

Gender-Based Violence & Human Trafficking in Tanzania

Submission for the UN Universal Periodic Review
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Introduction

1. The Helena Kennedy Centre for international Justice is a human rights centre based at Sheffield Hallam University in the UK.¹ The Centre supports a range of research and scholarship activity including supervised work by our students. This submission is the product of undergraduate students studying with the Human Rights Law Clinic.
2. Gender-based violence (GBV) and human trafficking are both severe issues in the United Republic of Tanzania. This report will look at how and why human trafficking occurs in Tanzania in relation to current domestic and international law. Following this, it will establish the main types of GBV, who is affected by it most and where in Tanzania the issue is most prominent. The effects of the Tanzanian economy and the culture in the country will also be considered with respect to these issues. It will look at recommendations made in the last UPR report and the steps that the Tanzanian government has taken to implement them. The report will contemplate how the law still needs to be developed in order to better implement human rights and our own recommendations will be made on how the Tanzanian government can further this with regard to human trafficking and GBV.

Background

3. The Government of the United Republic of Tanzania is committed to the protection and promotion of human rights as defined by the Constitution of the United Republic of Tanzania of 1977, the Universal Declaration of Human Rights of 1948, and other regional and international instruments.
4. Human Trafficking has been reported as one of the main issues in Tanzania. Currently the government of Tanzania does not fully meet the minimum standards for the elimination of trafficking, but it has made efforts to do so. The government has increased their efforts by identifying more trafficking victims, increasing funding for the Anti-Trafficking Secretariat, cooperating with foreign law enforcement officials on a trafficking investigation, and by launching a central data collection system for trafficking crimes.

¹ See <https://www.shu.ac.uk/helena-kennedy-centre-international-justice>.

Tanzania's Economy

5. The Tanzanian economy has seen substantial growth since the last UPR report in 2016, with its GDP standing at \$47.2 billion in 2016,² and increasing to approximately \$57.4 billion by 2019.³ Within the last two years however the rate of GDP growth has slowed, and the uncertain impact of the COVID-19 pandemic may lead to further economic hardships in Tanzania.⁴
6. Despite Tanzania's continued economic growth, the absolute number of citizens in poverty has not decreased,⁵ nor has Tanzania's per capita GDP seen a substantial increase. In 2016 Tanzania's per capita GDP was around \$970,⁶ with it only increasing to approximately \$1,080 by 2019.⁷ Considering the nations increasing population and that the minimum wage has not increased since 2013, the lack of per capita GDP growth is not overly surprising.
7. This lack of economic development amongst the nation's citizens as well as the framework of its economy has a direct impact on the rates of human trafficking and GBV. As of 2014, roughly 31% of Tanzania's GDP is sourced from agriculture sectors,⁸ with some estimates placing 68% of the workforce in this sector.⁹ With such a large amount of both the economy and its workforce reliant on agricultural work, it is recognised that children and women face additional risk from trafficking in rural areas.

Current Human Trafficking Laws

8. In 2008, the Government of Tanzania enacted the Anti-Trafficking in Persons Act 2008, with section 4 of said Act providing an extensive list of actions a person can carry out which would amount to human trafficking including under s 4(1)(a) whereby a person:

recruits, transports, transfers, harbours, provides or receives a person by any means, including those done under the pretext of domestic or overseas employment, training or apprenticeship, for the purpose of prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude or debt bondage.
9. The Act was implemented to combat human trafficking, mandate stricter investigation and prosecution, and afford protection to victims of trafficking. However, despite its introduction Tanzania has continued to be a source, transit route and destination of trafficking activities.

² 'Tanzania: Current Issues and U.S. Policy' (Every CRS Report, 6 October 2017)

<https://www.everycrsreport.com/reports/R44271.html#_Toc495051050> accessed 9 March 2021.

³ 'Overview of Tanzania' (US News) <<https://www.usnews.com/news/best-countries/tanzania#country-additional-rankings>> accessed 9 March 2021.

⁴ 'The World Bank in Tanzania' (The World Bank, 13 October 2020)

<<https://www.worldbank.org/en/country/tanzania/overview>> accessed 9 March 2021.

⁵ Overview of Tanzania' (US News) (n 4).

⁶ Every CRS Report (n 2).

⁷ World Bank (n 4).

⁸ Every CRS Report (n 2).

⁹ Ibid.

