

**UNITED NATIONS CONVENTION ON THE
ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN**

**TANZANIA NON GOVERNMENTAL ORGANIZATIONS' SHADOW REPORT
TO CEDAW:
THE IMPLEMENTATION OF THE CONVENTION ON THE ELIMINATION OF
ALL FORMS OF DISCRIMINATION AGAINST WOMEN.**

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ACRONYMS

AATZ	Action Aid Tanzania
ARVS	Anti Retroviral Drugs
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
ESDP	Education Sector Development Programme.
NGO	Non-Governmental Organization
MDGS	Millennium Development Goals
TFTW	Training Fund for Tanzania Women
CIDA	Canadian International Development Agency.
CBEG	Community Based Education for Girls
PEDP	Primary Education Development Plan
COBET	Complementary Basic Education in Tanzania.
MOEC	Ministry of Education and Culture
SEDP	Secondary Education Development Plan
GDP	Gender Dimension Programme
HIV	Human Immune deficiency Virus
AIDS	Acquired Immune Deficiency Syndrome
WHO	World Health Organization
NER	Net Enrolment Rate
MoH	Ministry of Health
MDG	Millennium development Goals
MSD	Medical Stores Department
UMATI	Uzazi na Malezi bora Tanzania
PLWHA	People Living With HIV/AIDS
RTI	Reproductive Transmission Infection
UNHCR	United Nation's High Commission for Refugees
MCA	Magistrate's Courts Act
FGM	Female Genital Mutilation
ILO	International Labour Organization
ESRF	Economic and Social Research Foundation
SMES	Small and Medium Enterprises
SIYB	Start/Improve Your Business

EXECUTIVE SUMMARY

The United Republic of Tanzania signed and ratified the Convention on the Elimination of all Forms of Discrimination (CEDAW) in Resolution 34/180, and the Convention entered into force on September 3, 1981. Despite the fact that Tanzania ratified CEDAW, the government still faces enormous challenges to implement and guarantee the protected rights, due in part because Tanzania has retained various discriminatory laws, practices and customs.

As its name indicates, this NGO Shadow Report on CEDAW is meant to be read in conjunction with the “Fourth and Fifth Combined Periodic Reports of the United Republic of Tanzania on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1998-2005” (Government Report) in order to highlight the real situation with respect to the implementation of CEDAW and the multiple forms of discrimination experienced on a daily basis by women in Tanzania. It addresses some of the ways in which gender and other forms of discrimination intersect, to the detriment of women’s rights in Tanzania.

Article 1: Definition of Discrimination

Despite the incorporation of the definition of discrimination into the Constitution of the United Republic of Tanzania, there are national laws still in effect which directly violate CEDAW. For example the Customary Law (Declaration Order Cap 358 R.E 2002) which confines its rules, customs and usages of indigenous tribes of Tanzania, this customary law is discriminatory and oppressive to women. Section 285 of the Criminal Procedure Act Cap. 20 R.E 2002 and section 71 of the Magistrate’s Courts Act, Cap. 11 R.E 2002 provides for use of assessors in some courts proceedings. The procedure for the selection of assessors is not gender sensitive and is biased in favor of men. The government should take the necessary measures to incorporate more basic provisions of CEDAW into the Constitution of 1977 in order to comply with the human rights principles. In addition to enacting legislation to protect women’s human rights, the government should repeal all national laws which violate or contradict the goals and spirit of CEDAW, while taking all necessary measures to disseminate this information to all of its citizens.

Article 4: Temporary special measures to achieve equality

The increases in women’s representation in Parliament and in Local Authorities increased from 25 percent in 1995 to 33.3 percent in 2000 are commendable. However more efforts is necessary to address the specific needs for representation of rural women, indigenous women, disabled women, migrant women, minority women, and other marginalised women in Tanzania.

Article 5: Sex roles and Stereotypes

Despite the government’s efforts to re-examine its policies and programmes for the implementation of the convention and the advancement of women, there is still a multiplicity of laws that hinder the advancement of women and the stereotyping of men’s and women’s roles continues to pervade Tanzanian

society. For example in education, a school girl who is pregnant is expelled from school; some times this is done without critical analysis as to why school girls are ending up with such problems.the Government Report, does not offer any plans to solve the identified problems with regard to sex discrimination in education As far as employment is concern, there are still numerous national laws in effect which directly or indirectly provide a legal basis for discrimination between male and female employees. Female Genital Mutilation is still a major problem facing many Tanzanian women. The Government Report itself estimates that 18% of women still undergo FGM. The Sexual Offences (Special Provisions) Act (SOSPA) is inadequate as it only criminalizes FGM only upon anyone under the age of 18. In the rural communities the traditional female stereotypes are the most prevalent and therefore keep women in a more disadvantaged state. The payment of bride price is still a current practice in Tanzania .Payment of bride-wealth by the husband upon marriage; the wife is thereby purchased and becomes the "property" of the husband and the husband's family. Consequently such a wife is unable to leave abusive relationships because one cannot afford to refund the bride price. In addition Customary practices such as wife inheritance and widow cleansing are still practiced and noted among some women. The government needs to address the traditional cultural and community norms which discriminate against females and to adopt specific mechanisms or measures which are aimed at combating sex discrimination.

Article 6: Trafficking in Women

The Government Report fails to address the effects, if any, of SOSPA on human trafficking and prostitution. The exploitation of women and girls through prostitution and trafficking is deemed to exist in Tanzania, although it is not sustained by government data. The government needs to take measures to combat the trafficking and sexual exploitation of women and children.

Article 9: Nationality

Women are not recognized as being equal to men under the Citizenship Act Cap. 357 R.E 2002. Section 11(1) of the Citizenship Act is discriminatory to women and violates Article 9 of CEDAW. Citizenship is determined under the Tanzania Citizenship Act. Since the provision of Section 11(1) of the Citizenship Act goes against Articles 9 of CEDAW, we recommend that the government of Tanzania take measures to amend the said provision so as to grant equal citizenship rights to both women and men.

Article 10: Quality in Education

Despite good plans by the Government to bring about equality in education, there is no information of the funding being provided to support the various educational programs it mentions. Further, there is no discussion of the specific programmes and mechanisms of implementation, nor is there any mention of the processes being used, if any, to evaluate these education programs. The government needs to educate the public more about the special funds to promote access to education of female children and increase the public's access to these funds. Also it needs to detail types of funding, budgetary oversight and specific

programme mechanisms, including evaluation processes that are in place to facilitate its education reforms and to disseminate the CEDAW Committee's concluding comments of the previous report to people, government administrators and politicians so that they are aware of the steps that have been taken to ensure equality for women and the further steps that are required in this regard.

Female students in Tanzania face gender stereotypes which often manifest themselves in sexual abuse, early pregnancies, early marriages, household duties, limited access to schools, long distances to schools, and lack of priority for consideration of higher education, specifically for the poor families, thus influencing the higher drop out rates of the female students. Though identified in the Government Report, it does not offer any plans to solve the identified problems. With regard to sex discrimination in education it has been noted that there are no specific mechanisms or measures which are in place to deal with the problem. Such a situation is encouraging the continuation of sex discrimination in education. The Tanzanian government needs specific plans for large-scale reform that is necessary to increase the enrollment and retention of female students at all levels, specifically, the government needs to address the traditional cultural and community norms which discriminate against females and to adopt specific mechanisms or measures which are aimed at combating sex discrimination in education.

The quality of education is not being properly addressed in Tanzania. There are inadequate educational facilities, infrastructure and resources (both human and financial resources) but the Government Report makes no mention of the quality of the education that is being provided to students or whether the students are going to be successful participants in Tanzania's developing society.

Tanzanian teachers face numerous hurdles in providing quality education to their students including lack of support – low salary scales, housing scheme, adequate teaching facilities and materials; and training – gender sensitivity training, and scholastic aptitude training.

Implementation of PEDP has resulted in the sharp increase in standard one enrolment in the country and a shortfall of teachers. In order to meet the demand for teachers the government decided to reduce the time that trainee teachers spend at teacher's colleges from two years to one. In practice, the programme operates on an ad hoc basis; there is no organized, sustained effort to further teacher's professional development.

Many teachers are complaining that changes are made in syllabi, with new topics and textbooks introduced, without building the capacity of teachers to teach these subjects.

Large class size and the lack of teaching and learning materials make teaching stressful for many teachers.

The government needs to identify educational reform goals which take into account the value and quality of education the students are receiving, in addition to increased enrollment. The government needs to put in place standards to monitor the progress of its educational reforms.

The increased enrollment of both boys and girls has to go hand-in-hand with the recruitment of more qualified teachers with better salaries, housing schemes and availability of incentives for the teachers. In-service training programmes for the teachers have to be expanded to enhance the knowledge and skills of teachers to cope with the changes that are taking place in the education sector. In addition, the government must enact standards to evaluate the teaching skills of the new and current teachers to ensure that the education methods being used are effective.

The Government Report does not provide enough concrete details about the efforts it has undertaken to improve physical school infrastructure or provide instructional materials to schools, teachers and students. The distance from home to schools is still very far and as a result children have to walk long distances to school. In such circumstances girls and disabled children are the most affected groups. This is contributing to high drop out rate of girls. The availability of textbooks is still a major problem despite efforts made under the PEDP to provide textbooks to schools; the pupil to book ratio still stands at 1:5 for most school subjects.

Despite the Tanzanian government's efforts to reform the educational system, yet girls dropout rate is higher than that of boys due to early marriages, pregnancies, truancy, involvement in domestic chores and taking care of the sick children, which consume most of their time," However, no solution to these problems has been offered in the government report. In addition, there are no plans regarding what strategies, if any, are being used to support female students' return to school once they have dropped out. The government needs to adopt specific plans and strategies to prevent female students from dropping out of school and to assist female students' return to school once they have dropped out.

The Government Report offers little discussion of disparities between the rural and urban populations on education and the efforts to reduce these disparities. In some schools, especially those in rural areas, children are sitting down on the floor in a class because there are no or inadequate desks to sit on. The proportion of children enrolled in primary schools varied between rural and urban areas. According to House hold Budget Survey 2000/2001, urban areas enrollment was 71% for boys and 71.3% for girls while in rural areas the enrollment was as low as 47.1% and 51.7% for boys and girls respectively in 2001. The Tanzanian government needs to implement strategies that will reduce the disparities between the literacy rates and educational opportunities between the rural and urban populations, specifically with respect to the disparities between the situations of rural and urban female populations.

There is limited understanding of disability and children with special needs in Government planning and programmes. Similarly there are inadequate plans within the primary school development plan to work with children who have special learning and behavioural needs. There is no mention of plans within the educational development plan to work with or accommodate children who have special physical, learning and/or behavioural needs. Given that significant number of children who suffer from physical or mental disabilities, the government needs to create specific plans to sensitize the population and address the needs of disabled children.

Though a guarantee of access to education is made to refugees and displaced persons in the Tanzanian National Education Act 1978, refugees face additional challenges to receiving basic education, including the fact that the law in Tanzania hinders the right to movement of refugees, which is an essential human right and impacts all aspects of refugees' lives, including the full access to educational facilities. Schools have been constructed in their respective camps. However such schools are inadequate with lack of adequate facilities/supplies. Opportunities for secondary education, tertiary education and vocational skills training programmes are extremely limited. The government needs to evaluate its current status of compliance with the Tanzanian National Education Act in providing education to refugees and displaced persons and it needs to create plans to improve the access to educational services.

Article 11: Employment

As far as employment is concern, there are still numerous national laws in effect which directly or indirectly provide a legal basis for discrimination between male and female employees. For examples the National Social Security Fund (NSSF) Act Cap. 47 R.E 2002 which provides inter alia for a Survivor's pension. Specifically, Section 35(a) of the NSSF Act provides that a widow who has the responsibility to care for the dependent children will be paid a pension for life, or until she remarries. On the contrary, Section 35(b) discriminates against women who do not have to care for dependent children. Sexual harassment also continues to be a serious problem for female labourers. Though the SOSPA, 1998 amended the Penal Code Cap.16 R.E 2002, to include sexual harassment. Child labourers face additional hardships, including being away from their families, working in the Worst Forms of Child Labour (WFCL), suffer from malnutrition, Further to that, their employment comes at the expense of their education. Despite the existence of the Employment and Labour Relation Act, 2004, which clearly prohibits employment of children in the age of 14, the Act has yet to be fully implemented. The government needs to ensure the replacement of all discriminatory employment laws with gender-neutral and status-neutral employment laws, including rules governing pensions.

Article 12: Health care and Family Planning

The government has not clearly stated the issue concerning the problem of women's access to quality and affordable health services nor has it provided concrete information describing how it is going to ensure women's access to

quality and affordable health services and information. While the government has also introduced free healthcare services including Anti-Retroviral drugs for pregnant mothers in the prevention of mother to child transmission of HIV, the program has been limited to the treatment of 3,400 HIV positive mothers in 32 approved hospitals. This crucial free service is not accessible to all pregnant women. Many refugee centres lack sufficient bedding, clothes and medical treatment for their residents. In addition, the food assistance provided is below UNHCR standards and shelter is of poor quality. In prisons, women, including pregnant women, are facing lack of proper medical care despite the fact that the Ministry of Health has focused its development strategies on increasing the availability of quality health care services, there is a severe gap between the human resource requirements and the human resource availability in the health sector. The government needs to ensure access to quality, affordable health care needs to be guaranteed to all citizens regardless of their gender class, wealth, status or condition. Further the government should ensure special health facilities for women according to their special needs

While the cost sharing program supplies medical facilities with low-cost medicine, there is an inadequate supply of medicine and supplies run out of stock within a very short time after delivery. Though the government's user fees for health services contain exemptions and waivers for vulnerable groups, e.g. pregnant women, infants, and the elderly, the exemptions and waivers are highly ineffective. The government needs to get rid of all user fees in the health sector which impair women's access to the health services.

Many women and girls still lack full access to quality information regarding sexual and reproductive health and the right to quality family planning, prenatal and postnatal services, including emergency obstetric services and emergency contraception. Reproductive health strategies laid by the government need to be implemented for the betterment of women and girl children.

While the government is paying attention to the negative effects of the spread of HIV and AIDS, it is not treating the situation as the major women's health crisis that it is. More needs to be done in the areas of education, prevention and treatment across all segments of the population, in order to stop the growing problems caused by HIV and AIDS.

The government's goal of implementing the PMTCT programme in 28 health facilities in seven Regions by 2008 is much too modest. There are too many factors working against women, e.g., women's inferior position in society, the stigma associated with, and the lack of HIV/AIDS treatment, lack of awareness of obstetric complications and the majority of women deliver their babies at home, indicate that it is unlikely the current PMTCT program will have any large scale impacts on the HIV/AIDS transmission rates in Tanzania. The government needs to implement a plan in which the critical PMTCT services will be available to all women, regardless of their status, education, wealth or location.

Female Genital Mutilation is still a major problem facing many Tanzanian women. The Government Report itself estimates that 18% of women still undergo FGM. The Sexual Offences (Special Provisions) Act (SOSPA) is inadequate; it criminalizes FGM only upon anyone under the age of 18. The government needs to review all of the national laws and policies that touch the area of FGM and which do not fully protect women from the dangers horror of female genital mutilation.

