

THEMATIC ISSUES FOR TANZANIA CEDAW SHADOW REPORTING



WLAC



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1. INTRODUCTION

These thematic issues for the State Party, United Republic of Tanzania (URT) have been prepared in line with the requirements on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) that URT signed on 17 July 1980 and ratified it on 20 August 1985; it has also ratified its Optional Protocol.

The thematic areas are based on the recommendations and responses from the combined seventh and eighth periodic reports of States parties that was submitted on the 10th November 2014 by Tanzania. The combined seventh and eighth periodic reports were prepared by the Ministry of Empowerment, Social Welfare, Youth, Women and Children (Zanzibar) and the Ministry of Community Development, Gender and Children (Tanzania Mainland) - September, 2014. In the preparation of the consolidated reports wide consultations were held involving government ministries, departments and agencies and NGOs that included the Tanzania Women Lawyers Association (TAWLA), Women in Law and Development in Africa (WiLDAF), Women's legal Aid Centre (WLAC), Zanzibar Female Lawyers Association (ZAFELA), Association of Non-Governmental Organizations of Zanzibar (ANGOZA) and other relevant international organizations such as UNFPA and the UN Women. However, some key issues were not included hence the preparation of this shadow report.

The thematic issues have been prepared by the CEDAW Task Force – members include Legal and Human Right Centre (LHRC), Tanzania Women and Children Welfare Centre(TWCWC), Centre for Widows and Children assistance (CWCA), Tanzania Women Lawyer's association (TAWLA), Women in Law and Development in Africa (WiLDAF), Tanzania Media Women Association (TAMWA), Envirocare and Women's Legal Aid Center (WLAC). These organisations are working on issues that affect the rights of women in Tanzania. These thematic issues have been developed to highlight thematic issues with respect to Women's Rights. This is with regard to the CEDAW text as well as the CEDAW Committee's previous concluding observations, other relevant international laws as well as domestic laws and whatever has happened since Tanzania last reported to the CEDAW Committee. Regard has also been had to the report that Tanzania submitted on the 10th November 2014 which is yet to be presented orally.

With respect to CEDAW the issues are raised from articles 2,5,9,10,14 and 16.

2. DOMESTICATION

Despite Tanzania's ratification of the CEDAW by the State party in 1986, it has not yet incorporated into Tanzanian domestic law as Tanzania is a dualist state. The CEDAW convention underlines that the signatory state party is under a legal obligation is to comply with an international convention that it has ratified or acceded to and to give a full effect in its domestic legal order. Therefore there is a need to make positive steps to have this domestication achieved if indeed women's rights are to be fully protected for it seems whatsoever legislation may be there, it falls short of complete protection.

This has not been done. This needs to be done and the question is what steps the government of Tanzania is taking to achieve this desirable status.

The further question is what government is doing to ensure implementation of the CEDAW text and the work of the CEDAW Committee?

3. CONSULTATION ON PREPARATION OF THE REPORT

The previous report preparation was based on inadequate consultations of grass root rural women. Although a number of civil society organizations were involved and thoroughly consulted in the process

of developing the Report but some of the information submitted were not included in the report. The question is what the government will do to ensure actual wider consultations of grass root rural women in the future?

4. LIST OF ISSUES OF CONCERN

1. ARTICLE 2

This requires state parties to adopt legal policy and other measures to eliminate discrimination.

The Article describes the nature of State obligations, in terms of law and policy, in order to eliminate discrimination

1:1 The URT report (under Paragraph 14) made reference to the Legal Aid Act and stated it is in its final stages (Legal aid Bill). The enactment of the law, expected to regulate legal aid providers including paralegals who are providing legal assistance and issues related to the provision of free legal aid in the country. This will enable Tanzania to implement meaningful reforms that will guarantee effective access to justice for all, including the poor and vulnerable women and girls. The question is what is delaying the tabling of the Legal Aid Bill?

2. ARTICLE 5

This obligates the State to adopt measures to address discriminatory social and cultural practices.

2:1 The URT efforts to ensure abolition of obsolete customs and customary laws are inadequate because there are still existence of discriminatory laws such as the Customary Law of Inheritance (The Local Customary Law (Declaration) (no.4) Order of 1963) and discriminatory provisions in the Law of Marriage Act of 1971, Cap 29. R.E. 2002. The question is what measures is the State taking to enact and amend these legislations that in intent or effect discriminates against women and girls, and ensure its compliance with international human rights standards?

