



Section Four

PUNISHING PREGNANCY:

THE EXPULSION, FORCED
DROP OUT, AND EXCLUSION
OF PREGNANT STUDENTS

Once they find someone is pregnant, the teacher should listen to her. [Female students] get pregnant because they face a difficult situation, and if they could talk to the girls first and give them a chance to go back to school, that would be better.

—Maria, raped, pregnant, and expelled from school at age 13⁴⁶⁷

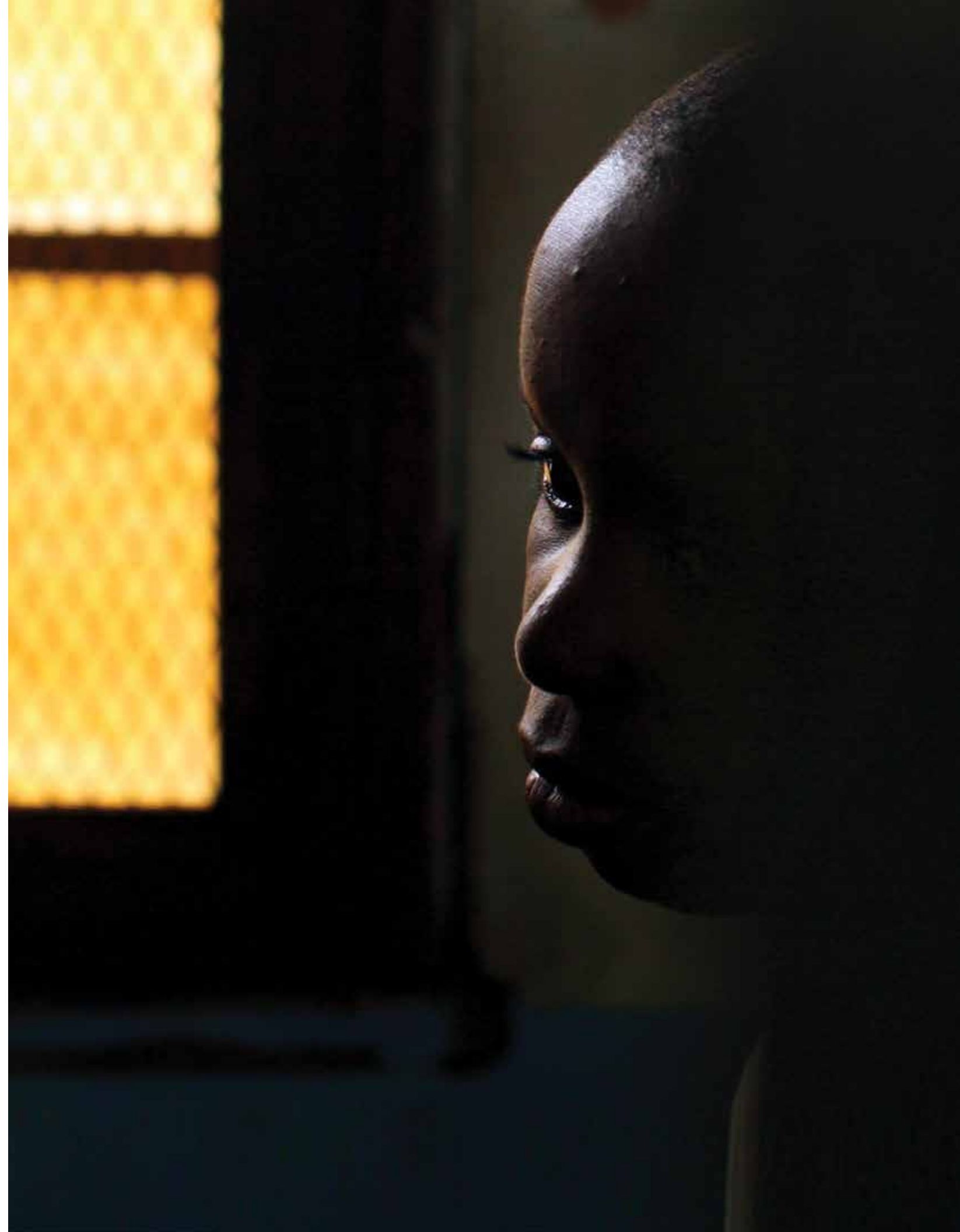
Schools have been expelling pregnant students in mainland Tanzania since at least 1959.⁴⁶⁸ Data from the past decade alone reveals that between 2003 and 2011, over 55,000 female students were forced out of primary and secondary schools due to pregnancy.⁴⁶⁹ This number is based on official annual statistics on dropouts⁴⁷⁰ released by the Ministry of Education, most likely compiled from the results of mandatory pregnancy tests.⁴⁷¹ As a result, it is undoubtedly an underestimate, as not all pregnancy-related dropouts or expulsions are known or recorded by schools.⁴⁷² Many adolescent girls simply drop out on their own accord, before school officials are aware they are pregnant, recognizing that expulsion is inevitable. [See *Forced or Preemptive Dropouts*, p. 98.]

Ministry of Education officials acknowledge that many pregnancy-related “dropouts” from primary and secondary schools are instead formally recorded as dropouts due to “truancy.”⁴⁷³ As the gender focal point at the Ministry of Education explained, pregnant students “know if they are discovered they will be sent home, so they just drop out and are considered truants.”⁴⁷⁴ Truancy is a catch-all phrase used to refer to unexplained student dropouts.⁴⁷⁵ In 2011 alone, over 107,000 primary and secondary school students in mainland Tanzania were recorded as dropouts due to truancy.⁴⁷⁶

Pregnant students expelled from or forced to drop out of school are then permanently excluded from government schools. According to government officials and educators, they cannot be readmitted to either the same or a different government school after giving birth. Private schools or vocational schools are their only options.⁴⁷⁷ Most adolescent girls and their families are unable or unwilling to pay for private school, leaving vocational school as the only realistic alternative.

Significantly, in practice, there are rarely any repercussions for the boys or men who impregnate female students, despite laws that make clear that such individuals should be held criminally liable.⁴⁷⁸ At most, male students or teachers are forced to transfer to a different school.⁴⁷⁹ Men outside the school system are seldom held criminally accountable.

As discussed in Section Two, neither pregnancy-related expulsion nor the denial of readmission to students who have been expelled for pregnancy is mandated by law, policy, or regulation in Tanzania. Nonetheless, the Ministry of Education appears to condone these practices, and there is a widespread perception among teachers and education officials that primary and secondary schools are required by law to do both. As a result, the expulsion and exclusion of pregnant students are near-universal practices in Tanzania.



This section explores data on school dropouts in Tanzania, the underlying rationales motivating the expulsion of pregnant students, how pregnancy-related expulsion and forced dropouts work in practice, and the consequences of expulsion for pregnant students and their families.

Magnitude of the Problem: Statistics and Broader Context

Annual statistics from the Ministry of Education indicate that, every year for the last decade, thousands of adolescent girls have “dropped out” of primary and secondary school due to pregnancy in Tanzania.⁴⁸⁰ The Ministry does not define what constitutes a “dropout” due to pregnancy; however, it is likely that records capture primarily those adolescent girls who have been formally expelled on these grounds.

Therefore, as discussed above, these numbers are undoubtedly underestimates. Many more pregnancy-related expulsions and forced dropouts have likely been misclassified as dropouts due to truancy or “other”⁴⁸¹ because of a lack of information about the circumstances leading to these students’ absence from school. [See Forced or Preemptive Dropouts, p. 98.]

Nonetheless, recent statistics are instructive. In 2009, almost 9,800 students “dropped out” of primary and secondary school due to pregnancy.⁴⁸² In 2010, more than 8,000 female students—1,760 in primary school and 6,300 in secondary school—“dropped out” of school due to pregnancy.⁴⁸³ In 2011, that number was 5,767, with the vast majority of pregnancy-related “dropouts” recorded in secondary school.⁴⁸⁴

Although officially recorded “dropouts” due to pregnancy in secondary schools seem to have decreased in recent years, the same time period has seen a substantial increase in the number of recorded dropouts due to truancy in secondary schools. Between 2007 and 2011, truancy dropouts as a percentage of overall dropouts recorded in secondary schools increased from 33.2% to 72.7%.⁴⁸⁵ The Ministry of Education’s truancy data is not disaggregated by sex; however, it seems reasonable to propose that pregnancy-related “dropouts” may be falling increasingly under the “truancy” umbrella.

One way to potentially unpack this “truancy” data—and thus obtain a better picture of female student enrolment—is to look at gender parity data and the data on student transitions from primary to secondary schools. Primary school students typically enrol at the age of 7 and graduate around 13 years of age. Recent data shows that slightly fewer females than males enrol in primary school in Standard 1.⁴⁸⁶ However, due to higher rates of male dropouts over time, it seems that more females than males are enrolled in primary school overall⁴⁸⁷ and more females than males are completing primary school.⁴⁸⁸

However, as adolescent girls transition into secondary school, the numbers change dramatically. Secondary school students are typically between the ages of 14 and 19. In Form 1, the first year of secondary school, there are approximately 6,000 more adolescent boys than adolescent girls enrolled in school.⁴⁸⁹ The data shows that each year, consistently fewer adolescent girls than adolescent boys transition to the next grade.⁴⁹⁰ By the time students have reached Form 4, the final year of secondary school for most students, the gap has widened to over 44,000 more males

than females enrolled in school.⁴⁹¹ In Forms 5 and 6, there are more than double the numbers of males versus females enrolled.⁴⁹²

Overall, 84.9% of males and 70% of females who start Form 1 complete Form 4.⁴⁹³ Only 10.4% of males and 5% of females who start Form 1 complete Form 6.⁴⁹⁴ Although enrolment in general decreases over time, the gender disparity in dropouts is clear. There are many reasons why adolescent girls may be decreasing in number with each additional year of secondary school. Certainly, pregnancy and early marriage are some of the most compelling.⁴⁹⁵

Limited Access to Secondary School

Pregnancy-related expulsions and dropouts occur in a broader context of extremely limited access to secondary school in Tanzania. Although progress has been made in ensuring universal access to primary school education, secondary school remains an elusive goal for the majority of Tanzanian adolescents. Tanzania has the world’s lowest rate of transition from primary to secondary school, at 36%.⁴⁹⁶ Further, compared to other countries in sub-Saharan Africa, Tanzania’s gross enrolment rate for secondary school—including female enrolment in secondary school, specifically—is well below average.⁴⁹⁷

In 2012, only roughly 36% of all adolescents aged 14–17 were enrolled in secondary school in Tanzania.⁴⁹⁸ A number of reasons explain the low overall enrolment rate among adolescents—among them, a general shortage of secondary schools in the country, which results in qualified students being denied a place because of the limited number of spaces,⁴⁹⁹ and a low pass rate for the national examination required to qualify for secondary school studies.⁵⁰⁰

In light of these factors, secondary students—particularly female ones—in Tanzania have, in many ways, already beaten the odds by continuing to remain in school. Expelling pregnant students for purely discriminatory reasons thus deprives them of a prized educational opportunity. In addition to denying these adolescent girls their right to education, this practice also serves to further reduce the limited number of secondary school graduates in Tanzania.



Tatu's Story

Tatu attended a government primary school in Morogoro. She was 13 years old and in Standard 5 when she underwent mandatory pregnancy testing for the first time. Her school tested twice a year—in January, when students began a new grade or class, and in July, when they returned to school after vacation. Before she enrolled, neither Tatu nor her parents were aware that there would be pregnancy testing in school.

After being misled by the class teacher—who told female students that they were going to the local public hospital to do gardening work—Tatu and her female classmates in Standards 5–7 arrived at the hospital and were immediately forced to undergo urine pregnancy tests. One by one, the students were ordered to enter an examination room, where the teacher and a hospital nurse awaited them.

When it was Tatu's turn, she was instructed by the teacher and nurse to urinate in a specimen bottle. Tatu did as she was told and gave the bottle to the teacher. The nurse then tested the urine to determine whether Tatu was pregnant. Neither the nurse nor teacher asked for Tatu's consent to do the test—"it's an ambush order," she explains. Tatu was not informed of the test results.

Once everyone had been tested, the teacher recorded the test results and the students returned to school.

According to Tatu, the students who are pregnant are typically told to stay behind at the end of the school day, at which point they are informed by the assistant head teacher about their positive test results. Pregnant students are also given a letter addressed to their parents asking them to accompany their daughters to school the next day. When a student's parents arrive, the head teacher informs them of their daughter's pregnancy and her expulsion from school. The head teacher further mandates that "the boy who impregnated" the girl must be found and held accountable. If he cannot be located, his parents must be identified and taken to the police station.

Tatu recalls that after she received her positive test result from the school, she was "so worried." She did not know how she would tell her family that she was pregnant. She also worried that her boyfriend would deny their relationship, and did not know what she would do if he did.

In Tatu's case, when a male teacher asked her who impregnated her, the answer turned out to be the teacher's

own son, John. The teacher was shocked. He asked to meet with Tatu's mother, privately, to discuss the pregnancy.

Her mother asked, "What happens now? Your son impregnated my child, what is my child's future?"

The teacher suggested keeping the pregnancy a secret between the two of them, promising not tell the school administration about Tatu's test results. He said that this would allow both children to continue with their studies. However, explains Tatu, the teacher had also been worried that if the administration discovered that his son was responsible for Tatu's pregnancy, he could lose his job and his son could face criminal repercussions.

The teacher gave Tatu's mother some money and said, "I beg you, take Tatu away from this area. Take her far away from here." He also took his son, John, out of the school. Yet whereas John was able to reenrol in another school in Mbeya, Tatu was not as lucky.

Tatu was sent to live with her uncle in Dar es Salaam. She was four months pregnant and 13 years old when she arrived to the city. She was never expelled from school; instead, she dropped out. Unlike John, Tatu did not continue with her studies because, she asks,

“Where would I get a space as a pregnant girl?”

Instead, she stayed with her uncle until she gave birth. She tried, unsuccessfully, to induce an unsafe abortion with help from a “grandmother somewhere”—but, although she vomited profusely, she did not miscarry.

When she went home to Morogoro, after giving birth to a son, John’s father contacted her. He asked that his grandson be raised in Mbeya, with his son. Tatu felt that she was in a difficult position. Her parents were divorced and her mother did not have enough money to care for Tatu’s child—it would have been “a hard upbringing.” Tatu’s father lived in Arusha and refused to accept Tatu as his daughter as long as she had her child. So, Tatu, realizing that her son would have a better life with John

and feeling as though she had little choice, gave her son to John. Her son is currently being raised by John’s mother, in Mbeya. Tatu sees him every once in a while when they are both in Morogoro.

Tatu tried to return to school. She went to live with her father in Arusha and he tried to reenrol her in a government primary school in town. However, the new school requested a letter from her old school verifying her enrolment there and explaining her absence and reasons for transfer. Her old school refused to provide this until she explained where she had been since dropping out of school. Because she could not reveal anything about her pregnancy, she was unable to justify her prolonged absence; her old school thus declined to issue the letter. Government schools in Tanzania refuse to accept a student who has no confirmation letter from her previous school or who has no letter from a health care professional justifying an absence based on illness.⁵⁰¹ Returning to a government school, even in a different town, proved impossible.

Tatu has been out of school since 2010. Her son is now four years old. She thinks that the government

should reexamine the expulsion policy because

“it damages . . . girls completely. It is a girl’s right to get an education, but they don’t know how to do it if they get pregnant or how to prevent pregnancy,” says Tatu.

Justifications for the Expulsion of Pregnant Students

The stated rationales for expelling pregnant students highlight the discriminatory nature of the practice. Officials, teachers, and students interviewed for this report offered various justifications for the expulsion and exclusion practices. Some view the practice as purely punitive—expulsion is about punishing premarital sexual activity and pregnancy itself. As Maria said, “Schools expel pregnant girls because they think they wanted to have sex and get pregnant. The school thinks they did it purposely and it’s a punishment.”⁵⁰²

Others suggested that expulsion is used to maintain discipline and prevent other—particularly female—students from having sex. According to one teacher, “If we allow the pregnant students to continue with their studies the others will think it is a normal thing and also engage in sexual intercourse. [The school is] trying to prevent other students from having sex.”⁵⁰³ Specifically, expulsion is about avoiding the “contamination” or “corruption” of other female students. Anna, a Form 4 student, said, “If they let a pregnant girl continue to go to school, it will spoil the others. So it’s better to expel them.”⁵⁰⁴

Many interviewees mentioned the stigma and shame associated with adolescent pregnancy. “You lack confidence now that you are a mother. There would be rumours and people laughing at you so I would be discouraged to stay [in school] if I was pregnant. So [pregnant students] have to be expelled,” said Joyce, a secondary student.⁵⁰⁵ Pregnant students are expelled both because it is “shameful” and inappropriate for them to be at school and “for their own good,” so that they can avoid feeling the traumatic effects of that stigma from classmates and teachers. The fact that expulsion itself may be generating this stigma was not mentioned by interviewees.

Stereotypes about pregnant women and motherhood were also set forth as justifications for expulsion. One women’s rights advocate stated that “pregnant girls can’t concentrate.”⁵⁰⁶ A student explained that pregnant students were expelled because “a pregnant woman can’t work the same way—she may be lazy, have morning sickness, so they have to be expelled.”⁵⁰⁷ Another common perception, according to an education official, is that adolescent mothers or married adolescents cannot concentrate in the classroom because of their competing responsibilities at home and therefore should not be in school.⁵⁰⁸ Generalized statements about a pregnant or parenting adolescent’s abilities lack a medical basis and are evidence of harmful, discriminatory stereotyping.

Discriminatory Stereotypes

State parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women . . . [t]he elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education.

—Convention on the Elimination of All Forms of Discrimination against Women⁵⁰⁹

Discriminatory stereotypes concerning female social roles underlie and perpetuate the practices of mandatory pregnancy testing in schools and the expulsion of pregnant students. Discriminatory gender stereotypes are beliefs about the attributes, characteristics or roles of men and women that “are based on the idea of the inferiority or superiority of either of the sexes.”⁵¹⁰ These beliefs can manifest themselves in discriminatory laws, regulations, customs, and practices.

Various reports document a school environment in Tanzania that marginalizes and discriminates against adolescent girls. Whereas adolescent boys are expected to “finish their education and seek employment,”⁵¹¹ adolescent girls’ economic and social value is often derived from their contribution to household chores⁵¹² and their successful marriage.⁵¹³ Investing in female education, therefore, is seen as a lower priority.⁵¹⁴

The Ministry of Education’s guide for school counsellors explains that “these expectations are reflected in classroom[s] . . . by teachers whereby boys’ performance is considered of greater importance than that of girls.”⁵¹⁵ According to a baseline survey carried out in six districts in Tanzania by

FAWE-Tanzania, a nongovernmental organisation focused on female empowerment through education, “Many teachers show obvious bias to boys as they frequently point them to answer their questions. Even during experiments boys were given preference to demonstrate while girls stand aside and watch. This reduces girl’s confidence.”⁵¹⁶

The same baseline survey noted that “during class hours [female students] were sent to their teachers’ houses to do some domestic chores”⁵¹⁷; this occurred “while boys were in class learning.”⁵¹⁸ Adolescent girls also experience higher rates of corporal punishment in schools,⁵¹⁹ which some “rational[ize] . . . as being part of their socialisation into becoming respectful and obedient wives and mothers.”⁵²⁰ This discriminatory treatment of adolescent girls reflects clear stereotypes about women’s role and place in society—women’s educational experience is less valued, for their primary function is to undertake domestic labour and be good wives and mothers.

In addition, the notion that “motherhood” and being a student are fundamentally incompatible appears pervasive. Semeni remembered being told by teachers, upon being expelled from primary school, “You are a woman now because you have a child. You are a mother, not a girl. We are teaching girls, we are not teaching mothers.”⁵²¹ Students in Semeni’s primary school echoed this language when they refused to play with her, telling Semeni that “you are not a girl, you are a woman, so don’t play with us, go there to other women.”⁵²² Similarly, Zambda’s parents refused to let her return to school “because [she] had become a mother.” There was “no reason for [her] to go to school now that [she] has a child.”⁵²³

Schools, reflecting broader social norms, thus dictate that motherhood is an all-encompassing role—one to which adolescent girls must devote themselves entirely. In this regard, expulsion is not just about punishing adolescent pregnancy but about forcing adolescent girls into the exclusive role as “mothers.” This explains why adolescent girls may be refused admission to school—particularly a government school—if they have been pregnant at some point in the past, regardless of their pregnancy status at the time of application for admission. As one secondary school teacher explained, “There is no way a girl who got pregnant can return to school. She has to raise the baby.”⁵²⁴

This mandatory approach to motherhood is also reflected in a commonly stated rationale for forced pregnancy testing—namely, to prevent pregnant adolescents from procuring an abortion.⁵²⁵ In essence, schools are trying to force female students to conform to this stereotyped norm by depriving them of their ability to choose whether to carry their pregnancies to term.⁵²⁶ Those who do manage to terminate their pregnancy, and are discovered, are punished with expulsion as well; the punishment is for having been pregnant as an unmarried adolescent and for terminating a pregnancy, both of which contravene prevailing social and cultural norms.

Stereotypes about women and their social roles, as well as stereotypes that prioritize the foetus or child over the pregnant woman or mother, are often used to restrict or prohibit adolescent girls and women from enjoying their fundamental human rights. Practices that “condition or confine women to mothering or domestic roles”⁵²⁷—for example, restricting pregnant women’s access to abortion and education—are clear examples of the oppressive use of stereotypes.

The Ministry of Education’s 1995 Education and Training Policy, recognizing the impact of harmful stereotypes on adolescent girls and women, states, “Education and school systems shall eliminate gender stereotyping through the curricula, textbooks and classroom practices.”⁵²⁸ Condoning practices such as the mandatory pregnancy testing or expulsion of pregnant students is in clear violation of this directive, as well as key constitutional, legislative, and human rights protections prohibiting discrimination based on sex.

Expulsion

Rutaindurwa of the Ministry of Education was definitive: “The government strictly does not want pregnant girls in schools. It’s not allowed.”⁵²⁹ She further clarified that “there are no exceptions to the expulsion policy”⁵³⁰—regardless of whether a student is pregnant as a result of sexual violence, early marriage, or economic necessity, she will be expelled or forced to drop out by school officials.

Thus, although not mandated by any national-level law, regulation, or policy, the Ministry of Education makes clear that pregnancy-based exclusion and expulsion is expected. School officials believe compliance to be mandatory.⁵³¹

No Counselling or Medical Support

Typically, once a school determines that a student is pregnant, the head teacher is informed and the student is immediately expelled. As discussed in the previous section, when a student’s pregnancy is discovered through mandatory pregnancy testing, she may receive news of both her pregnancy and her expulsion in one sitting, in a meeting with the head teacher. This experience can be simultaneously shocking and devastating.

Nonetheless, schools do not appear to provide support or counselling to pregnant adolescents,⁵³² even in cases of sexual violence.⁵³³ Neither government nor private schools make any effort to offer pregnant students medical care or to refer them to health care facilities or providers for antenatal care or counselling.⁵³⁴ Adolescent girls who are expelled do not appear to receive any health-related information,⁵³⁵ nor are they typically asked any questions by school officials, including questions concerning how they became pregnant.⁵³⁶

In Ashura’s case, for example, the school “just said you are pregnant, so you are expelled.”⁵³⁷ Nothing more was communicated to her. Ashura felt that the school “should ask girls how they get pregnant. Some girls are raped, some girls didn’t know how to prevent pregnancy because they didn’t have education on reproductive health.”⁵³⁸

According to one Ministry of Education official, “The school is not responsible for health care or counselling. It’s the role of the parent or guardian.”⁵³⁹ Essentially, once a student is found to be pregnant, the school severs all ties with her. Any duty of care owed to a student appears, in practice, to expire upon the discovery of pregnancy and is formally terminated shortly thereafter, upon expulsion. The student’s health and well-being are not taken into consideration. Instead, the focus is on ensuring her removal from the school.

Pregnant Adolescents’ Vulnerability to Poor Reproductive Health Outcomes

Punitive measures, such as expulsion for pregnancy, fail to address the multiple reasons underlying adolescent pregnancy—many of which concern serious failures on the part of the government and

schools.⁵⁴⁰ These measures further allow schools and government institutions to ignore the very real challenges that adolescents face when they become pregnant and give birth.

Pregnant adolescents are more likely than pregnant women to experience poor health outcomes during pregnancy and delivery and after giving birth. According to the WHO:

- Adolescents “aged 15–19 are more likely than older [pregnant women] to die in childbirth, while very young [pregnant adolescents] aged 14 and under are at highest risk.”⁵⁴¹
- “For every young woman who dies in childbirth, 30 to 50 others are left with an injury, infection, or disease.”⁵⁴²
- Adolescents are more likely to have preterm and low-birth-weight babies, who are “at risk of malnourishment, poor development or death.”⁵⁴³ The younger the adolescent, the higher the risk of giving birth to a preterm and low-birth-weight baby; however, “stress and lack of social support during pregnancy” also play a role.⁵⁴⁴
- Infant and child mortality is highest among children born to adolescents.⁵⁴⁵ Stillbirths and newborn deaths are 50% higher among infants born to adolescents than among those born to women aged 20–29.⁵⁴⁶ The risk is highest in babies born to adolescents aged 15 and below.⁵⁴⁷ In Tanzania, the rate of neonatal mortality is almost twice as high for infants born to adolescents compared with those born to women 20 to 29 years of age; the rates of postneonatal, infant, child, and under-five mortality are also higher for children of adolescents than of women who are 20 to 29 years old.⁵⁴⁸
- Adolescents are “less likely to have access to legal and safe abortion”⁵⁴⁹ and thus “more likely than adults to have unsafe abortions.”⁵⁵⁰ They are also “more likely to delay seeking care” for complications resulting from unsafe abortion.⁵⁵¹

For some adolescents, particularly those below the age of 15, some of these poor health outcomes may be due to the fact that they are not yet fully developed physically.⁵⁵² However, this is not necessarily “the decisive factor.”⁵⁵³ According to the WHO, other factors—relating to limited education, lack of access to financial resources, low social status, the stigmatization of adolescent sexuality, lack of autonomy, and a general lack of access to health

services for adolescents—play a critical role in poor health outcomes.⁵⁵⁴

Specifically, pregnant adolescents may face the following barriers to accessing services:

- **Stigma and social exclusion.**⁵⁵⁵ This may be further exacerbated in cases where adolescent girls are expelled from school for pregnancy. Pregnant students, fearful of discovery and expulsion, may be reluctant to seek the care they need. Once expelled, they often face stigma and alienation from family and friends. They receive no institutional support from their schools to facilitate and ensure their access to key reproductive health services.
- **A lack of information “about what services exist, when care should be sought and how to find care at the right time.”**⁵⁵⁶ The stigma associated with unmarried, adolescent pregnancy may further limit the support that pregnant adolescents might receive from family and friends to help them access such information and services.
- **Discrimination from health care providers on the basis of age and marital status.** According to the WHO, “Unmarried pregnant girls may be embarrassed to seek help from judgmental or critical service providers.”⁵⁵⁷ A similar situation may prevent adolescent girls from seeking or obtaining help from school officials, particularly given the repercussions for their education.
- **A lack of resources to pay for transport or care, even if informed of and familiar with these health care services.** As the WHO explains, “Pregnant girls have little money of their own and usually depend on support from others.”⁵⁵⁸

Although much attention has been paid to ways to prevent adolescent pregnancy, there has been less focus on ways to ensure that adolescents have access to the care they need once pregnant.⁵⁵⁹ Due to adolescents’ particular vulnerability to poor health outcomes—and the often marginalized social status of pregnant, unmarried adolescents—governments have a special duty to ensure pregnant adolescents’ access to the reproductive health care information and services that they need.⁵⁶⁰

Police Involvement: The Arrest and Interrogation of Pregnant Students and Their Parents

When schools do engage in follow-up after determining that a student is pregnant, their efforts appear to focus exclusively on passing the matter over to law enforcement. This is done to comply with Ministry of Education rules and the Law of the Child Act, which outline penalties for men or boys who “impregnate a pupil of primary or secondary school.”⁵⁶¹

Salma, a teacher at a secondary school in Mafinga who has handled pregnancy-related expulsion cases, explained that, in her experience, after the school determines that a student is pregnant, they take her “to the police station to give the information to the police.”⁵⁶² The student’s parents are not present, nor have they been informed of the pregnancy. The teachers tell the police that the student is pregnant, and “if she mentions who made her pregnant, the police will take action and find that man.”⁵⁶³

Salma gave additional reasons for reporting a student’s pregnancy to the police. She said that “sometimes a pregnant student may commit suicide, so to put the school in a safe position, they must go to the police.”⁵⁶⁴ This is presumably because any suspicious death must be investigated. Attempted suicide is a criminal offence in mainland Tanzania⁵⁶⁵—in fact, one school’s rules state that attempted or planned suicide is grounds for expulsion.⁵⁶⁶

Thus, in the event that a pregnant girl commits or attempts suicide, the police are aware of the circumstances of her case. But no preventative measures are taken. As Salma explained, “The police don’t take any action regarding the possibility of suicide. It’s just to let them know that the girl is pregnant in case anything happened. If you commit suicide, it will be a police case, so the police can then conclude that the suicide was from pregnancy.”⁵⁶⁷

Salma added, “Also, abortion is illegal, so it will be a police case.”⁵⁶⁸ In other words, student pregnancies are reported to the police so that if a student fails to eventually give birth, the police have grounds to suspect that she procured an abortion. This method of ensuring that adolescent girls are forced to carry their pregnancies to term is reminiscent of the justifications offered for mandatory pregnancy testing—namely, that it prevents adolescents from terminating their pregnancies.

Treating pregnant adolescents as potential or actual criminals is not unusual. Accounts exist of police arresting or detaining adolescent girls to force them to reveal the person who made them pregnant. In 2012, Handeni District Commissioner Muhingo Rweyamamu stated that the Handeni District Council had decided “to arrest and confine pregnant girls in order to extract information from them, ‘especially about the man responsible for the pregnancy because families tend to settle such matters at home and refuse to name the culprits.’”⁵⁶⁹

The same district also has a policy of mandatory pregnancy testing in schools every month. As a district social worker explained, “[O]nce the tests are conducted and girls found pregnant but refuse to name the people responsible, they are arrested and kept in custody. It is only when they agree to name the person that they are released.”⁵⁷⁰ Under this new regime, a Form 3 student at Sindeni Secondary School was “found pregnant and was arrested. . . . [S]he stayed in police custody for four days before being released.”⁵⁷¹

Arrest and imprisonment is a frightening and intimidating experience under any circumstance—being young and pregnant heightens this sense of vulnerability. An assessment by the Tanzania Women Lawyers Association indicates that adolescents who are arrested and placed in remand in Tanzania may be subject to “harsh detention conditions; being refused visits by their parents or guardians; [and] delay in their cases being heard,” among other mistreatment.⁵⁷²

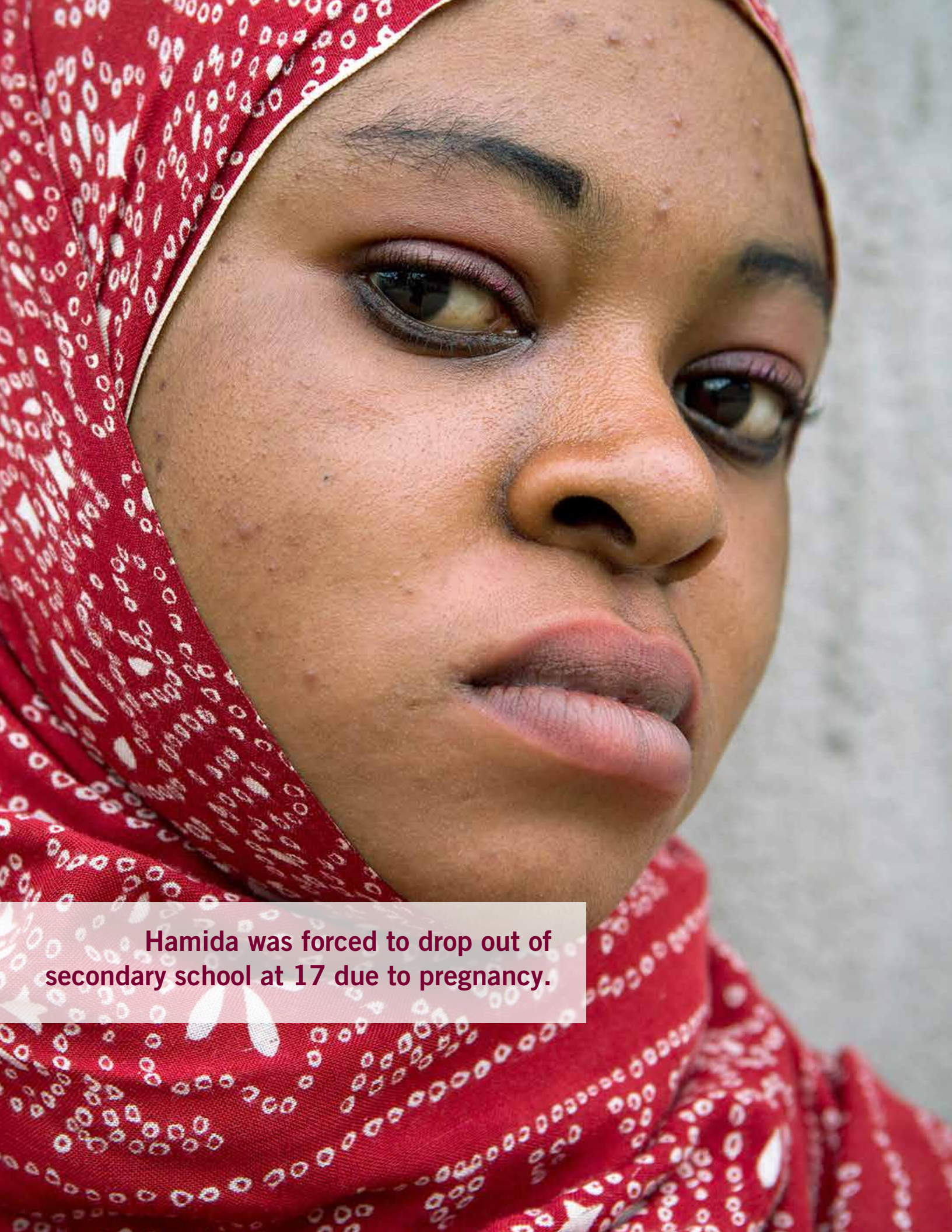
The detention, interrogation, and arrest of pregnant adolescents in an effort to identify the person who caused her pregnancy are not new practices in Tanzania. At times, adolescent girls are imprisoned even for refusing to cooperate with police investigations or to testify against an accused suspect. In April 2010, in the Muheza District, “one school girl was sentenced to six months jail sentence for being convinced not to [testify about] a man who had made her pregnant.”⁵⁷³

In 2011, in one of the most egregious initiatives of this kind, Mbeya Regional Commissioner Abbas Kandoro ordered district authorities to arrest and prosecute any student who became pregnant. These adolescent girls were to be arrested and “charged in a court of law” apparently simply for being pregnant. This order was issued in response to high rates of student dropouts due to pregnancy and a failure to prosecute the men responsible. Kandoro said, “I think the practice of arresting only those who make girls pregnant is not enough, we now need to also arrest those who get pregnant, we’ll only leave out someone who was raped, not someone who did it voluntarily.”⁵⁷⁴

According to news reports, Kandoro “instructed all district authorities in the region to draft a by-law to make it possible to arrest schoolgirls who become pregnant.”⁵⁷⁵ Kandoro rationalized this approach as not only accomplishing punitive goals but also somehow addressing the problem of adolescent pregnancy: “We want to put an end to this trend, and the girls must cooperate and name those who have impregnated them,” he said.⁵⁷⁶

Neither the status of being pregnant nor sexual activity by female minors is a crime under Tanzanian law. The arrest, prolonged detention, and imprisonment of pregnant adolescents on this basis is unlawful and a violation of numerous fundamental human rights. It also serves to further punish and stigmatize adolescents who become pregnant, reflecting a broader social condemnation of premarital sex and pregnancy outside of marriage. Kandoro’s comments convey the message that unmarried adolescent girls, unless they have been sexually assaulted, are at fault when they become pregnant. Authorities, charged with protecting adolescent girls from violence and helping them seek redress, instead unjustly use the tools of the criminal law against, and shift the responsibility for ensuring accountability to, the pregnant adolescent.⁵⁷⁷

Police have also arrested adolescent girls’ parents in an effort to identify the boys or men responsible for their pregnancies.⁵⁷⁸ After Hamida dropped out of school due to pregnancy, a letter was sent to her home asking Hamida’s mother to come to school to explain her daughter’s absence. Her mother was afraid to go “because if you go to school and explain that your daughter left because she was pregnant, the school will take the mother to the police and she must stay at the police until the boy who impregnated her [daughter] is found. They hold the mother against her will until they find the boy.”⁵⁷⁹



Hamida was forced to drop out of secondary school at 17 due to pregnancy.

Similarly, a former student at a primary school in Morogoro reported that when a student is found to be pregnant, the boy or “the boy’s parents must come to school and go to the police station. If his parents are not there and your parents or you can’t find the boy or parents, then you are taken to a cell while your parents go to search for the boy or boy’s parents.”⁵⁸⁰

In spite of these aggressive and unlawful arrests and interrogations, convictions of men for statutory rape or “impregnating a schoolgirl”⁵⁸¹ are rare. According to UNICEF Tanzania, “[T]hose who impregnate under-age girls . . . do not normally face any penalties, whether socially or legally sanctioned.”⁵⁸² Women, particularly adolescents, are often afraid to report these crimes due to stigma and fear;⁵⁸³ and even when the crimes are reported (whether voluntarily or due to coercive police practices), convictions are rare,⁵⁸⁴ often due to corruption⁵⁸⁵ or a lack of evidence.⁵⁸⁶

Police, prosecutors, judicial officers, and local government officials often blame the adolescent girl’s parents and the adolescent herself for this lack of accountability.⁵⁸⁷ Parents are accused of “colluding” with the man responsible and either negotiating an early marriage for their pregnant daughter (for social or economic reasons) or receiving financial compensation in exchange for refusing to provide the police with the suspect’s name. In some cases, the perpetrator is the adolescent girl’s parent, making accountability even more difficult. Consequently, adolescent girls may face pressure from their families and the man himself not to reveal the perpetrator’s name.⁵⁸⁸

As one court clerk explained, “[W]hen the school girls are made pregnant they are ultimately married [off by their parents to the suspects] and therefore fail to appear in court to give evidence as key or principal witnesses.”⁵⁸⁹ Even when parents are not involved, pregnant adolescents may face pressure from an often older sexual partner to refrain from cooperating with police. Some adolescents, such as Hamida and Sikudhani, also face pressure from a boyfriend or sexual partner to terminate their pregnancies, in order to avoid the male’s being arrested for impregnating a student.⁵⁹⁰

When the perpetrator is a teacher, the lack of accountability is often twofold. First, teachers are not held criminally responsible, for the reasons mentioned above. Second, schools fail to hold them professionally accountable; teachers responsible for sexual violence or coercion are often simply transferred to another school or even allowed to remain in place.⁵⁹¹ The cycle of sexual violence and pregnancy for female students is therefore permitted to continue.

As with the other punitive practices discussed in this report, this focus on prosecution and punishment comes at the expense of the adolescent girls themselves, adding yet another layer to an ever-growing series of rights violations that they experience. Pregnant adolescents—who are pregnant due to violence, coercion, or the government’s and community’s failure to provide information and services; subjected to forced pregnancy testing in school; and expelled and denied access to education—are then detained, arrested, and sometimes imprisoned.

This approach deliberately and wilfully ignores the underlying factors leading to adolescent pregnancy, as well as the government’s role in creating and perpetuating those factors. Instead, it wrongly shifts the government’s responsibility to ensure accountability, and to remedy its failure to protect adolescent girls’ rights, onto the shoulders of the adolescents themselves.

Abortion and Expulsion

Some adolescent girls, desperate to remain in school, resort to unsafe abortion to terminate their pregnancies. Although Tanzanian law permits access to safe and legal abortion to preserve a woman's life or mental or physical health and in cases of sexual violence, the service is largely unavailable in practice.⁵⁹² With unsafe abortion therefore often being the only option for these adolescents, they risk their lives and health in the hope of staying in school. [See Section One, p. 39.]

