

Women's rights protection instruments ratified by Tanzania:

- **CEDAW:** ratified in 1985
- **CEDAW Protocol:** ratified in 2006
- **Maputo Protocol:** ratified in 2007

Respect! Although Tanzania has ratified the main international and regional women's rights protection instruments, many of their provisions continue to be violated in both law and practice.

The Coalition of the Campaign remains particularly concerned about the following violations in Tanzania: the persistence of discriminatory laws; violence against women; unequal access to education, employment and health services; and violations of the right to property.

/ Some positive developments...

The Coalition of the Campaign acknowledges the adoption in recent years of a number of laws and policies aimed at improving respect for women's rights, including the reform of property laws to establish equal rights to acquire, own and use land (Village Lands Act No. 5) and the implementation of programmes to promote women's access to education (Education Sector Development Programme (2000-2015)).

Advances have also been made in women's political participation. In 2005, the 14th amendment to the Constitution increased the number of seats reserved for female Members of Parliament from 15 to 30 percent. After the 2005 general elections, 98 of a total of 321 MPs were women (30.4%). The Tanzanian government has stated that it aims to increase the number of female MPs to 50 percent by 2010 in conformity with the Southern African Development Community's (SADC's) Protocol on Gender and Development of 2008. However, the representation of women in other areas of public and professional life remains low.

The Coalition also welcomes the ratification of the Optional Protocol to CEDAW in 2006 and the Maputo Protocol in 2007.

/ But discrimination and violence persist

IN LAW

Many discriminatory legislative provisions remain in force in Tanzania. Propositions for amendments to some of these laws, which would remove some discriminatory

provisions, have met with strong resistance and reforms have stalled. Examples of discriminatory legislation include:

FAMILY LAWS

Under the Law of Marriage Act 1971, polygamy is authorised (s.10), whilst women are expressly prohibited from having more than one husband (s. 15). Proposed amendments to the Marriage Act would not remove these provisions. The legal minimum age for marriage is 15 years for girls and 18 years for boys (s.13). The Penal Code allows for the marriage of girls under 15, provided that the marriage is not consummated before the age of 15" (s.138). A marriage contract can be concluded without the consent of the bride, on the basis of an agreement reached between the father of the bride and the groom (s.17).

The Law of Persons Act allows for the payment of a bride price. Upon payment, the wife becomes the "property" of the husband and the husband's family.

PROPERTY LAWS

Three systems of law apply to inheritance according to the Judicature and Application of Laws Act 1920:

Statutory law: the Indian Succession Act 1865 provides for one-third of the estate to pass to the widow and two-thirds to the children. If there are no children, then the widow is entitled to half of the estate (the other half passes to the deceased's parents or other blood relatives).

Islamic law: provides for widows to receive one-eighth of the deceased husband's property if there are children and one-fourth if there are no children.

Customary laws: under the Local Customary Law (Declaration No. 4) Order 1963, a widow cannot inherit property of the deceased husband.

The government has stated its intention to review discriminatory laws that prevent women from inheriting property, but no amendments have yet been introduced.

NATIONALITY LAWS

The Citizenship Act limits women's right to transfer their nationality to their children and foreign husbands (ss. 7(5), 10, 11).

IN PRACTICE

• Violence

Domestic violence and sexual violence are highly prevalent in Tanzania. Customs and traditional practices condone the harassment and abuse of women and a culture of impunity prevails. Cases of violence are underreported and those that are reported are often settled out of court. Existing laws do not adequately protect women from violence. The Penal Code does not contain a specific provision on domestic violence and does not criminalise marital rape. In 2001, the Tanzanian government adopted a National Plan of Action to Combat Violence Against Women and Children (2001 - 2015), but the effective implementation of this plan has been hindered by inadequate funding and the lack of a comprehensive legal aid system that can be accessed by women. In 2008, the Government announced its intention to amend laws that perpetuate gender-based violence but no such reforms have been introduced.

Despite the adoption of the Sexual Offences Special Provisions Act (SOSPA) in 1998 which prohibits female genital mutilation (FGM) of girls under the age of 18 years, and the National Plan of Action to Combat FGM (2001- 2015), FGM continues to be practised, in particular in the regions of Arusha, Dodoma, Kilimanjaro, Kigoma, Manyara, Mara and Morogoro. The continued legality of the practice upon women over 18 years of age is also of grave concern. In addition, the law does not provide for a minimum sentence, which has resulted in courts exercising their discretion to impose marginal sentences on offenders.

