



Joint Submission to the UN Universal Periodic Review

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United Republic of Tanzania

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**CIVICUS: World Alliance for Citizen Participation, NGO in General
Consultative Status with ECOSOC**

And

Tanzania Human Rights Defenders Coalition (THRDC)

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1. (A) Introduction

- 1.1** CIVICUS is a global network of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS proudly promotes marginalised voices, especially from the Global South and has members in more than 170 countries throughout the world.
- 1.2** The Tanzania Human Rights Defenders Coalition (THRDC) is a membership organization in Tanzania, with over 115 members, including individual human rights defenders (HRDs) and human rights organizations. These members work to enhance the security and protection of HRDs in Tanzania. THRDC's long-term goals are to see a free and secure environment for human rights defenders and to ensure HRDs are able to carry out their essential work free from harm and repression, in accordance with the UN Declaration on Human Rights Defenders of 1998.
- 1.3** The Tanzania Association of Non-Governmental Organizations (TANGO) is a network of civil society organisations (CSOs) in Tanzania with more than 600 member organisations countrywide. TANGO coordinates the work of its members through leadership of advocacy campaigns and linkages to global policy processes, strengthening the capacity of CSOs and as an information clearing house.
- 1.4** In this document CIVICUS, THRDC and TANGO outline concerns relating to threats faced by human rights defenders, journalists and restrictions on the media in Tanzania since 2011. We outline several concerning examples which are illustrative of actions taken by the government to curb the freedoms of expression, association and assembly. Moreover, we illustrate the failure of the government to uphold and implement some of the recommendations accepted during its initial examination under the Universal Periodic Review (UPR).
- 1.5** During its review on 3 October 2011 under the 12th Session of the UN Working Group on the UPR, the United Republic of Tanzania accepted 107 recommendations including commitments to continue implementing national laws in accordance with universally agreed human rights norms and principles (recommendation 85.4), continue efforts to promote and protect human rights and freedoms (recommendation 85.11) and guarantee the freedoms of expression, association, and assembly by allowing human rights defenders, political opponents and journalists to freely express

their views in line with international human rights law (recommendation 85.72). Despite these explicit commitments, the rights to freedom of expression, association and assembly remain threatened and human rights defenders and civil society organisations are targeted for the work they do.

1.6 CIVICUS, THRDC and TANGO are concerned about restrictions on freedom of expression and the media against the backdrop of draconian media laws. Journalists have been physically assaulted and others murdered for their journalistic activities. Sadly most of the perpetrators have not been brought to justice thereby perpetuating impunity. The authorities have over the last 4 years used longstanding prejudicial laws to charge journalists with sedition and libel and to impose bans on and suspend independent newspapers. Protests that have taken place over the last two years in rural areas have not been fully covered by journalists because of excessive use of force by the authorities who also prevent the media from accessing court rooms where protesters are prosecuted for their role in the protests. Ahead of the elections planned for October 2015, restrictions on the media increased and the authorities have attempted to push through stringent media laws. Moreover, journalists are threatened by both state and non-state actors for undertaking their legitimate work.

1.7 CIVICUS, THRDC and TANGO express concerns about the harassment, judicial persecution and intimidation of human rights defenders because of the work they do. Human rights defenders have been physically assaulted while some have been killed for their human rights activities. Those who defend the rights of pastoralists and land owners against incursions by the government, corporations and other private interests have been threatened and harassed. In addition, peaceful protests are sometimes violently suppressed while freedom of association is equally threatened. Government officials frequently refer to human rights organisations as agents of foreign governments and allies of political opposition parties.

- In section B, CIVICUS, THRDC and TANGO highlight concerns related to restrictive laws used to target media freedoms.
- In section C, CIVICUS, THRDC and TANGO express concerns over restrictions on freedom of expression and attacks on journalists.
- In Section D, CIVICUS, THRDC and TANGO highlight concerns over judicial persecution, harassment and intimidation of members of civil society organisations.
- In section E, CIVICUS, THRDC and TANGO express concerns over restrictions on freedom of assembly.
- In Section F, CIVICUS, THRDC and TANGO highlight concerns over restrictions on freedom of association.
- In Section G, CIVICUS, THRDC and TANGO make a number of recommendations in the areas of concern listed.