Some adolescent girls successfully evade detection of having had an unsafe abortion and are able to continue with their schooling. Others are not so lucky: many face health complications or even death, while others are unable to terminate their pregnancies and are forced to carry their pregnancies to term. For those who suffer complications from an unsafe abortion, the repercussions are greater than just the impact on their health. Should they survive the ordeal, they risk being expelled from school.

In addition to pregnancy-based expulsion, many schools expel students who are discovered to have had an abortion.⁵⁹³ "Aborting pregnancy" is one of the 13 possible grounds for expulsion set forth in the Ministry of Education's guidelines for secondary school head teachers.⁵⁹⁴ Procuring an abortion and helping someone abort can be found as grounds for expulsion in school-specific rules as well.⁵⁹⁵

In this way, adolescent girls are certain to be punished and expelled for pregnancy, regardless of their

actions. Even if a pregnant student obtains a safe and legal abortion, she may be expelled if the school finds out. Given the difficulties in distinguishing between abortion and miscarriage in certain cases, adolescents are likely also expelled for miscarrying.⁵⁹⁶

According to Rutaindurwa at the Ministry of Education, "They are expelled because it's a double crime: abortion is a crime, and then they are pregnant."⁵⁹⁷ Rutaindurwa's perception represents the general perception of this ground for expulsion, despite the fact that Tanzania allows abortion under certain circumstances, mentioned above, and despite the fact that being pregnant is not a crime.

"What the government does not like is that a girl gets pregnant before they complete their studies," explained Rutaindurwa.⁵⁹⁸ It does not matter if an adolescent girl terminates her pregnancy or even miscarries—if she is subsequently discovered to have been pregnant while a student, said Rutaindurwa, she will be expelled. By additionally expelling students for a history of abortion or miscarriage, the government and schools are focused on punishing and stigmatizing pregnancy and pre-marital sexual activity, under all circumstances. Punishing a student for procuring an abortion also reinforces prevailing gender stereotypes, which dictate that pregnant adolescents undertake an exclusive motherhood role at the expense of other life goals. [See Discriminatory Stereotypes, p. 90.]

Forced or Preemptive Dropouts

Many adolescent girls, once they realize that they are pregnant, choose to drop out of school rather than face formal expulsion, possible arrest, and stigma from teachers and classmates.⁵⁹⁹ Pregnant adolescents may also be directed to drop out of school by their families, for similar reasons or in order to be married. In addition, some teachers or nurses actually advise pregnant students not to return to school after the holidays, in an effort to "protect" the students and help them avoid formal expulsion.⁶⁰⁰

Rehema recalled that in her class, six students became pregnant at the same time, but only two were discovered by the head mistress and formally expelled. The rest were told by the nurse matron "not to come back to school."⁶⁰¹ The school administration was never notified of

their pregnancies. This is evidence of the fact that the available statistics on pregnancy-related "dropouts" are certainly underestimates.

Adolescent girls also choose to drop out because they feel isolated and unable to relate to their friends at school. Afraid to reveal their pregnancy because they want stay in school, they carry this burden alone. Sikudhani explained why she dropped out of school when she was seven months pregnant: "I decided to leave school because at that time I was tired and no one understood my situation, so I left. I told my friends to stop coming at my home, that I'm traveling. Nobody knew I was pregnant until I went to the hospital for delivery and then they found out."⁶⁰²

Adolescent girls who drop out of school due to pregnancy often do so without a word to friends or teachers. Sophia described her experience dropping out of her last year of secondary school: "None of my friends know about the pregnancy. I just disappeared. I didn't tell my friends. They think I just left."⁶⁰³ When Rehema dropped out from Form 2, some students were aware that she left school because she was pregnant, but "others just think I moved to another place," she said.⁶⁰⁴ Students who are expelled similarly refrain from informing friends about their pregnancies and the reasons for expulsion.⁶⁰⁵ Fear of stigma and social condemnation are key reasons for their silence.

Anger and Sadness, Stigma and Fear

Regardless of the circumstances of a pregnant student's departure from school, the immediate consequences for her and her family are similar. Families, faced with the end of their daughter's, sibling's, or niece's education due to pregnancy, absorb the news in various ways. The primary feelings are anger and sadness at the opportunities lost. The pregnant adolescents, in addition to having to bear their families' reactions, face the demoralizing and distressing effects of stigma from their friends and communities. Many are also afraid of giving birth and anxious about the future.

When Ashura's parents found out she was pregnant and expelled from a government boarding school at 15, "They chased me away. My father beat me," she recounted. "I was so sad." She was five months pregnant at the time. She fled to her grandmother's house, in a rural area, far from where her parents lived. Her parents did not come to see her; her friends at school did not know that she was pregnant or why she was expelled. She felt very much alone.⁶⁰⁶

Sikudhani was expelled from her private, religious school at age 19. The assistant mistress told her that she could not stay in school because "what you did is shameful." When her mother found out, she "was crying and refused to talk to me. She was angry," said Sikudhani, herself crying as she remembered her mother's reaction.

Sikudhani's mother then told her brother-in-law that Sikudhani was pregnant. He was verbally abusive towards Sikudhani and demanded to know why Sikudhani had not told him about the pregnancy earlier. "Even in the hospital," said Sikudhani, "when I went to deliver," he was verbally abusive. Sikudhani had been having fainting spells towards the end of her pregnancy; her child was stillborn.⁶⁰⁷

Neema's father was similarly "angry and harsh" after learning of his daughter's pregnancy. After Neema gave birth, her father took her newborn child away to be raised by the child's father. She was not asked for her opinion. Neema currently has no contact with her child.⁶⁰⁸

When Sophia's family learned that she was pregnant, they "chased [her] away" and told her that she could not stay at home. She said that "later on they realized they made a mistake because I had nowhere to go, so they decided to take me back."⁶⁰⁹

Mostly, however, adolescent girls spoke of an overwhelming sadness on their and their families' part. Zambda spoke for many pregnant adolescents interviewed for this report when she said, "I feel so sad, and it's painful because my goal of going to school did not succeed."⁶¹⁰ Hamida's brother, who had been supporting her financially to go to school, was "very sad" and cried when he found out she was pregnant.⁶¹¹ Rehema's mother "was crying all day" when she was given the news.⁶¹² Many of these adolescents come from families struggling to make ends meet. Seeing a family member who is young, expelled from school due to pregnancy, and now in need of financial support to raise a child, can be devastating for families.

Pregnant adolescents also face anxiety about their parents' and partners' reactions. Tatu explained that she was "so worried" after receiving her positive test result from the school:

*I couldn't face my parents, even my mother, to tell my mother I'm pregnant. She will beat me. I don't have courage to stand by my relatives and say I'm pregnant. Even my boyfriend, if I told him . . . he could say it's not my pregnancy or he can beat me and ask how I can prove it's his pregnancy.*⁶¹³

In Tanzania, stigma and condemnation surrounding extra-marital adolescent pregnancy is strong.

Many of the adolescent girls interviewed for this report spoke of how their friends were "back-biting" and verbally abusive when they found out about their pregnancies. Community members called Rehema a "prostitute," which made her feel terrible—she cried as she recalled this.⁶¹⁴ Hamida said that her friends discriminated against her and used abusive language towards her: "These friendships have ended without a close relationship like before."⁶¹⁵ Semeni's teachers, friends, and neighbours harassed her and "talked badly" when they found out that she had given birth, which made Semeni feel "very bad and furious."⁶¹⁶ Chika's friends "ostracized" her and "didn't want to be friends" with her anymore.⁶¹⁷

According to Anna, a Form 4 student in Mafinga, when a student is expelled for pregnancy, the teacher makes an example of her. "They make reference to someone being expelled because she's pregnant and say, 'So it's to you now to behave. If you get pregnant, you will also be expelled.'"⁶¹⁸ Teachers thereby reinforce the stigma around adolescent pregnancy, legitimizing the disparaging behaviour of fellow students.

Semeni expressed the following request: "Please do not stigmatize these girls, because if you do so some girls will not be able to handle it and will commit suicide or die."⁶¹⁹ Semeni's friend became pregnant a few years ago and, due to the stigma, felt forced to take steps that cost her her life. "Her peers laughed at her and said bad things towards her, and her boyfriend rejected her, so she decided to have an [unsafe] abortion. But it was not successful and she died," recalled Semeni.⁶²⁰

Even in the best of circumstances, where family members are supportive and friends and teachers sympathetic, being a pregnant adolescent is a lonely and scary experience. Maria, pregnant at 13 after being raped by the caretaker of her employer's property, lived with her extremely supportive sister and brother-in-law. Her friends, teachers, and the health care providers at the nearby hospital all knew the circumstances of her pregnancy and felt "so sorry" for what had happened to her. Her friends visited her regularly, at home, after she was expelled. But as Maria explained, "I was feeling so bad while I was at home." Forced out of school, Maria was home alone while her friends continued with classes and school activities. With delivery looming, she was scared about giving birth, worried that she would suffer complications.⁶²¹

Complications in adolescent births are common. [See Pregnant Adolescents' Vulnerability to Poor Reproductive Health Outcomes, p. 92.] For adolescents under 15, as Maria was, "there are [also] physical risks associated with the fact that the pregnant girl is not fully developed."⁶²² Studies have also shown higher rates of perinatal and neonatal mortality among babies born to adolescents.⁶²³ Not surprisingly, a number of the adolescent girls interviewed for this report who were forced out of school due to pregnancy had stillbirths or reported their child's death during delivery or within the first few weeks after birth.⁶²⁴

Exclusion from Government Schools

Although not stated in any policy or law, it is clear that government officials and school administrators understand pregnancy-related expulsion or "dropouts" to further prohibit adolescent girls from ever returning to any government school, whether primary or secondary, to continue with their education.⁶²⁵ According to a Ministry of Education official, "Government schools are not allowed [to admit adolescent girls after giving birth]. Private schools can decide that they can reaccept girls if they want. [But] if a government school allowed a pregnant girl back it would be serious. Stern measures can be taken against [the head teacher] because it's not allowed."⁶²⁶

Exclusion from schools for pregnancy thus occurs on two fronts. As discussed in the previous section, prospective pregnant students are denied admission to school following a coercive pregnancy test, which some schools require as part of an overall medical examination that determines physical fitness for enrolment. This may also prevent a pregnant student's immediate readmission during pregnancy. In addition, readmission to a government school following pregnancy is universally refused, simply on the basis of past pregnancy status.

Yet, the law on exclusion makes no mention of pregnancy or previous expulsions as grounds for refusing readmission. [See Section Two, p. 47.] In fact, according to a recent UNICEF publication, "In 2010 the Ministry of Education and Vocational Training clarified that there was no official policy preventing girls from returning to school after giving birth."⁶²⁷ Nonetheless, this understanding was consistently reiterated by officials at the Ministry, teachers, policymakers, and education experts.⁶²⁸ It also appears to be the case in all government-run schools in practice.



Semeni was expelled from primary school for being pregnant. She now works part-time in this restaurant in Dar es Salaam to support herself and her son.

Essentially, if a student is expelled or drops out and wishes to apply for admission to another government school, she must first justify her prolonged absence and provide transfer paperwork, certifying her good standing at her previous school. If expelled for pregnancy, her previous school will not provide this documentation. If she dropped out due to pregnancy, she must reapply for admission to school within 90 days,⁶²⁹ explain her reasons for and whereabouts since leaving school, and provide proof to support her claim.⁶³⁰

For example, if a student has been absent due to illness, she must supply a certificate of treatment and a letter from the doctor who treated her. It is hard for adolescent girls to justify and provide support for their prolonged absence without making reference to their pregnancy. Most schools will therefore not admit them. [See Tatu's Story, p. 86.] Even if a student is able to justify her absence without reference to her pregnancy, she may be subsequently expelled from a government school should the school administration discover that she has a child, as was the case with Semeni.⁶³¹ In this way, female students who become pregnant while in school are effectively locked out of the public school system.

Some schools will allow a pregnant student who is just about to graduate to return to take her exams. This is understood as permissible because of a government official's announcement to that effect in 2010:

[T]he then Deputy Minister for Education and Vocational Training, Mwamtumu Mahiza, informed the public that all standard seven school girls who became pregnant after being registered for their final exams would be allowed to sit for the exams. She stated that instructions had been given that pregnant girls who had been registered should remain at home during classes but should be allowed to sit for their final examinations.⁶³²

However, in practice, as documented by the Legal and Human Rights Centre, a Tanzanian legal and human rights advocacy and monitoring organization, "most students who became pregnant after being registered were barred from writing their final exams."⁶³³ Some students were barred "from continuing with their exams after they sat for their first exam."⁶³⁴ There also seems to be a lack of clarity about whether Mahiza's announcement applied just to those students sitting for exams in 2010 or whether it was a permanent decision taken by the Ministry and meant to apply to all students going forward.⁶³⁵

In late 2012, the Ministry issued a follow-up directive requiring schools to refrain from expelling students in their final year of primary or secondary school so that they may take their national examinations and complete this portion of their education.⁶³⁶ It is too early to say whether this new directive is being implemented in cases of student pregnancy.

Reenrolment in Private School

This government school practice of exclusion means that continuing with formal education after being expelled for pregnancy is usually possible only for those with the financial means to cover the fees for private school and the cost of child care. Given that adolescent pregnancy is most common among poor and rural adolescents in mainland Tanzania,⁶³⁷ this policy effectively shuts most pregnant students out of the formal education system.

Chika, who became pregnant after having sex with a man who was supporting her financially to meet her basic needs, had no funds for secondary school and no one to care for her child even if there were.⁶³⁸ Hamida said that her parents were willing to support her to return to school, “But the problem is who is going to stay with the child?”⁶³⁹ For Rehema, Neema, and Ashura, the school fees and transportation costs for private school were simply prohibitive.⁶⁴⁰

Adolescent girls’ lack of access to private schools is not just about financial constraints; it is also about stigma. Sometimes a student’s family will refuse to pay for her to continue her education after pregnancy, deciding that she is no longer worth the investment. Zambda had just finished primary school and had been planning to go to a private secondary school when she found out that she was pregnant. Her parents said that she should stay home and deliver, and then she could enrol in secondary school.

Yet, when the time came for Zambda to join secondary school, her parents refused to let her continue with her studies because they said she needed to stay home and care for her child. When Zambda’s child died soon after delivery, and she asked again if she could return to school, they still refused. They said, “What is the point?” Zambda said that her parents, especially her father, were angry about what had happened and therefore did not want to support her return to school.⁶⁴¹

Similarly, when Sikudhani told her mother of her desire to return to secondary school, her mother told her that “the family has put [her] aside, and [so] there is no one to support [her] to continue with secondary school.”⁶⁴² Essentially, families—echoing the position of schools—are communicating that adolescent girls who become pregnant are less deserving of educational opportunities.

This stigma and discrimination towards adolescents who become pregnant is internalized by private schools as well. Although some private schools allow adolescents who have been pregnant to enrol, they tend not to publicly admit to doing so. Some of these schools may even require students to refrain from speaking about their children as a condition for enrolment.⁶⁴³ Maria enrolled in a private school after being expelled from her government secondary school for becoming pregnant as a result of rape. She said that she knows of other classmates at her private school who were also expelled from government schools for pregnancy. “But, if you ask the headmaster, they deny they have ‘such kinds of girls.’”⁶⁴⁴

Alternatives to Formal Schooling: Vocational Institutions and Training Centres

Returning to formal schooling after pregnancy thus depends on arbitrary factors—financial means, supportive parents, a good relationship with a teacher, or a teacher taking a particular interest in a student’s future.⁶⁴⁵ For most adolescent girls whose schooling is forcibly interrupted by pregnancy, the only option for continued education is to enrol in a short-term vocational training course.

Vocational training centres provide students with an opportunity to gain critical skills for employment, such as training in carpentry, foundry, tailoring, and cookery. In Tanzania, these centres are largely geared towards traditionally “male employment areas” and enrol many more



Zambda became pregnant after completing primary school and never matriculated to a private secondary school as planned.

Discriminatory Impact: No Repercussions for Male Students

As discussed in Section Two, the government's expulsion regulations make no specific mention of pregnancy as grounds for expulsion. This understanding instead seems to stem, in part, from guidelines for secondary school teachers issued by the Ministry of Education. However, these guidelines indicate that both "getting pregnant" and "impregnating someone within and outside the school" may be grounds for expulsion.⁶⁵¹

School-specific rules often adopt this language or a modified version of it. Schools that do not mention pregnancy specifically may instead use broader, also ostensibly "gender-neutral," language and prohibit all sexual activity or "romantic" relationships. Thus, in theory, adolescents of either sex may be expelled for having sex or for pregnancy in most schools. However, in practice, males rarely appear to be disciplined for sexual behaviour or for impregnating a fellow student.⁶⁵²

Multiple interviewees attested to the fact that schools typically do not take any disciplinary measures against adolescent boys who impregnate adolescent girls.⁶⁵³ As Martha, a Form 4 student, explained, "Boys can be expelled for drinking or drugs but not for pregnancy. . . . If the boy is from the same school [as the student he impregnated], he will remain in school."⁶⁵⁴ According to Hellen Kijo-Bisimba, executive director of the Legal and Human Rights Centre in Tanzania, "I only heard once of a boy who was held responsible for impregnating a school girl. We have been doing a lot of campaigns regarding this but nothing has been done so far."⁶⁵⁵

This failure to apply the same disciplinary measures to adolescent boys as girls may be due to any number of reasons. Some teachers, advocates and education officials suggested that schools do not hold male students accountable in the same way because, in practice, it is difficult for school officials to identify the male involved.⁶⁵⁶ Some also noted that adolescent boys can easily switch to another school, if necessary,⁶⁵⁷ to avoid repercussions—a luxury that

adolescent girls do not have. Tatu's story illustrates this reality. [See Tatu's Story, p. 86.]

Certainly, due to females' biological capacity to become pregnant, it is much easier to determine whether an adolescent girl has engaged in sexual activity and to expel her on these grounds. However, the discriminatory application of the expulsion policy may also stem from broader social prejudices that place greater value on males, and their education, than females. [See Discriminatory Stereotypes, p. 90.] It may further reflect an intention to punish pregnancy specifically, as opposed to sexual activity.

The situation at one secondary school in Dar es Salaam supports this understanding. Teachers interviewed for this report explained that their school rules prohibit sexual intercourse. Adolescent girls are therefore expelled for being pregnant because they broke school rules and had sex, which led to their pregnancy. However, while pregnancy as evidence of sex would lead to expulsion, sexual activity alone would not. The teachers explained that male and female students alike have been, and are being, disciplined for having sex but that the disciplinary measures involved in such cases are suspension and corporal punishment. In other words, as far as the teachers were aware, students are not being expelled for sexual activity alone.⁶⁵⁸

In practice, adolescent boys do not seem to face the same repercussions as adolescent girls for the same disciplinary offences—whether sex or pregnancy—in school. This is not to condone or advocate for greater enforcement of these disciplinary rules against male students. Indeed, the expulsion of adolescent boys on the basis of pregnancy or sex would violate their human rights, too, such as the right to education. Rather, the point is simply to observe that the application of discipline is one-sided and discriminatory.

males than females.⁶⁴⁶ Vocational schools have substantially increased their enrolment in recent years; however, they still lack the capacity to meet demand, particularly in rural areas.⁶⁴⁷

Although vocational centres offer the opportunity to obtain critical skills to gain entrance to the workforce,⁶⁴⁸ they cannot be said to provide the same educational experience or future prospects as a primary or secondary school education.⁶⁴⁹ A government policy of simply redirecting pregnant adolescents into vocational education systems is discriminatory. By denying adolescent girls who become pregnant the opportunity to return to the same type of school—namely, a primary or secondary school—the government is deliberately depriving adolescent girls of a specific, more valued educational experience.

Some private schools behave similarly. Sikudhani was expelled from her private school but then allowed to attend the same school's vocational courses, housed within the same complex as her private secondary school.⁶⁵⁰ There is no logical justification for this. It is simply a punitive practice, meant to make clear that adolescent girls who become pregnant forfeit their right to certain opportunities and, in effect, become second-class citizens.

In this way, adolescent girls from poorer families who cannot afford private school are doubly discriminated against. They are permanently denied access to a more affordable, government school and shut out from private school alternatives. This leaves them without recourse to an equivalent educational opportunity simply because of their socioeconomic status. The consequences for these adolescent girls are severe, as discussed below.

The Consequences of Exclusion and Expulsion for Adolescent Girls

I lost everything—school, the baby. If I get the chance, I'd like to go back to school. Otherwise, I am just home.

—Sophia, forced out of school due to pregnancy at age 18⁶⁵⁹

Exclusion or expulsion from primary or secondary school due to pregnancy can be devastating for pregnant adolescents. In addition to confronting stigma and fear, adolescent girls who are expelled for pregnancy face a challenging future. Although some may be fortunate enough to return to a private school to continue with their studies after giving birth, the vast majority expelled for pregnancy have neither the financial means nor the support structures to do so.

On the Streets

Some adolescent girls are forced out of their parents' homes due to the stigma and shame surrounding adolescent pregnancy.⁶⁶⁰ They may end up living on the streets, where they are at risk of being forced into commercial sex work⁶⁶¹ or human trafficking.⁶⁶² A report by the Tanzanian Education Network notes "the clear link between children being out of school and subsequently migrating to the streets."⁶⁶³

This was Ashura's fate. After her pregnancy ended in a stillbirth, she was sent to work as a "house girl" for a woman in Dar es Salaam, far from her parents' home. According to UNICEF,

“Rural adolescents are sometimes sent by their families to work in the homes of urban relatives, though the families do not recognize this as trafficking.”⁶⁶⁴ However, her employer was abusive, and Ashura felt compelled to leave. With nowhere to go and no one to turn to, she ended up on the streets.

Ashura’s situation is not uncommon. In Tanzania, adolescents make up the majority of individuals under the age of 18 who are either living on the streets or trafficked, and very few organizations exist to help meet their needs.⁶⁶⁵ Ashura was fortunate enough to be taken in by someone who found her living in a homeless shelter for youth; nevertheless, four years after being expelled from school, she remains unemployed. Her hopes for returning to school rest on her finding the financial means to do so.

Forced into Commercial Sex Work

Some adolescents who are excluded or expelled from school because of pregnancy have no choice but to resort to commercial sex work to support themselves and their children. A teacher at a vocational school in Dar es Salaam that caters to adolescent girls who have been forced out of school due to pregnancy stated that a number of them end up leaving the vocational courses to enter into sex work. These adolescents are in desperate need of an income, she explained, and cannot wait six months to complete a training course to begin earning a living.⁶⁶⁶ Commercial sex workers in Tanzania are at a significantly higher risk of HIV infection⁶⁶⁷ and additional pregnancies.

Early Marriage

Other pregnant adolescents are forced into early marriage.⁶⁶⁸ Parents, often unable or unwilling to support their pregnant and out-of-school daughter, may marry her to the man who fathered her child. [See Police Involvement: The Arrest and Interrogation of Pregnant Students and Their Parents, p. 94.] As discussed in Section Two, females in Tanzania may be legally married as early as age 14, with parental consent and court approval. Although marrying or marrying off a female student is a punishable offence according to rules and circulars from the Ministry of Education,⁶⁶⁹ that protection is lost for adolescent girls who are no longer within the school system.

Early marriage, in turn, may lead to additional early pregnancies. It is also associated with high rates of physical abuse and abandonment.⁶⁷⁰ According to the 2010 Tanzania Demographic and Health Survey, nearly 10% of married adolescent girls aged 15–19 experience physical violence during pregnancy.⁶⁷¹ The instability of these marriages often leads to separation or divorce, potentially leaving a young mother to support herself and her children.⁶⁷² Early marriage may also reduce an adolescent girl’s chances of returning to school, given that marriage is grounds for expulsion from school under Tanzania’s expulsion regulations.⁶⁷³

Unemployment and Limited Education Prospects

Even if not married off or abandoned, many pregnant adolescents are forced to leave their parents’ homes out of financial necessity. Adolescent girls in rural areas may head to Dar es

Salaam, hopeful that the city will offer more employment prospects than their village or nearby town. But even in the city, employment opportunities are few and far between.

Tanzania’s unemployment rate, as of 2011, stands at 10.7%.⁶⁷⁴ Youth unemployment, however, “is almost twice the national unemployment rate and disproportionately affects urban youth and young women in particular.”⁶⁷⁵ The fact that these youth lack either a primary or secondary school graduation certificate makes finding a job all the more challenging. As Hamida, forced out of school at age 17 due to pregnancy, stated, “I would like to be helped to go back to school because life without studying is like ending your opportunities. There is nothing you can get in the market. It is difficult to get a job.”⁶⁷⁶

Of the adolescent girls interviewed for this report, some of whom were forced out of school more than three years ago, not one of them currently has a full-time job. Sophia, Hamida, Chika, and Zambda live with family and are unemployed.⁶⁷⁷

Some have managed to find part-time employment, earning perhaps a few thousand shillings per day. Tatu is a fruit vendor.⁶⁷⁸ Neema, sent to Dar es Salaam after giving birth, helps her aunt sell porridge.⁶⁷⁹ Rehema, unemployed until recently, just acquired a part-time job cooking at a small hotel in town; she has been out of school for almost seven years.⁶⁸⁰ Semeni works part-time in a small restaurant to support herself and her three-year-old son.⁶⁸¹

All of these adolescents expressed a strong desire to return to school if they could find the money or someone willing to support their return. They also acknowledged that their employment prospects would have been better had they completed primary and secondary school.

Cycle of Poverty

If the mother doesn’t have education, then the child may not get an education as well. Who will teach the child something?

—Semeni, forced out of primary school due to pregnancy⁶⁸²

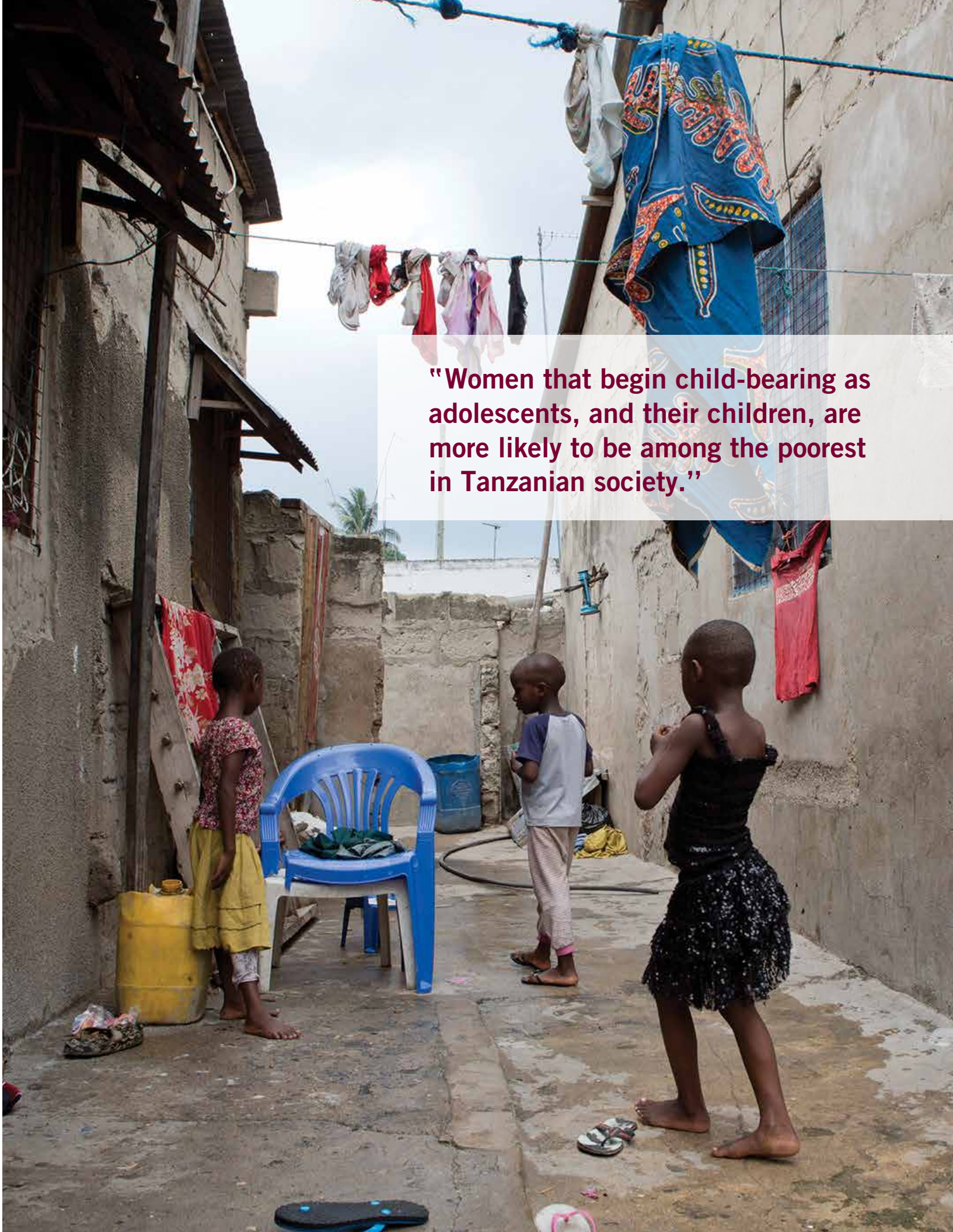
As many studies have shown, there is a strong and direct correlation between an individual’s level of educational achievement and his or her socioeconomic status. The U.N. Special Rapporteur on Education has pointed to studies that demonstrate the importance of secondary education, as opposed to just primary education, as “the key to reducing poverty.”⁶⁸³ In Tanzania specifically, a 2010 study “indicated that the higher the level of education of the household head, the higher the household per capita income. Indeed, if the education of a rural household head was raised by one level, per capita household income would rise by approximately one-third.”⁶⁸⁴

Poverty is central to the adolescent girls’ stories documented throughout this report. Poverty leads to early pregnancy and prevents female adolescents from accessing key educational opportunities after giving birth; this, in turn, affects the opportunities available to the next generation. According to a report by UNICEF Tanzania, “Women that begin child-bearing

as adolescents, and their children, are more likely to be among the poorest in Tanzanian society.”⁶⁸⁵

The same UNICEF report further states that “women who start having children in adolescence tend to have more children and shorter spacing between pregnancies—all of which are risk factors for maternal and neonatal mortality.”⁶⁸⁶ Thus, many of these adolescent girls face the prospect of additional children to support, as well as potentially fatal health consequences, further preventing them from improving their economic situation.

In sum, as the WHO has noted, “Early childbearing can entrench a vicious cycle of poverty.”⁶⁸⁷ For many of these adolescent girls, the prospects for providing their children with a better life are greatly diminished by their own incomplete education and consequently limited employment opportunities.



“Women that begin child-bearing as adolescents, and their children, are more likely to be among the poorest in Tanzanian society.”



Ashura's Story

Ashura was 15 years old and a first-year secondary student at a government boarding school in Iringa when her teacher informed her that she was pregnant following a mandatory urine pregnancy test. The news was unexpected and shocking for Ashura. She had not known that she was pregnant. Ashura also did not know that she would be immediately expelled as a result.

The teacher told her, “You know the rules, you must go home if you are pregnant.”

The headmistress then issued a letter of expulsion, addressed to Ashura's parents, explaining that the ground for expulsion was pregnancy. No one asked Ashura how she became pregnant or referred her to health care or counselling services. Instead, the matron simply escorted Ashura home, gave the letter to Ashura's parents, and left.

At the time of her expulsion, Ashura was approximately five months pregnant. She had been in secondary school for only seven months. She did not tell her friends at school about the pregnancy or expulsion—she just disappeared.

Ashura recalled that she was “so sad when [she] came back home” and that her parents “were furious” when they were told by the matron that Ashura was pregnant. If you get pregnant, she explains, “it is shame for the family.” Ashura's father beat her and then kicked her out of their

home. She fled to her grandmother's house, in a village far from where her parents lived.

Ashura stayed with her grandmother for three months, until she was eight months pregnant. During that time, she did not have any antenatal check-ups or receive any health care, for the nearest hospital was too far away.

Ashura's mother came to visit Ashura about a month before her due date and brought her home to deliver. A few weeks later, Ashura gave birth in the hospital to a stillborn child. The doctor did not explain to Ashura why “the baby died in the womb.”

Ashura did not consider trying to return school after giving birth. She knew that she could not go back to a government school “because of the regulation that you can't be in school once you get pregnant.”

No public school could accept me after I was expelled for pregnancy.”

Her parents could not afford a private school: “They are not well off economically, and they couldn't afford to pay [the school] fees,” she says.

In need of employment, Ashura agreed to work as a house girl in Dar es Salaam for a woman from her village. She travelled to the city to begin her employment, but the woman was rude and abusive. Ashura decided that she could not stay

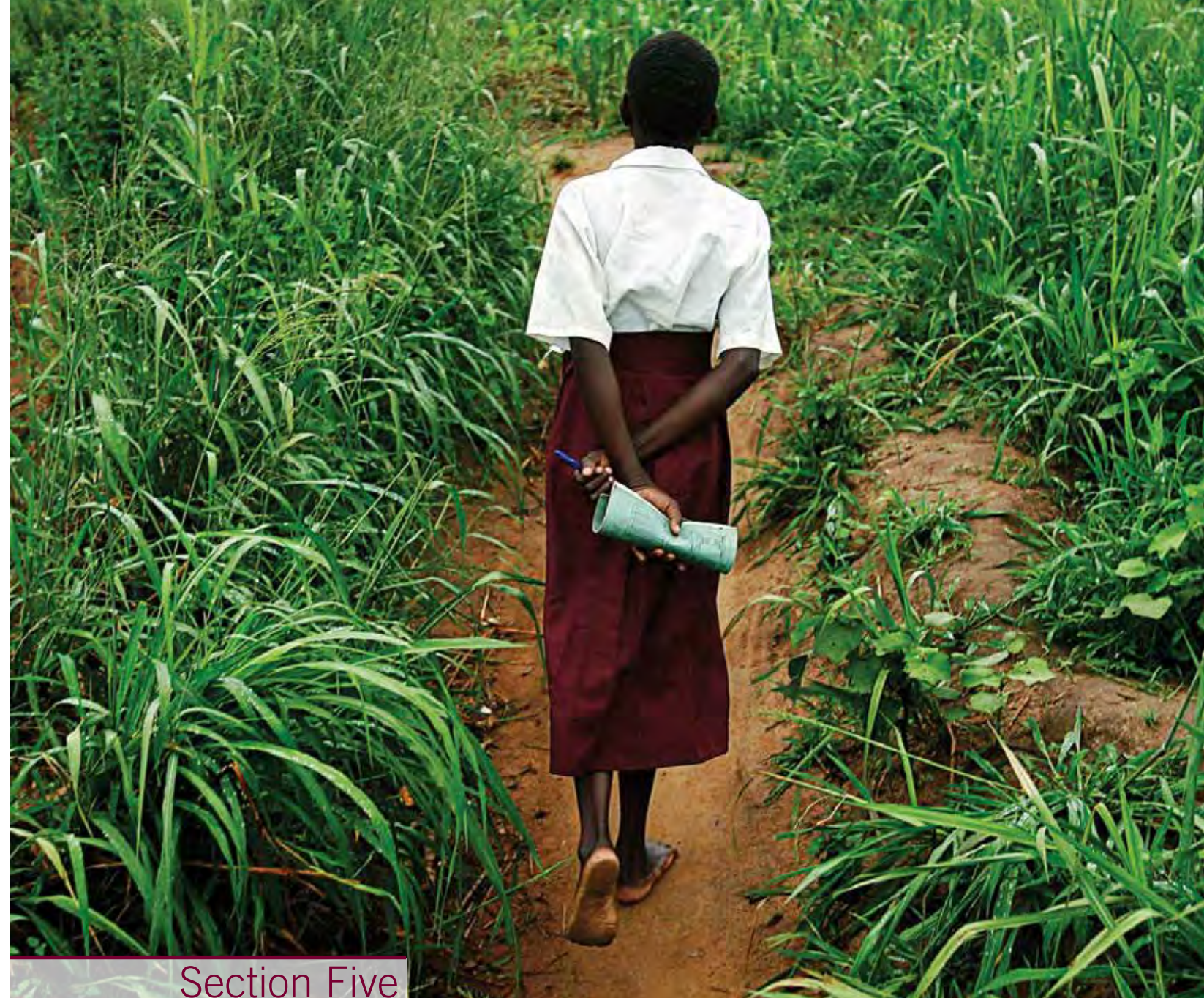
with her and felt that she had to run away. Knowing no one else in Dar es Salaam, Ashura took to the streets.

Being homeless was dangerous, remembered Ashura. “It's not safe for a girl because there are street boys and gangs.” A woman saw Ashura living on the streets and took her to a centre for homeless youth. Another woman eventually brought Ashura home to live with her, where Ashura still lives today.

It has now been four years since Ashura was expelled from school and moved to Dar es Salaam. She would like to return to school and undertake a degree programme—one that allows students to complete secondary school in two years instead of four. She just needs to find the funding. She would like to find a job and “save [her] wages to go back to school.” Right now, she is unemployed.

Ashura recommends that the government “abolish the policy of expelling students for pregnancy.” She thinks that “they should let girls go home [from boarding school] to give birth and then come back to school.” Ashura also stresses the importance of providing reproductive health education to students in schools “because most students don't know anything, like me, and get pregnant because they don't know how you get pregnant.”

If I had known [how to prevent pregnancy], I would have finished my studies.”⁶⁸⁸



Section Five

LEGAL STANDARDS:
HUMAN RIGHTS VIOLATIONS IN
THE CONTEXT OF MANDATORY
PREGNANCY TESTING AND
THE EXPULSION OF PREGNANT
STUDENTS

The discrimination and abuse documented in this report constitute serious violations of fundamental human rights protected under national, regional, and international law. The Tanzanian government is obligated to guarantee the right to equality and nondiscrimination; the right to dignity; the right to be free from torture and cruel, inhuman, or degrading treatment; the right to education; the right to privacy; the right to liberty and security; the right to health; the right to information; and the right to life.

Regional and International Standards

Several regional treaties ratified by the United Republic of Tanzania—the African Charter on Human and Peoples’ Rights (Banjul Charter),⁶⁸⁹ the African Charter on the Rights and Welfare of the Child (African Charter on Children),⁶⁹⁰ the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol),⁶⁹¹ the African Youth Charter,⁶⁹² and the Southern African Development Community’s Protocol on Health⁶⁹³— provide important protections for the rights of women and girls in Tanzania.

Tanzania has also committed itself to upholding international human rights standards by ratifying several major global treaties, including the International Covenant on Civil and Political Rights (ICCPR),⁶⁹⁴ the International Covenant on Economic, Social and Cultural Rights (ICESCR),⁶⁹⁵ the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),⁶⁹⁶ the CRC,⁶⁹⁷ and the Convention on the Rights of Persons with Disabilities.⁶⁹⁸

A state that ratifies or accedes to an international convention “establishes on the international plane its consent to be bound by a treaty.”⁶⁹⁹ The government of Tanzania is therefore obligated under international law to protect the rights guaranteed by these instruments. While Tanzania has not incorporated the vast majority of these treaties’ provisions into its national-level laws,⁷⁰⁰ under the Vienna Convention on the Law of Treaties, “[a] party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.”⁷⁰¹

The legally binding provisions of the aforementioned human rights conventions are complemented by politically binding regional and international consensus documents that support a human rights and women’s rights framework. These include the outcome documents of conferences such as the United Nations International Conference on Population and Development, the Fifth African Regional Conference on Women, the 2nd Ordinary Session of the Conference of African Ministers of Health, and the United Nations Fourth World Conference on Women.⁷⁰²

Moreover, Tanzania has committed itself to attaining the United Nations Millennium Development Goals, which seek, among other things, to promote gender equality and ensure

universal access to education.⁷⁰³ Tanzania’s Development Vision 2025 likewise focuses on achieving gender equality and ensuring access to education.⁷⁰⁴ By signing on to these documents, Tanzania has further demonstrated its commitment to upholding and supporting the realization of women’s and adolescents’ rights.

