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HUMAN RIGHTS COMMITTEE
Ninety-sixth session
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

UNITED REPUBLIC OF TANZANIA

1. The Human Rights Committee considered the fourth periodic report of Tanzania (CCPR/C/TZA/4) at its 2628th and 2629th meetings, held on 13 and 14 July 2009 (CCPR/C/SR.2628-2629). At its 2650th meeting, held on 28 July (CCPR/C/SR.2650), it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission, albeit with some delay, of the State party's fourth periodic report and the opportunity thus afforded for it to resume its dialogue with the State party. The Committee appreciates the written replies (CCPR/C/TZA/Q/4/Add.1) provided in advance by the State party as well as the answers of the delegation provided to the Committee during the consideration of the report, including the written answers provided subsequently.

B. Positive aspects

3. The Committee welcomes the enactment of the Spinsters and Single Parent Child Protection Act of 2005 in Zanzibar, abolishing the imprisonment of unmarried women who have become pregnant.

4. The Committee notes the de facto moratorium on the death penalty which has been applied since 1994.

5. The Committee welcomes the measures taken to increase the representation of women in public bodies and institutions.

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C. Principal subjects of concern and recommendations

6. The Committee notes with concern that many of its recommendations (CCPR/C/79/Add.97) adopted following the consideration of the State party's third periodic report have not been implemented.

The State party should give effect to the recommendations adopted by the Committee in its previous concluding observations.

7. While welcoming the fact that national courts refer to the Covenant in their decisions, the Committee notes with concern that not all the Covenant rights have been integrated in the Constitution or other legislation. The Committee also notes with concern that, in spite of the obligation which the State party has undertaken under article 2, paragraph 2, of the Covenant to take necessary steps to adopt such legislative and other measures as may be required to give effect to the rights recognized in the Covenant, the State party 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. (art. 2)

In light of the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties, the State party should ensure that all rights protected under the Covenant are given full effect in domestic law. The State party is also requested to provide the Committee with a detailed account of how each Covenant right is protected by legislative or constitutional provisions in its next periodic report. The State party should also consider ratifying the (first) Optional Protocol to the Covenant.

8. While welcoming the establishment of the Commission for Human Rights and Good Governance in 2000, the Committee regrets the under-resourcing of the Commission, and the lack of information on the measures taken by the State party to ensure that its recommendations are fully implemented. (art. 2)

The State party should strengthen the capacity of the Commission for Human Rights and Good Governance to fulfil its mandate fully and effectively in accordance with the Principles relating to the Status of National Institutions (the Paris Principles) (General Assembly resolution 48/134), in particular by endowing it with adequate resources. The State party is also encouraged to enhance the powers of the Commission with a view to ensuring the effective implementation of its recommendations.

9. While noting the State party's willingness to take steps to achieve equality between men and women, the Committee reiterates its concern about the persistent pattern of discrimination against women in the area of personal and family laws, relating to marriage, succession and inheritance, and the continuing existence of inequalities between women and men. It also regrets the lack of information on the measures taken by the State party to overcome customary attitudes preventing women from fully pursuing their education. (arts. 2, 3, 17, 23, 25 and 26)

(a) The State party should, as a matter of priority, bring its laws governing the family and personal status in line with articles 3, 17, 23 and 26 of the Covenant, in particular with regard to the minimum age of marriage for women;

(b) The State party should step up its efforts to raise popular awareness of, and change, customary attitudes detrimental to women's rights. It should also further promote women's participation in public affairs and ensure their access to education and employment;

(c) The State party should inform the Committee of the measures taken in this area and the results achieved in its next periodic report.

10. The Committee continues to be concerned about the prevalence of gender-based violence, in particular domestic violence, and the impunity for perpetrators of such violence, despite the steps adopted by the State party in this regard. The Committee also reiterates its concern at the lack of specific provisions on domestic violence, including marital rape, in the current Criminal Code. (arts. 3, 7 and 26)

The State party should take all necessary measures to effectively combat violence against women. In particular, it should define and criminalize domestic violence, including marital rape. The State party should also sensitize society as a whole in this regard, ensure that the perpetrators of such acts are prosecuted and provide assistance and protection to victims. Law enforcement officials should be provided with appropriate training to deal with domestic violence.

11. While welcoming the adoption of the Sexual Offences Special Provisions Act of 1998, which criminalizes female genital mutilation, and the National Plan of Action to combat FGM, the Committee is still concerned about the persistent practice of female genital mutilation and the fact that the law does not protect women above the age of 18. It also notes with concern the State party's admission that the law has not been effectively enforced and that impunity for perpetrators prevails. (arts. 3, 7 and 26)

The State party should adopt effective and concrete measures to combat female genital mutilation vigorously, in particular in those regions where the practice remains widespread, and ensure that the perpetrators are brought to justice. It should also amend its legislation with a view to criminalizing female genital mutilation regarding women above the age of 18.

