

Civic Space in Tanzania

A review of international and national reports (2010-2015)



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LIST OF ABBREVIATIONS

ATI	-	Access to Information
BTI	-	Bertelsmann Stiftung's Transformation
CEDAW	-	Convention on the Elimination of all Forms of Discrimination Against Women
CHRAGG	-	Commission for Human Rights and Good Governance
CORI	-	Coalition on the Right to Information Tanzania
CRC	-	Constitutional Review Commission
CSO	-	Civil Society Organization
GIS	-	Global Information Society
IFEX	-	International Freedom of Expression Exchange
LHRC	-	Legal and Human Rights Centre
MCT	-	Media Council of Tanzania
MISA-TAN	-	Media Institute for Southern Africa Tanzania Chapter
NBS	-	National Bureau of Statistics
NGO	-	Non-Governmental Organization
OHCHR	-	Office of United Nations High Commissioner for Human Rights
REPOA	-	Research on Poverty Alleviation
TANGO	-	Tanzania Association of Non-Governmental Organizations
TEF	-	Tanzania Editors' Forum
THRDC	-	Tanzania Human Rights Defenders' Coalition
USAID	-	United States Agency for International Development
ZLSC	-	Zanzibar Legal Services Centre



INTRODUCTION

Tanzania is a politically stable country often referred to as an island of peace (Erickson, 2012) in the region. It has enjoyed this stability since independence. The country has gone through major changes mainly from socialism to liberalism when it was taken along with the third of wave of democratization (Huntington, 1993) in the early 1990s.

Consequently, the country reformed its political system from a single party to a multi-party system as well as adopting policies that widened and expanded registration of civil society groups and other forms of associations. Such reforms simultaneously happened in other countries in East Africa; for example, the multi-party system was adopted in Kenya and Uganda as well. Despite such reforms, various international and national reports have suggested for years that civic space in Tanzania is constrained (international reports include for example CIVICUS, Freedom House; national reports include for example LHRC, REPOA).

The most recent Tanzanian elections in October 2015 were widely believed to be the most competitive since the introduction of multi-party politics, as a unified opposition presented a real challenge to the ruling party. Nonetheless, the ruling party (CCM), which has led the country since independence, retained power. At the same time, 2015 also saw the introduction of legislation and political processes (most notably the 2015 Cybercrimes Act) that prompted critique from national and international actors with an interest in civic space. Within this context, we have examined the status of civic space in Tanzania along several dimensions, focusing mostly on the period 2010-2015.

We follow the conceptual framing of civic space as proposed by the Transparency and Accountability Initiative (TA/I; Malena, 2015). The dimensions and the principles (or sub-categories) of each dimension are shown in Table 1, below.

Table 1: Dimensions and Principles of Civic Space

No.	Dimension	Principle
1.	Freedom of Information and Expression	Access to information is guaranteed by law and respected in practice
		Freedom of expression is guaranteed by law and respected in practice
		Media freedom is guaranteed by law and respected in practice
		Internet freedom is guaranteed by law and respected in practice
2.	Freedom of Assembly and Association	Rights of assembly are guaranteed by law and respected in practice
		Rights of association are guaranteed by law and respected in practice
		CSOs are able to function independently and free of government interference
		There is an enabling fiscal environment for CSOs
3.	Citizen Participation	Elections are free and fair
		The government facilitates the participation of citizens and CSOs in processes of public deliberation and decision-making
		The government recognizes and respects the legitimate role of citizens and CSOs as independent advocates, watchdogs and development agents
4.	Non-Discrimination/ Inclusion	Women have equal civil rights and equal access to civic space
		Minority groups have equal civil rights and equal access to civic space
		Marginalized groups have equal civil rights and equal access to civic space
5.	Human Rights/ Rule of Law	Basic human rights are guaranteed by law and respected in practice
		Effective rule of law

This report provides a review of international and national reports that examine the status of civic space in Tanzania based on the dimensions outlined above. Furthermore, the report suggests a simple summative measure of the status of each dimension of civic space, based on a four-point scale. The measure builds upon that suggested in the TA/I document, and while not exhaustive, it does provide an indication of the status of each of the five dimensions.



METHODOLOGY

This is a review of international and national reports on civic space in Tanzania, based on documentary analysis. Documentary analysis is a well-established social science method to analyze and triangulate information from various sources (Bryman, 2004; Wellington 2007). The documents reviewed include international reports that are produced by credible international organizations such as UN agencies and other internationally respected think tanks known for defending civil and human rights across the globe. The national reports are those produced by government agencies, and civil society organizations (CSOs). The information was triangulated by comparing and contrasting the findings on civic space from a range of sources in each of the five dimensions. The full list of sources and documents consulted can be found in Annexes 1-3 and also in the references' section.

The assessment of what the combined sources suggest for each dimension of civic space was synthesized and labeled according to an overarching level: *Protected Space*; *Partially Protected Space*; *Restricted Space*; and *Non-Existing (or Unprotected) Space*.¹ The rationale for each level is as follows:

Protected Space:

- All principles for the specific dimensions are met
- The country respects all relevant international treaties it has ratified by amending its domestic legislations so as not to contradict with the provisions of the international treaties
- The country's protection mechanisms are effective

Partially Protected Space:

- Ratification and enacting legislations that protect the relevant dimension
- There are protection mechanisms in place
- There are legal loopholes that can restrict civic space if not properly checked

¹ Malena et al suggest a 3-point categorization: Protected; Partly Protected; Not Protected. We felt that adding "Restricted" as another dimension provided a useful additional degree of nuance.