Article 13: Economic and Social Benefits

Despite the adoption of the National Micro-Finance Policy in 2000, financial services organizations are currently neither coordinated nor regulated due to the fact that each has its own modality of advancing loans. Loans are also given to women at high interest rates and cumbersome conditionalities exist which undermine women's development. As a result, most women fail to pay the interest rates and this, results in their loss of the little they have. The government needs to clarify its regulations in order to reveal the way in which financial institutions are subject to the National Policy and how loan institutions are coordinated and regulated. Rural people should be educated on the availability of credit associations for them to be familiar with the credits and utilize them to improve their living standards. Cumsome conditionalities should be removed and the loans given should have minimal interest rate to accommodate more women.

Women who managed to engage in the entrepreneurship sector are still found predominantly in low growth areas earning lower revenues than their male counterparts. There is no information on follow up or evaluation mechanisms by the Government to determine whether the education given to women entrepreneurs has been helpful. The government needs to address the barriers facing women entrepreneurs through specific programs. The government also have to develop evaluation mechanisms to determine whether the entrepreneurship education is helping women entrepreneurs.

There are still a gender-blind or gender-insensitive macroeconomic policies, complex tax policies and compliance procedures, gender-based inequalities in regulations, and complex business registration and licensing procedures for the smallest micro-enterprises (where the majority of women are found). Lack of cultural acceptance for the role of women in entrepreneurship, limited access to appropriate business premises, lack of collateral due to property ownership practices, lack of access to term loans and sufficient working capital to meet their needs (the gap between the micro-finance ceiling and the minimum loan requirements of banks), and the limited organizational and management capacity among women's advocacy groups are all barriers to women seeking financing for their businesses. The government needs to enact gender-sensitive macroeconomic policies while simplifying the complex tax policies, compliance procedures, complex business registration and licensing procedures for the smallest micro-enterprises (where the majority of women are found).

ARTICLE 14: RURAL WOMEN

The World Bank estimates the population of Tanzania in 2005 was 38.3 million people and women constitute approximately 51.1 percent of the population. With 77 percent of the inhabitants of Tanzania living in rural areas, from education to health to economic policies, there are numerous disparities between the progress made by the urban communities and the progress made by the rural communities in the recognition and implementation of women's equal rights and CEDAW. Rural residents are geographically more isolated than their urban counterparts and this often manifests itself in the lack of development-related financial, material and human resources. Further, it is in the rural communities that the traditional female stereotypes are the most prevalent and therefore keep women in a more disadvantaged state. The government needs to dedicate more resources and specific action plans towards the development and enforcement of women's equal rights, including the end of all forms of discrimination, in rural communities.

Gender budgeting initiatives have neither impliedly nor expressly shown to what extent women are contributing to GDP nor are they taking into consideration the fact that women are performing multiple roles in the society such as taking care of families and at the same time engaging in economic activities. In addition, the Government Report has not stated how women's performance at the household level will be included in gender budget tracking. The government needs to track women's contributions to the national economy and then use those calculations to create accurate gender budgeting initiatives.

Article 16: Marriage and Family Law

The Law of Marriage Act Cap 29, R.E 2002 has some provisions which oppose, discriminate and violate the rights of a woman as envisaged in CEDAW in the provisions of Section 17 (1) (Parental Consent), Section 13(1) (allows child Marriage) Division of Matrimonial Properties. Section 114 (2) (a) (Division of Matrimonial Properties), Section 125 (2) (c) and Section 129 (Custody of Children), and Sections 163 – 164 (implicitly allows a husband to beat his wife) The government needs to amend the Law of Marriages Act 1971 to establish the gender-neutral and sensitive provisions in the law.

The payment of bride price is still a current practice in Tanzania and this is due to the existence and application of the Law of Persons (Sheria ya hali ya watu) Cap 358 R.E 2002, as a result, especially in rural areas, on payment of bride-wealth by the husband upon marriage, the wife is thereby purchased and becomes the "property" of the husband and the husband's family. Consequently such a wife is unable to leave abusive relationships because one cannot afford to refund the bride price. Despite the fact that the government has stated that it is in the process of reviewing existing discriminatory laws, however it takes too long when it comes to reviewing the laws concerning family issues.

The government needs to amend the Law of Persons Act and ensure that the practice of bride price is eliminated from Tanzania marriage systems.

Customary practices such as wife inheritance and widow cleansing are still practiced and noted among some women. Moreover, Tanzania still maintains discriminatory inheritance laws, for example the Local Customary Law (Declaration) (No.4) Cap. 358 R.E 2002 which denies widows to inherit from their deceased husbands' estates. In addition, daughters are given unequal share of the estate as compared to sons and hence are denied their rights to property. The government should take immediate action to modify customary laws, which are oppressive and discriminatory to women.

PREPARATION OF THE SHADOW REPORT

This Shadow Report is a reflection of both the Government Report and the recommendations made by the CEDAW Committee, which considered the "Combined Second and Third Periodic Reports of the United Republic of Tanzania (CEDAW/C/TZA/2-3)" at its 394th and 395th meetings on 1 July 1998. In preparing this Shadow Report, one of the major problems noted was that the current CEDAW report by the Tanzanian government lacks gender disaggregated data. This means that the government, the United Nations, and concerned NGOs need data on women which is further broken down by ethnicity, age, and disability in order to fully analyze and evaluate the current level of Tanzania's compliance with CEDAW. The Government Report also seems to repeat some of the facts included in its previous report. We have thus concluded that there must be a concerted effort by both the government and non governmental organizations in Tanzania to systematically collect and publish disaggregated information regarding the status of women.

This Shadow Report is generally structured to address the topics of gender discrimination in a manner consistent with the CEDAW Articles. The report contains introduction, the main sections and conclusion. This report is presented, in a format which focuses on the individual CEDAW Articles and:

1. the Tanzanian government's efforts to harmonize the law, policy and practice with the principles and standards of CEDAW;
2. the real situation from the ground, including an independent assessment of the progress, or lack thereof, as reported by various NGOs; and
3. the candid recommendations which civil society believes will assist in the implementation of CEDAW and the true elimination of all forms of discrimination against women in Tanzania.

Before the development of this Shadow Report, there were numerous consultations with task force member organizations. A literature review was conducted which included the examination of national laws, policy documents and various reports published by the government and other agencies, studies by NGOs, national and private programmes and strategic national plans. After collection, the information was assessed and analyzed to produce a draft report, which was discussed among Task Force members before the final report was generated.

INTRODUCTION: COUNTRY PROFILE

Tanganyika gained independence from a UK-administered UN trusteeship on 9 December 1961; Zanzibar gained independence from the UK on 19 December 1963; Tanganyika united with Zanzibar on 26 April 1964 to form the United Republic of Tanganyika and Zanzibar, renamed the United Republic of Tanzania on 29 October 1964. The United republic of Tanzania has a total area of 945,087 square kilometres. The population is estimated to be 39,384,223 with a density of about 36 people per square kilometre.¹ Population estimates for Tanzania explicitly take into account the effects of high mortality due to HIV and AIDS; this can result in lower life expectancy, higher infant mortality and death rates, lower population and growth rates, and more significant changes in the distribution of population by age and sex than would otherwise be expected.² The AIDS prevalence rate was estimated in 2003 to be 8.8 percent.³ The population structure is as follows:

- 0-14 years: 4.9% (male 8,666,227/female 8,624,387)
- 15-64 years: 53.3% (male 10,330,727/female 10,649,507)
- 65 years and over: 2.8% (male 491,252/female 622,123) (2007 est.)⁴

Since 1992, Tanzania is a multi party country, currently with 18 registered political parties.⁵ The Constitution of the United Republic of Tanzania 1977 includes a bill of rights, which provides for the protection of women's rights as well as men's rights. Tanzania has ratified numerous international human rights conventions in addition to CEDAW. The Tanzanian economy depends primarily on agriculture, which accounts for 43.3% of GDP, 85% of the nation's exports and employs 80% of the labour force.⁶ Economic growth is 5.8% per annum and Tanzania currently has one of the fastest growing economies in East Africa.⁷

¹ Central Intelligence Agency, "The World Factbook – Tanzania," 17 July 2007, <<https://www.cia.gov/library/publications/the-world-factbook/geos/tz.html>>.

² Id.

³ Id.

⁴ Id.

⁵ National Bureau of Statistics and Ministry of Planning, Economy and Empowerment, "Tanzania in Figures 2006," June 2007, 5.

⁶ Central Intelligence Agency, "The World Factbook – Tanzania," 17 July 2007, <<https://www.cia.gov/library/publications/the-world-factbook/geos/tz.html>>.

⁷ Id.

GENERALLY APPLICABLE PRINCIPLES OF CEDAW

1. ARTICLE 1: DEFINITION OF DISCRIMINATION.

Article 1 of CEDAW defines the term “discrimination against women” as: “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

1.1 The Government Report:⁸

In response to the CEDAW Committee's concluding comments on the combined 2nd and 3rd Periodic Reports, the Government Report states that the CEDAW definition of discrimination was taken into consideration and prompted the 13th Amendment of Article 13 of the Constitution of the United Republic of Tanzania in 2000. Article 13(4) now states “no person shall be discriminated by any person or any authority acting under any law or in the discharge of the functions of business of any state office.” According to Article 13, discrimination means to “satisfy the needs of different persons on the basis of their nationality, tribe, gender, place of origin, political opinion, colour, religion or station in life such that certain categories of people are regarded as weak or inferior and are subjected to restrictions of conditions whereas persons of other categories are treated differently or accorded opportunities or advantage outside the specified conditions or the prescribed necessary qualifications.”

1.2 NGO report on the situation:

Despite the incorporation of the definition of discrimination into the Constitution of the United Republic of Tanzania, there are national laws still in effect which directly violate CEDAW. In addition, little government action has been taken to address indirect discrimination which is a result of facially gender neutral laws interpreted within the customary gender perspectives.

The Customary Law (Declaration Order Cap 358 R.E 2002) is an instrument which has been in existence since 1963. It is an order which confines its rules, customs and usages of indigenous tribes of Tanzania. The rules, customs and usages have been in operation in particular areas of indigenous tribes since the time immemorial. As the indigenous tribes are similar to any other patrilineal community, the status and dignity of women is undermined in the rules, customs and usages. Therefore, this customary law is discriminatory and oppressive to women.

Section 285 of the Criminal Procedure Act Cap. 20 R.E 2002 and section 71 of

⁸ United Republic of Tanzania Ministry of Community Development Gender and Children, “Fourth and Fifth Combined Periodic Reports of the United Republic of Tanzania on the Implementation of the Convention on The Elimination of All Forms of Discrimination Against Women (CEDAW) 1998 – 2005,” January 2006 (hereinafter, “Government Report”).

the Magistrate's Courts Act, Cap. 11 R.E 2002 provides for use of assessors in some courts proceedings. The procedure for the selection of assessors is not gender sensitive and is biased in favour of men. The law ought to have a clear selection process so as to comply with Article 1 of CEDAW. In practice the composition of Assessors is not gender sensitive even in cases determining the rights and affairs of a woman. Most of the selected/appointed assessors are men. Customary law issues are dealt with primary courts. The Primary courts normally sits with male assessors who most of the time favour their fellow men in the detriment of women. In most cases women lose their rights in the primary courts. It is only on appeal to a higher court jurisdiction that these women may get their rights. For instance, in the cases of Bernado Ephraim *versus* Holaria Pastory⁹ and Ndewawiosia Ndeamtzo *versus* Immanuel s/o Malasi¹⁰ whereby the discriminatory laws were declared unconstitutional. Finally the MCA provides for the application of customary laws. Paragraph two of fourth schedule of the MCA provides that the Primary Court should apply the customary law prevailing within the area of its local jurisdiction. Because most of the customary laws are oppressive to women, the Magistrate Courts Act of 1984 needs to provide protective measures for women as a qualification of the use of customary laws by Primary Courts instead of allowing the Primary Courts to generally apply customary laws.

Further, though some laws have been modified or are facially gender neutral, the enforcement of those laws is typically done with respect to the traditional gender-biased beliefs.

1.3 Recommendations:

- The government should take the necessary measures to incorporate more basic provisions of CEDAW into the Constitution of 1977 in order to comply with the human rights principles.
- In addition to enacting legislation to protect women's human rights, the government should repeal all national laws which violate or contradict the goals and spirit of CEDAW, while taking all necessary measures to disseminate this information to all of its citizens.

2. ARTICLE 2: POLICY MEASURES UNDERTAKEN TO ELIMINATE DISCRIMINATION.

1.1 The Government Report:

In response to the CEDAW Committee's concluding comments on the combined 2nd and 3rd Periodic Reports, the Government Report notes that Tanzania has put into place the following national strategies with the principals of CEDAW in mind: National Development Vision 2025; National Strategy for Growth and Reduction of Poverty, beginning in 2005/06; Poverty Reduction Strategy 2000-2003; Women in Development Policy, 1992; Policy on Women and Gender

⁹ High Court of Tanzania at Mwanza(PC) Civil Appeal No.20 of 1989

¹⁰ [1968] H.C.D. No. 127

Development, 2000; and the Non-Governmental Organizations Act, No. 24 of 2002. The Ministry of Community Development, Women's Affairs and Children was formed in 1990, and renamed the Ministry of Community Development, Gender and Children in 2002. In addition, the government developed a Sub-programme for Women and Gender Advancement, 1997-2003, and has been implementing the Gender Advocacy Programme.

1.2 NGO report on the situation:

Despite the government stated policy changes, few gender equality goals have been realised. In addition to the facially discriminating laws which remain in effect, women are denied their legal rights by the Tanzanian government because CEDAW is not given binding legal effect in the Courts. Where conflicts exist between international treaties, the Constitution and national, religious and customary laws, the judges are free to rule that the discriminatory laws which violate the international treaty are valid and enforceable. Further, the government not undertaken to ensure the practical realisation of the principles of equality and non-discrimination; there are few assessments and limited protective measures in place to determine the effectiveness of laws and policies that are meant to promote women's equality.

1.3 Recommendation:

- The government needs to establish specific legal remedies for women who have been discriminated against or had their rights violated and ensure that those remedies are accessible to all women, regardless of their background or status.

4. ARTICLE 4: TEMPORARY SPECIAL MEASURES TO ACHIEVE EQUALITY.

1.1 The Government Report:

In response to the CEDAW Committee's recommendation on increasing the number of women in parliament and Local Authorities in the Concluding Comments to the 2nd and 3rd Periodic Report, the government reported that special seats for women in Parliament increased to a 30 percent minimum in 2004 and special seats in Local Authorities increased from 25 percent in 1995 to 33.3 percent in 2000. In addition, training in the areas of information and communications technology, gender analysis and other related skills were offered to female members of Parliament and 10 female Deputy Ministers were appointed by President Kikwete.

1.2 NGO report on the situation:

The law requires that women occupy at least 30 percent of seats in parliament. Women are appointed by their respective political parties to serve in seats set aside for them, according to the number of seats their parties win. After the 2005 general election there were 75 special seats for women. At year's end there were 91 women in the 320-seat parliament. During 2006, at least seven

women served as judges of the High Court and one woman served as a justice of the Union Court of Appeal.¹¹ The increases in women's representation are commendable, however they are not enough.

