



**Women Aid &
Criminal
Justice**

United Republic of Tanzania

Stakeholder Report for the United Nations Universal Periodic Review

Submitted by Reprieve, The World Coalition Against the Death Penalty, The Advocates for Human Rights, Justice and Strategic Litigation Centre, East Africa Law Society, Legal and Human Rights Centre, The Children Education Society, Women Aid and Criminal Justice and Tanzania Anti-Human Trafficking and Legal Initiatives

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Reprieve is an international legal action charity that was founded in 1999 (UK charity registration no. 1114900). Reprieve provides support to some of the world's most vulnerable people, including people sentenced to death and those victimised by states' abusive counter-terrorism policies. Based in London, but with offices and partners throughout the world, Reprieve is currently working on behalf of hundreds of individuals who are facing or who were previously sentenced to the death penalty in 16 countries, including Tanzania. Reprieve has been working in Tanzania since 2017 with the aim to support those originally sentenced to death with resentencing applications and appeals, and to ultimately achieve the abolishment of the death penalty. Reprieve's vision is a world free of execution, torture, and detention without due process.

The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty (WCADP) is a volunteer-based non-government organization committed to strengthening the international dimension of the fight against the death penalty. Established in 2002, its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

Legal and Human Rights Centre (LHRC) is an independent, non-partisan and non-profit human rights organization, that seeks to promote internationally recognized human rights norms and standards in Tanzania. The organization specializes in legal and human rights monitoring, legal aid, civic awareness, research, advocacy for policy and legal reforms.

The Children Education Society (CHESO) is a not-for-profit non-governmental organization working towards a society where all children enjoy their rights and victims can access quality, inclusive education.

The Justice and Strategic Litigation Centre (JSL) is a boutique, litigation-focused non-profit organisation based in Tanzania. Operating within a retentionist legal system and a policy environment increasingly framed by “national security,” JSLC focuses on the intersection of the death penalty and extreme sentencing, state violence in custody and during protests, and the constitutional rights of those most affected, including women, children, and marginalised communities.

Women Aid and Criminal Justice (WACJ) is a non-governmental organisation based in Tanzania dedicated to promoting and safeguarding justice for women, children, and girls within the criminal justice system. WACJ works to equip individuals with the skills and knowledge necessary to ensure the protection of rights and the improvement of living conditions for vulnerable groups. WACJ actively advocates for fair treatment and justice, addressing issues such as gender-based violence and social discrimination. It seeks to foster a criminal justice system that upholds and protects human rights and ensures access to justice for all. WACJ provides legal aid to those unable to afford representation, with a particular focus on vulnerable populations, including prisoners.

The East Africa Law Society (EALS) is the regional bar association for East Africa, bringing together national law societies and bar associations from across the East African Community (EAC). Established to promote the rule of law, access to justice, and the protection of human rights, EALS serves as a key regional body advancing legal and judicial reform. EALS works to strengthen the administration of justice by supporting an independent judiciary, upholding

professional standards within the legal profession, and promoting adherence to constitutionalism and international human rights norms. The organisation engages in advocacy, research, and strategic litigation at both national and regional levels, including before the East African Court of Justice. Through its programmes and partnerships, EALS addresses systemic legal challenges affecting vulnerable and marginalised populations and contributes to policy dialogue on issues such as fair trial rights, access to legal aid, and the harmonisation of laws within the region.

Tanzania Anti-Human Trafficking and Legal Initiatives (TATLI) is a Tanzanian non-governmental organisation established in 2022 and based in Dar es Salaam, dedicated to combating human trafficking and promoting the rights of trafficked persons. The organisation undertakes advocacy, legal aid, strategic litigation, research, and capacity-building initiatives, with a focus on protecting and supporting survivors and advancing a human rights-based response to trafficking in Tanzania.

I. EXECUTIVE SUMMARY

1. This document is a stakeholder report submitted by Reprieve, The World Coalition Against the Death Penalty, The Advocates for Human Rights, Justice and Strategic Litigation Centre, East Africa Law Society, Legal and Human Rights Centre, The Children Education Society, Women Aid and Criminal Justice, and Tanzania Anti-Human Trafficking and Legal Initiatives, for the United Nations Universal Periodic Review (“UPR”) process concerning Tanzania’s human rights record, particularly focusing on the death penalty, administration of justice, and detention conditions. It reviews Tanzania’s responses to previous UPR recommendations, highlights ongoing challenges, judicial rulings, and reform efforts, and concludes with detailed recommendations for the Tanzanian government.

