

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

**COMMITTEE ON THE ELIMINATION OF ALL FORMS
OF DISCRIMINATION AGAINST WOMEN
41ST SESSION
UNITED REPUBLIC OF TANZANIA, 4TH, 5TH, & 6TH
REPORT
11 JULY 2008**

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Key facts¹

Date of Ratification	Reservations	Party to Optional Protocol (OP)	Opted out of OP's Inquiry Procedure	Additional ratified core treaties
1985	None	Yes	No	ICCPR, ICESCR, CERD, CRC

¹ The information in these two tables is sourced from the Office of the High Commissioner for Human Rights (OHCHR), and is available at <http://www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx>

Type of report	Date submitted	Report submitted on time	NGO / NHRI consultation/input	List of issues provided / Written replies to issues rec'd	Last appearance before Committee
4 th /5 th /6 th periodic report	16 April 2007	No ²	Yes/Yes	27 September 2007/ 23 January 2008	1 July 1998

Information submitted to the Committee

State party report³

The United Republic of Tanzania's (Tanzania) fourth, fifth, and sixth periodic report covered the period between the consideration of the State party's previous report on 1 July 1998 and the presentation of the current report. The fourth, fifth, and sixth reports were combined into one document, which outlines the steps Tanzania has taken to ensure full substantive equality between the sexes with a focus on constitutional amendments, the establishment of the Commission for Human Rights and Good Governance, and use of CEDAW monitoring indicators.

The Tanzanian report is divided into three sections. The first section provides an overview of the State party with respect to geographic location, population size, and sector performance. The second section provides responses to the Committee's previous concluding observations in 1998. Each paragraph addressed an issue discussed in the previous concluding observations. For instance, the State party highlights how it has responded to the Committee's recommendation to modify customary and religious law to ensure compliance with the Convention. The third section discussed the measures taken by the State party to implement the Convention, and is organized in themes such as violence against women; health care; and reproductive rights.

Although the report provides thorough information about certain issues, the report remains silent on very important issues such as polygamy and fixing a minimum age for marriage of female children.

List of issues⁴

The list of issues distributed to the State party highlighted several areas of concern for the Committee such as the lack of disaggregated data provided about different forms and extent of violence against women. Other areas of concern include repealing existing discriminatory laws and time tables for doing so.

The State party was unable to provide an answer about segregated data on the various forms of violence in their written responses to the list of issues. Indeed, they noted that the CEDAW monitoring indicators only include sexual offences reported to the police and cases subsequently filed with a court. Thus, data according to CEDAW monitoring indicators was unlikely to capture the full extent of violence committed against women.

² The State party's sixth report was due on 19 September 2002. It was 5 years late.

³ The State party report CEDAW/C/TZA/6 (16 April 2007) is available at <http://www2.ohchr.org/english/bodies/cedaw/docs/pswg.doc>

⁴ The List of Issues is available at <http://daccessdds.un.org/doc/UNDOC/GEN/N07/520/21/PDF/N0752021.pdf?OpenElement> and Tanzania's responses are available at <http://daccessdds.un.org/doc/UNDOC/GEN/N07/520/21/PDF/N0752021.pdf?OpenElement>

Other issues raised include trafficking and exploitation of prostitution, participation in political and public life, education and stereotypes, marriage and family relations, employment, poverty, and rural women, health, situation of refugee women, and the Optional Protocol. The State party provided its responses to the list of issues in writing.

NGO parallel reports

Only three parallel reports were submitted to the Committee, two of which were submitted by international non-governmental organisations (NGOs). HelpAge International focused on discrimination of the ageing population and the Global Initiative to End all Corporal Punishment of Children focused on ending corporal punishment.⁵ The third report was submitted by the Women's Legal Aid Centre (WLAC), a Tanzanian NGO.⁶ WLAC's report welcomed certain measures taken by the government to ensure substantive equality between the sexes such as increasing the number of females in Parliament to 30 percent. Nonetheless, in its report WLAC pointed out that the Tanzanian government was not doing enough to eliminate discrimination of women in other areas such as repealing existing discriminatory laws, and underlined the ineffectiveness and inadequacy of the Sexual Offences Act, which criminalizes female genital mutilation (FGM).

