

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
AL TZA 6/2020

18 January 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 41/12, 42/22, 45/3, 44/5, 43/4, 40/16 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning persistent and severe restrictions to fundamental freedoms in the United Republic of Tanzania (Tanzania) in the context of the October 2020 elections. In particular we call attention to numerous alleged human rights violations, including excessive use of force, enforced disappearance, arbitrary arrests and detentions of protesters and political activists, as well as a broader and seemingly systematic pattern of persecution, harassment, and intimidation of members and supporters of the two main opposition parties.

Our concerns regarding a continued decline in respect of human rights and civic space in Tanzania were previously addressed in seven communications sent by the Special Procedures within the last two years (TZA 1/2018, TZA 2/2018, TZA 3/2018, TZA 4/2018, TZA 1/2019, TZA 1/2020, and TZA 3/2020). We thank your Excellency's Government for the replies to TZA 1/2019 and TZA 1/2020. However, we regret that the reply received from your Excellency's Government on 13 May 2019 concerning the communication TZA 1/2019 did not address the substance of the communication. In addition, we regret not having received an answer to the other five communications. We recall that the responses to our communications constitute a central element of the States' cooperation with Special Procedures. We also recall that the Working Group on Arbitrary Detentions recently issued an Opinion (No. 38/2020) in 2020 on a Tanzanian citizen who was reportedly arbitrarily detained in December 2019, allegedly in retaliation for his criticism of the Government over social media.

According to the information received:

Background

Between 1977 and 1992, after the formation of the ruling *Chama Cha Mapinduzi* party (CCM), Tanzania had functioned as a one-party state. In

1992, the Constitution was amended to allow a multi-party system. Since then, and although CCM remains the dominant party, *Chama cha Demokrasia na Maendeleo (Chadema)* has risen to become the second-largest political party, and the main opposition to CCM on the mainland, while *ACT-Wazalendo* is the largest opposition party in Zanzibar.

We note that Zanzibar is governed as a semi-autonomous region which is responsible for some matters and agencies on the archipelago, although others are under the centralized control of the Union Government. For instance, the Tanzania Police Force (TPF) operates in both mainland Tanzania and Zanzibar, and is administered by the Union Government. However, Zanzibar operates its own security forces known as the SMZ “special departments” or “vikosi,” which work alongside the TPF. A paramilitary group, known as the Mazombi or “Zombies”, which is reportedly politically aligned with the Union Government, is also active in Zanzibar.

We also note that voters in Zanzibar vote for a local president and parliamentary representatives for the islands, as well as for Tanzania’s President and the National Assembly. Voters on the mainland elect representatives at the National Assembly and the President of Tanzania. The National Electoral Commission (NEC), whose chairman and other high-ranking officials are reportedly directly appointed by the President, coordinates Union elections, while the Zanzibar Electoral Commission (ZEC) manages Zanzibar’s electoral matters.

Since the re-establishment of a multi-party-political system in 1992, elections have been held in 1995, 2000, 2005, 2010 and 2015. Some of these elections were reportedly marred by irregularities and human rights violations in Zanzibar. In between these elections, numerous human rights abuses against opposition members or Government critics have allegedly been committed, including by State-sponsored or aligned paramilitary groups, such as the “Zombies”.

Since 2015, it is alleged that the authorities have increasingly cracked down on the media and civil society groups by passing and enforcing restrictive laws and threatening to withdraw the credentials of organizations critical of the Government. The Government also placed restrictions on the political opposition and provided the Registrar of Political Parties with wider discretionary powers, including the ability to withdraw registration from political party candidates.

Alleged human rights violations in the build-up to the 2020 elections

Arrests, intimidation, and harassment of political opposition

The 2020 election was scheduled to take place on 28 October nationwide and one day earlier in Zanzibar. In the year building up to that date, there were numerous alleged attempts to impede, discredit, or intimidate members of the political opposition, mainly from the *Chadema* and *ACT-Wazalendo* parties.

For instance, on 8 June, the chairperson of *Chadema* was assaulted by unknown assailants. On 23 June, the leader of *ACT-Wazalendo* was reportedly

arrested and charged with “endangering peace” for attending an internal meeting. On the same day, a local female politician affiliated with the *Chadema* party was arrested and charged for a video she published online. Additionally, it appears that seven members of *Chadema* were arrested on 4 July for convening a public rally.