The Coalition of the Campaign calls on the authorities of Tanzania to:

- **Reform or repeal all discriminatory legislation** in conformity with CEDAW and the Maputo Protocol, including discriminatory provisions within the Law of Marriage Act, the Penal Code, the Law of Persons Act, the Indian Succession Act 1865, the Local Customary Law Order and the Citizenship Act.
- **Harmonise civil, religious and customary law**, in conformity with CEDAW and the Maputo Protocol and ensure that where conflicts arise between statutory legal provisions and customary law, the statutory provisions prevail.
- **Strengthen laws and policies to protect women from violence** including by: amending the Penal Code to add a specific provision on domestic violence, criminalising marital rape and all other sexual offences; establishing a legal aid system to provide assistance to victims; implementing training for all law enforcement personnel on violence against women and providing gender-sensitive support; and establishing shelters for women victims of violence.
- **Strengthen measures aimed at eliminating FGM**, including by: extending the prohibition to include women over 18 and establishing a minimum sentence commensurate with the seriousness of the crime; ensuring the effective prosecution and punishment of offenders; and implementing awareness-raising programmes particularly targeting the most affected regions.
- **Reform or eliminate discriminatory cultural practices and stereotypes**, including through awareness-raising programmes targeting women and men, traditional and community leaders.
- **Eliminate obstacles to the education of girls and women**, including by adopting measures to retain girls in school; and implementing awareness-raising programmes to overcome stereotypes and traditional attitudes.
- **Ensure women’s equal access to employment**, including by strengthening measures to combat sexual harassment in the workplace.
- **Strengthen efforts to increase women’s access to health-care facilities**, to increase knowledge of and access to affordable contraceptive methods, improve sex education and establish family planning services.
- **Eliminate discrimination against women with respect to ownership of land**, including by raising awareness on land and property rights, especially of rural women.
- **Implement all recommendations issued by the CEDAW Committee** in July 2008.

• Obstacles to access to education and employment

Although some progress has been made in increasing girls' access to education, including the recent achievement of gender parity in primary school enrolment, fewer girls enter secondary school and university as well as vocational and technical education. Traditional attitudes represent significant obstacles to girls' education and there are high drop-out rates due to early marriages, pregnancies and domestic responsibilities. Girls who become pregnant are often expelled from Tanzanian schools.

The public sector remains male dominated and the majority of women are in lower or middle level jobs. Many women in the informal sector are in a precarious situation, in particular those working in the agricultural sector, as well as small business, food processing and handicrafts. They lack job security and access to social benefits. Sexual harassment also constitutes a serious problem for women workers.

• Obstacles to access to health

The maternal mortality rate remains very high (950 per 100,000 births in 2005), and life expectancy of women has decreased in recent years. Many women do not have access to sexual and reproductive health services and there are no family planning services.

• Obstacles to access to justice

Under the Constitution of 1977, every person in Tanzania is entitled to own property. The Land Act No. 4 of 1999, as amended in 2004, and the Village Lands Act No. 5 of 1999 reversed discriminatory customary practice connected with women's rights to land. However, despite these provisions, women, in particular those in rural areas, lack effective access to ownership of land, largely due to a lack of awareness of these laws or on how to enforce their rights. Whilst 63% of the female labor force is engaged in agricultural labor, only 19% of women own titled land. Furthermore, the amended land laws do not address the issue of discriminatory inheritance rights.

PRINCIPAL SOURCES

- Focal Point: LHRC
- CEDAW Committee, Concluding Comments, July 2008
- Alternative report to the CEDAW Committee 2008, Tanzania CEDAW NGO Coalition

For more information on women's rights and the actions of the campaign in Tanzania, see: www.africa4womensrights.org

THE CAMPAIGN FOCAL POINT IN TANZANIA

Legal and Human Rights Centre (LHRC)



LHRC is an independent NGO with the mission of achieving a just and equitable society, by empowering the public and promoting, reinforcing and safeguarding human rights and good governance in Tanzania.

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