II. BACKGROUND AND FRAMEWORK

The 2021 Universal Periodic Review of the United Republic of Tanzania

2. During its third-cycle UPR in 2021, Tanzania received 13 recommendations related to the death penalty. Tanzania did not accept any of these recommendations. Tanzania received seven recommendations related to the administration of justice and fair trial rights and supported five of these recommendations.

A. *Ratify the Second Optional Protocol to the ICCPR*

Status of Implementation: Not Accepted, Not Implemented

- Tanzania rejected nine recommendations to ratify, or consider ratifying, the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR -OP2).¹

B. *Establish a formal moratorium on the death penalty*

Status of Implementation: Not Accepted, Not Implemented

- Tanzania rejected all recommendations to establish a formal moratorium on the death penalty with a view towards its abolition².

C. *Commute all death sentences to alternative sentences*

Status of Implementation: Not Accepted, Not Implemented

- Iceland recommended that Tanzania “[...] commute existing death sentences to proportionate punishments in line with international human rights standards.”³

Switzerland also recommended that Tanzania "[a]bolish the death penalty and commute all death sentences to alternative sentences."⁴ Tanzania did not accept or implement these recommendations.

D. *Abolish the death penalty*

Status of Implementation: Not Accepted, Not Implemented

- Norway recommended that Tanzania abolish the death penalty in all circumstances.⁵ Tanzania did not accept or implement this recommendation.

E. *Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*

Status of Implementation: Partially Accepted, Not Implemented

- Tanzania noted all recommendations to ratify⁶ or intensify efforts to ratify⁷ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, but supported four recommendations relating to considering or continuing efforts to ratify the Convention⁸. Tanzania has not taken any steps to implement these recommendations.

F. *Detention conditions*

Status of Implementation: Accepted, Partially Implemented

- Libya recommended that Tanzania "[c]ontinue efforts aimed at reforming and developing the prison system to ensure its compliance with international human rights standards"⁹. The Russian Federation also recommended that Tanzania "[c]ontinue to take measures aimed at improving the functioning of the judicial and penitentiary systems"¹⁰. Tanzania supported but has only partially implemented these recommendations.
- Tanzania has undertaken some measures to address its detention conditions by introducing training for officers, providing digital infrastructure for court sessions, and releasing certain categories of incarcerated persons to reduce overcrowding in its prisons.¹¹

G. *Administration of justice and fair trial*

Status of Implementation: Partially Accepted, Partially Implemented

- Tanzania supported two recommendations to "[e]nsure fair and public hearings for those criminally charged" ¹² and to "[e]nd illegal pretrial detention which contravenes constitutional guarantees and the internationally recognised right to a fair trial". ¹³ Tanzania also supported three recommendations to continue to "enhance", "promote" and "strengthen" access to justice and legal aid, ¹⁴ but noted two recommendations to "[c]ontinue to strengthen policies and programmes aimed at [improving] access to justice and redress [for] violations of the rights of [people] in vulnerable situations". ¹⁵ Tanzania has partially implemented these recommendations.
- Tanzania has taken some steps to strengthen the administration of justice and access to fair trials. Parliament passed the Written Laws (Miscellaneous Amendments) Act No. 1 of 2022, which introduced reforms to arbitrary detention policies and the administration of justice, including adjustments to the plea-bargaining framework constraining courts to impose sentence in accordance with the plea agreement once it has been duly reached ¹⁶. President Samia Suluhu Hassan also created a commission to examine criminal justice institutions in January 2023. The commission presented its report and recommendations to the president in July 2023. The president has also taken steps to expand the prosecution office to increase access to justice.¹⁷