After election campaigns started in August 2020, several leaders and senior members of both parties were arrested, denied or suspended permission to hold rallies or campaign on allegedly unfounded or unclear charges. The NEC and the ZEC also disqualified numerous opposition candidates from running in the upcoming election. It is alleged that nearly 30 per cent of all *Chadema* councillors were disqualified when they presented their credentials to the NEC. Although some were later reinstated, the process was reportedly opaque and fraught with irregularities.

One senior *Chadema* opposition leader who had faced an assassination attempt in 2017 and had fled the country, returned in July 2020 to run for the presidential elections. In August 2020 he was attacked while he was driving in a convoy, and his party headquarters were separately firebombed. His convoy had been repeatedly blocked and tear-gassed by the TPF prior to the attack. On 2 October, the presidential candidate was given a seven-day suspension from holding political rallies, allegedly without a hearing or any chance to defend his case before the NEC, severely restricting his ability to campaign. In addition, we note that he had faced numerous other legal obstacles to his campaign ever since his return to the country.

In early October, a coalition of women human rights defenders issued a statement expressing concern about violence against women in the context of the elections. The coalition subsequently received threats from several Government ministries encouraging them to revoke the statement or face “serious consequences”.

On 12 October, a *Chadema* parliamentary candidate and several of her colleagues were arrested and beaten by police officers at an election campaign office in northern Serengeti. It is alleged that an officer later sexually assaulted her at a police station. Another officer also threatened to kill her before the end of the election. After her release later that day, eight officers followed her to a nearby restaurant, where they kicked and beat her with a bat. The authorities subsequently charged this parliamentary candidate, along with five other individuals, with several offenses, including unlawful assembly and malicious damage to property. It is unclear if the sexual assault and beating allegations were investigated further.

This arrest was not an isolated incident and seemed instead to be part of a broader pattern of intimidation of political actors through arrests, typically of short duration and characterised by unclear charges. For instance, on 14 October, police in Tarime, in the northern Mara Region, raided the home of another *Chadema* parliamentary candidate, arresting one person. On 23 October, the TPF arrested and soon after released another *Chadema* opposition member, reportedly after an altercation. In addition, many individual party supporters of the two main opposition parties were also harassed or intimidated during this period.

On 15 October, the ZEC allegedly barred the *ACT-Wazalendo* presidential candidate from campaigning for five days (from 16 to 20 October). He was reportedly accused by another political party (Demokrasia Makini) of violating electoral regulations by allegedly having urged people to vote on 27 October. He was the second opposition presidential candidate to have been restricted from campaigning by the electoral body in the build-up to the 2020 elections.

Media restrictions

In the months ahead of the elections, the authorities suspended several television and radio stations, censored mobile phone communication, and blocked some social media outlets or access to them. The Tanzania Communications Regulatory Authority (TCRA), with its wide discretionary powers to regulate and license blogs, websites, and online content, suspended several media outlets for election-related coverage and also placed restrictions on some online content critical of the Government, or platforms used to share such content.

For instance, on 27 August, the TCRA ordered *Clouds TV* and *Clouds FM* to suspend programming for seven days and to apologize for allegedly having aired candidate nomination results which had not been confirmed by the NEC.

On 18 September, a *Chadema* official was charged by the authorities for having provided content to the party's YouTube channel, *Chadema TV* without an adequate TCRA license. (This official was later released on bail and his trial was still ongoing in late November 2020.)

On 21 October, media authorities in Zanzibar suspended *RVS Online TV*, for two months for allegedly having failed to provide consistent and fair campaign information about all political parties and airing content that indicated a breakdown of peace.

On the same day, the TCRA issued a directive temporarily suspending bulk messaging and bulk voice calling services until after the election, specifically between 24 October and 11 November. This blocked or limited candidates from reaching large audiences, during a key period in the run-up to, during, and after the elections.

On 27 October, on the eve of the national election, there were various reports that the internet connection had slowed down nationwide and that some social media and messaging platforms were inaccessible. Twitter confirmed in the afternoon of 27 October that it was “seeing some blocking and throttling” of its services in Tanzania, and noted that “internet shutdowns are hugely harmful, and violate basic human rights and the principles of the open internet”. Between 27 and 28 October, internet users also reported difficulties when trying to download photos or videos on WhatsApp.

