

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Initial reports of States parties due in 1977

Addendum

UNITED REPUBLIC OF TANZANIA

[20 August 1979]

GE.79-3436

PART I

The 1977 Constitution of the United Republic of Tanzania enunciates our efforts to build a democratic and socialist state, it further confirms our belief that we cannot be democratic without being socialist, and vice versa. The constitution thus provides in the preamble:- Aims and objectives of this Constitution are independence, justice, brotherhood and peace, ideals whose key foundations are the following:-

A. That:-

- (i) All human beings are equal;
- (ii) Every individual person deserves recognition and dignity as a human being;
- (iii) Every person has the right to receive from the community protection for such person's life, and his property acquired in accordance with the law;
- (iv) Every person has the right to be free to follow any religion which such person desires and the right to freedom of expression, freedom of movement and freedom of association in accordance with the law;
- (v) Every citizen has the right to participate fully in the making of decisions pertaining to National matters;
- (vi) Every person has the right to receive just wages for such persons work.

Towards this end the Constitution of Chama Cha Mapinduzi (which is the supreme political organ in the United Republic of Tanzania as per Article 3 of the 1977 Constitution) provides certain guarantees of which the following are significant:

Article 5. The Principal aims and objects of the Party shall be as follows:-

- (2) to build socialism on the basis of self-reliance;
- (5) to ensure that every individual has the right to receive from society protection of his life and of property, held according to law;
- (7) to protect the rights of peasants and workers; in particular to ensure that every individual receives a just return for his labour;
- (8) to ensure that, by using the lawfully established forums, every citizen has the right to participate effectively in the national decision-making process; and further that he has the right to freedom of expression of movement, of religious belief and of association within the context of the law and the procedures laid down;

- (9) to ensure that our country shall be governed by a democratic socialist government of the people;
- (10) to safeguard the inherent dignity of human beings in accordance with the Universal Declaration of Human Rights.

The Constitution of the United Republic of Tanzania and that of the Party though they do not specifically provide for a separate "Bill of Rights" have, nevertheless, addressed themselves to the specific questions of protecting the inherent rights embodied in the International Covenant on Civil and Political Rights. This protection is further consolidated by the establishment, (as per section 67 (1) and (2) of the 1977 Constitution) of the Permanent Commission of Enquiry (PCE), whose duties are, among other things, protection of the rights of the individual against their abuse by those in authority.

The establishment of the PCE is provided for in the 1977 Constitution in the following terms:-

- 67 (1) "There shall be a Permanent Commission of Enquiry which shall have jurisdiction to enquire into the conduct of any person to whom this Section applies in the exercise of his office or authority or in abuse thereof.
- (2) Subject to the provisions of this section, the Permanent Commission shall make an enquiry into the conduct of any such person aforesaid whenever so directed by the President, and, unless the President otherwise directs, make such enquiry in any case in which it considers that an allegation of misconduct or abuse of office or authority by any such person ought to be investigated."

With this broad mandate, the PCE receives complaints from any aggrieved party and against any official - the only exception being the President himself and the Vice-President who is the Head of the Executive for Zanzibar. It undertakes to investigate and remedy grievances affecting group or individual rights arising out of abuse of power. In this context the PCE is not only an important watchdog for civil and political rights but also an equally relevant institution in assisting our efforts towards making the aspired ideals a reality.

From the above outline the following summary may be drawn to make the position crystal clear:-

- (a) The rights referred to in the International Covenant on Civil Political Rights are protected by the Constitution of the United Republic of Tanzania as well as the Constitution of "Chama cha Mapinduzi" the sole political party in the country.

(b) The provisions of the Covenant would normally have to be transformed into internal laws or administrative regulations to be enforced by the authorities concerned. It is considered however that there is no need to do so at present since the rights are adequately protected by the Constitutions, of the party and the United Republic.

(c) The High Court of Tanzania exercises jurisdiction over matters affecting human rights which are enshrined in the Constitution. The Permanent Commission of Enquiry established under the Constitution exercises jurisdiction as already outlined. The Party at its Regional, District or Branch levels exercises supervisory functions over all institutions of the country, governmental or otherwise on the basis of the doctrine of supremacy of the Party enshrined in the Constitution. The Party can act directly or through its institutions such as the Workers Movement, the Women and Youth Organizations. These institutions have competence on matters affecting the interests of their members while the Party's competence embraces members and non-members alike.