Domestic Legal Framework

3. Over the past 30 years, Tanzania has made some progress toward abolition of the death penalty. No executions have been carried out since 1994, which means that Tanzania appears to have a de facto moratorium on the death penalty. There are also broader constitutional and regional frameworks which reinforce Tanzania's commitment to the right to life and the abolition of the mandatory death penalty. For example, Article 14 of the Constitution of the United Republic of Tanzania states that "every person has the right to live and to the protection of his life by the society in accordance with the law". ¹⁸ This is complemented by the African Charter on Human and Peoples' Rights' recognition of the right to life in Article 4, which Tanzania ratified in 1984, and reinforced through the African Commission's resolution urging States toward a moratorium and eventual abolition of the death penalty. However, Tanzania has not yet ratified the Second Optional Protocol to the ICCPR ("**OP2**") on the abolition of the death penalty, and the death penalty remains a lawful sentence.¹⁹
4. Tanzania's Penal Code provides that the offenses of murder and treason carry the mandatory death penalty.²⁰ In 2019, the African Court on Human and Peoples' Rights (African Court) explicitly found that this mandatory imposition of the death penalty in

Tanzania violates the right to life provided for in the African Charter and breached international law.²¹ This has been repeated by the Court as recently as 2025.²²

5. Furthermore, the Penal Code mandates that when a person is sentenced to death, they shall suffer "death by hanging."²³, which has been recognised by the African Court as inherently degrading.²⁴
6. It is common for people on death row to have their sentences commuted to life imprisonment through presidential pardons. In 2024 and 2025, President Hassan commuted several death sentences to life;²⁵ however, these executive clemency measures lack transparency²⁶ and are insufficient to meet Tanzania's obligations under the African Charter, or to give effect to decisions of the African Court.
7. Moreover, as flagged, Tanzania has not yet ratified OP2, despite numerous States urging it to do so during the 39th UPR session in November 2021. In fact, a 2022 OHCHR follow-up letter acknowledged that whereas Tanzania has consistently "*supported*" several treaty ratification recommendations during previous UPR cycles, it has not taken steps to implement any of these treaties, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
8. Tanzania has also failed to implement all abolition related recommendations. Indeed, Tanzania has abstained from all ten resolutions of the UN General Assembly calling for a moratorium on the use of the death penalty, including the most recent resolution adopted in 2024.

III. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

The mandatory death penalty in Tanzania (Right or area 2.1: Acceptance of international norms and 12.4: Death penalty)

Jurisprudence

9. On 26 November 2019, Tanzania notified the African Union that it had withdrawn its declaration under Article 34(6) of the Protocol to the African Charter, effectively revoking the right of individuals and non-governmental organisations to file cases directly against the state at the African Court. This withdrawal took effect in 2020. The African Court nonetheless continued to issue judgments in cases that had been filed prior to Tanzania's withdrawal.
10. In *Ally Rajabu and Others v. Tanzania* (28 Nov 2019), the African Court held that the mandatory imposition of the death penalty for murder violates Article 4 of the African Charter (right to life), that hanging is inherently degrading under Article 5 of the African

Charter (right to dignity), and that Section 197 of the Penal Code does not uphold due process under Article 7(1) of the Charter (right to be heard). The African Court ordered Tanzania to, among other things, repeal the mandatory death penalty and rehear sentencing.²⁷

11. The African Court has consistently reiterated and expanded this jurisprudence in subsequent decisions²⁸.
12. In *Marthine Christian @ Msuguri vs United Republic of Tanzania (Application 052/2016, 1 Dec 2022)*, the African Court reaffirmed that a judge must retain sentencing discretion in relation to the imposition of the death penalty and reiterated that hanging was incompatible with the right to dignity under the African Charter.²⁹ The judgment also ordered the Respondent State to repeal the mandatory death penalty within 6 months in light of the previously ordered (and breached) deadline of one year.
13. Against this backdrop and in total disregard to the consistent jurisprudence from the African Court and its obligation to implement these decisions, the Court of Appeal of Tanzania's in *Kambole v Attorney General (2022)* upheld the constitutionality of the mandatory death penalty, illustrating a divergence between national jurisprudence and regional court decisions.³⁰
14. Two years after the Court of Appeal decision in *Kambole v Attorney General*, in cases including *Nzigiymana Zabron v United Republic of Tanzania (Application 051/2016, 4 Jun 2024)* and *Dominick Damian v United Republic of Tanzania (Application 048/2016, 4 Jun 2024)*, the African Court, once again, ordered Tanzania to repeal the mandatory death penalty within six months.³¹
15. In November 2024, in *Lameck Bazil v United Republic of Tanzania (Application 027/2018, 13 Nov 2024)*, the African Court similarly held that the mandatory imposition of the death penalty and execution by hanging violated Articles 4 and 5 of the African Charter respectively. The African Court directed Tanzania to repeal the mandatory death penalty and rehear sentencing within a period of one year of notification of the judgment.³²
16. Most recently, in *Ladislaus Chalula v. United Republic of Tanzania (February 2025)*,³³ the African Court restated that Tanzania's mandatory death penalty violates Articles 4 and 5 of the African Charter and called for a sentencing hearing which did not provide for the mandatory death penalty, and which respected the judge's discretion to impose a sentence. The African Court also directed Tanzania to report within 6 months on the implementation.
17. In response to the African Court's ruling, in 2023, a Criminal Justice Commission was established by Tanzanian President Samia Suluhu Hassan.³⁴ In July 2023, the Commission presented its recommendation to the President, calling for significant reforms. The