In order to access the internet and social media networks in the face of these growing restrictions, Tanzanians increasingly began using virtual private

networks (VPNs). However, on October 28, the day of the election, a VPN service provider, Proton VPN, tweeted that VPNs were being indirectly blocked in the country, as text message verification necessary to access its platform had seemingly been blocked.

The authorities also appear to have restricted some foreign journalists from covering the elections by failing to respond to their accreditation applications. For instance, four foreign journalists reportedly wrote to officials at the Ministry of Information, Youth, Culture and Sports several weeks ahead of the elections to seek accreditation but did not receive responses. This followed regulations issued in June 2020 by the Government which had banned Tanzanian broadcasters from working with their foreign counterparts without TCRA staff or other government agencies present. On the day of the election, several foreign journalists accredited to cover the elections in Zanzibar reported that security officials blocked them from entering polling places.

Alleged human rights violations during the 2020 elections

Harassment of opposition politicians in Zanzibar

During the days preceding the election, and on the days of the election itself, there was widespread tension and increased violence across Tanzania, but particularly in Zanzibar, which has historically seen bouts of violence after contested elections.

As noted, the nationwide election was scheduled to take place on 28 October on the mainland. However, due to legislation reportedly passed following the 2015-16 political crisis in Zanzibar, the Government had called on the ZEC to stage early voting for the national elections, a day ahead of the mainland. The early vote was only open to security personnel, ZEC employees and other Government or electoral officials, in order for security forces, Government services, and political figures to be available on the main polling day. However, opposition groups, and particularly *ACT-Wazalendo*, accused the Government and the ZEC of using early voting on the islands to facilitate vote-rigging and complained about a lack of transparency throughout the process.

As a result, the trend of opposition politicians being detained, harassed, and generally hampered from carrying out their activities, seemingly became more marked during this period in Zanzibar in particular.

On 26 October, on the eve of the election in Zanzibar, the TPF arrested an *ACT-Wazalendo* party official, shortly after he landed at Pemba Airport in Zanzibar. He was reportedly released on November 2 without charge. The exact reasons for his arrest, as well as whether he was presented with a warrant or even appeared before a judicial authority, remain unclear.

On 27 October, the presidential candidate of *ACT-Wazalendo* was arrested in Zanzibar, reportedly at or near a polling station on Unguja Island. The details of his arrest and any subsequent charges against him remain unclear, although this allegedly happened shortly after the candidate had objected to voters being given two to three ballot papers to vote on. The presidential candidate was

taken into custody and ultimately denied the right to vote, even though the ZEC ostensibly allowed early voting for electoral personnel. (He was reportedly released from police custody after the voting period.)

On the same day, another member of *ACT-Wazalendo* (from Bwejuu, Unguja South District) was allegedly arrested from his house by the Zanzibar Special Security Forces. Until early November 2020, his whereabouts allegedly remained unknown.

Harassment of opposition politicians on the mainland

Although Zanzibar was particularly affected, similar events also took place on the mainland.

On 28 October, hours after polling in Tanzania had opened, the *Chadema* party reported the arrest of its parliamentary candidate for Kawe constituency in Dar es Salaam, a Chairperson of Chadema's women's wing and two-term legislator. Her arrest came as she had purportedly questioned the legitimacy of some votes cast upon her arrival at the Tarafani polling station.

On the same day, the leader and presidential candidate of the *Chadema* tweeted that his life was again in danger, following reports that his hotel room had been raided and two of his personal security guards arrested. We recall that he had previously been shot by unknown assailants in 2017.

Protests in Zanzibar on the eve of and during the election

The arrests of key *ACT-Wazalendo* figures and widespread criticism of the way that the early election was being carried out led to a volatile situation in Zanzibar, where protesters gathered *en masse* in various locations on the eve of the election. Hundreds of security and police forces personnel are reported to have been deployed across the islands to maintain order during early voting, but opposition groups staged a number of protests against the move. Groups of opposition supporters reportedly clashed with security forces in several areas on the night of 26 October and morning of 27 October.

On 26 October, the TPF allegedly shot dead six or seven individuals in Pemba, Zanzibar. Nine additional persons were injured. Security forces had reportedly been distributing ballot boxes at polling stations designated for advance voting when protesters in areas surrounding the polling stations, claiming that these boxes contained pre-marked ballots, sought to prevent them from being transferred to the polling stations. Police started using teargas to disperse the crowds. When this proved unsuccessful, they resorted to using live ammunition. We note that the Zanzibar police has denied these claims, although they later stated that they had detained 42 people for allegedly throwing stones at police who were distributing ballot boxes. The father of a 25-year-old man who had been fatally shot on this day alleged that when he reported the shooting to a community leader and the police, they did nothing in response.

