



HUMAN  
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WATCH

## NO WAY OUT

Child Marriage and Human Rights Abuses in Tanzania



# **No Way Out**

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## Definition of Terms

In this report, the following terms have these meanings:

“**Child**” is used to refer to anyone under the age of 18, consistent with usage under international law.

“**Girl**” refers to female children under age 18.

“**Child marriage**” refers to a union where either spouse is below 18 years of age.

“**Early marriage**” refers to marriages involving a person aged below 18 in countries where the age of majority is attained earlier or upon marriage.

“**Forced marriage**” refers to any marriage which occurs without the full and free consent of one or both of the parties or where one or both of the parties are unable to end or leave the marriage, including as a result of duress or intense social or family pressure. It encompasses related harmful practices such as wife inheritance, bride kidnapping, girl-child compensation, and marriage as dispute settlement or debt payment, which are practiced in Tanzania.

“**Female genital mutilation**” or FGM refers to the partial or total removal of the external female genitalia for non-medical purposes.

# **SUMMARY AND KEY RECOMMENDATIONS**

Pion H., 12, was 10-years-old when her father tried to force her to undergo female genital mutilation (FGM) and marry a much older man. Pion H. resisted the marriage and said she wanted to continue her education. Under pressure from her family to marry, Pion H. went to her schoolteacher for help. The teacher contacted a local organization, NAFGEM, which intervened with her parents and prevented her from undergoing FGM and getting married. She is now enrolled in school. Moshi, Tanzania. August 7, 2014.



## SUMMARY

When Matilda H. was 14, her father told her he wanted her to marry a 34-year-old man who already had one wife. He told her that he had already received a dowry payment of 4 cows and 700,000 Tanzanian Shillings (TSh) (US\$435).

Although Matilda had passed her exams and had been admitted to secondary school, her father told her: “You cannot continue with your education. You have to get married because this man has already paid dowry for you.” She pleaded with him to allow her to continue her education, but he refused.

Matilda told us, “I felt very sad. I couldn’t go to school, dowry was paid, and I could not disobey my father. I did not know my husband before.” Matilda said her mother tried to seek help from the village elders to stop the marriage but “the village elders supported my father’s decision for me to get married. I had nothing to do. I had no way out but to allow to get married.”

Matilda’s husband physically and sexually abused her and could not afford to support her. She told us, “My husband was very poor. When I would get sick, he would not even have money to take me to the hospital.”

In Tanzania, 4 out of 10 girls are married before their 18th birthday. A study by the United Nations Population Fund (UNFPA) estimated that 37 percent of Tanzanian women aged 20–24 years were first married or in union before the age of 18, between 2000–2011. Human Rights Watch documented cases where girls as young as seven were married.



Child marriage is deeply embedded in Tanzanian society. In many cultures in Tanzania, girls are generally considered ready for marriage when they reach puberty and marriage is viewed as a way to protect them from pre-marital sex and pregnancy that undermine family honor and may decrease the amount of dowry a family may receive. Cultural practices such as female genital mutilation (FGM) also contribute to child marriage in some communities. Among the Maasai and Gogo ethnic groups, where Human Rights Watch conducted some of its research for this report, FGM is closely related to child marriage and is done primarily as a rite of passage to prepare girls, aged 10–15, years for marriage.

Many Tanzanians regard child marriage as way of securing financial security for themselves and their daughters. The practice of dowry payment by the groom to the bride’s family is a key incentive for many families to marry off their daughters. Some girls see marriage as a way out of poverty, violence, or neglect. Child labor in Tanzania may also be associated with a significant increase in marriage at an earlier age, as girls who face abuse and exploitation in their workplaces see marriage as a way to escape their suffering.

Human Rights Watch conducted extensive interviews with girls and women in 10 districts in the Mwanza, Shinyanga, Kilimanjaro, Arusha, Dodoma, and Lindi regions of the Tanzania mainland, and with government officials, community development officers, police officers working at Police Gender and Children’s Desks, teachers, ward and village executive officers, health workers, and experts. Human Rights Watch investigated the factors contributing to child marriage, the severe harms and rights

abuses associated with it, and the risks girls face when they resist marriage. We also examined the gaps in the child protection system, the lack of protection for victims of child marriage, and the many obstacles they face in attempting to obtain redress, as well as shortcomings in existing laws and plans to combat child marriage.

By permitting child marriage, the government becomes responsible for the serious harms suffered by girls and women, thus violating many human rights recognized under international law. Girls married as children are usually unable to continue with their schooling and consequently have limited wage-earning prospects due to their lack of education. Girls may experience domestic violence and marital rape, and receive little or no support during their marriages or when they leave. They are forced into adulthood before they are physically and emotionally mature and they struggle with the physical and emotional health effects of becoming pregnant too young. These harmful effects take the heaviest toll on the youngest brides.

This report documents the particularly severe impact of child marriage on girls’ education – limiting girls’ life opportunities and their ability and confidence to make informed decisions about their lives. Girls told Human Rights Watch that their parents or guardians withdrew them from school to marry, and they found it difficult to return to school after marriage. Girls who became pregnant or married were frequently expelled. Tanzanian government policy allows schools to expel or exclude students who enter marriage or commit an offense “against morality,” which is often understood to mean pre-marital sex or

Sofia (center), 18, at the Buhangija Vocational Training Centre. Sofia was forced by her mother to marry when she was 14 to a man who beat her and failed to provide financially for her and her children. Sofia currently works to help her mother repay the dowry. Shinyanga, Tanzania. August 4, 2014.



pregnancy. Tanzanian schools routinely conduct mandatory pregnancy tests of girls, a serious infringement of their rights to privacy, equality, and autonomy.

Girls Human Rights Watch interviewed who rejected or tried to resist marriage were assaulted, verbally abused, or evicted from their homes by their families. Others, who were unable to escape marriage, described how their husbands beat and raped them and did not allow them to make any decisions in their homes. A large number also said their husbands abandoned them and left them to care for children without any financial support. Many said they also experienced violence and abuse at the hands of their in-laws.

Many girls also told Human Rights Watch how they felt lonely and isolated, confined to their homes by domestic and child-rearing duties or because their husbands and in-laws restricted their movements. The isolation and abrupt end to childhood that is typically associated with child marriage combined with the physical, verbal, and sexual abuse that married girls suffer, the lack of support when girls seek help from authorities and their families, as well as economic and cultural pressures that prevent some girls from leaving abusive marriages have profound effects on a girl's psychological health. Many girls interviewed by Human Rights Watch said they were unhappy in their marriages and regretted having married early. Some said they had contemplated suicide.

Anita, 19, was forced by her father to leave school and marry when she was 16-years-old. When Anita and her mother objected to the marriage, her father became angry and beat both of them, stating that he had already accepted dowry for the marriage. Moshi, Tanzania. August 7, 2014.



## DOWRY

Dowry payment is a major factor driving child marriage in Tanzania. Dowry is negotiated by a man and his family and is paid to a woman's family in the form of money, cattle or other livestock, or a combination of both. Although common in many Tanzanian communities, dowry payments vary depending on ethnic group, family wealth, and other cultural and social considerations, such as the lightness of a girl's complexion or whether she has undergone female genital mutilation (FGM).

Dowry payment is believed by some communities to give a husband and his family "property rights" over the wife. Dowry payment may increase the likelihood of violence against women and girls, who may be unable to leave abusive relationships because they cannot afford to repay the dowry. Dora P. told Human Rights Watch that her husband was physically and verbally abusive, and that whenever she complained, he would reply, "I bought you. Your father has taken my wealth so I own you. Do you think you can go anywhere?"

A boy herds cattle. Cows or other livestock often comprise a part of the dowry payment or bride price. Moshi, Tanzania. August 6, 2014.



# FEMALE GENITAL MUTILATION

In Tanzania, female genital mutilation (FGM) is practiced for various socio-cultural reasons depending on ethnic group, including as part of a ritual initiation into womanhood. Among the ethnic groups of the Maasai and Gogo, where Human Rights Watch conducted its research, FGM is closely related to child marriage and is done primarily as a rite of passage to prepare girls for marriage.

A Maasai traditional leader, Laizer Daudi, told Human Rights Watch, “In our land [community], you have to cut a girl before she gets married. Girls are cut between 10–15 years and they get married 2–3 months after being cut. There is a lot of pain when you combine FGM, and the forced marriage of a girl.”

Pion H., 12, was 10-years-old and in her second year of primary school when her grandmother told her she was to undergo FGM and get married:

*My grandmother told me, “You must stop school immediately. Get prepared to become a ‘real’ Maasai woman.” I started crying. I was afraid. I knew it [FGM and forced marriage] was going to happen because they told my sister the same thing. She was also 10-years-old when they cut her and forced her to marry a month later.*

A girl who has not undergone FGM may be socially ostracized and referred to as “rubbish” or “useless.” If married, her in-laws may force her to undergo FGM. Among the Maasai and Gogo ethnic groups, a girl who has undergone FGM fetches more dowry.

Clara, 17, was forced to undergo FGM at the age of 9. When her family told her she was going to be cut, she tried to run away but was caught and brought back. Kilimanjaro, Tanzania. August 8, 2014.





[left] Maasai women stand inside the NAFGEM center in Simanjiro. Sarah Elifuraha (right) said that girls undergo FGM in preparation for marriage: “In the Maasai community, a girl who is cut is respected because she is considered mature and has faced a rite of passage. That’s why she is cut, in order to be married.” Simanjiro, Tanzania. August 9, 2014.

[below] Rehema is 13-years-old and attends primary school. She said her parents planned for her to undergo FGM, but she has resisted with the help of a nongovernmental organization. Kilimanjaro, Tanzania. August 8, 2014.



A road leads to Simanjiro, where many Maasai communities are found. August 8, 2014.



## CHILD LABOR

Among girls, child labor is associated with a significant increase in the probability of marriage at an earlier age. A 2008 World Bank study looking at the consequences of child labor in rural Tanzania noted a link between child labor and child marriage, stating that “the more children work, the more likely they are to marry at an earlier age.” Girls who face abuses in their workplaces may see marriage as a way to escape their suffering. Girls in work are also frequently exposed to sexual exploitation and abuse, and sometimes enter relationships with boys or men in return for food or other support, or because they are pregnant.

Human Rights Watch interviewed 20 girls who said they married early to escape child labor. In Tanzania, child domestic work is common and widely accepted as a way to contribute to the family’s income. It may also be viewed as part of a girl’s preparation or apprenticeship for future married life. Due to weak government regulation of child work, girls face many abuses, including physical and sexual abuse, and often receive little or no pay.

Witness, age 19, was 14 years old and in her final year of primary school when her step-father chased her away from home because she was “mature” enough to look after herself. Witness married shortly after finding a job as a waitress. Moshi, Tanzania. August 6, 2014.



Children watch a video at an outreach event held by Agape AIDS Control Program, a nongovernmental organization working to end child marriage. Shinyanga, Tanzania. August 4, 2014.



## ADOLESCENT PREGNANCY

Tanzania has high rates of teenage pregnancy. According to the 2010 Tanzania Demographic and Health Survey, “44 percent of women are either mothers or are pregnant with their first child by age 19.”

Girls lack access to sex education and accurate information about contraception. They also have limited access to reproductive health services and lack the power to negotiate safe sex with men who usually entice them with money, gifts, and promises to educate or marry them.

The Tanzanian government has failed to ensure the provision of comprehensive sexuality education in primary and secondary schools, despite a “life skills” program—incorporated into existing subjects, such as biology, civics, languages, and work skills—that includes information on sexuality and family planning. Tanzania mainland lacks a national sexuality education curriculum, meaning there is no clear guidance for schools or teachers on what the subject covers and how it should be taught.

# DOMESTIC VIOLENCE

Most of the girls and women interviewed by Human Rights Watch said that they experienced violence during their marriage.

Patricia J., 17, married an 18-year-old man when she was 15, hoping to escape poverty at home. Her husband paid a dowry of 70,000 TSh (\$44). She eventually left the marriage and is staying with a friend:

*My husband used to beat me almost every day. One day he came home and started making noises and threatening me saying he will burn me. I asked him why and he said, "Your father took my money because he is poor." He told me to spread my legs open. I refused. He went outside the house and came with burning charcoal. He forced my legs open and pushed the burning charcoal into my vagina. I was helpless. All I could do was cry.*

Girls sometimes attempt to leave abusive husbands and return to their own families, hoping to receive help, but girls interviewed by Human Rights Watch who tried to return to their families said that they are often told that all married women must tolerate abuse, and are then forced to return to their husbands.

Rose was married when she was 16 and now has two children. Her husband would beat her often and force her to have sex with him. Rose said she contemplated suicide in order to escape the marriage. Moshi, Tanzania. August 6, 2014.



Jacinta, 15, was excluded from school after authorities found out that she was pregnant. She said her teachers took her to a medical clinic to undergo a pregnancy test. She subsequently gave birth prematurely and her baby did not survive. August 5, 2014.



## BANNING GIRLS FROM EDUCATION

In Tanzania, marriage usually ends girls' education. Married or pregnant pupils are routinely expelled or excluded from school. Although not an official policy, Tanzanian schools also routinely conduct mandatory pregnancy tests and expel pregnant girls.

Human Rights Watch interviewed several girls who were expelled from school because they were pregnant. Others said they stopped attending school after finding out they were pregnant because they feared expulsion.

Sharon J., 19, was expelled when she was in her final year of primary school: "When the head teacher found out that I was pregnant, he called me to his office and told me, 'You have to leave our school immediately because you are pregnant.'" A head teacher at Farkwa Secondary School said, "When we find a pregnant pupil in school, we call a school board meeting where we agree to expel the pupil."

The practice of expelling pregnant girls is not explicitly mandated by law or policy, but the government has done little to stop it and the consequent denial of girls' right to education. School and government officials frame the practice of expelling pregnant girls as part of an effort to prevent adolescent pregnancy, and as a disciplinary measure.



Angela, 15, holds her newborn baby girl in a hospital in Tanzania. Unmarried and living with her parents, she hopes to continue with her studies and one day become a nurse. Shinyanga, Tanzania. August 4, 2014.

# KEY RECOMMENDATIONS

Agatha, 11, was 7-years-old when her father tried to force her into marriage. A policeman intervened and took her to a local organization. With their help, Agatha is now at school. Moshi, Tanzania. July 31, 2014.

## To the President of Tanzania

- Publicly support setting a uniform, internationally recognized minimum marriage age of 18 for both boys and girls in Tanzania.
- Publicly call on education authorities to end the exclusion of married and/or pregnant girls from school.

## To the Ministry of Education and Vocational Training

- Revise the Education and Training Policy to include a provision that allows both married and pregnant students to continue with their education.
- Increase access to post-primary education by taking all possible measures to ensure that children can access secondary education irrespective of their Primary School Leaving Examination results. In particular, take measures to allow children who fail to retake the exam, and to seek admission in public schools.

## To the Ministry of Constitutional and Legal Affairs

- Take the necessary steps to enact a comprehensive domestic violence law. The law should criminalize sexual violence in marriage.

## To the Ministry of Community Development, Gender, and Children

- Create a national action plan to combat child marriage, in accordance with international good practices, with input from women's and children's rights groups, health professionals, and other service providers; coordinate efforts among all relevant ministries; seek sufficient resources to implement the plan.

## To United Nations Agencies and International Donors

- Urge the government of Tanzania to end the exclusion from school of married and pregnant pupils and adolescent mothers, and to provide re-entry opportunities for married girls and young mothers of school-going age.





A portrait of Maasai leaders who are committed to ending FGM and child marriage in their community. Simanjiro, Tanzania. August 11, 2014.

## Methodology

This report is based on field research Human Rights Watch conducted between March and August 2014 in 12 districts of Mwanza, Shinyanga, Kilimanjaro, Arusha, Manyara, Dodoma, and Lindi regions of Tanzania mainland.<sup>1</sup> Human Rights Watch selected the regions and districts in which to conduct the research in consultation with local organizations working on women’s rights and on child marriage. Regions and districts were selected in order to reflect cultural and religious diversity in Tanzania.

Human Rights Watch researchers interviewed 135 girls and women in total, between the ages of 12 and 34. Human Rights Watch interviewed 75 girls and women individually and 60 in small groups. Most group interviews involved 5 to 10 girls and women. Individual girls and women were identified with the assistance of local nongovernmental organizations (NGOs) that provided services to girls and women; however, no services were dependent on participation in interviews. Interviews were conducted in interviewees’ homes or at offices of NGOs with as much privacy as possible. All participants were informed of the purpose of the interview, its voluntary nature, and the ways the information would be used. Each participant orally consented to be interviewed. Participants were advised they could decline to answer questions or end the interview at any time.

Interviews lasted between thirty minutes and one hour. All the interviews were conducted in Kiswahili with the assistance of a female interpreter. Care was taken to minimize re-traumatization of women and girls who were recounting difficult experiences. Where appropriate, Human Rights Watch provided contact information for organizations offering legal, social, or counseling services. Interviewees did not receive any compensation for participating in interviews, but were reimbursed for any transportation costs to and from the interview.

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<sup>1</sup> The United Republic of Tanzania is a unitary republic comprising Tanzania mainland and Zanzibar. There are two central governments—the Union Government and the Zanzibar Revolutionary Government—each with their own executive, judiciary, and legislature. Consequently, Tanzania mainland and Zanzibar have distinct laws and policies. This report focuses on the laws, regulations, policies, and practices specific to Tanzania mainland. The name Tanzania as used in the report refers to Tanzania mainland.

Some girls and women were unsure about their exact ages or dates of birth; in Tanzania, many children do not have birth certificates. This report uses the estimates provided by the girls — many said that their parents had told them their age. Most of the girls and women Human Rights Watch interviewed were married as children.

Pseudonyms were selected randomly, and they may not reflect the interviewee's ethnicity or religion.

Human Rights Watch also interviewed government officials in the Ministries of Constitutional and Legal Affairs; Home Affairs; Education and Vocational Training; Community Development, Gender and Children; and Health and Social Welfare; the Director of Public Prosecutions (DPP); officials from the Commission for Human Rights and Good Governance and the Law Reform Commission; social welfare officers; community development officers; police officers working at Police Gender and Children's Desks; ward and village executive officers; and traditional leaders and religious leaders. Human Rights Watch also observed three Police Gender and Children's Desks, and interviewed representatives of NGOs working on women's and children's rights in both Tanzania mainland and Zanzibar, as well as officials from the United Nations and international donor organizations.

Human Rights Watch reviewed laws, policies, official government strategies, and reports by academics, national and international organizations, and UN agencies. We conducted an extensive review of literature on child marriage in Tanzania and other countries.

# I. Background: Child Marriage and Violence against Women and Girls in Tanzania

## Prevalence of Child Marriage in Tanzania

Although rates of child marriage in Tanzania have decreased by 10 percent since 2004, the number of girls marrying remains high.<sup>2</sup> Four out of ten girls are married before their eighteenth birthday.<sup>3</sup> The United Nations Population Fund (UNFPA) estimates that 37 percent of women aged 20-24 years were married or in union by age of 18 in Tanzania between 2000–2011.<sup>4</sup> Tanzania is among the 41 countries with 30 percent or more of women 20–24 years old who married or entered into union by age 18 between 2000–2011.<sup>5</sup> According to one study, 7 percent of women between the ages of 20 and 24 in 2010 were married or in union before the age of 15.<sup>6</sup> The national average masks wide regional differences: prevalence is estimated at 59 percent in Shinyanga, 58 percent in Tabora, 51 percent in Dodoma, while in Iringa, it is only 8 percent.<sup>7</sup> Girls who are less educated, from poor families, or from rural areas are most likely to marry as children.<sup>8</sup>

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<sup>2</sup> United Nations Population Fund (UNFPA), “Marrying Too Young: End Child Marriage,” 2012, <http://www.unfpa.org/webdav/site/global/shared/documents/publications/2012/MarryingTooYoung.pdf> (accessed May 8, 2014), pp. 24 and 35. Tanzania’s rate of child marriage has significantly decreased by 10 percent. Decreases in child marriage rates are associated with higher levels of development, such as urban residence, secondary or higher education, and wealth. See also, UNFPA, “Child Marriage Profiles: United Republic of Tanzania,” [http://www.devinfo.info/mdg5b/profiles/files/profiles/4/Child\\_Marriage\\_Country\\_Profile\\_AFRTZA\\_United%20Republic%20of%20Tanzania.pdf](http://www.devinfo.info/mdg5b/profiles/files/profiles/4/Child_Marriage_Country_Profile_AFRTZA_United%20Republic%20of%20Tanzania.pdf) (accessed May 9, 2014). Child marriage is often referred to as “early” or “forced” marriage since children, given their age, are not able to give free, prior, and informed consent to their marriage partners or to the timing of their marriage. In this report, child, early, and forced marriage will be used interchangeably to mean child marriage.

