

# HIV JUSTICE NETWORK

October 23, 2017

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Your Honourable Excellencies,

I am the Global Co-ordinator of the HIV Justice Network based in the UK and the Netherlands and working globally to end the inappropriate use of the criminal law in the HIV response. I am writing regarding the arrests recently carried out by the Tanzanian Police of thirteen individuals, including three lawyers and their clients.

On Tuesday, 17 October 2017, a legal consultation convened by the Initiative for Strategic Litigation in Africa (ISLA) and the Community Health Services and Advocacy (CHESA) was raided by the Tanzanian Police. The consultation was convened in order to get more instructions and evidence on a case that the two organizations planned to file before a court concerning a challenge to the government's decision to limit the provision of certain HIV-related health services that it had previously provided.

Thirteen people, including two South African citizens, one Ugandan citizen, were detained including ISLA's Executive Director, Sibongile Ndashe, and CHESA's Director, John Kashiha. On Wednesday, the Regional Commissioner of police issued a press statement referring to the "arrests" and stated that twelve people who were promoting homosexuality had been arrested. On

Friday 20 October 2017, bail previously issued was revoked for everyone for no apparent reason. They were advised that a fresh investigation process was starting and everyone was taken to custody.

The mischaracterization of a legal consultation where lawyers and their clients were discussing a very specific case to be referred to the court as “promotion of homosexuality” is unfortunate and worrying. The police had a copy of the concept note and the agenda of the consultation. Even more alarming is that three lawyers who were part of the group, including Sibongile Ndashe, were arrested together with their clients.

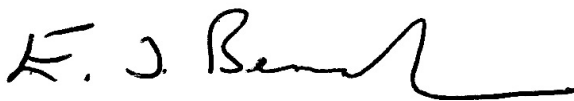
The Tanzanian Constitution enshrines the right to seek legal redress when fundamental rights have been violated (Art 30(3)). The African Charter on Human and Peoples’ rights, which Tanzania is a signatory to, also recognizes an individual’s right to an appeal to competent national organs against acts violating his fundamental rights as recognized and guaranteed by conventions, laws and customs in force (Art 7(a)). Tanzania is a signatory to a number of international human rights treaties that recognizes these and other related rights.

The arrest of the thirteen people mentioned above is an attempt to intimidate citizens from approaching judicial institutions when their rights have been violated. Furthermore, the arrest of lawyers while they are advising their clients on the steps to be taken to seek legal redress is clearly aimed at creating an environment where lawyers are afraid to provide legal representation and to ultimately create an environment where it is unthinkable to hold the state accountable for human rights violations.

We at the HIV Justice Network are strongly convinced that there is no legal basis for these proceedings, as demonstrated by the press statement released by the Regional Commissioner of police, and that the arrests are arbitrary and politically motivated.

Therefore, we call upon Tanzanian authorities to immediately release the thirteen individuals who are currently arbitrarily detained; to allow citizens to access legal representation without intimidation; to discontinue the ongoing persecution of human rights defenders, lawyers and their clients and refrain from such future actions; and to allow the foreign nationals, whose passports have been seized, to leave the country.

Your sincerely,

A handwritten signature in black ink, appearing to read 'E. J. Bernard', with a long horizontal flourish extending to the right.

Edwin J Bernard  
Global Co-ordinator,  
HIV Justice Network