The government of Tanzania is legally bound to respect, protect, and fulfil the following rights pursuant to the regional and international conventions that it has signed or ratified. These legal obligations require the government to ensure that state and nonstate actors alike—including both private and public schools and health care facilities—comply with the rights discussed below.⁷⁰⁵

Right to Equality and Nondiscrimination

The rights to equality and nondiscrimination—regardless of gender, age, or financial resources—are bedrocks of human rights doctrine and fundamental principles of international and regional law.⁷⁰⁶ Every human right discussed in this section must be exercised without discrimination.⁷⁰⁷ The Banjul Charter not only declares that all individuals are “equal before the law” but also specifically requires that states “ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.”⁷⁰⁸ Similarly, the Maputo Protocol calls on states to reform laws and practices that discriminate against women.⁷⁰⁹ The African Youth Charter explicitly acknowledges “the need to eliminate discrimination against girls and young women.”⁷¹⁰

Article 1 of CEDAW defines “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.*⁷¹¹

Mandatory pregnancy testing and the expulsion of pregnant students are practices that discriminate against adolescent girls on the basis of their sex, targeting both their unique capacity to become pregnant and their actual pregnancy status. Mandatory pregnancy testing is a degrading, nonconsensual practice that discriminates against adolescent girls in general, while the consequent practice of expulsion targets pregnant adolescents specifically.

As discussed earlier, adolescent boys are not similarly subject to invasions of their privacy or efforts to control their sexual activity while in school; nor are they expelled from school for sexual activity or impregnating a female student. Particularly in the realm of expulsion, pregnant adolescents are disproportionately targeted and disciplined. The Children’s Rights Committee, which monitors compliance with the CRC, has noted that “discrimination against certain groups of children still exists in legislation as well as in practice [in Tanzania], particularly with regard to teenage pregnant girls.”⁷¹²

The effect of this discrimination is to impair adolescent girls' enjoyment of their fundamental human rights to dignity, privacy, education, health, liberty, life, and freedom from cruel, inhuman, and degrading treatment, among other rights, on an equal basis with men.

CEDAW and the body that oversees its implementation, the CEDAW Committee, establish that mandatory pregnancy testing as a condition of employment⁷¹³ and dismissal from employment on grounds of pregnancy⁷¹⁴ are forms of discrimination against women. An analogy can be made to mandatory pregnancy testing as a condition of admission or enrolment in school and expulsion on the basis of pregnancy—both practices are clearly forms of discrimination on the basis of sex.

The gender stereotypes that underlie these practices also constitute discrimination against adolescent girls on the basis of their sex.⁷¹⁵ [See Discriminatory Stereotypes, p. 90.] Reinforcing the legal requirements in CEDAW,⁷¹⁶ the Maputo Protocol requires

*States Parties . . . to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men.*⁷¹⁷

The Tanzanian government, by failing to eradicate such stereotypes within the country's educational system, is in violation of this obligation.

The Human Rights Committee, which monitors state compliance with the ICCPR, has expressed concern over Tanzania's compliance with its obligation to give effect to the rights in the Covenant without discrimination: "[Tanzania] seems to subject this undertaking to the will of the people, traditions, and customs that are prejudicial to the realization of a number of Covenant rights, including those affecting women and the protection of individuals for behaviour which does not conform to traditional notions of morality."⁷¹⁸

As documented throughout this report, the practices of mandatory pregnancy testing and pregnancy-related expulsion are rooted largely in cultural assumptions concerning the "moral propriety" of female premarital sex. By failing to explicitly prohibit forced pregnancy testing and the expulsion of pregnant students—and instead implicitly condoning these practices—the Tanzanian government is in violation of its obligation to uphold the right to nondiscrimination.

In addition, the expressed intent to prevent females from accessing abortion services by carrying out mandatory pregnancy testing in schools is a violation of the right to nondiscrimination. Women and adolescent girls experience discrimination when they are denied access to safe abortion services and forced to carry an unwanted pregnancy to term. The responsibility of bearing and raising a child falls disproportionately on women, who consequently may be unable to exercise other rights guaranteed to them under international law, such as the right to education, on an equal basis with men.

Prohibiting adolescent girls who have been expelled or forced out of school due to pregnancy from returning to government schools is also a form of discrimination based on sex and socioeconomic status. Only those with financial means—and thus access to private school—are able to return to formal schooling following pregnancy.

The early and forced marriage of adolescent girls, as well as the legislation permitting this practice, is also discriminatory. International human rights bodies have repeatedly called on Tanzania to amend its legislation so that the minimum age for marriage for both women and men is 18.⁷¹⁹

The denial of services and lack of adolescent-friendly reproductive health services encountered by adolescent girls who seek contraceptives or other reproductive health services in health facilities constitutes added discrimination on the basis of age. The Tanzanian government is required to remedy any such discrimination in both the public and private sectors.⁷²⁰

Gender-Based Violence

Regional and international conventions protect the rights of women and adolescent girls to live their lives free of gender-based violence. The CEDAW Committee has stated that "gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men."⁷²¹ The CEDAW Committee has elaborated that "gender-based" refers to acts that are either directed at a woman because "she is a woman or that affects women disproportionately."⁷²²

The Tanzanian government, in its National Strategy for Gender Development, defines gender violence as

*any act, omission or conduct by means of which physical, sexual or mental suffering is inflicted directly or indirectly, through threat, coercion, or any other means on any person with the purpose of intimidating, punishing, humiliating, maintaining sex stereotyped roles, undermining the security of a person, self respect or diminishing physical or mental capacities.*⁷²³

The sexual violence perpetrated against female students, including by teachers, constitutes gender-based violence, as does the disproportionate application of corporal punishment against female students. Mandatory pregnancy testing in schools is also a form of gender-based violence, as it is often physically invasive and painful, and is an inherently disempowering and coercive practice carried out solely to discipline and punish female students. Tanzania's failure to take appropriate steps to prevent schools and health care providers from forcibly testing adolescent girls for pregnancy violates its international legal obligations to prevent and eliminate violence against women.

International human rights bodies have repeatedly expressed their concern at the high rates of violence against women and adolescent girls in Tanzania and the lack of accountability for perpetrators of gender-based violence.⁷²⁴ The CEDAW Committee has also noted "that such violence appears to be socially legitimized and accompanied by a culture of silence and impunity, that cases of violence are thus underreported and that those that are reported are

settled out of court.”⁷²⁵ The Committee has urged the Tanzanian government to “give priority attention to combating violence against women.”⁷²⁶

Right to Dignity

Children do not lose their human rights by virtue of passing through the school gates. . . . [E]ducation must be provided in a way that respects the inherent dignity of the child.

—U.N. Committee on the Rights of the Child⁷²⁷

Human dignity is one of the most basic foundations of human rights.⁷²⁸ The right to dignity is recognized and protected by various international and regional instruments, including the ICCPR, which states that “the inherent dignity” of the human person is at the source of all other human rights.⁷²⁹ CEDAW recognizes “that discrimination against women violates the principles of equality of rights and respect for human dignity.”⁷³⁰

The Banjul Charter echoes this concept: “Every individual shall have the right to the respect of the dignity inherent in a human being.”⁷³¹ Furthermore, the Maputo Protocol requires states to “adopt and implement appropriate measures to ensure the protection of every woman’s right to respect for her dignity.”⁷³² The African Charter on Children makes several references to governments’ obligation to protect dignity, including in the context of disciplinary measures against children in schools.⁷³³

The practices documented in this report violate adolescent girls’ right to dignity in a number of ways. First, the right to dignity is linked closely with the right to informed consent. The CEDAW Committee makes reference to this link in the context of employment, stating that “States parties should not permit forms of coercion, such as . . . mandatory pregnancy testing as a condition of employment that violate women’s rights to informed consent and dignity.”⁷³⁴ Mandatory pregnancy testing in schools as a condition of admission and continued enrolment is similarly a violation of adolescent girls’ rights to dignity and informed consent. The non-consensual disclosure of students’ test results, by providers and school officials, also violates their right to dignity.

Second, the forced and disciplinary nature of the testing violates adolescent girls’ right to dignity. Treaties and treaty-monitoring bodies (also known as committees) have consistently stated that disciplinary measures towards children in schools must be undertaken “with respect for the inherent dignity of the child” as well as in conformity with the best interest of the child.⁷³⁵ The Children’s Rights Committee has further stated that “interpretation of a child’s best interests must be consistent with the whole Convention . . . ; it cannot be used to justify practices, including . . . forms of cruel or degrading punishment, which conflict with the child’s human dignity and right to physical integrity.”⁷³⁶ The Committee also notes that “eliminating violent and humiliating punishment of children, through law reform and other necessary measures, is an immediate and unqualified obligation of States parties.”⁷³⁷

The Committee on Economic, Social and Cultural Rights, charged with monitoring states’ compliance with the ICESCR, has also addressed the issue of school discipline. In its General

Comment 13, the Committee indicates that physically invasive and humiliating practices performed for disciplinary reasons may be “inconsistent with human dignity.”⁷³⁸ The Committee has further clarified that “[a] State party is required to take measures to ensure that discipline which is inconsistent with the Covenant does not occur in any public or private educational institution within its jurisdiction.”⁷³⁹

Mandatory pregnancy testing is a degrading and, at times, physically invasive and painful school disciplinary measure that violates adolescent girls’ right to dignity. Tanzania has a clear and immediate obligation to prohibit and eliminate this practice in both government and private schools. The right to dignity is also violated when adolescent girls are denied the necessary sexuality education to protect themselves from unwanted pregnancy and when they are discriminatorily denied access to contraceptive services that would allow them to do so. Arresting and imprisoning pregnant adolescents in order to determine who impregnated them, is also an affront to adolescents’ right to dignity.

Right to Freedom from Torture and Cruel, Inhuman, or Degrading Treatment

The right to be free from torture and cruel, inhuman, or degrading treatment is both a facet of customary international law⁷⁴⁰ and is also specifically protected by several regional and international conventions that Tanzania has ratified, such as the Banjul Charter, the CRC, and the ICCPR.⁷⁴¹ It is also protected under the Convention against Torture.⁷⁴² According to the Banjul Charter, “All forms of exploitation and degradation . . . particularly . . . torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.”⁷⁴³

The African Charter on Children further requires states parties to “take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.”⁷⁴⁴

Cruel, inhuman, or degrading treatment is not restricted to acts that cause physical pain; it also encompasses actions that result in mental suffering.⁷⁴⁵ The Human Rights Committee has thus stated that the protection against cruel, inhuman, or degrading treatment “must extend to . . . excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure. It is appropriate to emphasize in this regard that article 7 protects, in particular, children, pupils and patients in teaching and medical institutions.”⁷⁴⁶ The Committee has also specified that public authorities have a duty to protect citizens from inhuman or degrading treatment, whether at the hands of state or nonstate actors.⁷⁴⁷

The African Commission on Human and Peoples’ Rights (African Commission) has also established that “Article 5 of the [Banjul] Charter prohibits not only cruel but also inhuman and degrading treatment. This includes not only actions which cause serious physical or psychological suffering, but which humiliate or force the individual against his will or conscience.”⁷⁴⁸ It has further clarified that “the prohibition of torture, cruel, inhuman, or degrading treatment or punishment is to be interpreted as widely as possible to encompass the widest possible array of physical and mental abuses.”⁷⁴⁹

The practices documented in this report violate the prohibition on cruel, inhuman, or degrading treatment in multiple ways. Forced pregnancy testing in government and private schools is an institutionalized practice of cruel, inhuman, and degrading treatment, targeted specifically at adolescent girls because of their capacity to become pregnant. In schools where such testing occurs, female students experience the mental anguish of anticipating the nonconsensual testing and treatment, as well as possible expulsion.

In addition, manual testing causes physical pain for adolescent girls and does not appear to conform to standard medical practice, in large part because it serves no therapeutic purpose. The deliberate failure to provide information and counselling to adolescent girls prior to and during this procedure is additional evidence of cruel treatment, leaving female students feeling disempowered and afraid. Anxiety and feelings of powerlessness relating to the testing and test results—along with the anticipation of their possible nonconsensual disclosure to school administrators, family, and friends—cause psychological suffering for female students.

Human rights standards in the context of HIV testing further illustrate that this practice violates the right to be free from inhuman or degrading treatment. The U.N. Special Rapporteur on Torture has stated the following in the context of forced or compulsory HIV testing:

If forcible testing is done on a discriminatory basis without respecting consent and necessity requirements, it may constitute degrading treatment, especially in a detention setting. Therefore, the Special Rapporteur welcomes the clear language used in the UNAIDS/WHO policy statement on HIV testing of 2004, regarding consent, which requires that, in order to be able to provide informed consent, the patients should at a minimum be informed of the clinical benefit and the prevention benefits of testing, their right to refuse, the follow-up services that will be offered The statement also mentions the right to confidentiality, which, if not respected, might raise concerns regarding inhuman or degrading treatment or punishment.⁷⁵⁰

Logical analogies can be made to the practice of forced or coerced pregnancy testing in schools. This testing is clearly discriminatory and is done without respect for consent requirements or confidentiality. It is carried out in a custodial setting, which is similar to a detention context in that an adolescent girl's capacity to exercise her liberty and autonomy while in school are severely constrained. As discussed in Section Three, adolescents are effectively powerless to challenge the practice of forced testing, and, for many, it is carried out against their will.

In addition, the testing has no “clinical” or “prevention benefit.” Schools and health care providers do not appear to provide any information or services relating to antenatal care or pregnancy prevention. On the schools' part, in particular, there is no intent to provide treatment or counselling to female students—the testing is done in a purely disciplinary effort. In this regard, mandatory pregnancy testing in schools is a clear violation of adolescent girls' right to be free from inhuman and degrading treatment or punishment.

The practices around expulsion, documented in this report, are also violations of this right. An adolescent girl's anticipation of the possibility of arrest or imprisonment following expulsion—or

of her parents' arrest and imprisonment—can cause severe anxiety and mental anguish. Her actual detention and questioning may also have a serious psychological impact.

The unlawful arrest, interrogation, and imprisonment of pregnant adolescents in an effort to force them to reveal to police who they had sex with or who impregnated them is degrading and cruel. Pregnant adolescents are intimidated and harassed by law enforcement officials to provide personal information against their will. This treatment follows on the heels of a complete deprivation of the right to education—itsself a devastating event. Pregnant adolescent girls are then denied their right to liberty, held in often poor conditions of detention, with typically limited due process and limited access to their families. They can be held indefinitely, until they “confess” or until the police decide that they are no longer worth detaining.

Right to Education

The right to education, especially for children, is protected by the ICESCR,⁷⁵¹ the Banjul Charter,⁷⁵² the CRC,⁷⁵³ the African Charter on Children,⁷⁵⁴ and the Maputo Protocol.⁷⁵⁵ The right to nondiscrimination in education is further protected under CEDAW⁷⁵⁶ and the Convention against Discrimination in Education.⁷⁵⁷ States' obligation to uphold the right to education extends to nonstate actors, such as private schools.⁷⁵⁸

Goals of Education

Various human rights treaties set forth the goals and aims of education. The African Commission notes education's “vital role in empowering women.”⁷⁵⁹ The ICESCR states that “all education, whether public or private, formal or non-formal, shall be directed towards the aims and objectives identified in article 13 (1).”⁷⁶⁰ These aims and objectives include an agreement among states parties that “education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.”⁷⁶¹

The CRC similarly provides that the “education of the child shall be directed to . . . [t]he development of the child's personality, talents and mental and physical abilities to their fullest potential [and t]he development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations,” among other goals.⁷⁶²

In its General Comment 1, the Children's Rights Committee states that “[t]he goal is to empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence.”⁷⁶³ As the Committee further notes, “Compliance with the[se] values . . . clearly requires that schools be child-friendly in the fullest sense of the term and that they be consistent in all respects with the dignity of the child.”⁷⁶⁴ According to the Committee, “A school which allows . . . violent and exclusionary practices to occur is not one which meets the requirements” of the CRC.⁷⁶⁵

The practices of mandatory pregnancy testing and the expulsion of female students for pregnancy contravene these aims and objectives. Rather than empower adolescent girls and provide them with self-esteem and self-confidence, these practices serve to reinforce

female students' sense of powerlessness and social inequality within the school environment. The degrading practice of forced, and sometimes manual, pregnancy testing is a direct affront to an adolescent's dignity and fails to foster a sense of respect for human rights and fundamental freedoms.

Moreover, schools deliberately deny adolescents information or knowledge that would empower them to exercise their sexual and reproductive rights. Students are not provided with comprehensive sexuality education in school; instead, teachers and student health care providers often communicate opaque and confusing information that serves only to instill a fear of sex and pregnancy. The discriminatory expulsion of female students found to be pregnant reinforces the stigma and fear associated with adolescent pregnancy, while failing to acknowledge the rights violations that may have led to the pregnancy. The stereotypes underlying these practices—those promoting women's social roles as mothers and domestic labourers—further contribute to this educational environment of disempowerment and discrimination.

Availability, Accessibility, Acceptability, and Adaptability

The ESCR Committee, in its General Comment 13, maintains that the essential components of the right to education are availability, accessibility, acceptability, and adaptability.⁷⁶⁶ When considering these factors, the Committee specifies that “the best interests of the student shall be a primary consideration.”⁷⁶⁷

Availability

For education to comply with the principle of availability, “functional education institutions and programmes have to be available in sufficient quantity.”⁷⁶⁸ This principle explicitly requires governments to ensure that teachers are adequately trained and have the necessary teaching materials.⁷⁶⁹ The failure to provide teachers with the training and materials to offer comprehensive sexuality education in schools, making such education unavailable in practice, violates this aspect of the right to education.

In addition, availability mandates that governments provide free, compulsory primary school education.⁷⁷⁰ The imposition of indirect fees for primary school education in Tanzania, making the cost of primary school education prohibitive for many families, is in violation of this obligation.

Accessibility

Accessibility requires that education be available without discrimination.⁷⁷¹ The principle of nondiscrimination requires that education be “accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds,”⁷⁷² which include discrimination on the basis of sex.⁷⁷³ The principle is interpreted by the Committee in light of CEDAW⁷⁷⁴ and the CRC, among other treaties.⁷⁷⁵

Significantly, governments' obligation to ensure access to education without discrimination is of immediate effect. The ESCR Committee emphasizes that this obligation is “subject to

neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination.”⁷⁷⁶

Of special importance is the obligation to ensure access to primary education without discrimination. Under international human rights law, primary school is compulsory. In this light, the ESCR Committee has noted that the “element of compulsion serves to highlight the fact that neither parents, nor guardians, nor the State are entitled to treat as optional the decision as to whether the child should have access to primary education. Similarly, the prohibition of gender discrimination in access to education . . . is further underlined by this requirement.”⁷⁷⁷

The practice of excluding and expelling pregnant adolescents from school is a violation of the prohibition on discrimination in education. Excluding and expelling students solely on the basis of their pregnancy status—a status that only female students can have—is sex discrimination. Further, prohibiting these students from returning to a government school is compounded discrimination. This practice means that adolescent girls from poor or rural families experience a total deprivation of their right to formal education, whether primary or secondary, or both. Rerouting these females into vocational schools is also discriminatory, for it deprives them of a specific educational opportunity and the possibility of future, higher educational opportunities.

The African Charter on Children, in guaranteeing the right to education, recognizes that discrimination against pregnant adolescents greatly affects their ability to access education. It therefore calls on states parties to take “all appropriate measures to ensure that children who become pregnant before completing their education shall have an opportunity to continue with their education on the basis of their individual ability.”⁷⁷⁸ The African Commission's guidelines on economic, social, and cultural rights emphasize the importance of this article in realizing the right to nondiscrimination in education⁷⁷⁹ and further state that governments have the obligation to “ensure that all children that have dropped out receive the opportunity to finish their education.”⁷⁸⁰

Treaty-monitoring bodies echo these legal obligations. The Children's Rights Committee has expressed in concluding observations a “deep concern that girls who become pregnant whilst still attending school are often excluded from school and that such action is not only discriminatory against girls but also a violation of the right to education.”⁷⁸¹ The Committee has further urged a “State party to ensure that pregnant girls are permitted to continue attending school both during and after their pregnancy.”⁷⁸²

Similarly, the CEDAW Committee has commended a state party for introducing a “penalty for schools which exclude students on the ground of pregnancy”⁷⁸³ and has recommended that the same state party “intensify its efforts to ensure that pregnant students stay in and return to school during and after pregnancy.”⁷⁸⁴ In more recent concluding observations, the CEDAW Committee has encouraged a state party to “put in place measures, including monitoring mechanisms and sanctions, to ensure that pregnant students stay in school during pregnancy and return after childbirth.”⁷⁸⁵

In its recent concluding observations for Tanzania, the ESCR Committee has expressed its concern “about the high dropout rate from secondary education, in particular owing to . . .

expulsions following positive mandatory pregnancy test results and early marriage.”⁷⁸⁶ The Committee has recommended that Tanzania “take steps to . . . urgently address the high dropout rate from both primary and secondary education, including by abolishing mandatory pregnancy testing and prohibiting expulsions due to pregnancy.”⁷⁸⁷

Likewise, the CEDAW Committee has voiced concern over Tanzania’s “lower transition rate for girls from primary to secondary school as compared with that of boys . . . [and] girls’ drop-out rates due to . . . pregnancies.”⁷⁸⁸ The Committee has expressed special concern “at information that girls falling victim to early pregnancies are expelled from Tanzanian schools”⁷⁸⁹ and has recommended that Tanzania “implement measures to ensure equal access of girls and women to all levels of education, retain girls in school and strengthen the implementation of re-entry policies so that girls return to Tanzanian schools after giving birth.”⁷⁹⁰

The Children’s Rights Committee, in discussing the principle of nondiscrimination in education, has noted that “gender discrimination can be reinforced . . . by arrangements which limit the benefits girls can obtain from the educational opportunities offered, and by unsafe or unfriendly environments which discourage girls’ participation.”⁷⁹¹ The practices discussed in this report—of teachers coercing or forcing female students to have sex with them, favouring male students over female students, inflicting greater corporal punishment on female students than on male ones, and sending female students to their homes to clean during school hours—are examples of such reinforcement.

Education must also be physically accessible, meaning that it must be “within safe physical reach . . . by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school).”⁷⁹² In addition, as emphasized by the African Commission, states must “ensure the safety of schoolchildren . . . on their way to and from school.”⁷⁹³ The lack of accessible schools that force schoolchildren to walk long distances to and from school, or to reside in unsafe hostels closer to schools, is a violation of this right.

Economic accessibility requires that education be “affordable to all.”⁷⁹⁴ The obligation to ensure economic accessibility is dependent on the level of schooling. Whereas states must make primary education “free to all,” they “are required to progressively introduce free secondary [] education.”⁷⁹⁵ Although free secondary school education is to be progressively realized, states are still obligated to move as expeditiously and effectively as possible towards this goal.

When schools, particularly government-run schools, allocate funds towards discriminatory practices (such as mandatory urine pregnancy tests), this detracts from the funding available for basic education necessities. These costs may then be transferred to the student and her family, raising serious questions about the government’s compliance with its obligation to progressively realize the right to free secondary school education.

In addition, the various “hidden” fees and expenses associated with primary and secondary school make the cost of education prohibitive for many. This can force adolescent girls—desperate to obtain the financial means to remain in school—into sexually exploitative relationships or into employment that leaves them vulnerable to sexual violence.

Acceptability

The component of “acceptability” means that “the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents.”⁷⁹⁶ Acceptability must conform to the “educational objectives required by article 13 (1)” of the ICESCR.⁷⁹⁷ In particular, acceptability requires that discipline be carried out in a manner consistent with the covenant and the student’s fundamental right to dignity.⁷⁹⁸ The Special Rapporteur on the Right to Education has questioned the use of “pregnancy as a disciplinary offence” in a discussion of what constitutes acceptable education.⁷⁹⁹

Acceptability also dictates that the school environment itself be safe. In this regard, the African Commission has emphasized states’ obligation “[t]o ensure the safety of schoolchildren by taking effective measures to address physical and sexual abuse by other students, teachers, staff or principal.”⁸⁰⁰

The Tanzanian government violates female students’ right to acceptable education in many ways: by failing to provide accurate and comprehensive sexuality education in schools, by failing to protect female students from sexual violence on school grounds, by failing to eliminate harmful gender-based stereotypes within the school environment, by permitting and implicitly condoning the discriminatory practice of mandatory pregnancy in schools, and by permitting pregnancy to be a ground for discipline in and expulsion from schools.

Adaptability

Finally, education must be adaptable, meaning that it be “flexible” and “adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.”⁸⁰¹ This requirement arguably implies a duty to accommodate students who are pregnant or who are parents. The expulsion of pregnant and married students and the prohibition against mothers’ returning to school violates this aspect of the right to education.

An Empowerment Right

The ESCR Committee has stated that education is

*both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities. Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation . . .*⁸⁰²

In the same vein, the Committee has noted that children’s lack of educational opportunities “often reinforces their subjection to various other human rights violations. For instance these children . . . are particularly vulnerable to forced labour and other forms of exploitation.

Moreover, there is a direct correlation between, for example, primary school enrolment levels for girls and major reductions in child marriages.”⁸⁰³

Denying a female student her right to education due to pregnancy seriously affects her ability to exercise other rights and may also lead her to experience further rights violations. This is evident in the discussion of the consequences of expulsion for students, which may include sexual exploitation, child labour, and forced, early marriage.

Right to Privacy

The right to privacy for all persons is protected by the ICCPR,⁸⁰⁴ the CRC⁸⁰⁵ and the African Charter on Children.⁸⁰⁶ The ICCPR states that “no one shall be subjected to arbitrary or unlawful interference with his privacy.”⁸⁰⁷

The Human Rights Committee has interpreted state obligations under this provision to include a prohibition on all interference with an individual’s right to privacy by both public and private actors. This prohibition should be guaranteed through the creation of legislation and other state measures protecting individual privacy.⁸⁰⁸ The CRC also establishes that the “child has the right to the protection of the law against [arbitrary or unlawful] interference or attacks” on her privacy.⁸⁰⁹

The practice of arresting or detaining pregnant adolescents and forcing them to disclose who they had sex with or who impregnated them is a violation of their right to privacy. These adolescents have committed no crime and should not be compelled, under threats of intimidation or imprisonment, to reveal this information about their private lives.

In addition, the ESCR Committee has articulated that the right to privacy is an integral component of the right to health.⁸¹⁰ Its General Comment 14 maintains that the freedoms encompassed by the right to health include “the right to control one’s health and body, including sexual and reproductive freedom . . . [and] the right to be free from interference, such as the right to be free from . . . non-consensual medical treatment.”⁸¹¹

The CEDAW Committee has also stated that the right to privacy is essential to realizing a women’s right to health, and the Committee has required states to ensure that “all health services . . . be consistent with the human rights of women, including the rights to autonomy, privacy, confidentiality, informed consent, and choice.”⁸¹²

In Tanzania, adolescent girls’ right to privacy is violated by government and private primary and secondary schools, as well as by public- and private-sector health care providers, when these females are subjected to pregnancy tests without their informed consent and against their will. Their right to privacy is also violated when health care providers and school officials fail to respect the confidentiality of their test results by disclosing the results to the school administration, parents, and sometimes other teachers and students, without the adolescents’ consent. In addition, forcing adolescent girls to carry their pregnancy to term by forcibly investigating their pregnancy status in order to prevent recourse to abortion is a violation of the right to privacy.

Right to Liberty and Security of Person

The ICCPR and the Banjul Charter both guarantee the right to liberty and security of person. Under both treaties, the right to liberty protects against arbitrary arrest and detention. Similar to language in the Banjul Charter, the ICCPR further states that “[n]o one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”⁸¹³

The CRC also obliges states parties to “ensure that . . . [n]o child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.”⁸¹⁴

The arrest, detention, and imprisonment of pregnant adolescent girls in Tanzania in order to determine who impregnated them, or as a punitive measure, has no basis in the law. These practices serve no purpose other than to unlawfully intimidate and harass pregnant adolescents. Holding them for days or months at a time is a violation of their right to liberty and security.

In addition, in the context of health, the right to liberty and security relates to the right to autonomy in health-related decisions.⁸¹⁵ The Maputo Protocol, for example, provides that the right to integrity and security of person requires prohibiting “all medical or scientific experiments on women without their informed consent.”⁸¹⁶

In this regard, the practices of coercive and forced pregnancy testing—medical interventions occurring without informed consent and against a student’s will—violate adolescent girls’ right to liberty and security. The coercive and custodial circumstances in which the testing often occurs, which deliberately leave no room for adolescent girls to decline or “escape,” also contribute to violations of this right.

Right to the Highest Attainable Standard of Health

Numerous regional and international treaties and covenants recognize the fundamental right to the highest attainable standard of physical and mental health, and impose an obligation on states to enforce this right.⁸¹⁷ The right to health is not confined to the right to health care, but rather includes freedom from interference with one’s health, the right to control one’s health and body, and the right to access essential health information.⁸¹⁸ Under the ICESCR, a state’s principal obligation with respect to the right to health is to take steps “with a view to achieving progressively the full realization of the rights recognized” in the covenant.⁸¹⁹

Availability, Accessibility, Acceptability, and Quality

The ESCR Committee, in its General Comment 14, maintains that the essential components of the right to health are “availability, accessibility, acceptability and quality of health facilities, goods and services.”⁸²⁰

Availability

The principle of availability requires states to have “[f]unctioning public health and health care facilities, goods and services” that are “available in sufficient quantity.”⁸²¹ This obligation includes ensuring the availability of “youth friendly reproductive health services.”⁸²² The severe lack of adolescent-friendly reproductive health services in Tanzania means that reproductive health care is not available to many adolescents in practice, violating their right to health. This fact, along with stockouts of preferred methods in health care facilities, can lead to unwanted pregnancies, which can have negative and far-reaching consequences on adolescent girls’ health and well-being. In addition, the limited availability of safe abortion services in Tanzania violates adolescent girls’ and women’s right to health.

Accessibility

The principle of accessibility requires states to ensure that medical services are “accessible to everyone without discrimination.”⁸²³ Ensuring “the right of access to health facilities, goods and services on a non-discriminatory basis” is part of states parties’ core, nonderogable obligation under article 12 of the ICESCR.⁸²⁴ Health facilities, goods, and services must be physically and financially accessible.⁸²⁵ In addition, health care “goods and services must be affordable for all . . . whether privately or publicly provided,”⁸²⁶ and they must be accessible regardless of age or marital status.⁸²⁷

The discriminatory refusal by health care workers to provide family planning services to unmarried, adolescent girls leads to unwanted pregnancies and violates their right to health. In concluding observations for Tanzania, the CESCR Committee has explicitly expressed its concern “about the high rate of teenage pregnancies” and has recommended that Tanzania “take measures to address [this issue], including through . . . ensuring access to contraceptives regardless of marital status or age.”⁸²⁸

Discrimination by providers towards adolescents occurs most often in rural areas, where health care services are already limited. Rural adolescents must then pay additional and often prohibitive transportation costs in order to access services, further violating their right to health. Similarly, adolescent girls’ lack of access to safe abortion services due to prohibitive costs and the inaccessibility of services in rural areas violates their right to health.

Acceptability

The principle of acceptability mandates that all health facilities and services “be respectful of medical ethics” and “designed to respect confidentiality and improve the health status of those concerned.”⁸²⁹ The ESCR Committee has further stated that “[t]he realization of the right to health of adolescents is dependent on the development of adolescent-friendly health care, which respects confidentiality and privacy and includes appropriate sexual and reproductive health services.”⁸³⁰

When health care providers, whether in schools or at health care facilities, engage in pregnancy testing and the disclosure of test results without informed consent, they are violating medical ethics and human rights relating to informed consent and confidentiality. Requiring adolescent

girls, dressed in their school uniforms, to wait in a public area of a government health care facility to be tested is a further violation of their right to privacy and confidentiality. Moreover, forced pregnancy testing is not designed to improve adolescents’ health status but is rather a purely punitive measure. Finally, the general lack of adolescent-friendly reproductive health services in Tanzania is a violation of their right to acceptable health care.

Recognizing the Tanzanian government’s failure to uphold adolescents’ right to health, the Children’s Rights Committee, in its 2006 concluding observations for Tanzania, “note[d] with concern the high rate of teenage pregnancies and the fact that the State party does not pay sufficient attention to adolescent health issues, including . . . reproductive health concerns.”⁸³¹

Quality

Finally, health care goods and services must be “scientifically and medically appropriate and of good quality.”⁸³² This requires the presence of “skilled medical personnel.”⁸³³ In interpreting the ICESCR, the ESCR Committee has emphasized that “States have to ensure the appropriate training of doctors and other medical personnel”⁸³⁴

The Tanzanian government’s failure to train providers to offer adolescent-friendly reproductive health services violates its obligation to provide quality health care to adolescents. In addition, health care professionals’ manual pregnancy testing of adolescent girls as a screening measure is not “medically appropriate” care and violates adolescents’ right to health. Similarly, medically baseless pregnancy “testing” that involves the pinching and squeezing of female students’ breasts and nipples is a violation of their right to quality health care.

Right to Information

The right to information about health is a critical component of reproductive rights; failure to provide such information can threaten the rights to life, health, and autonomy in decision making, as well as all other reproductive rights of women and girls. The Banjul Charter recognizes that every individual has “the right to receive information” and “the right to education.”⁸³⁵

The Maputo Protocol includes “the right to have family planning education” and obligates governments to “provide adequate, affordable and accessible health services, including information, education and communication programmes to women especially those in rural areas.”⁸³⁶ The African Youth Charter specifies that young people’s education must incorporate “life skills,” including “issues such as HIV/AIDS [and] reproductive health.”⁸³⁷ The CRC requires states to “develop preventive health care, guidance for parents and family planning education and services.”⁸³⁸

Similarly, CEDAW obligates states to empower women to “decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.”⁸³⁹ Further elaborating on this right, the CEDAW Committee has stated that “[i]n order to make an informed decision about safe and reliable contraceptive measures, women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services”⁸⁴⁰

The Tanzanian government violates the right to information in many ways. Most significantly, the government has failed to provide accurate, comprehensive sexuality education in schools. The CEDAW Committee has observed that Tanzania's "existing sex education programmes are not sufficient, and may not give enough attention to the prevention of early pregnancy and the control of sexually transmitted infections."⁸⁴¹ It has recommended "that sex education be widely promoted and targeted at adolescent girls and boys, with special attention [given to these issues]."⁸⁴²

The Children's Rights Committee, in its concluding observations for Tanzania, has similarly urged the government to "[e]nsure the inclusion of reproductive health education in the school curriculum and fully inform adolescents of reproductive health rights, including the prevention of teenage pregnancies and sexually transmitted diseases, including HIV/AIDS."⁸⁴³

In addition, Tanzanian youth's lack of access to information and counselling on family planning services, due to provider and institutional biases and the lack of adolescent-friendly services, is a violation of their right to information. The CEDAW Committee has stated its concern "that negative attitudes of health workers may be an impediment to women's access to health care services" in Tanzania.⁸⁴⁴ The Committee has thus urged Tanzania "to ensure that health workers adopt a client-friendly attitude that will lead to improved access to quality health care."⁸⁴⁵

Schools' and providers' failure to provide adolescent girls with counselling and information prior to, during and after forced pregnancy tests is also a violation of their right to information and informed consent. In particular, the right to information is violated when providers fail to disclose to students the results of their own pregnancy test.

Right to Life

The ICCPR, the CRC, the Banjul Charter, and the Maputo Protocol have repeatedly affirmed the fundamental right to life.⁸⁴⁶ The African Charter on Children and the CRC both protect the right to life, survival, and development.⁸⁴⁷

The Children's Rights Committee has made clear that the right to life, survival, and development protected under the Convention should not be narrowly interpreted. This right extends beyond "[e]nsuring survival and physical health."⁸⁴⁸ In its General Comment 7, the Committee reminds states parties that this right

*encompasses all aspects of development, and that a young child's health and psychosocial well-being are in many respects interdependent. Both may be put at risk by . . . insensitive or abusive treatment and restricted opportunities for realizing human potential. . . . The Committee reminds States parties (and others concerned) that the right to survival and development can only be implemented in a holistic manner, through the enforcement of all the other provisions of the Convention, including rights to health . . . a healthy and safe environment [and] education . . .*⁸⁴⁹

Education and health are critical to any child's development. Mandatory pregnancy testing, undertaken as a purely disciplinary measure, is "insensitive or abusive treatment" that denies adolescent girls their rights to health and to acceptable education. Failing to provide adolescents who are subject to sexual violence in schools with "a safe environment" is also a violation of this right.

Expulsion for pregnancy is also a clear denial of a pregnant adolescent's right to development, often permanently ending her formal educational opportunities and thereby "restricting [her] opportunities for realizing human potential." The combined practices of testing and expulsion are also an effort to prevent adolescents from procuring an abortion and to thereby force them to carry their pregnancies to term. In this way, adolescents are made to forfeit their right to make decisions about their lives and futures.

Expelling pregnant adolescents from school puts in direct conflict an adolescent girl's right to education and her right to decide when and whether to have children. Once expelled for pregnancy, most adolescent girls have little hope of returning to formal schooling. Since safe abortion services are largely unavailable in Tanzania, this expulsion practice forces adolescent girls who wish to continue their education to resort to unsafe abortion, thereby placing their lives and health at risk. This is also a violation of their right to life.

Treaty-monitoring bodies have consistently associated the lack of access to safe abortion services with high rates of maternal mortality. The Children's Rights Committee, for example, has repeatedly linked maternal mortality to high rates of illegal,⁸⁵⁰ clandestine,⁸⁵¹ and unsafe abortions⁸⁵² among adolescents. In Tanzania, adolescents contribute to a significant percentage of overall maternal mortality related to unsafe abortion.⁸⁵³

National Law

Tanzania's national laws similarly set forth protections for the rights enumerated above. The Tanzanian Constitution protects many of the rights outlined in this report, including the rights to life,⁸⁵⁴ privacy and personal security,⁸⁵⁵ equality,⁸⁵⁶ nondiscrimination,⁸⁵⁷ dignity⁸⁵⁸ and freedom from torture or inhuman or degrading punishment or treatment.⁸⁵⁹

In addition, other domestic provisions protect the rights of girls in the context of education. In 2009, Tanzania passed the Law of the Child Act, which domesticates the CRC and provides many protections for children's rights. The law guarantees a child's right to nondiscrimination, including on the basis of gender, age, health status, socioeconomic status and other status.⁸⁶⁰

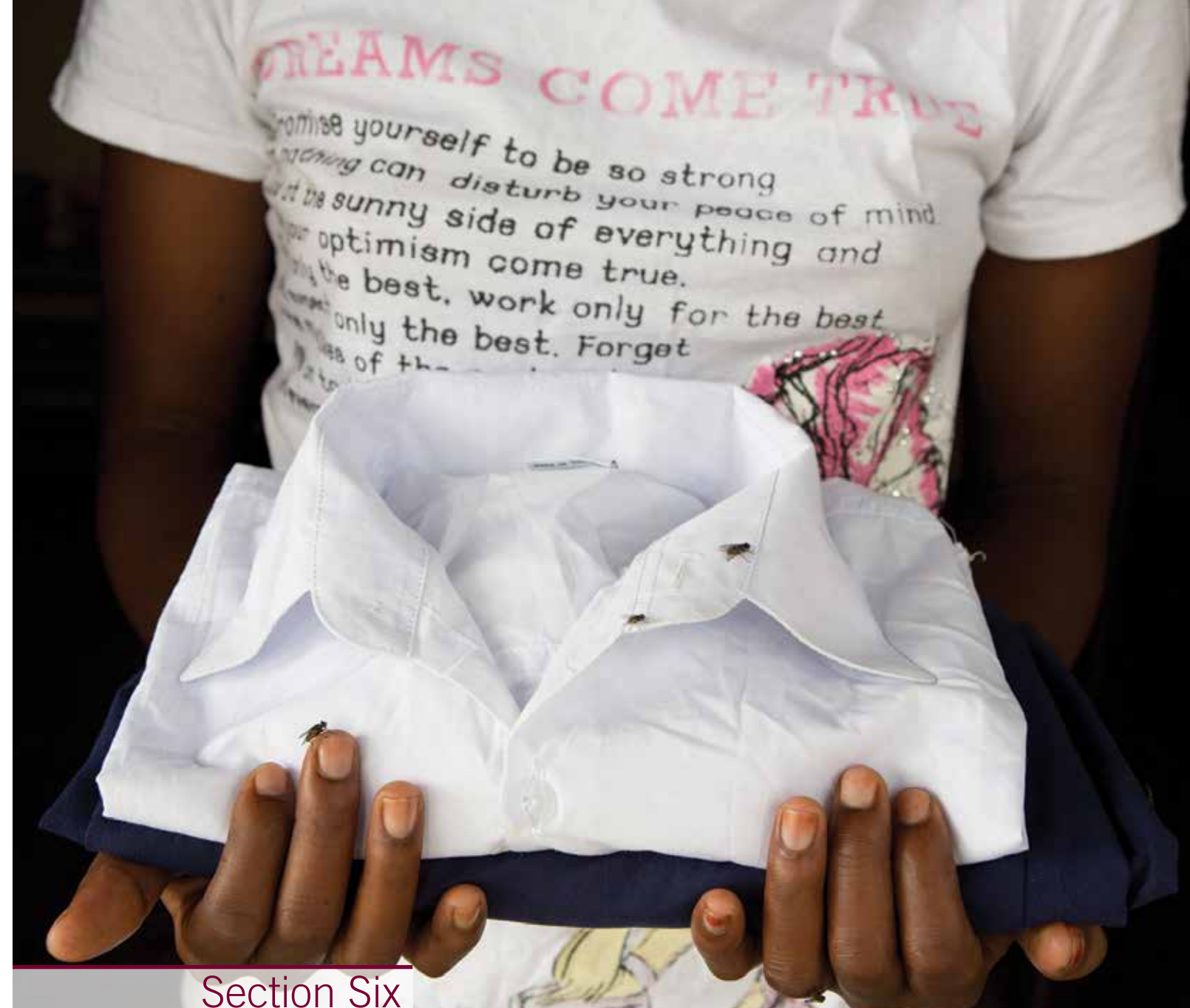
The Act also states that "a person shall not deprive a child access to education"⁸⁶¹ nor subject a child "to torture, or other cruel, inhuman punishment or degrading treatment including any cultural practice which dehumanizes or is injurious to the physical and mental well-being of a child."⁸⁶² In this context, "degrading treatment" refers to "an act done to a child with the intention of humiliating or lowering his dignity."⁸⁶³

In addition, the Law of the Child Act introduces critical amendments to the Education Act, including a requirement that "no child of the age of seven or above shall be refused enrollment

in a school.”⁸⁶⁴ It further introduces an additional offence under the Education Act, stating that any person who “impregnates a pupil of primary or secondary school” commits an offence and is liable to a fine and imprisonment upon conviction.⁸⁶⁵ Finally, it provides for increased criminal liability for sexual violence perpetrated in schools.⁸⁶⁶

The Education Act itself also provides for key protections of the right to education, stating that “[a]ny person who . . . denies any child access to pursue formal education due to sex . . . or socio-economic status” commits an offence.⁸⁶⁷

Nonetheless, despite this strong national legal framework protecting girls’ rights and freedoms, the government, schools and health care providers have failed to fully and fairly implement these laws. Instead, the discriminatory practices of mandatory pregnancy testing in schools and the expulsion of pregnant students are openly implemented by public and private schools and condoned by the government.