Rural Human Trafficking

10. A study done by the National AIDS Control Program (NACP) suggested that '8 in every 1000 people in Tanzania was a victim of trafficking'.¹⁰ NACP's survey further highlights the extent of trafficking taking place by noting that 'Nearly one third of the 799 households' participating in the survey reported "at least one member in their families to be a victim of [human trafficking]'.¹¹
11. Human trafficking is an issue particularly prevalent in rural communities. One factor behind this pattern may be the economic situation of many rural residents. In the NACP survey it was noted that 'trafficking victims most frequently cited "increased poverty among family members" as one of the reasons they were subjected to some form of trafficking'.¹² Another factor behind rural residents falling victim to higher levels of trafficking may be a lack of sufficient education regarding what human trafficking is. In a 2008 study by the International Organization for Migration (IOM), 'only 56% of Tanzanians surveyed believed that members of their community knew what human trafficking is'.¹³ Furthermore, the same study stated that 'almost all trafficking victims were lured by false promises',¹⁴ perhaps being more vulnerable to such promises due to poor economic and educational standards.

Gender Based Violence

12. GBV is defined in the Declaration on the Elimination of Violence against Women as violence due to gender which 'results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life'.¹⁵ Types of GBV that will be discussed include child marriage, female genital mutilation (FGM) and domestic violence following an analysis of those affected by GBV and the impact of Tanzanian culture.

Victims of abuse

13. There has been a strong correlation between woman and GBV over the years, where it was found in the most recent Tanzania and Demographic Health Survey (TDHS) in '2010 that 44% of ever-married women have experienced either physical and/or sexual violence from an intimate partner over their lifetime'.¹⁶ It was also known that many of those women did not report or seek support services as victims of GBV as the majority believed it to be a normal way of living or

¹⁰ S. R. Kamazima, 'Human trafficking baseline assessment in Tanzania: findings from selected regions' (2009) national aids control program 18.

¹¹ Ibid.

¹² Ibid.

¹³ International Labour Organisation. For migration, Human Trafficking in eastern Africa: Research assessment and baseline information in Tanzania, Kenya, Uganda, and Burundi 2 (2008).

¹⁴ Ibid.

¹⁵ Declaration on the Elimination of Violence against Women Proclaimed by General Assembly resolution 48/104 of 20 December 1993.

¹⁶ Jennifer McCleary-Sills, 'Help-Seeking Pathways and Barriers for Survivors of Gender-based Violence in Tanzania: Results from a Study in Dar es Salaam, Mbeya and Iringa Regions' (March 2013) <https://www.icrw.org/wp-content/uploads/2016/10/GBV-Pathways-and-Barriers_FINAL-REPORT--COVER_v4.pdf> accessed 17 March 2021.

acceptable behaviour. For example, a survey which was identified by the PFG participants, had rated some behaviours as more common and acceptable than to others. For example, behaviours from men who promote rape, forced anal sex or severe physical abuse was seen as unacceptable to woman compared to, the economic violence, forced sex in a relationship and physical abuse by their partners as acceptable. Even though the difference between the two are not far from each other, it could potentially mean in a few years' time, that the behaviours seen as unacceptable may be accepted in the eyes of the woman as it becomes more popular. Moreover, the same study found that over 20% of Tanzania women aged between '15-49 reported having experienced physical violence.'¹⁷ Sadly, girls from their teenage years are more reluctant and run away from home as those who are married or older live with this type of behaviour for their kids or for their family wishes. It was very rare to find cases where men were victims of GBV, but it does not rule out the fact that it does exist between both men and women. Women are not only victims of GBV by their intimate partners but also by 'strangers, acquaintances, neighbours and family members'.¹⁸

Child Marriage

14. 31% of girls in Tanzania are married before their 18th birthday and 5% are married before the age of 15.¹⁹ The United Nations have said that Child marriage often compromises a girl's development by resulting in early pregnancy and social isolation, interrupting her schooling and limiting her opportunities for career and vocational advancement.²⁰
15. It has been found that child marriage has close links with FGM which is primarily performed as a rite of passage in order to prepare young girls for marriage. Additionally, FGM can affect the dowry payment made to the bride's family. Research by Human Rights Watch found that 'Tanzania also does not have sufficient safe spaces where victims of child marriage and other gender-related abuses can find shelter and protection.'²¹
16. Section 13 of the Laws of Marriages Act sets the minimum age for marriage for boys at 18, the minimum age for girls is 15. These provisions were held to be unconstitutional in 2016 by the Tanzanian High Court in *Rebeca Z. Gyumi v. Attorney General*, Civil Appeal no. 204 of 2017 Court of the Appeal of Tanzania. The Tanzanian government appealed the decision, but the 2016 ruling was upheld by the Tanzanian Court of Appeal in October 2019.²² It is unclear whether the Tanzanian government have complied with this ruling.
17. Although this decision is legally enforceable, there are still cases ongoing of child marriage. This type of marriage causes tremendous consequences in girls. Some of the consequences are early pregnancies, reducing the lifetime of girls, and marital rape.