1.3 Recommendations:

- More effort is necessary to address the specific needs for representation of rural women, indigenous women, disabled women, migrant women, minority women, and other marginalised women in Tanzania.

2: VIOLENCE AGAINST WOMEN.

2.1 The Government Report:

In response to the CEDAW Committee's concluding comments on the combined 2nd and 3rd Periodic Reports, the Government Report notes that the Tanzanian government has made attempts to combat all forms of violence against women. The government is a signatory to the SADC Declaration on Gender and Development, 1997, and the Addendum on the Prevention and Eradication of Violence against Women and Children, 1998, an auxiliary document to CEDAW. These agreements are specific commitments by the government to the prevention and eradication of violence against women and children. In response to the CEDAW Committee's request for information on the situation of refugee women and programmes to address their needs in the Concluding Comments to the Combined 2nd and 3rd Periodic Report, the government notes that Tanzanian laws that are applicable to Tanzanian citizens are also applied to refugee women and they are carrying out awareness campaigns on human, children's and women's rights in refugee camps and surroundings.

2.2 NGO report on the situation:

Violence against women is a pervasive problem in Tanzania that affects women of all classes, regions and religious groups. It is defined as a pattern of behaviour used to establish power and control over another person through fear and intimidation. Despite the fact that violence is a universal phenomenon that cuts across all forms of classes, races, religions, age, utility and geographical location and includes psychological harm, emotional and economic abuse, violence against women is not recognized as a serious problem that needs serious government attention.

The Declaration on Elimination of Violence Against Women adopted by the United Nations General Assembly in 1993 defines violence against women as “any act of gender based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women including threats of such acts coercion or arbitrary deprivation of liberty whether occurring in public or private

¹¹ U.S. Department of State Bureau of Democracy, Human Rights, and Labor, “Tanzania – Country Reports on Human Rights Practices 2006” March 6, 2006, 13.

life.¹²

Although the government is to be commended for some gender sensitive legislations such as the Sexual Offences (Special Provisions) Act, Cap.101 R.E 2002, there is still no specific law protecting women from gender-based violence. Existing legal provisions that may be applied to protect women are scattered in different laws and many times invoke gender-blind interpretations. For instance, the Penal Code Cap. 16 R.E 2002 criminalizes assault, but a battered wife who seeks police protection is typically advised to solve the matter at the family level. Moreover, the investigation and prosecution of gender-based violence cases is in many instances not given priority.

Sexual abuse is very common in Tanzanian societies, though such incidents are not widely reported by victims due to ignorance and lack of community support.

On the subject of domestic violence, in September 2005 researches in Moshi discovered that: "Twenty-one percent of women reported having experienced intimate partner violence (i.e. having been threatened with physical abuse or subjected to physical abuse) during the previous 12 months; 26% reported such an experience at any time, including the past 12 months. The likelihood of violence in the past year was elevated if the woman had had problems in conceiving, or had born five or more children or if her husband or partner had other partners or contributed little to expenses for her and her children; and if she had had no more than a primary education."¹³

There is a need to prevent the problems of sexual abuse, discrimination at the work place and domestic violence. Some of these practices are already prohibited by law, but the implementation of such laws is not responding very positively.

The situation for refugee women in Tanzania is not encouraging. Despite the government's stated efforts, little is actually being done to support and protect refugee women. The government has become increasingly intolerant of hosting refugees combined with the serious lack of resources, and sexual and gender based violence is a major problem in Tanzania's refugee camps.¹⁴

In addition, the CEDAW Committee recommended in its Concluding Comments on the Combined 2nd and 3rd Periodic Reports that the government establish shelters for women who have been subjected to violence. In response, the present Government Report states, "the Government feels that implementation of this recommendation may exacerbate family related problems if not handled

¹² Declaration on elimination of violence against women, New York, UN 1993 (UN General Assembly resolution document A/RES/48/104)

¹³ Legal and Human Rights Centre, "2005 Tanzania Human Rights Report" ("LHRC Report"), quoting Laura Ann McCloskey et al., "Gender Inequality and Intimate Partner Violence Among Women in Moshi, Tanzania," International Family Planning Perspectives, September 2005, <<http://www.agi-usa.org/pubs/journals/3112405.html>>.

¹⁴ Ibid at pgs 74-77

carefully taking into account existing reconciliation procedures at family [sic] level.”¹⁵ This “hands-off” approach by the government is illustrative of the general limited attention gender-based violence is given by the administration.

2.3 Recommendations:

- The government needs to take further steps to educate the public about gender-based violence and enact law which specifically provides protection against gender-based violence.

ARTICLE 5: SEX ROLES AND STEREOTYPING

1.1 The Government Report

The Government explains the efforts done by the government to re-examine its policies and programmes for the implementation of the convention and the advancement of women.

1.2 NGO report on the situation:

Despite the government’s efforts to re-examine its policies and programmes for the implementation of the convention and the advancement of women, there is still a multiplicity of laws that hinder the advancement of women and the stereotyping of men’s and women’s roles continues to pervade Tanzanian society.

With regard to sex discrimination in education it has been noted that there are no specific mechanisms or measures which are in place to deal with the problem. Such a situation is encouraging the continuation of sex discrimination in education; for example, even though the government policies on education have a multicultural gender perspective in the sense that both girls and boys have the right and equal access to education, there still some cases where a girl child is deprived of her right to education. For example a school girl who is pregnant is expelled from school; some times this is done without critical analysis as to why school girls are ending up with such problems.

Female students in Tanzania face gender stereotypes which often manifest themselves in sexual abuse, early pregnancies, early marriages, household duties, limited access to schools, long distances to schools, and lack of priority for consideration of higher education, specifically for the poor families, thus influencing the higher drop out rates of the female students. Though identified in the Government Report, it does not offer any plans to solve the identified problems. With regard to sex discrimination in education it has been noted that

¹⁵ Government Report, at page 20.

there are no specific mechanisms or measures which are in place to deal with the problem. Such a situation is encouraging the continuation of sex discrimination in education.

As far as employment is concern, there are still numerous national laws in effect which directly or indirectly provide a legal basis for discrimination between male and female employees.

Many women and girls still lack full access to quality information regarding sexual and reproductive health and the right to quality family planning, prenatal and postnatal services, including emergency obstetric services and emergency contraception. Reproductive health strategies laid by the government need to be implemented for the betterment of women and girl children. Though the government's user fees for health services contain exemptions and waivers for vulnerable groups, e.g. pregnant women, infants, and the elderly, the exemptions and waivers are highly ineffective.

Female Genital Mutilation is still a major problem facing many Tanzanian women. The Government Report itself estimates that 18% of women still undergo FGM. The Sexual Offences (Special Provisions) Act (SOSPA) is inadequate; it criminalizes FGM only upon anyone under the age of 18.

It is in the rural communities that the traditional female stereotypes are the most prevalent and therefore keep women in a more disadvantaged state. The government needs to dedicate more resources and specific action plans towards the development and enforcement of women's equal rights, including the end of all forms of discrimination, in rural communities.

The payment of bride price is still a current practice in Tanzania and this is due to the existence and application of the Law of Persons (Sheria ya hali ya watu) Cap 358 R.E 2002, as a result, especially in rural areas, on payment of bride-wealth by the husband upon marriage, the wife is thereby purchased and becomes the "property" of the husband and the husband's family. Consequently such a wife is unable to leave abusive relationships because one cannot afford to refund the bride price. In addition Customary practices such as wife inheritance and widow cleansing are still practiced and noted among some women. Moreover, Tanzania still maintains discriminatory inheritance laws. Despite the fact that the government has stated that it is in the process of reviewing existing discriminatory laws, however it takes too long when it comes to reviewing the laws concerning family issues.

1.3 Recommendations:

- The government needs to address the traditional cultural and community norms which discriminate against females and to adopt specific mechanisms or measures which are aimed at combating sex discrimination in education.
- The Tanzanian government needs specific plans for large-scale reform that is necessary to increase the enrollment and retention of female students at all levels, specifically.
- The government needs to ensure the replacement of all discriminatory employment laws with gender-neutral and status-neutral employment laws, including rules governing pensions.
- The government needs to get rid of all user fees in the health sector which impair women's access to the health services.
- The government needs to review all of the national laws and policies that touch the area of FGM and which do not fully protect women from the dangers horror of female genital mutilation,
- The government needs to amend the Law of Persons Act and ensure that the practice of bride price is eliminated from Tanzania marriage systems.

ARTICLE 6: HUMAN TRAFFICKING AND PROSTITUTION

1. HUMAN TRAFFICKING AND PROSTITUTION.

1.1 The Government Report:

The Government Report notes that the SOSPA addresses, among other things, sexual exploitation of women and children, procurement for prostitution, trafficking of persons and child prostitution.

1.2 NGO report on the situation:

The Government Report fails to address the effects, if any, of SOSPA on human trafficking and prostitution. The exploitation of women and girls through prostitution and trafficking is deemed to exist in Tanzania, although it is not sustained by government data. The LHRC Report notes that in 2005 Tanzania continued to be listed as both a source and destination country of women and children for sex trade. In addition, the LHRC Report found that local NGO research pointed to considerable internal rural–urban migration of women and young girls for domestic work and prostitution.¹⁶ Children in low-income families are at significant risk of being trafficked and girls are more vulnerable than boys

¹⁶ LHRC Report, 63.

since girls are considered more of an economic burden on their families, and girls who completed primary schools but did not go to secondary schools are at high risk.¹⁷ The findings stated that because it is cumbersome to get evidence of prostitution, the government is forced to prosecute prostitutes for mere loitering and not prostitution. In Tanzanian society, especially in urban areas, young girls and women are exposed to exploitation, HIV and AIDS.

1.3 Recommendations:

- The government needs to take measures to combat the trafficking and sexual exploitation of women and children.

ARTICLE 9: NATIONALITY

1. RIGHT TO CITIZENSHIP.

1.1 The Government Report:

The right to citizenship is not addressed in the Government Report.

1.2 NGO report on the situation:

Women are not recognized as being equal to men under the Citizenship Act Cap. 357 R.E 2002. Section 11(1) of the Citizenship Act is discriminatory to women and violates Article 9 of CEDAW. The law does not recognize male dependents and is thus silent on the status of a non-citizen man who marries a Tanzanian woman while the same law specifically provides for the requirement of naturalization when a non-citizen woman marries a Tanzanian man. Section 11(1) provides that a woman married to a Tanzanian man will be entitled citizenship by way of naturalization during the lifetime of the husband upon making an application for naturalization but is silent on a status of the non-citizen husband who marries a Tanzanian woman. In addition, since the government does not recognize dual citizenship, a female citizen who marries a foreign man may have difficulty residing legally in the country and, may be forced to give up her own citizenship.¹⁸

1.3 Recommendation:

- Citizenship is determined under the Tanzania Citizenship Act. Since the provision of Section 11(1) of the Citizenship Act goes against Article 9 of CEDAW, we recommend that the government of Tanzania take measures to amend the said provision so as to grant equal citizenship rights to both women and men.

¹⁷ U.S. Department of State Bureau of Democracy, Human Rights, and Labor, "Tanzania – Country Reports on Human Rights Practices 2006" March 6, 2006, 19.

¹⁸ This was increasingly a problem in the refugee camps for Tanzanian women who married Burundian men who did not qualify for residence permits because of their refugee status. *Source:* U. S. Department of State Bureau of Democracy, Human Rights, and Labor, "Tanzania – Country Reports on Human Rights Practice 2006," March 6, 2007, 17.

ARTICLE 10: EQUALITY IN EDUCATION

1. GOVERNMENT EFFORTS TO IMPROVE EDUCATION IN TANZANIA.

1.1 The Government Report:

The Government has continued to maintain its Gender Responsive Policy on Education and Training, 1995. In addition, the Education Sector Development Programme (ESDP, 2000-2015) was initiated. This programme incorporates the objective of providing education for all women and men by 2015. Some of the government efforts included:

- Introduction of special enrollment programmes for girls in higher learning institutions.
- In collaboration with NGOs, the Government developed an Action Plan for Girl's Education, 2000/01 – 2003/04, at the primary school level. The objective of the plan is to ensure that more girls have full access to education opportunities and benefit fully from the programme as per the Millennium Development Goals (MDGs).
- Special training programmes for teachers and school committees were initiated and conducted in order to cope with the rising enrollment rates of both girls and boys and sustain the quality of education.

In addition to these efforts, the government, in collaboration with other stakeholders (the development partners and Non-Government Organizations), has initiated special programmes to promote girl's education. Some of these programmes are:

a) Training Fund for Tanzania Women (TFTW).

The government, with financial support from CIDA, implemented phase II of TFTW – 1998 – 2003. The objective of the programme was to improve women's technical and managerial skills and increase the number of trained and qualified women. Through this programme, 462 women were trained at different levels. For example 272 women received tailor-made group training while 188 attended courses on gender sensitization and entrepreneurship skills.

b) Community Based Education for Girls (CBEG).

To promote gender equality in access to education, the government initiated Community Based Education for Girls (CBEG) within the context of ESDP to encourage public and private investors to build girls' hostels and boarding schools. Also, in order to promote access to education for the poor, the Education Trust Funds were established in various districts to assist girls and boys who performed well in examinations but could not afford to meet costs of higher education. At the ministry level, the Girls Secondary Education Support Programme (GSESP) was established and 2,980 girls have benefited from this programme between 1998 and 2002.

c) Primary Education and Special Programmes for Secondary

Education.

The government initiated the Primary Education Development Plan (PEDP) under the Education Sector Development Plan (ESDP) with the view of improving access and the quality of primary education in the country. Through this programme, some achievements have been noted including:

- Increased enrollment for school age boys and girls.
- Enforcement of by-laws and regulations pertaining to enrollment and retention, which have facilitated keeping girls and boys in school.
- Access and retention has increased due to abolition of direct costs of education such as school fees for government schools.
- Provision of capitation grants
- Improvement of physical school infrastructures and building of more classrooms.
- Due to the increased enrollment of girls and boys in primary school the teacher, pupil ratio has increased from 1:40 in 1999 to 1:57 in 2004.
- ESDP has reduced gender discrimination in enrollment in Primary School whereby in 2003 enrollment was 48% for male and 52% for female as compared to 49.1% for male and 50.9 for female in 2004.

d) Complementary Basic Education in Tanzania (COBET).

The programme was introduced in 1999 with the aim of ensuring that illiteracy was eradicated. The programme was incorporated into the PEDP and it is being implemented countrywide. In this programme, school children that were not enrolled in schools and those who dropped out of schools are given an opportunity to undertake primary education for 3 years instead of 7 years.

e) Higher Education Programmes.

This Programme has two sub-programmes which are the Gender Dimension Programme and Female Undergraduate Scholarship Programme.

(1) Gender Dimension Programme.

Gender Dimension programme was established to enhance girls access to University education. Girls were given remedial classes in order to improve their performance and retention in the subjects of science and mathematics. (To enable girls to catch up with their male counterparts).

(2) Female Undergraduate Scholarship Programme.

This is a programme in which development partners complement the government's efforts by sponsoring female students at University level to mitigate the burden of cost sharing. This programme has resulted in an increase of female students enrolled at the University of Dar es Salaam (UDSM) from 27% in 2001 to 28% in 2003, in 2005, female student enrollment was increased to 30% while in private universities, and the proportion reached 49% in 2003.