<sup>3</sup> Tanzania National Bureau of Statistics and ICF Macro, “Tanzania Demographic and Health Survey Key Findings 2010,” 2010, <http://www.measuredhs.com/pubs/pdf/SR183/SR183.pdf> (accessed January 9, 2014), p.4.

<sup>4</sup> UNFPA, “Marrying Too Young: End Child Marriage,” 2012, <http://www.unfpa.org/webdav/site/global/shared/documents/publications/2012/MarryingTooYoung.pdf> (accessed May 8, 2014), p. 23.

<sup>5</sup> Ibid.

<sup>6</sup> United Nations International Children’s Emergency Fund (UNICEF), “United Republic of Tanzania: Statistical Profile on Female Genital Mutilation,” 2013, [http://data.unicef.org/corecode/uploads/document6/uploaded\\_country\\_profiles/corecode/30/Countries/FGMC\\_TZA.pdf](http://data.unicef.org/corecode/uploads/document6/uploaded_country_profiles/corecode/30/Countries/FGMC_TZA.pdf), (accessed May 29, 2014).

<sup>7</sup> UNFPA, “Child Marriage Profiles: United Republic of Tanzania,” [http://www.devinfo.info/mdg5b/profiles/files/profiles/4/Child\\_Marriage\\_Country\\_Profile\\_AFRTZA\\_United%20Republic%20of%20Tanzania.pdf](http://www.devinfo.info/mdg5b/profiles/files/profiles/4/Child_Marriage_Country_Profile_AFRTZA_United%20Republic%20of%20Tanzania.pdf) (accessed May 8, 2014).

<sup>8</sup> UNFPA, “Marrying Too Young: End Child Marriage in Tanzania,” 2013, [http://countryoffice.unfpa.org/tanzania/drive/UNFPACHILDMARRIAGE\\_BROCHURERL.pdf](http://countryoffice.unfpa.org/tanzania/drive/UNFPACHILDMARRIAGE_BROCHURERL.pdf), (accessed May 9, 2014).

The National Action Plan for the Prevention and Eradication of Violence against Women and Children (“National Action Plan”), 2001–2015, recognizes the need to amend laws that affect women’s and children’s rights, including the Marriage Act of 1971. The National Action Plan calls for a minimum marriage age of 18, the need to create awareness about the impact of early marriage, and to train men and women leaders on the elimination of early marriage and FGM.<sup>9</sup> The National Roadmap Strategic Plan to Accelerate Reduction of Maternal, Newborn and Child Deaths in Tanzania, 2008–2015, commits various government ministries to advocate for review of legislation, including the Marriage Act of 1971, that influence maternal and newborn deaths and child health.<sup>10</sup> Neither of the national plans comprehensively sets out strategies to address child marriage.

## Violence against Women and Girls

The 2010 Tanzania Demographic and Health Survey (TDHS) found that almost half (45 percent) of women aged 15–49 had experienced either physical or sexual violence.<sup>11</sup> According to the study, 1 in 2 ever-married women aged 15–49 reported having experienced either one or a combination of emotional, physical, and sexual violence at the hands of their current or former husbands.<sup>12</sup> Four in ten men agreed that wife beating is justified.<sup>13</sup>

Older women experience witchcraft-related abuse and violence.<sup>14</sup> Research by government departments and NGOs working on human rights suggest that witchcraft-related killings targeting older women are on the increase.<sup>15</sup> In 2013, 765 witchcraft killings were reported:

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<sup>9</sup> Ministry of Community Development, Gender, and Children, “The National Action Plan for the Prevention and Eradication of Violence against Women and Children 2001-2015,” pp. 10, 11, and 17.

<sup>10</sup> Ministry of Health and Social Welfare, “The National Roadmap Strategic Plan to Accelerate Reduction of Maternal, Newborn and Child Deaths in Tanzania, 2008-2015,” <http://www.who.int/pmnch/countries/tanzaniamapstrategic.pdf> (accessed January 8, 2014), p. 26.

<sup>11</sup> United Republic of Tanzania National Bureau of Statistics and ICF Macro, “Tanzania Demographic and Health Survey 2010,” <http://www.nbs.go.tz/takwimu/references/2010TDHS.pdf> (accessed May 7, 2014), p. 275.

<sup>12</sup> *Ibid.*, p. 279.

<sup>13</sup> United Republic of Tanzania National Bureau of Statistics and ICF Macro, “Tanzania Demographic and Health Survey 2010,” <http://www.nbs.go.tz/takwimu/references/2010TDHS.pdf> (accessed May 7, 2014), p. 253.

<sup>14</sup> Convention to Eliminate All Forms of Discrimination Against Women, (CEDAW), “Consideration of Reports Submitted by States Parties under Article 18 of the Convention, Combined Fourth, Fifth and Sixth Periodic Reports, Tanzania,” <http://www.refworld.org/publisher,CEDAW,STATEPARTIESREP,TZA,47440a962,o.html> (accessed May 7, 2014), para. 76.

<sup>15</sup> Human Rights and Legal Center, “Tanzania Human Rights Report,” 2013, <http://www.humanrights.or.tz/downloads/tanzania-human-rights-report-2013.pdf> (accessed May 28, 2014), p. 35. See also, Human Rights Watch interview with Mary Massay, executive director, Commission for Human Rights and Good Governance (CHRAGG), Dar es Salaam, April 15, 2014. Also see, Help Age International, “Violence against Older Women: Tackling

505 women and 260 men were killed, according to analysis of police data by the Legal and Human Rights Center.<sup>16</sup>

Cultural practices and attitudes that condone violence against women are major challenges in preventing abuse.<sup>17</sup> Girls and women in some areas of Tanzania are subject to FGM despite the prohibition of the practice by the Sexual Offences Special Provisions Act (SOSPA) of 1998, which prohibits FGM for girls under the age of 18.<sup>18</sup> This harmful practice is inter-linked with other violations of women's human rights, including child and forced marriage (discussed below).

The government has taken steps to address gender-based violence, developing action plans on violence against women and children and on FGM.<sup>19</sup> Since 2008, the government has established specialist Police Gender and Children's Desks and developed comprehensive health sector guidelines on the management of survivors of abuse.<sup>20</sup> There

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Witchcraft Accusations in Tanzania," <http://social.un.org/ageing-working-group/documents/HelpAge%20briefing%20violence%20against%20older%20women%20Aug%2011.pdf>, (accessed June 4, 2014). There is no reliable data on this topic, but government reports show older women are disproportionately affected.

<sup>16</sup> Human Rights and Legal Center, "Tanzania Human Rights Report," 2013, p. 36.

<sup>17</sup> Office of the Sector Director Poverty Reduction and Economic Management Network Africa Region World Bank, "Tanzania: Strategic Country Gender Assessment," <http://siteresources.worldbank.org/EXTAFRREGTOPGENDER/Resources/TanzaniaSCGA.pdf> (May 8, 2014), p. v.

<sup>18</sup> CEDAW, "Considerations of Reports Submitted by States Parties under Article 18 of the Convention: United Republic of Tanzania," April 16, 2007, [http://www.bayefsky.com//reports/tanzania\\_cedaw\\_c\\_tza\\_6\\_2006.pdf](http://www.bayefsky.com//reports/tanzania_cedaw_c_tza_6_2006.pdf) (accessed May 7, 2014), paras 50 and 51. Common types of FGM in Tanzania include: Type II that accounts for 80 percent of FGM procedures performed on girls and women, and infibulation that accounts for only 1 percent of FGM procedures performed on girls and women. Type II is a more invasive procedure that includes the partial or total removal of the clitoris and the *labia minora*. This form can be performed with or without excision of the *labia majora* and is known as excision. See also, Legal and Human Rights Center, "Tanzania Human Rights Report," 2013, p. 174. FGM is mostly practiced in the regions of Arusha, Dodoma, Kilimanjaro, Kigoma, Manyara, Mara, and Morogoro. United Republic of Tanzania and IFC Macro, "Tanzania Demographic and Health Survey," 2010, p. 295. Type II accounts for 91 percent of FGM procedures performed on girls and women. Penal Code Act, 1945, art. 169, amended by the Sexual Offences Special Provisions Act (SOSPA), <http://ilo.org/dyn/natlex/docs/ELECTRONIC/67094/63635/F532037758/TZA67094.pdf>(accessed June 14, 2014), art. 21.

<sup>19</sup> Ministry of Community Development, Gender and Children, "The National Action Plan for the Prevention and Eradication of Violence against Women and Children 2001-2015"; Ministry of Community Development, Gender, and Children, "Multi Sector National Plan of Action to Prevent and Respond to Violence against Children" 2013-2016; Ministry of Health and Social Welfare National Management "Guidelines for the Health Sector Response to End Prevention of Gender Based Violence (GBV)" 2011; The United Republic of Tanzania National Development Vision 2025; and The National Plan of Action to Combat Female Genital Mutilation, 2001-2015.

<sup>20</sup> Ministry of Home Affairs, Tanzania Police Force, "Guidelines for the Establishment of Police Gender and Children Desk," paras. 2.2 and 3. The Police Gender and Children's Desk (PG&CD) is a facility specifically designed to address cases of gender-based violence and child abuse in a gender and child-responsive manner. It is managed and staffed by trained personnel, designated by the officer commanding the police station. It is situated within the premises of the police station offices. The layout and size of the desk, includes, four rooms; a reception and record room; an interview room with sufficient privacy for interviewing adults; a child friendly interview room for handling child survivors and a resting room for survivors who are traumatized. The United Nations Children's Emergency Fund (UNICEF) in Tanzania is supporting the police force in

are plans by the police to construct one-stop centers and victim support units.<sup>21</sup> However, effective implementation of these policies and programs is hindered by inadequate resources and the lack of a comprehensive legal aid system accessible to women.<sup>22</sup>

In addition, existing Tanzanian laws do not adequately protect women and girls against violence, including marital rape, and are also poorly implemented.<sup>23</sup> The government has frequently announced its intention to amend existing discriminatory laws that perpetuate gender-based violence but no reforms have been announced or introduced.<sup>24</sup>

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improving infrastructure of the PG&CD through constructing child-friendly interview rooms and providing training to police officers on handling cases of child abuse.

<sup>21</sup> Human Rights Watch interview with Assistant Superintendent Pili Simon Misungwi, police officer in charge of Police Gender and Children's Desk office commanding station, Shinyanga, April 1, 2014. Human Rights Watch interview with Grace R. Lyimo, ASP, Kilimanjaro police station, Kilimanjaro, April 4, 2014. The regional police station in Shinyanga and Moshi are constructing a victim support unit and one-stop centers respectively using donated funds.

<sup>22</sup> National Action Plan for the Prevention and Eradication of Violence against Women and Children 2007-2015, p.6.; The Legal Aid Secretariat (LAS), "Tanzania Paralegal Baseline Survey: Tanzania Mainland," 2010, <http://las.or.tz/wp-content/uploads/2012/11/Paralegal-Baseline-Report.pdf> (accessed July 22, 2014), p.1. The government, through the Ministry of Constitutional and Legal Affairs, is improving access to legal aid for women survivors of gender-based violence through introducing legal aid centers, commonly known as "paralegals centers" in some communities, in response to the need for legal support. Paralegals, working on a voluntary basis, assist people access to justice at the community level, especially for women and children who are more vulnerable to violence and abuse by men, family and clan members, and women who lack legal support.

<sup>23</sup> The Sexual Offences Special Provisions Act (SOSPA), 1998, arts. 5(3), 21 and 14. SOSPA criminalizes sexual assault and harassment, FGM, and sex trafficking, but not marital rape. See also Human Rights Watch interview with Dr. Helen Kijo Bisimba, executive director, Legal and Human Rights Center (LHRC), Dar es Salaam, April 16, 2014.

<sup>24</sup> CEDAW, "Tanzania Non-Governmental Organization's Shadow Report to CEDAW: The Implementation of the Convention on the Elimination of All Forms of Discrimination against Women," [http://www.iwraw-ap.org/resources/pdf/41\\_shadow\\_reports/Tanzania%20\\_SR.pdf](http://www.iwraw-ap.org/resources/pdf/41_shadow_reports/Tanzania%20_SR.pdf) (accessed June 13, 2014) p. 16.

## II. How Girls Become Brides: Factors Contributing to Child Marriage

Child marriage in Tanzania is driven by poverty and the payment of dowry, child labor, adolescent pregnancy, child abuse and neglect, and limited access to education and employment opportunities for women and girls.

### Payment of Dowry

It is common for a father whose daughter has passed Standard 7 (equivalent to grade 9), [to say] he has no money to educate her because he wants her to marry so he can receive dowry.

— Japheat Daud, program coordinator, Agape AIDS Control Program, Shinyanga, April 2014

Dowry payment is a major factor driving child marriage in Tanzania. Dowry is negotiated by a man and his family and is paid to a woman's family in the form of money, cattle or other livestock, or a combination of both.<sup>25</sup> Although common in many Tanzanian communities, dowry payments vary depending on ethnic group, family wealth, and other cultural and social considerations, such as the lightness of a girl's complexion or whether she has undergone FGM.<sup>26</sup> Twenty-six girls told Human Rights Watch that their families forced them to marry because they wanted to receive dowry. Some of the girls said they were forced to leave school to marry because dowry had already been paid, often without their knowledge.

Anita G., 19, told Human Rights Watch that her father forced her to leave school to get married when she was 16 and in her second year of secondary school:

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<sup>25</sup> Tanzania Women Judges Association, "Millennium Development Goal 3 Program (MDG)," 2009–2011, [http://www.iawj.org/Tanzania\\_Country\\_Report.pdf](http://www.iawj.org/Tanzania_Country_Report.pdf) (accessed May 9, 2014), p. 26. Among the Sukuma in Shinyanga, dowry payment is largely paid in cattle, or a combination of cattle or other livestock and money. Among the Sukuma, dowry of up to 40 cows is paid depending on a girl's complexion and virginity. See also, Human Rights Watch interview with Japheat Daud, program coordinator, Agape AIDS Control Program, Shinyanga, March 31, 2014.

<sup>26</sup> Tanzania Women Judges Association, "Millennium Development Goal 3 Program (MDG)," 2009–2011, [http://www.iawj.org/Tanzania\\_Country\\_Report.pdf](http://www.iawj.org/Tanzania_Country_Report.pdf) (accessed May 9, 2014), p. 26. See also, Human Rights Watch interview with Valerie Msoka., executive director, Tanzania Media Women's Association, Dodoma, April 8, 2014.

My father said he did not have money to support my schooling. I then discovered that he had already received 20 cows as dowry for me. My mother tried to reason with my father to allow me continue with school, but my father said I had to marry. He said, “Once dowry has been taken, it cannot be returned.”<sup>27</sup>

## Child Labor and Related Abuses

I was a housemaid and living a very difficult life. I was abused a lot and humiliated in the home where I worked. I saw marriage as my only way out of the suffering. I found a man who agreed to marry me.

— Nancy J., married at 17, Mwanza, March 2014

The International Labour Organization (ILO) defines child labor as “work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development.”<sup>28</sup>

Poverty drives many children into premature employment.<sup>29</sup> Children who lack financial and other support from their parents, guardians, or extended families, and who are abused at home, are more likely to engage in child labor.<sup>30</sup> According to a 2006 government survey, about 21 percent of children between the ages of 5 and 17 are engaged in some form of child labor in Tanzania.<sup>31</sup> Children work in various economic sectors, including agriculture, domestic work, fishing, and mining.

Among girls, child labor is associated with a significant increase in the probability of marriage at an earlier age. A 2008 World Bank study looking at the consequences of child labor in rural Tanzania noted a link between child labor and child marriage, stating that

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<sup>27</sup> Human Rights Watch interview with Anita G., Kahama district, April 2, 2014.

<sup>28</sup> ILO, “Defining Child Labor,” <http://www.ilo.org/ipec/facts/lang--en/index.htm> (accessed July 22, 2014).

<sup>29</sup> United Republic of Tanzania, “National Action Plan for the Elimination of Child Labor,” 2009, p. 5. See also, ILO, “What is Child Labor: Defining Child Labor,” <http://www.ilo.org/ipec/facts/lang--en/index.htm> (accessed July 22, 2014).

<sup>30</sup> *Ibid.* pp. 11 and 12.

<sup>31</sup> National Bureau of Statistics, “Child Labour in Tanzania: An Analysis of Findings of the Integrated Labour Force Survey,” 2006, <http://www.ilo.org/ipecinfo/product/viewProduct.do?productId=16320>, (accessed July 22, 2014), p. xvi. These are the most recent government figures available. In its 2013 report, “Toxic Toil: Child Labor and Mercury Exposure in Tanzania’s Small-Scale Gold Mines,” p. 87, Human Rights Watch recommended conducting a new national survey on child labor.

“the more children work, the more likely they are to marry at an earlier age.”<sup>32</sup> Girls who face abuses in their workplaces may see marriage as a way to escape their suffering. Girls in work are also frequently exposed to sexual exploitation and abuse, and sometimes enter relationships with boys or men in return for food or other support, or because they are pregnant.

Human Rights Watch interviewed 20 girls who said they married early to escape child labor. In Tanzania, child domestic work is common and widely accepted as a way to contribute to the family’s income.<sup>33</sup> It may also be viewed as part of a girl’s preparation or apprenticeship for future married life.<sup>34</sup> Due to weak government regulation of child work, girls face many abuses, including physical and sexual abuse, and often receive little or no pay.<sup>35</sup> Additionally, “girls fleeing abusive households may be vulnerable to commercial sexual exploitation.”<sup>36</sup>

Judith K., 25, married at 14, told Human Rights Watch:

A houseboy in the house I was working in asked me to marry him. I agreed  
— because I saw marriage as my only option to escape mistreatment from

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<sup>32</sup> The World Bank, “The Consequences of Child Labor,” 2008, [http://siteresources.worldbank.org/DEC/Resources/84797-1154354760266/2807421-1222979971506/5435009-1222980070537/Consequences\\_of\\_Child\\_Labor.pdf](http://siteresources.worldbank.org/DEC/Resources/84797-1154354760266/2807421-1222979971506/5435009-1222980070537/Consequences_of_Child_Labor.pdf) (accessed July 22, 2014), p. 1.

<sup>33</sup> International Programme on the Elimination of Child Labour, Country Report, “2000/2001 Integrated Labour Force and Child Labour Survey,” p. xii. ILO, Child Domestic Work: Global Estimates 2012, [http://www.ilo.org/ipec/Informationresources/WCMS\\_IPEC\\_PUB\\_23235/lang--en/index.htm](http://www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_23235/lang--en/index.htm), (accessed July 22, 2014). Child domestic work refers to the “situation where children aged 5 to 17 years perform domestic tasks in the home of a third party or employer (with or without remuneration).” p.1.

<sup>34</sup> ILO, “Child Labor and Domestic Work,” <http://www.ilo.org/ipec/areas/Childdomesticlabour/lang--en/index.htm> (accessed August 8, 2014).

<sup>35</sup> Ibid. See also, The United Republic of Tanzania, “National Action Plan for the Elimination of Child Labor,” 2006, para 3.3. Also see, the Law of the Child Act, 2009, art. 78, which criminalizes the employment or engagement of a child in any kind of exploitative labor that deprives the child of his health or development, exceeds six hours a day, is inappropriate for his age, and does not provide adequate remuneration. The Employment and Labor Relations Act, No. 6 of 2004, in art. 5, prohibits employment of children under the age of 14 years. It also prohibits, in art. 5(3), the employment of children below 18 years in conditions considered hazardous by the ministers, including mines and factories. The Employment Act, however, in art. 5(2) allows for a child of 14 years to do light work, which is not likely to be harmful to the child’s health and development; and does not prejudice the child’s attendance at school. Tanzania is also party to ILO Convention No. 138 concerning the Minimum Age for Admission and Employment (Minimum Age Convention), adopted June 26, 1973, 1015 U.N.T.S. 297, entered into force June 19, 1976, ratified by Tanzania on December 16, 1998, and the ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (Worst Forms of Child Labor Convention), adopted June 17, 1999, 38 I.L.M. 1207, entered into force November 19, 2000, ratified by Tanzania on September 12, 2001.

