

**INDIVIDUAL REPORT OF THE TANZANIA NATIONAL HUMAN RIGHTS
INSTITUTION
SUBMITTED TO THE HUMAN RIGHTS COUNCIL UNDER THE
UNIVERSAL PERIODIC REVIEW MECHANISM**

**REVIEW OF THE UNITED REPUBLIC OF TANZANIA
UPR SECOND CYCLE
25TH SESSION, APRIL/MAY, 2016**

SUBMITTED BY:

**COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE
(CHRAGG)**

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A. EXECUTIVE SUMMARY

1. The present submission by the Commission for Human Rights and Good Governance (CHRAGG) which is both the National Human Rights Institution (NHRI) and Office of the Ombudsman in Tanzania provides highlights on the human rights situation based on the monitoring of implementation of previous Universal Periodic Review (UPR) recommendations as well as human rights developments, achievements and challenges. It then provides recommendations to further improve the human rights situation in the country.
2. CHRAGG commends the government of the United Republic of Tanzania (URT) and the Revolutionary Government of Zanzibar (RGZ) for legislative, policy and administrative measures taken to improve the overall situation of human rights in the country, including the process of reviewing the country Constitution. Over 50% of the recommendations accepted during the previous review were implemented through the enactment or amendment of legislation, formulation of policies, and establishment of various programmes and other initiatives.
3. CHRAGG has continued to note certain deficiencies in a number of areas; there was general dissatisfaction expressed over the adoption of the Draft Constitution of 2014 by the Constituent Assembly, irregularities in the electronic Biodata Voter Register (BVR), excessive use of force by the police and poor remuneration of the law enforcement officials, overcrowding in prisons, the existence of the death penalty on the statute books and the absence of an official moratorium, the killings of persons with albinism and older women, violence against women, child abuse, low quality of education,¹ insufficient health services especially in rural areas, poverty, and non-recognition of legal rights of indigenous communities in Tanzania.

B. METHODOLOGY AND CONSULTATIONS

4. CHRAGG convened a stakeholders meeting involving civil society organizations to provide a refresher training on UPR and receive updates on the assessment done on the implementation of the previous UPR recommendations by the government. CHRAGG then consulted key government agencies to get information on the implementation of the previous recommendations. CHRAGG also provided technical assistance to some NGOs which were interested in submitting individual or coalition reports on particular rights.

¹ National Human Rights Action Plan 2013 – 2017, pg 34 - 35

C. IMPLEMENTATION OF HUMAN RIGHTS SINCE THE PREVIOUS REVIEW

5. CHRAGG commends the Government of the United Republic of Tanzania and the Revolutionary Government of Zanzibar for the efforts done to implement the previous UPR recommendations. The government has taken legislative, policy and administrative measures to implement the recommendations, the major developments being the Constitutional review process which took place between 2010 to 2014, enactment of various pieces of legislation, formulating various policies, and putting in place programmes, action plans including the National Human Rights Action Plan of 2013 - 2017, and other initiatives. Hence, the government was able to implement approximately over 50% of the recommendations of the previous review (2011). However, the government has not ratified the remaining three core international human rights instruments namely the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), the Convention on the Rights of Migrant Workers and Members of their Families, and the Convention Against Enforced Disappearance.
6. **Recommendation:** CHRAGG urges the government to reconsider ratification of the three international human rights instruments as pledged in the 2011 UPR as well as continue implementing the previous recommendations.

D. THE RIGHT TO LIFE IN RELATION TO THE DEATH PENALTY

7. CHRAGG commends the government of the United Republic of Tanzania for continuing to exercise moratorium on the death penalty. No execution has taken place over the past 20 years. There are 465 death row prisoners in the country, 445 being male and 20 female. However, the CHRAGG is concerned that the government has not made notable progress towards the total abolition of the capital punishment.
8. **Recommendation:** CHRAGG urges the government to launch a comprehensive initiative including a vigorous public awareness campaign on the right to life towards total abolition of the death penalty.

E. THE KILLINGS OF PERSONS WITH ALBINISM AND OLDER WOMEN

9. Despite efforts being undertaken by the government to end violence against Persons with Albinism (PWA) and older women in the country, incidences of brutal attacks and killings continued to be recorded. However, there is uncertainty as to the exact numbers of PWA who have been killed so far. Official figures by government indicate that between 2006 to September 2015, only 41 persons with albinism were killed, while civil society organizations that closely work with PWA state the number to be over 70 persons killed,

over 60 maimed and one child abducted and his whereabouts not known to date.² The killings have been attributed to superstitious beliefs, and people seeking wealth, access to public office and influence. Women and children are particularly targeted. On the other hand, persons with albinism die due to skin cancer because majority of them cannot afford the costs for preventive and treatment services. With regard to older women, the incidences of killings have not been reduced significantly.

10. **Recommendations:** The government is urged to (i) ensure all perpetrators of the attacks and killings of PWA and older women including the end users and beneficiaries of the albinos body parts are brought to justice (ii) enhance public awareness campaign to stamp out superstitious beliefs (iii) ensure availability of free health services including sunscreen lotions, diagnosis, and treatment of skin cancer (iv) ensure social security and protection is provided to older persons including older women who are prone to attacks.