There was considerable overlap between the issues raised by WLAC in its report and the concerns raised by Committee members during the interactive dialogue, which include:

- Full domestication of CEDAW;
- Definition of discrimination in the Tanzanian constitution;
- Repealing discriminatory laws;
- Violence against women;
- Vulnerable women (older women, albino women, rural women); and
- Family relations.

Themes and issues

Tanzania's delegation⁷

Tanzania's delegation consisted of 12 members and was headed by Hon. Margaret Simwanza Sitta, Minister for Community Development, Gender and Children. Among others, several high member delegates were present including the Commissioner for Human Rights and Good Governance, the Ambassador and Permanent Representative to the United Nations and the Minister for Labour, Youth, Employment, Women and Children Development of Zanzibar.

Delegation's interaction with the Committee

In her opening remarks, Ms Sitta informed the Committee that significant progress had been achieved since consideration of the State party's second and third periodic reports. Specifically, she highlighted the 14th constitutional amendment, which amended the number of women in Parliament to no less than 30 percent of the combined number of members. She explained that these amendments are special measures aimed at eliminating discrimination against women. Nonetheless, she conceded that implementation of CEDAW still faced serious challenges and violence against women remained a serious problem.

⁵ These reports are available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws41.htm> and at http://www.iwraw-ap.org/resources/shadow_reports.htm

⁶ This report is available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws41.htm>

⁷ The list detailing the membership of the delegation is available at <http://www2.ohchr.org/english/bodies/cedaw/docs/list/TanzaniaDelegation.pdf>

The interaction between the delegation and the Committee was generally constructive. However, when pressed several times by individual Committee members, the delegation became defensive in its responses. As such, Chairperson Ms Simonovic (Croatia) tried to steer the dialogue in a more positive direction, stressing that the experts' comments and questions were intended to be constructive and helpful to the delegation.

Constitutional and legislative framework and national machinery (Articles 1-3)

Although the Committee applauded recent constitutional amendments such as Article 13, paragraph 4 of the Tanzanian Constitution, the Committee was sceptical about whether the new definition of gender discrimination was in accordance with Article 1 of the Convention. When asked by Ms Patten (Mauritius) whether the new definition of discrimination included both direct and indirect discrimination, and intentional and unintentional discrimination, Ms Joacquine De-Mello from the Human Rights and Good Governance Commission admitted that she would have to research these concepts to provide an accurate answer. When further questioned by Ms Patten about whether the new definition of discrimination had been tested in the courts, the delegation explained that "this is a new concept for developing countries." She further added, "it will take some time for our courts to take this into consideration."

In addition to constitutional amendments, several experts echoed questions put to the delegation in the list of issues about time lines. Ms Patten asked when the modification to the existing Marriage Law would be enacted. The delegation informed the Committee that the State party intended to enact the relevant appending laws; however, the delegation would not commit itself to a time line. Ms Coker Appiah (Ghana) asked about repealing existing discriminatory laws such as the Land Act, which currently does not address the issue of inheritance by women, requesting an answer from the Minister and not the Commissioner. The Minister responded that "I think we still have a long way."

While experts focused on ensuring Tanzanian laws were in accordance with the Convention, Ms Hayashi (Japan) wanted to know what kinds of remedies are available for victims of discrimination. The delegation explained that the current legal framework provides access to justice for victims of discrimination through the *Legal Stakeholder Reform Program*. The delegation added that the program had raised awareness for the need of free legal aid for women and children.