As far as the Millennium Development Goals are concerned, the study has noted that in Tanzania there is the Education Act Cap.353 R.E 2002, which requires every school aged child (including girls) to be in school. This is one of its strategies to achieve the Millennium Development Goal number two (Education for All). However, the government is facing some obstacles in its efforts to achieve the MDGs' targets, these include:

- inadequate educational facilities, infrastructure and resources (both human and financial);
- lack of appropriate technology e.g., ICT especially in rural areas; and
- increased demand of education which is not compatible with the supply (demand is higher than supply).

Through literature review and discussion with education officials at the Ministry of Education and Culture (MOEC), it was noted that there were special plans of action that address equality and equity in education. Some of the plans include:

- Primary Education Development Plan (PEDP)
- Secondary Education Development Plan (SEDP)
- Gender Dimension Programme – Access to University Education
- Female Undergraduate Scholarship Programme
- Girl's secondary Education Support Programme.

1.2 NGO report on the situation:

Despite good plans by the Government, the Government Report makes no mention of the funding being provided to support the various educational programs it mentions. Further, there is no discussion of the specific programmes and mechanisms of implementation, nor is there any mention of the processes being used, is any, to evaluate these education programs.

We commend the government and other stakeholders for establishing special funds to promote access to education of girl children, e.g., the Education Trust Fund and the Girl Secondary Education Support Program (GSESP). However, the accessibility of those funds to the beneficiaries is limited because not all targeted children are able to access the funds. The reasons behind this include limited information about the funds and unnecessary bureaucratic procedures in applying the funds.

Despite the request made by the Committee to the Government of United Republic of Tanzania to disseminate its comment to the public, little has been done to disseminate the Committee's concluding comments of the previous report to people, government administrators and politicians so that they are aware of the steps that have been taken to ensure equality for women and the further steps that are required in this regard.

Using the August 2005 comprehensive educational report by HakiElimu, the LHRC Report stated that in 2004 enrollment for Standard 1 was 17% below target, girls' enrollment was not keeping pace with boys, the overall percentage

of girls enrolled in school had gone down from 49.3% to 48.8% in 2004, and in 2004 there were over 630,000 children between the ages of 7 and 13 who were not in school. In addition, though the net enrollment rate increased under PEDP, it varied widely from region to region.¹⁹

Generally, the lack of comprehensive educational support programs (including the abolition of traditional gender stereotypes) for increasing female enrollment and retention in schools undermines the limited positive effects of the efforts to improve education made by the Tanzanian government.

1.3 Recommendations:

- The government needs to detail types of funding, budgetary oversight and specific programme mechanisms, including evaluation processes that are in place to facilitate its education reforms.
- The government needs to disseminate the CEDAW Committee's concluding comments of the previous report to people, government administrators and politicians so that they are aware of the steps that have been taken to ensure equality for women and the further steps that are required in this regard.
- The government needs to educate the public more about the special funds to promote access to education of female children and increase the public's access to these funds.

2. PERSISTENCE OF TRADITIONAL GENDER STEREOTYPES IN EDUCATION.

2.1 The Government Report:

Section 1.3.2, paragraph 20, and Section 3.3.1, paragraph 91, of the Government Report outline the continuing problems facing female students despite the Tanzanian government's efforts to reform the educational system, specifically that "girls' drop out rate was higher than that of boys due to early marriages, pregnancies, truancy and involvement in domestic chores and taking care of the sick children, which consume most of their time." In addition, the government notes that the problem is "even more severe" when the long distances between students' homes and schools and the lack of hostels to accommodate the students.

There are laws and policies in place to protect women and girls from sexual harassment in schools, for example the Education Act punishes a man who has impregnated a schoolgirl. Also, the Sexual Offences (Special Provision) Act protects women and girls from sexual abuses.

2.2 NGO report on the situation:

Female students in Tanzania face gender stereotypes which often manifest themselves in sexual abuse, early pregnancies, early marriages, household duties, limited access to schools, long distances to schools, and lack of priority

¹⁹ LHRC Report, 53.

for consideration of higher education, specifically for the poor families, thus influencing the higher drop out rates of the female students. Though identified in the Government Report, it does not offer any plans to solve the identified problems.

Generally, the lack of comprehensive educational support programs for increasing female enrollment and retention in schools undermines the limited positive effects of the efforts to improve education offered by the Tanzanian government. Due to the fact that these issues are inextricably linked, and that the Tanzanian government has yet to outline a specific plan to administer its educational reforms in a manner that will simultaneously support increased female educational opportunities and while promoting the role of females as equals in Tanzanian society, discrimination in education is a big problem.

The LHRC Report notes that “attaining an education requires an enabling environment of familial support” which is often unavailable to Tanzanian girls due to the effects of their household responsibilities and financial shortages.²⁰

Despite the suggestions made by the CEDAW Committee to the government to re-examine its policies and programmes for the implementation of the convention and the advancement of women, there is still a multiplicity of laws that hinder the advancement of women and the stereotyping of men’s and women’s roles continues to pervade Tanzanian society.

With regard to sex discrimination in education it has been noted that there are no specific mechanisms or measures which are in place to deal with the problem. Such a situation is encouraging the continuation of sex discrimination in education; for example, even though the government policies on education have a multicultural gender perspective in the sense that both girls and boys have the right and equal access to education, there still some cases where a girl child is deprived of her right to education. For example a school girl who is pregnant is expelled from school; some times this is done without critical analysis as to why school girls are ending up with such problems.

We appreciate the efforts made by the government to translate the convention into Kiswahili; to make ordinary people understand the convention; however, there has been minimal dissemination of the convention together with community awareness raising campaigns. Many people are not aware of the convention and its benefits if it is well implemented.

2.3 Recommendations:

- The Tanzanian government needs specific plans for large-scale reform that is necessary to increase the enrollment and retention of female students at all levels, specifically, the government needs to address the traditional cultural and community norms which discriminate against females.
- The government needs to support NGOs and women’s groups that publish

²⁰ HakiElimu, “Three Years of PEDP Implementation: Key Findings from Government Reviews,” July 2005.

and disseminate national and international norms related to women's equal rights and education, in addition to take more dynamic measures to educate the public about these national and international standards.

- The government needs to adopt specific mechanisms or measures which are aimed at combating sex discrimination in education.
- The Government, in collaboration with civil society, needs to initiate a campaign to sensitize the society on the need to abandon all traditional practices which degrade women.

3. QUALITY OF EDUCATION.

3.1 The Government Report:

Section 3.3.1 of the Government Report highlights the fact that overall enrolment in schools at all education levels for both male and female children has increased. Section 3.3.8 provides the government's findings on curriculum reform, which includes the gender sensitive revision or earmarking of materials for revision and states that teaching methods have "improved."

3.2 NGO report on the situation:

The quality of education is not being properly addressed in Tanzania. There are inadequate educational facilities, infrastructure and resources (both human and financial resources) but the Government Report makes no mention of the quality of the education that is being provided to students or whether the students are going to be successful participants in Tanzania's developing society.

In an essay prepared by Suleman, Sumra, a retired professor of education and an independent researcher, and Rakesh, Rajani, the Executive Director of HakiElimu, it was repeatedly emphasized that the quality of the education is not being properly addressed in Tanzania. "The risks here are great: learning objectives focus on aspects that are not the skills and capabilities, but enrollment numbers of both students and teachers. There is a scarcity of teachers, teaching materials and adequate facilities, however school curricula also needs to define the kind of person that it hopes will graduate from the programmes; a type of student that the school and community would be proud of."²¹

In analysing a comprehensive report on the Tanzanian educational system released in August 2005 by HakiElimu, the LHRC Report specified that with regard to the quality of education, "PEDP requires that teaching shall be academically sound, child-friendly, and gender sensitive. However, the reviews found little change or improvement in the classroom."²² In addition, the HakiElimu report found that school inspectors do not have the resources necessary to effectively monitor and ensure the quality of education. Finally, the study found that the full capitation grant of USD 10 per child, meant to improve

²¹ HakiElimu, "Three Years of PEDP Implementation: Key Findings from Government Reviews," July 2005.

²² LHRC Report, 54.

the quality of the education, did not reach the school level on time.

3.3 Recommendations:

- The government needs to identify educational reform goals which take into account the value and quality of education the students are receiving, in addition to increased enrollment.
- The government needs to put in place standards to monitor the progress of its educational reforms.

4. TEACHERS.

4.1 The Government Report:

Section 3.3.4 of the Government's Report addresses teacher education in a simple statement. It summarizes the increase in the number of Teacher Training Colleges, from 40 in 2000 to 45 in 2004 and the increase in the number of female trainees, from 2,057 in 1998 to 14,647 in 2004. While Chart 11 shows the gap between female and male trainees is relatively small, male trainees outnumber female trainees by less than 2,000 persons. There is no mention of any teacher supports, retention or evaluation programs.

4.2 NGO report on the situation:

Tanzanian teachers face numerous hurdles in providing quality education to their students including lack of support – low salary scales, housing scheme, adequate teaching facilities and materials; and training – gender sensitivity training, and scholastic aptitude training.²³

Implementation of PEDP has resulted in the sharp increase in standard one enrolment in the country and a shortfall of teachers. In order to meet the demand for teachers the government decided to reduce the time that trainee teachers spend at teacher's colleges from two years to one. During the second year the trainee (teachers) are posted to schools where they get supervision from tutors of the training college. In practice, the in-service programme operates on an ad hoc basis; there is no organized, sustained effort to further teacher's professional development.

Many teachers are complaining that changes are made in syllabi, with new topics and textbooks introduced, without building the capacity of teachers to teach these subjects. For Example, a subject called "Vocational Skills" was introduced a few years ago, for which most teachers say they do not have the necessary knowledge or skills to teach it.²⁴

The education standard is further eroded by how teachers are paid. They are

²³ HakiElimu, "The Living and Working Conditions of Teachers in Tanzania," 2004; "The Non-Government Organizations' Report on the Implementation of the United Nations Convention on the Rights of the Child in Tanzania," December 2005.

²⁴ HakiElimu, "The Living and Working Conditions of Teachers in Tanzania," 2004.

lowly paid employees in Tanzania. A messenger with TRA, a police constable or a standard seven leaver working for the bank of Tanzania (the central), are all better paid than a diploma-holder or Grade "A" teacher. How can such a teacher be motivated to work? This to a large extent has demoralized them from performing their duties more efficiently and effectively and is therefore affecting the quality of education provided in schools.

NB: The recently released report from the Controller and Auditor General (CAG) assessing the accounts and financial practices for central government ministries, departments and agencies (MDAs) and local government authorities (LGAs) for the financial year ending 30th June, 2006 noted that the Ministry of Education and Vocational Training came under fire for outstanding issues from previous reports amounting to TShs 11.5 billion. This Ministry received a qualified opinion in 2005/06, with the audit report citing "unverified transfers and subsidies paid to institutions of TShs 8.2 billion" and "unvouched and improperly vouched expenditure amounting to TShs 7.4 billion." The total amount of suspect expenditure for the Ministry (TShs 15.7 billion) is enough to pay the annual salaries for over 10,000 primary school teachers.²⁵

Class size is the measure of the average number of pupils in a teacher's classroom during a school period and represents an important indicator of the working conditions of teachers as well as the learning conditions of students.

The problems of class size have worsened since the introduction of PEDP, which has led to increased number of pupils in the low grades. Large class size and the lack of teaching and learning materials make teaching stressful for many teachers.

The following are words from teachers, both in secondary and primary schools; highlighting some of the problems faced by teachers:²⁶

"I have 53 students in my class. This large class makes teaching very difficult. You do not have time to attend the individual difficulties. You know children learn at different paces, so if you do not assist slow learners then they get discouraged and give up. We also have problem with textbooks. For example I have 5 textbooks for my English class, which has a total of 40 students. To overcome the problem, I prepare good notes, which they photocopy."

- Male, Graduate, Secondary teacher, Mwanza Municipality.

"I am teaching standard two classes, each one of these classes has more than 150 pupils. There are too many pupils in a class and it makes my work difficult. Problems that I face have to do with classroom management,

²⁵ HakiElimu, "Tanzania's 2005/06 Controller and Auditor General Reports: What Do They Tell Us?" a leaflet produced by HakiElimu after consultation with the Controller and Auditor General (CAG), based on the 2005/06 CAG's reports.

²⁶ Id.

keeping track of truants, assisting slow learners, and marking pupils work. - Female, Grade A Teacher, Ludewa.

The LHRC Report summarized the August 2005 HakiElimu report with respect to teacher to student ratios. Between 2000 and 2004 over 32,000 teachers were recruited, but at the same time the teacher to pupil ratio (TPR) worsened from 1:46 to 1:59. The study notes that if the national target of 1:45 is to be reached, and enrolment stays the same, an additional 37,628 teachers need to be recruited. Finally, the distribution of qualified teachers, varies throughout the country.²⁷

4.3 Recommendations:

- The increased enrollment of both boys and girls has to go hand-in-hand with the recruitment of more qualified teachers.
- As teachers are instrumental to educational process, the government has to ensure that enough and qualified teachers are deployed in schools and the working condition of teachers is improved, which includes better salaries, housing schemes and availability of incentives for the teachers.
- In-service training programmes for the teachers have to be expanded. Such programmes will enhance the knowledge and skills of teachers to cope with the changes that are taking place in the education sector.
- In addition, the government must enact standards to evaluate the teaching skills of the new and current teachers to ensure that the education methods being used are effective.
- Government needs to often, increase or set allowances for teachers to meet their basic needs namely, house, transport like bus fare, use of bicycle in remote area to make their work more easy.
- Interest free loan be granted to teachers for them to curb hard economical situation.

5. ACCESS TO FACILITIES AND MATERIALS.

5.1 The Government Report:

The Government Report states that since the implementation of the Primary Education Development Plan in 2001, the government has “provided capitation grants, improved physical school infrastructure, and built more classrooms.”

5.2 NGO report on the situation:

The Government Report does not provide enough concrete details about the efforts it has undertaken to improve physical school infrastructure or provide instructional materials to schools, teachers and students.

²⁷ LHRC Report, 53-55.

The LHRC Report notes the increased vulnerability of the girl-child. It points to the United Nations' Fourth World Conference on Women (Beijing 1995) and its 'Girl-Child Diagnosis' which specified that young girls face numerous social, cultural and financial obstacles in accessing education.²⁸

Though approximately 30,000 new classrooms were built between 2001/02 and 2003/04, this was about 11,500 classrooms short of the goal.²⁹ In some areas where population is scattered and there are few schools, the distances from home to schools is still very far and as a result children have to walk long distances to school. In such circumstances girls and disabled children are the most affected groups. This is contributing to high drop out rate of girls.