Restricted Space:

- Presence of legislations that restrict the space provided in the ratified international treaties or in the mother law (e.g. constitution)
- Some of the international treaties are not ratified
- Ineffective protection mechanisms

Non-Existing Space:

- Civic space is completely denied; there is no provision for its protection



OVERVIEW OF ANALYSIS & RESULTS

Each of the dimensions was analyzed independently, combining reviews of both international and national reports. The first step was to examine the international treaties that have been ratified in Tanzania which govern each dimension; this is shown in Table 2. The overall assessment of civic space drawn from a variety of international and national sources is shown in Table 3; narrative overview follows the table.

Tanzania follows a dualistic theory in which international treaties and conventions do not automatically form part of the law (LHRC 2014). This allows the country to have its own domestic/municipal laws that do not conform to the international treaties that it has ratified. Table 2 below shows the number of treaties that the country has ratified and some of the existing laws that do not entirely conform to them. The existence of these laws restricts the full enjoyment or practice of the rights provided in the ratified treaties.

Table 2: International human rights treaties ratified in Tanzania and potentially restricting domestic legislation

domestic legislation		
Dimension & Convention/Treaty	Year of Ratification	Challenging domestic legislations
1. Freedom of Information and Expression		
Declarations of Principles on Freedom of Expression in Africa (2002)		-The Newspapers Act 1976 - The National Security Act 1970 -Civil Service Act 1989 -Public Leadership Code of Ethics 1995 -The Cybercrimes Act, 2015 -The Statistics Act, 2015
Covenant on Civil and Political Rights (1966)	1977	
Universal Declaration of Human Rights (1966)	1948	
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	2005	
African Charter on Human and People’s Rights (1981)	1984	
2. Freedom of Assembly and Association		
African Charter on Human and People’s Rights (1981)	1984	-Police Force and Auxiliary Services Act 2002 -Penal Code 1981
Covenant on Civil and Political Rights (1966)	1977	
3. Citizen Participation		
African Charter on Human and People’s Rights (1981)	1984	-Article 39 (c) of the Constitution that does not allow independent candidates -The Political Parties Act, 1992
Covenant on Civil and Political Rights (1966)	1977	
4. Non-Discrimination/Inclusion		
Convention on the Elimination of all Forms of Discrimination Against Women (1965)	1985	-The Local Customary Law (Declaration) Order 1963 - The Law of Marriage Act, 1971 -The Citizenship Act, 1995
Convention on the Protection and Promotion of the Diversity of Cultural Expression (2005)	2005	
Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa of 2000 (Maputo Protocol)	2007	
Convention on the Rights of the Child (1989)		
Beijing Declaration and Platform for Action (1995)	1995	
5. Human Rights/Rule of Law		
Universal Declaration of Human Rights (1948)	1948	All of the above laws which place restrictions on other dimensions have implications on human rights and the rule of law

The core of this analysis rests on the triangulation of various sources (international and national) on the current status of each of the five dimensions of civic space in Tanzania, as protected by the law and as executed in practice. Table 3 below and the subsequent narrative summarize the main findings.

Table 3: Assessment of Civic Space in Tanzania

	Protected Space	Partially Protected Space	Restricted Space	Non- Existing Space
Dimensions				
Freedom of Information and Expression			√	
Freedom of Assembly and Association		√		
Citizen Participation		√		
Non-Discrimination/Inclusion			√	
Human Rights/Rule of Law			√	

The rationale for the above score for Tanzania is as follows:

- Restricted Space in Freedom of Information and Expression:**
 Despite the fact that this freedom is protected in the Constitution (Article 18) as well as in a number of ratified treaties, there are legislations in place that restrict this space. These include the Newspapers Act 1976 and the Cybercrimes Act 2015. Evidence such as regular threats and closing down of newspapers in the country shows that this space is restricted. The Cybercrimes Act further restricts this space.
- Partially Protected Space in Freedom of Assembly and Association:**
 This is because citizens' rights to assembly are protected in the Constitution under Article 20 (1), which states that 'every person has the freedom, to freely and peaceably assemble, associate and cooperate with other persons, and for that purpose, express views publicly and to form and join with associations or organizations formed for purposes of preserving or furthering his beliefs or interests or any other interests'. And there have been largely peaceful assemblies, even political rallies, although between 2012 and 2013 some of these were marred by shootings. There are also various laws (e.g. NGO Act 2002, Societies Act 2002) that have allowed for an increase in CSO registrations in the country. However, there are loopholes for example in the NGO Act, that do restrict civil society freedom. The requirement for police permission for larger gatherings could also be restrictive.
- Partially Protected Space in Citizen Participation:**
 The right to participate is protected in the Constitution under article 21 (2), which states that 'every citizen has the right and freedom to participate fully in the process leading to the decision on matters affecting him, his well-being or the nation'. Article 5 (1) of the Constitution provides for the right to vote. The only restrictive legislation in this case is the provision that does not allow independent candidates to run in elections. Other barriers to citizen participation tend to be cultural or economic rather than legislative, for example poverty.



- **Restricted Space in Non-Discrimination and Inclusion:**

The Constitution provides for equal rights to all persons. Article 13(1) states 'all persons are equal before the law and are entitled without any discrimination, to protection and equality before the law.' However, in Tanzania there is still legislation that restricts inclusion and does not protect against discrimination. This is mostly on women's rights with existing legislations such as Customary Law Declaration Order 1963, The Law of Marriage Act 1971, and Citizenship Act 1995.