Ms Neubauer (Slovenia) focused on Tanzania's national machinery. She was concerned about coordination and monitoring efforts in place at all levels of government to ensure the pursuit of gender equality. The delegation informed the Committee that gender focal points had been established in every Ministry, and described how coordination of efforts was carried out through local governments with trainings and conferences.

Violence against women, including domestic violence (Articles 2, 5, 11, 12, 16)

Discussion about Tanzania's efforts to address violence against women occupied a considerable amount of the Committee's time. Ms Shin (Republic of Korea) raised the issue of rape, but she focused on numbers and statistics and explained to the delegation that this type of information is essential in drafting plans of action to combat domestic violence. She pointed out that the government collected no statistics on the number of raped women, or how frequently women get battered, or what type of violence in the family exists. Ms Begum (Bangladesh) requested the number of convictions against rapists. Ms Chutikul (Thailand) requested more information about the types of violence and the ages of the victims in the next periodic report.

The delegation concurred that they did not have precise statistics about the incidence of rape. When asked about marital rape, the delegation admitted that most marital rape cases were not reported.

Ms Chutikul focused on the need to change attitudes, and lamented that some women were unable to leave their abusers due to the high level of poverty in Tanzania. She suggested a shift in focus to prevention and trying to stop men from engaging in this type behaviour. With respect to killing older women, Ms Chutikul suggested that the State party engage in a campaign about “loving older women.” The head of the delegation appeared amenable to this suggestion and thanked the Committee member for proposing a new way to address some of these issues.

Although FGM has been outlawed in Tanzania, experts were sceptical about the effectiveness of this legislation. Indeed, when asked by Ms Tavares da Silva (Portugal) about why newborn girls continue to undergo FGM, the delegation explained prosecution of perpetrators had not been effective even with new legislation. The delegation believed there was a lack of witnesses and willingness to identify perpetrators. Ms Hayashi also drew attention to the issue of FGM and its correlation to illiteracy. When asked whether the practice of FGM was proportionate to the numbers of illiterate individuals, the delegation was unable to provide the information.

Women in vulnerable situations such as older women, and rural women (article 14)

Due to the high number of individuals living in rural communities and the country’s dependence on agricultural output (77 percent), several experts paid particularly close attention to the status of rural women in the context of access to justice, and access to education and health care. When asked by Ms. Begum about access to justice for rural women and increasing the number of free legal aid clinics, the delegation did not respond to the question. Ms. Schopp-Schilling (Germany) noted that the report lacked statistics on the rate of illiteracy among rural women. Additionally, Ms. Gabre (Egypt) noted the lack of quality education for rural women. When asked what the government was doing to change the quality of education for rural women, the delegation explained that the government was building more secondary schools in the rural areas to ensure children, and in particular female children, had access to education.

Ms Pimentel (Brazil) inquired about access to free health care in the rural areas. She explained that a high level of illiteracy along with being an older woman further disadvantaged women in rural areas and prevented access to health care. The delegation informed the Committee that the issues they have raised are discussed at the community level, and therefore such programs are run by local communities.

Echoing her colleague’s comments about the importance of the agricultural sector, Ms Dominguez (Cuba) inquired about laws concerning women’s access to land ownership. The delegation explained that the Government had created programmes to implement its microfinance policy, including a small entrepreneur’s loan facility, which operated in 14 of the country’s 21 regions. It gave loans to small-scale businesses, 63 per cent of which were women-owned and women-operated. There was also a small industrial development organization to empower women in small-scale businesses.

As a category of vulnerable women, Ms Simms (Jamaica) questioned why there continued to be discrimination and often violence against albino women and children. The delegation explained that the State party would have to continue to raise awareness about this minority group to ensure their rights were protected. The delegation added that there continued to be an ignorance surrounding albinos. Many believed albino hands could result in wealth, and thus innocent albinos continued to be killed and their body parts sold. The delegation made it clear that dispelling taboos was essential to combat this problem.