Clashes were also reported outside Stone Town, near where the *ACT-Wazalendo* leader had been arrested. Police are reported to have fired tear gas

to disperse crowds of his supporters, with some officers believed to have fired live rounds. Another similar incident was reported in the Unguja Northern Region where police allegedly used live ammunition to disperse a crowd, mostly made up of *ACT-Wazalendo* supporters. 11 persons were injured, eight of whom were taken to Kivunge Hospital and three to Tumbatu Island in the North of Unguja. Police also allegedly beat several people and damaged houses in the Vikokotoni and Mtendeni areas of Zanzibar.

It has further been alleged that protesters or *ACT-Wazalendo* supporters were not only persons affected, and that in the period leading up to, during, and after the elections, security forces repeatedly harassed or attacked random individuals in Zanzibar. These wanton acts of violence were reportedly perpetrated by the TPF, together with Zanzibar Government's special paramilitary troops, as well as non-official militia groups.

For instance, on 27 October, police allegedly shot and killed a man in Wete town on Pemba island, at a shop near his home. A witness said that two police officers had stormed the shop, and when the man realized that they were police he had tried to flee. As he ran, one of the officers shot him in the back. The witness claimed that the police then attempted to conceal the evidence by rubbing dirt over the bloodstains on the floor, before driving off with his body.

In the same period, a Kangagani resident alleged that police broke into their neighbours' doors at night, beat people, and looted items. Another said that they saw masked non-uniformed armed men in black t-shirts, likely belonging to the Government-aligned "*Zombies*" militia group, randomly grab several people on the streets of Unguja, beat, and arrest them in unmarked vehicles.

On 27 and 28 October, the TPF in collaboration with the SMZ, reportedly used tear gas indiscriminately in residential areas, in both rural and urban communities, and randomly raided several houses. For instance, in Pwani Mchangani three houses were raided and tear gas canisters thrown into them. Several serious injuries were reported. In Daraja Bovu, another house was teargassed, causing a 75-year-old retiree to have a stroke.

Although the exact details are unclear due to diverging reports, during this period of the October 2020 general elections, in Zanzibar alone, between 13-17 people were killed, an estimated 100 more were tortured and beaten, and around 185 civilians were detained in police stations and Special Forces camps. Numerous acts of looting, destruction of homes and property, as well as sexual abuse by police and security forces were also reported. Many people subsequently fled the area.

Following the elections

In the weeks following the election, there was reportedly further suppression of dissenting voices across Tanzania, through violence, intimidation, mass arrests and arbitrary detentions. This escalation followed vocal criticism by both main opposition parties of the manner in which the election had been carried out, who also called on their supporters to engage in peaceful protests. The two presidential candidates of the two main opposition parties, as well as at least eight other senior members of both parties, were detained in this

period, at least two of whom were forcibly disappeared for around 20 days. Most of these opposition figures were later released, although one of the presidential candidates and around a dozen other members of the political opposition and their families have since fled from Tanzania.

Arrests of ACT-Wazalendo and Chadema senior leaders

On 29 October, following the announcement of preliminary election results by the NEC and ZEC, which indicated a landslide win by the CCM party, the senior leaders of both *ACT-Wazalendo* and *Chadema* pre-emptively rejected them. Both opposition parties subsequently alleged that their agents had been blocked from accessing polling stations, that security forces had intimidated voters as well as opposition members, and had irregularly disqualified a number of opposition candidates. They also claimed that there had been a wide scale rigging of votes, including through stuffed ballot boxes with votes in favour of the CCM and improper counting of votes in favour of the opposition.

On 30 October, the NEC officially announced that the President of the ruling CCM party had been re-elected with 84 percent of the vote ahead of his closest challenger of the *Chadema* party. Both *ACT-Wazalendo* and *Chadema* subsequently re-stated that they would not be accepting these results. They also called on their supporters to “take the matter in their own hands” by engaging in mass peaceful demonstrations.

On 31 October, both parties announced peaceful protests starting from 2 November. Their demands were for the election to be carried out again, the disbanding of both the NEC and ZEC, and for investigations to be carried out into the unlawful killings and other alleged abuses by security organs and their affiliates during the election. The Government reportedly responded to these demands by increasing the presence of security forces in key locations across the country, to dissuade people from protesting.