12. The Committee regrets the lack of information on the compatibility of the State party's counter-terrorism legislation with the Covenant. In particular, no information has been provided on the extent, if any, to which Covenant rights can be limited under that legislation. (arts. 2, 4, 9 and 26)

The State party should ensure that its counter-terrorism measures are in full conformity with the Covenant, including the right to presumption of innocence. It should also introduce a definition of terrorist acts in its domestic legislation, bearing in mind the need to define such acts in a precise and narrow manner.

13. The Committee regrets the lack of detailed information on the compatibility of the Emergency Powers Act with the non-derogable provisions of article 4 of the Covenant. (art. 4)

The State party should ensure that its provisions concerning states of emergency are compatible with article 4 of the Covenant. In this regard, the Committee draws the attention of the State party to its general comment No. 29 (2001) on derogations during a state of emergency.

14. The Committee reiterates its concern that courts continue to impose death sentences and is concerned at the high number of persons remaining on death row. It regrets the lack of sufficient information on the length of time that convicted persons have spent on death row, their treatment in detention, and the procedures in place for the commutation of death sentences in light of the moratorium. (arts. 6, 7 and 10)

The State party should seriously consider abolishing the death penalty and becoming a party to the Second Optional Protocol of the Covenant. It should also ensure that conditions of detention on death row do not amount to treatment contrary to articles 7 and 10 of the Covenant, and consider the early commutation of death sentences of all persons currently sentenced to death.

15. While noting the State party's commitment to prevent, investigate and prosecute cases of mutilations and killings of persons with albinism, the Committee is concerned at the high number of reported incidents, and the limited number of court cases and slow proceedings in this regard. (arts. 6 and 7)

The State party should, as a matter of urgency, strengthen its efforts to put a halt to incidents of mutilation and killings of persons with albinism, and to ensure the timely and efficient conduct of investigations and prosecution of the perpetrators. It should also strengthen its public awareness-raising campaign with a view to preventing future attacks.

16. While noting the pilot studies on best practice, which are carried out in conjunction with the United Nations Children's Fund in schools in which caning is not applied, the Committee reiterates its concern that corporal punishment is still available as part of judicial sentences and is permitted within the education system, and that it continues to be applied in practice. (arts. 7 and 24).

The State party should take measures towards the abolition of corporal punishment as a lawful sanction. It should also promote non-violent forms of discipline as alternatives to corporal punishment within the educational system and carry out public information campaigns about its harmful impact.

17. While welcoming the adoption of the Anti-Trafficking in Persons Act of 2008 and the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime by the State party, the Committee regrets the lack of information on the concrete measures taken concerning human trafficking and sexual exploitation of women and

children, and the lack of more detailed information, including statistics, in this regard. (arts. 3, 7, 8, 24 and 26)

The State party should take all necessary measures to combat trafficking in human beings and sexual exploitation of women and children. In particular, it should ensure the effective implementation of its anti-trafficking legislation, inform law enforcements officials as well as the judiciary about this new law, and adopt a national action plan on trafficking. It should also ensure that the human rights of victims of trafficking are given sufficient attention in the State party's response to this phenomenon.

18. In light of reports about cases of ill-treatment of detainees by law enforcement officials, the Committee regrets the lack of sufficient information regarding the independence of the mechanisms in place to investigate and prosecute complaints of torture and ill-treatment in police custody and detention facilities, including prisons. The Committee appreciates that senior police officials, “justices of peace”, as well as the Commission for Human Rights and Good Governance have access to detention facilities, but regrets that it has not received any qualitative assessment about the effectiveness of such arrangements. (arts. 7, 9 and 10)

(a) The State party should take firm measures to eradicate all forms of ill-treatment in detention, and in particular should establish a special mechanism for the investigation of complaints concerning actions of law enforcement officials, which is completely independent from the police force and other Government bodies. It should provide the Committee, in its next periodic report, with more detailed information on the system put in place to hear complaints of detainees for acts of violence together with statistics on criminal and disciplinary proceedings initiated for this type of conduct and the results of those proceedings;

(b) The State party should enhance the human rights training of its police force.

