



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION**

Sixteenth periodic reports of States parties due in 2003

Addendum

UNITED REPUBLIC OF TANZANIA*

[27 October 2004]

* This document contains the eighth to sixteenth periodic reports of the United Republic of Tanzania, due on 26 November 1987, 1989, 1991, 1993, 1995, 1997, 1999, 2001 and 2003 respectively, submitted in one document. For the sixth and seventh periodic reports, submitted in one document, and the summary records of the meetings at which the Committee considered those reports, see documents CERD/C/131/Add.11 and CERD/C/SR.112.

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Introduction

1. This is the eighth to sixteenth periodic reports submitted by the Government of the United Republic of Tanzania in accordance with article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination. This report has been prepared in accordance with the guidelines issued by the Committee on the Elimination of Racial Discrimination (CERD/C/70/Rev.5).

I. GENERAL INFORMATION

2. The United Republic of Tanzania is a union between the Republic of Tanganyika and Zanzibar, which was sealed on 26 April 1964. Tanzania is located geographically in East Africa between 29° and 41° east and 1° and 12° south, covering an area of 942,600 km². It borders the Republic of Kenya and Uganda in the north, Rwanda, Burundi and the Democratic Republic of the Congo in the west, Zambia, Malawi and Mozambique in the south and the Indian Ocean in the east. Tanzania experiences a tropical type of climate. According to the census of 2002, the United Republic of Tanzania has a population of 34,569,232 people, 51 per cent of whom are women and 49 per cent men. People under the age of 15 are 46 per cent of the total population. There are about 126 ethnic groups in the country speaking different ethnic languages. However, the majority of the population speaks Kiswahili, which is the national language. This language is the symbol of unity as it is the major means of communication and business transactions.

3. A classification of the demographic composition is not available, as one's religious or spiritual belief or race is not one of the questions asked during the national census on population and housing. This was done to discourage tribalism and religious intolerance and encourage State socialism and nationhood. As pointed out in this report, Kiswahili has been promoted and adopted as the national language.

4. The United Republic of Tanzania's legal framework is structured on the common law framework. The category of laws that operate in Tanzania include statutory laws, customary law, case law (precedent) and the Judicature and Application of Laws Ordinance of 1961.

5. The United Republic of Tanzania has been a multiparty State since 1992. There are 17 political parties. Article 4 of the Constitution of the United Republic of Tanzania provides that all the State authority in Tanzania shall be exercised and controlled by three organs of the State, which are the legislature (Parliament), the judiciary and the executive. The three organs are independent from each other. Tanzania also maintains the rule of law.

II. INFORMATION CONCERNING THE IMPLEMENTATION OF ARTICLES 2-7 OF THE CONVENTION

Article 2

6. Discrimination of any kind is constitutionally prohibited under article 13 of the United Republic Constitution. Organs of State or authorities discharging public duties or rendering services are prohibited from discriminating against any person on the basis of colour,

origin, status in life, etc. Any person who feels that he has been or is being discriminated may seek redress in a court of law. Discrimination is adequately defined under article 13 of the Constitution. This description is consistent with the Convention definition.

7. Prior to independence, Tanzanian public service and political activities were carried out by non-Tanzanians. Tanzania undertook affirmative action in favour of local Tanzanians who had been marginalized during the colonial rule to take over these services. Although Tanzania has no specific laws on racial discrimination, there are express provisions which serve that purpose. For example, section 63 (b) (1) of the Penal Code, Cap 16, provides:

“Any person who to any assembly makes any statement likely to raise discontent amongst any of the inhabitants of the United Republic or to promote feelings of ill-will between different classes or communities of persons of the United Republic, is guilty of a misdemeanour ...”

8. In 1984 the Bill of Rights was incorporated into the Constitution of the United Republic of Tanzania. The rights contained in the Bill of Rights are justiciable under the Basic Rights and Duties Enforcement Act No. 33 of 1994. Section 8 of the Act gives the High Court of Tanzania the jurisdiction to hear and determine any application made by any person in pursuance of article 4 of the Constitution. In the past decade the High Court and the Court of Appeal have been instrumental in the promotion of human rights and fundamental rights through judicial review. Article 9 of the Constitution directs that State authorities and agencies are to implement policies and activities that ensure equal opportunities to all citizens, irrespective of colour, race, tribe, religion or status in life. Article 9 (h) further prohibits all forms of injustice, intimidation, discrimination, corruption, oppression or favouritism and calls for their eradication.