In addition, security forces arbitrarily arrested at least 77 opposition party members since the election day, in many cases before the protests were scheduled to take place. These included several senior opposition party leaders.

ACT-Wazalendo

On 28 October, the Deputy Secretary General of *ACT-Wazalendo* was allegedly abducted from or nearby his home in Zanzibar by six unidentified men. He was beaten and taken to unknown location. On 31 October, Zanzibar’s police commissioner stated that the TPF were holding 33 people, including the Deputy Secretary General of *ACT-Wazalendo*, for planning a terrorist attack targeting various locations in Zanzibar. Police later claimed that he and the 32 others were arrested for possessing devices that could interfere with the electoral system. It is alleged that most of these 33 individuals had not been formally charged by 31 October, and had not seen any evidence backing up the allegations against them. Furthermore, the police reportedly refused to disclose the location of the Deputy Secretary General, so his whereabouts were still unknown to his colleagues and relatives at that time.

The Presidential Candidate of *ACT-Wazalendo*, who had previously been arrested on 27 October, and who had called on his party supporters to protest the election results on October 31, appears to have been arrested again shortly thereafter in Madema.

On 13 November, the Commissioner of Police in Zanzibar and the Deputy Director of Criminal Investigations failed to attend a court summons which had been set by the High Court to determine if the detention of the Deputy Secretary General of *ACT-Wazalendo* and another arrested senior party leader had been lawful. Instead, they had sent their lawyers to request for more time to respond to the application. The Court allowed the State until 17 November to file their replies and set a hearing date for 18 November. The Deputy Secretary General was released on 18 November. His whereabouts had remained unknown until that point, for 21 days in total. The other party leader mentioned in the court summons hearing was also released, after having spent 20 days in incommunicado detention.

Chadema

On 1 November, it appears that the TPF arrested the *Chadema* chairperson, two other senior party members, along with several other individuals in Dar Es Salaam, the day before the protests had been scheduled to take place, although the grounds for their arrests and whether they were eventually charged is unclear. The scheduled protests were ultimately not organized in Dar Es Salaam, both due to these arrests and as the planned protests had been deemed illegal by the authorities, with the chief of the TPF allegedly warning that the TPF would take “strong action” if people protested without authorization.

On 2 November, the police arrested and soon after released the *Chadema* presidential candidate, in Dar es Salaam, also in connection with the protests. The *Chadema* presidential candidate later stated that at the time of his arrest he was seeking asylum, at a foreign embassy, due to serious and credible threats to his life, and fear of a new assassination attempt against him. The following week, he left Tanzania, citing continuing threats to his life. He was one of at least a dozen members of the political opposition, other Government critics, and their families who have fled Tanzania since the election.

Mass arrests and indiscriminate use of force

In addition to senior opposition figures, scores of opposition party members and supporters, protesters, and even some individuals with no party affiliation, were arrested across the country in the aftermath of the election. Over 100 people were reported to have been arrested and detained in Rorya District alone. One person was allegedly stabbed to death and several others seriously injured when this happened. Although the exact figures are unclear, there were also mass arrests and detentions in Pemba, Zanzibar, where military and security presence had been particularly high. In total, it is estimated that across the country, security forces arbitrarily arrested more than 300 people since the elections.

Security forces also said to have used torture to extract “confessions” from many of the persons detained in this period. Several opposition party

supporters were severely beaten by police while being interrogated for disputing the election results. In one such instance, a member of *ACT-Wazalendo* was reportedly beaten and abused by security forces during his arrest on 29 October and again while being interrogated. He sustained nine fractures on his right leg and shoulder, and was later abandoned by police at a hospital. This individual was subsequently flown to Nairobi where he has since undergone two major surgeries.

In addition, there were renewed allegations of indiscriminate and excessive use of force, including through the use of live ammunition, against protesters. As of 11 November, at least 22 people are estimated to have been killed by security forces since the eve of the election. In at least two cases, the relatives of individuals who have been killed testified that the victims, who reportedly were not supporters of any political party, had died of gunshot wounds. In four other cases several witnesses corroborated that security forces were directly responsible for the killings. It is likely that the number of such cases is higher, but due to the high level of risk, people were scared of making their testimonies known both before, during, and after the 2020 elections.