- **Restricted Space in Human Rights and Rule of Law:**

The Bill of Rights was incorporated in the Constitution in 1984. Nevertheless, there are both legal and non-legal challenges that, overall, constrain and restrict the enjoyment of human rights and rule of law in Tanzania. Access to legal aid is very limited. Courts are faced with lack of resources and corruption. There is no clear separation of the judiciary and executive since the judges are still appointed by the executive and the courts are administered under the ministry.

1.1 Freedom of information and expression

1.1.1 Is access to information guaranteed by law and respected in practice?

Article 18 (b) of the Constitution of the United Republic of Tanzania stipulates the right to seek, receive and/or disseminate information regardless of national boundaries. Moreover, section (d) of the same article provides for the right to be informed at all times of various important events of life and activities of the people and also of issues of importance to the society. This right to freedom of information is, however, constrained by the absence of a Freedom of Information Law in the country as well as the presence of the Statistics Act passed in 2015.

Since 2006 there have been efforts by civil society organizations and media stakeholders to push for a Freedom of Information (FOI) Law. A bill for the same was introduced in the same year but rejected by stakeholders including the members of the Coalition on the Right to Information Tanzania (CORI), the Tanzania Editors' Forum (TEF), Tanzania Human Rights Defenders Coalition (THRDC), Tanzania Constitution Forum (TCF) the Media Council of Tanzania (MCT)), the Media Owners Association of Tanzania (MOAT) and the Media Institute for Southern Africa Tanzania Chapter (MISA-TAN), (see MISA-TAN, 2006; Uhuru Blog 2006). In 2011, following mounting pressure from stakeholders and also due to the country's new membership in the Open Government Partnership (OGP), the government promised to enact the FOI law (Mchekadona, 2011). President Kikwete promised the same at the OGP Conference in London 2013 (Mtega, 2013; The Guardian, 2014). Following that, the Access to Information (ATI) Bill was prepared. It was subsequently withdrawn by the government in June 2015, following a ministerial announcement that the bill needed more time for discussion and review by stakeholders (Rweyemamu, 2015)

Whilst media stakeholders successfully exerted pressure for the withdrawal of the restrictive ATI bill (MCT, 2015), the government managed to pass the Statistics Act in 2015. This Act places restrictions on communication media such as radio stations, television stations, newspapers, magazines, websites and any other media (see Article 37 (7)) to communicate or publish official statistics without authorization from the National Bureau of Statistics (NBS) (see Article 37 (2), 37 (5); and 37 (6)). The penalties stipulated in the Act are high with fines ranging from about USD 500 to USD 5000 and/or imprisonment for six months, one year or three years – all as minimum penalties for different violations under the Act. These provisions limit access to government statistics and can prevent access to critical information.

1.1.2 Is freedom of expression guaranteed by law and respected in practice?

The Constitution of the United Republic of Tanzania (1977) under Article 18 provides for the protection and freedom of opinion and expression. However, there are laws that effectively restrict these freedoms: in particular, the National Security Act 1970 allows the government to control the dissemination of information particularly information defined as classified.

International think tanks have also noted the restrictions in this space. The Freedom in the World score, for example, is an indicative measure of the status of freedom of information and expression in various countries; it measures dimensions such as the legal environment (laws and regulations that could implicate media content), the political environment (political control of media) and the economic environment (media ownership). The score is between 0-100, whereby 0 is the best score and 100 is the worst. In 2010 Tanzania scored 50, which improved to 48 in 2011 but then declined to 55 and 54 in 2014 and 2015 respectively.



The use of these specific national laws in restricting freedom of expression (as well as freedom of media, access to information) has been continuously noted by both international reports (Freedom of Press Reports 2010 to 2015; Nalwoga 2011; BTI Index Reports 2010 to 2015; CIVICUS 2015) and national reports (LHRC Reports 2010 to 2015). In 2015 two laws - Cybercrimes and Statistics Acts - were enacted adding to the list of restrictive laws.

1.1.3 Are media freedoms guaranteed by law and respected in practice?

Tanzania has a restrictive media legislation, particularly the Newspaper Act (1976), which gives power to the responsible minister to ban a publication based solely on his/her opinion. The Public Leadership Code of Ethics (1995) may also block or hinder journalists' access to information. In 2015, a new Media Services Bill was tabled in the parliament and while it did not pass, analysts say it was very restrictive and overly punitive.²

Furthermore, between 2010 and 2015 there were numerous occasions of closure and/or suspension of newspapers, attacks on journalists, and general suppression of critical reporting (Freedom of Press Reports 2010 to 2015, LHRC Reports 2010 to 2015). For example, in January 2015, The East African weekly newspaper, which had been printed and distributed in Tanzania for 20 years, was banned. The official reason given was inappropriate registration, although advocates and other media believe the true reason was its vocal criticism of the government (LHRC 2015). In January 2016 this ban was lifted (Kidanka, 2016) but at the same time another local weekly, MAWIO, was banned permanently, and including "any electronic communication as per the Electronic and Postal Communication Act" (Government Notice No. 55, 15/01/2016).³

1.1.4 Is internet freedom guaranteed by law and respected in practice?

As noted earlier, the proposed (though not enacted) restrictive Access to Information Bill and Media Services Bill of 2015 also covered online publications and social media. However, in 2015 another bill was signed into law, ostensibly to address crimes occurring in cyberspace, such as identity theft and bank fraud. The Cybercrimes Act of 2015 has a number of provisions that restrict the use and benefits of the Internet. Section 31 of the Act gives power to police officers to issue an authorization order to law enforcement officer to enter any premises, search and seize computer systems and other electronic communication devices. Article 7 (2) (b) penalizes any person who intentionally and unlawfully receives unauthorized information. There are no explicit criteria to define "unlawful" information. Moreover, the provision potentially restricts the enjoyment of Article 18 (b) of the Constitution.