<sup>36</sup> United States Department of Labor, “Findings on the Worst Forms of Child Labor: Tanzania,” 2012, p. 2.

my boss. My boss used to give me a lot of work without paying me. Many times I slept on a hungry stomach because my boss used to deny me food.<sup>37</sup>

Girls working in small-scale gold mining areas are frequently approached for sex, and some girls form relationships with or marry adult miners.<sup>38</sup> Yasmin D., a 15-year-old girl working at a small-scale gold mine in Mbeya region, told Human Rights Watch:

A lot of men approach me ... always showing me money... Sex work is very common... Most of those are working in the bar. Sometimes they stay here... they sacrifice themselves in the forest. They create a hut and stay.<sup>39</sup>

Witness J., 19, told Human Rights Watch she was 14 and in her final year of primary school when her stepfather chased her away from home because she was “mature” enough to look after herself. She told us that she found a job as a waitress, but she was overworked by her boss. She married shortly after: “He was a regular customer. One day he told me he was looking for a wife and asked me to marry him. I thought getting married would stop my suffering and my husband would take care of me. But I experienced a lot of suffering in the marriage.”<sup>40</sup>

## Adolescent Pregnancy

Tanzania has high rates of teenage pregnancy. According to the 2010 Tanzania Demographic and Health Survey, “44 percent of women are either mothers or are pregnant with their first child by age 19.”<sup>41</sup> Among young women aged 15–19, 23 percent have already begun childbearing; 17 percent are mothers, and an additional 6 percent are pregnant with their first child.<sup>42</sup>

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<sup>37</sup> Human Rights Watch interview with Judith K., Mwanza, March 31, 2014.

<sup>38</sup> Human Rights Watch, *Toxic Toil: Child Labor and Mercury Exposure in Tanzania’s Small-Scale Gold Mines*, August 2013, [http://www.hrw.org/sites/default/files/reports/tanzania0813\\_ForUpload\\_o.pdf](http://www.hrw.org/sites/default/files/reports/tanzania0813_ForUpload_o.pdf), pp. 40-42. “Some girls on and around mining sites, including those working in small restaurants preparing food for the miners (a common job for girls at mines), reported sexual harassment, being pressured into having sex, and commercial sexual exploitation. Girls who are sexually exploited are at risk of getting infected with HIV and other sexually transmitted infections.”

<sup>39</sup> Human Rights Watch interview with Yasmin D., 15, Chokaa Ward, Chunya District, December 11, 2012.

<sup>40</sup> Human Rights Watch interview with Witness J., Kishapu district, March 31, 2014.

<sup>41</sup> Tanzania National Bureau of Statistics and IFC Macro, “Tanzania Demographic and Health Survey,” 2010, p.64.

<sup>42</sup> Tanzania National Bureau of Statistics and IFC Macro, “Tanzania Demographic and Health Survey,” 2010, pp. xix and 64.

Women and girls in Tanzania have limited access to family planning services. The contraceptive prevalence rate is 34 percent among all currently married women and girls in Tanzania and 51 percent among sexually active unmarried women and girls age 15–49.<sup>43</sup> According to official statistics, “Only 12% of married girls aged 15–19 in Tanzania are using modern methods of contraception compared to 24% of married women aged 20–24 years.”<sup>44</sup>

Girls who are not in school are particularly vulnerable to marriage as parents fear that they will get pregnant and bring shame to the family. Ali K., 19, married when she was 16. She told us: “My parents and friends pressured me. They told me that since I had failed the Primary School Leaving Examinations and was not at school, I should get married to avoid getting pregnant.”<sup>45</sup>

When unmarried girls get pregnant, or a girl is suspected of being sexually active, parents and other caregivers may force her to marry her sexual partner. Sima P., 19, became pregnant when she was 16 and in her third year of secondary school. Her parents chased her away from her home, and she was forced to live with the man responsible for the pregnancy. They told her: “You do not come here with a pregnancy. Go to the man who is responsible for the pregnancy.”<sup>46</sup> Sima married her sexual partner.

Girls lack access to sex education and accurate information about contraception. They also have limited access to reproductive health services and lack the power to negotiate safe sex with men who usually entice them with money, gifts, and promises to educate or marry them. Several girls told Human Rights Watch that peer pressure is another contributing factor. Afafa Y., 17, did learn about contraception at school, but she did not use any when she started having sex due to false information and pressure from her boyfriend. She said, “My friends told me that if I use an injection it will kill my eggs, and that if I take tablets they will become a big lump in my stomach. My boyfriend also told me he could not use a condom because they have side effects.”<sup>47</sup> Afafa later became pregnant and her boyfriend paid dowry of 40,000 TSh (\$US25) to her family so they could get married.

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<sup>43</sup> Tanzania National Bureau of Statistics and ICF Macro, “Tanzania Demographic and Health Survey 2010,” p. 68. The contraception prevalence rate has increased from 26 percent of married women in 2004–2005 to 34 percent in 2010.

<sup>44</sup> UNFPA, “Marrying Too Young, End Child Marriage in Tanzania 2012,” 2012, [http://countryoffice.unfpa.org/tanzania/drive/UNFPACHILDMARRIAGE\\_BROCHURERL.pdf](http://countryoffice.unfpa.org/tanzania/drive/UNFPACHILDMARRIAGE_BROCHURERL.pdf) (accessed May 8, 2014).

<sup>45</sup> Human Rights Watch interview with Ali K., Lindi Rural, April 12, 2014.

<sup>46</sup> Human Rights Watch interview with Sima P., Mwanza, March 29, 2014.

<sup>47</sup> Human Rights Watch interview with Afafa Y., Lindi Rural, April 12, 2014.

The Tanzanian government has failed to ensure the provision of comprehensive sexuality education in primary and secondary schools, despite a “life skills” program—incorporated into existing subjects, such as biology, civics, languages, and work skills—that includes information on sexuality and family planning. Tanzania mainland lacks a national sexuality education curriculum, meaning there is no clear guidance for schools or teachers on what the subject covers and how it should be taught.<sup>48</sup> Instead, the sexuality education provided in Tanzanian schools is implemented in an ad hoc and limited manner.<sup>49</sup> In addition, the material covered in schools is not comprehensive, and there are concerns that schools promote an abstinence-only approach to sex education, while some teaching material contains information that is misleading and scientifically incorrect.<sup>50</sup> Furthermore, teachers are not well trained in the delivery of sex education and there is little monitoring to determine if it is being taught.

## Child Abuse and Neglect

My step-mother was mistreating me a lot. She made me to do most of the work while her children were not working. She often denied me food and would beat and verbally abuse me. I felt it was better I get married and get away from my step mother.

— Tina J., married at 15, Lindi Rural, April 2014

Violence against children is a significant problem in Tanzania.<sup>51</sup> Many children are “vulnerable to violence, exploitation, neglect and abuse.”<sup>52</sup> According to the 2011 National Survey on Violence Against Children, more than 8 in 10 girls and boys “aged 13 to 24 years

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<sup>48</sup> United Republic of Tanzania, Ministry of Education and Vocational Training, “National Life Skills Education Framework,” [http://hivhealthclearinghouse.unesco.org/sites/default/files/resources/Tanzania\\_National\\_Life\\_Skills\\_Education\\_Framework\\_Final\\_Draft.pdf](http://hivhealthclearinghouse.unesco.org/sites/default/files/resources/Tanzania_National_Life_Skills_Education_Framework_Final_Draft.pdf) (accessed June 9, 2014), 2010, p. v. Life skills is currently part of the school curriculum and includes topics on knowing oneself (self-awareness), relationship skills, cognitive skills, and sexual and reproductive health education. Also see, The Ministry of Education Circular No. 3 of 2000.

<sup>49</sup> Human Rights Watch interview with Dr. Kwezi Edith, district medical officer, Shinyanga, April 2, 2014.

<sup>50</sup> Center for Reproductive Rights, “Forced Out: Mandatory Pregnancy Testing and The Expulsion of Pregnant Students in Tanzanian Schools,” 2013, [http://reproductiverights.org/sites/crr.civicaactions.net/files/documents/crr\\_Tanzania\\_Report\\_Part1.pdf](http://reproductiverights.org/sites/crr.civicaactions.net/files/documents/crr_Tanzania_Report_Part1.pdf) (accessed July 22, 2014), pp. 26 and 28.

<sup>51</sup> United Republic of Tanzania, UNICEF, and CDC, “Violence Against Children in Tanzania, 2011,” [http://www.unicef.org/media/files/VIOLENCE\\_AGAINST\\_CHILDREN\\_IN\\_TANZANIA\\_REPORT.pdf](http://www.unicef.org/media/files/VIOLENCE_AGAINST_CHILDREN_IN_TANZANIA_REPORT.pdf) (accessed May 7, 2014), p. 1.

<sup>52</sup> UNICEF, “Child Protection,” 2011, [http://www.unicef.org/tanzania/ChildProtection\\_factsheet.pdf](http://www.unicef.org/tanzania/ChildProtection_factsheet.pdf) (accessed August 11, 2014).

who experienced sexual violence prior to age 18, also experienced physical violence.”<sup>53</sup> Sixty percent of children name adult relatives as the most common perpetrators of physical violence.<sup>54</sup>

Natalie F., 19, married when she was 14 after her father abandoned her mother:

My life turned for the worst after my mother remarried. When I reached Standard 5 [equivalent of grade 7], my step-dad warned me that I have to leave home after I finish Standard 7 since I would be grown up. After Standard 7 [equivalent of grade 9], he told me, “I cannot raise you when my own children are not staying with me, and I am not your biological father.” I went to the market and started vending food. Life on the streets was hard. I met a man who was a driver. He asked me to marry him and I agreed. He paid a dowry of 300,000 TSh (\$188).<sup>55</sup>

Children who are abused at home, or who lack financial and other material support from their parents or extended families, are more likely to get married early in the hope of finding a better life.

## Limited Access to Education

I passed my primary school exams and was selected to join secondary school. But my uncle told me, “I have no money to support a girl to go to school. I can never support a girl’s education.” So I got married.

— Kate M., married at 14, Kahama district, April 2014

Tanzania has achieved very high rates of primary school enrollment. Since the abolition of school fees for primary education and the requirement to send children to school, enrollment has increased: in 2000 only 59 percent of school aged children (7–13 years old) were enrolled in primary school; in 2011 it was 94 percent.<sup>56</sup>

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<sup>53</sup> United Republic of Tanzania and UNICEF, “Violence against Children in Tanzania: Findings From A National Survey 2009,” 2011, [http://www.unicef.org/media/files/VIOLENCE\\_AGAINST\\_CHILDREN\\_IN\\_TANZANIA\\_REPORT.pdf](http://www.unicef.org/media/files/VIOLENCE_AGAINST_CHILDREN_IN_TANZANIA_REPORT.pdf) (accessed May 8, 2014), p. 2.

<sup>54</sup> Ibid.

<sup>55</sup> Human Rights Watch interview with Natalie F., Kishapu district, April 1, 2014.

<sup>56</sup> UNICEF, “Education Equity and Quality: Tanzania,” [http://www.unicef.org/tanzania/6911\\_10874.html](http://www.unicef.org/tanzania/6911_10874.html), (accessed May 28, 2014).

However, girls with limited access to education may be more likely to get married. According to the UNFPA, of those women aged 20–24 who were married or in union at age 18, 61 percent had no education, and 39 percent had primary education, compared to only 5 percent of the women who had achieved secondary education or higher.<sup>57</sup> Most of the girls and women interviewed by Human Rights Watch were either not at school when they were married, or were forced by their families to drop out of school to get married.<sup>58</sup> Some married girls interviewed by Human Rights Watch had never been to school.

Tanzania’s constitution guarantees the right to education for all children.<sup>59</sup> The National Education Act, adopted in 1978, provides for compulsory primary education and also makes it an offense for any person to impregnate or marry a pupil.<sup>60</sup> In 2002, the government abolished school fees for primary education, although challenges remain in implementing this policy.<sup>61</sup> Abolition of school fees for primary education has led to an increase in primary school enrollment: in 2005, 7,541,208 children were enrolled and in 2012, this number increased to 8,247,172 children.<sup>62</sup> These challenges include overstretched infrastructure, shortage of equipment and materials, and inequitable distribution of teachers in schools.<sup>63</sup>

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<sup>57</sup> UNFPA, “Marrying Too Young: End Child Marriage in Tanzania,” 2013, [http://countryoffice.unfpa.org/tanzania/drive/UNFPACHILDMARRIAGE\\_BROCHURERL.pdf](http://countryoffice.unfpa.org/tanzania/drive/UNFPACHILDMARRIAGE_BROCHURERL.pdf), (accessed May 9, 2014).

<sup>58</sup> See Children’s Dignity Forum, “Report on Child Marriage Survey Conducted in Dar es Salaam, Coastal, Mwanza and Mara Regions,” <http://cdfzt.org/files/Child%20Marriage%20Baseline%20Survey%20-%20Dar%20es%20Salaam,%20Coastal,%20Mwanza%20and%20Mara%20region.pdf> (accessed May 28, 2014) 2008, p. 51. According to the report, respondents stated that children who have completed Standard 7 would be mature enough to enter into marriage, and would be better off getting married than staying idle.

<sup>59</sup> Constitution of the United Republic of Tanzania, art. 11.

<sup>60</sup> Education Act, No. 25 of 1978, art. 35. “It shall be compulsory for every child who has attained the age of seven years but has not attained the age of thirteen to be enrolled for primary education.” Also see, art. 60, Education Act, amended by art. 170 of the Law of the Child Act, 2009. Also see, art. 2, Education Act, a pupil refers to a person who is enrolled at any school for the purposes of receiving education.

<sup>61</sup> “Harmonization of Laws on Children in Tanzania Country Brief,” <http://acerwc.org/wp-content/uploads/2012/05/English-ACERWC-Tanzania-Harmonisation-of-Laws-on-Children.pdf> (accessed May 8, 2014), p. 7.

<sup>62</sup> The Ministry of Education and Vocational Training Policy, 2012, art. 1.1. Primary school enrollment increased from 3,855,712 boys and 3,685,496 girls in 2005, to 4,086,280 boys and 4,160,892 girls in 2012. See also, United Republic of Tanzania, “National Strategy for Growth and Poverty Reduction II, 2010,” <https://extranet.who.int/nutrition/gina/sites/default/files/TZA%202010%20NSGRP%20II.pdf> (accessed May 28, 2014), p. 10.

<sup>63</sup> United Republic of Tanzania, “National Strategy for Growth and Poverty Reduction II, 2010,” p. 11. Also see, The Ministry of Education and Vocational Training Policy, 2012, art. 1.1.

Despite government efforts to improve access to education there are still clear gender gaps in education and literacy. The literacy rate for men is higher at 82 percent, than for women at 72 percent.<sup>64</sup>

Girls face several important obstacles to education, notably gender stereotypes about the value of educating girls, school fees for secondary schooling and school-related costs, and the entry exam for secondary school. In addition, girls are usually expelled from school if they get pregnant.

In Tanzania, girls are more likely to be withdrawn from school when families face financial constraints because of their low social status and the costs of educating them.<sup>65</sup> Primary education is free of charge, according to the law, but parents must pay related school costs such as uniform, text books, and testing fees, which many cannot afford.<sup>66</sup> Secondary school education is not free, with fees ranging from \$400 to \$800 per year for government schools. School fees represent a major obstacle for parents wishing to keep their children in school and increase girl's risk of dropping out.<sup>67</sup> According to Japheat Daud, program director of Agape AIDS Control Program in Shinyanga, an NGO working on child marriage: "Some parents do not value a girls' education because they think her value is in marriage."<sup>68</sup>

Amber T., 18, married when she was 15 after completing Standard 7 (equivalent to grade 9). She said, "I passed [the exam] to go to secondary school. My mother did not have money to send me to secondary school. She then forced me to get married saying it was improper for me to stay at home."<sup>69</sup>

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<sup>64</sup> United Republic of Tanzania National Bureau of Statistics and IFC Macro, "Tanzania Demographic and Health Survey 2010," p. 36.

<sup>65</sup> According to UNESCO, "Global Partnership for Girls and Women's Education: One Year On," [http://www.unesco.org/eri/cp/factsheets\\_ed/TZ\\_EDFactSheet.pdf](http://www.unesco.org/eri/cp/factsheets_ed/TZ_EDFactSheet.pdf) (accessed May 17, 2014), poverty remains the main challenge to the improvement of girls' secondary education and increases girls' risk of dropping out of school.

<sup>66</sup> United Nations Economic and Social Council, "Concluding Observations on the Initial to Third Reports of the United Republic of Tanzania," December 13, 2012, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/TZA/CO/1-3&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/TZA/CO/1-3&Lang=En), (accessed May 15, 2014), p. 6.

<sup>67</sup> According to Elimu Africa-Education Africa, <http://www.elimuafrica.org/page20/page9/page9.html> (accessed August 31, 2014), "If the student is placed in a secondary school in another village or city, there is a cost for boarding and travel, which can bring the total up to \$900 or more."

<sup>68</sup> Human Rights Watch interview with Japheat Daud, program coordinator, Agape AIDS Control Program, Shinyanga, March 31, 2014.

<sup>69</sup> Human Rights Watch interview with Amber T., Kahama district, April 2, 2014.

The completion of primary school in Tanzania is marked by taking the Primary School Leaving Examination (PSLE).<sup>70</sup> The PSLE is not used as an assessment tool, but as a selection tool to determine which pupils proceed to secondary school. <sup>71</sup> Pupils who fail their exam cannot retake it or be admitted to a government secondary school.<sup>72</sup> This policy undermines children’s transition to secondary school and exposes girls to child marriage.<sup>73</sup> The new Education and Training Policy fails to address this critical issue and is silent on whether pupils who fail the exam can retake it at a later time. Parents and guardians of children who have failed the PSLE may send their children to private secondary schools, but many cannot afford to pay private school fees.

Salia J., 19, was forced to marry at 15 after failing the primary school exam: “My only option was to join a private secondary school, but my parents are poor. My father decided to get me a man to marry me because I was staying at home doing nothing.”<sup>74</sup> Human Rights Watch interviewed several girls who said they married under similar circumstances.

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<sup>70</sup> UNESCO, “World Data on Education,” seventh edition, 2010/2011, [http://www.ibe.unesco.org/fileadmin/user\\_upload/Publications/WDE/2010/pdfversions/United\\_Republic\\_of\\_Tanzania.pdf](http://www.ibe.unesco.org/fileadmin/user_upload/Publications/WDE/2010/pdfversions/United_Republic_of_Tanzania.pdf) (accessed May 28, 2014).

<sup>71</sup> The Republic of Tanzania Education Sector Development Programme, “Education Sector Performance Report 201/2012,” September 2012, [http://www.ed-dpg.or.tz/pdf/ESPR%20and%20AM/JESR%20201112\\_Education%20Sector%20Performance%20Report.pdf](http://www.ed-dpg.or.tz/pdf/ESPR%20and%20AM/JESR%20201112_Education%20Sector%20Performance%20Report.pdf) (accessed August 28, 2014), p. 46.

<sup>72</sup> Ibid.

<sup>73</sup> Letter by Human Rights Watch and Tanzania Child Rights Forum, “Access to Secondary Education in Tanzania,” March 26, 2014, (accessed August 28, 2014).

<sup>74</sup> Human Rights Watch interview with Salia J., Lindi Rural, April 12, 2014.

### III. Impacts of Child Marriage in Tanzania

Child marriage violates a range of human rights recognized under international law. These include the right to bodily integrity and to be free from violence, the right to education, the right to decide when and who to marry, and the right to the highest attainable standard of health.

#### Barring Girls from Education

I married when I was 14. Marrying early affected my life in a big way. My dream was to study to be a journalist. Until today, when I watch news or listen to the radio and someone is reading news, it causes me a lot of pain because I wish it were me presenting.

— Sharon J., married at 14, Kishapu district, April 2014

Many of the girls interviewed by Human Rights Watch linked the difficulties they faced in their marriages, including violence and poverty, to their limited educational opportunities. Almost all of them regretted not being able to complete their education and asked that the government take measures to ensure girls who get pregnant or marry while in school are not denied an education.

Studies have shown that girls who continue their education, especially to secondary school, are more likely to invest in their own children's education, enabling them to become economically independent.<sup>75</sup> At the same time, children of young and illiterate mothers tend to face the same cycle of childhood deprivation and abuse.<sup>76</sup>

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<sup>75</sup> UNICEF "State of the World's Children," 2014, [http://www.unicef.org/sowc2014/numbers/documents/english/SOWC2014\\_In%20Numbers\\_28%20Jan.pdf](http://www.unicef.org/sowc2014/numbers/documents/english/SOWC2014_In%20Numbers_28%20Jan.pdf), p. 18. See also, UNICEF Innocenti Digest, "Early Marriage: Child Spouses," No. 7, March 2001, <http://www.unicef-irc.org/publications/pdf/digest7e.pdf> (accessed May 28, 2014), p. 16. See also, UNESCO, "Education for All Global Monitoring Report: Education Enhances Job Opportunities," [http://www.education-transforms.org/en/?portfolio=test-education-enhances-job-opportunities#.U\\_-WhsVdWSo](http://www.education-transforms.org/en/?portfolio=test-education-enhances-job-opportunities#.U_-WhsVdWSo) (accessed August 28, 2014). "In Tanzania, 82 percent of workers who have less than primary education, live below the poverty line. By contrast, working adults with primary education are 20 percent less likely to be poor, while secondary education reduces the chances of being poor by almost 60 percent."

