

2021

**THE UNITED REPUBLIC OF TANZANIA JOINT
STAKEHOLDER SUBMISSION TO THE UNITED
NATIONS UNIVERSAL PERIODIC REVIEW FOR
39TH SESSION 2021**

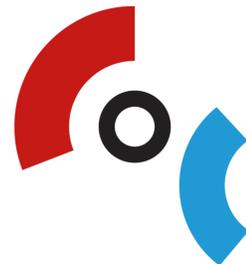
Submission to the United Nations Human Rights Council by:

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COC Nederland is a community based organization for LGBTI rights established in 1946. Besides our work for and by the LGBTI community in the Netherlands we support fellow activists and CBOs in over 30 countries worldwide through our international projects. Through local community based work, and by engaging in advocacy work in regional and international fora, such as at the UN. This UPR stakeholder submission was compiled by the Minority Community of the Republic of Tanzania, who due to security concern were not able to submit under their own name.

List of Abbreviations & Acronyms Used (In Alphabetical Order)

AIDS	:	Acquired Immunity Deficiency Syndrome
BASATA	:	Baraza la Sanaa Tanzania ¹
Cap.	:	Chapter
CHMT	:	Council Health Management Team
DAC	:	District AIDS Coordinator
FSW	:	Female Sex Workers
HIV	:	Human Immune Virus
Hon.	:	Honorable
IDU	:	Injecting Drug Users
JNIA	:	Julius Nyerere International Airport
KVP	:	Key & Vulnerable Populations
LBQ	:	Lesbian, Bisexual & Queer (Women)
LGBTIQ	:	Lesbian, Gay, Bisexual, Transgender, Intersex & Queer
MAT	:	Methadone Assisted Therapy
MSM	:	Men who have Sex with Men
NGO	:	Non-Government Organizations
NSP	:	Needle & Syringe Program
PWIDs	:	People Who Inject Drugs
PWUDs	:	People Who Use Drugs
UPR	:	Universal Periodic Review

¹ Baraza la Sanaa Tanzania is Swahili for Tanzania Board of Arts.

Preamble

We, the Minority Community of Tanzania would like to thank the government for the little or more that they do in good faith of protecting the minority community. The minority community would like to commend the government for stopping the further crackdown of LGBTQ people in Tanzania by denouncing the actions of the then regional commissioner of Dar es Salaam Mr. Paul Christian Makonda.

We the minority community, would further like to ask the government to protect, respect and fulfill the basic human rights for all Tanzanians regardless of gender identity, color, creed or background. The basis for the treatment of any person in Tanzania should be that they are human beings capable of feeling, hurting and breaking and that they are Tanzanian, the rights that are afforded to this Tanzanian, should be afforded to the Tanzanian sexual minorities too, in simple language, basic human rights should be afforded to all Tanzanians period.

We, the minority community, would furthermore like to request the government to see that, the requests and recommendations made in this document, have no element whatsoever of Marriage equality or advocating for people to break the existing laws but rather on what important statutes such as the Constitution provide for in terms of basic fundamental rights.

We the minority communities in Tanzania, declare that, we are very interested in peaceful dialogues where both perspectives can be laid to the table and an amicable resolution should be reached.

We, the minority community would like to state that, there is a common understanding that some of the actors from government such as the police are not always acting under the orders from the government but rather acting on their own prejudice. That being the case, we would like for the government to do more for the community by putting an end to this tyranny.

A wise man once said, "*Wazungumzao hawashindwani*" meaning It is very rare for diplomacy to fail.

Executive Summary

This report titled ‘**The United Republic Of Tanzania Joint Stakeholder Submission To The United Nations Universal Periodic Review for 26th Session 2021**’ *Report* has three important parts excluding this part of the Executive Summary, and the List of Abbreviation and Acronyms. The First Part is on the Background Information. The Second Part is the Key & Vulnerable Populations Issues with the Recommendations and Finally the Review part.

Under **Background Information** there is highlights on the backgrounds of the UPR work that was done by the community in the year 2015. The part also showcases the five issues of the 2015 UPR. All the five issues were denied or as it was put, that they were NOTED. Despite that being the case, this part showcases the importance of visibility. It is partly against the reasoning of visibility that the community is once again conducting the UPR so as to start the conversation in the country and sensitize the nation of the presence of the sexual minorities and the Key & Vulnerable Population.

The Second part on **Key & Vulnerable Population Issues with Recommendations** showcases the four prioritized issues from the Key and Vulnerable Populations and Sexual Minorities for the next country review in 2021. Under this part, there are two parts; there are the issues as they have been voted by the communities themselves. A few descriptions are provided to get a glimpse of the issue.