2:2 The Law of Marriage Act include issues of customs and traditions among issues for consideration in division of matrimonial assets (it does not make a clear reference on customs and traditions which are not harmful). What measures is the URT taking to reform the Law of Marriage Act - to make all necessary amendments to legislation to ensure men and women have equal access to marriage dissolution?

3. ARTICLE 9

This one addresses nationality

There is need of more advocacy regarding these issues of women citizenship.

3.1 Under the Tanzania Citizenship Act, No. 6 of 1995 and its Regulations of 1997, a woman married to a citizen of the United Republic shall at any time during the life time of the husband be entitled upon making an application in a prescribed form, to be naturalized as a citizen of the United Republic. This does not apply to a man married to a Tanzanian woman.

What measures is the state taking to eliminate gender discrimination in citizenship and ensure recognition of children of Tanzanian woman and non-Tanzanian spouses as Tanzania citizens?

4. ARTICLE 10

This addresses equal rights in education.

Factors contributing to school dropout among the girls include (1) economic factors, (2) school level factors and (3) cultural factors.

4:1 Economic factors - the URT has provided free education in primary schools but there are a lot of contributions demanded from parents and guardians which makes it children from poor families not to afford the same. Higher school fees or big contributions increase the likelihood of dropping out for girls. What is being done about this?

4.2 School level factors - despite there being legal structures that promote right to education and other provisions there is inadequate resources on good sanitation for female students mainly in the public schools in the primary schools and self-boarding schools particularly to rural schools in Tanzania. inadequate sanitation facilities in schools massively affect girls' dropout because this inadequacy indicates that schools are not safe for girls.

There is need of the government to work on the sanitation issue in the public schools to enable girls have equal access to education. What is being done about this?

4:3 School distance is an important determinant of school dropout for female students. Young girls tend to drop out more due to for the vulnerability to sexual harassment. Long distance from home to school contributes to rape and early pregnancy. Teenage pregnancy is a significant cause of school dropout for girls. What is being done about this?

4:3 Cultural factors- In rural areas girls 'dropout rate became higher because parents consider girls' schooling as of no benefit when they leave their own family after getting married. Child marriage is the foremost cause of early school dropout of girls in regions where child marriage is rampant such as Shinyanga and Mara. Why the URT has not harmonized all laws on the minimum age for marriage, at 18 years for both girls and boys, in line with internationally acceptable standards?

5. ARTICLE 14

This addresses rural women.

The majority of Tanzanian's population is composed of women but yet they are the most discriminated at all levels mainly women in rural areas as they are sidelined based on their gender and also subordinate position in the society as a result of the patriarchy system due to some harmful traditions. The following are the issues that the URT needs to address in order to increase the level of rural women's participation at all levels:

5.1 The URT has established financial institution to assist women such as women's bank but the said institution does not benefit rural women who make the major population of Tanzania. Besides that, the bank offers loans at the interest rate in which majority of women do not afford.

5:2 Increase women's education level: More women, mainly the rural women are illiterate, due to long distances to travel to schools, poor sanitation in schools, early marriages, no access to Sexual Health Reproductive, services and other family planning.

5:3 Despite the presence of progressive laws, there is a big challenge that women are facing. Many are unable to realize their rights to own land and other property due to inadequate awareness of these laws and how to enforce them. Another barrier to female property rights is the presence of customary laws, practices, inheritance practices, traditions and norms that deny women rights to own property.

6. ARTICLES 16

This addresses marriage and family law.

6.1 The URT report indicates under paragraph 2 the existence of sector specific laws to ensure women's enjoyment of their rights and have cited the Law of Marriage Act but still the said law has provisions which allow polygamy, child and forced marriages.

6:2 The Law of Marriage Act,¹ allows girls to get married at 15 years with parents' consent therefore the age that defines a child and an adult is a contradiction. The issue here is to revise the marriage age with an aim of empowering women to education that is violated due to child marriages.

6:3 What is the URT doing to harmonize the minimum age of marriage and to prevent child marriages?

¹ The Committee should refer to the 2008 Concluding observation: Committee urges the State party to harmonize civil, religious and customary law with article 16 of the Convention and to complete its law reform in the area of marriage and family relations in order to bring its legislative framework into compliance with articles 15 and 16 of the Convention, within a specific timeframe. The Committee also calls upon the State party to ensure that where conflicts arise between formal legal provisions and customary law, the formal provisions prevail...The State party is urged to speedily enact the proposed amendments to the Marriage Act to ensure that it establishes one legal minimum age for marriage, at 18 years for both girls and boys, in line with internationally acceptable standards. (CEDAW: Draft Restricted Concluding Observations, July 2008). This has not been done.