

SOUTHERN AFRICA LITIGATION CENTRE

9 June 2020

Special Rapporteur Commissioner Lawrence Mute

Special Rapporteur on Freedom of Expression and Access to Information for the African Commission on Human and Peoples Rights

Email: au-banjul@africa-union.org

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

Dear Mr. Mute,

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 write to you in your capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. We draw your attention to the Southern Africa Litigation Centre's concerns with the ongoing violations of the right to freedom of expression in Tanzania, particularly in relation to the increasing violations arising out of the global Covid-19 pandemic.

Since Tanzania President John Magufuli took office in November 2015, he has 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 Act¹, the Electronic and Postal Communications (Digital and Other Broadcasting Networks and Services) Regulations², Electronic and Postal Communications (Radio and Television Content) Regulations³, and Electronic and Postal Communications (Online Content) Regulations⁴. These same laws are now being used to restrain citizens from speaking about Covid-19.

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

² https://www.researchinAfrica.net/countries/tanzania/Electronic_and_Postal_Communications_Act_no_3_2010.pdf

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

⁴ https://www.tcra.go.tz/images/documents/regulations/SUPP_GN_NO_133_16_03_2018_EPOCA_ONLINE_CONTENT_REGULATIONS_2018.pdf

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In April the Mwananchi, a daily newspaper had its online license suspended after it posted a photo of President 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, the Tanzanian authorities suspended Talib Ussi Hamad, a journalist with the Tanzania Daima newspaper, for six months for reporting on Covid-19.⁵ On 2 April, three other media organisations - 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 May, the US Embassy in Tanzania issued an alert warning that many hospitals in the capital city had been overwhelmed with Covid-19 cases.⁶ 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 now 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 due to fear of intimidation or fear of losing their jobs. In May 2020, the President fired the deputy health minister, who had contradicted government advice, when he warned against the use of steam therapy to prevent or cure the virus, a measure that had been promoted by the President.⁷

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 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

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

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

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

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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).⁸ 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 you to 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 Tanzania government should also adopt legislation on access to information in line with the Model Law on Access to Information for Africa.⁹ Covid-19 is a global pandemic that requires collaborative efforts from all sectors of society in order to address it, but this is difficult if reliable information is not available and widely accessible.

We thank you for your attention to these critical issues.

Yours sincerely,

Amanda Shivamba
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Southern Africa Litigation Centre

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

⁹ https://www.chr.up.ac.za/images/researchunits/dgdr/documents/resources/model_law_english_final.pdf