Finally, there are Recommendations have been provided by the communities to complement the evidence provided. Recommendations have been kept in line with the basic and fundamental human rights that are afforded to all human beings in the land of Tanzania. Nothing out of the ordinary was requested under the recommendations.

Methodology

The preparation of the present report started with capacity building training for Key Population groups to create understanding about the UPR process, its significance and the methodology for preparation and submission of the stakeholders' reports. It was followed by broad consultation with various stakeholders involving representatives of Key Population organizations from different parts of the country. Information was also gathered from the field, victim testimonies and from reports of various stakeholders. It is to be noted that no NGOs working in these groups were invited by the State during the preparation of the National report.

Background Information

Tanzania like many other African countries whose laws are punitive and violate human rights of many minority populations, despite the fact that many efforts have been made we still have milestone to overcome these barriers facing sexual minorities and key and vulnerable population.

In 2015 both communities of sexual and gender minorities along with key and vulnerable population groups of Men who have sex with Men (MSM), people who use drugs (PWUDs), Female Sex Workers and Transgender voiced together for issues related to their wellbeing.

These minority communities prioritized key issues that were among the barriers of inclusion and accessibility to services to Tanzania government to be addressed at the review meeting in Geneva. Among the issues that were addressed are Police harassment, stigma and discrimination, right to housing, access to health and freedom of association.

Despite the fact that all the issues were initially just basic human rights issues that would have been applicable to ANY Tanzania, the government gave one straight answer through the then Minister of Foreign Affairs that none of the recommendations would ever be implemented. The Minister also added, it doesn't matter if the CSOs came together to bring those issues but it's not going to happen. One could also argue that, this was almost the beginning of the anti LGBTQ and KVP crackdown. The UPR brought to the surface the underground movement of LGBTQ & KVP making them more visible than normally.

In the year 2020 with the Tanzania review on human rights being ahead, the sexual minorities and the Key Populations banned together again to bring about other issues that they wish to address at the International level with the UPR. Though there might be skepticism given the last time this was done it only brought about other unintended consequences like crackdown that came from visibility.

From the looks of it, Tanzania might be so far off from getting the LGBTQ and KVP legally recognized and protected under the law but it is a shared sentiment that it is supposed to start with visibility. Most Tanzanians just like in some parts of Africa are of the opinion that being a homosexual, bisexual or Transgender is a Western thing that people who are African and are that way, they are because of copying from the Western culture. Part of the reason for this myth is based on the fact that, Tanzania just like so many other African Countries, do not have their own research that is based on their findings to prove that being LGBTQ is a natural occurrence to a human being. For rights to be realized, it is crucial to have visibility. Visibility is what starts the

conversations and from the conversations people ask questions and are sensitized to the presence and slowly begin to understand. Finally those who understand become allies. B I N G O.

Key and Vulnerable Populations issues with Recommendations

1. Violence & Discrimination

The government of Tanzania has made efforts to serve sexual minority key and vulnerable population toward minimizing stigma and discrimination, the government through Global Fund and PEPFAR program has been empowering community on availability of sexual minority key and vulnerable population.²

Despite those efforts, the sexual minorities in Tanzania have continue being victims to Countless cases of stigma and discrimination despite the constitution of united republic of Tanzania under article 13³ which gives the freedom of all Tanzania to enjoy the resources. Sexual minorities have experienced violence and discrimination from community which comes from all walks of life due to their identity. These includes; being outed due to lack of right to privacy, Mob justice, Corrective Rapes and Verbal and physical abuse.

Recommendations

- The Sexual Minorities along with the Key Populations groups, would humbly request the government to remove all barriers that are associated with forced anal test examination and ostracization which break confidentiality of the patient.
- The minority community would humbly like to call on the government to respect the basic and fundamental rights and liberty of all Tanzania as it is provided for in the Constitution of The United Republic of Tanzania of 1977 under Article 8 (1) (b) that the government Primary Objective of the Government will be its people and that Tanzania is a state which adheres to the Principles of democracy and social justice accordingly.
- The Minority Community would humbly request the government to develop guidelines and enforce them to guide political leaders, government officials and public figures on how to address public speeches without violating human rights, freedom and safety & security of any citizen regardless of gender, race, color or creed
- The Minorities community would humbly request the government and authorities to hold accountable those who provide hate speeches which result to violence, harassment and rejection of the minority. This will be a tangible way to end maltreatment against any group based on their gender, sex, race, color and background.