9. Tanzania is a secular State. The Constitution has ensured that matters of religion and State are kept separate; citizens are encouraged to exercise religious tolerance.

Articles 3 and 4

10. Tanzania has always advocated non-discrimination among all citizens. Articles 9 (f) and 13 of the Constitution clearly prohibit racial discrimination based on race, colour, descent and ethnic origin. This has been the position since independence on 9 December 1961. For over 40 years Tanzanians of different descent have participated in different social, political, cultural and economic activities without discriminating against each other, in line with the provisions of the Convention. Immediately after independence Tanzania's economy was weak; the social welfare and standard of living of the majority were low. A few Tanzanians of Asian origin prospered and were a better off than most others. There were sentiments that these Tanzanians were in control of the economy while indigenous people were becoming poorer. African businessmen who were competitors joined this bandwagon. Some political parties wanted to fuel these sentiments to their political advantage. The Government policy was succinctly explained. With the current massive economic achievement in Tanzania, the sentiments have been slowly disappearing. The Government reiterated its position that Tanzania has no place for racial discrimination.

11. So far there have been no reported criminal cases on racial discrimination.

Article 5

Equality before the law

12. Equality before the law is provided for under the law and guaranteed by article 13 (1) of the Constitution. However, access to justice through law is a matter which the Government is battling to achieve. Tanzania is a country that is governed by the rule of law; thus, no one is above the law.

13. In ensuring equality before the law, the State authority takes into account the principle of natural justice, which gives a person the right to be heard and to be heard by an impartial body. The principle of natural justice in Tanzania was applied in the case of *Jimmy David Ngonya v. National Insurance Corporation Ltd.* In this case the applicant was dismissed from employment as a branch manager of the respondent corporation. The Board of Directors dismissed him on the basis of an audit report whose contents were never shown to him to enable him to contradict it. The General Manager was present when the Board of Directors met to determine the matter, but the applicant was absent. The applicant applied for certiorari and mandamus, arguing that his dismissal was in contravention of the rules of natural justice. It was held that: "Since the audit report was prejudicial to the interest of the applicant and it formed the basis of the decision of the Board, it ought to have been shown to the applicant for his comments and for an opportunity to contradict the contents; failure to do that contravened the right of the applicant to be heard and since the General Manager, who was in the nature of a prosecutor, was present during the deliberations of the Board which dismissed the applicant, the proceedings of the Board were vitiated by bias."

14. Tanzania has been and is characterized by peace and stability. Its foreign policy is good neighbourliness and promotion of rights and self-determination. This was put into practice during the struggle for political independence by States in southern Africa and against apartheid rule in South Africa, where majority rule was obtained. Tanzania has categorically made it clear that its territory shall not be used to launch attacks against its neighbours. Tanzania prohibits refugees forming armed groups in order to attack their country of origin.

15. In safeguarding the principle of equality before the law and the presumption of innocence, article 13 (6) (b) of the Constitution provides that no person shall be presumed guilty of an offence until proved guilty of that offence. The principle is stipulated in the Criminal Procedure Act, 1985 and the Law of Evidence Act, 1967. However, it is worth noting that access to justice is one of the major problems in the country: poverty among the Tanzanians, lack of sufficient resources for the Government to execute its development plans and ignorance limit accessibility to justice. In criminal and civil cases the poor and minorities cannot hire legal services of an advocate due to exorbitant fees. When a person is charged with murder, manslaughter, or treason the Government bears the cost of engaging an advocate to represent him, but the Government does not do the same if a person is charged with any other offence. There has been some discussion that legal aid should be extended to assist women, the poor and minorities. The Government is undergoing thorough legal sector reforms, which will take into account issues such as accessibility of legal services.