While we do not wish to prejudge the accuracy of these allegations, we express our deep concern at what appears to be a deliberate and systematic attempt to intimidate members and supporters of the political opposition in the context of the 2020 elections, through the use of excessive violence, threats, persecution, and/or seemingly unfounded legal prosecution or proceedings, alleged arbitrary detentions and, in some cases, enforced disappearances and acts of torture or other cruel, inhuman or degrading treatment or punishment. We are in this context especially concerned by what appears to be a methodical strategy to undermine the two main opposition parties in particular, *Chadema* and *ACT Wazalendo*, including by arresting and harassing their leadership, and consistently hampering their ability to campaign and operate effectively, both before and after the election. It is also troubling that criticism levelled against the manner in which the elections had been carried out, and any questioning of the validity of the results, seems to have led to immediate retaliation. This alleged pattern of severe and heightened silencing of dissent, through fear of reprisal or prosecution, as well as a broader curtailment of fundamental freedoms, is deeply troubling, and if confirmed, would be in violation of your Excellency's Government's obligations under international human rights law, in particular articles, 7, 9, 14, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR).

We also express our grave concern over the numerous allegations of excessive use of force by police and security forces in response to the protests that took place across the country, but particularly in Zanzibar, in the build-up to and aftermath of the 2020 elections. While we recognise the challenges posed by large-scale demonstrations, we are deeply concerned by the alleged use of lethal and disproportionate force against protesters, including through the use of live ammunition, indiscriminate use of tear gas in residential areas, and other violent acts, which reportedly caused hundreds of injuries and resulted in dozens of deaths. We acknowledge that according to the information received, in some limited cases certain protesters may have resorted to violence. However, we recall legal principles dictate that the measures to separate violent protesters from those protesting peacefully should be proportionate to the evaluated risk, necessary, with a specific focus, and applied in a non-discriminatory way. We are consequently alarmed by the scale and

geographic spread of the allegations of indiscriminate and, in some cases, seemingly wanton violence against protesters, and even against individuals who were not directly participating in said protests, as well as various allegations of torture and ill-treatment, including sexual or gender-based violence. We are additionally troubled by reports of attacks on protesters by alleged sympathisers of the Government, including non-official paramilitary groups such as the *Zombis*, as well as what appear to be limited efforts by the relevant authorities to investigate these allegations thus far. If confirmed, these allegations would be in contradiction with the States' responsibility to protect peaceful protesters and ensure that there is an enabling environment for protesters to assemble safely, and to take action against those who instigate violence regardless of their political sympathies. We also note that States have a positive obligation under international human rights law not only to actively protect peaceful assemblies, but also to facilitate the exercise of the right to freedom of peaceful assembly (A/HRC/20/27).

We furthermore express our concern over what appears to be a series of other undue restrictions to the rights to freedom of peaceful assembly, association and expression in Tanzania, ranging from internet shutdowns or slowed connections, the blocking of certain websites or platforms, and/or access to them, the passing and enforcement of restrictive and non-human rights compliant legislation, as well as the non-authorization of accreditation requests for foreign journalists, among other allegations detailed above. We are deeply concerned by what appears to be a systematised attempt to stifle dissent and public debate, and to limit the free flow of information. We are concerned that this trend is both representative and a driver of what was already a deteriorating environment in Tanzania in relation to fundamental freedoms, which we recently addressed in 2020 in TZA 4/2020.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the abovementioned allegations
2. Please provide the details and, if available, the results, of any investigation, medical and judicial, or other inquiries carried out in relation to the alleged deaths and injuries of protesters in the context of the above-mentioned allegations. If no inquiries have yet taken place, or if they have been inconclusive, please explain why.
3. Please indicate what measures have been taken to ensure that the political opposition in Tanzania, as well as journalists and human rights defenders, are able to carry out their legitimate work, including through the exercise of their rights to freedom of opinion and expression, and of peaceful assembly and of association in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