¹⁷ Ibid

¹⁸ Ibid

¹⁹ (Girls Not Brides) < [²⁰ <https://data.unicef.org/topic/child-protection/child-marriage/> accessed 01/03/2021.](https://www.girlsnotbrides.org/child-marriage/tanzania/#:~:text=Tanzania%20has%20the%2011th,Mara%20and%2051%25%20in%20Doma.> accessed 04/03/2021.</p></div><div data-bbox=)

²¹ <https://www.hrw.org/news/2019/10/25/victory-against-child-marriage-tanzania> accessed 04/03/2021.

²² (Human Rights Watch) < <https://www.hrw.org/news/2019/10/25/victory-against-child-marriage-tanzania> > accessed 04/03/2021.

Female Genital Mutilation

18. FGM is a severe form of GBV defined by the World Health Organisation (WHO) as ‘a traditional harmful practice that involves the partial or total removal of external female genitalia or other injury to female genital organs for non-medical reasons.’²³ In terms of domestic legislation in Tanzania, the Sexual Offences Special Provision Act 1998 (Article 21) amends the penal code with the addition of section 169A which explicitly prohibits FGM on girls under the age of 18. Despite the legislation in place, 10% of women aged 15-49 in Tanzania have been circumcised; 35% of these women underwent FGM before the age of one and 28% before the age of thirteen.²⁴
19. ‘Hope for Girls and Women’ is an NGO currently working in Tanzania in efforts to help girls escaping FGM.²⁵ Working in the Mara region of Tanzania where the prevalence of FGM is higher at 32%; this is the fourth highest region following Arusha (41%), Dodoma (47%) and Manyara (57%).²⁶ Through utilising safe houses in the Butiama and Serengeti Districts, ‘Hope’ have rescued and protected 1,807 girls escaping FGM since being founded in 2017.²⁷
20. The Maputo Protocol is a UN protocol on the rights of women in Africa. Tanzania ratified this protocol on 3 March 2007. Article 5 of the Maputo Protocol is on the elimination of harmful practices, part b of which specifically prohibits FGM.²⁸ Despite these international provisions, FGM is still prevalent throughout Tanzania.

Domestic Violence

21. Intimate partner violence (IPV) is defined by the World Health Organisation as ‘behaviour by an intimate partner or ex-partner that causes physical, sexual or psychological harm, including physical aggression, sexual coercion, psychological abuse and controlling behaviours.’²⁹ In the United Republic of Tanzania, 40% of women between the ages of 15-49 have experienced some form of domestic violence. These percentages are higher among married women. Among never-married women, 16% of women between the ages of 15-49 have experienced domestic violence.³⁰
22. The percentages of women suffering sexual violence is at 17% among married women and 9% among never-married women.³¹ It has been said that ‘forced sex within marriage is not considered rape because marriage itself is interpreted as granting men unfettered sexual access

²³ World Health Organization, *Eliminating Female Genital Mutilation: an interagency statement*, (2008) 4.

²⁴ Tanzania, *Demographic and Health Survey and Malaria Indicator Survey* (2015-16), 357.

²⁵ (Hope for Girls and Women Tanzania) <<https://hopeforgirlsandwomen.com/>> accessed 16/02/2021.

²⁶ Tanzania, *Demographic and Health Survey and Malaria Indicator Survey* (2015-16), 360.

²⁷ <https://hopeforgirlsandwomen.com/> accessed 16/02/2021.

²⁸ Article 5 of the Maputo Protocol on the Elimination of Harmful Practices.

²⁹ ‘Violence against women’ (WHO, 9 March 2021) <<https://www.who.int/news-room/fact-sheets/detail/violence-against-women>> accessed 18/03/21.

³⁰ Tanzania, *Demographic and Health Survey and Malaria Indicator Survey* (2015-16), 367.

³¹ *Ibid*

to their wives.³² Additionally, marital rape is not criminalized in the Sexual Offences (Special Provisions) Act No. 8 of 1998 or the Penal Code, 2002.

23. Over half of the women who have experienced physical or sexual violence have sought help (54%). While most women seek help from their families, 9% have sought help from the police.³³ In an article addressing IPV in Tanzania, it was said that:

IPV survivors were afraid to report their male partners to the police and legal system because of their fear of retaliation, loss of financial support, divorce and death, and their concern about who would care for their children. Also, there were no psychosocial services at the community level.³⁴

24. There are currently no provisions in Tanzanian law explicitly prohibiting domestic violence. Article 66 of the Law of Marriage Act 2002 provides that 'no person has any right to inflict corporal punishment on his or her spouse'. However, this includes no definition of 'corporal' and does not provide for unmarried women and therefore may have little impact.