<sup>76</sup> UNICEF Innocenti Digest, "Early Marriage: Child Spouses," No. 7, March 2001, p. 11.

Few of the currently married or formerly married girls interviewed by Human Rights Watch were enrolled in school after marriage. Although married girls may attend vocational schools or centers – and Human Rights Watch did interview some girls who were attending these schools – they face many barriers to enrolling and remaining in them.<sup>77</sup> Several girls interviewed were assisted by local NGOs to leave forced marriages before they had started living with their husbands and are now enrolled in school.

### *Pregnancy and Marriage*

In Tanzania, marriage usually ends girls' education. Married or pregnant pupils are routinely expelled or excluded from school.<sup>78</sup> Although not an official policy, Tanzanian schools also routinely conduct mandatory pregnancy tests and expel pregnant girls.<sup>79</sup> The 2013 Ministry of Education and Vocational Training Tool Kit recommends conducting periodic pregnancy tests as a way of curbing teenage pregnancies in schools.<sup>80</sup> The new Education and Training Policy is regrettably silent on whether married students can continue with school, although it does make provisions for the readmission of girls after they have given birth and “for other reasons.”<sup>81</sup>

According to available government data, 4,705 girls in secondary school and 2,433 girls in primary school dropped out of school due to pregnancy in 2012.<sup>82</sup> The government does not appear to collect data on the numbers of girls who are expelled because they are pregnant or married.<sup>83</sup> Human Rights Watch interviewed several girls who were expelled

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<sup>77</sup> Vocational Education and Trainings Act, Cap 82, R.E 2006, art. 2. Vocational training center means any place or institution where vocational education or training is provided.

<sup>78</sup> Education (Expulsion and Exclusion of Pupils from Schools) Regulations, 2002, art. 4. A student may be excluded or expelled from school for reasons that include: persistent and deliberate misbehavior of the pupil (such as endangering the general discipline or the good name of the school), committing a criminal offense such as theft, malicious injury to property, prostitution, drug abuse or an offense against morality, or if a pupil has entered into wedlock. These regulations apply to all primary and post-primary schools. Exclusion refers to the refusal of admission or readmission of pupils as defined in Mainland Tanzanian school regulations, while expulsion refers to the permanent removal of a pupil from school as defined in Mainland Tanzanian school regulations.

<sup>79</sup> United Nations Economic and Social Council, “Concluding Observations on the Third Reports of the United Republic of Tanzania,” December 13, 2012, para 27.

<sup>80</sup> Ministry of Education and Vocational Training, “School Improvement Tool Kit: Practical Guide for Head Teachers and Head of Schools,” July 2013, [http://www.moe.go.tz/index.php?option=com\\_docman&task=doc\\_view&gid=220&Itemid=622](http://www.moe.go.tz/index.php?option=com_docman&task=doc_view&gid=220&Itemid=622) (accessed August 28, 2014), p. 12.

<sup>81</sup> The Ministry of Education and Vocational Training, “Education and Training Policy,” art. 3.3.

<sup>82</sup> Ministry of Education, “Best Education Statistics for Tanzania (BEST),” 2013, T4.10 Drop & Chart 4.8 and T2.13 DropOChrt 2.7.

<sup>83</sup> According to the Ministry of Education, “Best Education Statistics for Tanzania (BEST),” 2012 and 2013, available to Human Rights Watch, there is no data on the number of girls expelled because they are pregnant or married. The data of students dropping out of school because of marriage is included in the category of “other” reasons students drop out of school.

from school because they were pregnant. Others said they stopped attending school after finding out they were pregnant because they feared expulsion.<sup>84</sup>

Sharon J., 19, was expelled when she was in her final year of primary school: “When the head teacher found out that I was pregnant, he called me to his office and told me, ‘You have to leave our school immediately because you are pregnant.’”<sup>85</sup> A head teacher at Farkwa Secondary School said, “When we find a pregnant pupil in school, we call a school board meeting where we agree to expel the pupil.”<sup>86</sup>

The practice of expelling pregnant girls is not explicitly mandated by law or policy, but the government has done little to stop it and the consequent denial of girls’ right to education.<sup>87</sup> School and government officials frame the practice of expelling pregnant girls as part of an effort to prevent adolescent pregnancy, and as a disciplinary measure. There is also a notion among many members of the community that motherhood is incompatible with education.<sup>88</sup> The provisions in the Education (Expulsion and Exclusion of Pupils from Schools) Regulations, 2002, are vague and fail to provide clear guidance on pregnancy. The regulations allow for schools to expel or exclude pupils who commit an offense “against morality,” which is often interpreted to mean that when a girl is pregnant, she has had sex out of wedlock.<sup>89</sup>

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<sup>84</sup> Center for Reproductive Rights, “Forced Out: Mandatory Pregnancy Testing and The Expulsion of Pregnant Students in Tanzanian Schools,” 2013, p. 9. “A pregnant student drops out of school because she (or her family) recognizes, or a school official makes clear, that expulsion from school on the basis of pregnancy is inevitable. In Tanzania Mainland, schools carry out pregnancy testing in a custodial context, in which the student is under the school’s control and supervision, the student’s consent is neither obtained nor sought, and the student has no meaningful opportunity to decline. In this regard, adolescent girls are effectively powerless to contest the practice. Pregnancy testing occurs in a context in which consent is not voluntarily or freely given because it is required as a precondition for admission to school.”

<sup>85</sup> Human Rights Watch interview with Jamida K., Kahama, April 1, 2014.

<sup>86</sup> Human Rights Watch interview with Bakari Abdallah Bakari, headmaster, Farkwa Secondary School, Chemba district, April 6, 2014.

<sup>87</sup> Human Rights Watch interview with Neema Kitundu, national coordinator, Forum for African Women Educationalists Tanzania (FAWETZ), Dar es Salaam, April 17, 2014. The Education (Expulsion and Exclusion of Pupils from Schools) Regulations, 2002, art. 4, allow for exclusion or expulsion of a student for reasons, including committing a criminal offense such as theft, malicious injury to property, prostitution, drug abuse or an offense against morality. The offense against morality is used as grounds for expelling pregnant girls, as it has been interpreted to mean that when a girl is pregnant, she has had sex out of wedlock. This means she has committed an offense against morality and should be expelled from school.

<sup>88</sup> Human Rights Watch interview with Zebadayo Kyomo, education adviser, Department for International Development (DFID), Dar es Salaam, April 15, 2014. Also, Human Rights Watch interview with Neema Kitundu, national coordinator, Forum for African Women Educationalists Tanzania (FAWETZ), Dar es Salaam, April 17, 2014.

<sup>89</sup> Human Rights Watch interview with Neema Kitundu, national coordinator, Forum for African Women Educationalists Tanzania (FAWETZ), Dar es Salaam, April 17, 2014.

To the government's credit, the 2014 Education and Training Policy enables girls to return to school following pregnancy, and also makes secondary education compulsory for all students up to Form 4 (equivalent to grade 12).<sup>90</sup> The new education policy calls on the government to remove barriers to education and training for all students, including ensuring that students who drop out of school due to pregnancy, or other reasons, have the opportunity to continue their studies. However, the policy is silent on allowing girls to continue with school during pregnancy and does not lay out clear procedures for their re-entry. In an interview a few months before the adoption of the law, the Minister of Education and Vocational Training acknowledged the government's shortcomings in addressing this issue:

We are struggling to enable all children to access education. I would be happy to have pregnant girls in school. We may need to work harder to provide facilities for pregnant girls in schools as we do with children with special needs.<sup>91</sup>

The Minister of Education and Vocational Training echoed the views of various persons interviewed for this report, that girls who get pregnant need to know "there are consequences," including missing out on education.

### *Access to Vocational Schools*

Although married girls may access vocational schools, many are unable to do so and face barriers in seeking to further their education.

There are few vocational schools and they are inaccessible to the majority of girls living in rural areas.<sup>92</sup> Girls who are able to enroll in vocational schools, find it difficult to continue their training due to the lack of child care and provision of early childhood development centers, distance, the need to do household chores, and controlling husbands.

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<sup>90</sup> Ministry of Education and Vocational Training, "Education and Training Policy," arts. 3.1.2, 3.1.3, and 3.3. The Cabinet passed the new Education and Training Policy in June 2014 with some recommendations to the Ministry of Education and Vocational Training. Human Rights Watch has not seen the new version with incorporated edits. At this writing, officials from the Ministry of Education and Vocational Training had not released the policy with incorporated recommendations.

<sup>91</sup> Human Rights Watch interview with Shukuru Kawambwa, minister of education and vocational training, Dodoma, April 8, 2014.

<sup>92</sup> Human Rights Watch telephone interview with Evance Tegete, managing director, Watoto Wetu Tanzania, May 7, 2014.

## Physical and Verbal Abuse, Sexual Violence

My parents forced me to marry when I was 16 because they wanted to get dowry. I said no and they threatened to chase me from home. I agreed to the marriage because I did not want to disrespect them. My husband beats me. When he beats me, he calls me names like “malaya” [prostitute] and “maskini” [pauper]. I am not allowed to visit my family. Even when there are visitors, I am not allowed to see them. Many times my husband forces me to have sex with him, which makes me feel so bad.

— Bantu H., married at 16, Dodoma Urban, April 2014

### *Violence against Girls Who Resist Marriage*

Girls interviewed by Human Rights Watch who have tried to resist marriage have been physically assaulted and verbally abused by their families. In some cases, families threatened to disown girls, or chased them away from home. Anita G., 19, told Human Rights Watch that her father forced her to marry a man when she was 16 whom she did not know, after the man made a dowry payment of 20 cows. Anita told her father she did not want to marry but preferred to continue her schooling—she was in her second year of secondary school. She asked her mother to speak to him:

My father became very angry and started beating me and my mother. He chased us away, and we sought refuge at my father’s sister’s home. My mother went back home but I remained. But I had no way out and eventually got married because my father had already accepted dowry for me.<sup>93</sup>

Her father forced Anita G. to leave school to get married.

Adelina O., 21, told Human Rights Watch that she was 17 when her mother forced her to marry. When she tried to resist the marriage, her mother threatened her saying: “If you do not want to marry this man, you should leave my house and never come back because you will have disrespected me.”

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<sup>93</sup> Human Rights Watch interview with Anita G., Kahama district, April 2, 2014.

Some families coerce or force girls into marriage by threatening them. Pion H. was 10 when her father tried to force her to undergo FGM and marry a much older man. Pion, now 12, refused and said she wanted to go to school. Her grandmother reprimanded her saying, “Your father will curse you and you will die because you disobey him.” Pion said, “I got very afraid and used to cry every day.”<sup>94</sup> Pion was later assisted by a local NGO, which prevented her from undergoing FGM and getting married, and enrolled her in school.

A health worker told Human Rights Watch about a 14-year-old girl forced to marry a 70-year-old man who had paid her father a dowry of 10 cows. The health worker tried to assist the girl: “I took her to school. While at school, someone gave her some herbs and she got a skin rash. She became very terrified about the skin rash, and said that her father had put a curse on her. She decided to leave school and marry the old man.”<sup>95</sup>

### *Physical, Verbal, and Emotional Violence in Marriage*

Most of the girls and women interviewed by Human Rights Watch said that they experienced violence during their marriage.

Patricia J., 17, married an 18-year-old man when she was 15, hoping to escape poverty at home. Her husband paid a dowry of 70,000 TSh (\$44). She eventually left the marriage and is staying with a friend:

My husband used to beat me almost every day. One day he came home and started making noises and threatening me saying he will burn me. I asked him why and he said, “Your father took my money because he is poor.” He told me to spread my legs open. I refused. He went outside the house and came with burning charcoal. He forced my legs open and pushed the burning charcoal into my vagina. I was helpless. All I could do was cry.<sup>96</sup>

Aida K., 22, married at the age of 17 after finishing primary school. She was married to her 21-year-old husband for three years but he eventually chased her away because she was not pregnant and married another woman. She told Human Rights Watch: “My husband

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<sup>94</sup> Human Rights Watch interview with Pion H., Kishapu district, March 31, 2014.

<sup>95</sup> Human Rights Watch interview with Elithak Kifaluka, public nurse, Hail District Hospital, Kilimanjaro, April 3, 2014.

<sup>96</sup> Human Rights Watch interview with Patricia J., Chemba district, April 6, 2014.

would despise me saying, ‘You are barren and useless. Even if you go away there is no problem. Your friend has a baby and you do not. You can leave my house if you want.’ I felt very bad and decided to leave the marriage.”<sup>97</sup>

Many girls interviewed by Human Rights Watch said their lives were controlled by their husbands through violence and threats. Some said they were lonely and isolated because they were confined to their homes to perform domestic and child-rearing duties, or because their movements were restricted by their husbands or in-laws. Several girls told Human Rights Watch that their husbands prevented them from contacting family or friends, going to the market, or looking for a job.

Rose M., a mother of 2, was married when she was 16. She told us: “I experienced a lot of problems in my marriage. We had no food or clothes. We washed our clothes with leaves. My husband beat me at least twice a week and he used to force me to have sex with him. Also, I was not allowed to go out of the home.”<sup>98</sup>

Natalie F., 19, married a 27-year-old man when she was 14. Natalie said about her marriage, “I had no power over anything. I could not make any decisions at home.”<sup>99</sup>

Some girls also told Human Rights Watch that they were abused by their husbands’ relatives, while some in polygamous unions said their co-wives abused them. Amani J., 18, married at the age of 16. She said that her father forced her to marry a 30-year-old-man who already had a wife. She told us that she faced abuse from her in-laws:

My husband’s first wife and his relatives hated me so much. The first wife would verbally abuse and threaten me saying, “I hate you. One day I will poison you because this is my husband and not yours.” My husband’s family also isolated me. They used to overwork me and deny me food.<sup>100</sup>

Girls sometimes attempt to leave abusive husbands and return to their own families, hoping to receive help, but girls interviewed by Human Rights Watch who tried to return to their

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<sup>97</sup> Human Rights Watch interview with Aida K., Mwanza district, March 29, 2014.

<sup>98</sup> Human Rights Watch interview with Rose M., Kahama district, April 2, 2014.

<sup>99</sup> Human Rights Watch interview with Natalie F., Kishapu district, March 31, 2014.

<sup>100</sup> Human Rights Watch interview with Amani J., Mpwapwa district, April 7, 2014.

families said that they are often told that all married women must tolerate abuse, and are then forced to return to their husbands.<sup>101</sup> Linda W., 18, married at the age of 14. She fled to her parent's home after her husband beat her, but her father tried to force her to return to him:

My husband was beating me every day. I went back home. My father tried to force me to go back to my husband. My husband came to get me but I said no. My father told him to beat me so that I agree to go back with him. My husband beat me severely but I still said no. He gave up beating me and went away. The next morning I escaped from my parents' home and went to seek help from a local organization.<sup>102</sup>

Catherine P. was 16 when her parents forced her to get married. She told Human Rights Watch her husband physically, verbally, and sexually abused her. She reported the abuse to her parents but they advised her: "Violence in a marriage is a normal thing and the wife has to be tolerant." When asked whether she had reported her husband to the police she said, "I can't report him to the police because my parents told me to tolerate him and I do not want to disrespect them."<sup>103</sup>

### *Sexual Violence in Marriage*

Many of the married and formerly married girls and women whom Human Rights Watch interviewed said their husbands forced them to have sex. Aisha S., 20, was 17 and in her third year of secondary school when her father forced her to marry a 45-year-old man. He paid her father a dowry of 300,000 TSh (\$200). She told Human Rights Watch: "My husband used to beat me brutally.... He used to force me to have sex. I tolerated his abuse till I gave birth and then I ran away. I now live with my grandmother."<sup>104</sup>

Penina K. was 14 when her parents forced her to marry a 32-year-old man. She told us she suffered sexual, physical, and verbal abuse from her former husband: "He forced me to have sex. I did not refuse because my parents had advised me to always do what my

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<sup>101</sup> Human Rights Watch interview with Maria F., traditional leader, Chemba, Dodoma, April 5, 2014. See also, World Health Organization, "Understanding and Addressing Violence Against Women: Intimate Partner Violence," 2012, [http://apps.who.int/iris/bitstream/10665/77432/1/WHO\\_RHR\\_12.36\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/77432/1/WHO_RHR_12.36_eng.pdf) (accessed June 9, 2014).

<sup>102</sup> Human Rights Watch interview with Linda W., Mpwapwa district, April 7, 2014.

<sup>103</sup> Human Rights Watch interview with Catherine P., Dodoma Urban, April 5, 2014.

<sup>104</sup> Human Rights Watch interview with Aisha S., Kahama district, April 2, 2014.

husband tells me, and not to deny him sex. I did not report him because my parents told me not to talk about my domestic problems with anyone.”<sup>105</sup>

Jana K. told Human Rights Watch that her husband physically and sexually abused her when she was pregnant. “My husband used to beat me at least two times a week. When I got pregnant, I was not interested in having sex with him. If I told him I did not want to have sex, he would start beating me and force me to have sex with him.”<sup>106</sup>

As is the case in many African countries, marital rape is not recognized as a crime under Tanzanian law.<sup>107</sup> This gap facilitates the sexual abuse of girls and women and leaves them with no remedy.<sup>108</sup> Coerced or non-consensual sex can have particularly long-lasting physical and mental health consequences for young girls because they are still at a formative stage of social and psychological development, shaping their identities and perspectives. Mental health implications may include a sense of worthlessness, depression, and suicidal thoughts.<sup>109</sup>

## Female Genital Mutilation

In Tanzania, FGM is practiced for various socio-cultural reasons depending on ethnic group, including as part of a ritual initiation into womanhood.<sup>110</sup> Among the ethnic groups of the Maasai and Gogo, where Human Rights Watch conducted its research, FGM is closely related to child marriage and is done primarily as a rite of passage to prepare girls for marriage.<sup>111</sup>

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<sup>105</sup> Human Rights Watch interview with Penina K., Kahama district, April 2, 2014.

<sup>106</sup> Human Rights Watch interview with Jana K., Kahama district, April 2, 2014.

<sup>107</sup> CEDAW, “Consideration of Reports Submitted by States Parties under Article 18 of the Convention, Concluding Observations of the Committee on the Elimination of Discrimination against Women: United Republic of Tanzania,” July 16, 2008, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-TZA-CO-6.pdf> (accessed May 27, 2014), para 119.

<sup>108</sup> Human Rights Watch interview with Dr. Helen Kijo Bisimba, executive director, Legal and Human Rights Center (LHRC), Dar es Salaam, April 16, 2014.

<sup>109</sup> United Republic of Tanzania, UNICEF and CDC, “Violence Against Children in Tanzania, 2011,” [http://www.unicef.org/media/files/VIOLENCE\\_AGAINST\\_CHILDREN\\_IN\\_TANZANIA\\_REPORT.pdf](http://www.unicef.org/media/files/VIOLENCE_AGAINST_CHILDREN_IN_TANZANIA_REPORT.pdf) (accessed May 7, 2014), pp. 61-62.

<sup>110</sup> Human Rights Watch interview with Dr. Helen Kijo Bisimba, executive director, Legal and Human Rights Center (LHRC), Dar es Salaam, April 16, 2014.

<sup>111</sup> Tanzania Women Judges Association, “Millennium Development Goal 3 Program (MDG 3), Tanzania: Stopping, Shaming and Naming the Abuse of Power for Sexual Exploitation: A Tool Kit by Tanzania Women Judges Association (TAWJA),” p. 25. Human Rights Watch interview with Dr. Helen Kijo Bisimba, executive director, Legal and Human Rights Center (LHRC), Dar es Salaam, April 16, 2014; Human Rights Watch interview with Francis Roman, program director, NAFGEM, Moshi, Kilimanjaro, April 4, 2014; Human Rights Watch interview with Jennifer Stanley Chiwute, program director, Inter-African Committee Tanzania–Dodoma Chapter (DIAC), Dodoma, April 7, 2014. FGM is performed by a traditional excisor called “ngariba.” Also see, Forward UK and Children’s Dignity Forum, “Voices of Child Brides and Child Mothers in Tanzania: A Peer Report on Child Marriage,” p. 6.

