



KANISA LA KIINJILI LA KILUTHERI TANZANIA

EVANGELICAL LUTHERAN CHURCH IN TANZANIA

**Republic of Tanzania
Civil Society Joint Submission to the UN Universal Periodic Review (UPR)
39th Session of the UPR Working Group
01-12th November 2021**

Joint Submission by the World Council of Churches (WCC), the Christian Council of Tanzania (CCT), the Lutheran World Federation (LWF), the Evangelical Lutheran Church in Tanzania, and Geneva for Human Rights.

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Executive Summary:

1. This is a joint civil society submission by the World Council of Churches, the Christian Council of Tanzania, the Lutheran World Federation and Geneva for Human Rights to the third cycle UPR review of the Republic of Tanzania. The report highlights priority human rights issues on sexual and gender based violence, and sexual exploitation and abuse of women and children; female genital mutilation; early child and forced marriage; child labour; sexual reproductive health and rights; right to health (fistula); access to education; and the impact of Covid19. The report is based on primary and secondary data collected by the above mentioned organizations through consultations and desk based research

i) Violence against women and children

2. During the last Universal Peer Review (UPR) of Tanzania in 2016, recommendations called for measures to protect vulnerable children from sexual abuse, exploitation, and all forms of discrimination, (*Costa Rica, Cabo verde*); to intensify efforts to prevent and investigate cases of sexual abuse of children, particularly those living on the street, so as to punish the perpetrators, (*Mexico*); and provide assistance and protection to victims (*Mexico, Turkey*). *Sweden* called for an increase in efforts to eradicate violence and domestic violence against women and children, and *France* and *Australia* called for enforcement of laws to criminalise gender-based violence and female genital mutilation. UNICEF data indicates a high prevalence of violence against women and children.¹

3. The 2015-2016 Tanzania Demographic and Health Survey Report showed that 44% of women aged between 15–49 had experienced either physical or sexual violence at some point in their lives. Of these, 27% experienced physical violence only, while 4% experienced only sexual violence. 13% of women experienced both physical and sexual violence.²

4. Despite the high prevalence of gender based violence, Tanzania lacks a survivor centered approach as survivors of violence face difficulties in accessing essential services, such as psychosocial and legal support. Gender discrimination and a culture of impunity allows perpetrators to escape accountability and for the prevalence of violence to continue. According to UNICEF, 58% of women and 40% of men consider a husband to be justified in hitting or beating his wife³. According to the Oak foundation, 68% of adolescents on a study said that it is okay to have sex with a relative in exchange for money for a gift.⁴

5. The partners for this report welcome the positive steps that the Government of Tanzania has taken to address violence against women and children. In partnership with UNICEF, the government of Tanzania developed a 2017 -2022 National Plan of Action to End Violence against women and Children that emphasizes prevention of violence against women and children,⁵ focusing on primary prevention and early intervention efforts to prevent violence before it occurs. The plan seeks to address the root causes as well as the risk and protective factors associated with violence against women and children. The National Action plan has established committees from the community level to the national level, but these need greater financial support to function adequately.

¹ <https://www.unicef.org/tanzania/media/496/file/tanzania-2016-NPA-VAWC.pdf>

² <https://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/vaw%20survey/1%20tanzania%20dhs%202016.pdf>

³ <https://data.unicef.org/country/tza/>

⁴ <https://riselearningnetwork.org/wp-content/uploads/2019/11/aphr-report-final-11-april-2019-dec-1.pdf>

⁵ <https://www.unicef.org/tanzania/sites/unicef.org.tanzania/files/2018-10/Tanzania-2017-Zanzibar-National-Plan-of-Action-on-VAWC.pdf>

6. Since its launch in July of 2016, the Global Partnership to End Violence against Children has promoted the concept of Pathfinding in countries, aiming to raise awareness, stimulate leadership commitment, galvanize action, and establish a standard of national violence prevention throughout the world. Tanzania became a pathfinder country in 2016 to support children affected by violence through data collection, collaboration and the implementation of INSPIRE strategies.⁶

7. In 2018, the government established guidelines for supporting victims of trafficking, including guidelines on self-unification of victims aiming at ensuring victims are reunited with their family, and guidelines on self-rehabilitation of victims to provide psychosocial support. An anti-trafficking secretariat was also established. Statistics about the number of victims of trafficking are not available.