The availability of textbooks is still a major problem despite efforts made under the PEDP to provide textbooks to schools; the pupil to book ratio still stands at 1:5 for most school subjects. And there are cases in many subjects; five text books are shared among 40 pupils. In addition, of the requirement for 1,897,253 desks, only 549,083, or 29%, were available in 2004. Finally, the HakiElimu report stated that of the 253,617 latrines required, only 100,770, or 40%, were available in 2004.³⁰ In addition to contributing to students' difficulties, these factors further complicate the level of difficulty faced by teachers.³¹

5.3 Recommendations:

- The increased enrollment of both boys and girls has to go hand-in-hand with an increase in the number of educational facilities and the improvement of their infrastructures, specifically:
 - In order to improve the quality of education in the country, the government has to ensure that teaching and learning materials such as desks, libraries, teaching and learning materials, etc. are available in all schools, in addition to basic necessities such as toilets.
 - The government and the private sector have to construct more schools in order to reduce the long walking distance to schools in order to encourage more children (boys and girls) to go to school.
 - In order to reduce constraints that affect girl's education, the government has to increase school facilities, such as hostels.

6. DROP OUT RATES OF FEMALE STUDENTS.

6.1 The Government Report:

In Section 1.3.2, paragraph 20, of the Government Report the government states that there is a higher incidences of drop outs among female students than among

²⁸ Ibid at pg. 64.

²⁹ Ibid at pg. 54.

³⁰ Ibid at pgs, 53-55.

³¹ HakiElimu, "The Living and Working Conditions of Teachers in Tanzania," 2004.

their male counterparts. In 3.3.1, paragraph 90, the government states that the Complimentary Basic Education Program was introduced in 1999 to give an opportunity to children who either did not enrol in school or who dropped out to undertake primary education in three years instead of seven.

6.2 NGO report on the situation:

Many female students drop out of schools due to social and/or economic factors. The government's outline of the continuing problems facing female students despite the Tanzanian government's efforts to reform the educational system, specifically that "girls' dropout rate was higher than that of boys due to early marriages, pregnancies, truancy, involvement in domestic chores and taking care of the sick children, which consume most of their time,". In addition, the government even notes that the problem is "even more severe" because of the long distances between students' homes and schools and the lack of hostels to accommodate the students.³² However, no solution to these problems has been offered in the government.

In addition, there are no plans regarding what strategies, if any, are being used to support female students' return to school once they have dropped out.

6.3 Recommendations:

- The government needs to adopt specific plans and strategies to prevent female students from dropping out of school and to assist female students' return to school once they have dropped out.

8. RURAL EDUCATION.

8.1 The Government Report:

Section 1.3.2, paragraph 24, of the Government Report notes that both rural men and women have a higher illiteracy rate than urban men and women, 41% versus 24 %, and states that the ESDP is "addressing the situation." It also mentions in Section 3.3.1, paragraph 84, which the government is implementing rural development programmes through the Tanzania Social Action Fund (TASAF) and that all Community Management Committees under TASAF are composed of 50 % men and 50 % women.

8.2 NGO report on the situation:

The Government Report offers little discussion of disparities between the rural and urban populations or of the government's efforts to reduce these disparities.

In some schools, especially those in rural areas, children are sitting down on the floor in a class because there are no or inadequate desks to sit on. Such situations have been noted in some schools even in the city of Dar es Salaam.³³

The proportion of children enrolled in primary schools varied between rural an

³² Government Report, 7.

³³ "Half of Mpwapwa district students sit on floor," Express Newspaper, 29 October 2003.

urban areas. According to House hold Budget Survey 2000/2001, urban areas enrollment was 71% for boys and 71.3% for girls while in rural areas the enrollment was as low as 47.1% and 51.7% for boys and girls respectively in 2001.³⁴

8.3 Recommendations:

- The Tanzanian government needs to implement strategies that will reduce the disparities between the literacy rates and educational opportunities between the rural and urban populations, specifically with respect to the disparities between the situations of rural and urban female populations.

9. SPECIAL EDUCATION.

9.1 The Government Report:

While Section 3.3.5 of the Government Report addresses special education, it notes that enrolment of disabled students in primary education has increased and adds that “the number of disabled children is not well know due to customs and traditions which regard disabled children as a curse and therefore [they] are hidden from the public.”

9.2 NGO report on the situation:

There is limited understanding of disability and children with special needs in Government planning and programmes. Similarly there are inadequate plans within the primary school development plan to work with children who have special learning and behavioural needs. World Health Organization (WHO) guidelines indicate that there are 700,000 primary school aged children with disabilities but only 14,000 or 2% of the children with disabilities are recorded as enrolled.³⁵ While these problems extend to both male and female children, the plight of the female disabled student is further exacerbated

There is no mention of plans within the educational development plan to work with or accommodate children who have special physical, learning and/or behavioural needs.

9.3 Recommendations:

- Given that significant number of children who suffer from physical or mental disabilities, the government needs to create specific plans to sensitize the population and address the needs of disabled children.
- The government need to sensitize the population to do away with customs and traditions which regard children with disabilities as a curse so that they are not hidden and get the necessities of life.
- The traditional birth attendants be sensitized on human rights particularly the rights of disabled children as they can play role to get accurate statistics of

³⁴ National Bureau of Statistics Tanzania, “2000/01 Tanzanian Household Budget Survey,” Dar es Salaam, July 2002.

³⁵ LHRC, 74.

children born with disability

10. EDUCATION FOR REFUGEES AND DISPLACED PERSONS.

10.1 The Government Report:

In response to the CEDAW Committee's request for information on the situation of refugee women and programmes to address their needs in the Concluding Comments to the Combined 2nd and 3rd Periodic Report, Section 2.9, paragraph 63, of the Government Report states that the Tanzanian National Education Act Cap 353 R.E 2002 requires that every refugee be provided with education in accordance with the said Act.

10.2 NGO report on the situation:

The United Nations High Commissioner for Refugees (UNHCR) estimated that over 800,000 refugees reside in Tanzania.³⁶ Though a guarantee of access to education is made to refugees and displaced persons in the Tanzanian National Education Act 1978, refugees face additional challenges to receiving basic education, including the fact that the law in Tanzania hinders the right to movement of refugees, which is an essential human right and impacts all aspects of refugees' lives, including the full access to educational facilities.

For girls and women who are refugees or displaced persons, schools have been constructed in their respective camps. However such schools are inadequate. The 2005 UNHCR report found that "primary schools in refugee camps suffer from [the] lack of adequate buildings, school supplies and a high student-teacher ratio. Opportunities for secondary education, tertiary education and vocational skills training programmes are extremely limited."³⁷ Combined with the UNHCR findings that "sexual and gender based violence is still a major problem in refugee camps with the troubling phenomena of children being the primary victims and adolescent boys the frequent perpetrators," the obstacles facing female students are in many cases, insurmountable.³⁸

Both international and domestic laws protect the rights of these groups of people. However, according to the UNHCR report, "in recent years there has been a growing intolerance of hosting refugees expressed by both government officials and local communities" and the rights of refugees and displaced persons have not been made clear, and thus readily enforceable, in specific domestic laws.³⁹ The Government Report makes no mention on how the National Education Act is being fulfilled, if at all, in refugee camps nor of the challenges Tanzania faces in meeting this educational requirement.

³⁶ LHRC Report, 53, *see* HakiElimu, "Three Years of PEDP Implementation: Key Findings from Government Reviews," July 2005.

³⁷ LHRC Report, 77, *quoting* United Nations High Commissioner for Refugees, "Identifying Gaps in Protection Capacity," 2005, 8.

³⁸ LHRC Report, 76-77, *quoting* United Nations High Commissioner for Refugees, "Identifying Gaps in Protection Capacity," 2005, 7.

³⁹ LHRC Report, 76, *quoting* United Nations High Commissioner for Refugees, "Identifying Gaps in Protection Capacity," 2005, 6.

10.3 Recommendations:

- The government needs to evaluate its current status of compliance with the Tanzanian National Education Act in providing education to refugees and displaced persons and it needs to create plans to improve the access to educational services.

ARTICLE 11: EMPLOYMENT

1. EMPLOYMENT.

1.1 The Government Report:

The Government Report highlights the fact that Tanzania domesticated the International Labour Standards through the enactment of the National Employment Services Act in 1999, which provides equal opportunities of access to employment for men and women. In addition, the Employment and Labour Relations Act, which prohibits discrimination in the work place, was enacted in 2004 and became operative on the 20th December, 2006 through the Government Notice No.01/07 published on 26th January, 2007. The Government Report also notes that women employed in the public sector are entitled to equal remuneration commensurate with their work.

1.2 NGO report on the situation:

The LHRC Report points out that in 2005 there were ongoing concerns for all labourers regarding fair remuneration, freedom to unionize and summary dismissal.⁴⁰ However, for female workers, the situation is much more grim. There are still numerous national laws in effect which directly or indirectly provide a legal basis for discrimination between male and female employees. Two major examples are:

- The National Social Security Fund (NSSF) Act Cap. 47 R.E 2002.
The NSSF Act provides inter alia for a Survivor's pension. Specifically, Section 35(a) of the NSSF Act provides that a widow who has the responsibility to care for the dependent children will be paid a pension for life, or until she remarries. On the contrary, Section 35(b) discriminates against women who do not have to care for dependent children; such women will only be paid the survivors pension for two years. Although the provision provides for both a widow and a widower, in practice it is the widow who suffers more than the widower after the death of one's spouse. In the case of a widow who does not have dependents, she is denied her right to survivor's benefits by reason that she does not have a child. This provision violates Article 1 of CEDAW, as it is oppressive to childless women.

Sexual harassment also continues to be a serious problem for female labourers. Though the SOSPA, 1998 amended the Penal Code Cap.16 R.E 2002, to include sexual harassment, defined as "un-welcomed sexual advances by words or action used by a person in authority, in a working place or any other place," as a specific criminal offence, the LHRC Report recognized that Tanzania's struggling

⁴⁰ LHRC Report, 39.

economy and high unemployment rate give opportunistic employers a tangible power differential which allows them to take advantage of their female employees. In addition, in 2006 the International Labour Organization (ILO) noted that “poor women hold jobs that are precarious at best. Their concentration in low-paying and insecure jobs, and continued sexual harassment leaves women powerless and helpless.”⁴¹

The LHRC Report notes that the situation is further complicated for the disabled women and female refugees who, like their male counterparts, are restricted from engaging in many forms of self-reliance activities.

Child labourers face additional hardships, including the fact that their employment, which is often abusive, comes at the expense of their education. Despite the existence of the Employment and Labour Relation Act, 2004, which clearly prohibits employment of children in the age of 14, the Act has yet to be fully implemented. The LHRC Report notes some chilling statistics:

- “On the 2005 World Day Against Child Labour it was reported 'over 4.2 million children in Tanzania are away from their families, the majority working in the Worst Forms of Child Labour (WFCL) instead of going to school and enjoying their childhood.' Many of these children are engaged in WFCL 'including mining, abusive domestic services, commercial agriculture, commercial sex.’”⁴²
- The “majority of labouring children suffer from malnutrition. Children work on empty stomachs because, according to the study, they are denied food by their employers.”⁴³
- The Employment and Labour Relations Act specifically allows for children to engage in mining work. “In Tanzania, 'it is estimated that 2,000 to 4,000 children are engaged in mining related activities in the Mererani mining area at Simanjiro district.’”⁴⁴

1.3 Recommendations:

- The government needs to ensure the replacement of all discriminatory employment laws with gender-neutral and status-neutral employment laws, including rules governing pensions.

ARTICLE 12: HEALTHCARE AND FAMILY PLANNING

1. ACCESS TO QUALITY AND AFFORDABLE HEALTH SERVICES.

1.1 The Government Report:

⁴¹ LHRC Report, 63, *quoting* International Labour Organization, “Tanzania: A life-cycle approach to gender equality and decent work,” <http://www-ilo-mirror.corenll.edu/public/english/bureau/inf/magazine/53/tanzania.htm>.

⁴² LHRC Report, 68.

⁴³ LHRC Report, 68.

⁴⁴ LHRC Report, 69.

The Tanzania National Health Policy aims at promoting health services rendered to the citizens whether married or unmarried, bringing access to health care services and educating the community on common preventable diseases with provisions for clean and safe water, reducing maternal and infant death, and improving family health in societies. The Health Sector Reform Programme, introduced in 1998, introduced cost sharing and provides maternal and child health services for free. In 2003, the local government constructed an additional 233 dispensaries and 16 health centers while NGOs added 87 new health care facilities.

The government recognized that despite its efforts, both the maternal and infant mortality rates have remained high, 578 per 100,000 and 100 per 1,000 live births respectively. In addition, life expectancy declined from 52 years in 1990 to 48 years in 2000, largely due to the HIV and AIDS crisis.

The Ministry of Health has focused its development strategies on the development of girls and adolescents. There are medical checkups for these youths in schools to determine whether the girl youths are in good health. With the Ministry of Health and Social Development, the Ministry of Education and Culture has added Family Life Education (FLE), which includes reproductive and sexual health and HIV and AIDS education to the curricula of Primary and Secondary schools and Teacher Training Colleges.

1.2 NGO report on the situation:

Access to the public health system is the right of all Tanzanians. The private sector plays an important role in the health sector, but public health care services should be the 'backbone' of the health service sector in Tanzania. The government has not clearly stated the issue concerning the problem of women's access to quality and affordable health services nor has it provided concrete information describing how it is going to ensure women's access to quality and affordable health services and information.

The LHRC Report states that in addition to the shortages of both medical facilities and supplies (there are approximately 7,431 people per health care facility) user fees "are regressive and contribute to substantial exclusion, self exclusion and increased marginalization. The [Research for Poverty Alleviation] team has collected evidence which shows that user fees have disproportionately affected access to health care for poor and vulnerable population groups, more specifically: (1) pregnant women from poor households, (2) under five children from poor households, (3) orphans and especially double orphans, (4) widows, (5) people older than 60 years, (6) people with disabilities, and (7) AIDS patients."⁴⁵ Given that 77 percent of the population are members of the rural poor, most women cannot afford to pay consultation fees or to buy medicine; charges of even 500 Tanzania shillings for a consultation fee are beyond many Tanzanians, especially women and children. Many deaths have occurred

⁴⁵ LHRC Report, 50-51, see also Research for Poverty Alleviation, "Equity Implications of Health Sector User Fees in Tanzania."

because of the need for bribery of the Health Service Sector staff.⁴⁶ Further, for those who can afford to pay for medical services, they often cannot get quality services as most of the health centres, dispensaries and hospitals which are faced with the growing problems of medical attendant and medicine shortages, and generally poor infrastructures. These challenges combine to hinder the grass roots efforts to sensitize and educate the public, especially women and children, on health issues including the HIV epidemic.

The minority/indigenous and poor women lag further behind the access of good health services because they have to depend on the less expensive medical services of the government. While the government has also introduced free healthcare services including Anti-Retroviral drugs for pregnant mothers in the prevention of mother to child transmission of HIV, the program has been limited to the treatment of 3,400 HIV positive mothers in 32 approved hospitals. This crucial free service is not accessible to all pregnant women.

