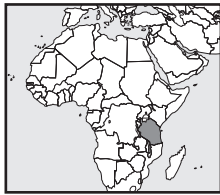


■ TANZANIA

New hope for stalled economic, social and cultural rights?



Ensuring economic, social and cultural rights is paramount to achieving all human rights under the Universal Declaration. In Tanzania, implementation of these rights remains stalled. It is therefore essential that the Government, jointly with civil society, implement effective measures towards the realization of these rights for all. Recent developments indicate there may be some hope.

SAHRINGON Tanzania Chapter
Rehema Kerefu Sameji
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The 10th of December is the Anniversary of the UN General Assembly adoption of the Universal Declaration of Human Rights in 1948. This year on 10 December, members of SAHRINGON-Tanzania Chapter will be joining thousands of human rights organizations around the world to honour the anniversary and reflect on the extent to which economic, social and cultural rights – milestones for the realization of all human rights – have been respected, protected and fulfilled.

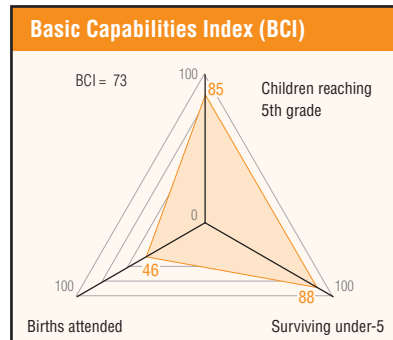
Examining various governmental and non-governmental reports touching different aspects on human rights in Tanzania, SAHRINGON-Tanzania Chapter members note that while the implementation of almost all economic, social and cultural rights remains stalled, there is emerging hope of recovery, as portrayed below.

Improving international aid delivery and nationally owned development

International development cooperation has helped little to maximize the ability of all people to enjoy full economic, social and cultural rights in Tanzania. More than 60% of development aid from bilateral and multilateral partners is not destined to meet real and urgent peoples' needs. Instead, these huge aid flows cover the partners' administrative and technical assistance costs, as well as debt relief and purchases from their overseas companies, industries and markets.¹ In addition, policy conditionalities have led to the lay-off of many workers, the sell off of local companies to foreigners, cuts in nurse and teacher salaries and subsidies to poor farmers, and the privatization of essential services such as health care, electricity and water provision.

There is, however, some hope. In December 2006 for example, the Government, together with 19 development partners, signed a Memorandum of Understanding committing these 20 countries and their institutions to implement the Joint Assist-

1 Social Watch (2006). *Impossible architecture. Why the financial structure is not working for the poor and how to redesign it for equity and development*, Montevideo: Instituto del Tercer Mundo, p. 18.



ance Strategy for Tanzania. Among other things, the strategy requires development partners to increase official development assistance and to channel it through the General Budget Support, as the preferred modality. The strategy emphasizes the need for government leadership and national ownership of development priorities and the choice of technical assistance, without unnecessary influence.²

Curtailing counterfeit drugs

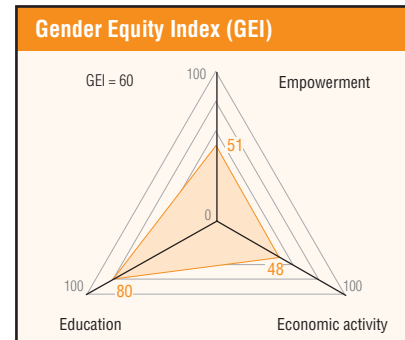
Globalization has turned Tanzania into a market for fake pharmaceutical drugs, including counterfeit versions of antibiotics, hormones, steroids, and anti-malaria, anti-cancer and anti-viral drugs. In 2005, sales of fake drugs worldwide exceeded USD 3.5 billion per year, and could reach USD 75 billion by 2010 if action is not taken.³ Anti-malaria drugs are particularly deadly: a million people die from this disease each year; an estimated one-fifth of these deaths could be avoided, according to the World Health Organization, if drugs used to treat them were genuine.