Recommendations:

- i) Establish a uniform definition and measurement of violence during childhood to elaborate informed policies.
- ii) Resources should be allocated to facilitate the full functioning of the anti-trafficking secretariat, and data should be collected to assess the extent of trafficking in Tanzania.
- iii) Increase the number of One-stop Centres for survivors of gender based violence to compliment the current 14 and ensure that safe homes for survivors are adequately supported and resourced.
- iv) Establish counselling units from local community level to national level and strengthen parental care and guidance programmes.
- v) Address and reform customary laws in order to enable women to have access to and ownership of resources, in order to address extreme poverty and exploitation of women.
- vi) Allocate resources to gender based violence prevention and response programmes.
- vii) In addition, we recommend the government to improve gender budgeting.
- viii) Ensure the full implementation of existing legislation on offences relating to marriage and domestic obligations contained in Penal codes Act 2019, Chapter 16.
- ix) To collaborate with faith-based organisations, civil society organisations and the judiciary to ensure full implementation of local, regional and international human rights standards.
- x) The government should to enact and operationalize relevant policies and laws to enhance policy, legal, and institutional frameworks, including coordination mechanisms.

ii) Female Genital Mutilation

⁶ Launched alongside the Global Partnership to End Violence against Children in 2016, INSPIRE is a set of seven evidence-based strategies for countries and communities working to eliminate violence against children. Created by ten agencies working on child protection, INSPIRE serves as a technical package and guidebook for implementing programming to combat violence <https://www.end-violence.org/inspire>

8. In 2016 six recommendations were made concerning female genital mutilation(FGM) , calling upon the Government to step up efforts and adopt more specific measures to eliminate it (*Norway, Ethiopia, Spain*), including through fully enforcing laws against it (*Canada*), and harmonizing national policies with the Convention on the Elimination of Discrimination against Women (*Costa Rica*); ensuring that all such cases are promptly investigated and prosecuted, and that survivors have access to social and medical services (*Cyprus*).

9. Female Genital Mutilation is criminalized in Tanzania by Article 21 of the Sexual offences special provisions ACT 1998, which inserted a new section 169A (1) into the Penal code prohibiting FGM on girls under the age of 18 years. Anyone who has custody, charge or care of a girl under the age of 18 who causes her to undergo FGM commits the offence of child cruelty. However, enforcement of the law is variable and cases rarely reach court.

10. Data from UNICEF indicates that the prevalence of FGM in women aged between 15 - 49 is 10%, and half of these cases are from two regions – Manyara and Dodoma where 4.7% of girls aged between 15-19 have undergone FGM in these regions⁷. The World Health organization reports that with increased advocacy on FGM, perpetrators are increasingly targeting children below one year, which represents 35% of women who have undergone FGM in Tanzania.⁸

11. The practice of FGM remains due to patriarchal attempts to control wives and daughters, and from misinformation amongst both men and women about the consequences of the procedure. It is commonly believed that women subjected to FGM will have no sexual desire and hence they will be faithful wives, ignoring the scientific evidence that the sexual response is controlled by impulses in the brain. Attempting to control another person’s sexuality by inflicting such a cruel, painful and dangerous procedure is a violation of all human rights protecting women and children from violence and protecting their rights to health.