The elderly, and more specifically elderly female widows who face the denial of property and wealth, remain especially vulnerable to limited access to healthcare. A 2005 study by HelpAge International, Tanzanian elders reported having to wait hours—sometimes standing—to see a doctor, being ignored by hospital staff and if seen by a doctor, being treated poorly. In addition, due to their limited financial resources, elders often do not have the means to pay for health care.⁴⁷

Refugees and displaced persons are required to reside in designated areas that are specified by the government. Health care services are given in those areas following the Tanzania Constitution, though they may not comply with UNHCR regulations. The 2005 UNHCR report found that many refugee reception centres are not properly equipped, “lacking sufficient bedding, clothes and medical treatment for their residents.” In addition, “the food assistance provided is below UNHCR standards (2,100 calories/day),” and “shelter is of poor quality.”⁴⁸ The birth rate of refugees in Tanzania is 20,000 children annually and as the number of refugees and displaced persons increases there is a critical need for the increased availability of quality health services to refugees and displaced persons.

In prisons, women, including pregnant women, are facing with a lack of proper medical care. The prisons are severely overcrowded and though the law requires prisoners to be separated based on age and gender, in practice many overcrowded prisons lacked separate cells for male, female, and juvenile prisoners.⁴⁹ The congestion and overcrowding in prisons leads to an increase in

⁴⁶Women's Dignity Project, “Poor People's Experiences of Health Services in Tanzania,” March 2004, 6-7, 10, 15-16; Health Research For Action (HERA), “Technical Review – District Health Services Delivery in Tanzania: Where are we in terms of quantity and quality of health care provision? Final Report,” April 2006, Annex xiv.

⁴⁷ LHRC Report, 80, see also HelpAge International, “Older citizens monitoring, Tanzania.”

⁴⁸ LHRC Report, 77, quoting United Nations High Commissioner for Refugees, “Identifying Gaps in Protection Capacity,” 2005, 7.

⁴⁹ U.S. Department of State Bureau of Democracy, Human Rights, and Labor, “Tanzania – Country Reports on Human Rights Practices 2006” March 6, 2006, 3.

deaths from diseases like malaria, tuberculosis, HIV/AIDS, cholera, and those related to poor sanitation, which could be prevented with proper access to treatment. But, the prison dispensaries offer only limited medical treatment, and friends and family members of prisoners generally have to provide medications or the funds with which to purchase them, despite the fact that prisoners are eligible for general waivers of user fees.⁵⁰ In an attempt to alleviate some of the consequences of overcrowding President Benjamin Mkapa pardoned 3,778 prisoners, including pregnant and nursing women sentenced to not more than three year or who have been incarcerated for not less than 15 years, in December of 2005.⁵¹ Despite these efforts, imprisoned women are still faced with a serious lack of proper health care.

Finally, despite the fact that the Ministry of Health has focused its development strategies on increasing the availability of quality health care services, there is a severe gap between the human resource requirements and the human resource availability in the health sector; the LHRC Report noted that while the demand for health care is on a steady increase, the number of health workers declined from 67,000 in 1994/1995 to 54,000 in 2003.⁵² Without attention, this shortage of health care providers will continue to hinder all efforts to improve access to quality and affordable health care in Tanzania.

1.3 Recommendations:

- The government needs to ensure that all health care services are gender and culturally sensitive in relation to the diverse religious and ethnic communities, fully informative, performed with respect for human rights and in the constraints of ethical standards focused on ensuring patient consent.
- Trained medical personnel and equipment should be distributed to all areas of the country.
- The government should ensure the continuity of the drug supply in the health centres, dispensaries and district hospitals.
- Access to quality, affordable health care needs to be guaranteed to all women, regardless of their class, wealth, status or condition.

2. USER FEES AND EXEMPTIONS FOR VULNERABLE GROUPS.

2.1 The Government Report:

Tanzania citizens are provided with cost sharing benefits for medical services throughout the country in all government hospitals and dispensaries. These

⁵⁰ Id.; Health Research for Action, "Technical Review – District Health Services Delivery in Tanzania:

Where are we in terms of quantity and quality of health care provision? Final Report," (April 2006) 19-20.

⁵¹ Patrick Kisembo, "Mkapa pardons 3,788 prisoners," IPP Media, December 22, 2005.

⁵² LHRC Report, 51.

facilities supply low-cost medicine and services. In addition, the government introduced user fees for health services with exemptions and waivers for vulnerable groups, e.g. pregnant women, infants up to 5 years, and the elderly.

2.2 NGO report on the situation:

While the cost sharing program supplies medical facilities with low-cost medicine, there is an inadequate supply of medicine and supplies run out of stock within a very short time after delivery. The Policy and Service Satisfaction Survey (PSSS, 2003-2004) revealed that the cost of health care was a serious household problem. Access to health care has become less affordable during the last five years though there have been some improvements in the quality of public health services and staff, availability of drugs, laboratory services and shortened queuing.

Though the government's user fees for health services contain exemptions and waivers for vulnerable groups, e.g. pregnant women, infants, and the elderly, the exemptions and waivers are highly ineffective.

On cost sharing: Ordinary villagers found it difficult to pay even Tshs. 500 for consultation fees and practically impossible to pay additional costs for medicines, even when they are Tshs. 200. In Nduguti, Tulya, Shehi and Iguguno interviewees told researchers that there was no health assistance for pregnant women. They said that they could only access aspirins and other medications obtained from the Singida hospital. In Kibondo, services were to be obtained only at the Kibondo district hospital, otherwise pregnant women or their children would risk death while traveling to an urban hospital.

The research conducted in the Kondo district shows that if a maternity patient fails to pay the cost fees, she will not be discharged till the services are paid. In Nachingwea research, cost sharing has worsened the situation of treatment in government centers because of the unavailability of medicine and drugs. The same is true in Bagamoyo district, where free medical services end after two to three days, once the supply of medicine runs out. Women feed most of the patients in hospitals and in addition to paying the cost sharing fees, women have to bring all of the important items necessary for childbirth during delivery, while the government claims to provide free health care to mothers and children under five years of age. Medicines and supplies are often not available in government hospitals, dispensaries or health centres. Even when supposedly free, individuals are forced to buy supplies from private dispensaries, pharmaceutical centres or medical shops.⁵³

Marginalized groups are increasingly impacted by the costs associated with health care and evidence suggests that the user fee policy in Tanzania is not functioning. The government has not explained the benefits or the shortfalls of the implementation of the user fee policy nor has it explained strategies to ensure

⁵³ Research on Poverty Alleviation (REPOA), Policy and Service Satisfaction Survey, 2003; Women's Dignity Project, "Poor People's Experiences of Health Services in Tanzania," March 2004.

there is effective implementation of the exemption and waivers for pregnant women, children and elders.

2.3 Recommendations:

- As the general health of the Tanzanians is crucial in the development of the country, the government needs to get rid of all user fees in the health sector which impair women's access to the health services.

3. REPRODUCTIVE HEALTH.

3.1 The Government Report:

In response to the CEDAW Committee's recommendation that the government make vigorous efforts to address the problem of high infant and maternal mortality rates and seek the assistance of WHO, UNICEF and other UN agencies in the Concluding Comments to the Combined 2nd and 3rd Periodic Report, the government developed a Reproductive and Child Health Strategy 2004-2008 to address maternal and child care. Through this programme the Ministry of Health provides maternal and child health services free of charge; the government provides free reproductive health and medical care to all pregnant and nursing women and free child health services to children under the age of five in government hospitals, clinics and dispensaries.

The government has also been implementing programmes with UNICEF on child survival, protection and development; UNFPA on the reproductive health programme; and WHO on health and nutrition. In addition, the government is working with NGOs, bilateral donors and international agencies to improve health, sanitation and water, malaria control, iodine deficiency, immunization, Vitamin 'A' supplementation, training of traditional birth attendants, combating Female Genital Mutilation and sexual and reproductive health.

3.2 NGO report on the situation:

Due to the problems of accessibility, cost and short supplies discussed above, many women and girls still lack full access to quality information regarding sexual and reproductive health and the right to quality family planning, prenatal and postnatal services, including emergency obstetric services and emergency contraception.

Evaluation on the actual capacity of Health centers was done in 2004 as the rate of maternal mortality rose. From the evaluation the MoH was able to plan quality strategies to reduce morbidity rate. One hundred and ten workers from Dodoma, Mtwara, Tanga, Morogoro, Lindi, Mbeya, Coast and Mwanza regions were trained about Family Planning. One hundred and sixty health service providers from Dar es Salaam, Mwanza, Lindi, Mtwara, Tanga, Kilimanjaro, Morogoro and Mara were trained on emergency obstetric services. The percentage of women who use family planning contraceptives has increased from 12% in 1995 to 22% in 2005.⁵⁴

⁵⁴ Speech of the Minister for Health to the Parliament, Budget of June-August 2005.

Chapter 3, Part B, of the Food and Nutrition Policy for Tanzania of 1992 provides that pregnant and lactating women are taken care of. Also, Chapter 4 of Essential Human Services, Part B, Health age 28 number 71(c), provides for the strengthening of current efforts to provide health services to pregnant women. There are guidelines on community based health care activities in Tanzania. In addition, there are also quality assurance training guidelines for health workers. There are national, traditional and birth attendance implementation guidelines. Through data collection, the MoH was able to identify regions with high maternal mortality rates and distributed nine ambulances to those regions to help reduce the problem in 2003/2004.

However, the LHRC Report notes that in a survey published in March 2005, "it was revealed that 'women and their families do little to prepare for childbirth.'"⁵⁵ The greatest obstacles to improving maternal health include "the inability to recognize obstetric complications, lack of support from other family members for seeking professional medical care, concerns about the cost of health services, and logistical difficulties in getting to a health facility."⁵⁶ Further, many of the deaths are preventable; for example, according to the 2004-2005 Tanzania Demographic and Health Survey by the United States Agency for International Development, anemia is one of the leading causes of maternal death.⁵⁷

3.3 Recommendation:

- Reproductive health strategies laid by the government need to be implemented for the betterment of women and girl children.

4. HIV AND AIDS.

4.1 The Government Report:

The Government Report recognizes that HIV and AIDS have adverse effects on the health of its citizens. The report outlines the measures which the government is using to combat the spread of HIV and AIDS.

- In the year 2004/2005 the Ministry of Health distributed HIV and AIDS educational information using different strategies and methods such as calendars, leaflets, brochures, dramatizations, newspapers, radio and television telecasts all with different messages, counseling, nutrition for people living with HIV and AIDS (PLWHA) and the proper use of ARVs.
- The ARVs program, which began in 1996 with government hospitals, religious and private institutions, has continued to be expanded and implemented; through May 2005, ARVs were given freely to 6,000 women, men and children.
- The Tanzania Food and Nutrition Center has prepared National Nutrition

⁵⁵ LHRC Report, 61.

⁵⁶ LHRC Report, 61.

⁵⁷ United States Agency for International Development, "2004-2005 Tanzania Demographic and Health Survey," <<http://tanzania.usaid.gov/documents/PreliminaryDHSReport20042005.pdf>>.

Guidance for PLWHA and 10,000 copies were distributed in Ministries, referral hospitals, regional and district hospitals, health colleges and various institutions which deal with HIV and AIDS problems in the country.

- The Prevention of Mother to Child HIV Transmission (PMTCT) program has increased services in seven regions. The guidelines for training the providers of that service have been completed. (See Section 5, below.)

4.2 NGO report on the situation:

UNAIDS estimated that there were 1.6 million people living with HIV and AIDS in Tanzania at the end of 2003.⁵⁸ The LHRC Report stated that in February 2005, out of 500,000 seriously ill HIV/AIDS patients, only 40,000 could be provided full medical services, including ARVs.⁵⁹ In addition, though women account for more than half of the adults estimated to be living with HIV/AIDS in Tanzania, the LHRC Report points out that among the 15-24 age group, the number of female PLWHA was more than twice that of young men.⁶⁰ LHRC notes that higher infection rates of females are only partially explained by the fact that the male-to-female transmission rate through sex is twice that of the female-to-male rate, "research suggests that for African women, HIV vulnerability emerges from an intersection of poverty with culture, since African women are more likely to be subject to social and cultural norms that result in their having no say over sexual relations."⁶¹ While the government is paying attention to the negative effects of the spread of HIV and AIDS, it is not treating the situation as the major women's health crisis that it is. More needs to be done in the areas of education, prevention and treatment across all segments of the population, in order to stop the growing problems caused by HIV and AIDS.

In February 2005 Mr. Kenneth Simbaya, Manager of the School Health Education Programme (SHEP), was quoted by journalist Lucky Mkandawire in The Guardian as saying, "Curriculum design and delivery of HIV/AIDS and Adolescent Sexual Reproductive Health (ASRH) education remain seriously problematic. It is clear that the integration and infusion approach where HIV/AIDS topics are included in career subjects is not effective."⁶²

HIV and AIDS related health services and information need to be readily available to all women, including pregnant women and girls, sex workers, and individuals. Testing, along with pre- and post- test counseling must become easily accessible and less stigmatized. Treatment, including ARVs and counseling needs to be available to all HIV and AIDS patients and their families or caretakers. In addition, the health services need to be gender sensitive in

⁵⁸ UN AIDS "2004 Report on the Global AIDS Epidemic," <http://www.unaids.cor/bangkok2004/GAR2004_pdf/GAR2004_table_countriestimates_en.pdf>; Central Intelligence Agency, "The World Factbook – Tanzania," 17 July 2007, <<https://www.cia.gov/library/publications/the-world-factbook/geos/tz.html>>.

⁵⁹ LHRC Report, 84.

⁶⁰ LHRC Report, 86.

⁶¹ LHRC Report, 86.

⁶² LHRC Report, 85, quoting Lucky Mkandawire, "HIV/Aids: more bad news," The Guardian, February 25, 2005.

order to maximize their effectiveness. Further, Post-Exposure Prophylaxis (PEP) needs to be available to every worker in every institution providing health care services or where there is a significant risk of occupational exposure to HIV and AIDS.

Finally, discrimination based on HIV status needs to be explicitly prohibited by law, especially in the employment sector. As the LHRC Report noted, financial independence is often the only way for a female living with HIV and AIDS to attain control over her life and obtain critical medical treatment.

4.3 Recommendations:

- There is a need for the government to strengthen RTI and PMTCT services for antenatal women, and mother and child health services.
- The government needs to address the cultural issues which shape sexual behavior and put people, especially women and girls, at high risk of contracting HIV and AIDS.
- The government needs to confirm the importance of understanding epidemics and their distribution and spread in social, political and economic contexts.
- There is a need for the government to set/put mechanism which will enable the poor PLHA to receive food to complement the drugs they are given.
- Government needs to establish a strategy to make PLHA generate income by establishing income generating activities.

5. PREVENTION OF MOTHER TO CHILD TRANSMISSION OF HIV AND AIDS.

5.1 The Government Report:

The government has introduced free health care services to provide life saving drugs for pregnant women in the prevention of mother to child transmission of HIV and AIDS (PMTCT). The services are currently being delivered in four referral hospitals and one regional hospital and the government aims to introduce the PMTCT programme in 28 health facilities in seven Regions by 2008. In addition, ARVs services have been provided in 82 selected hospitals.