A Maasai traditional leader told Human Rights Watch, “In our land [community], you have to cut a girl before she gets married. Girls are cut between 10–15 years and they get married 2–3 months after being cut. There is a lot of pain when you combine FGM, and the forced marriage of a girl.”<sup>112</sup> A police officer at the Police Gender and Children’s Desk also told us: “Among the Maasai, FGM is linked to child marriage. When you hear there is a [FGM] ceremony taking place, know that a husband is also chosen.”<sup>113</sup>

The prevalence of FGM in Tanzania was estimated at 15 percent in 2010—a slight decline from 18 percent in 1996.<sup>114</sup> This decline may be attributable to an actual decline in the practice as a result of the legal prohibition or underreporting of the practice.<sup>115</sup> The prevalence of FGM is higher among women in rural areas than in urban areas and higher among those with low levels of education.<sup>116</sup> There are wide regional variations in the prevalence of FGM.<sup>117</sup> In Tanzania, FGM is carried out on girls throughout childhood.<sup>118</sup> The TDHS 2010 reports that the cutting of young girls is increasingly carried out at an earlier age, with the percentage of girls cut before their first birthday increasing from 28 percent in 2004–2005, to 37 percent in 2010.<sup>119</sup>

Pion H., 12, was 10-years-old and in her second year of primary school when her grandmother told her she was to undergo FGM and get married:

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<sup>112</sup> Human Rights Watch interview with Laizer Daudi, traditional leader for the Maasai people, Moshi, April 3, 2014.

<sup>113</sup> Human Rights Watch interview with Happiness Eliufoo, police officer, Police Gender and Children’s Desk, Hai Police Station, Moshi, April 3, 2014.

<sup>114</sup> United Republic of Tanzania and IFC Macro, “Tanzania Demographic and Health Survey,” 2010, p. 295. Also see, UNICEF, “Female Genital Mutilation/Cutting: A Statistical Overview and Exploration of the Dynamics of Change,” 2009, [http://www.unicef.org/esaro/FGCM\\_Lo\\_res.pdf](http://www.unicef.org/esaro/FGCM_Lo_res.pdf) (accessed July 22, 2014). It is estimated that 7.9 million girls and women in Tanzania have undergone FGM.

<sup>115</sup> United Republic of Tanzania and IFC Macro, “Tanzania Demographic and Health Survey,” 2010, p. 295.

<sup>116</sup> *Ibid.*

<sup>117</sup> CEDAW, “Considerations of Reports Submitted by States Parties under Article 18 of the Convention: United Republic of Tanzania,” April 16, 2007, paras 50-51. Also see, Legal and Human Rights Center, “Tanzania Human Rights Report,” 2013, p. 174. Also see, “28 Too Many, FGM in Tanzania,” 2013, pp. 35 and 38. FGM is practiced in eight regions of Tanzania: Arusha, Kilimanjaro, Dodoma, Singida, Iringa, Mtwara, Morogoro (Kilosa), and Mara region. Human Rights Watch conducted research among the Maasai and the Gogo ethnic groups. Among the Maasai communities, the FGM prevalence rate is estimated at 95 to 100 percent. In Dodoma, where the Gogo ethnic group resides, the FGM prevalence rate is estimated at 64 percent. Both the Maasai and the Gogo practice Type II FGM. Among the Maasai, FGM is performed on young girls aged between 7 and 16 years. Among the Gogo, FGM was originally performed on adolescent girls but is now reportedly secretly performed on infant girls.

<sup>118</sup> *Ibid.*, p. 297. Almost one in three women (thirty two percent) were circumcised by age one. The number of girls circumcised at age 13 or older is estimated at 27 percent.

<sup>119</sup> United Republic of Tanzania and IFC Macro, “Tanzania Demographic and Health Survey,” 2010, p. 297.

My grandmother told me, “You must stop school immediately. Get prepared to become a ‘real’ Maasai woman.” I started crying. I was afraid. I knew it [FGM and forced marriage] was going to happen because they told my sister the same thing. She was also 10-years-old when they cut her and forced her to marry a month later.<sup>120</sup>

A girl who has not undergone FGM may be socially ostracized and referred to as “rubbish” or “useless.”<sup>121</sup> If married, her in-laws may force her to undergo FGM.<sup>122</sup> Among the Maasai and Gogo ethnic groups, a girl who has undergone FGM fetches more dowry.<sup>123</sup> Human Rights Watch interviewed several girls who said they underwent FGM as preparation for marriage.

## Impact of Dowry Payment

Dowry payment is believed by some communities to give a husband and his family “property rights” over the wife.<sup>124</sup> Dowry payment may increase the likelihood of violence against women and girls, who may be unable to leave abusive relationships because they cannot afford to repay the dowry.<sup>125</sup> Dora P. told Human Rights Watch that her husband was physically and verbally abusive, and that whenever she complained, he would reply, “I bought you. Your father has taken my wealth so I own you. Do you think you can go anywhere?”<sup>126</sup>

Some girls told Human Rights Watch that they were beaten or threatened if they resisted marrying because their families did not want to lose the dowry. Annet R. told us her father

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<sup>120</sup> Human Rights Watch interview with Pion H., Kilimajaro region, April 5, 2014.

<sup>121</sup> 28 Too Many, FGM, Lets End it, “Country Profile: FGM in Tanzania,”

[http://www.28toomany.org/media/uploads/tanzania\\_final\\_final\\_final.pdf](http://www.28toomany.org/media/uploads/tanzania_final_final_final.pdf) (accessed May 28, 2014), 2013, p. 39.

<sup>122</sup> Human Rights Watch interview with Francis Roman, program director, NAFGEM, Moshi, Kilimanjaro, April 4, 2014.

<sup>123</sup> Human Rights Watch interview with Dr. Helen Kijo Bisimba, executive director, Legal and Human Rights Center (LHRC), Dar es Salaam, April 13, 2014.

<sup>124</sup> CEDAW, “Tanzania Non-Governmental Organization’s Shadow Report to CEDAW: The Implementation of the Convention on the Elimination of all Forms of Discrimination Against women,” [http://www.iwraw-ap.org/resources/pdf/41\\_shadow\\_reports/Tanzania%20\\_SR.pdf](http://www.iwraw-ap.org/resources/pdf/41_shadow_reports/Tanzania%20_SR.pdf) (accessed June 13, 2014) p. 10.

<sup>125</sup> CEDAW “Tanzania Non-Governmental Organization’s Shadow Report to CEDAW: The Implementation of the Convention on the Elimination of all Forms of Discrimination Against women,” p. 10. See also, Center for Reproductive Rights, “Supplementary information on the United Republic of Tanzania Submitted to the Pre-Sessional Working Group of the Committee on Economic, Social, and Cultural Rights during its 47th Session, December 5-9, 2011,” 2011, [http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/TZA/INT\\_CESCR\\_NGO\\_TZA\\_14221\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/TZA/INT_CESCR_NGO_TZA_14221_E.pdf) (accessed May 9, 2014), p. 14.

<sup>126</sup> Human Rights Watch interview with Dora P., Kahama district, April 2, 2014.

forced her to get married, saying: “I have already taken dowry from your husband. You will have to marry him. If you do not marry him, I will disown you as my daughter.”<sup>127</sup>

Dowry also makes divorce and separation more difficult. Under some Tanzanian customary law systems, divorce is not widely accepted and in some cases, may only be possible when the dowry is repaid, a requirement that can put pressure on a woman to stay in a violent marriage because her family may be unable or unwilling to repay the dowry.<sup>128</sup>

Sofia V., 18, said her mother forced her to marry when she was 14 because she wanted to get dowry. Sofia agreed to the marriage because, “She is my mother and I had to listen to her.” Her husband beat her and often failed to provide financially for her and her children. She left him and sought help from her aunt. She told Human Rights Watch:

My mother called me asking why I had left with the baby because my husband was asking for his dowry. When my aunt heard this, she said to me, “This is your bus fare, take it and go to your husband.” I left my aunt’s home and went to live with my nephew for five months, but eventually went home to my mother. My mother was very angry with me and wanted me to take my baby to the father. I refused. I stayed with her but she was telling me harsh words all the time. She would say, “You are not giving me a good reason why you left your husband. You have put me in debt because I have to repay the dowry. If you want to stay here, return the baby to the father.” I decided to become a waitress to help my mother to repay the dowry. She returned some of the dowry but they are still demanding the rest.<sup>129</sup>

## Impact on Health

### *Physical Health Consequences*

I had complications during delivery. I bled a lot and almost died. I even fell unconscious during delivery because I had lost so much blood.

— Jamila G., married at 14, Kishapu district, March 2014

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<sup>127</sup> Human Rights Watch interview with Annet R., Kahama district, April 2, 2014.

<sup>128</sup> CEDAW, “Tanzania Non-Governmental Organization’s Shadow Report to CEDAW: The Implementation of the Convention on the Elimination of all Forms of Discrimination Against women,” p. 10.

<sup>129</sup> Human Rights Watch interview with Sophia V., Kishapu district, April 1, 2014.

Young mothers and their children face serious health risks associated with early pregnancy and childbirth. These increased risks are not only related to age, but also to girls' low levels of education, low social status, and lack of access to health-related information and health services.

Research in developing countries shows that complications from pregnancy and childbirth are the main cause of death among adolescent girls aged 15–19 in those countries.<sup>130</sup> Teenagers aged 15 to 19 years are twice as likely to die during pregnancy or childbirth compared to women over 20 years old.<sup>131</sup> Girls between the ages of 10 and 14 are 5 times more likely to die during delivery than mothers who are between 20 and 24.<sup>132</sup> The children of young mothers also face higher mortality rates.<sup>133</sup> Studies also show that Tanzania's widespread child marriage exacerbates the high maternal mortality rates. According to the United Nations, Tanzania was one of the 10 countries that together accounted for 58 percent of global maternal deaths in 2013.<sup>134</sup>

A midwife working at the maternity ward of Shinyanga Regional Hospital for more than 20 years said:

From my experience, I have seen that complications during delivery are higher in girls between 15–20 years and especially those younger than 15. Mortality is also higher among these girls. Sometimes they do not have

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<sup>130</sup> Save the Children, "State of the World's Mothers: Children Having Children," 2004, [http://www.ungei.org/resources/files/SaveTheChildren\\_SOWM\\_2004\\_final.pdf](http://www.ungei.org/resources/files/SaveTheChildren_SOWM_2004_final.pdf) (accessed May 13, 2014), p. 4.

<sup>131</sup> World Health Organization (WHO), "WHO Guidelines on Preventing Early Pregnancy and Poor Reproductive Outcomes Among Adolescents in Developing Countries," 2011, [http://whqlibdoc.who.int/publications/2011/9789241502214\\_eng.pdf](http://whqlibdoc.who.int/publications/2011/9789241502214_eng.pdf) (accessed January 8, 2014), p. 2.

<sup>132</sup> Ibid. Studies on other countries show that women who marry early have the highest proportion of unfavorable pregnancy outcomes at all stages throughout their childbearing years. S. Shawky and W. Millat, "Early Teenage Marriage and Pregnancy Outcome," *Eastern Mediterranean Health Journal*, 2000, vol. 6, issue 1, <http://www.emro.who.int/publications/emhj/0601/06.htm> (accessed July 22, 2014), pp. 46-54.

<sup>133</sup> Young mothers are less likely to get prenatal care and often do not have enough information about proper nutrition while pregnant. Babies born to young mothers run a 30 percent increased risk of dying during their first year of life. Babies may have a low birth weight as a consequence of their mother's poor nutritional status while pregnant, and babies with low birth weight are 5 to 30 times more likely to die than babies of normal weight. See Population Action International, "How Family Planning Protects the Health of Women and Children," May 1, 2006, [http://www.populationaction.org/Publications/Fact\\_Sheets/FS2/How\\_Family\\_Planning\\_Protects\\_the\\_Health\\_of\\_Women\\_and\\_Children.pdf](http://www.populationaction.org/Publications/Fact_Sheets/FS2/How_Family_Planning_Protects_the_Health_of_Women_and_Children.pdf) (accessed March 12, 2012), pp. 1-2; Nawal M. Nour, "Health Consequences of Child Marriage in Africa," November 2006, [http://wwwnc.cdc.gov/eid/article/12/11/06-0510\\_article.htm](http://wwwnc.cdc.gov/eid/article/12/11/06-0510_article.htm) (accessed July 22, 2014).

<sup>134</sup> WHO, UNICEF, UNFPA and the World Bank, "Trends in Maternal Mortality: 1990-2013," [http://apps.who.int/iris/bitstream/10665/112682/2/9789241507226\\_eng.pdf?ua=1](http://apps.who.int/iris/bitstream/10665/112682/2/9789241507226_eng.pdf?ua=1) (accessed January 9, 2014), p. 21.

breast milk to feed the baby. In January, February, and March 2014, 30 girls between the ages of 14 and 16 gave birth through caesarian section because their bodies were not physically mature for normal delivery. In the same three months, 438 girls aged below 20 delivered here.<sup>135</sup>

The district medical officer of Shinyanga district said:

In January to December 2013, we had 1,508 pregnant girls below the age of 20 who suffered from risk factors of hypertension, anemia, and hemorrhage. Only 680 pregnant women above the age of 20 suffered the same risk factors. The big difference clearly shows that age is a big factor in pregnancy related complications among young girls.<sup>136</sup>

Aisha S. married at 17 and became pregnant shortly afterwards. She said:

I got complications during delivery. I was unable to push and I was weak with no energy. The nurses said I was getting complications because my body was not fully developed. To pull out the baby, the nurses forced their hands inside my body and pulled the baby out. I felt so much pain that I was not able to walk for a whole month after delivery.<sup>137</sup>

Due to physical immaturity, young girls are more susceptible to obstructed labor, which is a leading cause of maternal mortality globally.<sup>138</sup> Obstructed labor also causes obstetric fistula, a childbirth injury that leaves its victims with urine or fecal incontinence.<sup>139</sup> Studies show that, although factors such as lack of access to timely and adequate maternity care are predisposing factors, physical immaturity is the key risk for developing obstetric fistula

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<sup>135</sup> Human Rights Watch interview with Fatuma Bwanga, nursing officer in the maternity ward and Selina Mpemba, assistant nursing officer in the maternity ward, Shinyanga Regional Government Hospital, Shinyanga, April 1, 2014.

<sup>136</sup> Human Rights Watch interview with Dr. Edith Kwezi, district medical officer, Shinyanga Region, April 1, 2014. These statistics are from the report for reproductive and child health, January to December 2013, provided to us by Dr. Edith Kwezi during the interview. These statistics are of girls who delivered at Shinyanga Regional Hospital. The given statistics were not available in percentages.

<sup>137</sup> Human Rights Watch interview with Aisha S., Kahama, April 2, 2014.

<sup>138</sup> Nawal Nour, "An Introduction to Maternal Mortality," *Journal of Obstetrics and Gynecology*, Vol. 1, No. 2 (2008), p. 77-81.

<sup>139</sup> See Amy Tsui et al., "The Role of Delayed Childbearing in the Prevention of Obstetric Fistulas," *International Journal of Gynecology and Obstetrics*, vol. 99 (2007), p. 98; WHO, "Obstetric Fistula: Guiding Principles for Clinical Management and Programme Development," p.3; and UNFPA, "Marrying too Young: End Child Marriage," p. 22.

for girls under 15.<sup>140</sup> Tanzania has high rates of obstetric fistula.<sup>141</sup> It is estimated that 3,700 new fistula cases occur annually in Tanzania.<sup>142</sup>

### *Psychological Consequences of Child Marriage*

As illustrated by the accounts of women and girls who were married as children, child marriage can have profound psychological health consequences for girls, particularly younger girls, and these consequences may impact women throughout their lives. Many of the girls and women said they were unhappy in their marriages and regretted having been married early.

Some girls with whom Human Rights Watch spoke said they contemplated suicide to avoid getting married. Rose M., 20, was 16 and in Standard 6 (equivalent to grade 8) when her father forced her to leave school to get married because she was “big” enough. She said, “I felt very sad when my father forced me to leave school and get married. I wanted to commit suicide.... I saw it as my only solution to avoid getting married to a man I did not know.”<sup>143</sup>

Hadija C., 19, was married at 14 and has 2 children. She has since left the marriage. She told Human Rights Watch: “I felt lonely and I was always crying. My husband used to force me to have sex. I kept thinking to myself that if I was not married I would have finished my studies.”<sup>144</sup> Agnes J., married at 17, told us: “I felt very sad. I regretted marrying. What kept me going was the hope that one day he would travel on a long journey and I would run away.”<sup>145</sup>

Agatha K., 11, was 7 when her father tried to force her into marriage. She told Human Rights Watch: “My husband came in the morning to take me away to his home. As we were walking to my husband’s home, I started crying. I was crying because I did not want to get married. I was young to get married. A policeman saw me and asked me why I was crying. I told him I was being forced to get married. The policeman threatened to arrest my husband and he took me to an NGO.” Agatha is now at school with the help of a local organization.

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<sup>140</sup> Nawal Nour, “An Introduction to Maternal Mortality,” *Journal of Obstetrics and Gynecology*, Vol. 1, No. 2 (2008), p. 12.

<sup>141</sup> UNFPA, “Using Mobile Phones to Tackle Fistula in Tanzania,” May, 2011, <http://www.unfpa.org/public/home/news/pid/7697> (accessed January 21, 2014).

<sup>142</sup> Ibid. Also see, Population Council, “Healing Wounds, Instilling Hope: The Tanzania Partnership Against Fistula,” <http://www.popcouncil.org/uploads/pdfs/qcq/QCQ16.pdf> (accessed July 22, 2014), p. 6. Data on fistula are difficult to collect because of the stigma associated with the condition, the effort involved in reaching remote areas where many of those with fistula live.

<sup>143</sup> Human Rights Watch interview with Rose M., Kahama district, April 2, 2014.

<sup>144</sup> Human Rights Watch interview with Hadija C., Kahama district, April 2, 2014.

<sup>145</sup> Human Rights Watch interview with Agnes J., Kahama district, April 2, 2014.

## IV. Government Failure to Protect Girls from Child Marriage and Ensure Justice for Victims

Last year, there was a 14-year-old girl in a village called Elelai. She had passed Standard 7 to go to secondary school, but her father wanted her to marry an old man who had two wives. The case was reported to us. We arrested the parents and the husband to be, and they were taken to court. The court kept postponing the case and eventually the girl disappeared. That was the end of the case.

—Happiness Eliufoo, police officer, Police Gender and Children’s Desk, Hai district, April 2014

### Discriminatory, Contradictory, and Vague Laws on the Age of Marriage and Sexual Violence

Tanzania’s Marriage Act of 1971 permits child marriage for girls. It sets the minimum marriage age for girls at 15 with parental consent, and at 18 for boys.<sup>146</sup> It also permits the marriage of 14-year-old children when a court is satisfied that special circumstances exist, but fails to define what constitutes special circumstances.<sup>147</sup> The 2009 Child Act does not expressly prohibit child and forced marriage, but prohibits cultural practices that are dehumanizing or are injurious to the physical and mental well-being of a child, which could include child marriage.<sup>148</sup> The Penal Code of 1945 similarly does not expressly prohibit child marriage but prohibits the abduction of a woman with intent to marry, an offense that is punishable by seven years in prison.<sup>149</sup>

The Sexual Offences Special Provisions Act criminalizes rape, attempted rape, sexual exploitation of children, and defilement.<sup>150</sup> This law makes it an offense to have sex with a

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<sup>146</sup> Law of the Marriage Act, 1971, arts. 13(1) and 17.

<sup>147</sup> Law of the Marriage Act, 1971, arts. 13(1). See also, art.148, A person who is party to, or participates in, a marriage where either party is below the minimum marriage age commits an offense liable to 2 to 3 years in prison.

<sup>148</sup> Law of the Child Act, 2009, arts. 4, 5, 9 and 13.

<sup>149</sup> Penal Code Act, arts. 133 and 134.