Recommendations:

- i) Work with the judiciary system to enforce the Sexual Offences Special Provisions ACT 1998 and ensure prosecution of offenders
- ii) Undertake community sensitization for primary and secondary duty bearers on the impact of FGM on the health and dignity of women and girls and ensure the protection of women and girls in the communities.
- iii) Ensure availability of psychosocial support services for survivors of FGM, with opportunities for rehabilitation and access to formal education or vocational skills training.
- iv) The government should provide alternative sources of livelihood to FGM practitioners and traditional leaders.
- v) Alternative rites of passages should be designed for FGM practicing communities.

iii) Early and Forced marriage

⁷ <https://www.unicef.org/tanzania/media/2301/file/Report.pdf>

⁸ <https://www.afro.who.int/news/rooting-out-female-genital-mutilation-tanzania>

12. During the last UPR in 2016, eight recommendations called for the elimination of early and forced marriage including by amending the relevant legislation and revising the 1971 Marriage Law Act, (*Cyprus, Maldives, UK, Argentina, Haiti, Panama, Poland, Austria*)

13. A High Court decision in July 2016 deemed sections 13 and 17 of the Tanzania Law of Marriage Act, which allowed girls to marry at the age of 15 with parental permission and at the age of 14 with the permission of a court unconstitutional. The court decreed that marriage under 18 was illegal and directed the government to raise the minimum age of marriage to 18 for both boys and girls within one year. This ruling was upheld by the Court of Appeal on 23 October 2019. However, Parliament has still not changed the law in accordance with the judicial decisions.

14. 31% of women aged between 20 – 24 years were married before the age of 18. Early marriage has a significant impact on girls' health, well-being and personal development and every year, more than 8,000 girls drop out of school due to marriage or pregnancy. The practice of FGM is closely related to marriage. Child marriage is more common in rural areas, among the poor, and in western, southern and north-western Tanzania. Child marriage is the main cause of early childbirth, and 65% of mothers having a child before the age of 18, and 65.1% of children born of mothers under 18. 60% of women who married as a child work in agriculture, and among married girls aged 15 – 19 almost none are currently in school.⁹

15. Early marriage greatly reduces girls' access to employment and economic opportunities, thereby increasing their chances of poverty. Although statistics are not available, it appears that the Covid-19 pandemic has further worsened the plight of girls in Tanzania with an increase in early pregnancy and marriage.

Recommendations:

- i) Parliament must implement the decisions of the High Court and the Court of Appeal to ensure that the minimum age for marriage for both boys and girls is raised to 18.
- ii) A national action plan to prevent and address the consequences of child marriage must be developed. Community sensitization programmes should be conducted in close collaboration with faith based actors and civil society.
- iii) Civic education, skills and social support programmes should be provided to girls on their rights to prevent early child and forced marriage and ensure access to alternative sustainable and professional means of livelihood.
- iv) Laws should be enacted to allow pregnant girls to attend school or continue to access formal education.
- v) Comprehensive sex education should be incorporated in school curriculum, pregnancy testing in schools must be ended, and both pregnant and married students must be allowed to remain in school to continue their education.

iv) Child labour

16. During the last UPR, four recommendations addressed child labour. These included calls for the strengthening of the Child Labour Monitoring System in line with the ILO Campaign (*South Africa*); the implementation of the National Action Plan for the Elimination of Child Labour (*Belgium*); to

⁹ <https://www.twaweza.org/uploads/files/Hellena%20fact%20sheet.pdf>

ensure the enforcement of the existing labour laws and regulations prohibiting all employment of children under the age of 14 as well as the employment of children under 18 years in mines, factories and plantations (*Belgium*); and especially by means of targeted programs, such as income transfer conditional on school attendance (*Brazil*).

17. Tanzania introduced a National Strategy on the Elimination of Child Labour for 2018 – 2022 to prevent and respond to worst forms of child labour in the country. Despite the adoption of new initiatives such as the prohibition of hazardous tasks for children in the fishing industry which included some prosecutions and imposed sentences for two cases related to the worst forms of child labour, this form of labour has not been adequately addressed and eliminated.

