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## BRIEFING PAPER

### TANZANIA

**TITLE:** Updates on anti-LGBTQ legislation and impact on LGBTQ+ civil rights in Tanzania

**DATE:** September 18, 2023

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**ISSUE:** Violence and threats against LGBTQ+ persons have increased recently in Tanzania as conservative members of parliament propose an extreme anti-LGBTQ+ “family values”-style law that would impose harsh penalties for same-sex relations. The issue was publicly discussed during a recent parliamentary debate on the prime minister’s 2023–24 budget.<sup>i</sup> In June, MP Jacqueline Ngonyani said she planned to introduce a motion in Parliament to further criminalize homosexuality and “control the ongoing moral decay”.<sup>ii</sup> The MPs present the proposed legislation as a measure to protect Tanzanian youth against corruption. They seek to pass a specific law against homosexuality, inspired by Uganda’s new Anti-Homosexuality Act.

The push to stiffen laws against homosexuality follows increased public statements in 2023 by high-level politicians calling for extreme punishments. One MP, Katani Ahmed Katani, has called for the death penalty in cases of individuals found guilty of homosexual relations; another, Mary Chatanda, head of the women’s wing of Tanzania’s ruling party, Chama Cha Mapinduzi (CCM), called for castration in such cases.

On April 10th, 2023, Tanzania’s opposition presidential candidate Tundu Lissu castigated the government for not arresting homosexuals.<sup>iii</sup> But arrests occur. Between January and June of this year, three people received 30-year jail sentences, the penalty for violating a colonial-era Tanzanian law against so-called unnatural acts,<sup>iv</sup> while activists report a litany of abuses directed against LGBTQ+ Tanzanians in 2023.<sup>v</sup>

For her part, Tanzania’s President Samia Suluhu Hassan has made her opposition to homosexuality clear in repeated public comments, and views LGBTQ+ human rights as “imported cultures.”<sup>vi</sup> “In February 2023 comments reported in the media, the President suggested that “human rights should have boundaries and that some rights should not be protected in Tanzania.”<sup>vii viii</sup> ..

The President has also portrayed health and HIV services as opening the door to LGBTQ+ human rights – rhetoric spewed by conservative MPs who back the antigay bill. In August 27<sup>th</sup>, the President requested the security operators in the country to be on high alert against health and environmental projects being implemented in Tanzania that have a “sinister foreign agenda.” Seasoned Tanzanian health activists interpreted these remarks to be a thinly-veiled reference to HIV projects.<sup>ix</sup> They point a finger of blame at a former CCM party leader, Harrison Mwakyembe, a former MP and Minister at-large, who they say is leading the public campaign against health programming for LGBTQ+ people. His campaign,



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they contend, triggered the President's comment about the need to investigate NGOs providing health services in Tanzania.<sup>x</sup>

Other lawmakers have taken recent actions to ban LGBTQ+ content in the cultural and educational spheres. In February 2023, Tanzania's Education Minister Adolf Mkenda announced a ban of books with any LGBTQ+ content in public and private schools. Minister of Information Nape Nnauye has threatened legal measures against those who disseminate content that promotes same-sex relations.

**IMPACT** The deteriorating climate for LGBTQ+ people is reflected in the rise of attacks and persecutions since February of this year. Health activists point to a recent Tanzanian survey of safety and security issues for vulnerable Key Populations (KP), including men who have sex with men, transgender individuals, sex workers and injection drug users.<sup>xi</sup> The survey documented cases of physical attacks, vigilante or mob violence, sexual assaults including rapes, verbal and psychological abuse, and intimidation -- including death threats -- against KPs. At the community and family level, LGBTQ+ individuals have experienced defamation of character, hate speeches, evictions from homes and from social and professional groups, health facilities, religious networks, and by family members.