5.2 NGO report on the situation:

In 2004, the Ministry of Health completed the program of increasing Prevention of Mother to Child HIV Transmission (PMTCT) in the following seven regions: Tabora, Mtwara, Iringa, Dar es Salaam, Kilimanjaro, Mwanza and Kagera. The program provides Anti-Retroviral drugs (ARVs) free of charge to pregnant and post natal women who are HIV positive and includes guidance to be used for women and their families. However, the government's goal of implementing the PMTCT programme in 28 health facilities in seven Regions by 2008 is much too modest. There are too many factors working against women, e.g., women's inferior position in society, the stigma associated with, and the lack of HIV/AIDS treatment, and these factors combined with the facts found in the LHRC Report,

namely that there is a lack of awareness of obstetric complications and that there is the majority of women deliver their babies at home, indicate that it is unlikely the current PMTCT program will have any large scale impacts on the HIV/AIDS transmission rates in Tanzania.

5.3 Recommendations:

- The government needs to implement a plan in which the critical PMTCT services will be available to all women, regardless of their status, education, wealth or location.

6. HEALTH EFFECTS OF VIOLENCE AGAINST WOMEN.

6.1 The Government Report:

While the Tanzanian government has made efforts to combat violence against women, e.g. enacting the Sexual Offences (Special Provisions) Act 1998, which addresses the sexual exploitation of women and children – including prohibiting Female Genital Mutilation, running awareness programs with NGOs and incorporating topics on how to deal with violence against women into the police and magistrate training, the Government Report does not specifically address the widespread health effects of violence against women.

6.2 NGO report on the situation:

The government has not indicated the prevalence of violence against women and the subsequent health effects on women's health and the HIV pandemic, nor has the government indicated any preventative efforts taken to protect women and girls from violence before it happens.

The government recognizes that many women are victims of violence, but it fails to convey the severity of the problem and even the addendums and revisions that have taken place leave many women with a viable option to seek recourse or protection.

Finally, in addition to the general negative health effects of violence against women, gender-based violence is one of the major factors associated with keeping women in a subservient position which in turn leads to an increase in the risk of HIV infection. As noted in the LHRC Report, in a society where women are treated as substandard citizens they often lack the sexual autonomy to refuse sex or demand protection, even when the sexual advances are unwanted or it is known that the partner has had numerous other partners.

6.3 Recommendations:

- The government needs to seriously take the violence against women as one of the major ground for health problem for women hence develop workable plans and strategies to combat the same.

7. FEMALE GENITAL MUTILATION.

7.1 The Government Report:

The government has criminalized Female Genital Mutilation (FGM) in its penal laws as per the Sexual Offences (Special Provisions) Act. In addition, a National Action Plan to combat FGM was developed to provide guidance on the elimination of FGM and as a result of the “Stop Female Genital Mutilation” drive, “some mutilators” and some former advocates of FGM have spoken out against the practices. Finally, February 1st is FGM Day, which is used to educate the community about the harmful effects of FGM.

7.2 NGO report on the situation:

Female Genital Mutilation is still a major problem facing many Tanzanian women. The Government Report itself estimates that 18% of women still undergo FGM.⁶³

The Sexual Offences (Special Provisions) Act (SOSPA) is inadequate; it criminalizes FGM only upon anyone under the age of 18. The LHRC Report notes that even the Ministry of Community Development, Gender and Children agrees that the law should be changed to protect all women. In addition, there are still some sections of the Penal Code which need to be amended in order to deter and punish those who continue to practice FGM. Section 169 of the Penal Code should be amended by replacing Section (A) to the effect of expanding a criminal's liability with respect to cruelty to children and increasing the penalties imposed on the offenders. The law does not fully envisage the necessary increases of punishment against the perpetrators of FGM and as a result the horrific practice of FGM still persists to the great harm of women. The section only protects children against FGM but allows for the mutilation on women after the age of majority, who can be induced and mutilated without their consent. The protection of women against harmful practices is in conformity with CEDAW, but the current law does not fully guarantee such protection.

In addition, in its “Report on the Research into the Practice of FGM in Tanzania” the LHRC found that, “the deep-seated cultural and traditional values and standards that support the practice [of FGM] are very strong and laws banning the practice will be ineffective unless combined with an educational campaign.”⁶⁴ The LHRC Report further notes that despite the government's rhetoric, very little action has been taken to support or enforce the laws.

There were no reports of prosecutions related to FGM during the year. There were no further developments in the two FGM-related arrests and prosecutions initiated in 2005.⁶⁵ Enforcement of the anti FGM law was difficult for a number of

⁶³ Government Report, 20.

⁶⁴ “Female Genital Mutilation, A Human Rights Abuse Veiled with Customs and Traditions – A Report on the Research into Practice of FGM in Tanzania,” Legal and Human Rights Centre, 2005, 5.

⁶⁵ U.S. Department of State Bureau of Democracy, Human Rights, and Labor, “Tanzania – Country Reports on Human Rights Practice 2006,” March 6, 2007, 17.

reasons: many police officers and many communities were not aware of the law; police did not have adequate resources to protect victims; and victims were often reluctant to testify against family members and neighbors who forced them to undergo FGM. In addition, some regional government officials favored or profited from the practice or feared speaking out against it because of the perceived political consequences of opposing FGM and the power of traditional leaders who supported FGM. Some communities that were aware of the law prohibiting FGM viewed it as an unjust threat to a cultural tradition. A lack of medical information on the harmful and long-term health effects of FGM remained a problem as many communities believed FGM increases fertility, reduces sexual desires leading to prostitution, and reduces infant mortality. Many fathers also believe they would receive higher bride prices for daughters who had undergone FGM.⁶⁶

While the government has taken commendable steps towards the elimination of FGM, there are still many people who overlook the harmful, and sometimes life threatening effects of FGM and continue the practice.

7.3 Recommendations:

- The government needs to review all of the national laws and policies that touch the area of FGM and which do not fully protect women from the dangers horror of female genital mutilation, including the expansion of the liability of the perpetrators.
- In addition to review and amending the national laws and policies of Tanzania, the government needs to undertake a major public educational campaign on the horrors of FGM that is accessible to all Tanzanians.

ARTICLE 13: ECONOMIC AND SOCIAL BENEFITS

1. WOMEN'S ECONOMIC EMPOWERMENT AND CREDIT ADVANCEMENT.

1.1 The Government Report:

The Government adopted a National Micro-Finance Policy in 2000 that provides guidelines to achieve gender equality and equity in accessing financial services and flexibility in regulating those institutions (Banks, SACAS, SACCOS and CBOS).

According to the Ministry of Community Development, Gender and Children Affairs, there are additional policies and laws that have been formulated to boost the macroeconomic development strategies in gender perspectives, especially with respect to women and the poverty reduction process, which include: the National Policy Small and Medium Enterprises (SMEs); the National Trade Policy; and the Cooperative Policy.

⁶⁶ Id.

1.2 NGO report on the situation:

Despite the adoption of the National Micro-Finance Policy in 2000, financial services organizations are currently neither coordinated nor regulated due to the fact that each has its own modality of advancing loans. Loans are also given to women at high interest rates and cumbersome conditionalities exist which undermine women's development.⁶⁷ As a result, most women fail to pay the interest rates and this, results in their loss of the little they have (i.e. attachment of family property which was a security for loan on failure to pay).

The Government has not revealed the financial institutions which are subject to the National Policy or how loan institutions are coordinated and regulated. The Government Report does not indicate how women, particularly rural women, benefit from the loans advanced by financial institutions and there is no information in the Government Report on how loans are advanced.

1.3 Recommendations:

- The government needs to clarify its regulations in order to reveal the way in which financial institutions are subject to the National Policy and how loan institutions are coordinated and regulated.
- The government needs to enact monitoring strategies to oversee the financial institution's adherence to their regulations
- Effort be made by the government to educate the rural people on the available of credit associations for them to be familiar with the credits and utilize them to improve their living standards.
- The interest rates should be minimal to the loans given to accommodate more women
- The cumbersome conditionalities should be removed hence accelerate women's development.

2. ENTREPRENEURSHIP.

2.1 The Government Report:

The government reported to have trained women in entrepreneurship and leadership skills in collaboration with NGOs. The following programs are aimed at training men and women in entrepreneurship skills:

- College of Business Education – funded under MIT. Offers business training, including entrepreneurship development.
- University of Dar es Salaam Entrepreneurship Development Centre (UDEEC) – funded by the Government of the Netherlands and established in 1999. Provides consultancy and training in Small and Medium Enterprise related issues.
- University of Dar es Salaam – adopted a university-wide policy on entrepreneurship development which provides exposure to entrepreneurship to all students through the curriculum.
- Vocational Education and Training Authority (VETA) – operates 640

⁶⁷ University of Dar es Salaam Entrepreneurship Centre, "Women Entrepreneurs in Tanzania," October 2002.

vocational training centres across the country, over 90 per cent of which are private businesses or NGOs. The courses offered provide technical skills geared to manufacturing (e.g., fitter mechanics, welding and plumbing, electrical installations) as well as service industries (e.g., hotel and restaurant management) and computer training.

- Institute of Tourism and Hotel Management – operated by Ministry of Natural Resources and Tourism Registered with VETA. What does this org do?

In addition, the following programs are aimed specifically at women's entrepreneurship development:

- Women's Development Fund – funded by the government and local authorities, seeks to provide funds for mechanisms and schemes to address poverty and unemployment through the promotion of entrepreneurship and SME development among women.
- Capacity Building and Entrepreneurship Development Programme with Special Focus on Women in Agro-Food Processing – funded by UNIDO, and delivered by SIDO, seeks to alleviate poverty through skills development in food processing and entrepreneurship. Its also offers production and marketing training and technical and quality consultancy to groups of women in food production sectors. 253 women have received micro-scale food processing skills; 159 have set up businesses.
- Tanzania Food Processors Association (TAFOPA) was established to network women processors.
- Promoting Women's Entrepreneurship Development and Gender Quality in Tanzania project (WEDGE) – funded by ILO and Ireland Aid (US\$251,000), seeks to strengthen the operating environment for women entrepreneurs through promotion, gender mainstreaming policy and building capacity of women entrepreneurs' associations.
- Women and Gender Advancement Component of Private Sector Development Programme – funded by UNDP, plans to present the results of an ESRF study on a women's bank, facilitate participation of women entrepreneurs in study tours and projects, and study women's economic opportunities in international and regional trade agreements such as SADC, EAC, and AGOA.
- Training Fund for Tanzania Women, 1998-2003 – funded with support from the Canadian government. Its goal was to improve women's technical and managerial skills and increase the number of trained and qualified women. TFTW trained 462 women at various levels, in both short term and long term programs.

2.2 NGO report on the situation:

The government reported to have trained women in entrepreneurship and leadership skills. However, the training has not benefited the majority of women living at the grassroots level especially the rural women. The Government

Report contained no specific information on whether the government training on entrepreneurship and leadership skills was extended to women, particularly those living in rural areas.

There is no information on the barriers to financing women entrepreneurs. Women who managed to engage in the entrepreneurship sector are still found predominantly in low growth areas earning lower revenues than their male counterparts. Women treat business merely as an income generating activity for household need and not an entity that can grow while their male counterparts treat business as a distinct economic entity. The limited performance of women impedes them from creating decent work, meaningful and sustainable jobs or enterprises that are able to withstand the challenges of globalization and other significant economic trends.

The following are some of the barriers to the development of women entrepreneurs:⁶⁸

■ **Socio-cultural challenges:** Women are increasingly contributing to meeting household economic need.

■ **Women are not focused in SMEs:** Even when women are engaged in one industry such as food processing, they tend to deal with multiple products, some of which are unrelated. There is a massive lack of education among women entrepreneurs.

■ **Disparities between female and male counterparts in SMEs:** Few women manage to develop from micro to small or medium sized firms due to the fact that they are less motivated than their male counterparts. Most women are engaged in small enterprises which need large sums of money to grow, thus women find it difficult to obtain bank loans because they lack collateral and capacity to underwrite proposals.

■ **Existence of corruption and unfriendly regulations:**

(1) **Tax Policies and regulations:** There is a tax exemption for people who are engaged in large businesses where they only pay income taxes on profit while people engaged in small businesses, in which the majority of women entrepreneurs fall, they have to pay taxes whether or not they make profits because the taxes are set on the basis of the type of activity and approximate size of the business. This may limit women's capacity to grow their businesses.

(2) **Procedures for tax collection:** Procedures are not transparent and predictable for small businesses and hence create opportunities for tax officials to demand and/or receive bribes.

There is no information on follow up or evaluation mechanisms by the Government to determine whether the education given to women entrepreneurs has been helpful.

⁶⁸ University of Dar es Salaam Entrepreneurship Centre, "Women Entrepreneurs in Tanzania," October 2002;

2.3 Recommendations:

- The government needs to address the barriers facing women entrepreneurs through specific programs.
- The government needs to develop evaluation mechanisms to determine whether the entrepreneurship education is helping women entrepreneurs.

3. ACCESS TO MICRO-FINANCE AND OTHER FORMS OF CREDIT.

3.1 The Government Report:

In addition to the establishment of the National Micro-Finance Policy in 2002, the Government Report explains that the Women's Development Fund (WDF) was established to provide soft loans to women for economic activities. In response to the CEDAW Committee's recommendation that detailed information on the mandate, budget and projects of the WDF be included in the report in the Concluding Comments to the Combined 2nd and 3rd Periodic Report, the government responded that the WDF is a revolving fund that was established in 1993 in order to provide soft loans to women for economic activities. The national government provides Tshs. 500 million per year and local authorities contribute five percent of their total revenue. As of June 2005, the government had contributed Tshs. 3.2 billion since the fund was established. Further, it was reported that the interest rate for WDF was lowered from 24 percent in 1994 to 10 percent in 2000 in order to "assist women loan beneficiaries" and to encourage more women to utilize the funds.

3.2 NGO report on the situation:

According to the ILO and the National Informal Sector Survey (NISS) 1991, only one percent of women operators in the informal sector could acquire capital from the formal financial sector.⁶⁹ The other 99% had to rely on their own savings or informal sources. A study by the Economic and Social Research Foundation (ESRF) in 2000 found that 94.8% of the households in their six-region review indicated a demand for credit, but only 7% had access to formal credit.⁷⁰ The same study reported that loan amounts required by women and youth in rural and urban areas far exceeded the loan amounts provided by formal financial institutions. The Small Industries Development Organization (SIDO) estimated in 2002 that the current demand for SME credit in Tanzania is 2.5 million borrowers, yet even in 2002; SIDO itself was only serving 50,000 borrowers, which is 2 % of the potential market. The largest demand for credit is in the range of Tshs 50,000 to Tshs 500,000.⁷¹ The existing financing possibilities for SMEs include personal savings, money from family and friends, as well as credit from moneylenders, Micro-Finance Institutions (MFIs), government departments/agencies, and commercial banks.

⁶⁹ International Labour Organization and National Informal Sector Survey, 1991.

⁷⁰ Canadian International Development Agency, "Evaluation of CIDA Tanzania Program – Executive report 1997-2003," February 2006, see also Economic and Social Research Foundation (ESRF), 2000, <<http://www.esrftz.org/index.asp>>.

⁷¹ Small Industries Development Organization, 2002.

MFI loan ceilings are reported to be capped at Tshs 5 million (for groups), and most commercial banks are not inclined to grant credit facilities to individual SMEs due to high risk combined with high loan administration costs. Lending by private sector banks and non-bank financial institutions is almost non-existent outside of major towns, municipalities and cities. The low level of savings in the country, combined with a weak financial infrastructure, invariably constrains the development of SMEs.