Equality before the law, marriage and family relations

The issue of polygamous marriages, fixing a minimum age of marriage for the girl child, and citizenship rights were raised several times by various experts. When asked why there had been no efforts to criminalize polygamy, the delegation explained that under Islamic law polygamous marriages are legal. The delegation further added that certain African traditions also allowed a husband to have multiple wives. Ms Kaddari (Israel) was frustrated with these responses and explained that the Convention obligates State parties to repeal discriminatory laws even if those laws protect traditional practices. Echoing her colleagues, Ms Kaddari was unsatisfied with vague responses and requested specific time lines for repealing such discriminatory laws.

When Ms Gabre raised the issue of education, she focused on fixing a minimum age of marriage for the girl child. She explained that school attendance is clearly affected by school dropouts, which in turn, are affected by girls marrying at a young age. As such, she suggested the State party increase the minimum age of marriage for the girl child from 15 to 18 as Egypt has done. Similarly, Ms Belmihoub-Zerdani pointed out that the State party had adopted CEDAW and the Convention on the Rights of the Child without any reservations, thus they were obligated under international law to amend the current minimum marriage law for the girl child.

Ms Belmihoub-Zerdani (Algeria) also highlighted that other Muslim countries had achieved women's advancement by allowing women married to foreign men to pass on their citizenship to their children. Thus, she argued that Muslim customs were not an excuse for preventing women to exercise their human rights. The delegation informed the Committee that at the moment Tanzanian women could not pass their citizenship to their children. However, the State party was working on a dual citizenship act that would change the existing law.

Other themes

The Committee also engaged the delegation in discussion on the following themes: trafficking, participation in decision making, gender stereotypes and education, measures to combat HIV/AIDS, and land rights for widows.

Conclusions and next steps

At the conclusion of the interactive dialogue, Chairperson Simonovic thanked the delegation for a “frank and constructive dialogue.” However, she encouraged the State party to amend or repeal existing discriminatory laws and ensure that the definition of discrimination within the Tanzanian constitution was in line with the Convention.

In its concluding observations,⁸ the Committee welcomea the State party's adoption in 2000 of a National Development Vision, aimed at attaining gender equality and the empowerment of women in all socio-economic and political relations and culture by the year 2025. The Committee further commends the State party for the establishment of the Commission for Human Rights and Good Governance and the number of efforts undertaken by the State party in the area of education.

The remainder of the report focuses on 21 principal subjects of concern and related recommendations. The first two, on bringing the definition of discrimination in line with the definition in the Convention and amending or repealing discriminatory laws, formed a substantial portion of the interactive dialogue.

⁸ The concluding observations, C/TZA/CO/6 are available at <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.TZA.CO.6.pdf>

The Committee also expresses its concern about the persistence of negative cultural practices, and urges the State party to implement a comprehensive strategy, including legislation, to modify or eliminate such practices, in conformity with CEDAW. Specifically with the practice of FGM, the Committee urges the State party to strengthen the enforcement of the 1998 Act to ensure that offenders are prosecuted and adequately punished.

The Committee also provided general recommendations to bring Tanzania in accordance with its international obligations under CEDAW, including recommending the State party use “innovative” measures to strengthen understanding between women and men.

Two other treaty bodies have examined issues related to women’s rights and each recommended similar measures as the CEDAW Committee to improve Tanzania’s compliance with its international obligations. In 2006, the Committee on the Rights of the Child recommended that the State party set a clear definition of a child in line with the Convention on the Rights of the Child in the draft Children’s Act. It further recommended that the State party establish one legal minimum age for marriage, at an internationally acceptable level, for both boys and girls.

In 2005, the Committee on the Elimination of Racial Discrimination recommended that the State party include detailed information in its next periodic report on the practice of FGM. The Committee further recommended that the State party reinforce the measures adopted to eradicate this persistent practice, in particular through sensitization programmes directed at promoting changes in attitudes towards this practice, in consultation with traditional communities.

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ABOUT THE PUBLICATION

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