<sup>150</sup> Penal Code Act, No. 21 of 1945, amended by the Sexual Offences Special Provisions Act (SOSPA), 1998, arts. 5 (e), 6, 7 and 12. The offense of rape includes when: “(1) a male person rapes a girl or a woman; (2) a male person commits the offense of rape if he has sexual intercourse with a girl or a woman under circumstances falling under any of the following descriptions: (a) not being his wife, or being his wife who is separated from him without her consenting to it at the time of the sexual intercourse; (b) with her consent where the consent has been obtained by the use of force, threats or intimidation by putting her in fear of death or of hurt or while she is in unlawful detention; (c) with her consent when her consent has been obtained at a time when she was of unsound mind or was in a state of intoxication induced by any drugs, matter or thing, administered to her by the man or by some other person unless proved that there was prior consent between the two;

girl under the age of 18.<sup>151</sup> It also prohibits sexual intercourse where consent is not “freely and voluntarily given by each of the parties” and where consent is obtained through coercion.<sup>152</sup> However, the Penal Code and the Sexual Offences Special Provisions Act do not criminalize marital rape and the Sexual Offences Special Provisions Act provides that a man who has sex with a girl below 18 years does not commit rape if “the woman is his wife who is fifteen or more of age, and is not separated from the man.”<sup>153</sup>

A magistrate explained that one of the challenges she faces in protecting girls from child marriage and marital violence:

The Marriage Act and SOSPA undermine our ability to protect girls and women from child marriage and marital rape. The Law of the Marriage Act allows a girl below 18 years to enter into a marriage. At the same time, SOSPA prohibits sexual relations with a girl below 18 years but says that a man does not commit the offense of rape if the woman is his wife, is 15 years and they are not separated.<sup>154</sup>

A police officer told Human Rights Watch:

We use the definition that a child is below 18. We do get these cases [child marriage] from teachers, NGOs, ward executive officers, and ward council leaders. After a case is reported we open an investigation. The challenge we face is that the law of marriage is contradictory with the Child Act [Law of the Child] that allows girls who have not reached 18 [years] and children to marry. So we prefer to talk to the parents to stop the marriage and take the girl back to school instead of prosecuting.<sup>155</sup>

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(d) with her consent when the man knows that he is not her husband, and that her consent is given because she has been made to believe that he is another man to whom, she is, or believes herself to be, lawfully married; (e) with or without her consent when she is under eighteen years of age, unless the woman is his wife who is fifteen or more years of age and is not separated from the man.” A person convicted of rape is liable to imprisonment of no less than 30 years, with corporal punishment, and a fine determined by the court.

<sup>151</sup> Sexual Offences Special Provisions Act, 1998, arts. 3 and 5.

<sup>152</sup> The Penal Code Act, 1945, art. 130, amended by the Sexual Offences Special Provisions Act, 1998, art. 5.

<sup>153</sup> The Penal Code Act, 1945, arts. 130, amended by the Sexual Offences Special Provisions Act, 1998, art. 5(e).

<sup>154</sup> Human Rights Watch telephone interview with Neema Gasabilie, resident magistrate, Shinyanga region, June 13, 2014.

<sup>155</sup> Human Rights Watch interview with Assistant Superintendent of Police, Pili Simon Misungwi; police officer in charge of Police Gender and Children’s Desk in Shinyanga region, Shinyanga, April 1, 2014. Most of the law enforcement officers, including police officers at Police Gender and Children’s Desks and social welfare officers, as well as NGOs who spoke to Human Rights Watch said they use the Law of the Child Act, 2009, to define a child as a person below 18. However, the

## Weak Enforcement of Existing Laws and Access to Justice

Women and girls are often reluctant to report cases of forced marriage and violence to the police. They lack confidence that the justice system will protect them, often because of its bribery and corruption. They also often do not know their rights and they are subject to threats of retaliation from the perpetrator and family, and to community pressure to solve conflicts internally. Poverty also plays a role. Those who do seek justice face many hurdles, including barriers to access the formal justice system and pressure to have matters adjudicated through problematic customary processes.

Madina H. was forced to marry when she was 16. She told Human Rights Watch she could not report her husband's physical abuse because he threatened her saying, "If you report me to the police, I will beat you even more and chase you away from my house."<sup>156</sup>

Various sources said that bribery of judicial and other government officials was a major barrier to successful prosecution of crimes against women and girls. A police officer at the Police Gender and Children's Desk told Human Rights Watch:

Some of the cases we take to court for prosecution are delayed or are not completed because perpetrators pay money to the magistrates. When magistrates are paid, all they do is keep postponing and adjourning cases during hearing sessions. When cases are delayed, the victims and witnesses give up on the case and stop coming to court.<sup>157</sup>

Janet G., now 19, married at 17. Her husband refuses to pay maintenance for their child: "I want to report my husband's abuse to the police but I do not have money to pay them to help me."<sup>158</sup>

A representative of an NGO working on child marriage and FGM told Human Rights Watch that they privately prosecuted a case in which 3 sisters, one 13 and two 14, were forced to

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challenge they face in protecting children from child marriage is the contradiction of the Law of the Child Act with the Law of the Marriage Act, 1971, which allows girls who have not yet reached 18 to marry.

<sup>156</sup> Human Rights Watch interview with Madina H., Mwanza, March 31, 2014.

<sup>157</sup> Human Rights Watch interview with Happiness Eliufoo, police officer at the Police Gender and Children's Desk, Hai police station, Moshi, April 2014.

<sup>158</sup> Human Rights Watch interview with Janet G., Mwanza, March 31, 2014.

undergo FGM and marriage. The NGO alleged the father of the girls bribed the magistrate to end the case: “After the magistrate was bribed, he ruled that there was no case for the girls’ father to answer, and that the case could not proceed to trial.”<sup>159</sup>

Almost all of the social welfare officers and NGO staffers working with women and children who spoke to Human Rights Watch mentioned a lack of awareness about rights as a key barrier to girls and women reporting child marriages and domestic violence. Most of the girls Human Rights Watch interviewed did not know about the laws on child marriage and violence, or that they could report their families for forcing them to marry. Many girls who had been abandoned by their husbands or whose boyfriends had refused to support their children did not know that they had a right to seek legal help to enforce the payment of child maintenance.

Kanoni K. was physically and verbally abused by her husband after being married at 14. She said, “I was very young. I thought violence was a normal thing in a marriage. I did not know I could go to the police.”<sup>160</sup>

Few Tanzanians have access to the formal legal system. Barriers include the high cost of legal fees, inability to access legal aid, long distances to courts that are located mainly in urban areas, lack of awareness about court procedures, and lack of juvenile courts.<sup>161</sup> Broader systemic weaknesses in the criminal justice system such as the lack of infrastructure, like fully equipped Police Gender and Children’s Desks, lack of government resources, and lack of trained personnel make it difficult for Tanzanians to seek and obtain justice. A small number of girls we interviewed told us they tried to file charges against perpetrators but no action was taken against the perpetrators.

Many serious marital problems are instead handled by traditional leaders, who apply the customary laws of Tanzania’s various ethnic groups. As child marriage is accepted in many

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<sup>159</sup> Human Rights Watch interview with Dr. Helen Kijo Bisimba, executive director, Legal and Human Rights Center, Dar es Salaam, April 16, 2014.

<sup>160</sup> Human Rights Watch interview with Kanoni K., Mwanza, March 30, 2014.

<sup>161</sup> Ministry of Community Development, Gender, and Children, “The National Action Plan for the Prevention and Eradication of Violence against Women and Children 2007-2015,” p.6. The 2009 Child Act provides a legal framework for a child protection system, including establishment of juvenile courts with powers to hear and determine all applications relating to child care, maintenance and child protection, including cases of child marriage and FGM. However, Tanzania has just one juvenile court, located in the capital city in Dar es Salaam and cases relating to children are heard in regular courts. This causes delays in determining matters relating to children, and thereby undermines children’s access to justice.

Tanzanian traditions and cultures, customary processes offer limited hope for redress and protection. Government officials, such as ward or council executives, are closest to communities and women and girls are more likely to seek help from them for forced marriage or marital violence.<sup>162</sup> However, these officials may also apply customary laws that allow them to use mediation and reconciliation to solve issues of violence, and their decisions frequently reflect deeply ingrained patriarchal views.<sup>163</sup>

Human Rights Watch documented several instances where perpetrators of violence against women and girls were permitted to pay compensation to the parents of the victim, or were allowed to marry their victims in cases of rape and defilement, in order to avoid criminal penalties. As already noted, when girls get pregnant out of wedlock, parents and guardians often force the girl to marry her sexual partner, regardless of whether the girl is not of legal age to consent to sex or the pregnancy is the result of rape.<sup>164</sup>

A ward executive officer confirmed the general lack of willingness among communities to report child and forced marriage cases:

I have handled very few cases of forced marriage. I receive only about two to three cases on average a year. The problem is many of these cases are not reported because they are solved at the local level in the village. At the village level, cases are solved by a perpetrator paying compensation in the form of money or livestock like cows, goats and sheep to the injured family.<sup>165</sup>

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<sup>162</sup> The Local Government Laws (Miscellaneous Amendments), Act No. 13 of 2006, arts. 4 (p) and 94 (1). Also see, UNICEF, “Violence Against Children,” [http://www.tzdp.org.tz/fileadmin/documents/dpg\\_internal/dpg\\_working\\_groups\\_clusters/cluster\\_2/health/DPGH\\_Meeting\\_Documents\\_2011/Violence\\_Against\\_Children\\_in\\_Tanzania.pdf](http://www.tzdp.org.tz/fileadmin/documents/dpg_internal/dpg_working_groups_clusters/cluster_2/health/DPGH_Meeting_Documents_2011/Violence_Against_Children_in_Tanzania.pdf) (accessed July 22, 2014). Ward and village executive officers are employed by the Ministry of Local Government and are responsible for the day to day management of wards and villages. They have the duty to safeguard and promote the welfare of children within their jurisdiction. Their other duties include resolving conflicts and disputes that arise among residents, including gender-based violence.

<sup>163</sup> Human Rights Watch interview with Valerie Msoka, executive director, Tanzania Media Women’s Association (TAMWA), Dodoma, April 8, 2014.

<sup>164</sup> Penal Code Act, 1945, art. 130, amended by the Sexual Offences Special Provisions Act (SOSPA), 1998, art. 5. The age of sexual consent is 18. See also, Human Rights Watch telephone interview with Eliezer Felishi, director of public prosecutions, Tanzania, May 9, 2014.

<sup>165</sup> Human Rights interview with Emmanuel K. Kalolo; ward executive officer, Kahama district, April 2, 2014.

Customary adjudication processes generally favor restorative and consensual solutions over punitive ones.<sup>166</sup> While these are accepted ways of settling disputes within communities, the failure of customary procedures to address the criminal elements of gender-based crimes leaves victims without adequate remedy. In addition, they create opportunities for families and husbands to intimidate women, and coerce them into marriages or to continue in marriages that they did not want or with abusive husbands.

## Weakness in Child Protection

The government of Tanzania has adopted child protection legislation, policies, and action plans.<sup>167</sup> The Law of the Child Act, 2009, establishes a legal framework for child protection.<sup>168</sup> In addition, following the outcomes of a national study on various forms of violence against children, the government developed the National Plan of Action (NAP) to guide the provision of high quality services dedicated to preventing and responding to violence as part of the national child protection system through multi-sectoral collaboration.<sup>169</sup> The Child Act puts obligations on local government authorities, including social welfare officers, to safeguard and promote the welfare of children within its area of

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<sup>166</sup>Champion and International Center for Research on Women, “Help-Seeking Pathways and Barriers for Survivors of Gender-based Violence in Tanzania,” 2013, <http://www.engenderhealth.org/files/pubs/localized/tanzania/CHAMPION-GBV-Pathways-and-Barriers-report.pdf>, (accessed May 6, 2014), p. 26. Ward council officers, including ward executive officers and village executive officers are mandated to provide advice, counseling, mediation, and reconciliation for cases of gender-based violence. The Local Government Laws (Miscellaneous Amendments), Act No. 13 of 2006, arts. 4 (p), establishes ward executive officers. Also see, Champion and International Center for Research on Women, “Help-Seeking Pathways and Barriers for Survivors of Gender-based Violence in Tanzania,” 2013, <http://www.engenderhealth.org/files/pubs/localized/tanzania/CHAMPION-GBV-Pathways-and-Barriers-report.pdf>, (accessed May 6, 2014), p. 26. Ward executive officers and village executive officers are leaders in the local government district overseeing developmental activities in the wards.

<sup>167</sup> United Republic of Tanzania, “Multi-Sector National Plan of Action to Prevent and Respond to Violence against Children June 2013-June 2016.” [http://www.tanzania.go.tz/egov\\_uploads/documents/National\\_Response\\_to\\_Violence\\_Against\\_Children\\_sw.pdf](http://www.tanzania.go.tz/egov_uploads/documents/National_Response_to_Violence_Against_Children_sw.pdf) (accessed May 28, 2014). See also Ministry of Health and Social Welfare, “National Costed Plan of Action for Most Vulnerable Children for 2013 to 2017.” This action plan targets children living with severe deprivations, such as orphans and children engaged in the worst forms of child labor, and is led by the Ministry of Health and Social Welfare, in conjunction with other ministries, development partners, and stakeholders.

<sup>168</sup> Child Act 2009, arts. 97 and 98, provides for the establishment of juvenile courts with powers to hear and determine all applications relating to child care, maintenance, and protection. See also, Human Rights Watch telephone interview with Eliezer Felishi, director of public prosecutions, May 9, 2014. Tanzania has just one juvenile court, located in the capital, Dar es Salaam, and cases relating to children are heard in regular courts. This causes delays in determining matters relating to children, and thereby undermines children’s access to justice.

<sup>169</sup> United Republic of Tanzania, “Multi-Sector National Plan of Action to Prevent and Respond to Violence against Children June 2013-June 2016”. Ministry of Health and Social Welfare, “National Costed Plan of Action for Most Vulnerable Children for 2013 to 2017.”

jurisdiction.<sup>170</sup> UNICEF is supporting the government to establish child protection teams in Tanzania to protect children from abuse and expedite cases of abuse against children.<sup>171</sup>

However, despite this legal framework, the government is failing to implement child protection laws, policies, and action plans effectively throughout the country. The lack of support, including adequate resources and training, provided to relevant authorities in child protection has undermined the effectiveness of the relevant laws, policies, and the NAP.

The acting regional social welfare officer of Kilimanjaro, Agnes Humphrey Urassa, said:

We do not have adequate training on issues around child protection. We lack adequate resources to facilitate our work. This undermines our ability to make timely interventions on cases of child abuse and child marriage. We are also unable to sometimes follow up on whether girls are later married off, effective follow up in cases of abuse of children.<sup>172</sup>

## Customary Laws and Practices that Undermine Rights

Customary laws and practices tend to discriminate against women in matters related to marriage.<sup>173</sup> Customary and Islamic laws and practices consider puberty as the age of majority and use it to determine when a girl is ready for marriage.<sup>174</sup> They also promote practices such as polygamy and wife inheritance.<sup>175</sup> Customary laws also do not recognize marital rape.<sup>176</sup>

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<sup>170</sup> The Law of the Child Act, 2009, arts. 16, 17, 18, and 94.

<sup>171</sup> Human Rights Watch interview with Birgithe Lund-Henrisken, chief, Child Protection, UNICEF, April 14, 2014.

<sup>172</sup> Human Rights Watch interview with Agnes Humphrey Urassa, acting regional social welfare officer, Kilimanjaro, April 4, 2014.

<sup>173</sup> CEDAW, “Consideration of Reports Submitted by States Parties under Article 18 of the Convention, Combined Fourth, Fifth and Sixth Periodic Reports, Tanzania,” April 16, 2007, [http://www.bayefsky.com/reports/tanzania\\_cedaw\\_c\\_tza\\_6\\_2006.pdf](http://www.bayefsky.com/reports/tanzania_cedaw_c_tza_6_2006.pdf) (accessed May 7, 2014), paras 11, 17, and 25.

<sup>174</sup> Tamar Ezer et al, “Child Marriage and Guardianship in Tanzania: Robbing Girls of Their Childhood and Infantilizing Women,” <http://winafrica.org/wp-content/uploads/2011/08/Child-Marriage-Guardianship-in-Tanzania.pdf> (accessed May 28, 2014), p. 361.

<sup>175</sup> The Marriage Act, 1971, arts. 9 and 10; Judicature and Application of Laws Act, Chapter 358, arts. 11(1) and 11(2); Local Customary Law (Declaration) (No.4) Order, Government Notice No. 436 of 1963. See also, CEDAW “Tanzania Non-Governmental Organization’s Shadow Report to CEDAW: The Implementation of the Convention on the Elimination of All Forms of Discrimination against Women,” p. 10.

<sup>176</sup> See, Tanzania Women Judges Association, “Millennium Development Goal 3 Program (MDG 3)—Tanzania, 2009 to 2011,” [http://www.iawj.org/Tanzania\\_Country\\_Report.pdf](http://www.iawj.org/Tanzania_Country_Report.pdf) (accessed May 8, 2014), p. 13. The overall culture of women’s submissiveness to men makes it difficult for many women to believe there is marital rape.

The Judicature and Application of Laws Act and the Local Customary Law (Declaration) (No.4), Order of 1963 allow for the application of customary and Islamic laws in matters of marriage, divorce, guardianship, inheritance, and similar matters in Tanzania.<sup>177</sup> The Marriage Act also allows courts to give regard to the customs of the community to which the parties belong when deciding matters of division of matrimonial property.<sup>178</sup>

Most marriages in Tanzania at the village level are entered into under customary law.<sup>179</sup> The Law of the Marriage Act of 1971 was enacted to unify and harmonize the multiple existing regimes of marriages in Tanzania and to give equal recognition to all marriages however celebrated, including under Christianity, Islam, civil, or customary.<sup>180</sup> Some of the girls Human Rights Watch interviewed said their marriages were presided over by traditional leaders or ward and village executive officers. Josephine K. was forced to marry when she was 14. She thought the ward and village executive officers would protect her and stop the marriage: “I had a wedding ceremony that was prepared by my husband’s parents. The elders in my village and village executive officers presided over my marriage. They did not do anything to stop my father from marrying me off.”<sup>181</sup>

## Lack of Shelters

Tanzania has few shelters for survivors of gender-based violence. Lack of shelters or safe spaces where girls can seek help and protection when at risk of forced marriage—or when they run away from them—is a key barrier to effectively responding to child marriage and domestic violence generally. Girls who resist marriage face physical, verbal, and psychological violence from their families and husbands and are not safe at home. As accounts in this report show, girls and women who face abuse from their husbands often

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<sup>177</sup> Judicature and Application of Laws Act, [http://tanzania.go.tz/egov\\_uploads/documents/JUDICATURE%20AND%20APPLICATION%20OF%20LAWS%20ACT.pdf](http://tanzania.go.tz/egov_uploads/documents/JUDICATURE%20AND%20APPLICATION%20OF%20LAWS%20ACT.pdf) (accessed May 29, 2014) Chapter 358, arts. 11(1) and 11 (2), provides, “Customary law shall be applicable to, and courts shall exercise jurisdiction in accordance therewith in, matters of a civil nature between members of a community in which rules of customary law relevant to the matter are established and accepted....nothing... shall preclude any court from applying the rules of Islamic law in matters of marriage, divorce, guardianship, inheritance....”

<sup>178</sup> Law of the Marriage Act, 1971, art. 114.

<sup>179</sup> United Republic of Tanzania Law Reform Commission, Report of the Commission on Law of Marriage Act, 1971 (No. 5 of 1971) presented to the Minister of Justice and Constitutional Affairs, Dar es Salaam, 1994, <http://www.commonlii.org/tz/other/TZLRC/report/R2/2.pdf>, p. 17.

<sup>180</sup> Law Reform Commission of Tanzania, “Report on the Law of the Marriage Act,” 1971, p. 3. The Law of the Marriage Act, 1971, was enacted to unify and harmonize the multiple existing regimes of marriages in Tanzania and to give equal recognition to all marriages however celebrated, including under Christianity, Islam, civil, or customary.

<sup>181</sup> Human Rights Watch interview with Josephine K., Mpwapwa district, April 6, 2014.

do not get help from their parents and therefore their parents' homes are often not a place they can seek refuge.

Maureen K., 19, told us why she was still living with her abusive husband: "I have thought of leaving my husband but I have no place to go."<sup>182</sup> Her parents forced her to marry him after she became pregnant.

The UN Committee on the Rights of the Child, the international expert body that interprets and monitors compliance with the CRC, has urged governments to provide shelters to girls who escape from child marriages and to develop and provide adequate resources to implement "physical and psychological recovery programmes for child victims of harmful traditional practices," including child marriage.<sup>183</sup>

The few shelter facilities in Tanzania are not run or funded by the government, but by individuals and NGOs.<sup>184</sup> Police officers and NGOs working on women's and children's rights said they have to accommodate women and girl survivors of domestic violence and child marriage at homes for street children, orphanages, or through informal shelter arrangements. The deputy minister in the Ministry of Community Development, Gender, and Children told Human Rights Watch: "We ask district officials, relatives, friends, or religious leaders to help us accommodate the victim. Our challenge is that we lack resources to establish shelter facilities in all regions."<sup>185</sup>

The director of an NGO that works with women said: "One of the biggest challenges we face is lack of shelters. There is a privately owned shelter in Dar es Salaam. However, this facility is not enough to accommodate all the women we receive, so many end up going back home to the abusers."<sup>186</sup>

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<sup>182</sup> Human Rights Watch interview with Maureen K., Mwanza, March 30, 2014.

<sup>183</sup> CRC Committee, "Concluding Observations: Burkina Faso," para. 59(e), U.N. Doc. CRC/C/BFA/CO/3-4 (2010); Cameroon, para. 60(d), U.N. Doc. CRC/C/CMR/CO/2 (2010).