commission recommended ending the mandatory nature of the death penalty, reflecting divided public opinion but strong human rights concerns.³⁵ The Commission suggested amending the Penal Code to clarify the duration and conditions of life imprisonment and to ensure the death penalty is not the sole punishment for murder, with provisions for commutation if not approved by the President within three years.³⁶ Government briefings and press in 2023, 2024 and 2025 recorded these recommendations and an implementation roadmap directed by the President in June 2024.³⁷ These recommendations are, however, yet to be fully implemented.

18. In December 2022, the African Commission on Human and Peoples' Rights issued a resolution on the death penalty and the prohibition of torture and cruel, inhuman or degrading punishment or treatment.³⁸ In that resolution, the African Commission called on State parties to the African Charter to, among other things, fully implement the right to life and the right to human dignity; commute death sentences for all persons currently on death row; take steps towards abolishing the Death Penalty, including ratification of the Second Optional Protocol relative to the International Convention on Civil and Political Rights, aiming at the abolition of the Death Penalty; and, for State parties who have imposed a moratorium on executions, to implement other concrete measures for the total abolition of the Death Penalty in their legislation.³⁹

Efforts for Reform

19. Some progress has been made towards fair trial rights in Tanzania in the current review cycle. Upon assuming office in March 2021, President Samia Suluhu Hassan signalled a reformist agenda, restoring certain civil rights, lifting bans on public rallies, and proposing an inclusive committee of experts to advance the long-delayed constitutional review process.⁴⁰ However, momentum has since waned.
20. Profound and systemic barriers to the realisation of fair trial rights persist in Tanzania, driven in large part by the limited availability and ineffectiveness of pro-bono legal representation. Research by the Tanzania Network of Legal Aid Providers indicates that, notwithstanding the enactment of the Legal Aid Act, 2017, "*only a small number of those needing legal aid have access to it*".⁴¹ Even in cases where legal aid is provided in accordance with the Legal Aid Act, particularly for defendants facing capital charges, serious funding constraints significantly undermine its quality. Lawyers are often able to meet their clients only briefly, in some instances just minutes before trial. In addition, pro bono lawyers frequently lack the institutional support and resources necessary to conduct adequate investigations or prepare effective defences. As a result, many defendants, despite being assigned counsel, are unable to mount a meaningful defence. These challenges are compounded by structural inefficiencies within the state legal aid system, which leave many indigent defendants dependent on overstretched non-governmental organisations and

donor-funded paralegal schemes. This reliance is especially acute in rural areas, where access to legal services is particularly limited. Consequently, a significant number of accused persons, especially those facing serious criminal charges, are often left to navigate proceedings without adequate legal assistance, undermining their right to a fair trial.

