

## TANZANIA

### NGO ORAL PRESENTATION

Presented by: Ms. Nakazael L. Tenga and Ms. Jane N. Magigita

On behalf the Tanzania CEDAW NGO Taskforce (2008).

This is an oral presentation to the Tanzania combined Fourth, Fifth and Sixth periodic reports on the implementation of the Convention of the Elimination of All Forms of Discrimination against Women (CEDAW).

Madame Chair,

I am Nakazael Tenga from Women's Legal Aid Centre (WLAC), speaking on behalf of the Tanzania CEDAW NGO Taskforce Members comprised of thirteen Non-Governmental Organizations, three amongst these are network organizations.

I with my colleague will speak to four critical areas of concern, on

- The continuing existence of discriminatory laws and practices that violate women's rights,
- The magnitude of violence against women.
- Participation of women in political and public life.
- Women's access to social services such as education and health.

#### ***Discriminatory Laws and Practices violative of human rights for women***

We welcome the amendment to the constitution of Tanzania, which has redefined discrimination to include gender<sup>1</sup>. However, legislations that discriminate against women and in fact violate their rights, continue to be

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<sup>1</sup> According to Article 13, discrimination means to "satisfy the needs of different persons on the basis of their nationality, tribe, gender, place of origin, political opinion, colour, religion or station in life such that certain categories of people are regarded as weak and inferior and are subjected to restrictions of conditions whereas persons of other categories are treated differently or accorded opportunities or advantage outside the specified conditions or the prescribed necessary qualifications".

operational<sup>2</sup>. This is linked to the fact that the Convention is still not applied in Courts as an authoritative source of law to interpret and establish human rights of women<sup>3</sup>, despite being tabled and approved by the Parliament.

We recommend that the Government be urged to repeal all gender discriminatory laws and practices, ensure full domestication of CEDAW and also review the effect of gender neutral provisions or policies and put in place measures that would accelerate realization of women's equality; including putting in place a timetable for completion of enactment of new laws<sup>4</sup>.

The Ministry of Community Development, Gender and Children Affairs is an under-resourced Ministry making the realization of some of the Governments obligations for women unrealistic. Its' therefore recommended that this Ministry be accorded the same attention as other Ministries such of Defense or others.

The Customary Law (Declaration) Order and the Law of Persons continue to institutionalize discriminatory customary practices and rules of inheritance.

Women have limited inheritance rights- with daughters inheriting far less than a son and widows only having the limited right to continue to reside in the marital

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<sup>2</sup> **Citizenship Act:** women are not accorded same rights as men in matters related to citizenship. They cannot extend citizen rights to their children and spouses while males can.

**Probate and Administration of Estate Act:** incorporate the application of the Law of Persons (customary laws) which are discriminatory.

**The Customary Law (Declaration) Order:** denies women and girls equal rights to inheritance and administration of estates.

As for widow she has no right whatsoever to inherit from her deceased's husband estate.

**The Law of Persons:** permits bride price and polygamy

**The Law of Marriage Act:** permits marriage of girls under 18 years and does not contain a specific provision that recognize non monetary contribution to matrimonial assets by spouse.

**The Criminal Procedure Act and The Magistrates Court Act:** provides for court assessors but silent on equal representation of women and men.

<sup>3</sup> Upon ratification of the CEDAW, the Convention is deemed to be domesticated when it acquires a parliamentary approval. However its application is not automatic as amendments or review of laws are done in piece meals.

<sup>4</sup> See details on page 61-66 of the alternative report.

home, till death or remarriage. The Government's response that the enactment of the new Lands Act has corrected the situation is misleading, as it has neither replaced nor repealed the customary inheritance law<sup>5</sup>, which majority of women are subject to.

Laws sanctioning bride price and polygamy have not changed despite previous recommendations given by the CEDAW Committee and the National Plan of Action. In fact, these issues are treated almost as taboo- even in terms of discussion, due to the government so-called concern for Muslim and rural populations.