2 (B) Concerns regarding draconian laws used to target media freedoms

2.1 The Constitution of the United Republic of Tanzania provides for freedom of expression. Article 18 of the Constitution notes that every person has the right to

enjoy freedom of opinion and expression of his ideas.¹ It notes further that everyone has the freedom to communicate and enjoy protection from interference in his communication. Article 19 of the Universal Declaration of Human Rights states that “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Despite these guarantees, the media environment in Tanzania is restricted by the selective implementation and application of laws with draconian provisions, some dating back 39 years. These laws have been used to ban independent newspapers and prosecute and jail journalists who write articles critical of government actions. In addition, in the lead up to Tanzania’s election in October 2015 the authorities have introduced several restrictive laws that aim to severely curtail media freedoms.

2.2 The Media Services Bill (2015)

2.3 On 20 February 2015, the Government of Tanzania gazetted the Media Services Bill to “make provisions for promotion of professionalism in the media industry, providing institutional framework for regulation of media services, establishing the media service fund and to provide for related matters.”² If passed into law, the Bill will replace the Newspaper Act (1976) and the Tanzania News Agency Act (1976). However, major sections of the Bill have very restrictive provisions, similar to those in the Newspaper Act targeting independent media. The scope of the bill includes regulation of radio, television, newspapers and related technology. It also includes social media, newsletters, journals and magazines.

2.4 The Media Services Bill establishes a Media Services Council which will have powers to monitor social media content, license newspapers, regulate the activities of media houses, inspect media agencies, license social media and other news agencies. The Bill provides for the establishment of an Accreditation Board with powers to enforce a journalists’ code of ethics, impose fines and cancel the accreditation of journalists if the Board deems they are guilty of professional misconduct. The penalties for violating provisions of the Bill are severe. According to the Bill, anyone found guilty of acting with a seditious intention who commits an offence is liable to a fine of not less than 5 million Shillings (approximately US \$ 2263.5 million) or three years in prison or both. For a subsequent offence, the penalty is a fine of not less than 7 million Shillings (approximately US \$ 3156) or imprisonment to a term of not less than five years or both. A court may ban the further publication of newspapers for a period of not less than 12 months. The Tanzanian authorities have however postponed the passing of the Bill to allow the media and other arms of civil society to scrutinise it. The postponement was in response to intensive advocacy campaigns by the media and civil society calling for the Bill to be shelved. We are however concerned that if the Chama Cha Mapinduzi (CCM) party wins the October 2015 elections, the Bill will be reintroduced without any major amendments.

2.5 The Cybercrimes Act (2015) and Statistics Act

2.6 On 1 April 2015, the Parliament of Tanzania passed the Cybercrimes Act which criminalises information deemed false, misleading, inaccurate or deceptive. The Act prohibits citizens or agencies from obtaining computer data protected against

¹ “The Constitution of the United Republic of Tanzania,” <http://www.judiciary.go.tz/downloads/constitution.pdf>, accessed 9 September 2015.

² “The Media Services Act,” <http://www.parliament.go.tz/polis/PAMS/docs/1-2015-2.pdf>, accessed 1 September 2015.

unauthorised access without permission. It empowers police or law enforcement officers to storm the premises of a news agency and confiscate a computer system or device and computer data if law enforcement officials believe that such information can be used as evidence to prove an offence has been committed. The police are equally given the right to search devices like cell phones, laptops or computers if they believe they contain information that can be used as evidence to prove a crime has been committed.³ In addition, the Statistics Act imposes harsh penalties on those found guilty of publishing misleading and inaccurate statistics or statistics not approved by the National Statistics Bureau. Those found guilty of providing false or misleading statistics without authorisation from the National Bureau of Statistics are liable for a one year jail term and a fine of 10 million Shillings (approximately US \$ 4500).