Consequently, women start businesses with the money they are able to put together from their own savings and personal networks. This affects their capacity to start businesses of any magnitude, and hampers their ability to grow quickly, if at all. All of the key informants stressed the importance of introducing a loan guarantee programme for women entrepreneurs in order to help them overcome their lack of collateral.

Gender-disaggregated data on the distribution firms by annual sales is not readily available. Currently, there is no comprehensive data on the number of women in the SME sector, the size of their enterprises, or their distribution by sector. Only proxies are available. Another constraint to women's access to credit is the low level of awareness of financing amongst women in the SME sector. Key informants stressed the need for training women micro-enterprisers on dealing with financial institutions and preparing and presenting a loan application, and for linking credit with business development support.

There are still a gender-blind or gender-insensitive macroeconomic policies, complex tax policies and compliance procedures, gender-based inequalities in regulations, and complex business registration and licensing procedures for the smallest micro-enterprises (where the majority of women are found). Lack of cultural acceptance for the role of women in entrepreneurship, limited access to appropriate business premises, lack of collateral due to property ownership practices, lack of access to term loans and sufficient working capital to meet their needs (the gap between the micro-finance ceiling and the minimum loan requirements of banks), and the limited organizational and management capacity among women's advocacy groups are all barriers to women seeking financing for their businesses.⁷²

3.3 Recommendations:

- The government needs to enact gender-sensitive macroeconomic policies while simplifying the complex tax policies, compliance procedures, complex business registration and licensing procedures for the smallest micro-enterprises (where the majority of women are found).
- The government also needs to implement programs designed to increase the cultural acceptance of the role of women in entrepreneurship, which address the limited access to appropriate business premises, lack of collateral due to property ownership practices, lack of access to term loans and sufficient

⁷² University of Dar es Salaam Entrepreneurship Centre UDEC, "Women Entrepreneurs in Tanzania," October 2002.

working capital to meet their needs (the gap between the micro-finance ceiling and the minimum loan requirements of banks), and the limited organizational and management capacity among women's advocacy groups.

ARTICLE 14: RURAL WOMEN

1. GENERALLY.

1.1 The Government Report:

The Government Report notes that “poverty is predominantly a rural problem, where 77 percent of the poor live.”⁷³ The government is implementing rural development programmes under the governance of the Tanzania Social Action Fund (TASAF), which allows the participation of community members in the development and implementation of all projects and activities. In all TASAF activities, the ratio of men to women is 1:1 on Community Management Committees.

1.2 NGO report on the situation:

The World Bank estimates the population of Tanzania in 2005 was 38.3 million people and women constitute approximately 51.1 percent of the population.⁷⁴ With 77 percent of the inhabitants of Tanzania living in rural areas, that means there are approximately 15,118,950 rural poor Tanzanian women.

From education to health to economic policies, there are numerous disparities between the progress made by the urban communities and the progress made by the rural communities in the recognition and implementation of women's equal rights and CEDAW. Rural residents are geographically more isolated than their urban counterparts and this often manifests itself in the lack of development-related financial, material and human resources.

With respect to health services, the LHRC Report notes that “the quality of services is severely affected by the under-distribution of qualified staff to the remote rural areas.”⁷⁵

In the education sector, net enrolment and teacher recruiting has increased, but the results vary greatly from region to region. “In 2004 [enrollment] was 100% for Kilimanjaro, but only 68% in Tabora,” and as far as teacher distribution is concerned, there are approximately twice as many teachers per pupil in Kilimanjaro as compared to Shinyanga.⁷⁶

Finally, it is in the rural communities that the traditional female stereotypes are the most prevalent and therefore keep women in a more disadvantaged state.

⁷³ Government Report, 3.

⁷⁴ Tanzania Data Profile, World Development Indicators Database, April 2007
<<http://devdata.worldbank.org/external/CPProfile.asp?CCODE=TZA&PTYPE=CP>>

⁷⁵ LHRC Report, 51.

⁷⁶ LHRC Report, 53-54.

1.3 Recommendations:

- The government needs to dedicate more resources and specific action plans towards the development and enforcement of women's equal rights, including the end of all forms of discrimination, in rural communities.

2. GENDER BUDGETING INITIATIVES.

2.1 The Government Report:

The Government Report states that the government has carried out a Gender Budget Initiative in conjunction with NGOs.

2.2 NGO report on the situation:

Gender budgeting initiatives have neither impliedly nor expressly shown to what extent women are contributing to GDP nor are they taking into consideration the fact that women are performing multiple roles in the society such as taking care of families and at the same time engaging in economic activities. In addition, the Government Report has not stated how women's performance at the household level will be included in gender budget tracking.

2.3 Recommendations:

- The government needs to track women's contributions to the national economy and then use those calculations to create accurate gender budgeting initiatives.

ARTICLE 16: MARRIAGE AND FAMILY LAW

1. GENDER EQUALITY IN MARRIAGE.

1.1 The Government Report:

The Law of Marriage Act, Cap 29, R.E 2002 recognizes the marriage contract without the consent of the bride by relying only on an agreement reached between the father of the girl and the bridegroom.

1.2 NGO report on the situation:

Marriage in Tanzania is guided and governed by the Law of Marriage Act, Cap 29, R.E 2002. The Act regulates the law on personal property rights, divorce and separation, custody of children, matrimonial relief and related matters. The Law of Marriage Act has some provisions which oppose, discriminate and violate the rights of a woman as envisaged in CEDAW in the following areas:

- **Formation.** On the Formation of Marriage, the components that need to be focused on are:

(1) Parental Consent: Provisions of Section 17 (1) of the law of Marriage Act allow that a girl below the age of majority can be married

simply by the consent of her father. Most parents have given free consent for the marriage of their young daughters regardless of their age and their own consent. This tendency creates a form of compulsory marriage, to the detriment of a young girl.

(2) Minimum Age of Marriage: The law is discriminatory in sex with respect to the age of marriage (*See Section 13(1) of the same law*). It is discriminatory to a girl child as she can be married before attaining the age of majority. The minimum age for marriage for males is apparent age of 18 years while the minimum age for females is the apparent age of 15 years. The government is urged to amend the law so that a new minimum age for marriage is established at 18 years for both males and females.

- **Division of Matrimonial Properties.** There are basic principals of the Law of Marriage Act on the Division of Matrimonial Properties which need to be scrutinized for their compliance with CEDAW. Section 114 (2) (a) of the Law of Marriage Act requires the court to take full consideration of the custom of a community to which the party belongs when granting an order for division of matrimonial properties. Most of these customs and usages, which the court is required to make reference to, are patriarchal, discriminatory and oppressive to women and therefore violate the CEDAW.
- **Custody of Children.** On the custody of children, the Law of Marriage Act also contravenes CEDAW. Section 125 (2) (c) of the law provides for the power of the court to make orders for the custody of children. In deciding in whose custody the children should be placed, the court is required to consider the customs of the community to which the parents belong. Generally, the spirit of the Customary Law Declaration Order is that all issues of marriage belong to the male parent. Contrary to CEDAW, this custom denies a woman the right to have custodianship of her own children. The maintenance of child is based upon Section 129 of the Law of Marriage Act which says that it shall be the duty of a man to maintain his infant children, whether they are in his custody or the custody of any other person.
- **Divorce (Grounds for Divorce).** The rules are discriminatory and based in part on the woman as she is regarded only as the adulterer, (*See paragraph 106 of 1st schedule GN No. 279 of 1963*):
 - (1) **Desertion:** The Law allows only the husband to sue his wife for desertion. The wife does not have that right to sue her husband.
 - (2) **Cruelty:** Sections 163 – 164 implicitly of the Law, allows a husband to beat his wife. The conciliation board is given a very high standard of proof to determine whether the husband can be presumed to have beaten his wife, whom he has inflicted with bodily injuries or grievous harm.

1.3 Recommendations:

- The government needs to amend the current law governing marriage to ensure equal rights for both women and men in all aspects of the institution of marriage, with a specific focus on the marital parties' consent.

2. CHILD MARRIAGE.

2.1 The Government Report:

The Government Report mentions multiple times that child marriage is a practice which negatively impacts girls' social, educational and economic development and the Law of Marriage Act Cap. 29 R.E 2002, which permits marriages for girls under 18 years of age, and as young as 14 years of age, under specific conditions, is still given full legal effect.

2.2 NGO report on the situation:

Early marriages for girls are common and once married, many girls drop out of school or are denied their right to education.

In addition to violating CEDAW, the Law of Marriage Act violates the principles and provisions of the Sexual Offences (Special Provision) Act Cap. 101 R.E 2002 (SOSPA) which aims at protecting women and girl children against sexual abuses. Under SOSPA sexual intercourse with a child under 18 years is considered rape regardless of consent; however, the Law of Marriage Act provides for girls as young as 15 to be considered adults for the purposes of marriage and sexual intercourse. In order to marry, a girl under 18 is required to obtain the consent of her father, mother, or guardian. An orphaned girl with no guardian who desired to get married at 15, 16, or 17 needs no consent. The courts also have the discretion to allow the marriages of parties who are 14 years old if satisfied that there are special circumstances which make the proposed marriage desirable. Additionally, the law allows African-Asian girls to marry as young as 12 so long as the marriage is not consummated until the girl reaches the age of 15.⁷⁷

The government has stated that it is in the process of reviewing the Act. However, there is no reliable steps have yet been taken to repeal or amend the Law of Marriage Act.

2.3 Recommendations:

- The government needs to amend the Law of Marriages Act 1971 to establish the gender-neutral and sensitive provisions in the law.

3. BRIDE PRICE.

3.1 The Government Report:

The Government Report is silent on the topic of bride price. However the Law of Persons Act (Sheria ya hali ya watu) Cap 358 R.E 2002 is still given full legal effect.

⁷⁷ Law of Marriage Act; U.S. Department of State Bureau of Democracy, Human Rights, and Labor, "Tanzania – Country Reports on Human Rights Practices 2006" March 6, 2006, 18.

3.2 NGO report on the situation:

The payment of bride price is still a current practice in Tanzania and this is due to the existence and application of the Law of Persons (Sheria ya hali ya watu) Cap 358 R.E 2002,

As a result, especially in rural areas, on payment of bride-wealth by the husband upon marriage, the wife is thereby purchased and becomes the "property" of the husband and the husband's family. Consequently such a wife is unable to leave abusive relationships because one cannot afford to refund the 'bride price.'⁷⁸

Despite the fact that the government has stated that it is in the process of reviewing existing discriminatory laws, however it takes too long when it comes to reviewing the laws concerning family issues.

3.3 Recommendations:

- The government needs to amend the Law of Persons Act and ensure that the practice of bride price is eliminated from Tanzania marriage systems.

4. INHERITANCE RIGHTS.

4.1 The Government Report:

In response to the CEDAW Committee's recommendation that laws of inheritance and succession be formulated to guarantee rural women their rights of inheritance and ownership of land and property in the Concluding Comments to the Combined 2nd and 3rd Periodic Report, the Government Report addresses the issues of women's inheritance rights, through the Land Law Act No. 4 of 1999 and the Village Land Act No. 5 of 1999. However, the Local Customary Law (Declaration) (No.4) Cap. 358 R.E 2002 is still given full legal effect.

4.2 NGO report on the situation:

Customary practices such as wife inheritance and widow cleansing are still practiced and noted among some women. Moreover, Tanzania still maintains discriminatory inheritance laws, for example the Local Customary Law (Declaration) (No.4) Cap. 358 R.E 2002 which denies widows to inherit from their deceased husbands' estates. In addition, daughters are given unequal share of the estate as compared to sons and hence are denied their rights to property.

Paragraph 62 – 70 of GN No. 279(Sheria ya hali ya watu) of 1963 for Inheritance provides that a widow is inherited by a relative of the deceased husband and degrades the status of a widow and is discriminatory in that it treats a woman as a property.

In addition, under paragraph 62 – 70 the declaration provides for the ousting of the rights of a widow over custody of her children. The second schedule paragraph 1 – 53 provides for the rules of inheritance which are discriminatory,

⁷⁸ Law Reform Commission of Tanzania, "Report on the Law of Succession," 2002, 7.

oppressive and biased in favour of men.

The enactment of new Land Laws of 1999 had no connection with the widow's inheritance rights. The Customary Inheritance law which has denied thousands of women and girls from inheriting still exists and is fully operational.

The African customary laws relating to marriage and inheritance/succession have established the institution of marriage through the payment of bride wealth. Upon marriage, the wife is "purchased" and becomes the property of her husband, and therefore even the fruits of her labour belong to her husband. Thus the husband claims to own his wife and her labour. Consequently, in the event of divorce or death of the husband the wife is left without any share of the wealth created through her joint effort with her husband.⁷⁹

Even in the absence of a bride price "purchase," in the current practice of Tanzanian law in probate and administration matters it is only when the husband dies, and not when the wife dies, that letters of administration of the deceased's estate are applied for. This presupposes that it is only the husband who had a personal property interest in the property jointly acquired by the couple during their marriage. Legally, the wife is not recognized as having a property interest in the wealth which she might have greatly laboured in its acquisition.⁸⁰

Widows are forced out of their homes, excluded from their communities, isolated from their children and denied their legal rights to property and effective access to justice.

There have been initiatives by the government to address the problems of inheritance since 1990, including a review of discriminatory laws. However, the process has taken too long to finalize while women and children continue to suffer especially this era of HIV and AIDS. In fact, the Government Report states that it is "currently reviewing the recommendations [of the Law Reviews Commission] and intends to prepare a White Paper to seek for [sic.] opinion of the public before the review is carried out."⁸¹

4.3 Recommendations:

- The government should take immediate action to modify customary laws, which are oppressive and discriminatory to women including but not limited to, the Inheritance Law and the Law of Marriage.

⁷⁹ Law Reform Commission of Tanzania, "Report on the Law of Succession," 2002, 4.

⁸⁰ Id.

⁸¹ Government Report, 20.

CONCLUSION

If the Tanzanian government is truly determined to build a society that is gender sensitive and that observes the principles of equality through the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women, the ratification of the Convention was only the first step. The government now has the responsibility to ensure that all constraints which limit the effective implementation of the convention are removed, at any cost.

The leaders of Tanzania need to set a positive example for the rest of society by providing the leadership necessary for the fulfilment of women's and girl's human rights. The government needs to take full responsibility for the commitments they have made to women's human rights as a signatory to CEDAW.

The government's actions must also include the execution of widespread awareness raising campaigns to government officials and others responsible for the implementation of CEDAW policy, and to the general public. The public's knowledge of the Convention will facilitate effective implementation because once informed of women's right to equality, the public will be able to monitor the day-to-day execution of the Convention's principals.

Unless women are afforded equal protections and equal opportunities, including equal access to education, our dreams to create and maintain sustainable development in a society that observes, promotes and protects all human rights will not be realized. Since ratification of the Convention on the Elimination of All Forms of Discrimination Against Women in 1995, Tanzanians have made some progress towards equality. However, it is evident that many challenges remain.

Women's rights are not negotiable. In order for women's equality to be realized, it is necessary that all Tanzanians participate in the reforms and the Government must take the leading role in championing women's rights by fulfilling its national and international commitments in working towards the elimination of all forms of discrimination against women.

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