18. Children in Tanzania engage in the worst forms of child labour, including quarrying, agriculture, and domestic work. Almost 30% of children aged between five and 14 years are working in quarrying stone and breaking rocks, and mining for gold and tanzanite. 94.1% are working in the agriculture sector.¹⁰

19. Gaps exist in Tanzania’s legal framework to adequately protect children from the worst forms of child labor, including the minimum age for work and access to education.

20. Tanzania and Zanzibar have different rules governing child labour. Tanzanian legislation allows children from age 14 to carry out work which is below International Labour Organization (ILO) Convention 182 standard age of age 18. There are no penalties for using children for illicit activities, including the production and trafficking of drugs. Mainland Tanzania has a hazardous work list for children but it does not specify weeding and processing as activities that are dangerous agricultural tasks in the production of cloves, coffee, sisal and tea. Zanzibar allows children from age 15 to work, but does not have a list of occupations considered “hazardous work”, from which children should be protected, and research could not determine if the new regulations on hazardous work from Mainland Tanzania are applicable to Zanzibar. In addition, Zanzibar prohibits the use of children for illicit activities, including the production and trafficking of drugs.

21. Pregnant girls are likely to be expelled from public schools, making them more vulnerable to the worst forms of child labour.

Recommendations:

- i) Enhance public awareness to parents, local leaders and children on child labour and its impact on in particular the right to health, of children who work in various sectors and occupations.
- ii) Establish policies and legal framework in line with international standards and criminalize and prosecute perpetrators of child labour including in drag trafficking.
- iii) Put in place legislative framework that ensures minimum age protections apply to children engaged in domestic work.
- iv) Ensure that there is no gap between the age for compulsory education and the minimum age for work, which leaves children vulnerable to child labour.

¹⁰ <https://data.unicef.org/country/tza/>

- v) Implement social programs that address the situation of children engaged in child labour in construction, domestic service, and informal sectors.

v) The right to health

22. During the last UPR, two recommendations explicitly addressed the right to health. *Namibia* recommended continued measures to eliminate gender gaps in human development and gender-based inequalities in reproductive health, empowerment and economic activity, and *Zimbabwe* called for the acceleration of efforts to ensure access to clean and safe water, and to health care, countrywide.

23. Pregnant teenagers can face many health complications, including malnutrition, and are often unable or unwilling to seek care and support because of the stigma attached to early pregnancy. Such stigma is compounded where pregnant women and girls are abandoned by their male partners, family or even their own religious leaders.

24. Many girls and women who experience rape and subsequently the complications of childhood pregnancies and deliveries suffer from Post-traumatic Stress Disorder and long term mental and psychological trauma. Women who face these challenges may be unable to take care of their children and have difficulties in their relationships due to long-term mental illness.

vi) Obstetric fistula

25. No recommendation was made about the serious concern of obstetric fistula during the UPR in 2016. However, according to the World Health Organization (WHO), 'every day in 2017, approximately 810 women died from preventable causes related to pregnancy and childbirth' and '94% of all maternal deaths occur in low and lower middle-income countries'.¹¹ One of these preventable causes is obstetric fistula. While there are no accurate statistics on the numbers of cases in Tanzania, estimates suggest that 'in Tanzania, more than 21,400 women are living with untreated obstructed fistula, and there are around 2,500–3,000 new cases each year'.¹² There is an 'Obstetric Fistula Task Force' at government level whose job is to collect relevant data.

26. It is universally accepted that obstetric fistula affects girls and women of all ages, both at first pregnancy and in later pregnancies. However, the issue of obstetric fistula has not appeared to date in any of the reports submitted for the UPR process. It remains a hidden and neglected issue.