19. While noting the measures taken by the State party to improve the treatment of detainees and prisoners, the Committee remains concerned about the adverse conditions of detention, in particular with regard to the incidence of overcrowding, and the limited application of alternatives to imprisonment by courts. (art. 10)

The State party should intensify its efforts to improve the conditions of persons deprived of liberty before trial and after conviction, so as to bring them in line with the Standard Minimum Rules for the Treatment of Prisoners. In particular, the overcrowding should be addressed as a priority issue. In addition, the State party should promote alternatives to imprisonment. Detailed statistical data showing progress since the adoption of the present recommendations, including on the promotion and implementation of alternative measures to detention, should be submitted to the Committee in the State party's next periodic report.

20. The Committee reiterates its concern at the State party's failure to amend the laws which permit imprisonment for failure to pay a debt. (art. 11)

The State party should comply with article 11 of the Covenant by amending its legislation providing for imprisonment for the failure to pay a debt.

21. The Committee regrets the lack of information regarding reports according to which the police frequently fail to bring persons suspected of having committed a crime before a magistrate within the legally prescribed 24 hours. The Committee is also concerned that legal aid is not available at all instances of criminal proceedings. It notes with concern the State party's own statement that the quality of legal representation is unequal and could be improved. (arts. 9, 10 and 14)

The State party should ensure the effective implementation of the right of a suspect to be brought promptly before a magistrate, in accordance with article 9 of the Covenant. The State party should also introduce a comprehensive criminal legal aid system for individuals who do not have sufficient means to pay for legal representation. In this regard, the Committee recalls its general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial.

22. The Committee reiterates its concern at the criminalization of same-sex sexual relations of consenting adults, and regrets the lack of measures taken to prevent discrimination against them. (arts. 2, 17 and 26)

The State party should decriminalize same-sex sexual relations of consenting adults and take all necessary actions to protect them from discrimination and harassment.

23. While noting the information provided by the State party on the Non-Governmental Organizations Act of 2002, the Committee is concerned about reported obstacles to the operation of civil society organizations and their ability to function independently. In particular, it is concerned at the severe penalties for operating an unregistered organization. Furthermore, the Committee notes with concern the legal provision which permits the dissolution of organizations if they do not strive for "public interest", a term which is vague under the 2002 Act. (art. 22)

The State party should take all necessary measures to guarantee in law and in practice the exercise of the right to peaceful association. It should also ensure that any restrictions imposed on the operation of associations and the peaceful pursuit of their activities are compatible with article 22 of the Covenant.

24. The Committee is concerned about reports that journalists are subject to harassment, in particular in Zanzibar, and incidents of overly restrictive limitations on freedom of expression. (art. 19)

The State party should put an end to direct and indirect restrictions on freedom of expression and ensure that its legislation and practice give full effect to the requirements of article 19 of the Covenant. It should also adopt appropriate measures to prevent any intimidation of journalists.

25. While noting the efforts undertaken by the State party to address the issue of child labour, the Committee expresses its concern at the persisting prevalence of the phenomenon in the State party. The Committee regrets that no information was provided on the problem of street children and measures taken to respond to it. The Committee notes that the State party has not yet adopted a unified law to protect the rights of children. (art. 24)

The State party should intensify its efforts to eliminate child labour, and in particular it should ensure the effective implementation of its time-bound programme to eliminate the worst forms of child labour by 2010, including by strengthening its public awareness-raising campaign in this regard. It should also speed up the process of adopting the unified law on child matters, and should include information, in its next periodic report, about the problem of street children and measures that have been taken, if any, to address it.

26. The Committee recalls its general comment No. 23 (1994) on the rights of minorities and is concerned that the State party does not recognize the existence of indigenous peoples and minorities in its territory and regrets the lack of information about certain vulnerable ethnic groups. It also notes with concern reports that the traditional way of life of indigenous communities has been negatively affected by the establishment of game reserves and other projects. (arts. 26 and 27).

The State party should, as a matter of urgency, carry out a study regarding minorities and indigenous communities in the State party, and adopt specific legislation and special measures to protect, preserve and promote their cultural heritage and traditional way of life. The State party should also consult indigenous communities before establishing game reserves, granting licences for hunting, or other projects on “ancestral” or disputed lands.

27. The State party should widely disseminate the text of the fourth periodic report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations among the general public as well as the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country. Copies of those documents should be distributed to universities, public libraries, the Parliamentary library, and all other relevant places. The Committee also suggests that the report and the concluding observations be translated into the official national languages.

28. In accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee’s recommendations made in paragraphs 11, 16, and 20.

29. The Committee requests the State party to provide in its fifth periodic report, due to be submitted by 1 August 2013, specific, up-to-date information on all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing the fifth periodic report, to consult civil society and non-governmental organizations operating in the country.