² <http://www.law-democracy.org/live/tanzania-analysis-of-media-service-bill/>

³ The notice is cited as the Newspapers (Prohibition of Publication) (MAWIO) Order, 2016.

1.2 Freedom of Assembly and Association

1.2.1 Are rights of assembly guaranteed by law and respected by practice?

The Constitution of the United Republic of Tanzania under Article 20 (1) gives citizens the freedom to peacefully assemble. However, the rights to peaceful public assembly are limited in the country through restrictive regulations⁴ such as the need to obtain police permission at least 48 hours before the assembly. The Police Force and Auxiliary Services Act 2002 gives the police force powers to deny permission to hold the assembly. The police have made use of these powers on different occasions such as, in 2012 when human rights activists following the doctors' strike were arrested in Dar es Salaam on the grounds of unlawful assembly (Mount & Awori, 2012), and when opposition political parties have been denied the right to have rallies (Ally 2015; Taarifa News 2015; Rweyemamu 2015). There have also been incidences of use of force against protestors such as in Mtwara 2013 and also in political rallies that have led to deaths including a newspaper vendor in Morogogo and a journalist in Iringa 2012 (Mubiru 2013; Msuya and Bakari, 2013). Other non-political demonstrations have also been restricted through police brutality. In 2012 shootings happened in Songea during a peaceful demonstration and three people were killed (Mubiru 2013).

1.2.2 Are rights of association guaranteed by law and respected in practice?

Tanzania has enacted a number of legislations that allow the formation of different types of associations. Examples of these are: Employment and Labour Relations Act, 2004 – allows the establishment of Trade Unions; Non-Governmental Organizations Act 2002 – allows the registration of national and international NGOs in Tanzania; the Societies Act 2002- allows for the registration of associations such as faith based, and community based associations; the Trustees Incorporation Act 2002 – allows for registration of trustees; the Companies Act 2002 – allows registration of companies that are limited by guarantee. These laws have led to an increase in the number of non-governmental and civil society organizations in the country.

The increasing number of civil society organizations in the country is a positive sign that the government provides space for exercising the rights of association. According to the Index of Philanthropic Freedom (2015), Tanzania scored the highest in the East Africa region with regards to affording space to civil society groups. Similarly, in all its reports from 2010 to 2015, the Tanzanian Legal and Human Rights Centre (LHRC) acknowledges that the number of CSOs in the country increases every year. By 2013, there were 14,116 CSOs registered under the Societies Act and the Non-Governmental Organization Act 2002. In the same respect, the government recognizes and appreciates the role of CSOs and NGOs in the provision of social services (URT 2001; TenMet, 2009).

1.2.3 Are CSOs able to function independently and free of government interference?

There are legal challenges that NGOs face in the country under the same legislations that allow for their registration. LHRC (2010), for example, noted that the Non-Governmental Organizations Act 2002, provides that the Registrar of NGOs may refuse to approve application

⁴ For legal analysis on the policing of peaceful assembly in Tanzania see Mount S. (2012). *Policing of Public Assemblies in Tanzania: Analysis of the Legal Framework*. Commonwealth Human Rights Initiative Available at [http://www.humanrightsinitiative.org/programs/aj/police/intl/docs/CHRI%20Brief The%20Law%20regarding%20Policing%20of%20Public%20Assemblies_summary.pdf](http://www.humanrightsinitiative.org/programs/aj/police/intl/docs/CHRI%20Brief%20Law%20regarding%20Policing%20of%20Public%20Assemblies_summary.pdf)



for registration of an NGO, particularly if its activities do not strive for public interest – although the definition of “public interest” is left vague. Other examples of legal challenges cited by LHRC (2010) include Section 36(1) of the NGO Act, 2002, which unjustifiably unveils the corporate status of NGOs by shifting liabilities to individual officials of NGOs. The criminal penalties against individuals connected to NGOs serve as a threat and deterrent against their operation in Tanzania.

Furthermore, reports from Human Rights Watch, documenting widespread instances of serious abuse against individuals who belong to marginalized groups, such as sex workers, men who have sex with men, and intravenous drug users (Human Rights Watch, 2013) are extremely troubling. These groups are considered criminal under Tanzania law, and abuses are very often perpetrated by police, i.e., the state itself.

It is also troubling that most civil society organizations in Tanzania are registered under the NGOs Act 2002. A survey from TANGO (2013) found that 75% of these groups are registered under this Act; one can infer that others types of civil society organizations, including workers' associations, are fewer and potentially weaker. Analysis in the BTI Index (2010 to 2015) show that trade unions in the country are weak and other forms of associations such as cooperatives have been narrowed to focus on economic matters only.