21. The mandatory death penalty remains a critical area in need of urgent reform. As of 2024, 890 people were on death row in Tanzania⁴², of whom approximately 46 were women⁴³. All people on death row had appealed to the Tanzania Court of Appeal. Of these, 194 appeals were dismissed, while 696 remained pending.⁴⁴ Despite the large number of people on death row, Tanzania's last execution took place in 1995.⁴⁵ As a result, Tanzania is currently classed as a 'de facto abolitionist' state.
22. The mandatory death penalty is problematic for several reasons. Firstly, it leaves prisoners languishing in solitary confinement while facing the risks that executions could be resumed at any time due to political will.⁴⁶ Secondly, the mandatory nature of the death penalty removes judicial discretion and prevents consideration of mitigating circumstances, such as histories of abuse, gender-based violence, and mental health conditions. Thirdly, due to inadequacy of legal aid and the inability of most people facing the death penalty to afford legal counsel, the risks of innocent people being sentenced to death are extremely heightened. Fourthly, the mandatory death penalty has been declared a violation of Tanzania's international human rights obligations in numerous decisions, all of which Tanzania has failed to implement.
23. As a substitute for penal reform, the presidential pardon process for people on death row remains opaque and inconsistent. While presidential pardons provide reprieve by commuting most death sentences to life imprisonment, or a term of years⁴⁷⁴⁸ the process lacks transparency and does not allow for direct application or a clear, structured review mechanism. The precise terms and eligibility criteria governing pardons are not publicly accessible, limiting effective scrutiny and advocacy. For example, in the April 2025 presidential pardon, certain people originally sentenced to death had their sentences reduced to a fixed term of thirty years. However, in departure from standard practice, reductions for good behaviour were not applied and time already spent on remand was not credited. Moreover, the absence of procedural transparency meant that individual mitigating circumstances were not adequately considered, potentially resulting in disproportionately severe custodial sentences.

Prison conditions (Right or area 12.6: Conditions of detention)

24. During its third-cycle UPR in 2021, Tanzania stated that it "*continues to take initiatives to reduce congestion of inmates in prison and to promote good living conditions*".⁴⁹ Despite these commendable efforts, conditions in Tanzanian prisons remain deplorable⁵⁰. Prisons

and detention centres suffer from overcrowding, poor sanitation, and insufficiency of food and other resources essential for human life.⁵¹

25. Prison conditions can be especially harsh for women on death row, who are often particularly vulnerable. There are reportedly 'transactional relationships' between some male guards and female inmates in Tanzania, whereby inmates receive protection and food in exchange for sex.⁵² Tanzanian prisons are also ill-equipped to meet the needs of female inmates, with many facilities lacking appropriate supplies to accommodate menstruating women.⁵³ There are also reports of physical abuse, sexual harassment, and beatings against female prisoners.⁵⁴
26. Prison conditions are particularly severe for people on death row. Individuals sentenced to death are held in several detention facilities across the country,⁵⁵ but are segregated from the rest of the prison population.⁵⁶ They are reportedly "*kept in solitary confinement on a permanent basis*" and are not permitted to work or participate in social activities such as sports which are available to other incarcerated people.⁵⁷ Scientific research has consistently shown that solitary confinement causes extensive neurological harm, including hallucinations, paranoia, and cognitive impairments.⁵⁸ Long-term solitary confinement has also been associated with physical health problems, including skin irritations and weight fluctuation, untreated and mis-treated chronic conditions, and musculoskeletal pain.⁵⁹ The well-documented and enduring detrimental effects of solitary confinement have led the European Court of Human Rights to recognise that prolonged solitary confinement can amount to inhuman or degrading treatment under Article 3 of the European Convention on Human Rights.⁶⁰ Moreover, indefinite or prolonged solitary confinement is prohibited under Rule 43 of the UN's Nelson Mandela rules.⁶¹
27. Tanzania has not carried out an execution since 1994, which means that in practice, the death penalty operates as an indefinite life sentence. At the same time, a de facto moratorium remains a matter of political will. Should the political climate change, there is nothing in law to prevent executions from resuming, resulting in those on death row living "*a life of fear*" while awaiting potential execution.⁶² People on death row in Tanzania frequently suffer from the psychological effect of the so-called 'death row phenomenon'.⁶³ One person who spent considerable time on death row before being pardoned described life on death row as "*terrifying*," and stated that he developed hypertension "*because of thinking what is next for me*."⁶⁴ Another person formerly on death row reported his fear after learning of the building in the prison compound which houses the gallows: "*my terror intensified. Even when you try to sleep the fear mounts*."⁶⁵

Fair trial and torture (Right or area 15.1: Administration of justice and fair trial)