### **Women and Work**

The lack of land ownership also impacts on women's ability to achieve economic security. 63% of the female labor force is engaged in agricultural labor. However, only 19% of women own titled land. Lack of access to land is a key factor in obstructing women's participation in economic activity, including access to credit. It is therefore recommended that the Government engage in reforms to ensure women's ownership of land.

While it is estimated that Tanzania women constitute 43% of all entrepreneurs- majority are Medium and Small Micro Entrepreneurs (MSMEs), wherein they also face socio-cultural obstacles as well as legal, regulatory and administrative barriers.

The Government must review all obstructive laws, rules and practices and engage in creating enabling environment for the MSMEs, by adopting special measures to ensure access to credit at affordable interest rates.

### **Participation of women in political and public life.**

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<sup>5</sup> The Land Acts of 1999 do not offer any relief on problems faced by women in inheritance as the discriminatory Customary Law (Declaration) Order 1963 is still operational to date.

In relation to political participation of women, while the Government's policy of seat allocation<sup>6</sup> is welcome, it is not backed by any concrete plans, policies or programmes- such as capacity building, providing other support required to address socio-cultural barriers that would ensure sustained participation of women in politics. While welcoming the Ruling Party Manifesto which commits itself to ensuring 50% representation of women in Parliament by 2010, we would point out that this not the state policy and ask for a more binding commitment through the adoption of adequate Constitutional provisions.

### **Violence against women**

We commend the enactment of the Sexual Offences Act, 1998. However the legislation does not address domestic violence, particularly marital rape, wife battery, psychological and emotional violence which continue to affect women. The Penal Law is inadequate and has not been effective in addressing domestic violence and therefore a specific law on domestic violence needs to be enacted.

The existing legal system does not take on board women's concerns and is inaccessible to most, especially rural women. Courts are few and understaffed. In addition most women are unable to pay court fees and lack legal assistance. The few legal aid clinics available are run by NGOs and receive no budget from the Government. Recommendation is for the government to allocate budget line that will facilitate establishment of legal aid clinics and support legal aid providers. The government must implement the Legal Sector Reform Programme in its spirit and letter.

### **Human Trafficking**

The Government response on the issue of human trafficking is unacceptable, as the only way to get information would be to initiate an investigation, for which it lack the political will. The government must design a holistic response to the issues that would support prevention as well as monitor its implementation.

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<sup>6</sup> Year 2004 statistics shows that women representation in the parliament was 20% women councillors at local government was 35.5% women judges was 16%, women resident magistrate was 29%, women directors in the judiciary was 40%, women primary court magistrates 29%, women permanent secretaries was 30% ,and women regional commissioners 10%. Source MCGDC Beijing+ 10 report.

## **Access to Education**

Early Marriage, (which has not been addressed by law), early pregnancy as well as domestic responsibilities assigned to the girl-child have had a serious impact on their access to education, leading to a high rate of school drop-out amongst them. The strategies adopted by the government have either not been implemented or are not effective, as the issue remains unresolved. We recommend that the government formulate a clear action plan to track the drop out girls and ensure their return to formal education systems, and enable their access to full development. We recommend that the government review its strategies and design an action plan- in consultation with civil society actors that would enable girls to return and end gender gap in education at all level. It also must ensure its sustained funding and technical support to this initiative<sup>7</sup>.

## **Access to adequate Health Services.**

Women's access to health services<sup>8</sup> has become even more vulnerable<sup>9</sup>, given the introduction of user fees- which has meant denial of services to women most in need; despite the so called waivers for pregnant women or HIV AIDS affected women. There have been incidences of women being denied services at hospitals while in labor pains for failure to pay user fee, leading even to loss of life. .

It is therefore recommended that Government take effective measures that would ensure that women's access to health services, including allocate adequate budget into addressing causes for infant and maternal mortality.

We thank you all for your attention.

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<sup>7</sup> See details at pages 29-56 of the alternative report.

<sup>8</sup> See details at page 44-45 of the alternative report.

<sup>9</sup> Maternal and infant mortality rates are at 578 per 100,000 and 100 per 1000 live birth respectively