



**International Covenant on
Civil and Political Rights**

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Human Rights Committee

**Concluding observations of the Human Rights
Committee**

United Republic of Tanzania

Addendum

**Information received from the United Republic of Tanzania
on the implementation of the concluding observations of the
Committee***

[9 October 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

Further information submitted by the Government of the United Republic of Tanzania on the specific areas of concern identified in paragraphs 11, 16 and 20 of the concluding observations of the Human Rights Committee arising from the consideration of the fourth periodic report under the Covenant

Reply to the recommendations contained in paragraph 11 of the concluding observations (CCPR/C/TZA/CO/4)

1. Since the consideration of the fourth periodic report of the United Republic of Tanzania, under the International Covenant on Civil and Political Rights, the Government of Tanzania has continued to take the following measures to combat female genital mutilation;

Criminalization of FGM

2. Since 1998 with the adoption of Sexual Offences Special Provision Act, 1998¹. Section 21 of the amended Penal Code criminalizes FGM upon anyone under the age of 18. Punishment for the practitioner is imprisonment for a term of 5 up to 15 years or a fine not exceeding Tanzania shillings 300000² or both. The law does not criminalize female genital mutilation regarding women who are above 18 years of age because the spirit, object and purpose for the enactment of the Sexual Offences Special Provisions Act was to protect girls and boys below the age of 18 years against sexual offences. However, women above 18 years of age could still rely on the provisions dealing with assault or grievous bodily harm under the Penal Code to sue any practitioner who commits this offence. Reports also indicate that in December 2010 one mutilator was sentenced to 10 years imprisonment for performing FGM on 86 girls

3. Furthermore, and as already stated in our Report, it is the Government's view that education to the practitioners, law enforcement officers and the public is a more effective way to combat FGM hence efforts to eradicate FGM should be more geared towards awareness and education than criminalization and prosecution alone. To this end, the Ministry of Community Development Gender and Children and the Coalition Against FGM have concluded several advocacy training programmes for local leaders, local community-based councillors and parliamentarians, religious organizations and the media. As a result of stop FGM drive some mutilators have been sensitized to the extent of laying down their tools used to perform FGM and they have joined campaign of educating the community to stop harmful practice. Some parents and elders, who were hitherto advocates of FGM, came out to denounce the practice in public. Similarly, first February each year is a national FGM Day which is used to sensitize the community on the harmful effects of FGM.

4. Other measures taken to eradicate the practice include: awareness campaigns such as the "Say no to Violence" campaign launched by the President of the United Republic of Tanzania, establishment of Gender desks at the police stations, formation of a National Multi Sectoral Committee on Violence against Women and establishment of the National Gender Based Violence Committee in Zanzibar. First February each year is a national FGM Day which is used to sensitize the community on the harmful effects of FGM.

5. Furthermore, the Ministry of Community Development Gender and Children with the support of UNFPA and UNDP has continued to implement a National Plan of Action on

¹ This Act has been incorporated into the Penal Code Cap 16 of the Laws.

² Equivalent to 200 USD.

the Eradication of Violence against Women which also addresses issues related to FGM, (2001-2015). The Plan was developed to provide guidance on elimination of Female genital Mutilation. In implementing the NPA on FGM various activities are being undertaken which include, training of school teachers in order to integrate the knowledge in schools circulars, sensitization of communities through campaigns, media programmes, seminars, workshops, drama, books and leaflets on harmful effects of FGM. Awareness-raising on the existing laws against FGM is also provided. In addition a number of NGOs undertake training and sensitization activities on the legal and human rights aspects of FGM and participated fully in developing the National Plan of Action of FGM.

6. Moreover, the Government provides an environment conducive to combating FGM by facilitating the establishment of networks. The Government has also facilitated the formation of Tanzania Chapter which is an integral part of the Eastern Africa Network on the elimination of FGM. It has a secretariat composed of different stakeholders including NGOs and is coordinated by the Ministry of Community Development Gender and Children.

Reply to the recommendations contained in paragraph 16 of the concluding observations

7. As indicated in the fourth periodic report, corporal punishment is provided for by law, as part of our penal system and is administered under the Corporal Punishment Act and Regulations made under the Act, as well as the Prisons Act. This punishment is not applicable to females, and males who are over fifty five years. The procedure for the administration of the punishment has strict controls to eliminate any likelihood of arbitrariness and to ensure the protection of the health of the concerned. As a result of these procedures and controls, the sentence has not been administered for more than last one decade.

8. The State Party does not administer corporal punishment within the education system. However, canning (as opposed to corporal punishment) is administered to pupils and students for acts of gross indiscipline. The Education Act and its Regulations prescribe a strict framework within which it is to be administered in schools. Therefore canning of miscreant students in schools is viewed as a legitimate and acceptable form of punishment in Tanzania. It was not the intention of the law makers that it should be violent, harmful, abusive and or degrading but rather a constant reminder for pupils to adhere to educational guidelines and regulations in schools.

9. In promoting other forms of discipline, the Education Policy encourages the use of alternative punishments such as guidance and counselling. Specialized units have been established to address the problem. The Penal Code under S. 169A prohibits child cruelty which corporal punishment may be implied; under S.13 of the Child Act, 2009 protects a child from any torture or any degrading treatment. An emphasis has been placed on any correction measures that are unreasonable to be prohibited as section 13(2) of the Child Act stipulates that no correction of a child is justifiable which is unreasonable in any kind or to any degree according to the age, physical and mental condition of the child. Similarly, no correction is justifiable if the child is by reason of tender age or otherwise incapable of understanding the purpose of the correction. Furthermore, the Child Act does not provide for corporal punishment as one of the punishments to be meted to a juvenile offender.

10. In the alternative-care institutions it is prohibited to administer corporal punishment and in the home settings parents and guardians are advised not to administer corporal punishment. Besides, whenever there is application of torture or punishment beyond correction measures the Government takes both punitive and administration steps to provide necessary remedies

11. In Zanzibar the Criminal Procedure Act and the Penal Code prohibit corporal punishment. In fact corporal punishment has never been meted out in schools as a disciplinary measure.

Administrative measures

12. Tanzania acknowledges that there are divided opinions on administration of corporal punishment. Therefore, the Law Reform Commission of Tanzania conducted a study on the use of corporal punishment and its recommendations have been submitted to the State Party for consideration. In the interim, as caning is widely accepted by society as a disciplinary measure for children in schools UNICEF is overseeing a pilot project monitoring select schools that do not practice caning.

13. In Zanzibar, there is a unit called Alternative forms of Discipline which holds awareness campaigns promoting alternative punishment. Currently, there is a pilot scheme involving 20 schools in Unguja and Pemba being run by Save the Children in collaboration with the Government. Furthermore, the Education Policy of Zanzibar discourages the use of corporal punishment in schools.

Reply to the recommendations contained in paragraph 20 of the concluding observations.

14. No new developments have occurred and reference should be made to the last Periodic Report as well as Replies to the List of issues by the State Party that, the obligation to fulfil a contractual agreement is purely a civil matter; any party aggrieved in a contractual agreement may file a case in a Court of law under the Civil Procedure Code Cap 33 R.E 2002. However, this legislation also provides for civil imprisonment for failure to pay debt and it was promulgated in order to solve the problem of bad faith debtors who took advantage of creditors' goodwill. The Law Reform Commission of Tanzania is currently in the process of making a comprehensive review of the laws relating to civil justice system in Tanzania. It is expected that the review will also touch on the implementation of article 11 of the Covenant in light of changes in attitudes and modern approaches to credit and debt recovery.