1.2.4 Is there an enabling fiscal environment for CSOs?

The fiscal environment for CSOs appears to be constrained, as there is a lack of incentives such as funding from the government. Civil society groups are left to be donor dependent - a situation that challenges their sustainability and consistency. The umbrella CSO Foundation for Civil Society tries to rectify this situation by increasing funding to the rural based CSOs (LHRC, 2014). However, Mercer (2003) observed and cautioned that:

“The NGO sector has become increasingly bifurcated as most of the recent growth has added to the ‘bulk’ of Tanzanian NGOs; those organizations which are small, understaffed, underfunded and/or heavily donor dependent. Tanzanian NGOs are more likely to be concerned with the practicalities of service provision and income generation than with policy debates on debt and macroeconomics. Their dependence on donors is indicated by the types of work popular among NGOs, which mirrors the shifting priorities of the international donor community.”

It’s noteworthy that the NGO Act of 2002, in Section 35, states offences and penalties linked to fundraising contrary to the Act and in violation of the code of conduct. As stated above, these are criminal penalties, which can be brought against individual officials of the NGOs.



1.3 Citizen Participation

1.3.1 Are elections free and fair?

The Constitution of the United Republic of Tanzania under article 5 (1) provides for the right of every eligible citizen (above the age of 18) to vote in any elections. Traditionally, voter turnout in Tanzanian national elections has been high, reaching 84.4% in 2000 and 74.2% in 2005. The 2010 elections saw a major drop (turnout was 40%), while in 2015 elections the turnout was 67% of registered voters. In 2015, international observers such as the EU were generally satisfied with the election process stating that the campaign was positive and vibrant and that millions of people exercised their voting rights in a peaceful environment (EU, 2015). The observers, however, noted and cautioned about the lack of transparency in sharing results, the nullified results in Zanzibar (Commonwealth Observer Group, AU, SADC, and EU, 2015) and also the constitutional ban on independent candidates and the inability to challenge the presidential results (EU, 2015). Institutionally, the Constitution of the United Republic of Tanzania (1977) under Article 41 (6) and (7) negatively impacts citizens' participation by first, allowing the President to be elected by simple majority, and second, denying the jurisdiction of any court to inquire into the election of a presidential candidate. Furthermore, the LHRC reports from 2010 to 2015 repeatedly noted the lack of civic awareness during voters' registration for both the 2010 and 2015 elections.

In addition, the Constitution under Article 39 (1) (c) does not allow independent candidates, which means that citizens who would like to run for office outside the agenda of political parties are denied their right to participate. The African Court of People's and Human Rights ruled that Tanzania should allow independent candidates yet the country has not amended its legislation. Tanzania applies a dualist approach in its legal system meaning that ratification of international legislative instruments does not automatically change its domestic/municipal laws (LHRC 2014).

1.3.2 Does the government facilitate the participation of citizens and CSOs in processes of public deliberation and decision-making?

In 2011, under the Constitutional Review Act, 2011, Tanzania started the process of reviewing its existing Constitution. The Act provided for the establishment of the Constitutional Review Commission (CRC), which was tasked with collecting opinions from citizens for the new Constitution. The Commission attempted to engage many citizens, although vulnerable groups such as people in prisons and persons with disabilities were not engaged fully. The 2012 LHRC report noted that CRC members did not use sign language experts while collecting opinions from the citizens. Furthermore, the 2014 LHRC report pointed out that most members of the CRC were more affiliated to the ruling party rather than the intended thematic groups as prescribed in the Constitutional Review Act (2011). This is an indication that citizens who are not affiliated with the ruling party can be, indirectly, denied their participation rights.

The local government structure sets decision-making levels from the sub-village, to village, ward, division, and district levels through which citizens can participate. However, other than voting, citizen participation in matters of governance is limited and mostly urban (BTI 2014, LHRC 2010 to 2015, REPOA 2014). In rural areas, citizen participation in governance processes seems to be declining. For example, in 2014, REPOA noted that participation in council meetings in rural areas declined from 28% in 2006 to 22% in 2013, school committee participation declined from 36% in 2006 to 15% in 2013. Afrobarometer data for Tanzania also suggest an overall decrease in citizen participation (fewer people reported contacting their MP or attending any sort of protest in 2014 as compared to 2012).⁵

An area which has received considerable attention in the transparency and accountability field recently has been open or participatory budgeting. Although the Local Budget Financial Act (1982, amended 2000) and the Local Authority Financial Memorandum (2010) specify that audit reports and audited financial performance is to be shared with the public, in practice, the Tanzanian government provides limited opportunities for the public to engage in budget making processes. The Transparency Open Budget Index puts Tanzania's average score between 2010 and 2015 at 46, where 0 is worst and 100 is best (in 2010 the score was 45, improving to 47 in 2012, and declining to 45 in 2015). In fact, the Index shows that the 2015 score is lower than other East African countries, particularly Kenya (48 points) and Uganda (62 points). The lack of citizen engagement in Tanzanian budget making prompted the CSO Policy Forum⁶ to initiate a Budget Working Group. Among the activities of this working group is to summarize national annual budgets in a way that are accessible and understandable to most citizens. The working group produces analytical briefs from time to time for public consumption.

1.3.3 Does the government recognize and respect the legitimate role of citizens and CSOs as independent advocates, watchdogs and development agents?