"There is police surveillance, harassment and crackdowns including unlawful arrests, detention and strip search," confirmed a health activist tracking LGBTQ+ picture in Tanzania.<sup>xii</sup> The attacks extend to health workers.<sup>xiii</sup> "Those arrested are confiscated of commodities such as condoms, PrEP, ARVs, lubricants and needles," he added. Some arrests have led to extreme physical abuse. "Families and law enforcement agencies subject their suspected KP children to forced anal examination," he confirmed. Both the United Nations and the African Commission on Human and Peoples' Rights have declared forced anal examinations to be a form of torture.

**Legal Status:** Tanzania's penal code outlawing same-sex relations is among the world's harshest, prescribing 30 years to life in prison for "carnal knowledge against the order of nature," within the umbrella of "unnatural offences," in Section 154 of Chapter 16 of Tanzania's Criminal Code, a relic of colonial British law. Those found guilty of such offenses with a person under age 18 also face a life sentence, while a conviction for attempted unnatural offences is punishable by not less than 20 years in prison.<sup>xiv</sup> Zanzibar also has laws against sex work.

Both Tanzania Mainland and Zanzibar have legal clauses that favor or criminalize different members of vulnerable Key Populations. For example, birth and deaths registration Acts dictate that the sex of a child is automatically assigned at birth and not allowed any other gender assignment. The Drug Control and Enforcement Act criminalizes possession of small amounts of drugs, including those intended for personal use.

**BACKGROUND:** The current worsening climate for LGBTQ+ people in Tanzania reflects an escalation of an already dire picture. In 2015, Human Rights Watch reported that security threats directed against LGBTQ+ individuals in Tanzania intensified after the election of



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President John Magufuli that December. Anti-LGBTQ+ attacks included hate speeches by politicians, vigilante violence, and arrests and intimidation of individuals viewed as LGBTQ+ by police and law enforcement, including raids of offices and gatherings by LGBTQ+ individuals. Landlords evicted people suspected to be LGBTQ+, while families subjected their male children suspected of being LGBTQ+ to forced anal examinations.<sup>xv</sup>

In October 2017, Tanzania deported the staff of several foreign HIV and health groups, claiming they were "promoting homosexuality" with their HIV prevention work.<sup>xvi</sup> In 2018, the climate worsened when then-Regional Commissioner Paul Makonda, announced an anti-LGBTQ+ campaign in Dar-es-Salaam and threatened to arrest and imprison any LGBTQ+ person and subject them to forced anal examinations and conversion therapy. Makonda also encouraged citizens to become informants against suspected homosexuals. While he was removed from office in 2020, the repression continued, contend human rights monitors,<sup>xvii</sup> including arbitrary detention and forced anal examinations.<sup>xviii</sup>

**Health Consequences.** In February 2020, HRW released a comprehensive report documenting the denial of adequate public health services to LGBTQ+ people in Tanzania by the government, leaving them vulnerable to HIV.<sup>xix</sup> "The Tanzanian authorities have orchestrated a systematic attack on the rights of LGBT people, including their right to health," stated Neela Ghoshal, then-HRW senior LGBT rights researcher.

The latest field data show continued attacks on health workers that impact HIV service delivery to KPs. MSM and transgender individuals were among the vulnerable KP groups who experienced chronic violence and face threats to their safety and security. This has a negative impact on their welfare and rights.<sup>xx</sup>

**Civil Society and Global Response** Tanzanian and outside human rights groups have joined LGBTQ+ organizations in decrying the rising attacks against LGBTQ+ persons. They have mobilized to provide greater protection for those seeking it. As of September 2023, Rainbow Railroad had responded to 58 requests for help from LGBTQ+ individuals in Tanzania who had experienced sexual violence, arson, active arrest warrants, public outing, police brutality, and mental health concerns.<sup>xxi</sup>

Local LGBTQ+ groups have called on the global community of human rights stakeholders to speak out against targeting of LGBTQ+ individuals and building State-sponsored persecution, including attacks on health NGOs working in Tanzania.