<sup>184</sup> Human Rights Watch telephone interview with Judy Odunga, director, Women in Law and Development (WiLDAF), May 15, 2014. There is no data on the number of shelters in Tanzania.

<sup>185</sup> Human Rights Watch telephone interview with Dr. Pindi Chana, deputy minister, Ministry of Community Development, Gender and Children, May 14, 2014.

<sup>186</sup> Human Rights Watch interview with Judy Odunga, director, Women in Law and Development (WiLDAF), May 15, 2014.

A police officer told us, “We are always stuck with victims of violence who have nowhere to go. We have no place to keep them safe. Sometimes we take them to a center for abandoned babies run by a Roman Catholic Church.”<sup>187</sup>

## Lack of Birth and Marriage Registrations

I had a marriage ceremony but I do not have a marriage certificate. I do not know where to get one.

— Annet G., married at 16, Mpwapwa district, April 2014

Birth and marriage registration are important tools for ensuring equity over a broad scope of services and interventions for children and women. They are essential components of combating child marriage as they assist in proving the age of spouses at the time of marriage.

Tanzanian laws, including the Births and Deaths Registration Act cap 108 (2002), the Marriage Act, 1971, and the Law of the Child Act, require birth, marriage, and death registration.<sup>188</sup> However, these laws are poorly implemented in Tanzania. Only 16 percent of children in Tanzania under age 5 have been registered with civil authorities, and only about half of these children received a birth certificate.<sup>189</sup>

Most marriages in Tanzania are entered into under customary laws or by cohabitation and research shows customary marriages remain unregistered for varied reasons, such as inadequate access to registration officials.<sup>190</sup> This is despite domestic laws, such as the Marriage Act, providing for compulsory marriage registration.<sup>191</sup> Many of the girls interviewed married under customary law. Some of them had marriage certificates, but others said they did not know it was important to register their marriages or where to register.

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<sup>187</sup> Human Rights Watch interview with assistant inspector, George Nelson, community police officer, G.7168, Police Gender and Children’s Desk, Dodoma Police Station, April 9, 2014.

<sup>188</sup> The Births and Deaths Registration Act, cap 108 of the Revised Laws 2002, art. 11. The Marriage Act 1971, art. 157 and the Child Care Act, 2009, art. 6 (3).

<sup>189</sup> United Republic of Tanzania and IFC Macro, “Tanzania Demographic and Health Survey,” 2010, p. 27.

<sup>190</sup> United Republic of Tanzania Law Reform Commission, Report of the Commission on Law of Marriage Act, 1971 (No. 5 of 1971) presented to the Minister of Justice and Constitutional Affairs, Dar es Salaam, 1994, <http://www.commonlii.org/tz/other/TZLRC/report/R2/2.pdf>, p. 17.

<sup>191</sup> The United Republic of Tanzania Law Reform Commission, Report of the Commission on Law of Marriage Act, 1971 (No. 5 of 1971) presented to the Minister of Justice and Constitutional Affairs, Dar es Salaam, 1994, <http://www.commonlii.org/tz/other/TZLRC/report/R2/2.pdf>, p. 17. The Marriage Act 1971, art. 157

## V. Tanzania's International Legal Obligations

The government of Tanzania has obligations under international and regional human rights law to protect the rights of girls and women. These include the rights to equality and non-discrimination, to the highest attainable standard of health, to education, to information, to free and full consent to marriage, to choose one's spouse, and to be free from physical, mental, and sexual violence. Those whose rights are violated are entitled to an effective remedy. The inadequate fulfillment and protection of these rights is both a cause and consequence of child marriage in Tanzania.

Tanzania is a party to the core international treaties that protect women's and girls' human rights. Tanzania has ratified the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC).<sup>192</sup> Among the regional treaties to which Tanzania is a party are the African Charter on Human and Peoples' Rights (the "African Charter"), the African Charter on the Rights and Welfare of the Child (ACRWC), and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the "Maputo Protocol").<sup>193</sup>

International human rights law recognizes state accountability for abuses by private actors and requires governments to show due diligence in preventing and responding to human rights violations. According to the CEDAW Committee, which monitors government compliance with CEDAW, "States may also be responsible for private acts if

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<sup>192</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S.171, entered into force March 23, 1976, ratified by Tanzania on June 11, 1976; International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res.2200A (XXI), 21 U.N. GAOR Supp. (No.16) at 49, U.N. Doc. A/6316 (1966) 993 U.N.T.S. 3, entered into force January 3, 1976, ratified by Tanzania on June 11, 1976.; International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. Res. 34/180, entered into force September 3, 1981, ratified by Tanzania on August 20, 1985; Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, ratified by Tanzania on June 10, 1991.

<sup>193</sup> African (Banjul) Charter on Human and Peoples' Rights (ACHPR), OAU Doc. CAB/LEG/67/3 rev. 5, 21 (1982), entered into force October 21, 1986, ratified by Tanzania on February 18, 1984; African Charter on the Rights and Welfare of the Child (ACRWC), OAY Doc. CAB/LEG/24.9/49 (1990), entered into force November 29, 1999, ratified by Tanzania on March 16, 2003; and Protocol to the African Charter on Human and People's Rights on The Rights of Women in Africa (the Maputo Protocol), adopted July 11, 2003, entered into force November 2005 and ratified by Tanzania March 3, 2007.

they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence.”<sup>194</sup>

Under international law, governments are obligated to work towards eliminating harmful traditional beliefs, values, stereotypes, or practices that contravene human rights. They must not invoke “traditional values” to justify violations of human rights, particularly for people who are members of groups that have historically suffered discrimination such as women.<sup>195</sup>

CEDAW explicitly acknowledges social and cultural norms as the sources of many women’s rights abuses, and requires governments to take appropriate measures to address such abuses. Governments need to “modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”<sup>196</sup> The argument that some practices are cultural norms and thus impervious to alteration cannot justify a government’s failure to address discriminatory practices. The Human Rights Committee, which monitors compliance with the ICCPR, affirms that governments “should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women’s right to equality before the law and to equal enjoyment of all Covenant rights.”<sup>197</sup>

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194 Committee on the Elimination of Violence Against Women (CEDAW Committee), General Recommendation No. 19, Violence against women, (Eleventh session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI\GEN\1\Rev.1 at 84 (1994), (contained in document A/47/38), para. 9. See also, UN Human Rights Committee, General Comment 31, Nature of the general legal obligation on states parties to the Covenant, para. 8, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004); UN Committee Against Torture, General Comment No. 2: Implementation of Article 2 by States Parties, 24 January 2008. CAT/C/GC/2. Regarding the responsibility of states extending to all within their jurisdiction.

195 Human Rights Council Resolution 16/3, “Promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind,” A/HRC/RES/16/3, April 8, 2011, <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/G11/124/92/PDF/G1112492.pdf?OpenElement> (accessed September 23, 2014), p.2. See also, Sexual Rights Initiative, “Submission Regarding Best Practices In The Application of Traditional Values While Promoting And Protecting Human Rights And Upholding Human Dignity,” <http://www.ohchr.org/documents/issues/hrvalues/sri%20.pdf> (accessed September 23 2014), p. 1.

196 CEDAW, art. 5.

197 Human Rights Committee, General Comment No. 28, para. 5. See also UN General Assembly, Report of the Special Rapporteur in the field of cultural rights. A/67/287. New York, UN General Assembly, August 10, 2012, [http://www.unesco.lacult.org/docc/2012\\_Cultural\\_Rights\\_A\\_67\\_287\\_eng.pdf](http://www.unesco.lacult.org/docc/2012_Cultural_Rights_A_67_287_eng.pdf) (accessed July 22, 2014), p. 4. The UN Special Rapporteur on cultural rights reiterated in 2012 that: “Many practices and norms that discriminate against women are justified by reference to culture, religion and tradition,” and recommended that states ensure: “The freedom of women to refuse to participate in traditions, customs and practices that infringe upon human dignity and rights, to critique existing cultural norms and traditional practices and to create new cultural meanings and norms of behavior.”

## Right to Equality and Non-Discrimination

Tanzania has obligations under international law to ensure women's rights to equality and non-discrimination. The ICCPR calls for "the equal right of men and women to the enjoyment of all civil and political rights," including the right to birth registration, to free and full consent to marriage, to equality of rights and responsibilities of spouses during marriage and at its dissolution, to life, to liberty and security of the person, and to freedom of expression.<sup>198</sup> The ICESCR includes similar provisions.<sup>199</sup>

The CRC recognizes the right of children to be free from discrimination, including on the grounds of sex.<sup>200</sup>

The CEDAW Committee has explained that "[i]nherent to the principle of equality between men and women, or gender equality, is the concept that all human beings, regardless of sex, are free to develop their personal abilities, pursue their professional careers and make choices without the limitations set by stereotypes, rigid gender roles and prejudices."<sup>201</sup>

Child marriage is considered a form of gender-based discrimination because the practice disproportionately affects girls, and negatively impacts the realization of many of girls' and women's other human rights. The impact of these violations is felt by women throughout their lives, and extends to their families and societies.

A number of child brides are forced into polygamous marriages thereby undermining their right to equality and non-discrimination. CEDAW, in its General Recommendation No. 21 on Equality in Marriage and Family Relations, explains that "polygamous marriage contravenes a woman's right to equality with men and can have such serious emotional and financial consequences for her and her dependents" and ought to be discouraged and prohibited.<sup>202</sup>

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<sup>198</sup> ICCPR, arts. 3, 6, 9, 19, 23 and 24.

<sup>199</sup> ICESCR, art. 2.

<sup>200</sup> CRC, art. 2.

<sup>201</sup> CEDAW Committee, General Recommendation No. 28: the core obligations of states parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 47th Sess., U.N. Doc. CEDAW/C/GC/28, 2010, <http://www.iwraw-ap.org/convention/details28.htm> (accessed September 21, 2014), para. 9 and 22.

<sup>202</sup> CEDAW Committee, General Recommendation No. 21, Equality in Marriage and Family Relations, UN CEDAWOR, 13th Sess., UN Doc. A/47/38, (1994), para. 14.

## Right to Marriage, Choose a Spouse, and Minimum Age of Marriage

The right to marriage based on “full and free consent” of the spouses is recognized in several international instruments.<sup>203</sup> CEDAW upholds the equal right of men and women to enter into marriage, and the Convention on the Consent to Marriage further specifies that each spouse must give his or her consent “in person...as prescribed by law.”<sup>204</sup> The Maputo Protocol specifies that “no marriage shall take place without the free and full consent of both parties.”<sup>205</sup>

The ACRWC states that, “Child marriage and the betrothal of girls and boys shall be prohibited.” Prohibitions on child marriage and non-discrimination are also included in the Maputo Protocol and the African Charter.<sup>206</sup>

The CRC Committee has repeatedly addressed the need for countries to establish a definition of a child in all domestic legislation that is consistent with the provisions of the CRC. It has also taken a clear position on 18 as the minimum age for marriage, regardless of parental consent.<sup>207</sup> At the African regional level, the African Charter on the Rights and Welfare of the Child explicitly requires governments to take effective action, including legislation, to specify the minimum age of marriage as 18 years.<sup>208</sup> The Maputo Protocol also specifies that governments are to “enact appropriate national legislative measures to guarantee that; the minimum age of marriage for women shall be 18 years.”<sup>209</sup>

The UN Human Rights Committee clarified in General Comment No. 19 that the marriageable age for both men and women shall be based on the ability of both spouses

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<sup>203</sup> See Universal Declaration on Human Rights, adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art. 16, ICCPR, art. 23, and ICESCR, art. 10 (1).

<sup>204</sup> CEDAW, art. 16. See also Convention on the Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages, art. 1 not ratified by Tanzania.

<sup>205</sup> Maputo Protocol, art. 6.

<sup>206</sup> The Maputo Protocol in article 6 calls on governments to develop laws that establish 18 as the minimum age of marriage. The African Charter in article 18 obligates governments to “ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.”

<sup>207</sup> See, for example, CRC Committee, General Comment No. 4, Adolescent Health and Development in the Context of the Convention on the Rights of the Child, (Thirty-third session, 2003), para. 20. There is an evolving consensus in international law that 18 should be the minimum age for marriage.

<sup>208</sup> ACRWC, art.21 (2).

<sup>209</sup> Maputo Protocol, art.6 (a).

to give their full and free consent.<sup>210</sup> In its General Comment No. 28, the committee affirms the obligation of governments to treat men and women equally with regard to marriage.<sup>211</sup> CEDAW General Comment No. 21 on the right to marriage reiterates men’s and women’s equal right to enter into marriage, conditioned on their free and full consent.<sup>212</sup>

Consent cannot be “free and full” when one of the parties involved is not sufficiently mature to make an informed decision about a life partner, or the meaning and responsibility of marriage.<sup>213</sup> The accounts in this report indicate that many girls, including older girls who are of the legal marriage age, were unaware of the implications of marriage and the responsibilities that come with it. These forms of marriage generally disregard the free and full consent and wishes of the girls involved, thus placing them at high risk of violence and other forms of abuse and exploitation.

## Right to Education

International law provides that everyone has the right to education and the right to equal opportunity in education.<sup>214</sup> The Maputo Protocol specifically places obligations on governments to eliminate all forms of discrimination against women and guarantee them equal opportunity and access to education and training.<sup>215</sup>

While the right to education under the ICESCR is subject to progressive realization, governments also have core obligations that have to be fulfilled immediately. In particular, governments need to “provide primary education for all, on a non-discriminatory basis”

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<sup>210</sup> UN Human Rights Committee, General Comment No. 19 (The Family), Protection of the Family, the Right to Marriage and Equality of the Spouses, (Article 23), (Thirty-ninth session, 1990), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty bodies, UN Doc.HRI/Gen/1/Rev.7 (2004), para. 4.

<sup>211</sup> General Comment No. 16 of the Committee on Economic, Social and Cultural Rights, which oversees implementation of the ICESCR, para 27, sets out obligations of governments to “ensure that men and women have an equal right to choose if, whom, and when to marry.”

<sup>212</sup> CEDAW Committee, General Recommendation No. 21, Equality in Marriage and Family Relations, (Thirteenth Session, 1994), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc.HRI/GEN/1/Rev.1(2004), paras. 16, 1 (a) and (b).

<sup>213</sup> General Comment No. 16 of the Committee on Economic, Social and Cultural Rights, which oversees implementation of the ICESCR, para 27, sets out governments’ obligations to “ensure that men and women have an equal right to choose if, whom, and when to marry.”

<sup>214</sup> ICESCR, art. 13, CRC, art. 28, African Charter, art. 17, Maputo Protocol, art. 12, ACRWC, art. 11. ESCR Committee, General Comment No. 13, The Right to Education (article 13 of the Covenant), E/C.12/1999/10 (1999), para. 57. Providing primary education is a core obligation for governments.

<sup>215</sup> Maputo Protocol, art. 12,

and ensure that primary education is free of charge and compulsory.<sup>216</sup> The 2005 CRC Committee's General Comment No. 7 on implementing child rights in early childhood interprets the right to education during early childhood as beginning at birth and closely linked to young children's right to maximum development.<sup>217</sup>

With regards to secondary education, the ESCR Committee, which monitors state compliance with the ICESCR, in its General Comment No. 13 on the Right to Education, has stated that governments also have an obligation to take concrete steps towards achieving free secondary and higher education. Secondary education must not be dependent on a student's apparent capacity or ability, and should be distributed throughout the country in such a way that it is available on the same basis to all.<sup>218</sup> Human Rights Watch considers the use of the Primary School Leaving Examination as a selection mechanism to secondary education to be contrary to the right to education as provided under international law. This is because it hinders children's transition into secondary school.

The ESCR Committee has highlighted the need for the Tanzanian government to take steps to ensure free primary education and urgently address the high dropout rate of girls from both primary and secondary education, including "by abolishing mandatory pregnancy testing and prohibiting expulsions due to pregnancy."<sup>219</sup> The committee also addressed the need for Tanzania to take steps to raise the overall quality of education through increasing the number of teachers, improving the availability of textbooks, and improving the physical environment of schools, including "ensuring appropriate water and sanitation facilities, in particular in rural areas."<sup>220</sup>

Tanzania is failing in its obligation to ensure access to education for boys and girls on an equal basis. Child and forced marriages are major contributors to Tanzania's low rates of school enrollment among girls, particularly at the secondary and tertiary levels. They also

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<sup>216</sup> ESCR Committee, General Comment No.13, The Right to Education, UN Doc. E/C.12/1999/10 (1999), paras. 10 and 57.

<sup>217</sup> CRC Committee, General Comment No. 7 (2005), U.N. Doc. CRC/C/GC/7/Rev.1, 20 September 2006 CRC/C/GC/7/Rev.1 (2006), para. 28.

<sup>218</sup> ESCR Committee, General Comment No. 13, The Right to Education (article 13 of the Covenant), E/C.12/1999/10 (1999), para. 13.

<sup>219</sup> UN Economic and Social Council, "Concluding Observations on the Initial to Third Reports of the United Republic of Tanzania," December 13, 2013, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/TZA/CO/1-3&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/TZA/CO/1-3&Lang=En), (accessed May 15, 2014), para. 27.

<sup>220</sup> *Ibid.* para. 26.

contribute to low rates of literacy among women. Tanzania is also not meeting its obligations with regard to the right to education by failing to: curb child and forced marriages; take steps to stop harmful and discriminatory practices in schools such as the forced pregnancy testing of girls and their expulsion from school; and take measures to enable married girls to continue with formal schooling.

## Right to be Free from Physical, Mental, and Sexual Violence

Under international and regional law, the government of Tanzania has an obligation to prevent, investigate, prosecute, and punish violence against girls and women.<sup>221</sup> The responsibility is grounded in the rights of non-discrimination and equality, security of person, health, and freedom from torture and other ill-treatment provided in treaties that Tanzania has ratified.

The CRC obligates governments to protect children from physical, mental, and sexual abuse or exploitation through legislation and other social and educational measures. The obligation to protect children from violence includes protection from parents or other caregivers.<sup>222</sup> The CRC also sets out the obligation of governments to protect children from sexual exploitation and abuse.<sup>223</sup> The Maputo Protocol calls on governments to adopt legislative, administrative, social, and economic measures as may be necessary to identify the causes and consequences of all forms of violence against women including sexual violence whether it occurs in private or public, and to ensure their prevention, punishment, and eradication.<sup>224</sup> It specifically obliges governments to take measures to protect women who are at risk of harmful practices and all other forms of violence, abuse, and intolerance, and to “establish mechanisms and accessible services for effective information, rehabilitation, and reparation for victims of violence against women.”<sup>225</sup>

The African Commission on Human and Peoples’ Rights and the CRC Committee have specifically addressed the need for Tanzania to eliminate the discriminatory practice of

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<sup>221</sup> Human Rights Committee, General Comment 31, Nature of the general legal obligation on states parties to the Covenant (hereinafter “General Comment 31”), para. 8, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004); UN Committee Against Torture (CAT), General Comment No. 2: Implementation of Article 2 by States Parties, 24 January 2008.CAT/C/GC/2.

<sup>222</sup> CRC, art. 19.

<sup>223</sup> *Ibid.*, art. 34.

<sup>224</sup> Maputo Protocol, arts. 4(2b) and 3 (4).

<sup>225</sup> *Ibid.*, arts. 5(d) and 4(2f).

violence against women by enacting laws to penalize domestic violence and marital rape.<sup>226</sup> The ESCR Committee addressed the need for Tanzania to ensure effective enforcement of the provisions criminalizing FGM, expand programs against FGM to those regions with a high prevalence, and organize media campaigns and other outreach activities on FGM.<sup>227</sup>

The CEDAW Committee has identified key steps necessary to combat violence against women, among them: effective legal measures, including penal sanctions, civil remedies, and compensatory provisions; preventive measures, including public information and education programs to change attitudes about the roles and status of men and women; and protective measures, including shelters, counseling, rehabilitation, and support services.<sup>228</sup>

Violence targeting women prevents them from enjoying a host of other rights. These rights include the right not to be subject to cruel, inhuman, or degrading treatment or punishment,<sup>229</sup> security of person,<sup>230</sup> and at times, the right to life.<sup>231</sup> The CEDAW Committee has also noted that “gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on the basis of equality with men,” including “the right to the highest attainable standard of physical and mental health.”<sup>232</sup>

As this report shows, girls in Tanzania who are subjected to child marriage may experience violence from their spouses, in-laws, and other family members. This includes physical, verbal, sexual, and psychological abuse. Girls and women often do not report violence to the authorities due to a number of cultural and legal barriers as noted. Nonetheless, some women do report abuse, including forced marriages, but they rarely get redress.