Development projects, whether governmental or non-governmental, focus predominantly on urban areas, as noted in Social Watch reports (2010, 2012, and 2014), although the majority (70%) of the Tanzania population actually lives in rural areas. In connection to this, it has also been noted (LHRC reports from 2010 to 2014) that most CSOs operate in urban areas. The legitimate role of citizens and CSOs as independent advocates, watchdogs and development agents has been restricted at certain points. During the 2015 elections, for example, the National Electoral Commission (NEC) had allowed the electoral results from councillorship, Parliamentarians, and Presidential polls to be tallied and displayed publicly at the polling stations with a limitation that only NEC could announce the presidential results (The Citizen, 2015). However, in practice, this saw one of the first and very heavy-handed instances of the application of the newly passed Cybercrimes and Statistic Acts, whereby an opposition center (Ng'wanikalala and Jorgic 2015) and separately 36 Human Rights' Defenders (Protection International, 2015; Mdoe, 2015) tallying up the results independently were raided, computers confiscated, and people arrested. This clearly suggests that the government is very uncomfortable with CSOs, citizens, or opposition parties as legitimate watchdogs.

1.4 Non-Discrimination/Inclusion

1.4.1 Do women have equal civil rights and access to civic space?

⁵ Comparing Round 5 and Round 6, as per <http://www.afrobarometer.org/>

⁶ An umbrella organization bringing a network of over 100 NGOs and CSOs registered in Tanzania. For information see <http://www.policyforum-tz.org/about>



protect the respect for human dignity; equal treatment of all human beings; and equality before the law. Nevertheless, there are still discriminatory laws in the country's legal system such as the Customary Law Declaration Order (1963), which gives room for discrimination against women and widows, in particular on land rights.

There are other discriminatory laws against women. One of the most notable is the Marriage Act 1971, which allows for early marriage of girls under the age of 18. Early marriages, more common in rural than urban areas, have been linked to girls dropping out of school as well as violations of other human rights (Hakielimu, 2010; LHRC 2014). The UN Human Rights Committee has constantly noted this and recommended that the country amend the Act. The Government of Tanzania, in its submission (2014) defends the country's reluctance in doing so due to traditions and other cultural considerations. Another notable discriminatory legislation is the Citizenship Act of 1995, which does not award women with the right to transfer citizenship to their children or spouses.

The Global Gender Gap Index shows the decline in women's rights in Tanzania from 34th to 66th position out of 132 countries in 2005 and 2010 respectively. In 2014 the ranking improved to the 47th position, and was nominally stable (49th position) in 2015. The ranking is based on gender equality and it measures economic participation and opportunity, educational attainment, health and survival, and political empowerment. The LHRC (2014) reported that women in rural areas are often victims of "witchcraft related" crimes.

1.4.2 Do minority groups have equal civil rights and equal access to civic space?

The current constitution of Tanzania does not recognize or award special protection to minority groups. Although Tanzania voted in favor of the United Nations Declarations on the Rights of Indigenous peoples in 2007, it does not recognize the existence of any indigenous people in the country and there are no specific policies or legislation protecting indigenous rights (Maliasili, 2014). In 2013, a new proposed draft of the constitution for the first time explicitly recognized pastoralist and hunter-gatherer groups such as the Hadzabe and Akiye and spelled out measures to protect their livelihood and culture (East African, 2013). However, as the constitution review process came to a halt in 2015, these groups remain unprotected. On record, the constitution does protect religious freedom and guarantees equal rights for all religious groups, and the country has signed several international treaties which require it to protect the right to non-discrimination on the grounds of ethnicity, disability, race, sex and sexual orientation. A 2013 Policy Forum report highlights that the Tanzanian Government continues to actively promote messages of tolerance, stating that (then) President Kikwete used regular radio addresses and public speeches to encourage religious and political leaders to take seriously their responsibility to ensure citizens continue to live together peacefully, regardless of their religion, ethnicity, colour or place of origin.

1.4.3 Do marginalized groups have equal civil rights and equal access to civic space?

Marginalized groups such as persons with disabilities and in particular people with albinism are discriminated against, excluded, and face human rights abuse. There have been an alarming number of killings of people with albinism in the country, which have been attributed to

witchcraft rituals (BBC, 2015). LHRC (2014) report points out that the Witchcraft Act 2002 has shortcomings and is contradictory as it is difficult to tell whether it recognizes the existence of witchcraft or not. A number of international organizations, including UN agencies, are supporting the social protection system in Tanzania, which is primarily geared towards protection of vulnerable children, preventing child abuse, the elimination of female genital mutilation, and the creation of social pension schemes (UN, 2015).

With regards to persons with disabilities, there has been an improvement since the passing of the Disability Act 2009. Nevertheless, a number of reports (LHRC 2010 to 2015, Social Watch 2010 and 2012) have noted several challenges such as the lack of adequate special needs education facilities. In 2012, LHRC noted that there are only 16 special needs schools and 159 units integrated in ordinary schools in the whole country. There are only two teacher training colleagues for special needs teachers.

Furthermore, reports from Human Rights Watch, documenting widespread instances of serious abuse against individuals who belong to marginalized groups, such as sex workers, men who have sex with men, and intravenous drug users (Human Rights Watch, 2013) are extremely troubling. These groups are considered criminal under Tanzanian law, and the abuses are very often perpetrated by the police, i.e., the state itself.

1.5 Human Rights and Rule of Law

1.5.1 Are basic human rights guaranteed by law and respected in practice?

Human rights and legal justice are protected by the Constitution of the United Republic of Tanzania (1977) together with other laws and international legal instruments that the country has ratified. The Bill of Rights was incorporated in the Constitution in 1984. The Constitution, for example, prohibits torture and provides for the protection of human rights. There are human rights protection mechanisms including The Commission for Human Rights and Good Governance (CHRAAG), Tanzania Police Force, and Tanzania Prison Services.