Previous UPR Reports

25. The previous recommendations for Tanzania were presented in the 2016 Universal Periodic Review (UPR). The focal point of these recommendations was to improve national laws on the protection and promotion of human rights issues within Tanzania - this could have been accomplished by ratifying the national plan for human rights (2017)³⁵. Tanzania was also tasked with adopting specific measures to prevent and criminalise the practice of female genital mutilation and gender-based violence³⁶.
26. This was recommended to be done by promoting the rights of women and girls/children³⁷.
27. To aid them in tackling human rights issues, one recommendation involved completing the 'Committee on the Elimination of Discrimination against Women' to help with the discrimination towards women and children which is prominent within Tanzanian society³⁸. Evidence of this was presented previously in the 2016 review.
28. Since the last UPR, Tanzania has been able to strive for changes or implement changes with regard to the recommendations, but they have also disregarded some of the recommendations suggested.

³² Seema Vyas, Jessie Mbwambo, Lori Heise, 'Women's Paid Work and Intimate Partner Violence: Insights from Tanzania' (2015), *Feminist Economics*, 21(1), 35-58.

³³ Tanzania, *Demographic and Health Survey and Malaria Indicator Survey* (2015-16), 367.

³⁴ Agnes Kosia, Gasto Frumence, Samwelli Likindikoki, Avemaria Semakafu, Deodatus Kakoko, Tumaini Nyamhanga, '432 Role of government of Tanzania in addressing intimate partner violence: a case from Singida, Tanzania' (2016), *Injury Prevention*, 22(2), 157-158.

³⁵ 'United Republic of Tanzania: Recommendations' (OHCHR, 25 May 2016) <https://www.upr-info.org/sites/default/files/document/tanzania_united_republic_of/session_25_-_may_2016/recommendations_and_pledges_tanzania_2016.pdf> accessed 8 March 2021.

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ *Ibid.*

29. In 2017, President Magufili banned pregnant girls and young mothers from attending schools and forced pregnancy tests on those in schools³⁹. Setting these limitations on the education and personal autonomy of girls has disregarded the recommendations aimed towards women's and girls' rights.
30. In September 2018, President Magufili denounced family planning. By doing this, Magufili has prevented women from using contraception. His government also suspended radio and television which encouraged family planning⁴⁰. These actions have limited Tanzania's fulfilment of recommendations. These actions fail to follow the recommendation to promote the rights of women and eliminate the discrimination against women. This leads to women and girls having no autonomy over their bodies, while also limiting the education they can gain from seeing a positive portrayal of contraception and family planning.
31. In November 2019, the government passed legislation to withdraw individuals and NGOs from having the ability to file human rights cases before the African Court on Human and Peoples rights⁴¹. The preventative legislation restricts the promotion and protection of human rights.
32. During the interval between the 2016 UPR and 2019, reports of GBV has gone up by 88,612 between 2017 and June 2019; 3,709 of those reports were cases of rape⁴². This increase of reports is due to the efforts of governmental and non-governmental organisations to combat GBV. This work has been aided by the recommendations of prevention of and protection against gender-based violence.
33. Tanzania has not introduced legislation to criminalise domestic violence, one of the recommendations suggested from the previous UPR. Another recommendation yet to be complied with is a law in place to protect against genital mutilation. There has been a law put in place to prohibit FGM on those under 18 but there is nothing in place for those over 18 so genital mutilation is still a prominent issue within the United Republic of Tanzania⁴³.

Recommendations

5. Following our report, it is recommended that Tanzania:

- **Introduce a scheme of education for rural communities on human trafficking.**
- **Effectively implement the protection provisions of the 2008 Anti-Trafficking Act, as outlined in the implementing regulations and the national action plan, and allocate sufficient resources to the victim assistance fund.**

³⁹ Fundikila Wazambi and Joyce Komanya, 'Summary of the Tanzania Human Rights Report 2019' (Legal and Human Rights Centre, April 2020).
<<https://www.humanrights.or.tz/assets/images/upload/files/Summary%20of%20the%20THRR2019.pdf>> accessed 8 March 2021.

⁴⁰ 'Tanzania 2019' (Amnesty International, 2019)

<<https://www.amnesty.org/en/countries/africa/tanzania/report-tanzania/>> accessed 8 March 2021.

⁴¹ Legal and Human Rights Centre (n 48).

⁴² Ibid.

⁴³ 'United Republic of Tanzania' (Social Institutions & Gender Index, 2019)

<<https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/TZ.pdf>> accessed 8 March 2021.

- **Remove the provision found within the 2009 Anti-Trafficking Act that allows fines in lieu of imprisonment.**
- **Increase funding for the Anti-Trafficking Committee.**
- **Set up safe houses for girls and women fleeing female genital mutilation in the regions of Tanzania with highest prevalence: Arusha, Dodoma and Manyara.**
- **Establish a criminal offence of domestic violence. This recommendation has been suggested in previous reviews but is yet to be applied. The creation of this law will enable women to report and prosecute their partners for their actions such as martial rape.**

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