The Ministry of Health is developing a plan to ensure that Tanzania's health care system meets professional standards and obtains good clinical outcomes, and that services are appropriate to patient needs.⁴ This brings hope that the tide of fake pharmaceutical drugs may be turning.

2 Speech to the National Assembly by former Minister of Finance, Hon. Zakia Hamdani Meghji on estimated revenue and expenditure for financial year 2007/2008, 14 June 2007.

3 A. Adam Ihucha, "Africa major dump of fake medicine" in *The Guardian*, 16 July 2007.

4 <www.moh.go.tz/index.php>



Addressing public resource embezzlement

Embezzlement of resources allocated for achieving economic, social and cultural rights is another major concern. According to the State House Press Statement on 9 January 2008, audits of the External Payment Arrears Account conducted between September and December 2007, showed that payments of USD 116 million were made to 22 domestic companies under the External Payments Arrears scheme in 2005. Some USD 79 million was paid to 13 companies based on fake and forged documentation. The other nine companies were paid the equivalent of USD 37 million without any justification or supporting documentation. Reportedly, two companies, Rashtas (T) Ltd and G&T International Ltd were not even listed on the books of the Business Registration and Licensing Agency.

A Parliamentary Special Committee reported in January 2008 that the Ministry of Energy and Minerals contracted with a non-existent Richmond Development Company Ltd to supply electricity; this obliged the Tanzania Electrical Supply Company to increase electricity prices to consumers in order to cover daily payments of USD 121,811 to this non-existent company.⁵

The country has some reason to hope that further embezzlement of public funds can be prevented and those involved will be punished. In 2005 the Government made an emphatic pledge that it will deal relentlessly with those who embezzle public resources.⁶ Since then it has set up the Prevention and

5 Report in Parliament in January 2008 on the circumstances that enabled a non-existent Richmond Development Company from Houston, Texas, USA, to win an electrical energy tender.

6 Speech to the Tanzania Parliament by President Jakaya Mrisho Kikwete on 30 December 2005.

Combating of Corruption Bureau, and both the prime minister and two other ministers have resigned in a demonstration of government accountability. A Government investigation of the External Payment Arrears scandal is ongoing.

Promised reports to monitoring bodies

Timely submission of government reports to UN monitoring bodies is essential if they are to assist states parties to effectively respect, protect and fulfil the implementation of economic, social and cultural rights. In ratifying the International Covenant on Economic, Social and Cultural Rights in 1976, Tanzania committed itself to submitting an initial report within two years and a follow-up report every five years thereafter. Although the Government submitted its initial report on 10 September 1979, it has not submitted one since – a 29-year delay.⁷

Some hope emerged in 2007, when parliamentarians asked the Government to explain its delay in submitting the reports. In response, the Government promised that a combined periodic report under the Covenant on Economic, Social and Cultural Rights was to be prepared and submitted to the Committee by the end of 2008.⁸

Unlocking social security coverage for the majority

An estimated 900,000 people – only 5% of the Tanzanian labour force of 18 million – are covered by social security legislation. Former Minister of Finance Zakhia Meghji declared that only 2.7% of the total population were covered, emphasizing that “efforts are needed to reach the remaining 93% of the Tanzanian population.”⁹

The overwhelming majority of the country's population still depend on the traditional extended family for social security, a system that takes care of those family members in need but is getting weaker every day, owing to continuing urbanization and diseases such as HIV/AIDS, which have frayed the traditional social fabric and undermined access to public services, especially by disadvantaged groups.

There is, however, reason to hope that social security coverage may be extended to the majority, including the large number of people working in agriculture and the informal sector. The Community Health Fund Act (CHF) of 2001 created a separate district-level prepayment scheme designed to provide primary health care services for the rural population and the informal sector. A household joins by

paying an annual membership fee, which guarantees unlimited access to outpatient services at CHF facilities. Families that cannot afford to pay the annual membership fee are supposed to obtain a CHF Card without charge.