Section Six

RECOMMENDATIONS

The following recommendations are based on the findings of this report and input from adolescent girls and other stakeholders with whom the Center for Reproductive Rights spoke in the course of this research. These recommendations do not exhaustively list the actions required of the Tanzanian government in order to comply with its legal obligations but instead target some of the key rights violations that we encountered during our investigation.

To the Government of Tanzania

Prime Minister's Office, Regional Administration, and Local Government

Ensure that all local government authorities are aware that forced and coercive pregnancy testing in schools and the expulsion and exclusion of pregnant students from schools are prohibited under national and international human rights law.

Clarify to all local government authorities that the arrest, detention, or imprisonment of pregnant adolescents in order to determine who impregnated them is unlawful and must end immediately.

Facilitate the dissemination and implementation of policies, guidelines and circulars developed by the Ministry of Education aimed at prohibiting mandatory and coercive pregnancy testing in schools and the expulsion and exclusion of pregnant students from schools, and at supporting pregnant or parenting students' continued education.

Ministry of Education

Reduce unwanted and unplanned pregnancies by improving access to quality comprehensive sexuality education in schools.

- Renew efforts to introduce a comprehensive sexuality education curriculum in primary and secondary schools that complies with the key human rights standards outlined in Section One.
- Ensure that teachers are adequately trained and equipped with the necessary resources to teach this material.

Ensure that adolescent girls are protected from sexual violence and coercion in primary and secondary schools.

- Follow through on commitments made under the Priority Responses towards a Multi-Sectoral National Prevention and Response Plan (2011–2015), created

in response to the findings of the 2009 *Violence Against Children in Tanzania* report.

Clarify the existing legal and policy framework governing expulsion and exclusion. Ensure that teachers and school officials are aware that expulsion and exclusion on the basis of pregnancy is prohibited.

- Issue a circular to all teachers, school administrators, and school inspectors stating that (1) the national expulsion regulations do not require the expulsion or exclusion of pregnant students; (2) the expulsion and exclusion of pregnant students from primary or secondary schools is inconsistent with national and international human rights law; and (3) the expulsion and exclusion of female students on the basis of pregnancy is prohibited in all government and private schools.
- Amend the Education (Expulsion and Exclusion of Pupils from Schools) Regulations by removing “wedlock” as a ground for expulsion and adding a regulation that states explicitly that neither pregnancy nor wedlock are grounds for expulsion or exclusion.
- Issue a revised edition of the *Kiongozi cha Mkuu wa Shule ya Sekondari*, as well as similar guidance for head teachers in primary schools, that explicitly prohibits the expulsion of students on the bases of pregnancy, abortion, and marriage.

Clarify the existing legal and policy framework governing pregnancy testing in schools and ensure that teachers and school officials are aware that coercive and mandatory pregnancy testing practices are prohibited.

- Issue a circular to all teachers, school health staff, school administrators, and school inspectors that prohibits the practices of coercive and mandatory pregnancy testing in government and private primary and secondary schools.
- Ensure that the revised edition of the *Kiongozi cha Mkuu wa Shule ya Sekondari*, as well as guidance for head teachers in primary schools, explicitly prohibits mandatory and coercive pregnancy testing in schools.

Develop a clear policy framework that permits and supports pregnant students' continued enrolment in school. Ensure that school inspectors regularly monitor and evaluate compliance with this policy and develop indicators to hold schools accountable to the goal of retaining pregnant students in school. At a minimum, this policy should include the following components:

- A clear prohibition on coercive and mandatory pregnancy testing in schools.
- A clear prohibition on the suspension, expulsion and exclusion of pregnant students.

- ↘ An express statement that pregnant students have an equal right to education and that schools shall make every effort to support the continued enrolment of pregnant or parenting students who wish to continue their education.
- ↘ A commitment to a flexible, individualized approach to the **continuation** of a pregnant student's schooling. The pregnant student's withdrawal from school, whether temporary or permanent, and her return to school after pregnancy, should be based on a voluntary, noncoerced decision made by the pregnant student according to her particular circumstances. This requires the following considerations:
 - *Any assessment of what is best for the pregnant or parenting student should not be conditioned on a health care provider's decision nor made on her behalf by the school or government.*
 - *A pregnant student should be entitled to a leave of absence from school, without penalty, and her name must remain on the school's register during her absence. She should also be entitled to return to school when she chooses and to return to a school of her choice. Should she choose to return to a different school, her original school should facilitate this transfer to ensure her continued education.*
 - *The option of a voluntary, nondisciplinary, and individualized leave from school should apply equally to a male student who becomes a parent while in school.*
- ↘ A commitment to the **retention** of adolescent girls in school following pregnancy. This, too, requires accommodating the student's needs and requests should she be in a position of balancing child care and school. In line with the Special Rapporteur on the Right to Education's recommendations regarding students with children, "consideration should also be given to the possibility of providing food and child care services during school hours."⁸⁶⁸ Schools should be encouraged to devise innovative solutions to accommodate and support pregnant students and students who are parenting in the continuation of their education. Again, this accommodation policy should apply equally to a male student who is parenting while in school.
- ↘ A clear recognition that pregnancy is not a criminal offence and that pregnant students should be treated with dignity and without discrimination.
 - *The policy should state clearly that a pregnant student cannot be harassed or pressured by school officials, police, or other actors to provide the name of the person who impregnated her. It should emphasize that the arrest and imprisonment of pregnant students in this context is unlawful.*

- *The policy should provide for a method of addressing stigmatizing behaviour and the harassment of pregnant students by teachers and other students, including by stipulating in teachers' and students' codes of conduct that this type of behaviour violates professionals' and pupils' core obligations.*
- *Students who become pregnant should not be required to undergo any disciplinary or other measures in school solely because of their past or present pregnancy status.*

- ↘ The provision of voluntary, confidential, and nondirective counselling and support to students who become pregnant, including the provision of referrals to antenatal health care services, if requested by the student.
- ↘ A model complaints mechanism for schools that would ensure students' effective recourse in cases of noncompliance with this policy and in cases of other forms of discrimination and harassment against pregnant or parenting students.

Address the stigma surrounding adolescent pregnancy.

- ↘ Include training on the principles of nondiscrimination and the importance of respecting pregnant students' rights in national primary and secondary school curricula.
- ↘ Require teacher-training schools to include the principles of nondiscrimination and respect for students' rights in their curricula.
- ↘ Amend the Ministry's current Guidance and Counselling Services guide for schools to reflect the new policy of continuity and retention and to constructively address issues of discrimination against pregnant students.

Improve data collection on pregnancy and education to better evaluate the impact of new laws and policies. Forthcoming *Basic Education Statistics* in Tanzania reports should accomplish the following:

- ↘ Clarify the methods used to collect current pregnancy dropout data.
- ↘ Collect and publish disaggregated data on dropouts in primary and secondary schools to distinguish between dropouts and expulsions.
- ↘ Collect and publish disaggregated data on truancy dropouts to determine the numbers of males and females classified as truants.
- ↘ Collect and publish data on dropouts and expulsions due to marriage, disaggregated by sex.

- ✎ Following the promulgation of a clear continuation and retention policy for pregnant students, develop indicators to monitor its impact on adolescent girls' access to education.

- *Collect data on the number of pregnant students who remain in school during and following their pregnancies and for how long. Track their transition to higher education and employment. Ensure respect for privacy and confidentiality in data collection.*

Support the creation of a comprehensive code of conduct for teachers.

- ✎ Ensure that the code does the following:
 - *Requires that immediate and adequate disciplinary actions, including administrative and criminal actions, be taken against teachers who perpetrate sexual violence.*
 - *Emphasizes and protects the confidentiality of students' private information, including information concerning their pregnancy status.*
 - *Prohibits the practice of mandatory pregnancy testing, discrimination against pregnant students, and discrimination against female students, including through gender stereotyping.*
- ✎ Create a monitoring mechanism to ensure that teachers who fail to comply with this code receive the appropriate professional sanction.

Create a supportive and empowering educational environment for adolescent girls.

- ✎ Comply with the Special Rapporteur on the Right to Education's recommendation to "[c]onduct teaching exercises with children and adolescents to analyse gender stereotypes in classroom activity and combat their prevalence in textbooks, teaching materials and all other school activities."⁸⁶⁹
- ✎ Comply with existing commitments under the Multi-Sector Task Force on Violence against Children's priority activities, including by implementing the Child Friendly School Guidelines to address physical and sexual violence in schools.⁸⁷⁰

Ensure the widespread establishment of school feeding programmes, as committed to in the Ministry's 1995 Education and Training Policy.

Ministry of Health

Ensure that quality adolescent-friendly reproductive health information and services are available and accessible throughout mainland Tanzania, as committed to under the

National Adolescent Reproductive Health Strategy 2011–2015. Ensure that providers receive the necessary training to provide these services.

- ✎ Issue clear guidance to health care professionals and administrators demonstrating that the denial of adolescents' access to reproductive health services, including family planning and abortion, is unlawful discrimination.

Provide health care providers with appropriate training on the international human rights framework governing adolescents' reproductive and sexual rights. Follow the recommendation of the Children's Rights Committee to "provide training for health personnel on the rights of adolescents to privacy and confidentiality, to be informed about planned treatment and to give their informed consent to treatment."⁸⁷¹

- ✎ Emphasize that the capacity to consent is determined on a case-by-case basis and that, in all circumstances, children have a right to be involved in medical decisions that affect them.

Ensure that providers are informed about the human rights violations at issue in mandatory pregnancy testing in schools.

- ✎ Make clear that forced pregnancy testing is impermissible under the law and health care providers' respective codes of professional conduct.
- ✎ Clarify that health care providers must always seek an adolescent girl's informed consent before testing her for pregnancy and must maintain the confidentiality of her test results, unless given express permission by the adolescent to disclose them to a third party.

Collaborate with the Ministry of Education to ensure that the policy it develops to support pregnant students' continued enrolment in school respects adolescents' sexual and reproductive rights. In particular, ensure that mandatory pregnancy testing is not a component of this policy. This initiative would fall under existing commitments to strengthen the legal and policy environment on sexual and reproductive rights under the National Adolescent Reproductive Health Strategy 2011–2015.

Ministry of Community, Development, Gender and Children

Support the development of a gender-sensitive education policy that ensures that pregnant adolescents are able to remain in and continue with school.

Address the stigma surrounding adolescent pregnancy at the community level.

Ensure that the retention of pregnant adolescents in schools is mainstreamed into existing Ministry programmes, including efforts to implement the Law of the Child Act and coordinate the National Plan of Action to Prevent and Respond to Violence against Children.

Ensure that comprehensive sexuality education is included in programmes seeking to empower children through children's councils.

Ministry of Constitutional and Legal Affairs

Issue a statement clarifying that Tanzanian law neither mandates nor authorizes the practices of coercive or mandatory pregnancy testing or expelling or excluding pregnant students. Make clear that these practices contravene Tanzanian and international human rights law and are prohibited.

Work with the Ministry of Education to develop a clear policy permitting and supporting adolescent girls' enrolment in school during and after pregnancy.

Ensure that mandatory pregnancy testing is expressly prohibited in schools.

Constitutional Review Commission

Ensure that the new constitutional framework recognizes key human rights, including the rights to education, to health and health care services, to nondiscrimination on the basis of pregnancy and sex, and children's rights.

Attorney General's Office

Clarify that Tanzanian law prohibits the practices of mandatory pregnancy testing and expelling and excluding pregnant students. Make clear that these practices contravene Tanzanian and international human rights law.

Investigate, prosecute, and punish perpetrators of sexual violence.

Tanzanian Parliament

Strengthen Tanzania's human rights framework.

- Domesticate international human rights treaties already ratified by Tanzania, including the ICESCR, CEDAW, the Maputo Protocol, and the African Youth Charter.
- Lift the reservations made to provisions in the African Youth Charter that guarantee pregnant adolescents' and married adolescents' right to continued education.
- Ratify the Convention against Torture and the Optional Protocol to the ICESCR.

Amend the Education Act to prohibit the expulsion and exclusion of adolescent girls from school on the basis of pregnancy.

Amend the Law of the Child Act to specify that no child may be excluded, expelled or suspended from school on the basis of pregnancy.

Strengthen the national legal framework by amending existing legislation, including the Law of the Child Act and the Education Act, to explicitly prohibit discrimination on the basis of pregnancy.

Work with key ministries to develop a comprehensive policy that allows pregnant adolescents to remain in school, during and after their pregnancy, and prohibits mandatory pregnancy testing in schools. Approve and promote this policy when it is tabled before Parliament.

Amend the Law of Marriage Act to raise the minimum age for marriage for females to 18, in line with international human rights standards.

Create a strong legal framework that protects clients' rights, including adolescents' rights, to informed consent and confidentiality for all tests and treatment.⁸⁷²

Tanzania Police Force

Issue a directive explicitly prohibiting the arrest, detention, or imprisonment of pregnant adolescents for the sole purpose of determining who impregnated them.

Sensitize police officers, particularly the gender and children's desk officers, on child protection policies and the importance of treating pregnant adolescents with dignity. Train officers to protect, rather than arrest and detain, pregnant adolescents who are referred to them by educational institutions. Ensure that pregnant adolescents are not harassed or arrested for refusing to disclose information about the men who impregnated them.

Ensure the rollout of Safety First Programmes in primary schools, as well as other key interventions committed to under the Priority Responses towards a Multi-Sectoral National Prevention and Response Plan (2011–2015), created in response to the findings of the 2009 *Violence Against Children in Tanzania* report.⁸⁷³

To the Commission for Human Rights and Good Governance

Inform and educate the public about children's and adolescents' reproductive rights, including the rights to informed consent and confidentiality, as well as their right to education. Publicize treaty-monitoring bodies' concluding observations for Tanzania pertaining to teenage pregnancy, mandatory pregnancy testing in schools, sexuality education, and adolescent girls' access to education.

Inform and educate the public about gender-based stereotypes and their impact on adolescent girls' ability to realize their human rights.

Recommend to the government that, in conformity with international human rights law, it develop a policy framework that allows pregnant students to remain in school and continue with their schooling after childbirth.

Recommend to the government that it explicitly prohibit and prevent the practice of mandatory pregnancy testing in schools.

Investigate violations of adolescent girls' reproductive rights in the educational context, including the treatment of pregnant students in schools.

Urge the government to ratify the Convention against Torture and domestic treaties that it has already ratified, including the Maputo Protocol, CEDAW, and the ICESCR.

To Government and Private Primary and Secondary Schools, including Head Teachers, School Committees, and School Boards

Ensure that comprehensive sexuality education is taught to students and that teachers are adequately trained to teach this subject.

Explicitly state in school rules and school joining forms that neither mandatory nor coercive pregnancy testing will be carried out.

Amend school rules, as needed, to remove pregnancy, abortion, marriage, and sexual relationships as grounds for expulsion and exclusion. Prohibit expulsion and exclusion on these grounds and ensure that teachers are aware that disciplinary measures on these grounds are prohibited.

Implement a continuation and retention policy, as outlined in the recommendations to the Ministry of Education, to ensure that pregnant students are able to continue with their education.

Ensure that pregnant students who wish to remain in school during and after their pregnancies receive appropriate support.

- Ensure the presence of trained counsellors to provide open, nonjudgmental, and nondirective counselling to students. Ensure that counsellors are able to provide students with health-related information and referrals to a nearby health care facility.
- Ensure that students are aware of counselling opportunities should they wish to speak to someone concerning pregnancy.
- Create a mechanism that allows a student to inform the school administration of her pregnancy in order to discuss how the pregnancy may affect her studies. Ensure that counsellors work with the student to devise a plan, based on the student's needs, for continuing with her education during and after pregnancy.

- As an institution, seek ways to ensure that adolescent girls continue with their education after pregnancy, including by accommodating their needs for child care and other academic support.

Create a supportive educational environment that tackles the stigma and stereotypes surrounding adolescent pregnancy. Ensure that teachers and students do not discriminate against pregnant students.

Create a gender-sensitive complaints mechanism that would allow students, including pregnant students, to confidentially report any sexual violence, harassment or abuse.

To the Teachers' Service Department

Develop a clear, specific code of conduct for teachers that prohibits and sanctions discriminatory behaviour, including towards adolescent girls in general and pregnant adolescents in particular.

Make clear that sexual offences, especially towards students, will not be tolerated in the teaching profession. Ensure that teachers found to have engaged in coercive sexual relationships with students are held professionally responsible. Ensure that they are stripped of their teaching licenses and reported to the authorities and not simply reassigned to another school.

To Teachers' Training Colleges and Teachers' Associations

Incorporate the following key issues into existing teachers' training curricula:

- Train teachers on professional ethics and the penalties associated with breaches of these ethics. Make clear that discrimination against students, including on the basis of sex and pregnancy, is impermissible. In the list of activities that breach teachers' professional ethical obligations, include sexual violence, forced pregnancy testing, sending female students to perform domestic labour in teachers' homes during class hours, and publicly discussing or disclosing students' confidential information.
- Train teachers to use nonviolent methods of discipline in the classroom.
- Ensure that teachers are accurately trained on the Ministry of Education's expulsion regulations. Make clear that pregnancy is not a disciplinary offence and not grounds for expulsion or exclusion.
- Educate teachers on children's rights under international human rights law and the Law of the Child Act.

- ↘ Emphasize the importance of eliminating gender-based stereotypes and make clear that these stereotypes violate girls' and women's fundamental human rights to nondiscrimination and education, among other rights.
- ↘ Ensure that teachers are expressly taught how to provide sexuality education to students and are comfortable discussing sex and reproduction in the classroom.
- ↘ Ensure that teachers are taught how to constructively address and dispel the stigma associated with student pregnancy in the school environment.

To Regional and International Human Rights Bodies and Experts

Urge Tanzania to protect the rights of adolescent girls in schools by eliminating the practices of mandatory and coercive pregnancy testing and of the expulsion and exclusion of pregnant students.

Continue exposing how other human rights violations—such as sexual violence, the lack of access to safe abortion services, and the denial of the right to health—contribute to unwanted pregnancies among adolescents in Tanzania.

To the International Donor Community

Support advocacy efforts to protect adolescents' reproductive rights, including efforts to eliminate the practices of coercive and mandatory pregnancy testing and the expulsion and exclusion of pregnant students.

Ensure that funds allocated towards education are not supporting mandatory pregnancy testing initiatives or the expulsion or exclusion of pregnant students.

Allocate funding for initiatives that support pregnant students' efforts to continue with their schooling during and after pregnancy.

ENDNOTES

- ¹ MINISTRY OF EDUCATION AND VOCATIONAL TRAINING, PRIMARY EDUCATION DEVELOPMENT PROGRAMME PHASE III (2012-2016), 7-8 (2012), available at http://www.ed-dpg.or.tz/pdf/PE/Primary%20Education%20Development%20Programme-PEDP%20III_Final_Nov%202012.pdf [hereinafter PRIMARY ED. DEV. PROGRAMME].
- ² "Selection and enrollment of primary school leavers into O-Level government and non-government secondary schools is made on the basis of a pre-set national standard cut-off point of performance in the National Primary School Leaving Examination." Ministry of Education and Vocational Training, *Secondary Education*, http://www.moe.go.tz/index.php?option=com_content&view=article&id=1581&Itemid=550 (last visited Jun. 5, 2013).
- ³ According to the 2012 *Basic Education Statistics in Tanzania*, there are 4,528 secondary schools in Tanzania, of which 3,508 are government schools and 1,020 are private schools. MINISTRY OF EDUCATION AND VOCATIONAL TRAINING, BASIC EDUCATION STATISTICS IN TANZANIA (BEST) 2012, tbl. 4.20 (2012) [hereinafter BEST 2012].
- ⁴ *Id.* tbl. 4.1.
- ⁵ MINISTRY OF EDUCATION AND VOCATIONAL TRAINING (REVOLUTIONARY GOV'T OF ZANZIBAR), EDUCATION POLICY, sec. 8.4 (2006).
- ⁶ *17 senior high school students dismissed*, GHANAWEB (Mar. 29, 2011), <http://www.ghanaweb.com/GhanaHomePage/features/artikel.php?ID=205872> (last visited Jun. 5,

- 2013); Taniele Gofers, *Teenage Pregnancy Should Not End Girl's Education*, GHANAWEB (Oct. 6, 2012), <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=252382> (last visited Jun. 5, 2013); 'Do not dismiss girls who get pregnant in school,' GRAPHIC ONLINE (Mar. 3, 2013), <http://graphic.com.gh/Education/do-not-dismiss-girls-who-get-pregnant-in-school.html> (last visited Jun. 5, 2013); Samuel Serpaning, *Faydi-Striving to Stem School Dropout Rate in Ghana*, AMMADO (Jun 11, 2011, 17:47 GMT), <https://www.ammado.com/community/113659/articles/38975>.
- ⁷ Although Kenya has introduced a reentry policy for pregnant students, it is not clear how widely the policy is being implemented in practice. Further, the policy requires "voluntary" pregnancy testing in schools. MINISTRY OF PUBLIC HEALTH AND SANITATION AND MINISTRY OF EDUCATION (KENYA), NATIONAL SCHOOL HEALTH POLICY 23 (2009). See also Cynthia Vukets, *Testing schoolgirls for pregnancy not likely to cut number of teenage mothers*, DAILY NATION (Dec. 22, 2009, 22:00), <http://www.nation.co.ke/News/-/1056/829400/-/vo7vw2/-/index.html> (for discussion of how "voluntary" pregnancy testing may effectively mean mandatory pregnancy testing).
- ⁸ See *Zimbabwe: Pregnancy need not put an end to education*, IRIN (Aug. 25, 2010), <http://www.irinnews.org/Report/90286/ZIMBABWE-Pregnancy-need-not-put-an-end-to-education>

(last visited Jun. 5, 2013); *Pregnant schoolgirls to be expelled – Mahere*, NEWS DAY (Sept. 12, 2010), <http://www.newsday.co.zw/2010/09/12/2010-09-12-pregnant-schoolgirls-to-be-expelled-mahere/> (last visited Jun. 5, 2013); Tatenda Gumbo, *Zimbabwe Education Ministry Clarifies Policy on Pregnant Students*, VOICE OF AMERICA (Sept. 15, 2013), <http://www.voazimbabwe.com/content/ministry-of-education-maintains-policy-for-pregnant-school-girls-102989719/1462612.html> (last visited Jun. 5, 2013); Lagos State Ministry of Health, *Adolescent Sexuality and Reproductive Health (Hello Lagos)*, <http://www.lsmoh.com/programmes/adolescent-sexuality-and-reproductive-health-hello-lagos#.UaTFeEo9ZqE> (last visited Jun. 5, 2013); Charles Ekyagonza, *Uganda: Pregnant Mothers Cannot Stay in School*, ALLAFRICA (Feb. 17, 2013), http://allafrica.com/stories/201302201700.html?aa_source=slideout (last visited Jun. 5, 2013); *Sierra Leone: Pregnancy-automatic dismissal for male and female students*, IRIN (Mar. 6, 2009), <http://www.irinnews.org/Report/83356/SIERRA-LEONE-Pregnancy-automatic-dismissal-for-male-and-female-students> (last visited May 29, 2013); *Sierra Leone: President Koroma Says, 'No to Teenage Pregnancy'*, ALLAFRICA (May 14, 2013), <http://allafrica.com/stories/201305150100.html?viewall=1> (last visited May 29, 2013).

⁹ African Charter on the Rights and Welfare of the Child, *adopted* July 11, 1990, art. 11(6), O.A.U. Doc. CAB/LEG/24.9/49 (*entered into force* Nov. 29, 1999) (*ratified* Mar. 16, 2003) [hereinafter African Charter on Children].

¹⁰ ESCR Committee, *Concluding Observations: United Republic of Tanzania*, para. 27, U.N. Doc. E/C.12/TZA/CO/1-3 (2012).

¹¹ Interview with Maria, Student, in Mafinga (Jan. 23, 2013) (on file with the Center for Reproductive Rights).

¹² Unfortunately, not all data for the United Republic of Tanzania is disaggregated for mainland Tanzania and Zanzibar. In addition, even where data is disaggregated in this manner, it is not always further disaggregated

to show specific data by age and sex. Where possible, the data provided in this report reflects that specific to mainland Tanzania. Where this was not possible, the data relates to the country as a whole.

¹³ UNITED NATIONS CHILDREN'S FUND (UNICEF) ET AL., *ADOLESCENCE IN TANZANIA 4* (2011), available at http://www.unicef.org/infobycountry/files/TANZANIA_ADOLESCENT_REPORT_Final.pdf [hereinafter *ADOLESCENCE IN TANZANIA*].

¹⁴ The vast majority of these pregnant adolescents are from mainland Tanzania, as opposed to Zanzibar. In addition, this statistic is based on data concerning adolescent girls aged 15–19; it does not include data on pregnant adolescents aged 14 or younger. It is therefore likely an underestimate. NATIONAL BUREAU OF STATISTICS (TANZ.), *TANZANIA DEMOGRAPHIC AND HEALTH SURVEY 2010*, 64 (2011), available at <http://www.measuredhs.com/pubs/pdf/FR243/FR243%5B24June2011%5D.pdf> [hereinafter 2010 TDHS].

¹⁵ See *id.* tbl. 7.6, at 115 (showing that 28.3% of pregnancies among women under 20 years of age were unplanned). This data was not disaggregated by age for mainland Tanzania specifically.

¹⁶ *Girls tell causes of pregnancy drop out*, EMPOWERED GIRLS E. AFR. (posted on Feb. 5, 2011), <http://lenana.net/blog/?p=384> (last visited Apr. 23, 2013).

¹⁷ Interview with Sophia, former secondary school student, in Mafinga (Jan. 23, 2013) (on file with Center for Reproductive Rights).

¹⁸ See, *i.e.*, MINISTRY OF EDUCATION AND CULTURE (TANZ.), *EDUCATION AND TRAINING POLICY 54* (1995) [hereinafter *EDUCATION & TRAINING POLICY*] (requiring “life skills” to be incorporated into the school curriculum); Kitila A. Mkumbo, *Content analysis of the Status and Place of Sexuality Education in the National School Policy and Curriculum in Tanzania*, 4 *EDUCATIONAL RESEARCH & REVIEW* 616, 617-618 (2009), available at <http://www.academicjournals.org/err/PDF/Pdf%202009/Dec/Mkumbo.pdf> (citing the 2005

Guidelines for Implementing HIV/AIDS and Life-Skills Education Programmes in Schools); UNITED REPUBLIC OF TANZANIA, PRIME MINISTER'S OFFICE, NATIONAL POLICY ON HIV/AIDS para. 5.2 (2001) [hereinafter *NAT'L POLICY ON HIV/AIDS*]; MINISTRY OF HEALTH AND SOCIAL WELFARE, NATIONAL ADOLESCENT REPRODUCTIVE HEALTH STRATEGY 2011-2015, 5 (2011) [hereinafter *NAT'L ADOLESCENT RH STRATEGY*].

¹⁹ *ADOLESCENCE IN TANZANIA*, *supra* note 13, at 30 (concluding that it is “likely that the majority of adolescents [in Tanzania] leave formal education without learning about critical reproductive health issues.”). See also interview with Zubeida Tumbo-Masabo, Girl-Child Rights Officer at UNICEF (Jan. 18, 2011) (on file with the Center for Reproductive Rights).

²⁰ Interview with Winifrida Rutaindurwa, Gender Focal Point, Ministry of Education, in Dar es Salaam (June 10, 2013) (on file with the Center for Reproductive Rights).

²¹ Interview with Sikudhani, former secondary school student, in Dar es Salaam (Nov. 29, 2012) (on file with the Center for Reproductive Rights); interview with Tatu, former primary school student, in Dar es Salaam (Jan. 28, 2013) (on file with the Center for Reproductive Rights); interview with Martha, student, in Mafinga (Jan. 23, 2013) (on file with the Center for Reproductive Rights); interview with Sophia, *supra* note 17; interview with Rehema, former secondary school student, in Dar es Salaam (Nov. 29, 2012) (on file with the Center for Reproductive Rights); interview with Anna, student, in Mafinga (Jan. 23, 2013) (on file with the Center for Reproductive Rights); interview with Neema, former secondary school student, in Dar es Salaam (Nov. 29, 2013) (on file with the Center for Reproductive Rights); interview with Zambda, former primary school student, in Dar es Salaam (Nov. 29, 2012) (on file with the Center for Reproductive Rights); interview with Ashura, former secondary school student, in Dar es Salaam (Jan. 28, 2013) (on file with the Center for Reproductive Rights); interview with Maria, *supra* note 11; interview

with Joyce, student, in Mafinga (Jan. 23, 2013) (on file with the Center for Reproductive Rights).

²² Interview with Tatu, *supra* note 21; interview with Sophia, *supra* note 17; interview with Rehema, *supra* note 21; interview with Neema, *supra* note 21; interview with Zambda, *supra* note 21; interview with Ashura, *supra* note 21; interview with Maria, *supra* note 11. This is consistent with UNICEF's 2011 report findings on adolescence in Tanzania: “Lack of appropriate and comprehensive sexual and reproductive health education . . . means that many adolescents still do not know how or do not possess the means to prevent pregnancy.” *ADOLESCENCE IN TANZANIA*, *supra* note 13, at 16.

²³ See, *e.g.*, interview with Joyce, *supra* note 21; interview with Martha, *supra* note 21. See also interview with Anna, *supra* note 21; interview with judge from the Court of Appeals, in Dar es Salaam (Jan. 13, 2011) (on file with the Center for Reproductive Rights) (confirming that sexuality education appears only in secondary school curricula and is largely abstinence based).

²⁴ See *Programme of Action of the International Conference on Population and Development*, Cairo, Egypt, Sept. 5-13, 1994, paras. 7.44 (a-b), 7.47, U.N. Doc. A/CONF.171/13/Rev.1 (1995) [hereinafter *ICPD Programme of Action*]; Key Actions for the Further Implementation of the Programme of Action of the International Conference on Population and Development, Report of the Ad Hoc Committee of the Whole of the Twenty-first Special Session of the General Assembly, U.N. GAOR, paras. 35(b), 73(c), (e), U.N. Doc. A/S-21/5/Add.1 (1999).

²⁵ See *ICPD Programme of Action*, *supra* note 24, paras. 8.29(a), 8.31, 8.32; see also *Further Actions and Initiatives to Implement the Beijing Declaration and Platform for Action*, U.N. GAOR, para. 44, U.N. Doc. A/Res/S-23 (2000).

²⁶ CENTER FOR REPRODUCTIVE RIGHTS, *AN INTERNATIONAL HUMAN RIGHT: SEXUALITY EDUCATION FOR ADOLESCENTS IN SCHOOLS* (2008), available at

<http://reproductiverights.org/sites/default/files/documents/SexualityEducationforAdolescents.pdf> [hereinafter AN INT'L HUMAN RIGHT].

See, e.g., Committee on the Elimination of Discrimination against Women (CEDAW Committee), *Concluding Observations: Lithuania*, paras. 24-25, U.N. Doc. CEDAW/C/LTU/CO/4 (2008); *Republic of Moldova*, para. 31, U.N. Doc. CEDAW/C/MDA/CO/3 (2006); *Turkmenistan*, para. 31, U.N. Doc. CEDAW/C/TKM/CO/2 (2006). See also Committee on the Rights of the Child (Children's Rights Committee), *Concluding Observations: Antigua and Barbuda*, para. 54, U.N. Doc. CRC/C/15/Add.247 (2004); *Trinidad and Tobago*, para. 54, U.N. Doc. CRC/C/TTO/CO (2006).

²⁷ See, e.g., CEDAW Committee, *Concluding Observations: Lithuania*, paras. 24-25, U.N. Doc. CEDAW/C/LTU/CO/4 (2008); *Republic of Moldova*, para. 31, U.N. Doc. CEDAW/C/MDA/CO/3 (2006); *Turkmenistan*, para. 31, U.N. Doc. CEDAW/C/TKM/CO/2 (2006). See also Children's Rights Committee, *Concluding Observations: Antigua and Barbuda*, para. 54, U.N. Doc. CRC/C/15/Add.247 (2004); *Trinidad and Tobago*, para. 54, U.N. Doc. CRC/C/TTO/CO (2006). See also Children's Rights Committee, *Concluding Observations: Ireland*, para. 52, U.N. Doc. CRC/C/IRL/CO/2 (2006) (The Children's Rights Committee has expressed concern about programmes that allow parents to opt-out on behalf of their children).

²⁸ See CEDAW Committee, *Concluding Observations: Republic of Moldova*, para. 31, U.N. Doc. CEDAW/C/MDA/CO/3 (2006).

²⁹ See WORLD HEALTH ORGANIZATION (WHO), *ADOLESCENT PREGNANCY: ISSUES IN ADOLESCENT HEALTH AND DEVELOPMENT* 63 (2004), available at http://whqlibdoc.who.int/publications/2004/9241591455_eng.pdf [hereinafter *ADOLESCENT PREGNANCY*].

³⁰ See *id.*

³¹ See WHO, *FAMILY LIFE, REPRODUCTIVE HEALTH AND POPULATION EDUCATION: KEY ELEMENTS OF A HEALTH-PROMOTING SCHOOL*, INFORMATION SERIES ON SCHOOL HEALTH 39 (Doc. 8), available at http://www.who.int/school_youth_health/media/en/family_life.pdf. See also AN INT'L HUMAN RIGHT, *supra* note 26, at 3.

www.who.int/school_youth_health/media/en/family_life.pdf. See also AN INT'L HUMAN RIGHT, *supra* note 26, at 3.

³² See, e.g., Children's Rights Committee, *General Comment No. 3: HIV/AIDS and the rights of the child*, (32nd Sess., 2003), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 398, para. 13, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008); Committee on Economic, Social and Cultural Rights (ESCR Committee), *General Comment No. 14: The right to the highest attainable standard of health (Art. 12)*, (22nd Sess., 2000), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 78, para. 34, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter *ESCR Committee, Gen. Comment No. 14*]; International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia, Eur. Committee of Social Rights, Complaint No. 45/2007, para. 47 (2009); *Rep. of the United Nations Special Rapporteur on the right to education*, paras. 39, 87(d), U.N. Doc. A/65/162 (Jul. 23, 2010) [hereinafter *Rep. of the SR to Ed.* (2010)]; Children's Rights Committee, *General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child*, (33rd Sess., 2003), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 411, para. 22, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008) [hereinafter *Children's Rights Committee, Gen. Comment No. 4*].

³³ See, e.g., Children's Rights Committee, *Gen. Comment No. 4, supra* note 32, para. 24; ESCR Committee, *Concluding Observations: Honduras*, paras. 27, 48, U.N. Doc. E/C.12/1/Add.57 (2001); *Benin*, paras. 23, 42, U.N. Doc. E/C.12/1/Add.78 (2002); *Bolivia*, para. 43, U.N. Doc. E/C.12/1/Add.60 (2001); *Senegal*, para. 47, U.N. Doc. E/C.12/1/Add.62 (2001); *Cameroon*, para. 45, U.N. Doc. E/C.12/1/Add.40 (1999); *Chile*, paras. 27,

54-55, U.N. Doc. E/C.12/1/Add.105 (2004); *Libyan Arab Jamahiriya*, para. 36, U.N. Doc. E/C.12/LYB/CO/2 (2006); *People's Republic of China*, para. 60, U.N. Doc. E/C.12/1/Add.107 (2005); *Republic of Moldova*, para. 48, U.N. Doc. E/C.12/1/Add.91 (2003); *Russian Federation*, para. 62, U.N. Doc. E/C.12/1/Add.94 (2003); *Trinidad and Tobago*, para. 47, U.N. Doc. E/C.12/1/Add.80 (2002); *Ukraine*, para. 31, U.N. Doc. E/C.12/1/Add.65 (2001); CEDAW Committee, *Concluding Observations: Uruguay*, para. 170, U.N. Doc. A/57/38 (2002); Children's Rights Committee, *Concluding Observations: Indonesia*, para. 59(c), U.N. Doc. CRC/C/15/Add.223 (2004); *Sao Tome and Principe*, para. 47(b), U.N. Doc. CRC/C/15/Add.235 (2004); *Togo*, para. 55, U.N. Doc. CRC/C/15/Add.255 (2005). See generally, AN INT'L HUMAN RIGHT, *supra* note 26.

³⁴ UN EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION (UNESCO) ET AL., *INTERNATIONAL TECHNICAL GUIDANCE ON SEXUALITY EDUCATION: AN EVIDENCE-INFORMED APPROACH FOR SCHOOLS, TEACHERS AND HEALTH EDUCATORS* 29-33 (Vol. II, 2009), available at <http://unesdoc.unesco.org/images/0018/001832/183281e.pdf>. Because these topics are essential to comprehensive sexuality education, abstinence-only education is inadequate.

³⁵ See *ADOLESCENT PREGNANCY, supra* note 29, at 63.

³⁶ See *id.*; WHO, *OPPORTUNITY IN CRISIS: PREVENTING HIV FROM EARLY ADOLESCENCE TO YOUNG ADULTHOOD* 9 (2011), available at http://www.who.int/hiv/pub/oic_report_en.pdf ("[T]he evidence shows that abstinence-only programmes are not effective at preventing HIV, other sexually transmitted infections or pregnancy, or at changing risk behaviours in the long term.")

³⁷ In his report, the Special Rapporteur on the Right to Education details the numerous treaty-monitoring bodies that have found barriers to comprehensive sexuality education to be human rights violations and calls on states to make such education accessible. *Rep. of the SR to Ed.* (2010), *supra* note 32, paras 24-31. For example, the Special Rapporteur states

that "[c]omprehensive sexual education is an indispensable means" to achieving article 5 of Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which seeks to eliminate prejudices and customary practices based on stereotyped roles of men and women. *Id.* para. 33. See also AN INT'L HUMAN RIGHT, *supra* note 26, at 2-3 (describing how U.N. treaty monitoring bodies consistently urge states to provide comprehensive sexual and reproductive health education and to remove barriers to such information.)