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<sup>226</sup> African Commission on Human and Peoples’ Rights, “Consideration of Reports Submitted by States Parties under the Terms of Article 62 of the African Charter on Human and Peoples’ Rights: United Republic of Tanzania,” [http://www.achpr.org/files/sessions/43rd/conc-obs/2to10-1992-2008/achpr43\\_conc\\_staterep2to10\\_tanzania\\_2008\\_eng.pdf](http://www.achpr.org/files/sessions/43rd/conc-obs/2to10-1992-2008/achpr43_conc_staterep2to10_tanzania_2008_eng.pdf) (accessed May 15, 2014), para 36. CRC Committee, “Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: United Republic of Tanzania,” <http://www.refworld.org/publisher,CRC,,TZA,45377ee80,o.html>(access date) June 21, 2006, para 51.

<sup>227</sup> UN Economic and Social Council, “Concluding Observations on the Initial to Third Reports of the United Republic of Tanzania,” December 13, 2012. Para. 18.

<sup>228</sup> CEDAW Committee, General Recommendation No. 19, Violence against Women, (Eleventh session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI\GEN\1\Rev.1 (1994), paras. 9 and 24.

<sup>229</sup> ICCPR, art. 7.

<sup>230</sup> *Ibid.*, art. 9.

<sup>231</sup> *Ibid.*, art. 6.

<sup>232</sup> CEDAW Committee, General Recommendation No. 19, paras. 1 and 7 (g).

Tanzania’s obligations to prevent, investigate, prosecute, and punish violence against girls and women includes ensuring that state actors, such as the police, the justice system, and customary processes take all reasonable steps to provide everyone within its territory with effective protection against violence by private parties. Governments should also address the barriers that deter women and girls from reporting abuse and accessing protection—to better prevent abuse in the first place—and to change discriminatory attitudes. This includes effectively investigating such violence in a manner capable of leading to the identification, prosecution, and punishment of those responsible.<sup>233</sup>

The inaction of government authorities, police, prosecutors, and customary bodies in the face of violence against women creates an atmosphere of impunity facilitating further abuse, and dissuades women from seeking help. Their failure to act exposes girls and women to further violence.

## Right to Health

The right to health is enshrined in numerous international treaties. The ICESCR specifies that everyone has a right “to the enjoyment of the highest attainable standard of physical and mental health,” and obligates governments to implement the right without discrimination on the basis of sex, age, or other prohibited grounds.<sup>234</sup> The CRC recognizes children’s rights to health and to access health services, and notably the right to be protected from traditional practices prejudicial to the health of the child.<sup>235</sup> CEDAW obligates governments to take all appropriate measures to eliminate discrimination against women in the field of health.<sup>236</sup> Several treaties and authoritative interpretations specifically note that reducing maternal mortality rates and improving maternal health services are not subject to progressive realization, but are core obligations that must be met immediately.<sup>237</sup>

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<sup>233</sup> See generally, European Court of Human Right, *Kaya v. Turkey*, judgment of February 19, 1998, Reports of Judgments and Decisions 1998-I, p. 324; *Jordan v. the United Kingdom*, No. 24746/94, judgment of May 4, 2001; *Finucane v. the United Kingdom*, No. 29178/95, judgment of July 1 2003; *Isayeva v. Russia*, 57950/00, judgment of July 27, 2004; *Adali v. Turkey*, 38187/97, judgment March 31, 2005.

<sup>234</sup> ICESCR, art. 12.

<sup>235</sup> CRC, art. 24; See also ESCR Committee, General Comment No. 14, para. 22.

<sup>236</sup> CEDAW, art. 12(1).

<sup>237</sup> ESCR Committee, “Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights,” No. 14, The Right to the Highest Attainable Standard of Health, E/C.12/2000/4 (2000), <http://www.refworld.org/docid/4538838do.html> (accessed September 19, 2014) paras. 14 and 21.

The CRC Committee has called on governments to reduce child mortality and to raise the age of sexual consent to prevent forced marriage and ensure the health of children.<sup>238</sup>

The ESCR Committee has called on Tanzania to improve women's access to obstetric and reproductive health services.<sup>239</sup> The committee has also specifically addressed the need for Tanzania to take measures to address the high rate of teenage pregnancies, including providing family planning information and services to all adolescents regardless of marital status or age, and promoting sexual and reproductive health as part of the education curriculum.<sup>240</sup> It also called on Tanzania to conduct awareness-raising campaigns to combat and eradicate traditional practices harmful to the health, survival, and development of children, especially girls, such as FGM and child marriage. It called on Tanzania to introduce sensitization programs for practitioners and the general public to encourage change in traditional attitudes, engaging with the extended family and the traditional and religious leaders.<sup>241</sup>

The risk of child marriage—and subsequent reproductive health problems—often begins when young girls get pregnant early and are pressured by family members to marry or girls themselves feel marriage is the best option for them. One of the factors leading to early pregnancy and childbearing is the lack of accurate reproductive health knowledge. Although there is a life skills program in Tanzanian schools covering reproductive health, it is not well implemented or comprehensive. As the accounts in this report show, child and forced marriage also exposes girls to mental and emotional suffering.

## Right of Children to Express Their Views Freely

The right of children to express their views is set out in the CRC, which provides that they have this right in all matters affecting them, according to their age and maturity.<sup>242</sup> The CRC Committee's General Comment No. 12 on the right of the child to be heard affirms this right

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<sup>238</sup> CRC Committee, Concluding Observations: Costa Rica, U.N. Doc CRC/C/CRI/CO/4 (2011), paras.27, 28.

<sup>239</sup> ESCR Committee, "The Concluding observations on the initial to third report of the United Republic of Tanzania, adopted by the Committee at its forty - ninth session (2012)," [http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.TZA.CO.1-3\\_en.pdf](http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.TZA.CO.1-3_en.pdf) (accessed May 28, 2014), para s 18 and 24.

<sup>240</sup> Ibid.

<sup>241</sup> See also Republic of Tanzania, "Reports on The Implementation of the Convention on the Rights of the Child (CRC), 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup>" 2005-2011, <http://www.africanchildforum.org/clr/Report%20and%20Concluding%20Observation/CRC/report/tanzania-%20thirdto fifth-uncrc-en.pdf> (accessed May 21, 2014), para 193.

<sup>242</sup> CRC, art. 12.

in any judicial or administrative proceeding affecting their well-being.<sup>243</sup> In its comment, the committee goes on to set out the obligations of governments to establish reporting mechanisms such as telephone help lines and support mechanisms to assist children in expressing their views. This includes access to physicians and to teachers who can offer a safe space for children to express their views freely or to seek help in any matter related to their well-being.<sup>244</sup>

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<sup>243</sup> CRC Committee, General Comment No. 12, The Right of the Child to Be Heard, U.N. Doc.CRC/C/GC/12(2009), p.3

<sup>244</sup> *Ibid.*, para 49.

## Recommendations

### To the President of Tanzania

- Publicly condemn violence against girls and women who resist child, early, and forced marriages.
- Publicly support setting a uniform, internationally recognized minimum marriage age of 18 for both boys and girls.
- Publicly call on education authorities to end the discriminatory practice of mandatory pregnancy testing of girls, the expulsion of pregnant girls from school, and the exclusion of married students from school.

### To the Ministry of Education and Vocational Training

- Revise the Education and Training Policy to include a provision that allows both married and pregnant students to continue with their education.
- Revise the existing legal and policy framework governing expulsion and exclusion:
  - Revise Regulation No. 4 of the Education Regulations (Expulsion and Exclusion of Pupils from Schools) of 2002 by removing “wedlock” as a grounds for expulsion, and adding a regulation that states explicitly that neither pregnancy nor marriage are grounds for expulsion or exclusion.
  - Ensure that teachers and school administration officials are aware that expulsion and exclusion on the basis of pregnancy and marriage is prohibited.
  - Ensure that pregnant and married pupils who wish to continue their education are able to do so in an environment free from stigma and discrimination, and monitor schools’ compliance.
- End pregnancy testing in schools and ensure that teachers and school administration officials are aware that the practice is prohibited.
- Increase access to post-primary education by ensuring that children can access secondary education irrespective of their Primary School Leaving Examination results. In particular, allow children who fail to retake the exam and to seek admission in public schools.

- Prepare the education sector for the introduction of compulsory secondary education, in light of the recently passed Education and Training Policy. In particular, schools should be equipped to enroll and teach significantly larger numbers of students.
- Begin a process to introduce a comprehensive sex education curriculum in primary and secondary schools that complies with international human rights standards. In cooperation with the Ministry of Health and Social Welfare, teach the curriculum as an examinable, independent subject by teachers with adequate training and resources, and monitor its implementation.
- Improve girls' access to education by:
  - Developing retention strategies to ensure girls who enroll in school remain and complete school, such as incentives for families to keep girls in school, offering bursaries and scholarships, expanding boarding facilities and school feeding programs, ensuring schools have adequate sanitation facilities, and subsidizing or eliminating costs of uniforms, textbooks, and other operational costs. Do this together with the Ministry of Health and Social Welfare.
  - Expanding options for child care and early childhood development centers for children of teenage mothers so that they can attend school while guaranteeing their children also develop in a safe environment. Do this together with the Ministry of Community Development, Gender, and Children, and Ministry of Health and Social Welfare.
- Improve data collection on the number of girls who drop out of school due to pregnancy and child marriage in order to better evaluate the impact of new laws and policies.
- Create mechanisms through the schools to monitor and follow up on female students who drop out of school, to discourage child marriages, and monitor girls who have dropped out because of pregnancy.
- Expand access to vocational training opportunities for married women and girls in all districts, and inform the public about the existence of these programs.
- Impose penalties on education authorities who fail to initiate legal action against offenders who marry or impregnate pupils.

## To the Ministry of Constitutional and Legal Affairs

- Work towards a comprehensive review and reform of Tanzania’s laws on marriage, separation, divorce, and related matters. Seek to harmonize laws to establish clarity and uniformity in application by enacting comprehensive family and marriage legislation that:
  - Clearly sets the minimum marriage age for both boys and girls at 18.
  - Recognizes equality of all marriages, guarantees equal rights to marriage, during marriage, and at its dissolution to both spouses; and recognizes equality of these rights in all marriages. These rights should include equal rights to own and inherit property, and to custody of children.
  - Clearly establishes the requirement for full and free consent of both partners to a marriage, and removes the requirement for parental consent to marriage.
  - Makes proof of age compulsory for marriage.
  - Makes marriage registration compulsory.
  - Sets clear penalties and punishments for adults involved in the arrangement, contracting, or solemnization and registration of a child marriage or forced marriage.
  - Ensures that girls married prior to the enactment of the new legislation have the option of terminating their marriage, and protects their rights to property, child custody, and maintenance.
  - Sets clear penalties and punishment for acts of violence against girls and women carried out as intimidation or retribution for refusal to marry; and provides for adequate legal, medical, and psychosocial services to victims of these attacks.
  - Provides that those forcibly married or married as children shall have the right to press criminal charges, seek a divorce, and obtain maintenance for children.
  - Prohibits polygamy and protects the rights and status of women who were in polygamous marriages before the enactment of this law.
  - Once the new family law is in place, conduct public education campaigns about the provisions of the law, aiming to raise awareness in both urban

and rural areas together with the Ministry of Community, Gender, and Children Development.

- Seek to repeal all laws that are discriminatory against girls and women, including those allowing the application of customary law on matters of marriage, divorce, and inheritance.
- Take the necessary steps to enact a comprehensive domestic violence law. The law should criminalize sexual violence in marriage.
- Revise the 1998 Sexual Offences Special Provisions Act to recognize sexual violence in marriage as a criminal offense, stating specifically that marriage or other relationships shall not constitute a defense to a charge of sexual assault.
- Increase access to legal aid services in both rural and urban areas, and ensure legal aid services cover cases of violence against women, including child, early, and forced marriage.
- Provide regular trainings for police and prosecutors on their responsibilities to investigate and prosecute violence against women, including child and forced marriage, under the applicable law, in coordination with the Ministry of Community Development, Gender, and Children and the Ministry of Constitutional and Legal Affairs.
- Investigate allegations of corruption in relation to child marriage cases and, if evidence is found, punish the law enforcement officers responsible.
- Establish a central database on violence against women to record the number and different forms of cases reported including their outcomes, such as referral to traditional mechanisms, and follow-up such as successful prosecution or acquittal. Ensure such data is publicly available.
- Expand juvenile courts, as provided for in the Child Act, in both rural and urban areas to enhance access to justice for children.
- Inform girls and women about their rights to seek child maintenance from fathers of their children under applicable law, in coordination with the Ministry of Community Development, Gender, and Children.
- Strengthen Tanzania's human rights framework to protect women by taking the necessary steps to ensure the prompt ratification, without reservations, of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or

Punishment, and the Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages. Seek support for this with relevant government ministries and the Tanzania National Assembly.

## **To the Ministry of Community Development, Gender, and Children**

- Create a national action plan to combat child marriage, in accordance with international good practices, with input from women’s and children’s rights groups, health professionals, and other service providers; coordinate efforts among all relevant ministries; seek sufficient resources to implement the plan.
- Renew and expand the National Plan of Action to Prevent and Respond to Violence Against Children to include comprehensive strategies to prevent and address child and forced marriage, in accordance with international good practices. Ensure there is input from women’s and children’s rights groups, health professionals, and other service providers; coordinate efforts among all relevant ministries; seek sufficient resources to implement the plan.
- Develop help lines, posters, or similar communication tools to ensure awareness of, and access, to advice, protection, and rehabilitation for all children at risk or trapped in forced marriages.
- Ensure that programs addressing the psychosocial needs of survivors of gender-based violence include victims of child and forced marriage.
- Expand programs to support married girls and women with income-generating activities, especially girls and women who have been abandoned by their husbands and families, in coordination with relevant government ministries.
- Develop and implement national community awareness-raising campaigns on child, early, and forced marriage. Do this in consultation with relevant government ministries, communities, traditional and religious leaders, women and girls, and nongovernmental organizations. Include information on:
  - The harm child marriage causes and the benefits of delayed marriage and childbearing.
  - Responsibilities of law enforcement, protection measures, legal remedies, and medical and psychosocial care available to girls and women as well as the need for girls and the public to report child marriages.

- Consequences for perpetrators.
  - The importance of education for girls.
  - The many factors contributing to teenage pregnancies and the need to end the stigma surrounding teenage pregnancy.
- Establish more safe spaces, such as shelters, for girls and women threatened by child, early, and forced marriage or other forms of gender-based violence. Ensure girls and women are aware of their existence, and how to access them.
  - Support the development of gender-sensitive education policies and practices including efforts to introduce comprehensive sexuality education in schools, policies to end the mandatory pregnancy testing of school girls and their expulsion from school, as well as exclusion of married students from education.
  - Ensure community development officers, in coordination with relevant ministries, identify and protect children from child abuse and neglect, withdraw and rehabilitate neglected children, and take legal action against those responsible. Do this together with the Ministry of Health and Social Welfare.

## To the Ministry of Health and Social Welfare

- Begin a process to introduce a comprehensive sexuality education curriculum in primary and secondary schools that complies with international human rights standards, together with the Ministry of Education and Vocational Training.
- Teach the curriculum as an examinable, independent subject by teachers with adequate training and resources, and monitor its implementation.
- Improve access to sexual and reproductive health services and information for all girls and women, including access to emergency obstetric care and family planning. In particular, expand access to and ensure quality, adolescent-friendly reproductive health information and services in all districts.
- Provide healthcare providers with appropriate training on the reproductive and sexual rights of adolescents. The training should have a strong focus on the right to access health information and services, including contraception, and an understanding of the many interlinked factors that contribute to teenage pregnancies.

- Ensure that healthcare providers are informed about the illegality of mandatory pregnancy testing of girls, and the human rights violations at issue.
- Support efforts to end the mandatory pregnancy testing of school girls and their expulsion from school.
- Strengthen the capacity of communities and local government actors to protect the most vulnerable children, including children at risk of child marriage and child labor, and ensure their access to child protection services.

### **To the Ministry of Labor and Employment**

- Take action to end child labor that undermines children’s access to education as part of the National Action Plan for the Elimination of Child Labor. In particular, increase child labor inspections including in informal work settings, and conduct programs to withdraw children from child labor and enroll in school or vocational training. Furthermore, activities should include the provision of appropriate health services, and, if necessary, social reintegration measures.
- Conduct a new national survey on child labor in Tanzania.

### **To the Ministry of Home Affairs**

- Expand Police Gender and Children’s Desks in both rural and urban areas in Tanzania. Increase the number of female officers at these desks, ensure adequate training on gender-based violence for police working at these desks, and seek adequate resources to do their work.
- Provide regular trainings for police and prosecutors on their responsibilities to investigate and prosecute violence against women, including child and forced marriage, under the applicable law, in coordination with the Ministry of Community Development, Gender, and Children and Ministry of Constitutional and Legal Affairs.
- Appropriately discipline or prosecute corrupt law enforcement officers.

## To the Commission for Human Rights and Good Governance

- Increase monitoring of child, early, and forced marriage cases. Investigate and publish reports on the issue of child, early, and forced marriage, gaps in protection, and access to justice for victims.

## To the African Union

- Urge Tanzania to launch the African Union campaign to end child marriage, and to develop concrete indicators for monitoring and measuring progress.

## To United Nations Agencies and International Donors

- Urge the government of Tanzania to end the exclusion from school of married or pregnant students, and to provide re-entry opportunities for married girls and young mothers of school-going age.
- Urge and support the Tanzanian government to take measures to increase access to post-primary education by taking all necessary measures to ensure that children can access secondary education irrespective of their Primary School Leaving Examination results, and by taking measures to allow children who fail to retake the exam and to attend public schools.
- Urge and support the Tanzanian government to introduce a comprehensive sexuality education curriculum in primary and secondary schools that complies with international human rights standards; implement this curriculum as an examinable, independent subject.
- Support justice sector reforms that pay particular attention to addressing discrimination against women in law and practice.
- In programs they fund, donors should support the mainstreaming of strategies to prevent child, early, and forced marriage and to support married girls. These could include incorporating strategies to improve girls' access to education, including those supporting pregnant and married girls to return to school; enhancing access to sexual and reproductive health information and services for adolescent girls; implementing income-generating activities for girls and their families, including married girls; building community awareness about the harms of child marriage

and the importance of delaying marriage; and helping girls at risk of, and in forced marriages, to access protection, justice, and redress.

- Support the establishment and maintenance of Police Gender and Children’s Desks in Tanzania, ensuring that they are available in urban and rural areas across the country.
- Support nongovernmental organizations to implement programs to better understand the root causes of child and forced marriage in Tanzania, and to monitor and evaluate programs addressing child and forced marriage and to use this information to improve programing.
- Support the establishment and maintenance of shelters for survivors of gender-based violence.
- Urge and support the government of Tanzania to launch and carry out the African Union campaign to end child marriage, and to develop concrete indicators for monitoring and measuring progress.
- Support the expansion of legal aid services in both rural and urban areas, including its expansion to cover gender-based violence.

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Four out of every 10 girls in Tanzania marry before they reach age 18. Some are as young as 7. Child marriage in Tanzania is driven by poverty and the payment of dowry, child labor, adolescent pregnancy, child abuse and neglect, as well as limited access to education and employment opportunities for women and girls.

*No Way Out: Child Marriage and Human Rights Abuses in Tanzania*, is based on in-depth interviews with 135 girls and women in Tanzania. The report documents the detrimental impact of child marriage including the impact on girls' education, the increased exposure to sexual and reproductive health risks, and domestic violence by husbands and extended family members. It also shows how child labor and female genital mutilation are pathways to child marriage.

Tanzania lacks a uniform minimum marriage age of 18 for both boys and girls. Gaps in the child protection system, the lack of protection for victims of child marriage, and the many obstacles girls and women face in obtaining redress compel them to endure the devastating and long-lasting consequences of child marriage.

Human Rights Watch calls on the Tanzanian government to enact legislation setting 18 as a minimum marriage age and to take immediate measures to protect girls and women from child marriage and other forms of violence to ensure the fulfillment of their human rights, in accordance with Tanzania's international legal obligations.

*(above) Aisha was 17 and in her third year of secondary school when her father forced her to marry a 45-year-old man, who regularly beat and raped her. Aisha became pregnant shortly after the marriage. She had complications during delivery and could not walk for a month. Girls and younger women are more susceptible to obstructed labor which is one of the leading causes of maternal mortality globally.*

*(front cover) Tigisi, now twelve years old, was forced by her father to marry at the age of nine. He wanted to receive dowry and thought she was mature enough to get married. Her mother, who was against the marriage and wanted her daughter to continue her studies, sought help from her school teachers and NAFGEM, an organisation that supports girls. Naomi is now at boarding school with the support of NAFGEM.*

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