2.7 The Newspaper Act (1976)

2.8 The Newspaper Act has often been used by the Tanzanian authorities to restrict freedom of expression, target media houses, newspapers and charge journalists. The Act defines sedition as an act that brings into hatred or contempt to incite disaffection against the lawful authority or government. According to the Act, any person who expresses words with a seditious intention, prints, publishes, sells distributes or reproduces the same commits an offence and is liable of a fine not exceeding ten hundred thousand Shillings or imprisonment to a term not exceeding two years or both. According to the Act (Section 21), “any police officer may seize any newspaper, wherever found which has been printed or published in contravention of the Act.”⁴ The definitions of sedition and the penalties for those found guilty of violating the Act amount to stringent restrictions on freedom of expression and media freedoms.

3 (C) Concerns over restrictions on freedom of expression and attacks on journalists

3.1 Article 18 of the Constitution of the United Republic of Tanzania provides for the respect of freedom of expression and the opinions of Tanzanians.⁵ Article 19 of the International Covenant on Civil and Political Rights (ICCPR) states that “everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.” This right carries certain duties and responsibilities and may be subject to certain restrictions only as provided by the law.” Despite these guarantees, attacks and restrictions on journalists and independent newspapers persist in Tanzania. Journalists have been physically assaulted and threatened for the work they do while government officials and business-people often sue newspapers for criminal and civil defamation and seek significant amounts in compensation for critical articles. Several independent newspapers have been banned, some indefinitely and journalists covering peaceful protests against government policies and actions have been attacked. Threats to freedom of expression generally emanate from the security forces, senior government officials and some non-state actors.

³ “The Cyber Crimes Act 2015, Bill Supplement 20 February 2015,”

⁴ “The Newspaper Act, Republic of Tanzania,”

⁵ “The Constitution of the Republic of Tanzania,” <http://www.judiciary.go.tz/downloads/constitution.pdf>, accessed 9 September 2015.

- 3.2** On 27 January 2015, the weekly newspaper, the *East African*, was banned from circulation by the authorities. To justify the ban, the authorities noted that the paper was not properly registered in line with provisions of the 1976 Newspaper Act.⁶ However the reason for the ban was due to its critical coverage of government officials. On 21 January 2015, the paper's Bureau Chief was summoned to the Office of the Director of Information for the government. The Director of Information Assah Mwambene expressed concerns over an article and a cartoon by cartoonist Godfrey Mwampembwa that criticised the government's position on Rwanda's rebels and President Jakaya Kikwete respectively.⁷ In issuing the ban, the authorities ordered the editors and owners to desist from publishing, printing and circulating copies of the paper. The *East African* is a regional newspaper printed in Nairobi Kenya and has been in circulation for 20 years.
- 3.3** On 30 September 2013, two Swahili newspapers *Mwananchi* and *MTanzania* were suspended for 14 and 90 days respectively.⁸ The authorities accused the newspapers of publishing articles and photographs that could instigate public outrage against the state. Specifically, *Mwananchi* was accused of publishing an article on government salaries using information that was confidential. *MTanzania* was banned because of articles published which described police attacks on civilians.⁹ Prior to issuing the ban, the Registrar of Newspapers had issued warnings to the papers for stories published with titles like "bloody presidential," "the revolution is inevitable," and "the government smells blood."¹⁰
- 3.4** In March 2013, the Chair of the Tanzania Editors Forum, Absalom Kibanda, was physically assaulted while on his way home from work and his vehicle was vandalised. He was taken to Mubimbili Hospital in Dar es Salaam and later transferred to a hospital in Johannesburg, South Africa for treatment for injuries sustained during the attacks. It is believed that Absalom was attacked because of his journalistic activities.¹¹ He had previously been accused of sedition following the publication of an article in the Tanzania Daima newspaper in which he criticised the authorities for preventing a protest organised by an opposition political party. He is also editor of the Swahili language newspaper *Tanzania Daima*.¹²
- 3.5** In January 2013, journalist Issa Ngumba, a reporter with Radio Kwizera, was discovered dead in the Kajuhuleta forest in the north western region of Tanzania with

⁶ "Tanzania bans "the EastAfrican over coverage of government, registration," *The EastAfrican* <http://www.theeastafican.co.ke/news/Tanzania-now-bans--The-EastAfrican--/2558/2600522/-/cp5mmlz/-/index.html>, accessed 26 August 2015.