27. Obstetric fistula repair surgery can be technically demanding and very time consuming. To become proficient it takes skill and training. Not all who engage in such surgery are skilled to the required level. Because of this lack of skill, a patient can acquire a fistula (known as an Iatrogenic fistula) during a caesarean or hysterectomy procedure. It is estimated that about 25% of all fistula cases in East Africa are now Iatrogenic.

¹¹ <https://www.who.int/en/news-room/fact-sheets/detail/maternal-mortality>

¹² <https://bmcwomenshealth.biomedcentral.com/articles/10.1186/s12905-019-0799-x#:~:text=Currently%2C%20an%20estimated%20%E2%80%9333.5,each%20%5B1%2C%208%5D.>

Recommendations

- i) Implement a sustainable nutritional rehabilitation programme for teenage mothers and their babies to improve long-term effects to the mother and child.
- ii) Integrate psychological and mental health services in maternal and reproductive health services for teenage mothers.
- iii) Enhance the capacity of religious leaders through civic education on the impact of sexual abuse, rape and childhood pregnancies to ensure they play an important role to prevent such violations and protect the victims from further trauma resulting from the stigma attached to rape and pregnancy outside of marriage.
- iv) Commit necessary resources to the Obstetric Fistula Task Force to ensure that relevant data may be collected on a priority basis.
- v) Provide access to information to the public through media on available facilities for the repair and rehabilitation operation of all women living with obstetric fistula and in particular, those in rural areas.
- vi) Ensure that all doctors who engage in fistula repair operations, whether in 'camps' or 'regular medical facilities' have the necessary level of skill and experience to perform such operations

vii) Access to education

28. In the previous UPR, 13 recommendations were made addressing access to education, in particular the need to improve the geographical access (*Haiti, Bangladesh*) and the physical environment of the school (*State of Palestine*); to implement the Education Strategy (*Equatorial Guinea, Sudan, Tajikistan*); and to ensure access to education for children with disabilities and ensure that the education system is responsive to their needs (*Congo, Equatorial Guinea, Singapore*).

29. In 2016, the government implemented a fee-free basic education policy– Tanzania's Education Sector Plan (ESP). This included the commitment to provide twelve years of free and compulsory basic education to the entire population and ensure progressive expansion of technical and vocational education and training. Ironically, the education sector budget experienced a declining share in the total national budget from 20 per cent to 15 per cent between 2014/2015 and 2017/2018¹³.

30. Figures from UNICEF¹⁴ indicate that 81% of children attend primary school at the correct entry age of seven, whilst 28% of children of lower secondary school age attend secondary school or higher. Notably, secondary school is taught in English, which puts children from other language groups at a disadvantage as they transition from primary school which is taught in Swahili.

31. 80% of children of primary school age complete primary school, and 69% of children attend school one year before the official primary entry age 7. However due to the persistent challenge of early marriage and teenage pregnancy, girls access to education remains variable.

32. The constitution of the United Republic of Tanzania prohibits all forms of discrimination and recognizes human rights including the rights of people with disabilities. The Tanzanian National Education Act was passed in 1978, making education compulsory for all children and stipulating that

¹³ <https://www.unicef.org/tanzania/media/1236/file/UNICEF-Tanzania-2018-Education-Budget-Brief.pdf>

¹⁴ <https://data.unicef.org/country/tza/>

every Tanzanian is entitled to receive education according to his or her ability (Article 56). Tanzania is a state party to the UN Convention on the Rights of Person with Disabilities.

33. Children with disabilities rarely attend schools. There is no system for the identification or assessment of children with disabilities, or means of responding to their needs. A national strategy for inclusive education to ensure equitable access to education for children with disabilities was adopted for the period 2017-2021.