"In August the president directed security operators to act against NGOs purported to be promoting LGBTQ agenda," stated a leading Tanzanian LGBTQ+ activist in September.<sup>xxii</sup> "When the president is against us, it becomes a tough order and LGBTQ people really suffer as a result. It is clear that our president is not prioritizing our needs, and is instead focused on his own political interests," he added.<sup>xxiii</sup> "We are struggling to find safe places for meetings, training, or even to relax and be productive. Many of us are afraid to go to health centers, and we feel like we are slowly dying while we watch ourselves." He added that local organizations serving LGBTQ+ people now greatly fear police raids or closure. A



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few organizations based mainly in Zanzibar have reported closed their doors or had their accounts frozen.

At the UNGA, Tanzanian activists have added their voices to LGBTQ+ individuals asking for greater and urgent action by the UN, Member States, and other governments to speak out against the planned anti-LGBTQ+ legislation, and to increase support and protection for targeted LGBTQ+ communities and groups. “We, LGBT from Tanzania, need to work very smart because our leaders are very hypocritical,” said the LGBTQ+ Tanzanian activist. “We are tired of arrests and sentencing; our allies pretend to love us, instead of loving. We are the people who are fighting for the progress we want to see.”

They are also raising public awareness of the negative impact of the homophobic parliamentary campaign on broader Tanzanian civil society. It undermines the civil rights of Tanzanians, they argue, and stokes divisionism by encouraging ordinary citizens to engage in witch hunts against others. They also call on the media in Africa and globally to investigate and fairly report on LGBTQ+ persecution and State-sponsored legislation or policies targeting vulnerable KPs in Tanzania.

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Tanzania: MPs seek to tighten anti-LGBTQ+ laws with extreme measures - MambaOnline - Gay South Africa online

ii “Country Profile – Tanzania,” Human Dignity Trust. 2018.

iii <https://www.youtube.com/watch?v=u7ogII0qJsU>

iv <https://www.mwananchi.co.tz/mw/habari/kitaifa/-kibakuli-afungwa-miaka-30-jela-baada-ya-kukiri-kulawitiwa-kwa-kujitakia-4191136> (April 7, 2023)

v Private author e-mail correspondence with LGBTQ+ and health advocates in and outside Tanzania; names withheld for security reasons. September 10-12, 2023

vi <https://www.instagram.com/p/CohdQ76Ny6N/?igshid=YmMyMTA2M2Y%3D> (March 18, 2023);

vii Ibid. Note 4.

viii Ibid. Note 4.

ix Ibid. Note 5. Original source: You Tube video of the President’s speech:

[https://www.youtube.com/watch?v=0VeEK\\_QY5As](https://www.youtube.com/watch?v=0VeEK_QY5As)

x Ibid. Note 5. <https://www.youtube.com/watch?v=9VQafjKhQeI>

xi “LANDSCAPE OF SAFETY AND SECURITY ISSUES FACING KEY AND VULNERABLE POPULATIONS (KVPs) OF TANZANIA,” Tanzania KVP Safety and Security Taskforce, March 18, 2023.

xii Personal correspondence with author; name withheld for security reasons.

xiii Ibid Note 11.

xiv Ng’hily, Dickson. “MPs call for tough laws on same-sex relations,” *The Citizen*. April 4, 2023.

xv Ibid Note 2

xvi “Tanzania: Mixed Messages on Anti-Gay Persecution. Commitment to Rights Means Ending Arrests, Discrimination.” Human Rights Watch. November 6, 2018. Tanzania: Mixed Messages on Anti-Gay Persecution | Human Rights Watch ([hrw.org](http://hrw.org))

xvii Ibid. Note 6.

xviii Ibid. Note 2.

xix “Obstructions to LGBT Health, Rights. Discriminatory Health Policies, Raids, Arrests,” Human Rights Watch. February 2020. Tanzania: Obstructions to LGBT Health, Rights | Human Rights Watch ([www.hrw.org](http://www.hrw.org))

xx Ibid. Note 4.

xxi Unpublished documentation by Rainbow Railroad, shared with African Services, September 2023.

xxii Ibid Note 5.

xxiii Personal correspondence with author; name withheld for security reasons.