² PEPFAR and Global Fund Report

³ Constitutional of Tanzania 1977 page 45

2. Freedom of Assembly and Association

As a constitutional right that is guaranteed under Article 20 of the Constitution of the United Republic of Tanzania of 1977. The constitution clearly provides for the Freedom of Assembly and Association as a constitutional right that is guaranteed to all Tanzanian people and those within the jurisdictions of Tanzania.

However, the Right to Freedom of Association and Assembly has constantly been affected with the introduction of draconian laws and amendments of the Tanzania NGO Act of 2002 No. 24. In October 29th 2018, The Ministry of Health, Community Development, Gender, Elderly & Children issued the Non-Governmental Organization Act (Amendments) in the amendments the organizations are now required to disclose the funds that they receive, the donors that are funding them and what the fund is meant for. This is applicable to instances where the funds are more than 20 Million Tanzanian Shillings.⁴

Regardless the sentiments are clear, but this is also a direct jab at the Sexual minority key and vulnerable populations that are operating in an increasingly suppressive environment and definitely operating underground. Not only the Sexual minority key and vulnerable populations but the even those Organizations that are working on Human Rights Find it hard to be accountable to the government in terms of disclosing their sources of funds as well because the current regime also has a problem with people who wants to work in human rights issues.

Moreover, freedom of assembly also associated with recognition; the challenges has been most LGBT groups are not known to government documents and hence fail to get services by their identity. LBQ women are not recognized in NMSF IV 2018/19 – 2022/23.

Recommendations

- The Minority Community would humbly request the government to have respect for its own constitution on Article 20 of the Tanzania Constitution of 1977 that provides for Freedom of Association as Constitutional Right, which means it's an absolute right and cannot be overturned.
- The minority community would also humbly like to request the government to recognize the significant contribution that Non Government Organizations (NGO) have made in the development of country development for all Tanzania citizen
- The Minority community would further request the government to review the NGO Act to be more accommodating to all people working in Tanzania for Tanzanians as well as

⁴ New NGO act of 2019

harmonization to be able to work together with communities. We humbly request the Government to include all people of the sexual minority Key Populations, this means that, all the programs tailored to for the Key and Vulnerable Populations should have a voice of the KVP community in them so that they can help improve the community wellbeing in terms of HIV and in order to increase the efficiency and effectiveness of the programs.

3. Punitive Laws

Despite the penal code 154⁵ Tanzania has been providing services especially HIV related services by using already existing national HIV guidelines and strategies⁶ and able to serve Sexual minority key and vulnerable populations in some regions. Tanzania still has some of the unfriendly laws against Sexual minority key and vulnerable populations. There are provisions of the laws that provide for un-conducive environment for the stability of the Sexual minority key and vulnerable populations⁷.

Recommendations

- The Minority Community would humbly request the Government to consider the actual laws of the land that a person is a criminal on Conduct and not the mere being of just existing. We humbly request the government to review some colonial sections found in the constitution which seems to criminalize sexual minority community in order to promote human rights

4. Inadequate HIV Prevention gears for the Key & Vulnerable Population

Tanzania as a country is facing an issue of inadequate HIV and STI related protective gears⁸. Not only that, some of the other protective gears such as lubricants have been banned to be distributed to the Key Population Community⁹. In other cases, programs for example Needle and Syringes Program (NSP) have been labeled to be promoting the use of drugs rather than helping them to stop, the claims are only directed mostly towards the promotion aspect and neglecting the prevention aspect of it.¹⁰

⁵ Constitutional of united republic of Tanzania of 1977

⁶ National Multi-Sectoral Strategic Plan for HIV interventions 2018/19 – 2022/23

⁷ The Section 154 of the Penal Code Cap.16

⁸ PEPFAR and GF reports,

⁹ Ministry of Health Community Development Gender Elderly and Children press release of 2016

¹⁰ NMSF IV 2018/19 – 2022/23

Recommendations

- The Minority Community would humbly request the government to Scale up Needle & Syringe Program (NSP) intervention, with clear messages which nullify the mentality that NSP are promoting Drug use rather to share a message of hope that NSP reduces HIV transmission among Injecting Drug Users (IDU) and that safe injection brings PWIDs to other HIV prevention mechanisms.
- The Minority Community would like to showcase that there have been various cases of people infected with HIV since the banning of lubricants. The government should consider the importance of lubricants as an important tool of prevention of new HIV infections in walking towards the three zeros in the fights for new HIV infections.