4. Please provide information on the implementation of the existing legal framework protecting individuals in Tanzania against arbitrary detentions, enforced disappearances, and any allegations of torture and other cruel, inhuman, or degrading treatment or punishment potentially committed while in custody, in relation to the specific cases of *Chadema* and *ACT-Wazalendo* party members described above; and the results of any related judicial processes that have been carried out since these allegations reportedly took place.
5. Please provide information in details of how your Excellency's Government's counter-terrorism efforts comply with the United Nations Security Council resolutions [1373 \(2001\)](#), [1456\(2003\)](#), [1566 \(2004\)](#), [1624 \(2005\)](#), [2178 \(2014\)](#), [2341 \(2017\)](#), [2354 \(2017\)](#), [2368 \(2017\)](#), [2370 \(2017\)](#), [2395 \(2017\)](#) and [2396 \(2017\)](#); as well as Human Rights Council resolution [35/34](#) and General Assembly resolutions [49/60](#), [51/210](#), [72/123](#) and [72/180](#), in particular with international human rights law, refugee law, and humanitarian law.
6. Please elaborate upon the measures taken by your Excellency's Government to ensure that information concerning the political situation of Tanzania is freely disseminated in the media. In particular, please explain how the apparent restrictions on the transmission and publication of information detailed above, are line with your Excellency's Government's obligations under Article 19 of the ICCPR and the UDHR.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

Tae-Ung Baik
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental
freedoms while countering terrorism

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above. In particular we would like to remind your Excellency's Government of its obligations under the International Covenant on Civil and Political Rights (ICCPR), acceded by Tanzania on 11 June 1976. If confirmed, the above allegations would be in direct contradiction with your Excellency's Government's obligations under international human rights law, in particular articles 6, 7, 9, 14, 19, 21, 21, 25 International Covenant on Civil and Political Rights (ICCPR), acceded to by Tanzania on 11 June 1976.

Firstly, we refer to Article 6(1) of the ICCPR which provides that every individual has the right to life and that no person shall be arbitrarily deprived of his or her life. In General Comment No. 6, the Human Rights Committee reiterated that the right to life is the supreme right from which no derogation is permitted. Moreover, in General Comment No. 31 the Committee has observed that there is a positive obligation on States Parties to ensure protection of Covenant rights of individuals against violations by its own security forces.

In this regard, we would also like to remind your Excellency's Government of the duty to investigate, prosecute, and punish all violations of the right to life. We urge your Excellency's Government in line with the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Prevention and Investigation Principles), in particular principle 9, that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) also provides detail on the duty to investigate potential unlawful deaths "promptly, effectively and thoroughly, with independence, impartiality and transparency". In particular we note the authorities must "conduct an investigation as soon as possible and proceed without unreasonable delays."

Second, we would also like to remind your Excellency's Government that Article 19(3) of the ICCPR requires that any restriction on the right to freedom of expression (i) is provided by law; (ii) serves a legitimate purpose; and (iii) is necessary and proportional to meet the ends it seeks to serve. In this connection, we also wish to recall the principle enunciated in Human Rights Council Resolution 12/16. The Resolution calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups. We also underline that permissible restrictions on the internet are the same as those offline (A/HRC/17/27).

Third, we recall that the ICCPR guarantees the rights to freedom of peaceful assembly and of association in its articles 21 and 22. These rights can be subject to certain restrictions in strict conditions of necessity and proportionality only. In this regard, we would like to refer to Human Rights Council Resolution 24/5 which

“reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others”. With regard to the de facto prior authorization to hold assemblies, we recall that the exercise of fundamental freedoms should not be the subject of previous authorization and that the suspension or de-registration of an association constitutes one of the severest types of impediment to the right to associate (A/HRC/20/27, para. 28 and 75). We would like to refer to the recently adopted General Comment No. 37 of the Human Rights Committee on Right of peaceful assembly ([CCPR/C/GC/37](#)), which stressed that “the possibility that a peaceful assembly may provoke adverse or even violent reactions from some members of the public is not sufficient grounds to prohibit or restrict the assembly. [...] States are obliged to take all reasonable measures that do not impose disproportionate burdens upon them to protect all participants and to allow such assemblies to take place in an uninterrupted manner”.

In light of the need for open and free elections, we would like to remind your Excellency’s Government of its obligations under Article 25 of the ICCPR, which protects the right of every citizen to “take part in the conduct of public affairs, directly or through freely chosen representatives.” The Human Rights Committee has observed that citizens “take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives.” The Human Rights Committee has also observed that voters should be “free to support or oppose their government” and “should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind.” (General Comment No. 25 from the Human Rights Committee) In this regard, we would like to refer to Human Rights Council Resolution 24/5 which “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others”.