⁷ "The EastAfrican ban wrong, media practitioners Say," *The Citizen*, <http://www.thecitizen.co.tz/News/-The-EastAfrican--ban-wrong--media-practitioners-say/-/1840392/2601556/-/cgdq46z/-/index.html>, accessed 25 August 2015.

⁸ "UN urged to intervene over Tanzania ban of two papers," *Daily Nation*, <http://mobile.nation.co.ke/News/UN-urged-to-intervene-over-Tanzania-ban-of-two-papers/-/1950946/2013584/-/format/xhtml/-/4a4of2z/-/index.html>, accessed 25 August 2015.

⁹ "Government shuts down Mwananchi and Mtanzania for provoking hostility," *The Citizen*, <http://www.thecitizen.co.tz/News/Govt-bans-Mwananchi--Mtanzania/-/1840392/2011424/-/12bbww5z/-/index.html>, accessed 26 August 2015,

¹⁰ "Dar Bans Mwananchi over story," *Daily Nation*, <http://mobile.nation.co.ke/news/Dar-bans-Mwananchi-over-story/-/1950946/2012060/-/format/xhtml/item/1/-/r4g7iqz/-/index.html>, accessed 26 August 2015.

¹¹ "Kibanda returns from South Africa," *The Citizen*, <http://www.thecitizen.co.tz/News/Kibanda-returns-from-S-Africa/-/1840392/1872692/-/yd3gkj/-/index.html>, accessed, 9 September 2015.

¹² "Attack on Kibanda politically motivated," *The Citizen*, <http://www.thecitizen.co.tz/News/Attack+on+Kibanda++politically+motivated+/-/1840392/1867966/-/dlrbqaz/-/index.html>, accessed 9 September 2015.

a bullet wound to his body.¹³ The bullet wound and other injuries to his body indicate he was murdered. He had been reported missing on 5 January 2013.

3.6 Again, on 2 September 2012, Daudi Mwangosi, journalist with private television station Channel 10 TV and Chair of the Iringa Press Club, was killed during confrontations between police and protesters in the region of Iringa. The demonstrations had been organised by the political party Chadema in Nyololo village against a police directive banning political parties during the national consensus in Tanzania. As the police dispersed the protesters, Daudi had intervened asking why journalist Godfrey Mushi was arrested. He was physically assaulted and a tear gas canister fired at him at very close range.¹⁴ Murder charges were filed against the officer who fired the tear gas but the case has not been concluded. In addition, six other officers involved in the confrontation with Daudi have not been held accountable for their actions.

3.7 On 30 July 2012, the authorities suspended the Swahili language newspaper *Mwanahalisi* and accused the paper of publishing articles with seditious content. The Ministry of Information noted that four editions of the paper had featured articles in July 2012 which were seditious but did not reveal the exact editions referred to.¹⁵ However, it has been argued by media sources that the ban was actually imposed because the paper had published pieces about the kidnapping by unidentified individuals of Dr. Steven Ulimboka, Chair of the Medical Association of Tanzania who had led a protest of doctors in the capital, Dar es Salaam.

4 (D) Concerns regarding judicial persecution, harassment and intimidation of members of civil society organisations

4.1 Article 12 of the United Nations Declaration on Human Rights Defenders mandates member states to take necessary measures to protect human rights defenders. The ICCPR, which Tanzania has ratified, guarantees the freedoms of assembly and association. However, it is a matter of deep concern that human rights activists have been killed for their human rights activities while others have been subjected to judicial persecution, threats and harassment. In particular, land rights activists have been targeted for campaigns against displacement of Tanzanians and illegal incursions by private interests.

4.2 In November 2014, Samwel Nangiria, human rights defender and coordinator of the NGO, NGONET, received threatening phone calls and text messages warning him about his advocacy campaigns pertaining to the land rights of the Masai in Loliondo, Ngorongoro district. Samwel continues to lead advocacy efforts against a decision taken by the Ministry of Tourism to allocate 1500 square kilometres of land to a Dubai-based hunting company – Otterlo Business Corporation (OBC). This would mean displacing 80,000 Maasai families and preventing them from accessing land, pasture and water. The decision to displace the Maasai was reached even though the authorities had earlier discarded plans for the displacements to proceed. This was due to extensive campaigns within Tanzania and advocacy efforts by

¹³ “Journalist shot, hanged in Western Tanzania,” *Daily Monitor*, <http://www.monitor.co.ug/News/World/Journalist-shot--hanged-in-western-Tanzania/-/688340/1661442/-/va2awkz/-/index.html>, accessed 25 August 2015.