³⁸ CEDAW Committee, *General Recommendation No. 24: Article 12 of the Convention (women and health)*, (20th Sess., 1999), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 358, para. 18, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008) [hereinafter *CEDAW Committee, Gen. Recommendation No. 24*]; *INTERIGHTS v. Croatia*, Complaint No. 45/2007, para. 47; see, e.g., *Rep. of the SR to Ed.* (2010), *supra* note 32, para. 87(c), (e).

³⁹ See, e.g., *INTERIGHTS v. Croatia*, Complaint No. 45/2007, para. 48; *Rep. of the SR to Ed.* (2010), *supra* note 32, para. 63.

⁴⁰ *Rep. of the SR to Ed.* (2010), *supra* note 32, paras. 21-23, 63, 87(d).

⁴¹ See, e.g., Children's Rights Committee, *Gen. Comment No. 4, supra* note 32, para. 35(b).

⁴² Email correspondence between Alisha Bjerregaard and Zubeida Tumbo-Masabo, Girl-Child Rights Officer at UNICEF (Mar. 21, 2013) (on file with the Center for Reproductive Rights) (stating that, at present, "[t]here is no national sexuality education curriculum."). See also UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID), 'FALLING THROUGH THE CRACKS' ADOLESCENT GIRLS IN TANZANIA: INSIGHTS FROM MTWARA 9 (2010), available at <http://www.svri.org/adol.pdf> [hereinafter *FALLING THROUGH THE CRACKS*] ("There is still no national sexual and reproductive health (SRH) curriculum in schools in Tanzania, despite reports of at least a decade of materials development and

advocacy for curricular attention to SRH.”).

⁴³ Email correspondence between Alisha Bjerregaard and Zubeida Tumbo-Masabo, *supra* note 42 (“Life skills is not comprehensively taught as a subject, but some carrier subjects such as biology, civics and languages at secondary school level and personality and sports, as well as stadi za kazi [work skills] at primary school level, have life skills topics.”). *See also* Mkumbo, *supra* note 18, at 616.

⁴⁴ Kitila Alexander Mkumbo, *Teachers Attitudes towards and Comfort about Teaching School-Based Sexuality Education in Urban and Rural Tanzania*, 4(4) GLOBAL J. OF HLTH. SCI., 149, 157 (2012) [hereinafter Mkumbo (2012)].

⁴⁵ RESTLESS DEVELOPMENT, STATE OF THE YOUTH IN TANZANIA: ANNUAL REPORT 2011 YOUTH-LED RESEARCH IN ACTION 8 (2011), *available at* <http://www.restlessdevelopment.org/file/res-tz-soy-pub-rpt-final-version-feb12-pdf> [hereinafter STATE OF THE YOUTH IN TANZANIA].

⁴⁶ For example, in general, life-skills curriculum content appears to be almost exclusively focused on HIV/AIDS at the expense of other topics, such as family planning and pregnancy prevention. Mkumbo, *supra* note 18, at 622; STATE OF THE YOUTH IN TANZANIA, *supra* note 45, at 8. A youth-led study that touched on this issue concluded that “[e]ducation on sexual health and rights overall not just on HIV and AIDS” was imperative. STATE OF THE YOUTH IN TANZANIA, *supra* note 45, at 8. In sum, as a 2009 study concluded, “The current content of sexuality and HIV/AIDS education in the school curriculum [in Tanzania] . . . falls far short of the characteristics of effective [sexuality education] content.” Mkumbo, *supra* note 18, at 624.

⁴⁷ Mkumbo, *supra* note 18, at 623-24; *see also* FALLING THROUGH THE CRACKS, *supra* note 42, at 9 (describing the limited sexual and reproductive health information provided to students).

⁴⁸ Interview with Salma, Biology and Geography Teacher, in Mafinga (Jan. 23, 2013) (on file with the Center for Reproductive Rights).

⁴⁹ MINISTRY OF EDUCATION & VOCATIONAL TRAINING

(TANZ.), GUIDANCE AND COUNSELLING SERVICES: A GUIDE FOR COUNSELLORS IN SCHOOLS AND TEACHERS’ COLLEGES 29 (2006) [hereinafter GUIDANCE AND COUNSELLING SERVICES].

⁵⁰ *Id.* at 35.

⁵¹ *Id.* at 43.

⁵² UBORA WA AFYA KWA FAMILIA DUNIANI, ADOLESCENT SEXUAL AND REPRODUCTIVE HEALTH: REPORT ON AN ASSESSMENT AND REVIEW OF TRAINING MATERIALS 32-33 (Ministry of Health, 2001), *available at* http://ihi.eprints.org/392/1/ihi_%289%29.pdf.

⁵³ Mkumbo, *supra* note 18, at 622-23.

⁵⁴ *Id.* at 622 (explaining that the government’s Guidelines for Implementing HIV/AIDS and Life Skills Education Programmes in Schools “acknowledge that about 50 percent of young people below the age 15 . . . are already sexually active.”). *See also* 2010 TDHS, *supra* note 14, at 96 (“[T]he median age at first intercourse for women age 20-49 is 17.4 years. Fifteen percent of women age 25-49 have had sex by age 15, and almost 6 in 10 have had sex by age 18.”).

⁵⁵ *See* Section Four. *See also* FALLING THROUGH THE CRACKS, *supra* note 42, at 6 (“numerous respondents spoke about girls being told to deliberately fail their Standard 7 (primary school leaving) examinations because families could not afford to pay fees for secondary schools or because the girls could then be married off and bride-price paid to the girls’ families for the marriage.”); *Dropouts due to pregnancy: Number of secondary girls who in 2009 dropped out of Tanzanian secondary schools due to pregnancy*, EMPOWERED GIRLS E. AFR. (posted on Oct. 25, 2010), <http://lenana.net/blog/?p=209> (last visited Apr. 29, 2010); ADOLESCENCE IN TANZANIA, *supra* note 13, at 22 (showing that there is a limited gender disparity in primary school and that the disparity begins to occur in secondary school); TANZANIA MEDIA WOMEN’S ASSOCIATION (TAMWA), TAMWA’S REPORT ON SCHOOL GIRLS PREGNANCY SURVEY IN 17 REGIONS 17 (2010) [hereinafter TAMWA’S REPORT (2010)] (recommending that students be taught sexuality education and emphasizing that “Form One students are

potentially vulnerable to pregnancies because of their ignorance to maternal health.”).

⁵⁶ Interview with Ashura, *supra* note 21 (became pregnant in Form 1); interview with Chika, former primary school student, in Dar es Salaam (Jan. 29, 2013) (on file with the Center for Reproductive Rights) (became pregnant in Standard 7, took the exam and passed but could not continue); interview with Tatu, *supra* note 21 (became pregnant in Standard 5); interview with Semeni, former primary school student, in Dar es Salaam (Jan. 28, 2013) (on file with the Center for Reproductive Rights) (became pregnant in Standard 7); interview with Zambda, *supra* note 21 (became pregnant during the break between Standard 7 and Form 1, while waiting to begin Form 1).

⁵⁷ LEGAL AND HUMAN RIGHTS CENTRE (LHRC), TANZANIA HUMAN RIGHTS REPORT 2008, 69 (2008) [hereinafter TANZ. H.R. REP. 2008]; Mkumbo, *supra* note 18, at 622-23.

⁵⁸ *See* NAT’L ADOLESCENT RH STRATEGY, *supra* note 18, at 11 (noting that sexuality education “services are not available in most schools due to shortage of teachers trained to provide the services.”).

⁵⁹ ADOLESCENCE IN TANZANIA, *supra* note 13, at 30; Mkumbo (2012), *supra* note 44, at 157; FALLING THROUGH THE CRACKS, *supra* note 42, at 9.

⁶⁰ ADOLESCENCE IN TANZANIA, *supra* note 13, at 30; Mkumbo (2012), *supra* note 44, at 157; FALLING THROUGH THE CRACKS, *supra* note 42, at 9. Many interviewees explained that teachers’ discomfort with talking about sex often leads them to avoid teaching the subject, if possible. Interview with headmaster at private secondary school, in Dar es Salaam (Jan. 20, 2011) (on file with the Center for Reproductive Rights); interview with Zubeida Tumbo-Masabo, *supra* note 19.

⁶¹ Consesa John, *Pregnancy among young girls*, TANZ. MEDIA FUND (Aug. 11, 2010, 3:24 PM), <http://mediaup.tmf.or.tz/public/node/422>.

⁶² TAMWA’S REPORT (2010), *supra* note 55, at 11.

⁶³ *Tanzanian Church Still Opposes Condoms, Sex Education*, AFROL NEWS (Jun. 1), <http://www.afrol.com/articles/19596> (last visited Apr. 29,

2013).

⁶⁴ Email correspondence between Alisha Bjerregaard and Zubeida Tumbo-Masabo, *supra* note 42.

⁶⁵ MINISTRY OF HEALTH, STANDARDS FOR ADOLESCENT FRIENDLY REPRODUCTIVE HEALTH SERVICES 13 (2005) [hereinafter STANDARDS FOR ADOLESCENT FRIENDLY REPRO. HLTH SERVICES]. Adolescents also report being unable to discuss issues of sexuality and reproduction with their parents or families. *See, for example*, STATE OF THE YOUTH IN TANZANIA, *supra* note 45, at 8; Lumuli Mbonile & Edmund J. Kayombo, *Assessing Acceptability of Parents/Guardians of Adolescents Towards Introduction of Sex and Reproductive Health Education in Schools at Kinondoni Municipal in Dar Es Salaam City*, 5(1) E. AFR. J. OF PUB. HLTH. 26, 28 (2008). As concluded by one youth-led study touching on challenges in the area of reproductive and sexual health, “We cannot talk to our parents honestly about our sex and health concerns because we fear their reaction and they are not used to us talking about these issues.” STATE OF THE YOUTH IN TANZANIA, *supra* note 45, at 8. *See also* Mbonile, *supra* note 65, at 28. This, combined with the widespread unavailability of adolescent-friendly health care services in Tanzania, leaves adolescents with few options for obtaining accurate and comprehensive information about sex and pregnancy prevention.

⁶⁶ NAT’L ADOLESCENT RH STRATEGY, *supra* note 18, at 6.

⁶⁷ STATE OF THE YOUTH IN TANZANIA, *supra* note 45, at 8.

⁶⁸ NAT’L BUREAU OF STATISTICS (TANZ.), TANZANIA SERVICE PROVISION ASSESSMENT SURVEY 2006, 95 (2007), *available at* <http://www.measuredhs.com/pubs/pdf/SPA12/SPA12.pdf>; USAID, TANZANIA: POPULATION, REPRODUCTIVE HEALTH AND DEVELOPMENT 6 (2006), *available at* http://www.unfpa.org/sowmy/resources/docs/library/R291_USAID_2006_Tanzania_348-1_Tanzania_RAPID_English_acc.pdf.

⁶⁹ In a 2003 assessment of youth-friendly services in Tanzania (mainland and Zanzibar), 61% of the youth interviewed said that the

“fees charged for various [reproductive health] services were not affordable.” AFRICA YOUTH ALLIANCE & PATHFINDER INTERNATIONAL, YOUTH-FRIENDLY SEXUAL AND REPRODUCTIVE HEALTH SERVICES: AN ASSESSMENT OF FACILITIES 22 (2003), available at http://www2.pathfinder.org/site/DocServer/Youth_Friendly_Services_Summary_Assessment_Report_Tanzan.pdf [hereinafter YOUTH-FRIENDLY SRH SERVICES]. See also STATE OF THE YOUTH IN TANZANIA, *supra* note 45, at 8.

⁷⁰ 2010 TDHS, *supra* note 14, at 69. The data in the TDHS was not disaggregated to show contraceptive prevalence for sexually active women between the ages of 15 and 19 for mainland Tanzania alone.

⁷¹ In 1994, the Family Planning Unit of the Ministry of Health instituted the National Policy Guidelines and Standards for Family Planning Services and Training, which state that “all males and females of reproductive age, including adolescents irrespective of their parity and marital status, shall have the right of access to family planning information, education, and services.” Ilene S. Speizer et al., *Do Service Providers in Tanzania Unnecessarily Restrict Clients’ Access to Contraceptive Methods?* 26(1) INT’L FAM. PLANNING PERSPECTIVES, 13, 13-14 (2000), available at <http://www.guttmacher.org/pubs/journals/2601300.html>. This was echoed, verbatim, in the 2003 National Policy Guidelines for Reproductive and Child Health Services. MINISTRY OF HEALTH (TANZ.), NATIONAL POLICY GUIDELINES FOR REPRODUCTIVE AND CHILD HEALTH SERVICES 27-28 (2003) [hereinafter NAT’L POLICY GUIDELINES (2003)]. The commitment to provide contraceptive and family planning services without discrimination and bias is also reiterated in the 1996 National Youth Development Policy and the 2008 National Roadmap and Strategic Plan for the Reduction of Maternal, Newborn and Child Deaths. MINISTRY OF LABOUR AND YOUTH DEVELOPMENT (TANZ.), NATIONAL YOUTH DEVELOPMENT POLICY, para. 5.4 (1996); MINISTRY OF HEALTH AND SOCIAL WELFARE, THE NATIONAL ROAD MAP STRATEGIC PLAN TO ACCELERATE REDUCTION OF MATERIAL,

NEWBORN AND CHILD DEATHS IN TANZANIA 5 (2008) [hereinafter STRATEGIC PLAN]. The strategic plan seeks to increase contraceptive prevalence by making quality family planning services more accessible to and equitable for all people. Providers, however, continue to limit women’s use of services. See generally Speizer, *supra* note 71, at 13-14. See also, generally, MINISTRY OF HEALTH AND SOCIAL WELFARE (TANZ.), NATIONAL FAMILY PLANNING COSTED IMPLEMENTATION PROGRAM 2010-2015, 1, 10 (2010), available at http://ihi.eprints.org/802/1/MoHSW.pdf_%2829%29.pdf.

⁷² STRATEGIC PLAN, *supra* note 71, at 5.

⁷³ Speizer, *supra* note 71, at 16-17.

⁷⁴ *Id.* at 17.

⁷⁵ *Id.*

⁷⁶ YOUTH-FRIENDLY SRH SERVICES, *supra* note 69, at 20-21.

⁷⁷ *Id.*

⁷⁸ See generally, Speizer, *supra* note 71, at 17.

⁷⁹ 2010 TDHS, *supra* note 14, at 65 (“Teenagers in rural areas [in mainland Tanzania] are more likely to start childbearing than their urban counterparts (26 and 15 percent, respectively).”).

⁸⁰ STANDARDS FOR ADOLESCENT FRIENDLY REPRO. HLTH SERVICES, *supra* note 65, at 6.

⁸¹ *Id.* (“Existing socio-cultural and religious norms are a constraint to the promotion and provision of adolescent friendly services.”). See also Vibeke Rasch, et al., *Adolescent Girls with Illegally Induced Abortion in Dar es Salaam: The Discrepancy between Sexual Behaviour and Lack of Access to Contraception*, 8(15) REPRO. HLTH. MATTERS 52, 57 (2000) (noting that adolescent girls were reluctant to attend family planning clinics because “they were afraid of being considered prostitutes if they attended these clinics,” demonstrating the stigmatization of adolescent sexuality.).

⁸² PATHFINDER INTERNATIONAL, INTEGRATING YOUTH-FRIENDLY SEXUAL AND REPRODUCTIVE HEALTH SERVICES IN PUBLIC HEALTH FACILITIES: A SUCCESS STORY AND LESSONS LEARNED IN TANZANIA 1 (2005), available at [http://www.pathfinder.org/publications-tools/AYA-Tanzania-Case-Study-A-Success-Story-](http://www.pathfinder.org/publications-tools/AYA-Tanzania-Case-Study-A-Success-Story-2)

and-Lessons-Learned.html.

⁸³ *Id.* at 1-2 (explaining that the government has instead relied on nongovernmental organizations to fill this gap, but that, due to resource constraints, these organizations’ reach often does not extend past urban centres).

⁸⁴ STANDARDS FOR ADOLESCENT FRIENDLY REPRO. HLTH SERVICES, *supra* note 65, at 13, 16.

⁸⁵ *Id.* at 16, 23; see also Children’s Rights Committee, *Gen. Comment No. 4*, *supra* note 32, para. 41. See also WHO, MAKING HEALTH SERVICES ADOLESCENT FRIENDLY: DEVELOPING NATIONAL QUALITY STANDARDS FOR ADOLESCENT-FRIENDLY HEALTH SERVICES 30-31(2012), available at http://apps.who.int/iris/bitstream/10665/75217/1/9789241503594_eng.pdf.

⁸⁶ See MINISTRY OF PLANNING, ECONOMY AND EMPOWERMENT (TANZ.), NATIONAL POPULATION POLICY para. 4.6.3 (2006) [hereinafter NAT’L POP. POLICY (2006)]; NAT’L POLICY GUIDELINES (2003), *supra* note 71, at 5, 9; NAT’L ADOLESCENT RH STRATEGY, *supra* note 18, at 5; STANDARDS FOR ADOLESCENT FRIENDLY REPRO. HLTH SERVICES, *supra* note 65, at 10, 16, 23; NAT’L POLICY ON HIV/AIDS, *supra* note 18, para. 5.15(d).

⁸⁷ NAT’L ADOLESCENT RH STRATEGY, *supra* note 18, at 9.

⁸⁸ STRATEGIC PLAN, *supra* note 71, at 5 (decrying the “lack of adolescent-friendly health services”); NAT’L ADOLESCENT RH STRATEGY, *supra* note 18, at 11 (“Access to adolescent friendly reproductive health services (AFRHS) is still a major challenge in Tanzania.”); STANDARDS FOR ADOLESCENT FRIENDLY REPRO. HLTH SERVICES, *supra* note 65, at 6.

⁸⁹ NAT’L ADOLESCENT RH STRATEGY, *supra* note 18, at 11.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² FALLING THROUGH THE CRACKS, *supra* note 42, at 10.

⁹³ Rita Moses Mbeba, et. al., *Barriers to sexual health services and rights among young people in Mtwara district, Tanzania: a qualitative study*, 13 PAN Afr. MED. J. 2-3 (2012).

⁹⁴ UNICEF ET AL., VIOLENCE AGAINST CHILDREN IN TANZANIA: FINDINGS FROM A NATIONAL SURVEY 2009,

2 (2011), available at http://www.unicef.org/media/files/VIOLENCE_AGAINST_CHILDREN_IN_TANZANIA_REPORT.pdf [hereinafter VIOLENCE AGAINST CHILDREN IN TANZANIA]. Sexual violence is defined as including the following four types of behaviour: “1) unwanted touching in a sexual way (i.e., unwanted touching, kissing, grabbing, or fondling), 2) attempted unwanted intercourse in which sexual intercourse was attempted when the respondent did not want to, but the assailant did not succeed in doing so, 3) physically forced intercourse in which the respondent was physically forced to have sexual intercourse against his or her will, and 4) coerced intercourse in which the respondent was pressured or threatened in some other way to have sexual intercourse against his or her will.” *Id.* at 29. All references to this study are to data for mainland Tanzania exclusively.

⁹⁵ *Id.* at 30.

⁹⁶ *Id.*

⁹⁷ *Id.* at 51-52.

⁹⁸ *Id.* at 51 (“Specifically, 15.1% reported that at least one incident occurred at school or on school grounds and 23% reported an incident occurred while travelling to or from school.”).

⁹⁹ VIOLENCE AGAINST CHILDREN IN TANZANIA, *supra* note 94, at 44.

¹⁰⁰ Many children must walk long distances to get to school due to a lack of accessible public schools and an absence of dormitory options at many schools, leaving them vulnerable to sexual abuse and harassment. ACADEMY FOR EDUCATIONAL DEVELOPMENT, GIRLS GETTING TO SECONDARY SCHOOL SAFELY: COMBATING GENDER-BASED VIOLENCE IN THE TRANSPORTATION SECTOR IN TANZANIA 3-4 (2009), available at http://www.cge.aed.org/Publications/upload/Girls_Getting_to_Secondary_School_Safely_091710.pdf [hereinafter GIRLS GETTING TO SECONDARY SCHOOL SAFELY]; TANZ. H.R. REP. 2008, *supra* note 57, at 70; FORUM FOR AFRICAN WOMEN EDUCATIONALISTS (FAWE), BASELINE SURVEY REPORT ON SCHOOL BASED GENDER AND EMPOWERMENT 8 (2011) [hereinafter FAWE, BASELINE SURVEY REPORT]; A.N. Mwati, *Tanzania: Early pregnancy, bane to education*, AFRICANEWS (Jun. 22, 2011, 12:30), http://www.africanews.com/site/list_message/34828

(explaining that “schools [are] situated far away from homes. Most of the schools are 20 km from villages [and some] students are forced to rent rooms in the neighborhood.”). See also interview with Anna, *supra* note 21 (“There is a shortage of dormitories in schools. The government should increase the number of dormitories, because most girls get pregnant on their way to or home from school. But if they stay at the school then they won’t get either harassed by men or boys, or raped.”).

¹⁰¹ *Girls tell causes of pregnancy drop out, supra* note 16.

¹⁰² See generally, GIRLS GETTING TO SECONDARY SCHOOL SAFELY, *supra* note 100 (documenting that sexual violence is often perpetrated by individuals providing essential transport to schools); TAMWA’S REPORT (2010), *supra* note 55, at 15, 18. A 2009 survey of over 650 female students in Dar es Salaam found that “15% of the girls reported being sexually harassed or even sexually grabbed” on their commute to or from school. One “girl describes being sexually harassed and when she refused her harasser’s advances, she was no longer is able to board the bus he works on, one of the few buses on her route.” A further “22% of girls reported that drivers had attempted to force them to accept rides to school [likely in an effort to perpetrate sexual violence], but most of them report having been able to escape.” GIRLS GETTING TO SECONDARY SCHOOL SAFELY, *supra* note 100, at 14.

¹⁰³ TAMWA’S REPORT (2010), *supra* note 55, at 15.

¹⁰⁴ Masozi Nyirenda, *Do hostels and dormitories necessarily support girls’ education?*, IPP MEDIA (Jul. 16, 2012), <http://www.ippmedia.com/frontend/index.php?l=43720>.

¹⁰⁵ *School pregnancies: A call for reflection on teachers’ morality*, IPP MEDIA (May 18, 2011), <http://www.ippmedia.com/frontend/index.php?l=29222>; GIRLS GETTING TO SECONDARY SCHOOL SAFELY, *supra* note 100, at 4; TAMWA’S REPORT (2010), *supra* note 55, at 15; Budeba Petro Mlyakado, *Schoolgirls’ Knowledge of, and Efforts against Risky Sexual Activity: The*

Need for Sex Education in Schools, 5(1) INT’L J. OF EDUCATION 69, 75-76 (2013); interview with representatives from Women’s Legal Aid Centre (WLAC), in Dar Es Salaam (Jan. 19, 2011) (on file with the Center for Reproductive Rights) (describing the legal services provided by the organization to the parents of students who have been sexually harassed schools).

¹⁰⁶ ACTIONAID, TRANSFORMING EDUCATION FOR GIRLS IN NIGERIA AND TANZANIA 39 (2011), available at http://www.ungei.org/resources/files/tegit_-a_cross_country_analysis_of_baseline_research_from_nigeria_and_tanzania.pdf [hereinafter TRANSFORMING EDUCATION FOR GIRLS].

¹⁰⁷ *Id.*

¹⁰⁸ Mlyakado, *supra* note 105, at 76.

¹⁰⁹ Interview with headmaster at private secondary school, *supra* note 60.

¹¹⁰ TAMWA’S REPORT (2010), *supra* note 55, at 16; *Girls Being “Raped for Grades,”* AWID (Oct. 13, 2008), <http://www.awid.org/Library/Girls-being-raped-for-grades> (last visited May 13, 2013). TRANSFORMING EDUCATION FOR GIRLS, *supra* note 106, at 39 (discussing the lack of accountability and how it may be due in part to ineffective reporting systems). Interview with judge from the Court of Appeals, *supra* note 23 (“Abuse by teachers is common, and violators suffer no legal consequences—they are merely transferred to other schools, and the girls are blamed.”); interview with Zubeida Tumbo-Masabo, *supra* note 19 (“According to the Ministry guidelines, teachers that impregnate girls are supposed to be disciplined, but usually they are just transferred to another school”).

¹¹¹ We are using the word “impregnate” throughout the report only in order to be consistent with the language used in Tanzanian legislation.

¹¹² TAMWA’S REPORT (2010), *supra* note 55, at 16.

¹¹³ ADOLESCENCE IN TANZANIA, *supra* note 13, at 28.

¹¹⁴ WHO, EMERGENCY CONTRACEPTION: A GUIDE FOR SERVICE DELIVERY 7 (1998), available at <http://snap3.uas.mx/RECURSO1/unfpa/data/docs/unpf0025.pdf>. WHO considers EC to be a safe, convenient, and effective method of modern

contraception.

¹¹⁵ MINISTRY OF HEALTH AND SOCIAL WELFARE, NATIONAL MANAGEMENT GUIDELINES FOR THE HEALTH SECTOR RESPONSE TO AND PREVENTION OF GENDER-BASED VIOLENCE (GBV) 33 (2011).

¹¹⁶ International Consortium for Emergency Contraception, *EC Status and Availability: Tanzania*, <http://www.cecinfo.org/database/pill/countryDisplay.php?countdist=Tanzania> (last visited Oct. 27, 2011).

¹¹⁷ See USAID, *Tanzania: National Laws Regarding Gender, Reproductive Health and Family Planning*, <http://www.esdproj.org/site/PageServer?pagename=LawsTanzania> (last visited Oct. 27, 2011).

¹¹⁸ 2010 TDHS, *supra* note 14, at 68. Disaggregated data for mainland Tanzania was not available; this information thus reflects data for Tanzania as a whole.

¹¹⁹ See Lack of Access to Safe Abortion Services Leaves Girls without Choices, at the end of this section, for more information. Anthony Tambwe, *Tanzania: Violence Hinders Girls’ Education*, TANZANIA DAILY NEWS (Oct. 9, 2012), <http://allafrica.com/stories/201210090177.html> (last visited May 1, 2013); *Tanzania: Gender-Based Violence Put 180 Girls Out of School*, ALL AFRICA (Nov. 17, 2011), http://www.makeeverywomancount.org/index.php?option=com_content&view=article&id=2001:tanzania-gender-based-violence-put-180-girls-out-of-school&catid=37:violence-against-women&Itemid=63.

¹²⁰ Interview with Chika, *supra* note 56.

¹²¹ Fortunata G. Songora & Mary Nsemwa, *Let Them Talk: Voices from the Friends of Education Movement in Tanzania 7* (HakiElimu, Working Paper No. 06.5), available at http://hakielimu.org/files/publications/document60let_them_talk_en.pdf.

¹²² A REVIEW OF GENDER BASED VIOLENCE IN SCHOOLS IN TANZANIA: AN EDUCATION STAKEHOLDERS’ REPORT 10 (2011), available at http://www.nurturingmindsinafrica.com/sitebuildercontent/sitebuilderfiles/gbv_forum_in_schools_report_tanzania.pdf; HAKI ELIMU, POSITION PAPER: HOW TO ENSURE EDUCATIONAL SUCCESS FOR GIRLS:

THEY HAVE A RIGHT TO COMPLETE THEIR STUDIES 13 (2010), available at <http://hakielimu.org/files/publications/How%20to%20Ensure%20Educational%20Success%20for%20Girls.pdf> [hereinafter HOW TO ENSURE EDUCATIONAL SUCCESS FOR GIRLS]; RESEARCH AND ANALYSIS WORKING GROUP (TANZ), TANZANIAN CHILDREN’S PERCEPTIONS OF EDUCATION AND THEIR ROLE IN SOCIETY: VIEWS OF THE CHILDREN 2007, viii (2007), available at http://www.repoa.or.tz/documents/Views_of_the_Children_2007.pdf [hereinafter VIEWS OF THE CHILDREN].

¹²³ See TAMWA’S REPORT (2010), *supra* note 55, at 18.

¹²⁴ TANZANIA EDUCATION NETWORK, STRENGTHENING EDUCATION IN TANZANIA: CSO CONTRIBUTION TO THE EDUCATION SECTOR REVIEW 2007, 9 (2007), available at http://doc-aea.aide-et-action.org/data/admin/tan_zania_-_strengthening_education.pdf [hereinafter STRENGTHENING EDUCATION IN TANZANIA]; TANZ. H.R. REP. 2011, *supra* note 57, at 102.

¹²⁵ MINISTRY OF EDUCATION AND CULTURE, SECONDARY EDUCATION MASTER PLAN [SEMP] 2001-2005 14 (2002); VIEWS OF THE CHILDREN, *supra* note 122, at 15; Ruth Wedgewood, *Education and Poverty Reduction in Tanzania*, at 4, 9 (HakiElimu, Working Paper No. 06.9), available at http://hakielimu.org/files/publications/document102edu_poverty_reduction_tz_en.pdf.

¹²⁶ BEST 2012, *supra* note 3, tbl. 2.12 & 2.13. The BEST 2012 statistics are collected for mainland Tanzania only.

¹²⁷ *Id.* tbl. 4.12 Cht. 4.5.

¹²⁸ *Id.* tbl. 2.12 & 2.13.

¹²⁹ *Id.* tbl. 4.12 Cht. 4.5.

¹³⁰ UN, *Prevent Adolescent Pregnancies and Keep Girls in School!*, at 2 (Jul. 2010), available at http://www.nurturingmindsinafrica.org/sitebuildercontent/sitebuilderfiles/ab_adolescentsfinal.pdf; TAMWA’S REPORT (2010), *supra* note 55, at 14; Damian Carrington, *Why women’s education in Tanzania is critical for slowing population growth*, THE GUARDIAN (Oct. 24, 2011, 10:29 EDT), <http://www.guardian.co.uk/global-development/2011/oct/24/women->

- education-tanzania-population. *See also* Fatina S. Kiluvia, Gender and Sexuality Notions as Determinants of School Pregnancies in Tanzania: A Case of Iringa Rural District 33-34 (Nov. 2011) (research paper, Int'l Institute of Social Studies), *available at* http://oathesis.eur.nl/ir/repub/asset/10592/Fatina_Sunny_Kiluvia_Research_Paper_2010-11.pdf; HOW TO ENSURE EDUCATIONAL SUCCESS FOR GIRLS, *supra* note 122, at 13; *Girls tell causes of pregnancy drop out, supra* note 16.
- ¹³¹ VIOLENCE AGAINST CHILDREN IN TANZANIA, *supra* note 94, at 75. The study further found that over 80% of these same females also reported childhood sexual violence. *Id.* at 76.
- ¹³² *Girls tell causes of pregnancy drop out, supra* note 16.
- ¹³³ Mwati, *supra* note 100 (explaining that “schools [are] situated far away from homes. Most of the schools are 20 km from villages [and some] students are forced to rent rooms in the neighborhood.”); GIRLS GETTING TO SECONDARY SCHOOL SAFELY, *supra* note 100, at 3-4; TANZ. H.R. REP. 2008, *supra* note 57, at 70; FAWE, BASELINE SURVEY REPORT, *supra* note 100, at 8.
- ¹³⁴ GIRLS GETTING TO SECONDARY SCHOOL SAFELY, *supra* note 100, at 8.
- ¹³⁵ TAMWA’S REPORT (2010), *supra* note 55, at 11; interview with representatives from WLAC, *supra* note 105.
- ¹³⁶ Ichikaeli Maro, *Steps Afoot to Solve Schoolgirl Pregnancies, Early Marriages*, DAILY NEWS (Dec. 6, 2012, 1:27), <http://www.dailynews.co.tz/index.php/features/popular-features/12382-steps-afout-to-solve-schoolgirl-pregnancies-early-marriages>.
- ¹³⁷ Mwati, *supra* note 100.
- ¹³⁸ LHRC, TANZANIA HUMAN RIGHTS REPORT 2010, 140 (2011) [hereinafter TANZ. H.R. REP. 2010].
- ¹³⁹ *See* Mwati, *supra* note 100.
- ¹⁴⁰ Interview with Rehema, *supra* note 21.
- ¹⁴¹ FAWE, BASELINE SURVEY REPORT, *supra* note 100, at 10, 17; TAMWA’S REPORT (2010), *supra* note 55, at 13; *Girls tell causes of pregnancy drop out, supra* note 16.
- ¹⁴² STRENGTHENING EDUCATION IN TANZANIA, *supra* note 124, at 9; TANZ. H.R. REP. 2011, *supra* note 57, at 102.
- ¹⁴³ EDUCATION & TRAINING POLICY, *supra* note 18, para. 3.2.17.
- ¹⁴⁴ TAMWA’S REPORT (2010), *supra* note 55, at 11, 18.
- ¹⁴⁵ Rasch, *supra* note 81, at 58 (girls stated they were afraid to ask men to use condoms for fear of losing their partner’s financial support).
- ¹⁴⁶ TAMWA’S REPORT (2010), *supra* note 55, at 18; HOW TO ENSURE EDUCATIONAL SUCCESS FOR GIRLS, *supra* note 122, at 13.
- ¹⁴⁷ ADOLESCENCE IN TANZANIA, *supra* note 13, at 12.
- ¹⁴⁸ *Tanzania: Legislators Divided Over Readmitting ‘Mother’ Students*, TANZANIA DAILY NEWS (Nov. 5, 2012), <http://allafrica.com/stories/201211050157.html>.
- ¹⁴⁹ John, *supra* note 61; CENTER FOR REPRODUCTIVE RIGHTS, BRIEFING PAPER: A TECHNICAL GUIDE TO UNDERSTANDING THE LEGAL AND POLICY FRAMEWORK ON TERMINATION OF PREGNANCY IN MAINLAND TANZANIA 13 (2012), *available at* http://reproductiverights.org/sites/crr.civicactions.net/files/documents/crr_TZ_Briefing_Paper.PDF [hereinafter CRR, TECHNICAL GUIDE]; Vibeke Rasch & Rose Kipingili, *Unsafe Abortion in Urban and Rural Tanzania: Method, Provider and Consequences*, 14 J. OF TROPICAL MED. & INT’L HLTH. 1128, 1132 (2009); TAMWA’S REPORT (2010), *supra* note 55, at 12.
- ¹⁵⁰ Interview with Rehema, *supra* note 21.
- ¹⁵¹ Interview with headmaster at private secondary school, *supra* note 60.
- ¹⁵² 2010 TDHS, *supra* note 14, at 95. This data is not disaggregated for mainland Tanzania and Zanzibar.
- ¹⁵³ ADOLESCENCE IN TANZANIA, *supra* note 13, at 46. CHILDREN’S DIGNITY FORUM, VOICES OF CHILD BRIDES AND CHILD MOTHERS IN TANZANIA 16 (2010) [hereinafter VOICES OF CHILD BRIDES]; *see also* Law of Marriage Act (1971), art. 17 (Tanz.).
- ¹⁵⁴ ADOLESCENCE IN TANZANIA, *supra* note 13, at 46.
- ¹⁵⁵ Iben Madsen, *Is Child Marriage a Neglected Problem?*, DAILY NEWS (Dec. 2, 2009), <http://allafrica.com/stories/200912020746.html> (last visited Oct. 28, 2011).
- ¹⁵⁶ 2010 TDHS, *supra* note 14, at 282 (46.1% of married adolescents age 15-19 reported emotional, physical or sexual violence by their husband; this information was not disaggregated by mainland Tanzania and Zanzibar, however rates of reported emotional, physical or sexual violence were much higher overall in mainland Tanzania (51.2%) when compared to Zanzibar (11.4%)); ADOLESCENCE IN TANZANIA, *supra* note 13, at 46.
- ¹⁵⁷ 2010 TDHS, *supra* note 14, at 282. This information was not disaggregated by mainland Tanzania and Zanzibar; however, rates of reported sexual violence were much higher overall in mainland Tanzania (17.5%) versus Zanzibar (3.8%).
- ¹⁵⁸ ANJU MALHOTRA ET AL., SOLUTIONS TO END CHILD MARRIAGE: WHAT THE EVIDENCE SHOWS 4 (INT’L CENTER FOR RESEARCH ON WOMEN, 2011), *available at* <http://www.icrw.org/files/publications/Solutions-to-End-Child-Marriage.pdf>.
- ¹⁵⁹ Madsen, *supra* note 155.
- ¹⁶⁰ NAT’L POP. POLICY (2006), *supra* note 86, para. 2.3.3.
- ¹⁶¹ *Girl Students in Tanzania Face Early Marriages, Family Pressures*, OPEN EQUAL FREE (July 16, 2012), <http://www.openequalfree.org/girl-students-in-tanzania-face-early-marriages-family-p pressures/14716> (last visited May 1, 2013).
- ¹⁶² The Education (Expulsion and Exclusion of Pupils from Schools) Regulations, G.N. No. 295 of 2002, art. 4(c) (Tanz.); *see* Section Two for more information.
- ¹⁶³ TAMWA’S REPORT (2010), *supra* note 55, at 11 (Headmaster, Mbezi Inn Secondary School, Dar es Salaam stated: “I can say with complete certainty that many school girls in Dar es Salaam city, especially those in private schools are wives. They go to school leaving the husbands at home.”).
- ¹⁶⁴ ADOLESCENCE IN TANZANIA, *supra* note 13, at 46.
- ¹⁶⁵ The Education (Imposition of Penalties to Persons who marry or Impregnate a School Girl) Rules 2003, G.N. No. 265 of 2003; Ministry of Education and Vocational Training, Education Circular No. 6 of 2004, *Penalties for those who Marry or Impregnate Schoolgirls* (Apr. 13, 2004) (Tanz.) [hereinafter Education Circular No. 6 of 2004]. *See also* Ministry of Education and Vocational Training, Education Circular No. 6 of 1998, *Impregnating a Student, Marrying off a Student, Managing Enrollment, Attendance and Completion* (Tanz.) [hereinafter Education Circular No. 6 of 1998]. *See* Section Two for further discussion of these circulars.
- ¹⁶⁶ Law of Marriage Act (1971), art. 13, 17 (Tanz.).
- ¹⁶⁷ VOICES OF CHILD BRIDES, *supra* note 153, at 6.
- ¹⁶⁸ Law of Marriage Act (1971), art. 13(2) (Tanz.).
- ¹⁶⁹ ADOLESCENCE IN TANZANIA, *supra* note 13, at 48.
- ¹⁷⁰ The Education (Imposition of Penalties to Persons who marry or Impregnate a School Girl) Rules 2003, G.N. No. 265 of 2003; Education Circular No. 6 of 2004, *supra* note 165.
- ¹⁷¹ VOICES OF CHILD BRIDES, *supra* note 153, at 6.
- ¹⁷² LHRC, HUMAN RIGHTS REPORT 2012, 152, n. 366 (2012), *available at* <http://www.humanrights.or.tz/reports?download=25:tanzania-human-rights-report-2012>.
- ¹⁷³ CEDAW Committee, *Concluding Observations: Tanzania*, para. 147, U.N. Doc. CEDAW/C/TZA/CO/6 (2008); Human Rights Committee, *Concluding Observations: Tanzania*, para. 9(a), U.N. Doc. CCPR/C/TZA/CO/4 (2009); *see also* Children’s Rights Committee, *Concluding Observations: Tanzania*, para. 25, U.N. Doc. CRC/C/TZA/CO/2 (2006).
- ¹⁷⁴ The Government of Tanzania, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of all Forms of Discrimination against Women: Combined fourth, fifth and sixth periodic reports of States parties: Tanzania*, para. 44, U.N. Doc. CEDAW/C/TZA/6 (2007); Ministry of Community Development, Gender and Children (Tanz.), *gender Equality and Social Institutions in Tanzania*, http://www.mcdgc.go.tz/index.php/publications/more/gender_equality_and_social_institutions_in_tanzania/ (last visited Jun. 28, 2013); LEGAL AND HUMAN RIGHTS CENTRE, TANZANIA HUMAN RIGHTS REPORT 2008: PROGRESS THROUGH HUMAN RIGHTS 5

(2009), available at http://www.mcdgc.go.tz/data/Tanzania_human_rights_report_2008_-_women_s_rights.pdf; ADOLESCENCE IN TANZANIA, *supra* note 13, at 48.

¹⁷⁵ CENTER FOR REPRODUCTIVE RIGHTS, IN HARM'S WAY: THE IMPACT OF KENYA'S RESTRICTIVE ABORTION LAW 72-75 (2010).