However, the country faces a number of chronic human rights problems (The US State Department Human Rights Annual Reports for Tanzania from 2010 to 2014; LHRC reports from 2010 to 2015; BTI reports 2010, 2012, and 2014; UN Human Rights Periodic Reviews for Tanzania 2010 to 2015). These include (1) use of excessive force by police, military personnel, and traditional anticrime units, (2) judicial corruption and inefficiency leading to life-threatening prison conditions and lengthy pretrial detention, (3) societal violence against women, persons with albinism, and child abuse, and (4) violence against marginalized/vulnerable populations (such as sex workers, men who have sex with men and drug users).

There are also reported cases of extrajudicial killings and torture in police custody centers and in prisons. LHRC reports from 2010 to 2014 document cases of torture in Tanzania. Torture is a significant human rights problem in Tanzania, made worse by the fact that the country has not ratified the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984. The LHRC (2014) underscores the importance of ratifying this convention so as to open doors for the country to amend all its laws, which condone torture. Currently, torture is not criminalized in the country.

Other persistent human rights issues noted in both international and national reports are abuses of children's rights. Despite the passing of the Child Act 2009, children in Tanzania

continue to face abuse and torture from the hands of the very people who are supposed to take care of them. These abuses are both physical and psychological (LHRC, 2014). In addition, the country's Penal Code under section 25 (3) allows corporal punishment, which is still a common practice in primary public schools.

1.5.2. Is there effective rule of law?

The Constitution under Article 4 provides for the separation of powers in order to ensure the rule of law. However, the executive power dominates and interferes with other branches. A strong example is the procedure for appointing judges; they must be confirmed by the President. The independence of the judiciary is also compromised by its link with the Ministry of Justice and Constitutional Affairs. LHRC (2012, 2014) notes that the Ministry is the source of resources to the judiciary and it has insufficient resources to offer. This imposes limitations on the judiciary's ability to deliver justice. In addition, the judiciary is overwhelmed and lacks resources (LHRC 2010-2015; BTI 2014). Subsequently access to legal aid is limited especially to the poor and people in rural areas. Limited access to legal aid exacerbates chances of human rights abuse as well as restricting enjoyment of other civic rights.

A different but important measure of effective rule of law is the World Bank's Ease of Doing Business survey, in which Tanzania continues to score quite poorly (128th among 183 countries in 2011, and 131st among 181 countries in 2014; Policy Forum, 2013 and World Bank, 2014). Perceptions of rule of law by Tanzanian citizens also scores relatively low, nearly three-fifths of the respondents in a 2012 survey though the Government of the Tanzania was doing "little or nothing" to combat corruption (Policy Forum, 2012). The same report cites cases of high-level corruption which had gone unpunished in the previous few years. The subsequent Policy Forum report (2013) states that a major drawback in prosecuting "grand" corruption cases is that the Prevention and Combatting of Corruption Bureau (PCCB) requires the endorsement of the Director of Public Prosecutions (DPP) before taking cases to court. It concludes that "most of the top corruption cases are never prosecuted." In a related, and cautiously optimistic development, the Tanzanian parliament in 2015 passed the Whistleblower and Witness Protection Bill (Tanzania Daily News, 2015).



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Annex 1 : International data and reports documenting civic space in Tanzania between 2010 and 2015.

Dimension	Report/Data Set	Organization	Key Features	Remarks
Freedom of Information and Expression	1. Freedom of the Press Reports	Freedom House	Updated Every year Put scores for every country 0-100 , whereas 0 means best and 100 means worst.	Tanzania average score between 2010 and 2015 is 51. This means Tanzania is above 50 (which is the middle). It is not a good trend for the country.
	2. Global Information Society Watch Updates	GIS Watch	Regular country updates Collection of specific/thematic country reports	Mostly based on communication infrastructure- e.g. access to internet and the freedom to enjoy that.
	3. State of the World's Human Rights	Amnesty International	Updated Annually Reports on different regions (general)	Tanzania is combined in the sub-Saharan regional analysis. Threats and limited space for journalists are often cited.
	4. Open Budget Index	International Budget Partnership	Scores each country 0-100 every two years whereas 0 means best and 100 means worst	The average score for Tanzania (2010, 2012, and 2015) is 46. Although 46 is below 50, it is still not a good score for a country with a constitution that protects this civil right.
	5. World Press Freedom Index	Reporters Without Borders	Scores each country 0-100, whereby 0 means best and 100 means worst	In 2015 index, Tanzania score was 28.09. This was a decline from 2014 and 2013 when it scored 27.3 in both years.
Rights of Assembly and Association	1. CSO Sustainability Index	USAID	Two reports (2011 and 2012)	Focuses on CSO funding and relations with the host government.