Admissibility of Confessions Obtained Through Torture or Coercion

28. Tanzanian law distinguishes between voluntary and involuntary confessions in terms of their admissibility into evidence. Section 27(1) of the Evidence Act stipulates that a voluntarily made confession by a defendant is admissible in court.⁶⁶ Further, section 27(3) clarifies that a confession must be regarded as involuntary where the court is satisfied that it was induced "by any threat, promise or other prejudice" by a police officer, member of the Police Force or any person in authority.⁶⁷ The purpose of these provisions is to ensure that confessions are made freely, without improper influence or coercion. Nevertheless, Section 29 introduces a significant loophole by providing that a confession shall not be rejected on the ground of coercion unless the court is convinced that the circumstances and nature of the torture or coercion "was likely to cause an untrue admission of guilt to be made."⁶⁸
29. In *Republic v. Abbas Yusuph Issa & Five Others*⁶⁹ and *Josephat Somisha Maziku v. R*⁷⁰ and *Mlomo and Others v. Republic*,⁷¹ the court relied on Section 29 of the Evidence Act, to decide that even an involuntary confession may be admitted if the court believes it to be true. Taken together, these cases reveal a deeply concerning pattern: the legal framework continues to allow the use of statements potentially tainted by coercion, increasing the risk of unreliable evidence forming the basis of a conviction.
30. Tanzanian case law underscores the ongoing problem of law enforcement misconduct in obtaining confessions through coercion.⁷² In *Stephen Jason and Others v. R*,⁷³ the Court of Appeal held that where a defendant alleges torture and has visible injuries, the trial court must exercise heightened caution in assessing any statement made after a police caution, and such a statement should generally be given little or no weight. However, this safeguard is of limited practical effect. Defendants frequently face significant barriers in proving that a confession was improperly obtained. Firstly, significant time may pass between the time of torture and when the defendant has an opportunity to present visible injuries to the court. Secondly, coercion may take non-physical forms, such as psychological pressure, threats or prolonged interrogation, which leave no visible evidence and make it difficult for a defendant to substantiate claims of mistreatment. Restricted access to independent medical assessments, combined with the effective shifting of the burden of proof onto defendants further weaken this protection. As a result, potentially coerced statements may be admitted due to the absence of visible injuries.
31. Extensive empirical research demonstrates that confessions obtained through coercion or torture are significantly more likely to be false or unreliable.⁷⁴ Individuals subjected to physical or psychological pressure during interrogation may confess to crimes they did not commit simply to escape an intolerable situation. Research consistently shows that police-induced false confessions are a leading cause of wrongful convictions.⁷⁵ The psychological mechanisms underlying this phenomenon are well documented: coercive techniques – including threats, promises, sleep deprivation, and prolonged questioning –

can overwhelm a suspect's resistance and lead to compliance, particularly among vulnerable individuals.⁷⁶ Even when a confession is later shown to have been coerced, studies show that judges and jurors continue to give it disproportionate weight, frequently resulting in wrongful convictions despite strong evidence of innocence.⁷⁷ Accordingly, the continued reliance on confessions obtained under duress undermines both the fairness and the reliability of criminal proceedings

32. The risk extends beyond the mistreatment of defendants; the admission of coerced confessions poses a grave threat to the integrity of the justice system itself. More fundamentally, it risks entrenching a system that inadvertently incentivises human rights violations as a means of extracting evidence. The acceptance of torture tainted evidence in courts, thus, reflects a deeper problem of institutional impunity.

Stalled Reforms and Opaque Clemency

Lack of adequate procedural safeguards and legislation for vulnerable groups

33. Tanzania's legal framework provides only limited procedural safeguards for vulnerable groups within the criminal justice system, despite the country's obligations under international law, including Article 14 of the International Covenant on Civil and Political Rights ("ICCPR").⁷⁸ While the Penal Code prohibits the death penalty for persons under eighteen⁷⁹ and pregnant women convicted of capital offences,⁸⁰ these protections are narrow and do not amount to a comprehensive system for all vulnerable individuals. In particular, Tanzania lacks effective procedural safeguards to verify that individuals sentenced to death were over 18 years of age at the time the offence was committed. This increases the risk that persons may be sentenced to death for offences committed while they were children, especially in cases where individuals due to mental or intellectual disabilities are unable to accurately determine or communicate their age.⁸¹
34. Tanzanian law does not guarantee access to legal representation or support for vulnerable groups – such as juveniles, persons with mental or psychosocial disabilities, and individuals from marginalised communities – at critical stages of the criminal process. This exacerbates vulnerability and for example, has led to cases where evidence of intellectual disability has not been accepted as a defence.⁸² The Judicature and Application of Laws (Practice and Procedure in Cases Involving Vulnerable Groups) Rules, 2019 define "vulnerable groups" as "*particular groups of people who, due to adverse social, economic, cultural and practices present in society, are weak and marginalised or have traditionally been victims of violations,*" to expressly include widows, children, elderly people and persons with disabilities, but they do not reference individuals facing the death penalty or provide any additional safeguards for capital defendants.⁸³