16. In addressing the problem of accessibility to justice the Government has taken several initiatives. Through its medium-term expenditure framework it allocates funds for construction and rehabilitation of court buildings, capacity-building and recruitment of personnel. The legal sector reform programme, through quick-start projects, also addresses this issue. Development partners complement the Government's efforts. The number of training institutions undertaking training of judicial officers has been increased from two to five, one located in Zanzibar.

17. Corruption is a serious problem. It limits accessibility to justice for the poor, women and minorities. The Government is aware of this problem and has tried to combat it by strengthening the Prevention of Corruption Bureau, which investigates all corruption matters and prosecutes suspects in courts of law. Corruption is an offence under the Prevention of Corruption Act No. 16 of 1971. In addition to the legal framework, the Government has formulated a national anti-corruption policy and strategy which each ministry, department and agency of the Government is required to implement.

18. The majority of Tanzanians find the legal system too bureaucratic and burdensome. The Government is working on this matter. Previously, the law required complainants to seek leave to the Attorney-General in order to sue the Government. This was done under Act No. 16 of 1967 as amended by Act No. 40 of 1974. This meant that the Government was being asked for its consent to be sued. This law was reviewed and replaced by Act No. 30 of 1994 whereby the complainant has to give 90 days' notice to the Attorney-General indicating his intention to sue the Government and the reasons for doing so. Currently, the Tanzania Law Reform Commission is reviewing the criminal and civil procedure in order to pinpoint the cumbersome laws. Another criticism is the requirement of a panel of three judges to hear petitions instead of one judge under section 10 of the Basic Rights and Duties Enforcement Act, No. 33 of 1994. This is an obstacle considering the number of cases. However, the Government has made special efforts to tackle the problem of the small number of High Court judges by appointing 13 judges within a period of two years. It is expected that this will improve the situation.

19. The Constitution of the United Republic of Tanzania does not discriminate between citizens and non-citizens in the enjoyment of equality before the law. Under article 29 (2) every person in the United Republic of Tanzania is entitled to equal protection under the laws and a public hearing by the courts and is free from arbitrary and unlawful interference with his/her privacy, family, home or correspondence. However, it should be noted that non-foreigners have to abide with the municipal laws such as the Citizenship Act No. 6 of 1995 and Immigration Act No. 7 of 1995, which provide, among other things, for the procedure to reside and work in Tanzania.

20. The Government is making efforts to assist the poor and the minority groups. It has established a department dealing with non-governmental organizations under the Vice-President's Office. This Office, among other things, is charged with poverty reduction activities. In addition, municipal and district councils throughout the country have been directed by the President's Office for Regional Administration and Local Governments to allocate funds for special business areas so that the poor, minorities, women and young men can run small businesses. There are various financial institutions that give loans to the above-mentioned groups; these include the savings and credit cooperative societies PRIDE Tanzania and Small and Medium Enterprises.

21. Tanzania is among those African countries hosting a large refugee population for a long period of time. In 1990 and 1994 serious acts of genocide took place in Rwanda and Burundi, which gave rise to an increase in the number of refugees in Tanzania. More than 215,000 Burundians have, however, returned to their homeland since 2002, but many others have yet to repatriate. Currently, some 260,000 Burundians remain in refugee camps in western Tanzania and another 470,000, most of whom left Burundi in 1972, live spontaneously outside the camps. Over 83,000 Burundians have been repatriated in the first eight months of 2004, and there are signs that the long years as refugees are coming to an end for the remaining nearly 500,000 “new” refugees, who are already repatriating. About 23,800 refugees returned to Rwanda by December 2002, bringing to an end the voluntary repatriation programme for Rwandan refugees in Tanzania. The Government of the United Republic of Tanzania in collaboration with the Office of the United Nation High Commissioner for Refugees (UNHCR) participated in these programmes.

22. While Tanzania provides self-reliance opportunities to Somali refugees, who were integrated in the country, it still receives refugees from the Democratic Republic of the Congo as a result of sporadic fighting that is still going on in several regions of that country.