In connection with the above arrest of political figures and other individuals, we would like to refer to the right not to be arbitrarily deprived of liberty and to fair proceedings before an independent and impartial tribunal, as set forth in articles 9 and 14 of the ICCPR.

Article 9(1) of the Covenant requires that no one is deprived of his liberty except on such grounds and in accordance with such procedure as established by law. This would normally require the issuance and presentation of a warrant for and during the arrest. In addition, we would like to remind that pursuant to article 9(3) of the Covenant that pre-trial detention is an exceptional measure and must be assessed on an individual basis. The rationale in paragraph 3 of article 9 also indicates that alternative measures including house arrest, judicial monitoring, release on bail shall not be regarded as compulsory vis-à-vis a pretrial detention but rather optional. The consideration of alternative non-custodial measures allows it to be ascertained whether the principles of necessity and proportionality have been met (see A/HRC/19/57, para. 54). The current public health emergency puts an additional onus of consideration upon the authorities, as they must explain the necessity and proportionality of the measure in the circumstances of the pandemic. The Working Group recalls in particular that automatic pre-trial detention of persons is incompatible with international law. The circumstances of each instance of pre-trial

detention should be assessed; at all stages of proceedings, non-custodial measures should be taken whenever possible, and particularly during public health emergencies (Deliberation No. 11 on prevention of arbitrary deprivation of liberty in the context of public health emergencies, para. 14). Moreover, we would like to recall that article 9.3 requires that the arrested person shall be brought promptly before a judge. The decision on the need to subject the accused to pre-trial detention shall be taken by a judge or immediately subjected to judicial oversight. The fact that the prosecution, as the investigative authority, decides on the need to impose the pretrial detention represents a conflict of interest, which can negatively affect the rights and guarantees of the individual under the Covenant.

Article 9 (4) of the Covenant provides that “[a]nyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful”. In this respect, “[t]he right to bring proceedings applies in principle from the moment of arrest and any substantial waiting period before a detainee can bring a first challenge to detention is impermissible. In general, the detainee has the right to appear in person before the court, especially where such presence would serve the inquiry into the lawfulness of detention or where questions regarding ill-treatment of the detainee arise. The court must have the power to order the detainee brought before it, regardless of whether the detainee has asked to appear” (CCPR/C/GC/35, para. 42). Moreover, “[t]o facilitate effective review, detainees should be afforded prompt and regular access to counsel. Detainees should be informed, in a language they understand, of their right to take proceedings for a decision on the lawfulness of their detention” (Ibid, para. 46).

We would also like to recall that the deprivation of liberty as punishment for the legitimate exercise of the rights to freedom of opinion and expression and freedom of assembly and association is arbitrary. Moreover, enforced disappearances violate numerous substantive and procedural provisions of the Covenant and constitute a particularly aggravated form of arbitrary detention and imprisonment after a manifestly unfair trial is arbitrary. (CCPR/C/GC/35, para. 17).

The right to have access to a lawyer without delay and in full confidentiality is also enshrined in principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37), and the Basic Principles on the Role of Lawyers (Principles 7 and 8).

We also recall that enforced disappearance constitutes a particularly aggravated form of arbitrary detention as it places the person outside the protection of the law, in violation of article 6 of the Universal Declaration of Human Rights (see namely opinions No. 82/2018, para. 28; No. 18/2019, para. 33).

We would also to recall once that the Declaration on the Protection of all Persons from Enforced Disappearance proclaims that no State shall practice, permit or tolerate enforced disappearance (article 2); the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority *promptly* after detention and the obligation to make available accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest (article 10); that no circumstances whatsoever, whether a threat of war, a state of war, internal political

instability or any other public emergency, may be invoked to justify enforced disappearances (article 7). Article 13 requires States to guarantee that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.

We further respectfully remind your Excellency's Government of the provisions of the United Nations Security Council resolutions 1373 (2001), 1456(2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180. All these resolutions require that States ensure that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, must comply with all of their obligations under international law. We would also like to recall the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1 and 2 which state that everyone has the right to promote and strive for the protection and realization of human rights and fundamental freedoms at the national and international levels, and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, as well as to articles 5(a) and (b), 6(b) and (c) and 12, paras 2 and 3. In this regard, we also wish to refer to the Human Rights Council resolution 22/6, which urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights.¹

¹ A/HRC/RES/22/6, para. 10; See also E/CN.4/2006/98, para. 47.