35. The absence of such protections is particularly concerning given well-established empirical research showing that vulnerable individuals are significantly more susceptible to coercive interrogation techniques and have a heightened risk of falsely confessing, especially when unrepresented.⁸⁴ These groups are more likely to find interrogations overwhelming, to misunderstand the implications of their statements, or to comply with authority under pressure, making them disproportionately vulnerable to the "coercion error" and "contamination error" that characterise police-induced false confessions.⁸⁵ In the Tanzanian context – where courts may admit otherwise involuntary confessions as long as they are deemed "true" under section 29 of the Evidence Act – this heightened susceptibility means that vulnerable persons are disproportionately at risk of unreliable confessions and wrongful convictions.
36. Women are especially vulnerable to the lack of procedural safeguards. This is starkly illustrated in a widely reported case,⁸⁶ of a woman with a severe intellectual disability, who is also a survivor of rape and domestic violence and has spent over a decade on death row for the murder of her daughter. Her conviction was based on allegedly forced confessions and circumstantial evidence rife with factual inconsistencies. After procedural errors led to her first conviction and death sentence being overturned, she was retried, convicted and once again sentenced to death in 2022. The court excluded evidence of her intellectual disability and declined to consider her claim that her confession was coerced. Her mental and physical health deteriorated significantly in prison due to inadequate care. She filed a second appeal which was heard after more than 2 years, highlighting the human cost of procedural deficiencies. After widespread condemnation of her case, her sentence has been quashed, and a second retrial ordered.⁸⁷ This case illustrates the experience of a profoundly vulnerable woman contending with a legal system that is structurally against her from the onset, for whom, to date justice has remained unattainable.

Death Penalty for LGBTQIA+ Individuals

37. The Tanzanian Penal Code currently prohibits consensual same-sex sexual activity, imposing a maximum penalty of life imprisonment. This legislative framework not only criminalises consensual same-sex relations but also perpetuates stigma and discrimination against LGBTQIA+ individuals.⁸⁸
38. During a parliamentary debate in April 2023, several Members of Parliament advocated for the introduction of even harsher penalties against LGBTQIA+ individuals, including proposals for the death penalty for consensual same-sex sexual activity.⁸⁹
39. Shortly thereafter, in June 2023, MP Jacqueline Ngonyani announced her intention to introduce a private motion in Parliament aimed at further criminalising LGBTQIA+ people, citing the need to "control the ongoing moral decay". Although the specific punitive measures were not detailed, the statement signals an alarming escalation in the

criminalisation of LGBTQIA+ persons. The Minister of Constitutional and Legal Affairs subsequently indicated that the current Penal Code already provides for life imprisonment, suggesting limited scope for further legislative change at present.⁹⁰

IV. Error! Reference source not found.RECOMMENDATIONS

This stakeholder report suggests the following recommendations for the Government of Tanzania:

Acceptance of international norms:

- 1. Ratify the Second Optional Protocol to the ICCPR and take steps to fulfil obligations under the ICCPR, particularly Article 14, by guaranteeing fair trial rights and effective remedies for violations.**
- 2. Reinstate declaration permitting individuals and non-governmental organisations to bring cases directly against Tanzania at the African Court.**
- 3. Fully implement the African Court's decision in Ally Rajabu, including by ensuring that all persons sentenced to death by virtue of the mandatory death penalty have fair and transparent resentencing hearings with legal representation provided by the State.**
- 4. Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and ensure its full implementation in domestic law and practice.**

