

# SOUTHERN AFRICA LITIGATION CENTRE

8 June 2020

**Mr. David Kaye**

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

**Palais des Nations**

**CH-1211 Geneva 10**

**Switzerland**

**Fax: +41 22 917 9006**

Email: [freedex@ohchr.org](mailto:freedex@ohchr.org)

**Re: Concerns over human rights violations in Tanzania in light of Covid-19**

Dear Mr. David Kaye,

SALC is a regional human rights organisation that promotes and advances human rights and the rule of law in Southern Africa through strategic litigation, research, capacity strengthening, training and advocacy. We conduct our advocacy in partnership with our national partners in the region.

We write to you in your capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. We would like to call your attention to specific concerns the South African Litigation Centre (SALC) has with regards to the ongoing violations of the right to freedom of expression in Tanzania, more especially in relation to the increasing violations taking place arising out of the global Covid-19 pandemic.

President John Magufuli took office in November 2015 and has since introduced a raft of repressive laws restricting the rights of political opposition parties, human rights defenders, activists, researchers, journalists, bloggers and other online users. Cumulatively, the application of these laws has had a chilling effect on the rights to freedom of expression, with people generally fearing being critical of the government due to fear of prosecution or other forms of reprisals. Some of the laws that have been used in recent years to silence critical voices and to stifle the right to freedom of expression, access to information and media freedoms are: the Media Services Act<sup>1</sup>, the Electronic and Postal Communications (Digital and Other Broadcasting Networks and Services) Regulations<sup>2</sup>, Electronic and Postal Communications (Radio and Television Content)

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<sup>1</sup> <http://acme-ug.org/wp-content/uploads/1481107152-MEDIA-SERVICE-ACT-20161.pdf>

<sup>2</sup> [https://www.researchictafrica.net/countries/tanzania/Electronic\\_and\\_Postal\\_Communications\\_Act\\_no\\_3\\_2010.pdf](https://www.researchictafrica.net/countries/tanzania/Electronic_and_Postal_Communications_Act_no_3_2010.pdf)

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Regulations<sup>3</sup>, and Electronic and Postal Communications (Online Content) Regulations<sup>4</sup>. These same laws are now being used to restrain citizens from speaking about Covid-19.

In early April the Mwananchi, a daily newspaper had its online license suspended after it posted a photo of President John Pombe Magufuli out shopping surrounded by a crowd of people, eliciting online discussion about him breaching social distancing guidelines and shining a light on the country's approach to addressing Covid-19. On 13 April, Mwananchi was fined five million Tanzanian Shillings (about USD 2200). On 20 April 2020, Tanzanian Authorities suspended Talib Ussi Hamad, a journalist with the Tanzania Daima daily newspaper, for six months for reporting on Covid-19.<sup>5</sup> On 2 April, three other media organizations - Star Media Tanzania Ltd, Multichoice Tanzania Ltd and Azam Digital Broadcast Ltd, were each fined five million Tanzanian Shillings (about USD 2200) and ordered to apologize for "transmission of false and misleading information" on the country's approach to managing Covid-19.

In early May, the US embassy in Tanzania issued an alert warning that many hospitals in the capital city had been overwhelmed with Covid-19 cases.<sup>6</sup> The alert highlighted the fact that the risk of contracting Covid-19 in Dar es Salaam is extremely high. However, there has been no official data on the coronavirus emanating from Tanzanian government for several weeks, this is due to the fact that in April, the President stopped releasing daily updates on the number of positive cases as he was of the view that it was creating panic. The President has resorted to providing limited data on patients admitted with Covid-19 at major hospitals and health care centres. In addition, there are concerns that the authorities are trying to downplay the extent of the outbreak. Doctors and healthcare professionals are afraid to speak out about coronavirus because of fear of intimidation or even fear of losing their jobs. In early May 2020, the President fired the deputy health minister, who had contradicted government advice, such as warning against the use of steam therapy to prevent or cure the virus, a measure that had been promoted by the President.<sup>7</sup>

Access to information is an essential part of the fight against Covid-19, and the media plays a crucial role in informing the public about the factual situation on the ground, yet the Tanzanian government is choosing to use repressive laws against freedom of expression and is choosing to censor journalists and media outlets who report on the virus. In suppressing access to information and preventing freedom of expression, the government of Tanzania is in violation of its obligations under, amongst others, the Universal Declaration of Human Rights and the International

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<sup>3</sup> <https://crm.misa.org/upload/web/supp-gn-no-133-16-03-2018-epoca-online-content-regulations-2018.pdf>

<sup>4</sup> [https://www.tcra.go.tz/images/documents/regulations/SUPP\\_GN\\_NO\\_133\\_16\\_03\\_2018\\_EPOCA\\_ONLINE\\_CONTENT\\_REGULATIONS\\_2018.pdf](https://www.tcra.go.tz/images/documents/regulations/SUPP_GN_NO_133_16_03_2018_EPOCA_ONLINE_CONTENT_REGULATIONS_2018.pdf)

<sup>5</sup> <https://www.amnesty.org/en/latest/news/2020/04/tanzania-authorities-must-end-crackdown-on-journalists-reporting-on-covid19/>

<sup>6</sup> <https://www.bbc.com/news/world-africa-52646640>

<sup>7</sup> <https://www.bloomberg.com/news/articles/2020-05-17/tanzanian-leader-fires-health-official-amid-criticism-over-virus>

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Convention on Civil and Political Rights. In their 2004 Joint Declaration, the three special mandates on freedom of expression at the United Nations, Organisations for Security and Cooperation in Europe and the Organization for American States stated the following:

‘The right to access information held by public authorities is a fundamental human right which should be given effect at the national level through comprehensive legislation (for example Freedom of Information Acts) based on the principle of maximum disclosure, establishing a presumption that all information is accessible subject only to a narrow system of exceptions’

Tanzania is a party to the African Commission on Human and Peoples’ Rights, which has published the revised Declaration of Principles of Freedom of Expression and Access to Information in Africa (The Declaration).<sup>8</sup> The Declaration captures the general principles including the significance of the rights to freedom of expression and access to information. In a Press Release on the Publication of the Declaration, The Special Rapporteur, Commissioner Lawrence Mute, encouraged the use of the Declaration in ensuring that responses to the Covid-19 pandemic do not interfere with the rights enshrined in Article 9 of the African Charter. The Tanzanian government has yet to consider the principles as set out in the Declaration.

We urge the you to publicly condemn the actions of the Tanzanian government and to investigate the situation in Tanzania. The Tanzanian Government should ensure that the public consistently receives credible information on Covid-19 that is in line with World Health Organisation guidelines in order to avoid the spread of misleading information. The government of Tanzania should also adopt legislation on access to information in line with the Model Law on Access to Information for Africa.<sup>9</sup> Covid-19 is a global pandemic that requires collaborative efforts from all sectors of society in order to address it, but this cannot be done if information is not readily available to tackle the virus and if the media is not allowed to freely report on the issue.

We thank you for your attention to these critical issues.

Yours sincerely,

Amanda Shivamba  
Communications and Regional Advocacy Program Lawyer  
Southern Africa Litigation Centre

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<sup>8</sup> <https://www.achpr.org/presspublic/publication?id=80>

<sup>9</sup> [https://www.chr.up.ac.za/images/researchunits/dgdr/documents/resources/model\\_law\\_english\\_final.pdf](https://www.chr.up.ac.za/images/researchunits/dgdr/documents/resources/model_law_english_final.pdf)