¹⁴ “Report by Special Team formed by the Media Council of Tanzania (MCT) and Tanzania Editors Forum (TEF) to investigate the circumstances of the killing of journalist Daudi Mwangosi on September 2 2012 at Nyololo Village in Mufundi District Iringa Region.”

¹⁵ “Tanzania’s Mwanahalisi’s weekly banned,” *Africa Review*, <http://www.africareview.com/News/Tanzania-weekly-banned/-/979180/1467210/-/wuy68fz/-/index.html>, accessed 25 August 2015.

international civil society including efforts on Avaaz.org which attracted close to 1800000 signatures.¹⁶

- 4.3** On 5 December 2012, human rights defender, Eustice Nyarugenda, was found unconscious at a guesthouse after he was reported missing for two days. He later died under suspicious circumstances. He was Director of the NGO Action Based Foundation (ABF) engaged in advocacy against gender-based violence. Eustice had been threatened several times for his human rights activities prior to his death. Previously, in 2011 he was reported missing for four days and was later found unconscious with bruises on his body.
- 4.4** On 30 July 2012, human rights defender, Maurice Mjomba, was found dead in his house under suspicious circumstances. There were signs on his body that he had been beaten and strangled. He was working for the Centre for Human Rights Promotion (CHRP) and focused on advocacy against discrimination of people living with HIV/AIDS.
- 4.5** In May 2014 human rights defender, Damian Peter, was arrested and imprisoned at the Isanga Prison in Dodoma after preventing businessmen from appropriating thousands of acres of land belonging to Chiledeli village in Dodoma. He was later released on bail.

5 (E) Concerns over restrictions on freedom of assembly

- 5.1** Article 20 (1) of the Constitution of Tanzania guarantees the rights of citizens to assemble freely. Article 21 of the ICCPR further guarantees the right to peaceful assembly. However we remain concerned that peaceful demonstrations in Tanzania have, on occasion been violently suppressed by the authorities. Persons considered leaders of such protests have been arrested and subjected to judicial persecution.
- 5.2** On 22 February 2012, security forces fired live ammunition into a crowd of protesters in Songea, Ruvuma region, who were demonstrating against a lack of police action into unsolved murders in the region. Two protesters were killed and 18 others injured during the protests. Four police officers were later arrested for using live ammunition on the protesting crowd and while investigations into the killings of the protesters were finalised, the four arrested officers were not held accountable for their actions. Again on 27 August 2012, the “movement for change” protests held by the opposition Chadema party in Morogoro were violently repressed by security forces and in the process a newspaper vendor was shot and killed.
- 5.3** On 9 February 2012, human rights defender Helen Kijo and 15 other human rights defenders were arrested and detained as they took part in a peaceful demonstration calling on the government to resolve deficiencies in the healthcare system in Tanzania. They were arrested as they arrived at the premises of Muhimbili National Hospital in Dar es Salaam to receive feedback following discussions between the Prime Minister and health workers following protesters by the health workers. The human rights activists were detained at the Oyster Bay Police Station.

6 (F) Concerns over restrictions on freedom of association

- 6.1** Article 20 (1) of the Constitution of Tanzania provides for the rights of Tanzanians to form and join associations and organisations created to preserve or further their beliefs or interests. However several society organisations have been threatened or

¹⁶ “Tanzania ditches plan to evict Maasai of Serengeti wildlife corridor,” *Tanzania News Reports*, <http://www.tanzanianewsreports.com/tanzania-ditches-plan-to-evict-masai-for-serengeti-wildlife-corridor/>, accessed 2 September 2015.

stigmatized by government officials who sometimes refer to them as agents of the West and supporters of political opposition parties.