¹⁷⁶ ADOLESCENCE IN TANZANIA, *supra* note 13, at 16 (citing to Ministry of Health and Social Welfare, "Report on Assessment of Adolescent Sexual and Reproductive Health Services," 2008). See also NEIL PRICE ET AL., ADDRESSING THE REPRODUCTIVE HEALTH RIGHTS AND NEEDS OF YOUNG PEOPLE SINCE ICPD: THE CONTRIBUTION OF UNFPA AND IPPF, TANZANIA COUNTRY EVALUATION REPORT 25 (2003) [hereinafter TANZANIA COUNTRY EVALUATION REPORT]. This is particularly high compared to global statistics, where adolescents account for 14% of all unsafe abortions. WORLD HEALTH ORGANIZATION (WHO), PREGNANT ADOLESCENTS: DELIVERING ON GLOBAL PROMISES OF HOPE 4 (2006), available at http://whqlibdoc.who.int/publications/2006/9241593784_eng.pdf [hereinafter PREGNANT ADOLESCENTS].

¹⁷⁷ TANZANIA COUNTRY EVALUATION REPORT, *supra* note 176, at 25.

¹⁷⁸ ADOLESCENCE IN TANZANIA, *supra* note 13, at 16.

¹⁷⁹ See Mrisho Mpoto Anakubalika, *Grim Consequences: Abortion amongst Schoolgirls*, FEMINA HIP MAGAZINE 21 (Jan. – Mar. 2010 Ed.).

¹⁸⁰ *Abortion remains a crime in Tanzania*, DAILY NEWS ONLINE EDITION (Nov. 26, 2010, 16:00), <http://www.dailynews.co.tz/home/?n=14901>; Denise Grady, *The Deadly Toll of Abortion by Amateurs*, NY TIMES (Jun. 1, 2009), <http://www.nytimes.com/2009/06/02/health/02abort.html>.

¹⁸¹ See for more information on mainland Tanzania's abortion law, Center for Reproductive Rights, *The Legal and Policy Framework on Abortion in Tanzania toolkit* (2012), available at <http://reproductiverights.org/en/document/the-legal-and-policy-framework-on-abortion-in-tanzania> [hereinafter CRR, *Tanzania toolkit*].

¹⁸² MONICA WANJIRU ET AL., ASSESSING THE FEASIBILITY, ACCEPTABILITY AND COST OF INTRODUCING POSTABORTION CARE IN HEALTH CENTRES AND DISPENSARIES IN RURAL

TANZANIA 6-7 (2007), available at http://www.popcouncil.org/pdfs/frontiers/FR_FinalReports/Tanzania_PAC.pdf; CRR, TECHNICAL GUIDE, *supra* note 149, at 33, 37 (note: the equipment for first trimester abortion is identical as that required for PAC).

¹⁸³ See for more information on mainland Tanzania's abortion law, CRR, *Tanzania toolkit*, *supra* note 181.

¹⁸⁴ CRR, TECHNICAL GUIDE, *supra* note 149, at 13; Rasch & Kipingili, *supra* note 149, at 1132; TAMWA'S REPORT (2010), *supra* note 55, at 12.

¹⁸⁵ John, *supra* note 61 (discussing how poverty forces girls into sexual relationships which then lead to unwanted pregnancy and unsafe abortion). GUTTMACHER INSTITUTE, *Unsafe Abortion in Tanzania: A Review of the Evidence*, IN BRIEF No. 1, 2 (2013), available at http://www.guttmacher.org/pubs/IB_unsafe-abortion-tanzania.html (discussing the "prohibitive cost of obtaining a safe abortion" in Tanzania).

¹⁸⁶ Interview with Sikudhani, *supra* note 21; interview with Sophia, *supra* note 17; interview with Rehema, *supra* note 21; interview with Hamida, former secondary school student, in Dar es Salaam (Nov. 29, 2012) (on file with the Center for Reproductive Rights).

¹⁸⁷ Interview with Chika, *supra* note 56.

¹⁸⁸ Interview with Semeni, *supra* note 56; interview with Tatu, *supra* note 21.

¹⁸⁹ UNICEF & MINISTRY OF EDUCATION AND CULTURE (TANZ.), (E)QUALITY: GIRLS' AND BOYS' BASIC EDUCATION IN MASASI AND KISARAWÉ DISTRICTS 56 (2001), available at http://www.unicef.org/evaldatabase/files/TNZ_01-029.pdf [hereinafter (E)QUALITY (2001)].

¹⁹⁰ TANZANIA COMMISSION FOR AIDS ET AL., TANZANIA HIV/AIDS AND MALARIA INDICATOR SURVEY 2011-12, 109-110 (2013).

¹⁹¹ See Section Five, discussion of national laws.

¹⁹² Interview with Winifrida Rutaindurwa (Jun. 2013), *supra* note 20 (explaining that these practices are occurring at the discretion of schools and local government and that the Ministry of Education permits them to continue. If the Ministry believes a practice

is harmful to students, it can prohibit the practice—"if the Ministry is not doing anything, they are saying it's okay."); UN Office of the High Commissioner for Human Rights, *Committee on Economic, Social and Cultural Rights considers report of Tanzania* (Nov. 14, 2012), <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12787&LangID=E> [hereinafter *ESCR Committee considers report of Tanzania*].

¹⁹³ PRIMARY ED. DEV. PROGRAMME, *supra* note 1, at 7-8; BEST 2012, *supra* note 3, tbls. 4.1 & 4.20.

¹⁹⁴ Interview with teacher at a government secondary school, in Dar es Salaam (March 21, 2013) (on file with the Center for Reproductive Rights) (testing is government rule for all boarding schools); interview with the Acting Commissioner of Education, Ministry of Education, in Dar es Salaam (Jan. 18, 2011) (on file with the Center for Reproductive Rights) (1995 Education and Training Policy gives authority for testing).

¹⁹⁵ Interview with Winifrida Rutaindurwa, Gender Focal Point, Ministry of Education, in Dar es Salaam (Jan. 31, 2013) (on file with the Center for Reproductive Rights).

¹⁹⁶ *Id.*; interview with Salma, *supra* note 48.

¹⁹⁷ As discussed later in this section, our research uncovered references to pregnancy testing in preadmission documents (concerning the admission requirement of a pregnancy test) but no references to the practice of pregnancy testing during the school year.

¹⁹⁸ Interview with Legal Officer, Ministry of Education, in Dar es Salaam (Jan. 19, 2011) (on file with the Center for Reproductive Rights).

¹⁹⁹ Education Act, ch. 353 (Tanz.).

²⁰⁰ Education (Provision for the Structure, Hygiene, Sanitation and Health Inspection of Schools) Regulations, G.N. No. 287 of 2002 (Tanz.); Education (Expulsion and Exclusion of Pupils from Schools) Regulations, G.N. No. 295 of 2002 (Tanz.).

²⁰¹ Education (Provision for the Structure,

Hygiene, Sanitation and Health Inspection of Schools) Regulations, G.N. No. 287 of 2002, art. 4(b) (Tanz.).

²⁰² *Id.* art. 5(a).

²⁰³ Pregnancy testing is not mentioned in the national Education and Training Policy (1995). EDUCATION & TRAINING POLICY, *supra* note 18; Education Circular No. 6 of 2004, *supra* note 165; Education Circular No. 6 of 1998, *supra* note 165; WIZARA YA ELIMU NA UTAMADUNI [MINISTRY OF EDUCATION AND CULTURE], KIONGOZI CHA MKUU WA SHULE YA SEKONDARI TANZANIA [GUIDELINES FOR SECONDARY SCHOOL HEAD TEACHERS IN TANZANIA] (1997) [hereinafter KIONGOZI (1997)]. The gender desk officer at the Ministry of Education also stated that there is no circular in effect concerning pregnancy testing in schools. Interview with Gender Desk Officer, Ministry of Education and Vocational Training, in Dar es Salaam (Jan. 15, 2011) (on file with the Center for Reproductive Rights). This was further confirmed by a legal officer at the Ministry of Education. Interview with Legal Officer, Ministry of Education, *supra* note 198.

²⁰⁴ EDUCATION & TRAINING POLICY, *supra* note 18.

²⁰⁵ See interview with Gender Desk Officer, Ministry of Education and Vocational Training, *supra* note 203 (on file with the Center for Reproductive Rights) (stating that pregnancy testing is neither official nor routine but instead conducted at the discretion of school management); interview with official, Office of the Commissioner of Education, in Dar es Salaam (Jan. 18, 2011) (on file with the Center for Reproductive Rights) (stating that pregnancy testing is not a centralized policy); interview with Winifrida Rutaindurwa, *supra* note 195. See also interview with judge from the Court of Appeals, *supra* note 23 (stating that school-based pregnancy testing is "not legally mandated and there is no law authorizing it."); interview with Salma, *supra* note 48 (stating that pregnancy testing is "by school, not a national policy.>").

²⁰⁶ Interview with Winifrida Rutaindurwa, *supra* note 195.

²⁰⁷ *Id.*

- ²⁰⁸ Rosemary Mirondo, *District Fights School Pregnancies*, THE CITIZEN, Oct. 26, 2012.
- ²⁰⁹ Meddy Mulisa, *Kagera School Girls to Undergo Regular Pregnancy Tests*, TANZANIA DAILY NEWS (Mar. 23, 2012), <http://m.dailynews.co.tz/index.php/local-news/3228-kagera-school-girls-to-undergo-regular-pregnancy-tests> (last visited May 12, 2013).
- ²¹⁰ Education Act, ch. 353, art. 39-40 (Tanz.).
- ²¹¹ KIONGOZI (1997), *supra* note 203, at 77-78. See, e.g., Mairiva Secondary School's Medical Examination Form for new students (2013); Tanzania Adventist Primary School, *Application Forms for Admission*, at 2, 4 (on file with the Center for Reproductive Rights); Baobab Secondary School, *Joining Instructions for 'O' Level Students 2013* (2013) (on file with the Center for Reproductive Rights) [hereinafter *Joining Instructions for 'O' Level Students 2013*]; Baobab Secondary School, *Joining Instructions for 'A' Level Students 2013* (2013) (on file with the Center for Reproductive Rights) [hereinafter *Joining Instructions for 'A' Level Students 2013*].
- ²¹² Email correspondence between Alisha Bjerregaard and Winifrida Rutaindurwa, Gender Focal Point, Ministry of Education (Apr. 2, 2013) (on file with the Center for Reproductive Rights); KIONGOZI (1997), *supra* note 203, at 77-78.
- ²¹³ See, e.g., interview with Salma, *supra* note 48; interview with teachers at a government secondary school, Dar es Salaam (March 21, 2013) (on file with the Center for Reproductive Rights); interview with Winifrida Rutaindurwa, *supra* note 195; interview with headmaster at private secondary school, *supra* note 60. See also Mirondo, *supra* note 208 (citing to the Education Act and its amendments).
- ²¹⁴ Education Act, art. 61(o).
- ²¹⁵ Education (Expulsion and Exclusion of Pupils from Schools) Regulations (2002), G.N. No. 295 of 2002 (Tanz.).
- ²¹⁶ *Id.* art. 1.
- ²¹⁷ *Id.* art. 3.
- ²¹⁸ The Interpretation of Laws Act (1996), art. 37-42 (Tanz.).
- ²¹⁹ Education (Expulsion and Exclusion of Pupils from Schools) Regulations, art. 4.
- ²²⁰ The Interpretation of Laws Act, art. 53.
- ²²¹ Penal Code Act, Cap. 16, Ch. XV: Offences against Morality, art. 130(1)(e) (Tanz.). See also *id.*, arts. 130, 131, 138 (as amended by the Law of the Child Act (2009), art. 178), 132, 160.
- ²²² Education (Expulsion and Exclusion of Pupils from Schools) Regulations, art. 2.
- ²²³ *Id.* art. 7.
- ²²⁴ See Law of the Child Act (2009), art. 5, 4(2) (Tanz.); Education Act, ch. 353, at art. 57(1), 57(2), 60(1)(j) (Tanz.); CONSTITUTION OF THE UNITED REPUBLIC OF TANZANIA 1977 (CAP. 2), arts. 12, 13, & 29(2). See also CONSTITUTION OF THE UNITED REPUBLIC OF TANZANIA, arts. 9(a), 9(f), 9(h), & 11.
- ²²⁵ Education (Expulsion and Exclusion of Pupils from Schools) Regulations, art. 8.
- ²²⁶ *Id.* art. 9.
- ²²⁷ See generally, *id.*
- ²²⁸ *Id.*
- ²²⁹ ADOLESCENCE IN TANZANIA, *supra* note 13, at 28.
- ²³⁰ Education (Expulsion and Exclusion of Pupils from Schools) Regulations, art. 11.
- ²³¹ See interview with representatives from WLAC, *supra* note 105 (explaining that there is no effective system for challenging expulsion); interview with Winifrida Rutaindurwa, *supra* note 195 ("The student can appeal but there is nothing to be done. If she's pregnant, she is expelled. So far, nobody has appealed.").
- ²³² Law of the Child Act (2009), art. 5 (Tanz.).
- ²³³ *Id.* art. 4(2).
- ²³⁴ *Id.* art. 170 (amending Education Act, art. 60).
- ²³⁵ The Education (Imposition of Penalties to Persons who marry or Impregnate a School Girl) Rules 2003, G.N. No. 265 of 2003.
- ²³⁶ Law of the Child Act (2009), art. 176 (amending Penal Code, art. 130(3)(c)) (Tanz.).
- ²³⁷ EDUCATION & TRAINING POLICY, *supra* note 18.
- ²³⁸ KIONGOZI (1997), *supra* note 203.
- ²³⁹ Interview with Legal Officer, Ministry of Education, *supra* note 198; interview with official, Ministry of Education, in Dar es Salaam (Jan. 19, 2011) (on file with the Center for Reproductive Rights); interview with Winifrida Rutaindurwa, *supra* note 195 (Rutaindurwa noted that it is very difficult to obtain a copy of these guidelines. She had tried to obtain a copy but was unable to locate one.).
- ²⁴⁰ KIONGOZI (1997), *supra* note 203.
- ²⁴¹ *Id.* at iv.
- ²⁴² *Id.* at 42.
- ²⁴³ *Id.* at 47-48.
- ²⁴⁴ *Id.*
- ²⁴⁵ Emphasis added.
- ²⁴⁶ Significantly, not only were the regulations promulgated *after* the guidelines but the practice of expelling pregnant students has been occurring for over 50 years in Tanzania, adding further weight to the argument that the government has long had the opportunity to legally mandate expulsion for pregnancy and has declined to do so.
- ²⁴⁷ The legal authority of an administrative circular is unclear. B.D. CHIPETA, ADMINISTRATIVE LAW IN TANZANIA: A DIGEST OF CASES xxx (2009) ("Rules, Orders, and Circulars issued by the Ministries or the Departments from time to time can also be said to be a source of administrative law, but their legal status has sometimes been questioned in our courts of law, particularly where they have been found to be inconsistent with statutory law or the law of the land, that is the Constitution.").
- ²⁴⁸ Education Act, ch. 353, art. 8 (Tanz.).
- ²⁴⁹ *Id.* art. 8(2).
- ²⁵⁰ For example, in an effort to address the rising numbers of student pregnancies, the Ministry of Education issued circulars in 1998 and 2004 concerning the punishment of "those who marry or impregnate school girls." Education Circular No. 6 of 2004, *supra* note 165; Education Circular No. 6 of 1998, *supra* note 165. It should be noted that the Education Circular No. 6 of 1998 does make reference to pregnancy-based expulsion. It states, "It is ordered that if a primary school pupil is impregnated thus leading to expulsion, the Head Teacher of the concerned school should work with the School Committee/Board, Ward Education Coordinator and the District Education Officer to convey the matter to the District Commissioner so that the person responsible can face appropriate legal action." However, the circular does not state that expulsion is mandated; it simply discusses the steps that the head teacher should take against the perpetrator if pregnancy and expulsion should occur. It also emphasizes the "right of every Tanzanian child to access basic education" and states that "the Government, parents and the community are responsible for ensuring that this goal is achieved in its entirety." Further, as discussed in the report text, a circular does not have the authority of legislation or regulations. *Id.*
- ²⁵¹ Education Circular No. 6 of 2004, *supra* note 165.
- ²⁵² *Id.*
- ²⁵³ *Id.*
- ²⁵⁴ *Id.*
- ²⁵⁵ Ministry of Education and Vocational Training, Education Circular No. 4 of 2012, *Expulsion of Students from School/College Before National Examinations* (Aug. 3, 2012) [hereinafter Education Circular No. 4 of 2012].
- ²⁵⁶ Education Act, ch. 353, art. 39-40 (Tanz.).
- ²⁵⁷ KIONGOZI (1997), *supra* note 203, at 24.
- ²⁵⁸ See, e.g., *Joining Instructions for 'O' Level Students 2013*, *supra* note 211; *Joining Instructions for 'A' Level Students 2013*, *supra* note 211; J.J. Mungai Secondary School, Mafinga, *School Rules*, at 34 (on file with the Center for Reproductive Rights) [hereinafter *School Rules*].
- ²⁵⁹ See, e.g., Tandika Secondary School, Dar es Salaam, *Joining Instructions*, at 6 (2013) (on file with the Center for Reproductive Rights) (Kabisila Secondary School in Dar es Salaam uses the same form as Tandika Secondary School).
- ²⁶⁰ Tanzania Adventist Primary School, *supra* note 211, at 2, 4; *Joining Instructions for 'O' Level Students 2013*, *supra* note 211, at 11, 18; *Joining Instructions for 'A' Level Students 2013*, *supra* note 211, at 9; Jimbo Katoliki La Moshi, Shule ya Sekondari Kosmachi, at 4 (on file with the Center for Reproductive Rights).

- ²⁶¹ *School Rules*, *supra* note 258, at 34.
- ²⁶² *Joining Instructions for 'O' Level Students 2013*, *supra* note 211, at 11; *Joining Instructions for 'A' Level Students 2013*, *supra* note 211, at 9; *School Rules*, *supra* note 258, at 34.
- ²⁶³ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2nd Ordinary Sess., Assembly of the Union, *adopted* July 11, 2003, arts. 1(g), 5 CAB/LEG/66.6 (*entered into force* Nov. 25, 2005) (*ratified* Mar. 3, 2007) [hereinafter Maputo Protocol].
- ²⁶⁴ Interview with Sikudhani, *supra* note 21.
- ²⁶⁵ Tandika Secondary School is one such example.
- ²⁶⁶ KIONGOZI (1997), *supra* note 203, at 78; email correspondence between Alisha Bjerregaard and Winifrida Rutaindurwa, *supra* note 212; interview with Martha, *supra* note 21; interview with senior official in the Children Development Division, Ministry of Community Development, Gender and Children, in Dar es Salaam (Jan. 13, 2011) (on file with the Center for Reproductive Rights).
- ²⁶⁷ See, e.g., Ardhi University (Dar es Salaam), Form C (on file with the Center for Reproductive Rights); Government of Tanzania, Medical Examination Form for admission to Tarime Teachers' College, <http://tarimetc.webs.com/usajili/MEDICAL%20EXAMINATION%20FORM.pdf> (last visited May 8, 2013); Moshi University College of Co-operative and Business Studies, Student's Medical Examination Form, <http://www.muccobs.ac.tz/pdf/JOINING%20INSTRUCTION%20DBICT%202012.pdf> (last visited May 8, 2013).
- ²⁶⁸ Email correspondence between the Alisha Bjerregaard and Winifrida Rutaindurwa, *supra* note 212 ("a government medical officer ONLY is required to fill the form students do not go to a private sector for medical examination."). See also interview with teachers at a government secondary school, Dar es Salaam, *supra* note 213 (commenting on the medical examination form requirements and saying that a government hospital must fill out the form; private doctors are not allowed to fill out the form). It should be noted that the forms on file with the Center do not specify the type of provider beyond being a medical officer or medical practitioner.
- ²⁶⁹ Email correspondence between Alisha Bjerregaard and Winifrida Rutaindurwa, *supra* note 212 ("there is no medical examination form provided by the government to schools as a model"); email correspondence with the headmaster at a private secondary school in Dar es Salaam (Mar. 27, 2013) ("there is no common form for medical checkup. Each school comes up with its own.").
- ²⁷⁰ Email correspondence with the headmaster at a private secondary school, *supra* note 269; telephone interview between Alisha Bjerregaard and headmaster at government secondary school, Dar es Salaam (Mar. 27, 2013).
- ²⁷¹ See, e.g., Tandika Secondary School, *Request for Medical Examination Form* (the same form was also used by Kibasila Secondary School) (on file with the Center for Reproductive Rights) [hereinafter *Request for Medical Examination Form*]; *Joining Instructions for 'O' Level Students 2013*, *supra* note 211, at 6; Tanzania Adventist Primary School, *supra* note 211, at 4; Mairiva Secondary School's Medical Examination Form for new students (2013) at 5 (on file with the Center for Reproductive Rights).
- ²⁷² See, e.g., *Joining Instructions for 'O' Level Students 2013*, *supra* note 211, at 5; Mairiva Secondary School's Medical Examination Form for new students (2013).
- ²⁷³ See, e.g., *Request for Medical Examination Form*, *supra* note 271; Overland High School, Admission Form (on file with the Center for Reproductive Rights); interview with Martha, *supra* note 21.
- ²⁷⁴ *Request for Medical Examination Form*, *supra* note 271; Ardhi University, Form C, *supra* note 267, at 2; Moshi University College of Co-operative and Business Studies, Student's Medical Examination Form, *supra* note 267; Medical Examination Form for admission to Tarime Teachers' College *supra* note 267; interview with Nurse in Charge and with Assistant Medical Officer, Government Health Clinic, in Dar es Salaam (Jun. 12, 2013) (on file with the Center for Reproductive Rights) (explaining that pregnancy testing occurs prior to admission to nursing school).
- ²⁷⁵ We found no evidence of pregnancy test requirements for primary schools; however, we did not obtain many joining instructions for primary schools and thus had a relatively small sample. As mentioned in Methodology and Structure of the Report section, it was very challenging to obtain school documents, particularly the school joining forms that contain the medical examination form. This does not preclude the possibility that some primary schools require a pregnancy test—especially for students who may transfer to a primary school in higher grades, towards the end of primary school. Nonetheless, interviews with teachers and health care providers indicate that pregnancy tests are not likely a requirement for initial primary school admission. Interview with Winifrida Rutaindurwa (Jun. 2013), *supra* note 20; interview with Nurse in Charge, Government Health Clinic, in Dar es Salaam (Jun. 12, 2013) (on file with the Center for Reproductive Rights).
- ²⁷⁶ Interview with Nurse in Charge, *supra* note 275.
- ²⁷⁷ See, e.g., Tanzania Adventist Primary School, *supra* note 211, at 4 (requiring that medical practitioners certify that the applicant is not "suffering from a communicable disease which may jeopardize the health of the student or teachers at the school.").
- ²⁷⁸ See, e.g., Baobab Secondary School's Medical Questionnaire for a New Student and Health Declaration Forms for A Level and O Level Students in the Joining Instructions for 2013 (asking how the school can assist a student with any required medical treatment or care during her stay at the school); Mairiva Secondary School's Medical Examination Form for new students (2013) (indicating that the school would like to know about health problems that "need consideration," such as asthma).
- ²⁷⁹ Interview with teachers at a government secondary school, Dar es Salaam, *supra* note 213; telephone interview between Alisha Bjerregaard and Headmaster at government secondary school, Dar es Salaam, *supra* note 270; email correspondence between Alisha Bjerregaard and Winifrida Rutaindurwa, *supra* note 212.
- ²⁸⁰ Interview with teachers at a government secondary school, Dar es Salaam, *supra* note 213; telephone interview between Alisha Bjerregaard and Headmaster at a government secondary school, Dar es Salaam, *supra* note 270; see also Medical Examination Form for admission to Tarime Teachers' College *supra* note 267 (stating that "[p]regnancy . . . will render a girl's candidate ineligible for the [teacher training] course.").
- ²⁸¹ Interview with teacher at government secondary school, in Dar es Salaam (Mar. 21, 2013) (on file with the Center for Reproductive Rights).
- ²⁸² *Id.*
- ²⁸³ See Section Two.
- ²⁸⁴ Education (Expulsion and Exclusion of Pupils from Schools) Regulations (2002), G.N. No. 295 of 2002, art. 7 (Tanz.).
- ²⁸⁵ Email correspondence between the author and Winifrida Rutaindurwa, *supra* note 195 ("All schools, both government and private are required to have a medical examination form as part of their admission/joining instructions.").
- ²⁸⁶ See, e.g., Baobab Secondary School's Medical Questionnaire for a New Student and Health Declaration Forms for A Level and O Level Students in the Joining Instructions for 2013.
- ²⁸⁷ See, e.g., interview with Winifrida Rutaindurwa (Jun. 2013), *supra* note 20 (explaining how she was tested in school in the early 1960s); email correspondence with representative from FAWE (May 10, 2013) (on file with the Center for Reproductive Rights) (discussing how they were tested in school in the 1980s);

ESCR Committee considers report of Tanzania, *supra* note 192 (the Tanzanian government delegation, responding to questions from the ESCR Committee on mandatory pregnancy testing in schools, explained that “These tests had been conducted for a long time . . .”).

²⁸⁸ Interview with Winifrida Rutaindurwa, *supra* note 20; interview with Gender Desk Officer, Ministry of Education and Vocational Training, *supra* note 203; *see also* Section Two.

²⁸⁹ Interview with judge from the Court of Appeals, *supra* note 23; interview with official, Commission for Human Rights and Good Governance (CHRAGG) (Jan. 20, 2011) (on file with the Center for Reproductive Rights); FAWE, BASELINE SURVEY REPORT, *supra* note 100. Only two of the fourteen girls interviewed for this report indicated that their schools did not engage in mandatory pregnancy testing. Interview with Rehema, *supra* note 21; interview with Zambda, *supra* note 21.

²⁹⁰ *See, e.g.*, interview with Sikudhani, *supra* note 21; interview with Maria, *supra* note 11.

²⁹¹ *See, e.g.*, interview with Chika, *supra* note 56; interview with Tatu, *supra* note 21; interview with Martha, *supra* note 21; interview with Sophia, *supra* note 17; interview with Anna, *supra* note 21; interview with Joyce, *supra* note 21; interview with Hamida, *supra* note 186; interview with Neema, *supra* note 21; interview with Ashura, *supra* note 21; interview with Maria, *supra* note 11; interview with teachers at a government secondary school, Dar es Salaam, *supra* note 213.

²⁹² Interview with Sikudhani, *supra* note 21; interview with representative from WLAC, *supra* note 105; interview with Mary Njau, Head of Research, Publication and Documentation Dept., WLAC, in Dar es Salaam (Jan. 19, 2011) (on file with the Center for Reproductive Rights).

²⁹³ Interview with Chika, *supra* note 56 (explaining that testing is mandatory in Standards 6 and 7); interview with Tatu, *supra* note 21 (explaining that testing starts in Standard 5 but that a student in Standard 4 could be tested, too, if she is 12 or 13 years old); interview

with Hamida, *supra* note 186 (explaining that she was tested in primary school); interview with Semeni, *supra* note 56. *See also* email correspondence between the author and a HakiElimu officer (explaining that mandatory pregnancy testing was occurring in primary schools in Kilosa and Kilwa districts) (Mar. 28, 2013); FALLING THROUGH THE CRACKS, *supra* note 42, at 8 (“mandatory pregnancy testing is conducted on schoolgirls in Mtwara, typically in Standards 5 to 7.”).

²⁹⁴ *See* interview with Sikudhani, *supra* note 21; interview with Martha, *supra* note 21; interview with Sophia, *supra* note 17; interview with Anna, *supra* note 21; interview with Joyce, *supra* note 21; interview with Hamida, *supra* note 186; interview with Neema, *supra* note 21; interview with Ashura, *supra* note 21; interview with Maria, *supra* note 11; interview with teachers at a government secondary school, Dar es Salaam, *supra* note 213.

²⁹⁵ *See, e.g.*, interview with teachers at a government secondary school, Dar es Salaam, *supra* note 213.

²⁹⁶ *See, e.g.*, interview with Sikudhani, *supra* note 21; interview with Maria, *supra* note 11; interview with Neema, *supra* note 21; interview with Hamida, *supra* note 186.

²⁹⁷ Research and interviews for this report alone identified 10 of 21 regions in mainland Tanzania undertaking mandatory pregnancy testing. A more systematic survey involving all 21 regions may document the practice in additional regions.

²⁹⁸ Interview with Sikudhani, *supra* note 21; interview with Semeni, *supra* note 56; interview with Chika, *supra* note 56.

²⁹⁹ *See, e.g.*, interview with Ashura, *supra* note 21; interview with Martha, *supra* note 21; interview with Maria, *supra* note 11; interview with Rehema, *supra* note 21.

³⁰⁰ Interview with Neema, *supra* note 21.

³⁰¹ Interview with Hamida, *supra* note 186.

³⁰² Mulisa, *supra* note 209.

³⁰³ Interview with teacher at government secondary school, *supra* note 281 (referring to Songea Girls’ Secondary School).

³⁰⁴ FALLING THROUGH THE CRACKS, *supra* note 42, at 8.

³⁰⁵ Interview with headmaster at private secondary school, *supra* note 60.

³⁰⁶ Mirondo, *supra* note 208.

³⁰⁷ Interview with Tatu, *supra* note 21; interview with teacher at government secondary school, *supra* note 281 (referring to Ifakara High School).

³⁰⁸ Interview with Tatu, *supra* note 21.

³⁰⁹ Interview with teachers at a government secondary school, *supra* note 213.

³¹⁰ Mulisa, *supra* note 209.

³¹¹ *Id.*

³¹² Mirondo, *supra* note 208.

³¹³ Interview with Salma, *supra* note 48; interview with the Acting Commissioner of Education, *supra* note 194; interview with Gender Desk Officer, Ministry of Education and Vocational Training, *supra* note 203; interview with teacher from a private girls’ secondary school, Dar es Salaam (Jan. 19, 2011) (on file with the Center for Reproductive Rights); interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274.

³¹⁴ Interview with Salma, *supra* note 48; interview with teacher from a private girls’ secondary school, Dar es Salaam, *supra* note 313.

³¹⁵ Interview with Gender Desk Officer, Ministry of Education and Vocational Training, *supra* note 203.

³¹⁶ Interview with the Acting Commissioner of Education, *supra* note 194.

³¹⁷ Interview with Salma, *supra* note 48.

³¹⁸ Interview with Gender Desk Officer, Ministry of Education and Vocational Training, *supra* note 203; interview with headmaster at private secondary school, *supra* note 60; Stella Barozi, *Girls should be allowed back to school after delivery*, IPP MEDIA (Mar. 8, 2013) <http://www.ippmedia.com/frontend/index.php?l=52081> (May 12, 2013).

³¹⁹ Interview with Ashura, *supra* note 21.

³²⁰ Mulisa, *supra* note 209; Mirondo, *supra* note 208.

³²¹ *See, e.g.*, interview with Chika, *supra* note 56; interview with Martha, *supra* note 21; interview with Sophia, *supra* note 17.

³²² Interview with Tatu, *supra* note 21; interview with Ashura, *supra* note 21.

³²³ Interview with Sikudhani, *supra* note 21; Mulisa, *supra* note 209.

³²⁴ Interview with Gender Desk Officer, Ministry of Education and Vocational Training, *supra* note 203.

³²⁵ Interview with Neema, *supra* note 21.

³²⁶ Interview with Hamida, *supra* note 186.

³²⁷ Mirondo, *supra* note 208.

³²⁸ Interview with Salma, *supra* note 48.

³²⁹ *Id.*

³³⁰ *See, e.g.*, interviews with Chika, *supra* note 56; interview with Sikudhani, *supra* note 21; interview with Martha, *supra* note 21; interview with Sophia, *supra* note 17; interview with Anna, *supra* note 21; interview with Joyce, *supra* note 21; interview with Hamida, *supra* note 186; interview with Ashura, *supra* note 21.

³³¹ Children’s Rights Committee, *Gen. Comment No. 4*, *supra* note 32, para. 13.

³³² *See* interview with Zubeida Tumbo-Masabo, *supra* note 19; interview with staff at the FAWE, in Dar es Salaam (Jan. 21, 2011) (on file with the Center for Reproductive Rights); interview with senior official in the Children Development Division, Ministry of Community Development, Gender and Children, *supra* note 266; interview with teachers from a private girls’ secondary school, Dar es Salaam (Jan. 19, 2011) (on file with the Center for Reproductive Rights).

³³³ Interview with senior official in the Children Development Division, Ministry of Community Development, Gender and Children, *supra* note 266; interview with senior official, Reproductive & Child Health, Ministry of Health, in Dar es Salaam (Jan. 20, 2011) (on file with the Center for Reproductive Rights); interview with Winifrida Rutaindurwa (Jun. 2013), *supra* note 20; interview with Nursing Officer, at Nursing School, in Dar es Salaam (Jun. 12, 2013) (on file with the Center for Reproductive Rights); interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274.

- ³³⁴ Interview with Nursing Officer, *supra* note 333.
- ³³⁵ Interview with Sikudhani, *supra* note 21; interview with Martha, *supra* note 21; interview with Sophia, *supra* note 17; interview with Anna, *supra* note 21; interview with Joyce, *supra* note 21; interview with Chika, *supra* note 56; interview with Ashura, *supra* note 21; interview with Neema, *supra* note 21.
- ³³⁶ Interview with Tatu, *supra* note 21; interview with Ashura, *supra* note 21.
- ³³⁷ See, e.g., interview with Neema, *supra* note 21.
- ³³⁸ Interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274; interview with Nursing Officer, *supra* note 333.
- ³³⁹ See, e.g., interview with Sophia, *supra* note 17; interview with Martha, *supra* note 21; interview with Joyce, *supra* note 21.
- ³⁴⁰ See, e.g., interview with Sophia, *supra* note 17; interview with Martha, *supra* note 21; interview with Maria, *supra* note 11; interview with Salma, *supra* note 48.
- ³⁴¹ See, e.g., interview with Tatu, *supra* note 21; interview with Ashura, *supra* note 21; interview with Neema, *supra* note 21; interview with Chika, *supra* note 56.
- ³⁴² Interview with Sikudhani, *supra* note 21; interview with HakiElimu official, in Dar es Salaam (Jan. 17, 2011) (on file with the Center for Reproductive Rights).
- ³⁴³ Interview with Hamida, *supra* note 186; interview with Nursing Officer, *supra* note 333.
- ³⁴⁴ Interview with Chika, *supra* note 56; interview with Tatu, *supra* note 21; interview with Ashura, *supra* note 21; interview with Neema, *supra* note 21; interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274 (stating that mandatory periodic pregnancy testing is the only reason that schools send students to their clinic because schools do not undertake any other health screening measures for their students); interview with Nursing Officer, *supra* note 333.
- ³⁴⁵ Interview with Sikudhani, *supra* note 21; interview with Martha, *supra* note 21; interview with Sophia, *supra* note 17; interview with Anna, *supra* note 21; interview with Joyce, *supra* note 21.
- ³⁴⁶ See, e.g., interview with Sophia, *supra* note 17; interview with Martha, *supra* note 21; interview with Maria, *supra* note 11; interview with Salma, *supra* note 48.
- ³⁴⁷ Interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274 (explaining that pregnancy testing is the only reason schools send female students to their clinic).
- ³⁴⁸ Interview with headmaster at private secondary school, *supra* note 60; Barozi, *supra* note 318.
- ³⁴⁹ Barozi, *supra* note 318.
- ³⁵⁰ Interview with Sophia, *supra* note 17.
- ³⁵¹ *Id.*
- ³⁵² Interview with Martha, *supra* note 21.
- ³⁵³ Interview with Joyce, *supra* note 21.
- ³⁵⁴ Interview with Ashura, *supra* note 21.
- ³⁵⁵ Interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274.
- ³⁵⁶ Interview with Nursing Officer, *supra* note 333.
- ³⁵⁷ Email correspondence between Alisha Bjerregaard and OB/GYN at Muhimbili National Referral Hospital (Apr. 24-25, 2013) (on file with the Center for Reproductive Rights). One nurse said that 16 weeks is a more common point at which to use palpation to detect pregnancy, although 12 weeks would be possible if you were “experienced.” Interview with Nursing Officer, *supra* note 333.
- ³⁵⁸ Interview with Nursing Officer, *supra* note 333 (confirming that “If [a client presents] before twelve weeks, you have to do a urine pregnancy test.”). See also, interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274.
- ³⁵⁹ Email correspondence between Alisha Bjerregaard and OB/GYN at Muhimbili National Referral Hospital, *supra* note 357 (explaining that the use of abdominal palpation as a diagnostic procedure is appropriate only when a woman presents late in her pregnancy (after the twelfth week) and a urine pregnancy test is unavailable).
- ³⁶⁰ Interview with Winifrida Rutaindurwa, *supra* note 195. Urine pregnancy tests are freely available and accessible in the marketplace; however, they cost approximately 1,000–5,000 Tanzanian shillings (US\$0.60–\$3.10) per test in pharmacies and clinics. For schools that test all girls, even just once a year, the cost of urine pregnancy tests could run into the hundreds of thousands of shillings (hundreds of dollars).
- ³⁶¹ Interview with Nurse in Charge, *supra* note 275; interview with Nursing Officer, *supra* note 333.
- ³⁶² See *Schoolgirl pregnancy testing fund proposed*, in TANZANIA AIDS WEEK IN REVIEW 2 (2010), available at <http://www.ajaat.or.tz/aids%20week/AIDSNEWS%20June%2023.pdf>.
- ³⁶³ Interview with Nursing Officer, *supra* note 333; interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274.
- ³⁶⁴ Interview with Nursing Officer, *supra* note 333; interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274; email correspondence between Alisha Bjerregaard and OB/GYN at Muhimbili National Referral Hospital, *supra* note 357.
- ³⁶⁵ Interview with Nursing Officer, *supra* note 333.
- ³⁶⁶ Nurses acknowledge that for coercive testing prior to admission to secondary school, they perform urine pregnancy tests because, in those cases, the client “pay[s] for [the] medical examination” and “also [you] don’t want any doubt. Palpation is not certain enough.” Interview with Nurse in Charge, *supra* note 275.
- ³⁶⁷ Interview with Joyce, *supra* note 21.
- ³⁶⁸ See, e.g., interview with Tatu, *supra* note 21.
- ³⁶⁹ See *Schoolgirl pregnancy testing fund proposed*, *supra* note 362 (decrying the lack of resources for pregnancy testing in schools and advocating for schools to set aside resources to pay for urine pregnancy testing, as opposed to “the usual method of checking pregnancies by touching stomachs”).
- ³⁷⁰ See NAT’L POLICY ON HIV/AIDS, *supra* note 18, at 1.6 (k) (i), 4.1 (f), 6.4; The HIV and AIDS (Prevention and Control) Act (2008), art. 15 (TanZ.); MEDICAL COUNCIL OF TANGANYIKA, CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR MEDICAL AND DENTAL PRACTITIONERS IN TANZANIA, para. 3-4 (2005); MEDICAL ASSOCIATION OF TANZANIA, GUIDING PRINCIPLES ON MEDICAL ETHICS AND HUMAN RIGHTS IN TANZANIA 2-4 (1995); TANZANIA NURSES AND MIDWIVES COUNCIL, CODE OF PROFESSIONAL CONDUCT FOR NURSES AND MIDWIVES IN TANZANIA, princ. 2 (2007); MINISTRY OF HEALTH AND SOCIAL WELFARE, CLIENT SERVICE CHARTER 14 (2002).
- ³⁷¹ Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, *Rep.: Right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, para. 19, U.N. Doc. A/64/272 (Aug. 10, 2009) [hereinafter SR on Torture report].
- ³⁷² *Id.*
- ³⁷³ FIGO Committee for the Ethical Aspects of Human Reproduction and Women’s Health, *FIGO Committee Report: Guidelines regarding informed consent*, INT’L J. OF GYNECOLOGY & OBSTETRICS 219 (2008), available at <http://xa.yimg.com/kq/groups/20183361/1910486439/name/Guidelines+on+informed+consent+%28FIGO%29.pdf>.
- ³⁷⁴ OFFICE OF THE U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS & JOINT U.N. PROGRAMME ON HIV/AIDS, HIV/AIDS AND HUMAN RIGHTS INTERNATIONAL GUIDELINES para. 80 (1998), available at http://data.unaids.org/publications/irc-pub02/jc520-humanrights_en.pdf [hereinafter UN HUMAN RIGHTS GUIDELINES].
- ³⁷⁵ Council of Europe, *Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine Convention on Human Rights and Biomedicine*, art. 5, Apr. 4, 1997, E.T.S. 164.
- ³⁷⁶ Principles for the Protection of Persons with Mental Illness at Principle, 11(2)(d).
- ³⁷⁷ UN HUMAN RIGHTS GUIDELINES, *supra* note 374, para. 80.
- ³⁷⁸ SR on Torture report, *supra* note 371, paras 13-14.
- ³⁷⁹ Convention on the Rights of the Child, *adopted* Nov. 20, 1989, G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, art. 5, 12 (1), U.N. Doc. A/44/49 (1989) (*entered into*

force Sept. 2, 1990) (ratified June 10, 1991) [hereinafter CRC].

