of expression, association and peaceful assembly;
- Carry out prompt, impartial, thorough, transparent and effective investigations into all allegations of threats and physical violence against opposition politicians and bring suspected perpetrators to justice in fair trials.

8.5 TO THE NATIONAL ELECTORAL COMMISSION

- Conduct independent, thorough, transparent and effective investigations into allegations of misconduct leading to election-related human rights violations and hold anyone suspected to be responsible to account;
- Ensure full and effective respect for the human rights of everyone, including the rights to freedom of expression, association, peaceful assembly and movement for candidates, their supporters, as well as for voters generally, and journalists, human rights defenders, activists and national election monitors;
- Allow independent observers to freely carry out their work including monitoring the conduct of the election and the human rights environment surrounding the poll.

8.6 TO ALL POLITICAL PARTIES AND CANDIDATES

- Publicly commit to promote respect for the human rights of everyone before, during and after elections, including the rights to freedom of expression, association and peaceful assembly and without fear of reprisals.

8.7 TO ELECTION OBSERVATION GROUPS

- Include human rights components in their election observation and make public their findings, including any failure of the authorities to take swift and effective remedial action in accordance with the international and regional human rights standards;
- Include coverage of human rights issues in areas where there are widely reported patterns of complaints or where there is history of electoral violence;
- Closely observe the impact of the security environment on human rights by paying particular attention to the actions taken by security forces to address any problems that may arise during the electoral period, to manage political demonstrations and rallies peacefully,

and to prevent any action in the electoral process that would lead or contribute to human rights violations and abuses.

8.8 TO THE EAST AFRICAN COMMUNITY (EAC)

- Support the Government of the United Republic of Tanzania to meet its rule of law and governance commitments as they relate to human rights under Article 6(d) of the EAC Treaty and relevant normative frameworks;
- Put pressure on the authorities to respect, protect, promote and fulfil the human rights of everyone including the rights to freedom of expression, association and peaceful assembly;
- Raise Amnesty International's concerns and recommendations detailed above in your engagements with the Government of the United Republic of Tanzania and urge their immediate implementation;
- Raise, through explicit and proper channels, any human rights violations and abuses witnessed, or allegations of human rights violations and abuses received, including with the relevant authorities, for example, the Tanzania Police Force and the National Electoral Commission and review the situation before, during and after the elections.

8.9 TO THE SOUTHERN AFRICA DEVELOPMENT COMMUNITY (SADC)

- Support the Government of the United Republic of Tanzania to meet its rule of law and governance commitments as they relate to human rights under Article 4(c) of the SADC Treaty;
- Put pressure on the authorities to respect, protect, promote and fulfil the human rights of everyone including the rights to freedom of expression, association and peaceful assembly;
- Raise Amnesty International's concerns and recommendations detailed above in your engagements with the Government of the United Republic of Tanzania and urge their immediate implementation;
- Raise, through explicit and proper channels, any human rights violations and abuses witnessed, or allegations of human rights violations and abuses received, including with the relevant authorities, for example, the Tanzania Police Force and the National Electoral Commission and review the situation before, during and after the elections.

8.10 TO THE AFRICAN UNION (AU)

8.10.1 AU COMMISSION CHAIRPERSON

- With reference to Article 3(h) of the AU Constitutive Act, publicly condemn the increasing repression and human rights violations and abuses in Tanzania including threats, intimidation, harassment and attacks against opposition politicians, religious leaders, human rights defenders, activists, non-governmental organisations, media outlets, journalists, and online users;
- Put pressure on the authorities to respect, protect, promote and fulfil the human rights of everyone including the rights to freedom of expression, association and peaceful assembly;
- Raise Amnesty International's concerns and recommendations detailed above in your engagements with the Government of the United Republic of Tanzania and urge their immediate implementation;

- Raise, through explicit and proper channels, any human rights violations and abuses witnessed, or allegations of human rights violations and abuses his office receives, including with the relevant authorities, for example, the Tanzania Police Force and the National Electoral Commission and review the situation before, during and after the election.

8.10.2 AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

- Publicly condemn the increasing repression and human rights violations and abuses in Tanzania including threats, intimidation, harassment and attacks against opposition politicians, religious leaders, human rights defenders, activists, non-governmental organisations, media outlets, journalists, and online users;
- Put pressure on the authorities to respect, protect, promote and fulfil the human rights of everyone including the rights to freedom of expression, association and peaceful assembly;
- Urge the Government of the United Republic of Tanzania to fully comply with the Commission's 2017 Guidelines on Access to Information and Elections in Africa;
- Review the human rights situation in Tanzania before, during and after the elections and pass a resolution condemning human rights violations and abuses committed before, during and after the elections;
- Remind the Government of the United Republic of Tanzania to implement, without further delay, all the recommendations contained in the Commission's Press Statement dated 22 November 2019, and to respond to the Urgent Appeal dated 5 May 2020;
- Organize an extra-ordinary session of the Commission to consider the human rights situation in Tanzania with a view ending violations and abuses and ensuring accountability for victims.

8.11 TO THE UNITED NATIONS

8.11.1 THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

- Publicly condemn the increasing repression and human rights violations and abuses in Tanzania including threats, intimidation, harassment and attacks against opposition politicians, religious leaders, human rights defenders, activists, non-governmental organisations, media outlets, journalists, and online users;
- Put pressure on the authorities to respect, protect, promote and fulfil the human rights of everyone including the rights to freedom of expression, association and peaceful assembly;
- Raise Amnesty International's concerns and recommendations detailed above in your engagements with the Government of the United Republic of Tanzania and urge their immediate implementation;
- Urge the Government of the United Republic of Tanzania to fully comply with the United Nations Human Rights Committee, General Comment 25 on the right to participate in public affairs, voting rights and the right of equal access to public service.

8.11.2 UNITED NATIONS DEVELOPMENT PROGRAMME

- Put pressure on the authorities to respect, protect, promote and fulfil the human rights of everyone including the rights to freedom of expression, association and peaceful assembly;
- Raise, through explicit and proper channels, any human rights violations and abuses witnessed, or allegations of human rights violations and abuses they receive, with the relevant authorities, for example, the Tanzania Police Force and the National Electoral Commission.

AMNESTY INTERNATIONAL IS A GLOBAL MOVEMENT FOR HUMAN RIGHTS. WHEN INJUSTICE HAPPENS TO ONE PERSON, IT MATTERS TO US ALL.

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LAWFARE

REPRESSION BY LAW AHEAD OF TANZANIA'S GENERAL ELECTIONS

Tanzania will hold its sixth general election on 28 October with President John Pombe Magufuli seeking a second five-year term. The elections come amid a campaign of repression by the incumbent government's first term targeting individuals and organizations critical of the government. A raft of laws has been enacted and instrumentalized by the authorities to silence journalists, NGOs, human rights defenders and members of the political opposition, among others, violating their rights to freedom of expression, association and peaceful assembly, and their implementation ramped up in the campaign period, exacerbating the chilling effect on debate and undermining civic engagement. Opposition politicians have been arbitrarily arrested and detained, and others subjected to physical attacks - which the authorities have failed to fully investigate. Some media outlets and NGOs have been suspended or threatened with deregistration, and foreign journalists reporting on the vote will be accompanied by government minders.

In this report, we highlight the worrying human rights situation in the lead up to the polls and call on the Tanzanian authorities to respect and uphold human rights throughout the vote and after. We also call on regional, pan-African and international actors to unite in condemning the increasing repression and put pressure on the Tanzanian authorities to respect human rights by, among other things, supporting Tanzania government to meet its rule of law and governance commitments as they relate to human rights.

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