General Legislative reforms

- 5. Repeal all laws which criminalise consensual same sex sexual conduct between adults, ensuring compliance with non-discrimination and privacy rights under international law.**
- 6. Establish a transparent and accessible presidential pardon framework by clearly defining eligibility criteria and applicable conditions, enabling individuals to apply directly, and instituting a structured and fair review process.**
- 7. Amend the Penal Code to explicitly recognise intellectual and psychosocial disabilities as a complete or partial defence to criminal liability and prohibit the imposition of the death penalty or life imprisonment on affected individuals.**
- 8. Amend the penal code to explicitly require courts to consider gender-based violence (GBV) and histories of abuse as mitigation factors particularly in cases involving women defendants.**

Death Penalty:

9. **Abolish the death penalty and replace it with penalties that are fair, proportionate, and aligned with international human rights standards.**
10. **Adopt an immediate formal moratorium on executions with a view to abolishing the death penalty.**
11. **Ensure the resentencing of all people who have been sentenced to the mandatory death penalty, with guarantees of free legal representation and the full opportunity to present mitigating evidence in fair and individualized proceedings.**
12. **Commute all existing death sentences to determinate custodial sentences, ensuring fairness, proportionality and compliance with international human rights standards.**
13. **Facilitate appeals for all those convicted and sentenced to death, including by providing adequate funding and training to counsel representing clients being tried for capital offences.**
14. **The Presidential Committee should invite stakeholders including civil society, and conduct public hearings, allowing diverse inputs to improve the criminal justice system and reduce grievances; review investigative processes to align with advances in science and technology; and prioritise the amendment of laws including the Criminal Procedure Act, Penal Code, and the Evidence Act.**
15. **Commission a study researching into human rights issues and other concerns regarding proposals to limit sentences to a specific term of years, with an opportunity for parole or pardon.**

Prison Conditions:

16. **Continue efforts aimed at reforming and developing the prison system to ensure its compliance with international human rights standards, including taking measures to reduce overcrowding.**
17. **Prohibit actual and de facto solitary confinement and improve living conditions in prisons and detention centres to ensure compliance with the Nelson Mandela Rules.**
18. **Ratify the Convention against Torture and the Optional Protocol thereto.**

Access to Fair Trial

19. **Amend the Evidence Act to prohibit the admission of confessions obtained through torture or coercion in all circumstances thus bringing Tanzanian law in line with international standards prohibiting the use of torture tainted evidence.**
20. **Strengthen judicial safeguards against coerced confessions by adopting laws that introduce mandatory judicial scrutiny of all confessions, including a requirement for courts to exclude statements where there is credible evidence or allegation of coercion, threats, or inducements, whether physical or psychological ensuring that the burden does not fall unduly on the defendant to prove coercion, and that access to independent medical examination is guaranteed where torture or ill-treatment is alleged.**
21. **Adopt and implement legislation guaranteeing access to qualified legal representation at all stages of the criminal process, especially those from vulnerable groups (including juveniles, persons with mental or psychosocial disabilities, and individuals from marginalised communities), have access to qualified legal counsel from the outset of police detention and throughout all stages of criminal proceedings, including appeals and resentencing hearings and prioritising people at risk of being sentenced to death.**
22. **Adopt and implement legislation guaranteeing access to qualified legal representation at all stages of the criminal process, beginning from the point of police detention through to trial, appeal, and any resentencing proceedings. This framework should prioritise individuals at risk of the death penalty and ensure effective legal assistance for vulnerable groups, including children, persons with mental or psychosocial disabilities, and individuals from marginalised communities.**
23. **Adopt comprehensive safeguards for vulnerable groups by expanding the definition of "vulnerable groups" to include all individuals at heightened risk of coercion or discrimination, and introducing specific procedural protections for these groups, such as mandatory presence of legal counsel during interrogation, access to appropriate support services, and special consideration in evidentiary assessments.**
24. **In collaboration with civil society, implement regular training and oversight for law enforcement and judicial officers on the risks and indicators of coerced confessions, the rights of vulnerable groups, and international standards on the prohibition of torture and ill-treatment.**
25. **Establish an independent oversight mechanism to investigate allegations of torture, ill-treatment, procedural violations and other types of misconduct and ensure accountability.**

26. **Establish and adequately resource a government-funded legal aid system to ensure that all individuals, particularly those from disadvantaged or vulnerable backgrounds, and prioritising in the first instance people charged with capital offences, have effective access to legal advice and representation throughout the criminal justice system.**

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