³⁸⁰ *Id.* art. 12(1).

³⁸¹ Children’s Rights Committee, *Gen. Comment No. 4*, *supra* note 32, para. 39(b). See also ESCR Committee, *Gen. Comment No. 14*, *supra* note 32, para. 23.

³⁸² Children’s Rights Committee, *Gen. Comment No. 4*, *supra* note 32, para. 32.

³⁸³ Children’s Rights Committee, *Gen. Comment No. 12: The right of the child to be heard*, (51st Sess., 2009), para. 100, U.N. Doc. CRC/C/GC/12 (Jul. 20, 2009).

³⁸⁴ CRC, *supra* note 379, art. 3.

³⁸⁵ B.M. Dickens, R.J. Cook, *Adolescents and consent to treatment*, INT’L J. OF GYNECOLOGY AND OBSTETRICS 183 (2005); HUMAN SCIENCES RESEARCH COUNCIL, LEGAL, ETHICAL AND COUNSELING ISSUES RELATED TO HIV TESTING OF CHILDREN: HIV COUNSELING AND TESTING OF CHILDREN: IMPLEMENTATION GUIDELINES 15 (2012) [hereinafter IMPLEMENTATION GUIDELINES].

³⁸⁶ IMPLEMENTATION GUIDELINES, *supra* note 385, at 15.

³⁸⁷ Children’s Rights Committee, *General Comment No. 15: the right of the child to the enjoyment of the highest attainable standard of health* (art. 24), paras. 21, U.N. Doc. CRC/C/GC/15 (Apr. 17, 2013) [hereinafter Children’s Rights Committee, *Gen. Comment No. 15*].

³⁸⁸ UN PROGRAMME ON HIV/AIDS, INTERNATIONAL GUIDELINES ON HIV AND HUMAN RIGHTS, para. 119-124 (Consolidated version, 2006), available at <http://www.ohchr.org/Documents/Issues/HIV/ConsolidatedGuidelinesHIV.pdf>; NAT’L POLICY ON HIV/AIDS, *supra* note 18; MINISTRY OF HEALTH (TANZ.), NATIONAL GUIDELINES FOR VOLUNTARY COUNSELLING AND TESTING, 2005, 16, sec. 2.1 (2005), available at http://www.gf.or.tz/documents_storage/2006-2-6-1-36-47_national_vct_guidelines.pdf [hereinafter NAT’L GUIDELINES FOR VOLUNTARY COUNSELLING & TESTING].

³⁸⁹ NAT’L POLICY ON HIV/AIDS, *supra* note 18, para. 6.4(i)

³⁹⁰ *Id.* para. 4.1(f).

³⁹¹ NAT’L GUIDELINES FOR VOLUNTARY COUNSELLING & TESTING, *supra* note 388, at 16, sec. 2.1.

³⁹² The HIV and AIDS (Prevention and Control) Act (2008), art. 15(3) (Tanz.).

³⁹³ See Law of the Child Act (2009), art. 4(1) (Tanz.) (“Construction of ‘the child’.”).

³⁹⁴ The HIV and AIDS (Prevention and Control) Act, art. 15(7). Exceptions to this are made only if the “person is unconscious” or the test is deemed “clinically necessary or desirable in the interest of that person.” The HIV and AIDS (Prevention and Control) Act, art. 15(8). Forced pregnancy testing in schools is done without any therapeutic purpose—in other words, there is no intent to offer health care to female students found to be pregnant following a pregnancy test. Given the purely disciplinary nature of the testing, it cannot be justified as “clinically necessary or desirable.”

³⁹⁵ See, e.g., interview with Martha, *supra* note 21.

³⁹⁶ Interview with Ashura, *supra* note 21.

³⁹⁷ Interview with Nursing Officer, *supra* note 333; interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274.

³⁹⁸ Interview with Martha, *supra* note 21.

³⁹⁹ Interview with Neema, *supra* note 21.

⁴⁰⁰ Interview with Nursing Officer, *supra* note 333;

⁴⁰¹ Interview with Anna, *supra* note 21.

⁴⁰² Interview with the Acting Commissioner of Education, *supra* note 194.

⁴⁰³ Interview with Nursing Officer, *supra* note 333; interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274.

⁴⁰⁴ Interview with Nursing Officer, *supra* note 333.

⁴⁰⁵ *Id.*

⁴⁰⁶ Interview with Ashura, *supra* note 21; interview with Neema, *supra* note 21; interview with Joyce, *supra* note 21; interview with Anna, *supra* note 21; interview with Sophia, *supra* note 17; interview with Sikudhani, *supra* note 21; interview with Tatu, *supra* note 21; interview with Chika, *supra* note 56; interview with Maria, *supra* note 11. Two interviewees mentioned being made aware of the testing practice prior to admission, yet stated that they were merely informed of the practice and not asked for their consent or permission to test. See interview with Martha, *supra* note 21; interview with Hamida, *supra* note 186. As

Anna recalled, “My first time I was surprised because I had never heard of this practice before.” Interview with Anna, *supra* note 21.

⁴⁰⁷ Interview with Winifrida Rutaindurwa, *supra* note 195.

⁴⁰⁸ Interview with Salma, *supra* note 48 (recalling testing at her secondary school at Mkwawa High School, Iringa).

⁴⁰⁹ Interview with Hamida, *supra* note 186.

⁴¹⁰ Interview with Joyce, *supra* note 21.

⁴¹¹ Interview with Ashura, *supra* note 21.

⁴¹² Interview with Salma, *supra* note 48.

⁴¹³ Interview with Anna, *supra* note 21.

⁴¹⁴ Interview with Sikudhani, *supra* note 21.

⁴¹⁵ Interview with Chika, *supra* note 56.

⁴¹⁶ Interview with Tatu, *supra* note 21.

⁴¹⁷ Interview with Anna, *supra* note 21.

⁴¹⁸ KIONGOZI (1997), *supra* note 203, at 43.

⁴¹⁹ For example, the rules specify that “students should be directed to stand up and greet teachers or any other person older than them” and “students [are] required to respond immediately and run towards an older person calling them.” *Id.* at 42-43.

⁴²⁰ *Id.* at 43.

⁴²¹ *Id.* at 42.

⁴²² *Id.* at 48.

⁴²³ Tandika Secondary School, *Joining Instructions*, *supra* note 259, at 6.

⁴²⁴ Interview with Winifrida Rutaindurwa, *supra* note 195; interview with Salma, *supra* note 48; interview with Hamida, *supra* note 186.

⁴²⁵ *Joining Instructions for ‘O’ Level Students 2013*, *supra* note 211, at 18.

⁴²⁶ *Id.* at 11.

⁴²⁷ *Id.*

⁴²⁸ For example, in one private boarding secondary school, the following are some of the many activities classified as offences or misconduct and subject to punishment: not taking notes, making noise in the dining hall, spilling food in the dining hall, not eating in the dining hall, dressing shabbily, and communicating with any outsider, including parents or guardians, without permission. “Improper hair styles and hair bands” results in “[c]utting hair short on the spot.”

Punishment possibilities include kneeling down for five minutes, announcing the misconduct at assembly, cleaning toilets, or corporal punishment. *Joining Instructions for ‘O’ Level Students 2013*, *supra* note 211, at 14-18.

⁴²⁹ Interview with representatives from WLAC, *supra* note 105.

⁴³⁰ Interview with senior official in the Children Development Division, Ministry of Community Development, Gender and Children, *supra* note 266.

⁴³¹ Devota Mwachang’a, *Govt on reintroduction of canes in schools gets support*, IPP Media (Apr. 11, 2013), <http://www.ippmedia.com/frontend/?l=53421> (last visited May 13, 2013) (“According to researchers, it is corporal punishment that heavily contributes to truancy . . .”); Songora, *supra* note 121, at 5.

⁴³² VIEWS OF THE CHILDREN, *supra* note 122, at 16.

⁴³³ The National Education (Corporal Punishment) Regulations 1979, at 9 (Tanz.); GLOBAL INITIATIVE TO END ALL CORPORAL PUNISHMENT OF CHILDREN, UNITED REPUBLIC OF TANZANIA – COUNTRY REPORT (2012), available at <http://www.endcorporalpunishment.org/pages/pdfs/states-reports/UR%20Tanzania.pdf>.

⁴³⁴ GLOBAL INITIATIVE TO END ALL CORPORAL PUNISHMENT OF CHILDREN, UNITED REPUBLIC OF TANZANIA – COUNTRY REPORT 2 (2012), available at <http://www.endcorporalpunishment.org/pages/pdfs/states-reports/UR%20Tanzania.pdf>.

⁴³⁵ VIEWS OF THE CHILDREN, *supra* note 122, at 17.

⁴³⁶ VIOLENCE AGAINST CHILDREN IN TANZANIA, *supra* note 94, at 46-47.

⁴³⁷ *Joining Instructions for ‘O’ Level Students 2013*, *supra* note 211, at 15.

⁴³⁸ *Id.* at 16-17.

⁴³⁹ In addition to corporal punishment, studies have recorded the following types of punishments administered in Tanzanian schools: contorted body positions, frog jumps, push-ups, kneeling down, standing in bright sunshine, lying on sand, lifting stones, “pulling the ears,” kneeling with arms up or outstretched, and hard physical labour. United Republic of Tanzania, *Consideration of Reports*

Submitted by States Parties under Article 44 of the Convention: Initial Reports of States parties due in 1993 to Committee on the Rights of the Child, para. 189, U.N. Doc. CRC/C/8/Add.14/Rev.1 (1999); VIEWS OF THE CHILDREN, *supra* note 122, at 17. The punishments appear to be entirely retributive—there is “no sense of any discussion of wrongdoing with a view to modifying a child’s future behaviour.” VIEWS OF THE CHILDREN, *supra* note 122, at 17.

⁴⁴⁰ Interview with Joyce, *supra* note 21.

⁴⁴¹ Children’s Rights Committee, *Gen. Comment No. 4*, *supra* note 32, para. 11.

⁴⁴² STANDARDS FOR ADOLESCENT FRIENDLY REPRO. HLTH SERVICES, *supra* note 65, at 22. See also NAT’L POLICY ON HIV/AIDS, *supra* note 18, para. 4.1(f).

⁴⁴³ Interview with Chika, *supra* note 56.

⁴⁴⁴ International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, art. 17(1), G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* Mar. 23, 1976) (*acceded* June 11, 1976) [hereinafter ICCPR]; CRC, *supra* note 379, art 16 (1); International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, art. 12, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3 (*entered into force* Jan. 3, 1976) (*acceded* June 11, 1976) [hereinafter ICESCR]; ESCR Committee, *Gen. Comment No. 14*, *supra* note 32, paras. 12 & 23; Convention on the Rights of Persons with Disabilities, *adopted* Dec. 13, 2006, art. 22, G.A. Res. A/RES/61/106, U.N. GAOR, 61st Sess., U.N. Doc. A/61/611, (*entered into force* May, 3 2008) (*ratified* Nov. 10, 2009) [hereinafter CRPD].

⁴⁴⁵ Medical Council of Tanganyika, Code of Ethics and Professional Conduct for Medical and Dental Practitioners (2005) 7.0 Confidentiality; CODE OF PROFESSIONAL CONDUCT FOR NURSES AND MIDWIVES IN TANZANIA, *supra* note 370, at 7. See also Medical Association of Tanzania, Guiding Principles on Medical Ethics and Human Rights (1995) 4-5, 15-16; Ministry of Health, Client Service Charter 14 (2002).

The only exceptions to this duty to maintain confidentiality concern public health crises related to the spread of infectious diseases—“there must always be the most compelling reasons before a physician discloses confidential information without the consent of the patient, e.g. an immediate and serious threat to the life or health of other persons.” However, even in these cases, the provider should “notify the patient of the intention to divulge the information whenever it is possible.” Medical Association of Tanzania, Guiding Principles on Medical Ethics and Human Rights at 5.

⁴⁴⁶ CODE OF PROFESSIONAL CONDUCT FOR NURSES AND MIDWIVES IN TANZANIA, *supra* note 370, at 9.

⁴⁴⁷ Interview with Ashura, *supra* note 21.

⁴⁴⁸ *Id.*

⁴⁴⁹ *Id.*; interview with Maria, *supra* note 11; interview with Chika, *supra* note 56.

⁴⁵⁰ Interview with Tatu, *supra* note 21.

⁴⁵¹ Interview with Nursing Officer, *supra* note 333; interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274.

⁴⁵² Interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274.

⁴⁵³ *Id.*; interview with Nursing Officer, *supra* note 333.

⁴⁵⁴ Interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274 (confirming that there is no opportunity for direct counselling for pregnant students).

⁴⁵⁵ NAT’L POLICY GUIDELINES (2003), *supra* note 71, at 38 (paras. 7.4.1 and 7.4.2); NAT’L ADOLESCENT RH STRATEGY, *supra* note 18, at 5; STANDARDS FOR ADOLESCENT FRIENDLY REPRO. HLTH SERVICES, *supra* note 65, at 10.

⁴⁵⁶ Interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274; see MINISTRY OF HEALTH AND SOCIAL WELFARE, NATIONAL MANAGEMENT GUIDELINES FOR THE HEALTH SECTOR RESPONSE TO AND PREVENTION OF GENDER-BASED VIOLENCE (GBV) Section Seven (2011) (outlining the necessary care to be provided to adolescent survivors of sexual violence).

⁴⁵⁷ Interview with Nurse in Charge and with Assistant Medical Officer, *supra* note 274.

⁴⁵⁸ *Id.*

⁴⁵⁹ See, e.g., interview with Hamida, *supra* note 186; interview with Neema, *supra* note 21; interview with Chika, *supra* note 56.

⁴⁶⁰ Interview with Salma, *supra* note 48.

⁴⁶¹ Interview with Tatu, *supra* note 21.

⁴⁶² Interview with Winifrida Rutaindurwa, *supra* note 195.

⁴⁶³ Interview with Winifrida Rutaindurwa (Jun. 2013), *supra* note 20.

⁴⁶⁴ Interview with Joyce, *supra* note 21.

⁴⁶⁵ See GUIDANCE AND COUNSELLING SERVICES, *supra* note 49, at 29 (In a section entitled “Understanding Social Norms on Sexuality” the guide makes clear that “Sex outside marriage is strictly prohibited. . .”).

⁴⁶⁶ Interview with Chika, *supra* note 56.

⁴⁶⁷ Interview with Maria, *supra* note 11.

⁴⁶⁸ Interview with Winifrida Rutaindurwa (Jun. 2013), *supra* note 20 (explaining that her sister was expelled from a government secondary school for pregnancy in 1959).

⁴⁶⁹ HAKI ELIMU, LITIGATING THE RIGHT TO EDUCATION IN TANZANIA: LEGAL, POLITICAL, AND SOCIAL CONSIDERATIONS AND POTENTIAL APPLICATIONS, EXPULSION OF PREGNANT STUDENTS 3 (2011), *available at* <http://hakielimu.org/files/publications/Litigating%20the%20Right%20to%20Education%20in%20Tanzania.pdf> [hereinafter LITIGATING THE RIGHT TO EDUCATION IN TANZANIA]; BEST 2012, *supra* note 3, T2.12&2.13 DropRep and T4.11, Chap 4.5. Drop.

⁴⁷⁰ The Ministry does not appear to collect data on expulsions specifically. The category of “dropouts” is therefore assumed to encompass students who are expelled and those known to leave school due to pregnancy.

⁴⁷¹ TAMWA’S REPORT (2010), *supra* note 55, at 3; email correspondence between Alisha Bjerregaard and Winifrida Rutaindurwa, *supra* note 212.

⁴⁷² TAMWA’S REPORT (2010), *supra* note 55, at 3 (“For example, in Nyamongo Secondary School, the data released by the school administration revealed that since 2006 only 18 school girls fell pregnant, but information

released by students themselves show that there were 30 students who fell pregnant during that span of time.”).

⁴⁷³ Interview with Gender Desk Officer, Ministry of Education and Vocational Training, *supra* note 203; interview with Winifrida Rutaindurwa, *supra* note 195.

⁴⁷⁴ Interview with Winifrida Rutaindurwa, *supra* note 195.

⁴⁷⁵ *Id.*

⁴⁷⁶ BEST 2012, *supra* note 3, T2.12 & 2.13 DropRep and T4.11, Chap 4.5. Drop.

⁴⁷⁷ Interview with Salma, *supra* note 48; interview with Zubeida Tumbo-Masabo, *supra* note 19; interview with Gender Desk Officer, Ministry of Education and Vocational Training, *supra* note 203; interview with senior official in the Children Development Division, Ministry of Community Development, Gender and Children, *supra* note 266; interview with Winifrida Rutaindurwa, *supra* note 195; interview with teachers from a private girls’ secondary school, Dar es Salaam, *supra* note 332; interview with official, CHRAGG, *supra* note 289. Minister of Education Shukuru Kawambwa recently confirmed that female students who drop out due to pregnancy “are allowed to seek secondary education informally by registering as private candidates.” This suggests that adolescent girls are not permitted to “formally” seek secondary education through public schools. Anne Robi, *5,000 pregnant girls drop out of school*, DAILY NEWS (Nov. 16, 2012), <http://allafrica.com/stories/201211160227.html>.

⁴⁷⁸ Law of the Child Act (2009), art. 170 (amending Education Act, art. 60) (Tanz.); Penal Code Act, Cap. 16, Ch. XV: Offences against Morality, art. 130(1)(e) (Tanz.). See also Penal Code Act, Cap. 16., arts. 130, 131, 138 (as amended by the Law of the Child Act (2009), art. 178), 132, 160.

⁴⁷⁹ Interview with judge from the Court of Appeals, *supra* note 23; interview with Zubeida Tumbo-Masabo, *supra* note 19 (“According to the Ministry guidelines, teachers that impregnate girls are supposed to be disciplined, but

usually they are just transferred to another school.”).

⁴⁸⁰ BEST 2012, *supra* note 3, T4.12, Chap 4.5 Drop & T2.12 & 2.13 DropRep.; LITIGATING THE RIGHT TO EDUCATION IN TANZANIA, *supra* note 469, at 2 (citing to Basic Education Statistics in Tanzania for 2004 through 2010).

⁴⁸¹ “Other” is defined to include dropouts due to marriage, which may also encompass dropouts due to pregnancy. See TRANSFORMING EDUCATION FOR GIRLS, *supra* note 106, at 23 (“We also appreciate that girls who are pregnant may marry early and thus not be seen as leaving school because of pregnancy.”). In the BEST 2012, 13.3% dropped out due to “other” in primary school. BEST 2012, *supra* note 3, T2.12 & 2.13 DropRep. Data on dropouts due to “other” for secondary school is not available for 2011. *Id.* T4.12 Chap 4.5 Drop.

⁴⁸² LITIGATING THE RIGHT TO EDUCATION IN TANZANIA, *supra* note 469, at 2.

⁴⁸³ Songwa wa Songwa, *Special Report: The case for keeping our girls in school*, THE CITIZEN (Mar. 8, 2012, 00:00), <http://www.thecitizen.co.tz/magazine/woman/-/1843796/1816544/-/lxbk1g/-/index.html>; UNICEF, *Tanzania: Overview*, http://www.unicef.org/tanzania/6911_10874.html (last visited May 13, 2013) (revealing that over 7,000 dropped out due to pregnancy in 2010).

⁴⁸⁴ BEST 2012, *supra* note 3, T4.12, Chap 4.5 Drop & T2.12 & 2.13 DropRep.

⁴⁸⁵ *Id.* T4.12 Chap 4.5 Drop (“Dropout due to Truancy increased from 33.2% in 2007 to 72.7 in 2011 while dropout due to pregnancies decreased from 21.9 in 2009 to (6.89%) in 2011.”).

⁴⁸⁶ *Id.* T2.1TotalEnrol. This disparity is all the greater in light of the fact that census data suggests that there are more females than males in Tanzania. 2012 Tanzania Population and Housing Census WebPage, <http://www.nbs.go.tz/sensa/new.html> (last visited May 13, 2013); Population Distribution by Residence and Sex, http://www.nbs.go.tz/sensa/PDF/Population_Distribution_by_Residence_and_Sex.pdf (last visited May 13, 2013). See

also Ministry of Education and Vocational Training (Tanz.), *Gender – About Us*, http://www.moe.go.tz/index.php?option=com_content&view=article&id=1548:gender-aboutus&catid=377:aboutus&Itemid=581 (last visited May 13, 2013).

⁴⁸⁷ In 2012, there were 4,086,280 males and 4,160,892 females enrolled in primary education. BEST 2012, *supra* note 3, T2.1 TotalEnrol.

⁴⁸⁸ The gross completion rate was 82% for males and 89.8% for females. *Id.* T2.7 Compl.Rate.

⁴⁸⁹ *Id.* T4.1Enrol.

⁴⁹⁰ *Id.*

⁴⁹¹ *Id.*

⁴⁹² *Id.*

⁴⁹³ *Id.*

⁴⁹⁴ *Id.*

⁴⁹⁵ A recent study concerning adolescent girls’ access to education in mainland Tanzania asked adolescent girls to explain the main “obstacles that will prevent them from achieving their desired level of education.” Fifty-four per cent named early pregnancy as a barrier. The only obstacle named more consistently by the adolescents surveyed was poverty (61%). TRANSFORMING EDUCATION FOR GIRLS, *supra* note 106, at 31.

⁴⁹⁶ UNESCO INSTITUTE OF STATISTICS, GLOBAL EDUCATION DIGEST 2011: COMPARING EDUCATION STATISTICS ACROSS THE WORLD 156-164 (2011), available at http://www.uis.unesco.org/Library/Documents/global_education_digest_2011_en.pdf [hereinafter GLOBAL EDUCATION DIGEST 2011]; see also UNESCO INSTITUTE OF STATISTICS, *Regional Profile: Sub-Saharan Africa*, in GLOBAL EDUCATION DIGEST 2011: COMPARING EDUCATION STATISTICS ACROSS THE WORLD 1 (2011), available at http://www.uis.unesco.org/Education/Documents/GED2011_SSA_RP_EN.pdf [hereinafter *Regional Profile: Sub-Saharan Africa*]. The transition rates in all other sub-Saharan countries with available data are significantly higher, ranging from 51% to 98%, with the exception of Nigeria, which has a transition rate of 44%. GLOBAL EDUCATION DIGEST 2011, *supra* note 496, at 162, 164; see also

Regional Profile: Sub-Saharan Africa, *supra* note 496, at 1. Tanzania also has a low gross enrolment ratio (27%) compared to the rest of sub-Saharan Africa. Of the 45 sub-Saharan countries, only 10 have equally low or lower gross enrolment ratios (Angola, Burkina Faso, Burundi, Central African Republic, Chad, Mozambique, Niger, Rwanda, Somalia, and Uganda). GLOBAL EDUCATION DIGEST 2011, *supra* note 496, at 153-55.

⁴⁹⁷ In 2010, the regional average gross enrolment ratio for secondary education was 40%, while Tanzania’s ratio was 32%. For girls, the regional average was 36%, while Tanzania’s was 28%. UNESCO Institute of Statistics, *UIS Statistics in Brief*, http://stats.uis.unesco.org/unesco/TableViewer/document.aspx?ReportId=121&IF_Language=en&BR_Country=7620 (last visited May 13, 2013).

⁴⁹⁸ BEST 2012, *supra* note 3, T4.3 GER&NER O-Level.

⁴⁹⁹ UNESCO, TANZANIA EDUCATION SECTOR ANALYSIS: BEYOND PRIMARY EDUCATION, THE QUEST FOR BALANCED AND EFFICIENT POLICY CHOICES FOR HUMAN DEVELOPMENT AND ECONOMIC GROWTH 9, available at <http://unesdoc.unesco.org/images/0021/002152/215247e.pdf>.

⁵⁰⁰ *Id.* at 28; ADOLESCENCE IN TANZANIA, *supra* note 13, at 4; Peti Siyame, *Tanzania: Over 1000 Fail to Sit Standard VII Exams in Rukwa*, TANZANIA DAILY NEWS (Dec. 29, 2012), <http://allafrica.com/stories/201212310008.html>; *Tanzania: School Dropouts in Sumbawanga Shock Minister*, TANZANIA DAILY NEWS (Jan. 9, 2013), <http://allafrica.com/stories/201301090019.html>.

⁵⁰¹ See, e.g., Ministry of Education and Vocational Training, Education Circular No. 12 of 2011: *Making Secondary School Students Repeat Classes Transfers or Expulsions* (2011) (Tanz.) [hereinafter Education Circular No. 12 of 2011]. Interview with Tatu, *supra* note 21.

⁵⁰² Interview with Maria, *supra* note 11.

⁵⁰³ Interview with Salma, *supra* note 48.

⁵⁰⁴ Interview with Anna, *supra* note 21.

⁵⁰⁵ Interview with Joyce, *supra* note 21.

⁵⁰⁶ Interview with representative from WLAC,

supra note 105.

⁵⁰⁷ Interview with Joyce, *supra* note 21.

⁵⁰⁸ Interview with Winifrida Rutaindurwa (Jun. 2013), *supra* note 20.

⁵⁰⁹ Convention on the Elimination of All Forms of Discrimination against Women, *adopted* Dec. 18, 1979, art. 10(c), G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46, U.N.T.S. 13 (*entered into force* Sept. 3, 1981) [hereinafter CEDAW].

⁵¹⁰ *Id.* art. 5(a).

⁵¹¹ See GUIDANCE AND COUNSELLING SERVICES, *supra* note 49, at 63.

⁵¹² (E)QUALITY (2001), *supra* note 189, at 54.

⁵¹³ Adolescent girls’ “value” may come from the financial benefits of marriage, in the form of a bride price, or of families no longer having to financially support their daughters. In addition, adolescent girls’ marriage prospects are best when they do not engage in premarital sex or become pregnant prior to marriage. Females lose their social and economic value and cause “shame” to their families when they become pregnant out of wedlock, providing a strong incentive for families to marry off their daughters early, regardless of their educational attainment or unfinished schooling. GUIDANCE AND COUNSELLING SERVICES, *supra* note 49, at 63; ADOLESCENCE IN TANZANIA, *supra* note 13, at 46; CHILDREN’S DIGNITY FORUM, REPORT ON CHILD MARRIAGE SURVEY CONDUCTED IN DAR ES SALAAM, COASTAL, MWANZA AND MARA REGIONS 32, 37 (2008), available at <http://cdfz.org/files/Child%20Marriage%20Baseline%20Survey%20-%20Dar%20es%20Salaam,%20Coastal,%20Mwanza%20and%20Mara%20region.pdf>.

⁵¹⁴ According to the UNICEF poll, almost a quarter (22%) of Tanzanians believe that educating boys is more important than educating girls. UN Tanzania Delivering as One, *Prevent adolescent pregnancies and keep girls in school!* (Jul. 2010), available at http://www.nurturingmindsinafrica.org/sitebuildercontent/sitebuilderfiles/ab_adolescentsfinal.pdf. *Gender*, <http://www.tanzania.go.tz/gender.html> (last visited May 31, 2013) (Existing

social attitudes favour and promote boys' education and pay less interest in the education of girls."); Community Aid and Small Enterprises Consultancy, *What's the issue on girls education*, <http://www.casesc-tz.org/girls%20education.html> (last visited May 31, 2013). Sometimes education may be seen as detracting from an adolescent girl's potential marriage prospects. See Carrington, *supra* note 130 (reporting that, in Tanzania, it is believed that "an educated woman is not a good wife.").

⁵¹⁵ GUIDANCE AND COUNSELLING SERVICES, *supra* note 49, at 63.

⁵¹⁶ FAWE, BASELINE SURVEY REPORT, *supra* note 100, at 14.

⁵¹⁷ *Id.* at 9. Another study on adolescent girls' education in Tanzania found that gendered roles, such as "carrying out chores in male teachers' houses," leave female students particularly vulnerable to coerced or forced sex by teachers or male pupils. TRANSFORMING EDUCATION FOR GIRLS, *supra* note 106, at 39.

⁵¹⁸ FAWE, BASELINE SURVEY REPORT, *supra* note 100, at 12.

⁵¹⁹ VIOLENCE AGAINST CHILDREN IN TANZANIA, *supra* note 94, at 46-47.

⁵²⁰ Dunne, Mairead, Sara Humphreys & Fiona Leach, *Gender and violence in schools 7* (UNESCO EFA Global Monitoring Report, 2003/4 Background Paper, 2004).

⁵²¹ Interview with Semeni, *supra* note 56.

⁵²² *Id.*

⁵²³ Interview with Zambda, *supra* note 21.

⁵²⁴ Interview with two teachers, private girls' secondary school, Dar es Salaam (Jan. 19, 2011) (on file with the Center for Reproductive Rights).

⁵²⁵ See, e.g., interview with Salma, *supra* note 48; interview with Winifrida Rutaindurwa (Jun. 2013), *supra* note 20; interview with Nursing Officer, *supra* note 333.

⁵²⁶ Schools recognize that once a female student's pregnancy is made public, she will be much less likely to procure an abortion due to the associated stigma and the fear of potential criminal-law repercussions, which stems from the unclear legal environment relating to

abortion in mainland Tanzania.

⁵²⁷ Rebecca J. Cook et al., *Unethical female stereotyping in reproductive health*, 109 INT'L J. OF GYNECOLOGY & OBSTETRICS 255, 256 (2010).

⁵²⁸ EDUCATION & TRAINING POLICY, *supra* note 18, at 20.

⁵²⁹ Interview with Winifrida Rutaindurwa, *supra* note 195.

⁵³⁰ *Id.*

⁵³¹ See, e.g., interview with Salma, *supra* note 48; telephone interview between Alisha Bjerregaard and Headmaster at government secondary school, Dar es Salaam, *supra* note 270; interview with teachers at government secondary school, Dar es Salaam, *supra* note 213; interview with Winifrida Rutaindurwa, *supra* note 195; interview with headmaster at private secondary school, *supra* note 60; interview with teachers from a private girls' secondary school, Dar es Salaam, *supra* note 332.

⁵³² See, e.g., interview with Sikudhani, *supra* note 21; interview with Chika, *supra* note 56; interview with Neema, *supra* note 21; interview with Ashura, *supra* note 21; interview with Hamida, *supra* note 186.

⁵³³ See Maria's Story.

⁵³⁴ Interview with Sikudhani, *supra* note 21 ("When you are expelled, the school hands the case to the parents and the parents take responsibility for taking the girl to hospital and counsellor."); interview with Chika, *supra* note 56; interview with Rehema, *supra* note 21; interview with Neema, *supra* note 21; interview with Ashura, *supra* note 21; interview with teacher from a private girls' secondary school, Dar es Salaam, *supra* note 313; interview with Gender Desk Officer, Ministry of Education and Vocational Training, *supra* note 201; interview with official, Medical Women's Association of Tanzania (Jan. 19, 2011) (on file with the Center for Reproductive Rights).

⁵³⁵ This is consistent with a general failure to provide students with information relating to sexual and reproductive health in the form of comprehensive sexuality education. See Section One.

⁵³⁶ Interview with Martha, *supra* note 21 ("When a girl gets pregnant they don't ask who did it or how it happened, they just expel the girl without asking the cause.").

⁵³⁷ Interview with Ashura, *supra* note 21.

⁵³⁸ *Id.*

⁵³⁹ Interview with Winifrida Rutaindurwa, *supra* note 195.

⁵⁴⁰ See Section 2 for more information on rights violations leading to unwanted pregnancy.

⁵⁴¹ PREGNANT ADOLESCENTS, *supra* note 176, at 4. "The incidence of adolescent maternal mortality in Tanzania is not known, however the country's high rate of neonatal mortality could be taken as an indicator of higher mortality risks for adolescent mothers." ADOLESCENCE IN TANZANIA, *supra* note 13, at 16.

⁵⁴² PREGNANT ADOLESCENTS, *supra* note 176, at 4.

⁵⁴³ *Id.* at 4, 13.

⁵⁴⁴ *Id.* at 13.

⁵⁴⁵ *Id.* at 4.

⁵⁴⁶ WHO, Fact Sheet No. 364, *Adolescent Pregnancy* (May 2012), <http://www.who.int/mediacentre/factsheets/fs364/en/> (last visited May 28, 2013).

⁵⁴⁷ PREGNANT ADOLESCENTS, *supra* note 176, at 13.

⁵⁴⁸ 2010 TDHS, *supra* note 14, tbl. 8.4, at 123 (this data was not disaggregated by age or by mainland/Zanzibar).

⁵⁴⁹ PREGNANT ADOLESCENTS, *supra* note 176, at 4.

⁵⁵⁰ WHO, Fact Sheet No. 364, *supra* note 545.

⁵⁵¹ PREGNANT ADOLESCENTS, *supra* note 176, at 12.

⁵⁵² *Id.* at 11, 14.

⁵⁵³ *Id.* at 11.

⁵⁵⁴ *Id.* at 4, 17-18. See also CENTER FOR REPRODUCTIVE RIGHTS, REPRODUCTIVE RIGHTS: A TOOL FOR MONITORING STATE OBLIGATIONS 7 (2012) [hereinafter TOOL FOR MONITORING STATE OBLIGATIONS].

⁵⁵⁵ PREGNANT ADOLESCENTS, *supra* note 176, at 16.

⁵⁵⁶ *Id.* at 17.

⁵⁵⁷ *Id.*

⁵⁵⁸ *Id.* at 17-18.

⁵⁵⁹ *Id.* at 4.

⁵⁶⁰ Children's Rights Committee, *Gen. Comment No. 15*, *supra* note 387, para. 56; CENTER FOR REPRODUCTIVE RIGHTS, THE REPRODUCTIVE

RIGHTS OF ADOLESCENTS: A TOOL FOR HEALTH AND EMPOWERMENT 3-4 (2008), available at http://reproductiverights.org/sites/default/files/documents/adolescents%20bp_FINAL.pdf; TOOL FOR MONITORING STATE OBLIGATIONS, *supra* note 554, at 7 ("When evaluating states' compliance with their international human rights obligations, special consideration should be given to women and girls in an elevated situation of vulnerability or marginalization, as they may encounter significant barriers to realizing their sexual and reproductive rights.").

⁵⁶¹ Law of the Child Act (2009), art. 170 (Tanz.) (amending Education Act, art. 60). See also The Education (Imposition of Penalties to Persons who marry or Impregnate a School Girl) Rules 2003, G.N. No. 265 of 2003; Education Circular No. 6 of 2004, *supra* note 165.

⁵⁶² Interview with Salma, *supra* note 48.

⁵⁶³ *Id.*

⁵⁶⁴ *Id.*

⁵⁶⁵ Penal Code Act, Cap. 16, art. 217 (Tanz.).

⁵⁶⁶ *Joining Instructions for 'O' Level Students 2013*, *supra* note 211, at 11; *Joining Instructions for 'A' Level Students 2013*, *supra* note 211, at 9.

⁵⁶⁷ Interview with Salma, *supra* note 48.

⁵⁶⁸ *Id.*

⁵⁶⁹ Mirondo, *supra* note 208.

⁵⁷⁰ *Id.*

⁵⁷¹ *Id.*

⁵⁷² TAWLA, *Campaigns 2010*, http://www.tawla.or.tz/index.php?option=com_content&view=article&id=50:activities&catid=14:tawla&Itemid=75# (last visited May 31, 2013).

⁵⁷³ TAMWA'S REPORT (2010), *supra* note 55, at 7.

⁵⁷⁴ *RC orders arrest, trial of pregnant schoolgirls*, IPP MEDIA (Nov. 1, 2011), <http://www.ippmedia.com/frontend/index.php?l=34955> (last visited May 13, 2013).

⁵⁷⁵ *Id.*

⁵⁷⁶ *Id.*

⁵⁷⁷ See also Maria's Story. Maria's school suggested that she find her former employer and seek accountability. No effort was made by

the school to assist her or to involve the police.
⁵⁷⁸ *RC orders arrest, trial of pregnant schoolgirls*, *supra* note 573 (“Kandoro further sternly warned parents, guardians and teachers who protect those who impregnate schoolgirls, saying they too would be taken to court.”).
⁵⁷⁹ Interview with Hamida, *supra* note 186. *See also* interview with Chika, *supra* note 56.
⁵⁸⁰ Interview with Tatu, *supra* note 21.
⁵⁸¹ Law of the Child Act (2009), art. 170 (Tanz.) (amending Education Act, art. 60).
⁵⁸² ADOLESCENCE IN TANZANIA, *supra* note 13, at 28.
⁵⁸³ JENNIFER MCCLEARY-SILLS, ET.AL., HELP-SEEKING PATHWAYS AND BARRIERS FOR SURVIVORS OF GENDER-BASED VIOLENCE IN TANZANIA: RESULTS FROM A STUDY IN DAR ES SALAAM, MBEYA, AND IRINGA REGIONS viii, 39, 43 (2013).
⁵⁸⁴ TANZANIA WOMEN JUDGES ASSOCIATION, MILLENIUM DEVELOPMENT GOAL 3 PROGRAM (MDG 3)-TANZANIA: 2009 TO 2011, STOPPING, SHAMING AND NAMING THE ABUSE OF POWER FOR SEXUAL EXPLOITATION: A TOOL KIT BY TANZANIA WOMEN JUDGES ASSOCIATION (TAWJA) 38, *available at* http://www.iawj.org/Tanzania_Country_Report.pdf.
⁵⁸⁵ McCleary-Sills, *supra* note 583, at 46.
⁵⁸⁶ TAMWA’S REPORT (2010), *supra* note 55, at 6-8.
⁵⁸⁷ Ichikaeli Maro, *Kerege ward leads in solving schoolgirl pregnancy ‘puzzle’ in Coast Region*, DAILY NEWS (Dec. 9, 2012, 1:59), <http://www.dailynews.co.tz/index.php/features/popular-features/12488-kerege-ward-leads-in-solving-schoolgirl-pregnancy-puzzle-in-coast-region>.
⁵⁸⁸ TAMWA’S REPORT (2010), *supra* note 55, at 6-8.
⁵⁸⁹ *Id.* at 6 (quoting a court clerk at Nyangeta Maugo Court).
⁵⁹⁰ Interview with Hamida, *supra* note 186; interview with Sikudhani, *supra* note 21.
⁵⁹¹ TAMWA’S REPORT (2010), *supra* note 55, at 16.
⁵⁹² Mainland Tanzania’s Penal Code contains an exception to the criminalization of abortion to preserve the pregnant woman’s life. Penal Code Act, Cap. 16, art. 230 (Tanz.). Case law has further clarified that this life exception encompasses a mental and physical health exception, as well as an exception for pregnancies resulting from sexual violence. *Rex v. Bourne*, [1939] 1 K.B. 687; Mehar

Singh Bansel v. R., [1959] E. Afr. L. Rep. 813 (East African Court of Appeal, Kenya) (affirming the decision in *Bourne*). For a detailed analysis of mainland Tanzania’s abortion law, *see* CRR, TECHNICAL GUIDE, *supra* note 149; *see also Lack of Access to Safe Abortion Services Leaves Girls without Choices* in Section Two.
⁵⁹³ *See* Anakubalika, *supra* note 179, at 21 (recounting the story of an adolescent girl who almost died from an unsafe abortion and who was subsequently not allowed to continue at her secondary school in Shinyanga).
⁵⁹⁴ KIONGOZI (1997), *supra* note 203, at 48.
⁵⁹⁵ *See, e.g., School Rules*, *supra* note 258, at 34.
⁵⁹⁶ Interview with Winifrida Rutaindurwa, *supra* note 195.
⁵⁹⁷ *Id.*
⁵⁹⁸ *Id.*
⁵⁹⁹ *See* interview with Sophia, *supra* note 17.
⁶⁰⁰ Interview with Rehema, *supra* note 21.
⁶⁰¹ *Id.*
⁶⁰² Interview with Sikudhani, *supra* note 21.
⁶⁰³ Interview with Sophia, *supra* note 17.
⁶⁰⁴ Interview with Rehema, *supra* note 21.
⁶⁰⁵ *See, e.g.,* interview with Ashura, *supra* note 21.
⁶⁰⁶ *Id.*
⁶⁰⁷ Interview with Sikudhani, *supra* note 21.
⁶⁰⁸ Interview with Neema, *supra* note 21.
⁶⁰⁹ Interview with Sophia, *supra* note 17.
⁶¹⁰ Interview with Zambda, *supra* note 21.
⁶¹¹ Interview with Hamida, *supra* note 186.
⁶¹² Interview with Rehema, *supra* note 21.
⁶¹³ Interview with Tatu, *supra* note 21.
⁶¹⁴ Interview with Rehema, *supra* note 21.
⁶¹⁵ Interview with Hamida, *supra* note 186.
⁶¹⁶ Interview with Semeni, *supra* note 56.
⁶¹⁷ Interview with Chika, *supra* note 56.
⁶¹⁸ Interview with Anna, *supra* note 21.
⁶¹⁹ Interview with Semeni, *supra* note 56.
⁶²⁰ *Id.*
⁶²¹ Interview with Maria, *supra* note 11.
⁶²² PREGNANT ADOLESCENTS, *supra* note 176, at 11.
⁶²³ 2010 TDHS, *supra* note 14, at 123-124 (this data was not disaggregated by age or by mainland/Zanzibar); PREGNANT ADOLESCENTS, *supra* note 176, at 13.