F. EXTRA JUDICIAL KILLINGS

11. CHRAGG recognizes steps taken by the police to prosecute police officers who are involved in extrajudicial killings. However CHRAGG is concerned with extra judicial killings by law enforcement officials when combating violent crimes, and the excessive use of force when handling public assemblies and rallies. For example, between 2011 and 2015, CHRAGG investigated 20 complaints on extra judicial killings³. The Police Force and Auxiliary Services Act Cap 322 also needs to be repealed and replaced with a new legislation that conforms to human rights standards. The complaint handling mechanism within the police force does not conform to principles of natural justice.⁴

12. **Recommendations:** The government should (i) implement recommendations of an independent body such as CHRAGG or any other that investigate complaints against law enforcement officials (ii) ensure that all the perpetrators of extra judicial killings are prosecuted expeditiously (iii) conduct sustainable in-service training on human rights to law enforcement agents (iv) Review the Police and Auxiliary Services Act and other laws to make them compatible with human rights standards.

G. CONDITIONS IN DETENTION FACILITIES

13. Despite efforts undertaken by government to improve prison conditions and reduce overcrowding, challenges remain the inadequate use of alternative penal system, inadequate food, poor sanitation and health facilities, unreliable transportation to and

² Information from Tanzania Albinism Society and Under the Same Sun via www.underthesamesun.org retrieved on 17/09/2015

³CHRAGG Investigation Report (2015)

⁴ CHRAGG special report, 2013.

from the court, and poor working conditions and remuneration for both prison and police staff.⁵ Information from the Prison Department shows that as at September 2015, there were 32,307 inmates; 15,787 of them being prisoners and 16,520 remandees. 1,375 inmates were foreigners.

14. **Recommendations:** The Government should (i) provide adequate budget for construction and rehabilitation of prison infrastructure and remuneration of prison and police staff (ii) effectively use alternative penal sanctions such as community services.

H. JUVENILE JUSTICE

15. CHRAGG inspections revealed that 80% of children held in prisons and police cells are not separated from adults, have limited access to legal representation, and there are few children facilities including transportation to and from court. There are inadequate social workers to handle children in conflict with the law.⁶ As at September 2015, there were 268 juvenile inmates in mainland Tanzania, 110 being prisoners and 158 remandees. In Zanzibar, there is one juvenile court but no retention home for juvenile offenders.

16. **Recommendations:** The Government should (i) ensure children in conflict with the law are separated from adults (ii) allocate adequate resources to criminal justice institutions (ii) construct at least one approved school and retention home for every administrative zone including Zanzibar (iii) ensure availability of transport to and from the court for juvenile offenders.

I. RIGHTS OF PERSONS WITH DISABILITIES

17. While there are improvements in the rights of persons with disabilities in terms of access to employment, social services and building infrastructure, the government through the Ministry of Health and Social Welfare is yet to identify persons with disabilities and put in place a social welfare system and package that allows them to enjoy their right to protection.

18. **Recommendations:** The government should allocate adequate resources to fully implement the Persons with Disabilities Acts in both mainland Tanzania and Zanzibar.

J. RIGHT TO EDUCATION

19. Reports show government's investment in the education sector still faces serious challenge.⁷ The challenges include inadequate and delayed payment of teachers' salaries and other remunerations, delayed and inadequate disbursements of capitation grants to

⁵ Report by CHRAGG on Detention Facilities Inspection, 2012

⁶ Ibid

⁷ Haki Elimu's 2014, Pre Budget Statement published in *Mwananchi* and *Tanzania Daima* newspapers;.

schools, budget constraints for schools inspectorate department, inadequate education infrastructure⁸.

20. **Recommendations:** The government should: (i) allocate enough budget to education sector (iii) pay teacher due arrears and other payments timely (iv) implement fully the existing education policies.

K. BUSINESS AND HUMAN RIGHTS

21. Protection of human rights in the business sector still faces challenges in terms of low awareness of international framework governing business and human rights, or non adoption of such frameworks by the government. The frameworks include Global Compact, the UN Guiding Principles, Voluntary Principles on Security and Human Rights (VPSHR) and various ILO Conventions.

22. **Recommendations:** The Government is urged to: (i) conduct the National Baseline Assessment in order to develop a National Plan of Action on Business and Human Rights; (ii) create awareness on business and human rights.

L. RIGHT TO PROPERTY AND LAND DISPUTES

23. Studies show that land disputes including violent land conflict have been recurring. Forced evictions, delayed and inadequate compensations, violent conflict between farmers and pastoralists also characterize land issues.⁹

24. **Recommendations:** The government is urged to (i) curb maladministration among the public officers responsible for land use planning and management (ii) construct water infrastructure in pastoralists areas to ensure availability of water for livestock (iii) pay adequate and timely compensation when land is acquired in the public interest.

M. THE RIGHTS OF MARGINALIZED COMMUNITIES

25. The government is yet to formally recognize the existence of indigenous communities in Tanzania although it has done so through some policy frameworks such as the draft TASAF III Indigenous Peoples Policy Framework (IPPF) which has initially listed the Hadzabe and Barbaig as indigenous peoples.

26. **Recommendations:** The government is urged to (i) ratify the ILO Convention No. 169; (ii) formally recognize the existence of indigenous peoples in Tanzania and improve their rights (iii) provide protection to lands that are historically and traditionally occupied by indigenous groups in Tanzania.

⁸ The 2014/15 Alternative budget speech by the Opposition shadow minister for education, Hon. Susan Lyimo

⁹ Public Enquiries carried out by CHRAGG between 2012 and 2014