(d) The Courts may issue decrees of certiorari, mandamus, etc. while the Permanent Commission of Enquiry makes recommendations to the President. The Party organs on the other hand can intervene directly to defend any rights under the Covenant owing to the Doctrine of Supremacy of the Party. In practice however, the Party organs only intervene when no other administrative remedies can adequately take care of the problem in question.

PART II

While Tanzania strongly acknowledges the right of self-determination of all peoples and that they are free to determine their political status and freely pursue their economic, social and cultural development, it also acknowledges the importance of popular participation as an essential ingredient of the whole process. This should equally imply that the individual has not only rights but also duties that must be undertaken so as to balance the process of development.

Enjoyment of these basic and constitutional rights are in no way discriminatory. Application is without regard to race, colour, sex, language, religion, social origin, birth or other status. These principles are protected and enforced on one hand by the judicial system and on the other by the Permanent Commission of Enquiry, the Party Organs and Institutions. The tasks of these bodies are essentially to ensure, in relation to the basic human rights, that an effective remedy is granted to a person who has been a victim not only as a result of another individual's action but also as a result of abuse of power by someone acting in his/her official capacity.

Discrimination based on sex, colour, religious or political beliefs, ethnic origin, marital status or other status is unlawful in the United Republic. To this end Tanzania strives to ensure that behind a historical background of discrimination based on sex, women are now accorded civil and political rights on an equal basis as males. As a Government policy, therefore, it has been assumed that the involvement of women in production was necessary for both rural and urban development. It has equally been emphasised that such involvement in production sectors was essential to the women themselves as a pre-condition for enhancing their position in the society and hence the realization of their civil and political rights.

It should be noted here that though Tanzania affirms and supports all efforts and instruments adopted and directed towards progress on all human rights issues so that in the end full realization of all rights comes about, it does not make pretence in respect of its own shortcomings towards this goal. Tanzania takes note that it is far from being a truly socialist and democratic State, a State where the civil and political rights of its citizens are granted to the fullest. This feeling in itself strengthens our spirit towards struggling further and realizing what are the ideals of our people, the Party and the Government.

Death sentence is in force in the United Republic; however, this is only restricted to capital offences such as treason and murder. Apart from the right to appeal to the highest court, convicts have the right in law to seek pardon or commutation of the sentence. Many are the cases where pardon or commutation of sentences have been granted even before they were sought. The 1971 treason trial is a case in point where not only were the death sentences commuted, but the convicts were pardoned. Though the death sentence remains in our statute books, in the rare cases when it was imposed, commutation has in most cases, been the rule. The law forbids the imposition of the death sentence on convicts under age, on the mentally deranged and on pregnant women.

Slavery and forced labour is forbidden in the United Republic. Arbitrary arrest and detention are discouraged and are not common. In any event, a person so arrested cannot by law spend more than twenty-four hours without being brought before a Court of law where a formal charge is presented and also where, unless strong reasons to the contrary are adduced, bail is granted. Where bail is not granted the accused is kept in remand prison until his innocence is proved. Remand prisoners are kept in separate places from serving prisoners. As a rule, juvenile accused persons, except for capital offences, are not kept in custody and in case of conviction they have separate prisons from those of adult convicts. Remedy in civil proceedings is available for anyone unlawfully arrested or detained.

Freedom of immigration within and without is unlimited. However, restraint is sometimes placed on foreign travel that demands huge sums of foreign currencies which places a burden on our weak economy. Such restrictions have nevertheless been only temporary and not rooted in any desire to stifle any civil or political rights.

Our legislations emphasize the equality of all persons before the law - before the courts and tribunals; fair trials being one of the cornerstones of our justice and one is always presumed innocent until the contrary is proved. The burden of proof in criminal cases is always "beyond reasonable doubt", aimed at protecting the innocence of the accused. An accused person is, by law, guaranteed a defence attorney of his own choice or that assigned to him on failure to secure one on his own. The accused person has the right to examine and cross-examine the prosecution witnesses and on his part he can choose to be subjected to a cross-examination or reject by merely not giving his testimony on oath. The existing legal system does not allow charging a person on an offence which he has already been charged and acquitted or punished for - no matter how leniently he was punished.

Religious freedom is guaranteed in Tanzania. Expression of opinion in both religious and political issues is encouraged; in fact, on the political side, it is regarded as the best approach towards a greater political participation of our people in the formulation of the Party's and Government's policies. In this regard, freedom of peaceful assembly and association is recognized as a fundamental right of the individual.