⁶²⁴ Interview with Zambda, *supra* note 21; interview with Sophia, *supra* note 17 (“I couldn’t deliver normally and had to have an operation and lost the baby during the operation. I had pain and had to take medicine after that.”); interview with Sikudhani, *supra* note 21.
⁶²⁵ Interview with Winifrida Rutaindurwa, *supra* note 195; interview with Salma, *supra* note 48.
⁶²⁶ Interview with Winifrida Rutaindurwa, *supra* note 195.
⁶²⁷ ADOLESCENCE IN TANZANIA, *supra* note 13, at 28.
⁶²⁸ Interview with Salma, *supra* note 48; interview with Zubeida Tumbo-Masabo, *supra* note 19; interview with Gender Desk Officer, Ministry of Education and Vocational Training, *supra* note 203; interview with senior official in the Children Development Division, Ministry of Community Development, Gender and Children, *supra* note 266; interview with Winifrida Rutaindurwa, *supra* note 195; interview with teachers from a private girls’ secondary school, Dar es Salaam, *supra* note 332; interview with official, CHRAGG, *supra* note 289. *See also* Robi, *supra* note 477.
⁶²⁹ Education Circular No. 5 of 2011 (Tanz.).
⁶³⁰ *See, e.g.,* Education Circular No. 12 of 2011, *supra* note 501. *See also* interview with Winifrida Rutaindurwa (Jun. 2013), *supra* note 20 (stating that a combination of the challenges of obtaining a transfer letter and the truancy rule requiring return within a certain time period prevents female students from returning to school).
⁶³¹ Interview with Semeni, *supra* note 56.
⁶³² TANZ. H.R. REP. 2010, *supra* note 138, at 139.
⁶³³ *Id.* at 140.
⁶³⁴ *Id.*
⁶³⁵ Interview with Winifrida Rutaindurwa, *supra* note 195 (indicating that the decision to allow pregnant students to sit for their exams applied only to the year in which it was announced).
⁶³⁶ Education Circular No. 4 of 2012, *supra* note 255.
⁶³⁷ 2010 TDHS, *supra* note 14, at 65.
⁶³⁸ Interview with Chika, *supra* note 56.
⁶³⁹ Interview with Hamida, *supra* note 186.

⁶⁴⁰ Interview with Rehema, *supra* note 21; interview with Neema, *supra* note 21; interview with Ashura, *supra* note 21.
⁶⁴¹ Interview with Zambda, *supra* note 21.
⁶⁴² Interview with Sikudhani, *supra* note 21.
⁶⁴³ Natasha K’Okutangilira, *Tanzania: We Can Do More Than Expelling Pregnant School Girls*, ALL AFRICA (May 26, 2013) <http://allafrica.com/stories/201305271625.html?viewall=1> (last visited Jul. 14, 2013).
⁶⁴⁴ Interview with Maria, *supra* note 11.
⁶⁴⁵ Interview with representative from WLAC, *supra* note 105.
⁶⁴⁶ ADOLESCENCE IN TANZANIA, *supra* note 13, at 30.
⁶⁴⁷ *Id.*
⁶⁴⁸ The Vocational Education and Training Act (2006) ch. 82, art. 4(1)(b)-(c), (e)-(g) (Tanz.).
⁶⁴⁹ *See Chapter 5 Secondary education – paving the way to work*, in EDUCATION FOR ALL GLOBAL MONITORING REPORT 228-229 (2012), *available at* <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/ED/pdf/gmr2012-report-ch5.pdf> (“To be able to adapt to the workplace and fast-evolving technologies in competitive economies, all young people need to acquire the skills that a good quality primary and secondary education can offer.” Additionally, the report specifies that “[s]econdary school is an important channel through which young people acquire skills that improve opportunities for good jobs.”); *see also* UNESCO INSTITUTE FOR STATISTICS, TOWARD UNIVERSAL LEARNING: WHAT EVERY CHILD SHOULD LEARN (2013), *available at* <http://unesdoc.unesco.org/images/0021/002197/219763e.pdf>.
⁶⁵⁰ Interview with Sikudhani, *supra* note 21.
⁶⁵¹ KIONGOZI (1997), *supra* note 203, at 48.
⁶⁵² Other seemingly “gender-neutral” grounds for expulsion that relate to sexuality similarly affect female students alone, such as the disciplinary offences of marriage and abortion/aiding in procuring abortion.
⁶⁵³ *See, e.g.,* interview with staff at the Fawe, *supra* note 332; interview with representative from WLAC, *supra* note 105.
⁶⁵⁴ Interview with Martha, *supra* note 21.
⁶⁵⁵ Barozi, *supra* note 318.

- ⁶⁵⁶ Interview with FAWE officials, in Dar es Salaam (Jun. 10, 2011) (on file with the Center for Reproductive Rights); interview with Winifrida Rutaindurwa (Jun. 2013), *supra* note 20; interview with headmaster at private secondary school, *supra* note 60.
- ⁶⁵⁷ Interview with headmaster at private secondary school, *supra* note 60; interview with Winifrida Rutaindurwa (Jun. 2013), *supra* note 20.
- ⁶⁵⁸ Interview with teachers at government secondary school, Dar es Salaam, *supra* note 213.
- ⁶⁵⁹ Interview with Sophia, *supra* note 17.
- ⁶⁶⁰ Carrington, *supra* note 130 (“Stigmatisation is intense. Elena, from a small village, dropped out after two years at secondary school when she became pregnant at 18. She says: ‘I was ashamed. After my baby was born, I went to live with my sister. My parents would have been insulted by their neighbours that they had educated a girl only for her to go and get pregnant.’”).
- ⁶⁶¹ MINISTRY OF HEALTH AND SOCIAL WELFARE (TANZ.), HIV BEHAVIORAL AND BIOLOGICAL SURVEILLANCE SURVEY AMONG FEMALE SEX WORKERS IN DAR ES SALAAM (2010), *available at* <http://www.safaid.net/files/HIV%20Behavioral%20and%20Biological%20Surveillance.pdf> [hereinafter HIV BEHAVIORAL & BIO. SURVEILLANCE SURVEY] (A survey of female sex workers (FSWs) in Dar es Salaam found 35.6% to be between 15 and 24 years of age. *Id.* at 26. Further, “69.7% started selling sex in order to earn money to support their family or pay off a debt. An additional 7.4% reported starting sex work after being abandoned by their families or husbands. Most of this FSW population reported being single (never married, widowed, divorced, or separated), suggesting that FSWs lack financial support from spouses and other family members.” *Id.* at 50.
- ⁶⁶² ADOLESCENCE IN TANZANIA, *supra* note 13, at 50.
- ⁶⁶³ STRENGTHENING EDUCATION IN TANZANIA, *supra* note 124, at 8.
- ⁶⁶⁴ ADOLESCENCE IN TANZANIA, *supra* note 13, at 50.
- ⁶⁶⁵ *Id.* See also FALLING THROUGH THE CRACKS, *supra* note 42, at 6.
- ⁶⁶⁶ Conversation between Alisha Bjerregaard and trainer on sexual and reproductive health and vocational skills, UMATI (March 20, 2013).
- ⁶⁶⁷ HIV BEHAVIORAL & BIO. SURVEILLANCE SURVEY, *supra* note 661, at 49 (“HIV prevalence was 31.4%, much higher than that of women in the general population in Dar es Salaam (10.4%).”).
- ⁶⁶⁸ Carrington, *supra* note 130.
- ⁶⁶⁹ The Education (Imposition of Penalties to Persons who marry or Impregnate a School Girl) Rules 2003, G.N. No. 265 of 2003; Education Circular No. 6 of 2004, *supra* note 165. See also Education Circular No. 6 of 1998, *supra* note 165.
- ⁶⁷⁰ VOICES OF CHILD BRIDES, *supra* note 153, at 20, 22-23.
- ⁶⁷¹ 2010 TDHS, *supra* note 14, at 276, tbl. 16.7 (This data was not disaggregated by age or by mainland/Zanzibar; however, overall, violence during pregnancy was more common for married women in mainland Tanzania than in Zanzibar.).
- ⁶⁷² *Id.*
- ⁶⁷³ Education (Expulsion and Exclusion of Pupils from Schools) Regulations, art. 4(c).
- ⁶⁷⁴ National Bureau of Statistics, *Unemployment Estimates for the Year 2011*, http://www.nbs.go.tz/index.php?option=com_content&view=article&id=186:unemployment-estimates-for-the-year-2011&catid=100:labour-force-and-ees&Itemid=135 (last visited May 13, 2013).
- ⁶⁷⁵ AFRICAN ECONOMIC OUTLOOK 2012: TANZANIA 2 (2012), *available at* <http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/PDF/Tanzania%20Full%20PDF%20Country%20Note.pdf>.
- ⁶⁷⁶ Interview with Hamida, *supra* note 186.
- ⁶⁷⁷ Interview with Sophia, *supra* note 17; interview with Hamida, *supra* note 186; interview with Chika, *supra* note 56 (Chika explained that she sometimes helps her neighbour sell food and may earn 2,000 Tanzanian shillings (US\$1.25) per day, although she is paid nothing when the market is closed or when they make no profit); interview with Zambda, *supra* note 21.
- ⁶⁷⁸ Interview with Tatu, *supra* note 21.
- ⁶⁷⁹ Interview with Neema, *supra* note 21.
- ⁶⁸⁰ Interview with Rehema, *supra* note 21.
- ⁶⁸¹ Interview with Semeni, *supra* note 56.
- ⁶⁸² *Id.*
- ⁶⁸³ Special Rapporteur on the Right to Education, *Annual report of the Special Rapporteur on the Right to Education, Katarina Tomaševski, submitted pursuant to Commission on Human Rights resolution 2001/29*, para. 62, U.N. Doc. E/CN.4/2002/60 (Jan. 7, 2002) (“Available evidence indicates that the key to reducing poverty is secondary rather than primary education.”).
- ⁶⁸⁴ JEHOVANESS AIKAELI, DETERMINANTS OF RURAL INCOME IN TANZANIA: AN EMPIRICAL APPROACH 13 (Research on Poverty Alleviation, Research Rep. 10/4, 2010), *available at* http://www.repoa.or.tz/documents_storage/Publications/10_4.pdf.
- ⁶⁸⁵ ADOLESCENCE IN TANZANIA, *supra* note 13, at 4. The WHO’s report on adolescence also notes, “Adolescent motherhood [is] associated with poor socioeconomic conditions.” PREGNANT ADOLESCENTS, *supra* note 176, at 16.
- ⁶⁸⁶ ADOLESCENCE IN TANZANIA, *supra* note 13, at 16. In addition, the WHO states that “an adolescent girl who has one unintended pregnancy is vulnerable to subsequent unwanted pregnancies.” PREGNANT ADOLESCENTS, *supra* note 176, at 16.
- ⁶⁸⁷ PREGNANT ADOLESCENTS, *supra* note 176, at 16.
- ⁶⁸⁸ Interview with Ashura, *supra* note 21.
- ⁶⁸⁹ African Charter on Human and Peoples’ Rights, *adopted* June 27, 1981, O.A.U. Doc. CAB/LEG/67/3, rev. 5, 21 I.L.M. 58 (1982) (*entered into force* Oct. 21, 1986) (*ratified* Feb. 18, 1984) [hereinafter Banjul Charter]. The Charter obliges state parties to “ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.” *Id.* art. 18(3).
- ⁶⁹⁰ African Charter on Children, *supra* note 9.
- ⁶⁹¹ Maputo Protocol *supra* note 263.
- ⁶⁹² African Youth Charter, *adopted* Jul. 2, 2006, 7th Ordinary Sess., *available at* http://www.au.int/en/sites/default/files/AFRICAN_YOUTH_CHARTER.pdf [hereinafter African Youth Charter].
- ⁶⁹³ South African Development Community, Protocol on Health, *adopted* Aug. 18, 1999 (*entered into force* Aug. 14, 2004) (*ratified* July 11, 2002).
- ⁶⁹⁴ ICCPR, *supra* note 444.
- ⁶⁹⁵ ICESCR, *supra* note 444.
- ⁶⁹⁶ CEDAW, *supra* note 509.
- ⁶⁹⁷ CRC, *supra* note 379.
- ⁶⁹⁸ CRPD, *supra* note 444.
- ⁶⁹⁹ Vienna Convention on the Law of Treaties, art. 2.1(b), May 23, 1969, 1155 U.N.T.S. 331, 8 I.L.M. 679 (*entered into force* Jan. 27, 1980) [hereinafter Vienna Convention]; see also World Conference on Human Rights, *Vienna Declaration and Programme of Action*, para. 1, U.N. Doc. A/CONF 157/23 (July 14–25, 1993) (reaffirming “the solemn commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law”).
- ⁷⁰⁰ Interview with Assistant Lecturer in Law, Faculty of Law, University of Dar es Salaam (May 4, 2012) (on file with the Center for Reproductive Rights); see also interview with two lawyers, Tanzania Women Lawyers Association (May 3, 2012) (on file with the Center for Reproductive Rights).
- ⁷⁰¹ Vienna Convention, *supra* note 699, art. 27.
- ⁷⁰² ICPD Programme of Action, *supra* note 24; African Platform for Action of the Fifth African Regional Conference on Women, Dakar, Senegal, Nov. 16–23, 1994 (1995); *Maputo Plan of Action for the Operationalisation of the Continental Policy Framework for Sexual and Reproductive Health and Rights 2007-2010*, Special Sess. of the African Union, Sept. 18-22, 2006, Sp/MIN/CAMH/5(I) (2006) [hereinafter *Maputo Plan of Action*]; *Beijing Declaration and the Platform for Action, Fourth World Conference on Women*, Beijing, China, Sept. 4-15, 1995, U.N. Docs. A/CONF.177/20 & A/CONF.177/20/Add.1 (1996) [hereinafter *Beijing Declaration and Platform for Action*].

The consensus documents that emerged from these conferences are not legally binding on states. By setting forth a detailed, global mandate, however, these documents contribute to advancing and interpreting the human rights standards contained in human rights treaties.

⁷⁰³ UNITED NATIONS, THE MILLENNIUM DEVELOPMENT GOALS REPORT 6–9, 12–13 (2006), available at <http://unstats.un.org/unsd/mdg/Resources/Static/Products/Progress2006/MDGReport2006.pdf>.

⁷⁰⁴ Government of Tanzania, *The Tanzania Development Vision 2025*, <http://www.tanzania.go.tz/vision.htm> (last visited May 7, 2013); Joseph J. Mungai, *Provision of quality education for all in Tanzania*, at 1, <http://www.ibe.unesco.org/International/ICE/ministers/Tanzania.pdf> (last visited May 9, 2013) (“The priorities for the Tanzania Development Vision 2025 are: expansion of access at all levels; [i]mproving the quality of education and [i]mproving and expanding the financing base.”).

⁷⁰⁵ Children’s Rights Committee, *Gen. Comment No. 15*, *supra* note 387, paras. 75–77. The African Commission has stated this with respect to the African Charter. See *Mouvement Burkinabé des Droits de l’Homme et des Peuples v. Burkina Faso*, African Commission on Human and Peoples’ Rights (ACHPR), Commc’n 204/97, para. 42 (2001); *Commission Nationale des Droits de l’Homme et des Libertés v. Chad*, ACHPR, Commc’n 74/92, para. 20 (1995). The ESCR Committee requires states to prevent third parties from interfering with education and to protect the accessibility of education for girls. See ESCR Committee, *General Comment No. 13: The right to education (art. 13)*, (21st Sess., 1999), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 63, paras. 47, 50, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter ESCR Committee, *Gen. Comment No. 13*]. Similarly, in *General Comment No. 14*, the ESCR Committee requires states to take measures to prevent third parties from

interfering with the right to health and also to protect the right to health. The Committee specifically requires that states “ensure that third parties do not limit people’s access to health-related information and services.” ESCR Committee, *Gen. Comment No. 14*, *supra* note 32, paras. 33, 35, 51. Additionally, the Committee against Torture requires that states prevent acts committed by nonstate actors and investigate, prosecute, and punish nonstate actors who commit acts of torture or cruel, inhuman, or degrading treatment. Committee against Torture, *General Comment No. 2: Implementation of article 2 by States parties*, (39th Sess., 2007), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 376, para. 18, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008). The Committee explains that “the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State’s indifference or inaction provides a form of encouragement and/or de facto permission.” *Id.* This analysis applies in all contexts where nonstate actors violate human rights.

⁷⁰⁶ ICCPR, *supra* note 444, art. 2, 3; ICESCR, *supra* note 444, art. 2, 3; Banjul Charter, *supra* note 689, arts. 2, 3, 18(3); ESCR Committee, *General Comment No. 16: The equal right of men and women to the enjoyment of all economic, social and cultural rights (Art. 3)*, (34th Sess., 2005), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 113, para. 1, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter ESCR Committee, *Gen. Comment No. 16*].

⁷⁰⁷ See, e.g., Universal Declaration of Human Rights, adopted Dec. 10, 1948, art. 2, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948) [hereinafter Universal Declaration]; ICCPR, *supra* note 444, art. 2(1); ICESCR, *supra* note 444, art. 2(2); Banjul Charter, *supra* note 689,

art. 2.

⁷⁰⁸ Banjul Charter, *supra* note 689, arts. 3(1), 18(3).

⁷⁰⁹ See Maputo Protocol, *supra* note 263, art. 2.

⁷¹⁰ African Youth Charter, *supra* note 692, arts. 2, 23(1).

⁷¹¹ CEDAW, *supra* note 509, art. 1.

⁷¹² Children’s Rights Committee, *Concluding Observations: Tanzania*, para. 26, U.N. Doc. CRC/C/TZA/CO/2 (2006).

⁷¹³ CEDAW Committee, *Gen. Recommendation No. 24*, *supra* note 38, at 358.

⁷¹⁴ CEDAW, *supra* note 509, art. 11(2)(a).

⁷¹⁵ In addition to CEDAW, the ICESCR makes clear that sex discrimination “cover[s] not only physiological characteristics but also the social construction of gender stereotypes, prejudices and expected roles, which have created obstacles to the equal fulfilment of economic, social and cultural rights. Thus, the refusal to hire a woman, on the ground that she might become pregnant, or the allocation of low-level or part-time jobs to women based on the stereotypical assumption that, for example, they are unwilling to commit as much time to their work as men, constitutes discrimination.” ESCR Committee, *General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2, of the ICESCR)*, (42nd Sess., 2009), para. 20, U.N. E/C.12/GC/20 (2009).

⁷¹⁶ CEDAW, *supra* note 509, art. 5(a).

⁷¹⁷ Maputo Protocol, *supra* note 263, art. 2(2).

⁷¹⁸ Human Rights Committee, *Concluding Observations: Tanzania*, para. 7, U.N. Doc. CCPR/C/TZA/CO/4 (2009).

⁷¹⁹ *Id.* para. 9.

⁷²⁰ ESCR Committee, *Gen. Comment No. 14*, *supra* note 32, paras. 18–19, 22; Children’s Rights Committee, *Gen. Comment No. 4*, *supra* note 32.

⁷²¹ CEDAW Committee, *General Recommendation No. 19: Violence against women*, (11th Sess., 1992), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 331, para. 1, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).

⁷²² *Id.* para. 6.

⁷²³ MINISTRY OF COMMUNITY DEVELOPMENT GENDER AND CHILDREN (TANZ.), NATIONAL STRATEGY FOR GENDER DEVELOPMENT 4, available at http://www.mcdgc.go.tz/data/Tanzania_-_National_Strategy_for_Gender_Development.pdf.

⁷²⁴ CEDAW Committee, *Concluding Observations: Tanzania*, para. 119, U.N. Doc. CEDAW/C/TZA/CO/6 (2008); Human Rights Committee, *Concluding Observations: Tanzania*, para. 10, U.N. Doc. CCPR/C/TZA/CO/4 (2009); CESCR 2012, para. 13.

⁷²⁵ CEDAW Committee, *Concluding Observations: Tanzania*, para. 119, U.N. Doc. CEDAW/C/TZA/CO/6 (2008).

⁷²⁶ *Id.* para. 120.

⁷²⁷ Children’s Rights Committee, *General Comment No. 1: The aims of education* (26th Sess., 2001), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 384, para. 8, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008) [hereinafter Children’s Rights Committee, *Gen. Comment No. 1*].

⁷²⁸ Universal Declaration, *supra* note 707, art. 1; ICCPR, *supra* note 444, Preamble; Banjul Charter, *supra* note 689, art. 5; African Charter on Children, *supra* note 9, art. 11(5).

⁷²⁹ ICCPR, *supra* note 444, Preamble.

⁷³⁰ CEDAW, *supra* note 509, Preamble.

⁷³¹ Banjul Charter, *supra* note 689, art. 5.

⁷³² Maputo Protocol, *supra* note 263, arts. 3(4).

⁷³³ African Charter on Children, *supra* note 9, arts. 11(5), 17(1), 20(1)(c).

⁷³⁴ CEDAW Committee, *Gen. Recommendation No. 24*, *supra* note 38, para. 22.

⁷³⁵ The African Charter on Children mandates that “States Parties to the present Charter shall take all appropriate measures to ensure that a child who is subjected to schools or parental discipline shall be treated with humanity and with respect for the inherent dignity of the child and in conformity with the present Charter.” African Charter on Children, *supra* note 9, art. 11(5). Article 28(2) of the CRC refers to school discipline and requires states parties to “take all appropriate measures to ensure that

school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention." CRC, *supra* note 379, art. 28(2).

⁷³⁶ Children's Rights Committee, *General Comment No. 8: The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment*(arts. 19; 28, para. 2; and 37, *inter alia*), (42nd Sess., 2006), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 485, para. 6, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).

⁷³⁷ *Id.* para. 22.

⁷³⁸ ESCR Committee, *Gen. Comment No. 13, supra* note 705, para. 41.

⁷³⁹ *Id.* para. 41.

⁷⁴⁰ MARK W. YANIS, AN INTRODUCTION TO INTERNATIONAL LAW 259-60 (2003).

⁷⁴¹ Banjul Charter, *supra* note 689, art. 5; African Charter on Children, *supra* note 9, art.16 (1); CRC, *supra* note 379, art. 37, 19; ICCPR, *supra* note 444, art. 7; Maputo Protocol, *supra* note 263, art. 4; Universal Declaration, *supra* note 707, art. 5.

⁷⁴² Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* Dec. 10, 1984, arts. 2, 16, G.A. Res. 39/46, U.N. GAOR, 39th Sess., Supp. No. 51, U.N. Doc. A/39/51 (1984), 1465 U.N.T.S. 85 (*entered into force* June 26, 1987).

⁷⁴³ Banjul Charter, *supra* note 689, art. 5.

⁷⁴⁴ African Charter on Children, *supra* note 9, art. 16(1).

⁷⁴⁵ Human Rights Committee, *General Comment No. 20: Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment)*, (44th Sess., 1992), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 200, para. 5, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008).

⁷⁴⁶ *Id.*

⁷⁴⁷ *Id.*

⁷⁴⁸ Curtis Francis Doebbler v. Sudan, ACHPR, Commc'n 236/00, para. 36 (2003).

⁷⁴⁹ *Id.* See also Huri-Laws v. Nigeria, ACHPR,

Commc'n 225/98 (2000).

⁷⁵⁰ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development*, para. 65, U.N. Doc. A/HRC/10/44 (Jan. 14, 2009) (by Manfred Nowak). See also Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *Rep. of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, para. 71, U.N. Doc. A/HRC/22/53 (Feb. 1, 2013) (by Juan E. Méndez) ("Forced or compulsory HIV testing is also a common abuse that may constitute degrading treatment if it is 'done on a discriminatory basis without respecting consent and necessity requirements.'").

⁷⁵¹ ICESCR, *supra* note 444, art. 13.

⁷⁵² Banjul Charter, *supra* note 689, art. 17.

⁷⁵³ CRC, *supra* note 379, arts. 28-29.

⁷⁵⁴ African Charter on Children, *supra* note 9, art. 11.

⁷⁵⁵ Maputo Protocol, *supra* note 263, art. 12.

⁷⁵⁶ CEDAW, *supra* note 509, art. 10.

⁷⁵⁷ UN Educational, Scientific and Cultural Organization, *Convention against Discrimination in Education*, Dec. 14, 1960.

⁷⁵⁸ ESCR Committee, *Gen. Comment No. 13, supra* note 705, para. 59 ("violations of article 13 include: . . . the failure to ensure private educational institutions conform to the "minimum educational standards" required by article 13 (3) and (4)."). The African Commission has similarly held that states must ensure that nonstate actors comply with the rights contained in the African Charter. See *Mouvement Burkinabé des Droits de l'Homme et des Peuples v. Burkina Faso*, ACHPR, Commc'n 204/97, para. 42 (2001); *Commission Nationale des Droits de l'Homme et des Libertés v. Chad*, ACHPR, Commc'n 74/92, para. 20 (1995).

⁷⁵⁹ ACHPR, *Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on*

Human and Peoples' Rights, para. 69 (Nov. 2010) [hereinafter *Principles & Guidelines on the implementation of ESCR in the Afr. Charter*]. See also ESCR Committee, *Gen. Comment No. 13, supra* note 705, para. 1.

⁷⁶⁰ ESCR Committee, *Gen. Comment No. 13, supra* note 705, para. 4.

⁷⁶¹ ICESCR, *supra* note 444, art. 13(1).

⁷⁶² CRC, *supra* note 379, art. 29(1).

⁷⁶³ Children's Rights Committee, *Gen. Comment No. 1, supra* note 727, para. 2.

⁷⁶⁴ *Id.* para. 8.

⁷⁶⁵ *Id.* para. 19.

⁷⁶⁶ See ESCR Committee, *Gen. Comment No. 13, supra* note 705, para. 6.

⁷⁶⁷ *Id.* para. 7.

⁷⁶⁸ *Id.* para. 6(a).

⁷⁶⁹ *Id.*

⁷⁷⁰ ICESCR *supra* note 444, art. 13(2)(a); CRC, *supra* note 379, art. 28(1)(a); Right to Education Project, *Availability*, <http://www.right-to-education.org/node/227> (last visited Jul. 14, 2013).

⁷⁷¹ ESCR Committee, *Gen. Comment No. 13, supra* note 705, para. 6(b).

⁷⁷² *Id.* para. 6(b)(i).

⁷⁷³ ICESCR, *supra* note 444, art. 2(2).

⁷⁷⁴ CEDAW specifies, in its article on nondiscrimination in education, that female dropout rates must be reduced—indicating that higher female dropouts are indirect evidence of discrimination. CEDAW, *supra* note 509, art. 10(f).

⁷⁷⁵ ESCR Committee, *Gen. Comment No. 13, supra* note 705, para. 31.

⁷⁷⁶ *Id.*

⁷⁷⁷ ESCR Committee, *General Comment No. 11: Plans of action for primary education (art. 14)*, (20 Sess., 1999), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 52, para. 6, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008) [hereinafter ESCR Committee, *Gen. Comment No. 11*].

⁷⁷⁸ African Charter on Children, *supra* note 9, art. 11(6).

⁷⁷⁹ *Principles & Guidelines on the implementation of ESCR in the Afr. Charter, supra* note 759,

para. 71(xix).

⁷⁸⁰ *Id.*

⁷⁸¹ Children's Rights Committee, *Concluding Observations: Lesotho*, para. 54, U.N. Doc. CRC/C/15/Add.147 (2001).

⁷⁸² *Id.*

⁷⁸³ CEDAW Committee, *Concluding Observations: Chile*, para. 28, U.N. Doc. CEDAW/C/CHL/CO/5-6 (2012).

⁷⁸⁴ *Id.* para. 29(a).

⁷⁸⁵ CEDAW Committee, *Concluding Observations: Papua New Guinea*, para. 38, U.N. Doc. CEDAW/C/PNG/CO/3 (2010).

⁷⁸⁶ ESCR Committee, *Concluding Observations: United Republic of Tanzania*, para. 27, U.N. Doc. E/C.12/TZA/CO/1-3 (2012).

⁷⁸⁷ *Id.*

⁷⁸⁸ CEDAW Committee, *Concluding Observations: United Republic of Tanzania*, para. 129, U.N. Doc. CEDAW/C/TZA/CO/6 (2008).

⁷⁸⁹ *Id.*

⁷⁹⁰ *Id.* para. 130.

⁷⁹¹ Children's Rights Committee, *Gen. Comment No. 1, supra* note 727, para. 10.

⁷⁹² ESCR Committee, *Gen. Comment No. 14, supra* note 32, para. 6(b).

⁷⁹³ *Principles & Guidelines on the implementation of ESCR in the Afr. Charter, supra* note 759, para. 71(xvii).

⁷⁹⁴ ESCR Committee, *Gen. Comment No. 13, supra* note 705, para. 6(b).

⁷⁹⁵ *Id.*

⁷⁹⁶ *Id.* para. 6(c).

⁷⁹⁷ *Id.*

⁷⁹⁸ *Id.* para. 41.

⁷⁹⁹ Economic, Social and Cultural Rights, *Progress report of the Special Rapporteur on the right to education, Katarina Tomasevski, submitted in accordance with Commission on Human Rights resolution 1999/25*, para. 56, U.N. Doc. E/CN.4/2000/6 (Feb. 1, 2000).

⁸⁰⁰ *Principles & Guidelines on the implementation of ESCR in the Afr. Charter, supra* note 759, para. 71(xvii).

⁸⁰¹ ESCR Committee, *Gen. Comment No. 13, supra* note 705, para. 6(d).

⁸⁰² *Id.* para. 1.

⁸⁰³ ESCR Committee, *Gen. Comment No. 11,*

- supra* note 777, art. 14.
- ⁸⁰⁴ ICCPR, *supra* note 444, art. 17.
- ⁸⁰⁵ CRC, *supra* note 379, art. 16.
- ⁸⁰⁶ African Charter on Children, *supra* note 9, art. 10.
- ⁸⁰⁷ ICCPR, *supra* note 444, art. 17(1).
- ⁸⁰⁸ Human Rights Committee, *General Comment No. 16: Article 17 (Right to privacy)*, (32nd Sess., 1988) in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 191, paras. 1, 9, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).
- ⁸⁰⁹ CRC, *supra* note 379, art. 16(2).
- ⁸¹⁰ ESCR Committee, *Gen. Comment No. 14*, *supra* note 32, para. 3.
- ⁸¹¹ *Id.* para. 8.
- ⁸¹² CEDAW Committee, *Gen. Recommendation No. 24*, *supra* note 38, para. 31(e).
- ⁸¹³ ICCPR, *supra* note 444, art. 9(1); Banjul Charter, *supra* note 689, art. 6.
- ⁸¹⁴ CRC, *supra* note 379, art. 37.
- ⁸¹⁵ Dr. Carmel Shalev, *Right to Sexual and Reproductive Health-the ICPD and the Convention on the Elimination of All Forms of Discrimination Against Women*, a paper presented at the International Conference on Reproductive Health, in India, March 15-19, 1998, available at <http://www.un.org/womenwatch/daw/csw/shalev.htm>.
- ⁸¹⁶ Maputo Protocol, *supra* note 263, art. 4(2)(h).
- ⁸¹⁷ See, e.g., CEDAW, *supra* note 509, art. 12; ICESCR, *supra* note 444, art. 12; *ICPD Programme of Action*, *supra* note 24, Principle 8; *Beijing Declaration and Platform for Action*, *supra* note 702, para. 91; CRC, *supra* note 379, art. 24; Banjul Charter, *supra* note 689, art. 16; Maputo Protocol, *supra* note 263, art. 14.
- ⁸¹⁸ ESCR Committee, *Gen. Comment No. 14*, *supra* note 32, paras. 8, 11.
- ⁸¹⁹ ICESCR, *supra* note 444, art. 2(1).
- ⁸²⁰ See ESCR Committee, *Gen. Comment No. 14*, *supra* note 32, paras. 12 (stating that accessibility consists of nondiscrimination, physical accessibility, affordability, and access to information) & 35.
- ⁸²¹ *Id.* para. 12(a).
- ⁸²² African Youth Charter, *supra* note 692, art. 16(2)(c).
- ⁸²³ ESCR Committee, *Gen. Comment No. 14*, *supra* note 32, para. 12(b).
- ⁸²⁴ *Id.* para. 43(a).
- ⁸²⁵ *Id.* para. 12(b).
- ⁸²⁶ *Id.*
- ⁸²⁷ ESCR Committee, *Gen. Comment No. 16*, *supra* note 706, para. 10.
- ⁸²⁸ ESCR Committee, *Concluding Observations: United Republic of Tanzania*, para. 24, U.N. Doc. E/C.12/TZA/CO/1-3 (2012).
- ⁸²⁹ ESCR Committee, *Gen. Comment No. 14*, *supra* note 32, para. 12(c).
- ⁸³⁰ *Id.* para. 23.
- ⁸³¹ Children's Rights Committee, *Concluding Observations: Tanzania*, para. 46, U.N. Doc. CRC/C/TZA/CO/2 (2006).
- ⁸³² ESCR Committee, *Gen. Comment No. 14*, *supra* note 32, para. 12(d).
- ⁸³³ *Id.*
- ⁸³⁴ *Id.* para. 36.
- ⁸³⁵ Banjul Charter, *supra* note 689, arts. 9(1), 17(1).
- ⁸³⁶ Maputo Protocol, *supra* note 263, arts. 14(1)(g), 14(2)(a). See also *Maputo Plan of Action*, *supra* note 702, at 13.
- ⁸³⁷ African Youth Charter, *supra* note 692, art. 13(3)(f).
- ⁸³⁸ CRC, *supra* note 379, art. 24(2)(f). In numerous concluding observations, the Children's Rights Committee has recommended that states parties strengthen their reproductive health education programs for adolescents in order to combat adolescent pregnancy and the spread of HIV/AIDS and other sexually transmitted infection. See, e.g., Children's Rights Committee, *Concluding Observations: Egypt*, para. 44, U.N. Doc. CRC/C/15/Add.145 (2001); *Georgia*, para. 51, U.N. Doc. CRC/C/15/Add.222 (2003); *Latvia*, para. 45(a) and (c), U.N. Doc. CRC/C/LVA/CO/2 (2006). Further the Committee has suggested that girls should have access to information on the harm that early pregnancy can cause, and that those who become pregnant should have access to services sensitive to their particular needs. See Children's Rights Committee, *Gen. Comment No. 4*, *supra* note 32, para. 31.
- ⁸³⁹ CEDAW, *supra* note 509, art. 16.1(e). See also *id.* art. 10(h).
- ⁸⁴⁰ CEDAW Committee, *General Recommendation No. 21: Equality in marriage and family relations*, (13th Sess., 1994), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 337, para. 22, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).
- ⁸⁴¹ CEDAW Committee, *Concluding Observations: United Republic of Tanzania*, para. 136, U.N. Doc. CEDAW/C/TZA/CO/6 (2008).
- ⁸⁴² *Id.* para. 137.
- ⁸⁴³ Children's Rights Committee, *Concluding Observations: Tanzania*, para. 47(c), U.N. Doc. CRC/C/TZA/CO/2 (2006). Similarly, the ESCR Committee has urged Tanzania to "take measures to address the high rate of teenage pregnancies, including through family-planning information and services . . . and promoting sexual and reproductive health as part of the education curriculum targeted at adolescent girls and boys." ESCR Committee, *Concluding Observations: United Republic of Tanzania*, para. 24, U.N. Doc. E/C.12/TZA/CO/1-3 (2012).
- ⁸⁴⁴ CEDAW Committee, *Concluding Observations: United Republic of Tanzania*, para. 136, U.N. Doc. CEDAW/C/TZA/CO/6 (2008).
- ⁸⁴⁵ *Id.* para. 137.
- ⁸⁴⁶ ICCPR, *supra* note 444, art.6; CRC, *supra* note 379, art. 6; Banjul Charter, *supra* note 689, art. 4; Maputo Protocol, *supra* note 263, art. 4.
- ⁸⁴⁷ African Charter on Children, *supra* note 9, art. 5; CRC, *supra* note 379, art. 6.
- ⁸⁴⁸ Children's Rights Committee, *General Comment No. 7: Implementing child rights in early childhood*, (40th Sess., 2006), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 466, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).
- ⁸⁴⁹ *Id.*
- ⁸⁵⁰ See Children's Rights Committee, *Concluding Observations: Chad*, para. 30, U.N. Doc. CRC/C/15/Add.107 (1999).
- ⁸⁵¹ See Children's Rights Committee, *Concluding Observations: Honduras*, para. 61(a), U.N. Doc. CRC/C/HND/CO/3 (2007); *Mozambique*, para. 46(c), U.N. Doc. CRC/C/15/Add.172 (2002); *Nicaragua*, para. 19, U.N. Doc. CRC/C/15/Add.36 (1995).
- ⁸⁵² See Children's Rights Committee, *Concluding Observations: Benin*, para. 55, U.N. Doc. CRC/C/BEN/CO/2 (2006); *Colombia*, para. 48, U.N. Doc. CRC/C/15/Add.137 (2000); *Peru*, paras. 52-53, U.N. Doc. CRC/C/PER/CO/3 (2006); *Venezuela*, paras. 60-61, U.N. Doc. CRC/C/VEN/CO/2 (2007).
- ⁸⁵³ TANZANIA COUNTRY EVALUATION REPORT, *supra* note 176, at 25. ADOLESCENCE IN TANZANIA, *supra* note 13, at 16.
- ⁸⁵⁴ CONSTITUTION OF THE UNITED REPUBLIC OF TANZANIA 1977 (CAP. 2), art. 14.
- ⁸⁵⁵ *Id.* art. 16.
- ⁸⁵⁶ *Id.* art. 12(1).
- ⁸⁵⁷ *Id.* arts. 13(2), 29(1).
- ⁸⁵⁸ *Id.* art. 12(2).
- ⁸⁵⁹ *Id.* art. 13(6)(e).
- ⁸⁶⁰ Law of the Child Act (2009), art. 5 (Tanz.).
- ⁸⁶¹ *Id.* art. 8(2).
- ⁸⁶² *Id.* art. 13(1).
- ⁸⁶³ *Id.* art. 13(3).
- ⁸⁶⁴ *Id.* art. 168.
- ⁸⁶⁵ *Id.* art. 170.
- ⁸⁶⁶ *Id.* art. 176.
- ⁸⁶⁷ Education Act, ch. 353, art. 60(j) (Tanz.).
- ⁸⁶⁸ Report submitted by the Special Rapporteur on the right to education, Mr. V. Munoz Villalobos, *Girls' right to education*, para. 133, U.N. Doc. E/CN.4/2006/45 (Feb. 8, 2006).
- ⁸⁶⁹ *Id.* para. 139.
- ⁸⁷⁰ VIOLENCE AGAINST CHILDREN IN TANZANIA: FROM COMMITMENTS TO ACTION 1, 5-6 (2012) [hereinafter FROM COMMITMENTS TO ACTION (2012)].
- ⁸⁷¹ Children's Rights Committee, *Gen. Comment No. 4*, *supra* note 32, para. 29(b).
- ⁸⁷² This would render Tanzania in compliance with the WHO's recommendation to "[e]nsure that policies and legislation enable adolescent girls to give consent for tests and treatment." PREGNANT ADOLESCENTS, *supra* note 176, at 7.
- ⁸⁷³ FROM COMMITMENTS TO ACTION (2012), *supra* note 870, at 3.

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