Recommendations

- i) Take all possible steps to ensure all girls and boys remain in school to complete their education.
- ii) End discriminatory barriers and sexual abuse against girls in schools by stopping expelling pregnant girls and young mothers from school, and revise Regulation No.4 of the Education Regulations (Expulsion and Exclusion of pupils from schools) of 2002 by removing “offenses against morality” and “wedlock” a ground for expulsion, and end the Re-entry Policy that will allow pregnant girls and young mothers to continue with their education.
- iii) Introduce a comprehensive sexual and reproductive health education in school’s curriculum to prevent early pregnancies and reduce rates of HIV.
- iv) Develop and implement programmes to ensure that children with disabilities have equal access to education.
- v) Ensure all mother tongue are incorporated in the curriculum as medium of instruction and communication in secondary schools.
- vi) Ensure all school buildings have access to basic sanitation facilities.
- vii) Train more specialized teachers to provide education for pupils with special needs and disabilities, and avail more resources for such pupils.
- viii) Review the curriculum and evaluation procedures to meet the requirement of pupils with disabilities.
- ix) Build more secondary and tertiary school facilities for pupils with disabilities and provide funding support for them for higher education.
- x) Ensure faith-based schools or education institutions are treated as service providers rather than businesses.
- xi) Introduce training for school counsellors and establish a coordinated school counselling unit in the Ministry of Education, Science and Technology which will focus in making counselling services effective in Tanzanian schools and ensure that students are supported in areas of their lives beyond the strictly academic realm.

viii) Impact of COVID-19

34. Since 2020, the outbreak of the COVID-19 pandemic has impacted the lives of Tanzanians. In May 2020, the International Rescue Committee (IRC) reported that the restrictions on mobility, lack of information, suspension of essential protection services for women, increased isolation and fear had

led to a 30% decrease in the number of reports of violence against women and girls¹⁵. A reduction in prevention and protection efforts, social services and care has been seen throughout the country.

35. COVID-19 has impacted the education system in Tanzania both in terms of access and the learning process. The closing of schools for three months from March to June 2020 indicated that learning was minimal during that time. A bigger challenge, however, is the limited learning resulting from poor access to digital spaces in Tanzania.

36. COVID-19 instigated a disruption in the education calendar that in turn has affected the learning of 15.4 million students, especially those who were preparing for national examinations. Young girls are particularly vulnerable. School closures led to increases in teenage pregnancies and school dropouts. For example, in Shinyanga region alone 102¹⁶ schools girls dropped out of school due to teenage pregnancy. In addition, the COVID-19 pandemic has resulted in family disputes which is detrimental to children's education, and many parents remained at home unable to work, which increased economic hardships.

37. Cultural expectations leave women to care for the sick including their in-laws, their husbands and children. During the current pandemic, women have been particularly exposed to infection and subsequent sometimes life-threatening complications, because of their gender.

38. Because of the fear of infection, some pregnant women have chosen to avoid pre-natal care in clinics and deliver their babies at home, risking complications during their pregnancies and when giving birth. Some have avoided immunizations due to fears of catching COVID-19 in hospitals or clinics. In some hospitals, maternal deaths resulting from prolonged labour attempted at home and in communities were also reported to have increased during 2020. The number of teenage pregnancies during the time schools were closed down due to the pandemic also appears to have risen.

Recommendations:

- i) Provide teachers and students with digital learning facilities to ensure learning can continue during the pandemic.
- ii) Establish adequate awareness programmes on disaster and emergency preparedness for situations such as pandemics.
- iii) Ensure community civic education on prevention of Covid-19 prioritize women and girls who usually take the role of care providers for sick family members.
- iv) Integrate community education and raise awareness on issues of Covid-19 prevention including the measures taken to reduce misinformation about the virus.
- v) Promote community outreach and engagement of media programs that prioritize pregnant women and girls by providing education on the safety of hospitals, and facilitate access to services including skilled birth attendance and immunization services

¹⁵ <https://reliefweb.int/report/world/new-data-shows-decrease-women-being-able-report-incidents-domestic-violence-fragile-and>

¹⁶ Civil Society Organizations Contribution to the Education Sector 2019/2020

that will be safe to mothers and their babies.