6.2 On 26 July 2014, the Kondo District Council issued a ban on all activities of health advocacy NGO, Sikika, in the Kondo District. Shortly before the ban, Sikika had completed a project on social accountability and the promotion of transparency, accountability and good governance in the health sector. The District Council intimated that it had been insulted in the Sikika report. On 28 February 2014, Sisi Kwa Sisi an NGO working on health issues was deregistered. The letter of deregistration was sent by the Permanent Secretary of the Ministry of Community Development, Gender and Children.

7 (G) Recommendations to the Government of Tanzania

CIVICUS, THRDC and TANGO are concerned about the failure on the part of the Government of Tanzania to meaningfully implement the recommendations it accepted relating to civic space and protecting human rights activists during its initial UPR in 2011.

CIVICUS, THRDC and TANGO urge the government of Tanzania to create an enabling environment for civil society and the media to operate in accordance with the rights enshrined in the Constitution of Tanzania, ICCPR and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made.

7.1 Concerns regarding draconian laws used to target media freedoms.

- Any attempts to reintroduce the Media Services Bill must be preceded by extensive dialogue with the media, civil society and ordinary citizens and all unwarranted and discriminatory provisions should be replaced by enabling texts. The views and feedback from independent media and civil society should be taken into account and factored into the amended Bill.
- Defamation and libel should be decriminalised in Tanzania. Efforts should be started to identify and repeal legislation in this respect.
- The Cyber Crimes Act should be suspended and subject to a judicial review and consultations with media and civil society. All disempowering and restrictive provisions in the law must be amended and replaced by progressive sections that will guarantee freedom of expression and the media in line with international standards.
- Draconian provisions that impinge on the freedom of expression in the Newspaper Act should be deleted and replaced by more relevant, progressive and enabling sections.
- The Statistics Act should be reviewed and restrictive sections of the Act replaced with more enabling ones with inputs from the media and other arms of civil society.
- Efforts should be started to identify and repeal legislation relating to sedition which are invoked to suppress the freedom of expression. All attempts in the future to introduce legislation affecting the media must be preceded by extensive discussions with media agencies and civil society and the authorities must take into account the views of civil society.

7.2 Concerns over restrictions on freedom of expression and attacks on journalists

- The cases of newspapers banned or suspended under the Newspaper Act should be reviewed to enable them to continue their operations, including by lifting suspensions with immediate effect.
- Independent investigations should be conducted into cases of attacks and assaults on journalists with a view to bringing the perpetrators brought to justice. Senior government officials should also publicly and unequivocally condemn such attacks.
- Journalists and media representatives should be protected by the law at all times.
- Harassment of journalists including through the filling of spurious charges should be stopped and existing cases reviewed.
- Investigations with a view to bringing the perpetrators to justice should be conducted into the cases of journalists killed because of their journalistic activities. These cases include the deaths of Issa Ngumba and Daudi Mwangosi. The findings of these investigations should be made public.

7.3 Concerns regarding judicial persecution, harassment and intimidation of members of civil society organisations

- All cases of intimidation and attacks on civil society activists and human rights defenders should be fully investigated with a view to bringing the perpetrators to justice and deterring further such acts.
- Government officials should desist from publicly threatening human rights defenders especially when activists are working to expose corrupt practices in government or are critical of government policies and actions.
- Independent investigations should be conducted into the deaths of human rights defenders Eustice Nyarugenda and Maurice Mjomba and the perpetrators must be held accountable and brought to justice. The findings of the investigations should be made public.

7.4 Regarding restrictions on freedom of assembly

- Best practices on freedom of peaceful assembly prescribed by the UN Special Rapporteur on Freedom of Peaceful Assembly and Association should be adopted by the Government of Tanzania.
- Recourse for judicial review and effective remedy should be provided including compensation in cases of unlawful denial of the right to freedom of assembly by state authorities.

7.5 Concerns over restrictions on freedom of association

- The right of all Tanzanians to form associations and belong to groups in line with constitutional provisions and international human rights standards should be protected and enabled.

- Bans and suspension orders against NGOs should be carefully reviewed and subjected to due process of law.

7.6 Regarding access to UN Special Procedures and Mandate Holders

- A standing invitation should be extended to UN Special Procedures, particularly to the Special Rapporteur on Human Rights Defenders, Special Rapporteur on Freedom of Expression, and Special Rapporteur on Freedom of Peaceful Assembly and Association.