	2. Civil Society Index (2011)	CIVICUS	Reported on the growth of CSOs in Tanzania	The report shows concern that although there is growth in civil society, it is weak.
	3. The Index of Philanthropic Freedom	Hudson Institute	Produced a report in 2015. Scores countries based on civil society space to pursue their objectives.	Tanzania scored the highest in 2015 in the region. The report documented the increasing number of registered CSOs in the country.
	4. BTI Transformation Index	Bertelsmann Stiftung	Annual Country Reports	
Citizen Participation	1. BTI Transformation Index	Bertelsmann Stiftung	Annual Country Reports	
	2. Open Budget Index	International Budget Partnership	Periodic Surveys	Examines citizens' involvement in budget making
Non-Discrimination/ Inclusion	1. Social Watch Report	Social Watch	Reports produced 2010 and 2012	
	2. Minority Rights Groups	Minority Rights Group International	Reports different cases of discrimination in Tanzania	
	2. Universal Human Rights Index Periodic Review	OHCHR	Periodic Reviews – country reports and recommendations	

	3.Human Rights Country Reports	US State Department	Annual Reports on each country	
	4. Human Rights Defenders Annual Reports	Frontline Defenders	Annual Reports on challenges facing human rights defenders across countries	Tanzania gets mentions in the reports for specific issues facing human rights defenders in the country
	5. BTI Transformation Index	Bertelsmann Stiftung	Annual Country Reports on political and economic trends.	In the political trends issues of human rights are highlighted

Annex 2: National data and reports documenting civic space in Tanzania between 2010 and 2015

Dimension	Report/Dataset	Organization	Key Features	Remarks
Freedom of Information and Expression	1. Tanzania Human Rights Reports	Legal and Human Rights Centre (LHRC)	-Updated Annually -Sometimes prepared jointly with Zanzibar Legal Services Centre (ZLSC)	
	2. Submission to the Office of High Commissioner for Human Rights (2011)	Article 19 and MIS-TAN	-Submission for the Periodic Review – 12 th Session 2011 -Focus on media freedom and access to information	
Rights of Assembly and Association	1. Tanzania Human Rights Reports	Legal and Human Rights Centre	-Updated Annually -Sometimes prepared jointly with Zanzibar Legal Services Centre (ZLSC)	
Citizen Participation	1. Tanzania Human Rights Reports	Legal and Human Rights Centre	-Updated Annually -Sometimes prepared jointly with Zanzibar Legal Services Centre (ZLSC)	
	2. Review of Tanzania's Non Profit Legislative Regime (2013)	TANGO	-One time report -Analyses the legal framework regulating non-profit organisations	

	3. Budget Briefs	Policy Forum	-Analysis and promotion of citizen participation in budget making	The briefs do not explicitly access the extent of civic participation. Nevertheless, the analysis is an effort to ensure that citizens participate in budget process.
	4. Citizen Participation and Local Governance Briefs (2014)	REPOA	-Posted every year with different themes/titles but all related to citizen participation -Examined citizen participation between 2003 and 2013 in Tanzania	
	5. Transparency and Accountability in Local Governance in Tanzania (2015)	REPOA	- Citizens' access to information on taxes, etc	
Non- Discrimination/ Inclusion	1. Tanzania Human Rights Reports	Legal and Human Rights Centre	-Updated Annually -Sometimes prepared jointly with Zanzibar Legal Services Centre (ZLSC)	
	2. Submission to the Human Rights Council (Universal Periodic Review Mechanism- 2011)	29 CSOs	- Periodic Review - Covers the rights of women and people with disabilities among others	This is a stakeholders' (CSOs and CHRAGG) joint submission of the status of Human Rights in Tanzania for the Periodic Review by the UN

	3. Individual Report of the Tanzania National Human Rights Institution (2011)	CHRAGG	-Submitted for the UN Periodic Review -Covers the rights of women and people with disabilities among others	This is the state-owned report since CHRAGG is a state institution/agency
	4. 7 th and 8 th Consolidated Reports on the Implementation of the CEDAW (2008-2014). (2014)	Ministry of Community Development, Gender and Children	-Periodic Review -Submitted to the CEDAW Committee -Government/state document	Since this is a State/Government report it is defensive and protective
Human Rights/Rule of Law	1. Tanzania Human Rights Reports	Legal and Human Rights Centre	-Updated Annually -Sometimes prepared jointly with Zanzibar Legal Services Centre (ZLSC)	
	2. Individual Report of the Tanzania National Human Rights Institution (2011)	CHRAGG	-Submitted for the UN Periodic Review -Covers right to life, child rights, access to justice, and law enforcement	This is the state-owned report since CHRAGG is a state institution/agency
	3. Submission to the Human Rights Council (Universal Periodic Review Mechanism-2011)	29 CSOs	-Periodic Review -Focuses on child rights	This is a stakeholders' (CSOs and CHRAGG) joint submission of the status of Human Rights in Tanzania for the Periodic Review by the UN

Annex 3: Other Supplementary information/links:

Dimension	Organization	Title/Article/Subject	Link
Freedom of Information and Expression	GIS Watch	Regular country updates and collection of specific/thematic country reports.	https://www.giswatch.org/country/tanzania
	Article 19	Tanzania Media Law	
	IFEX	Alerts on issues	
Freedom of Assembly and Association	Commonwealth	Policing of Public Assemblies in Tanzania: Analysis of the Legal Framework (2012)	http://www.humanrightsinitiative.org/programs/aj/police/intl/docs/CHRI%20Brief_The%20Law%20regarding%20Policing%20of%20Public%20Assemblies_summary.pdf
	CIVICUS	Various reports/news on Tanzania	http://civicus.org/index.php/en/component/search/?searchword=tanzania&searchphrase=all&Itemid=536
Non-discrimination/ Inclusion	Minority Rights Groups International	Reports on different cases of discrimination to certain groups in Tanzania	http://minorityrights.org/?s=Tanzania