Increasing rights to adequate housing

An estimated 70% of Tanzania's urban population are considered squatters, living in ‘illegal’ areas that have not been planned or surveyed. In many rural districts, between 90 and 95% of the houses have earth floors, although in extreme cases floors are made of animal dung. Rural districts have the highest percentage of houses with poor roofing materials (grass, coconut leaves, plastic sheets, etc). The proportion of inadequate housing in rural districts is estimated to be as high as 90% in Mkuranga; 87% in Kishapu, Kilwa and Lindi; 86% in Igunga, Sumbawanga rural and Dodoma urban; 85% in Uyui and Nkasi and 84% in Urambo and Sikonge. In urban districts the proportion of inadequate housing range from 0% in Moshi and to 2% in Arusha, 3% in Kinondoni, Ilala, Rombo and Mbeya, 4% in Bukoba, 6% in Temeke, and 8% in Morogoro, Moshi and Musoma.¹⁰

Recently, however, the Government adopted the Property and Business Formalization Programme, a community empowerment initiative to facilitate the transformation of property and business entities in the informal sector into legally held formal sector. Designed to increase people's access to property and business opportunities through an expanded market economy, the programme enables property owners in the informal sector to use their assets to access capital.¹¹

The exception that proves the rule? Discrimination against women continues

One area in which hope for change is less certain is that of gender discrimination. Gender-sensitive laws and practices are essential for the realization of economic, social and cultural rights for all men and women. In Tanzania, however, discriminatory laws and practices are still very much in force, especially concerning marriage and inheritance. For example, under the Local Customary Laws Declaration Order No. 4 of 1963, a widow is not given a specific share in her husband's estate, an omission reinforced under Rule 27, which states that the widow has no share in the estate if there are questions about the legality of their union. Rule 20 provides that a widow can inherit use rights only, which revert to the husband's family if she remarries or dies.

Customary Law requires the widow to marry a male relative of her dead husband. Rule 62 provides that the deceased's relatives may ask the widow if she wishes to inherit and that if she agrees, she may remain in the house as a wife but without control over landed property. This practice is harmful and degrading to women and treats them as property passing between one man and another through legacy.

The Marriage Act of 1971 legalizes nuptials of girls aged 14 and 15 years with the consent of the court and parents or guardians. Some parents or guardians force girls to marry in order to receive a dowry, thereby not only compromising their health but also denying them the right to education. Girls aged 14 or 15 are still growing and need more care and nutrition themselves. Pregnancy and childbirth at that age is unhealthy and dangerous, both physically and psychologically. In addition, girls this age have only completed primary education, provided they enrolled on time, a level not really sufficient to manage the challenges of a changing world.

The Constitution of the United Republic of Tanzania is replete with prejudicial clauses, making the enjoyment and enforcement of women's economic, social and cultural rights almost impossible. Article 30(2) effectively permits legislative discrimination, stating: “It is hereby declared that no provision contained in this part of the Constitution, which stipulates the basic human rights, freedom and duties, shall be construed as invalidating any existing law or prohibiting the enactment of any law or the doing of any lawful act under such law, making provision for ensuring that the rights and freedom of other or the public interest are not prejudiced by the misuse of the individual rights and freedom.” ■

⁷ <www.unhchr.ch/TBS/doc.nsf/newhvsubmittedbycountry>

⁸ Hon. Dr. Harrison Mwakymbe, “Serikali yashindwa kutoa report miaka 28” (“Government fails to submit report for 28 years”), in *Tanzania DAIMA*, 30 January 2008.

⁹ Minister of Finance, Zakhia Meghji, “Social security funds cover five per cent of the labour force,” quoted in *The Guardian*, 16 November 2007.

¹⁰ Tanzania Government, Poverty and Household Report 2005.

¹¹ The United Republic of Tanzania President's office report on the Property and Business Formalization Programme, its Kiswahili translation is Mpango wa Kurasimisha Pasilimali na Biashara za Wanyonge Tanzania, shortened as MKURABITA.