Right to personal security

23. Article 16 (1) of the Constitution of the United Republic of Tanzania provides for the right to privacy and personal security. It provides that every person deserves respect and is entitled to personal protection together with his family and home. The protection is extended to his private communications. However, article 16 (2) of the Constitution provides that in order to preserve the protection and security of the country, the Government will establish legal standards which will determine the conditions and extent to which a person’s right to privacy and personal security could be interfered with, without jeopardizing the provisions of this article.

24. In this regard, the Criminal Procedure Act has provisions to enforce this right. For example, an arrest can be made after an arrest warrant has been produced in accordance with section 13 of the Act and a search is conducted after an officer provides a search warrant under section 24. Section 14 provides for situations where a police officer can make an arrest without a warrant, that is, arresting a person found with objects that might reasonably be suspected to have been stolen, or a person who wilfully obstructs a police officer in the execution of his duty.

25. Section 24 of the Act provides that a police officer can conduct a body search when arresting a suspect. However, section 26 provides that decency has to be observed in searching women and that the search has to be conducted by another woman.

Political rights

26. Upon attainment of Independence in 1961, Tanzania was a multiparty State. In 1965 it adopted a one-party system and the ruling party, the Tanganyika Association National Union (TANU) and the Afro Shirazi Party (ASP), were the only parties that were allowed to exercise political activities in the United Republic of Tanzania. All other political parties were outlawed. ASP operated in Zanzibar and TANU in Tanzania mainland. In 1977 the two parties merged to form Chama Cha Mapinduzi (CCM). The Constitution was amended to give the party supremacy. All that is now past history. The first multiparty elections were held in 1995 and

CCM won the majority of parliamentary seats and formed the current ruling Government. Political reforms have promoted democracy. All political parties advocate for gender equality in their constitutions. The legislature, with the thirteenth constitutional amendment, increased the number of women in the Parliament. Article 66 (1) (b) of the Constitution guarantees women not less than 20 per cent of the total number of parliamentary seats, which number 275. The Parliament meets quarterly in the country's capital, Dodoma. To ensure increased participation by women in decision-making, the Constitution was amended to allow special seats for women from political parties that win at least 5 per cent of the vote. At present, there are 37 women in reserved seats (15 per cent of Parliament), 28 from CCM, 4 from the Civic United Front (CUF), 3 from the National Convention for Reconstruction and Reform (NCCR, Mageuzi) and 1 each from Chadema and the United Democratic Party (UDP); 8 women were elected in their constituencies. There are proposals to increase the percentage threshold to not less than 30 per cent.

27. The country has enjoyed considerable peaceful and participatory development as well as a non-confrontational political structure. Political parties are regulated by the Political Parties Act, No. 5 of 1992. The Act, under section 12 (1), restricts political activities in places of work and educational institutions in order to avoid different interests in political thought within the institutions.

28. Freedom of association is provided for in article 20 (1) of the Constitution and in the Societies Ordinance, No. 337, the Non-Governmental Organizations Act, No. 24 of 2002 and the Political Parties Act, No. 5 of 1992. The exercise of this freedom, which is not absolute, must be in accordance with the law. The Constitution itself set the tune by restricting it under article 20 (2) (a)-(e). Furthermore, article 20 (4) prohibits compelling any person to join any association or organization or for any association or any political party to be refused registration on grounds only of its ideology or philosophy.

Freedom of expression

29. The United Republic of Tanzania respects freedom of expression and the right of its citizens to receive information and to express and disseminate their opinions. Under article 18 (1) and (2) of the Constitution of the United Republic of Tanzania, it is clearly stipulated and expressed that every person has the right to freedom of opinion and expression, to seek, receive and disseminate information and ideas through any media regardless of national frontiers, and to enjoy freedom from interference with his communications.

30. With the introduction of political pluralism, freedom of the press is a necessary ingredient of democracy. Many privately owned newspapers and television and radio stations have been established. The Government or the ruling party no longer monopolizes the media. Over 15 privately owned newspapers covering a range of subjects are circulated for the consumption of the public. They include the *Guardian*, *Business Times*, *The East African*, *Family Mirror*, *Majira*, *Nipashe*, *Mtanzania*, *Mwananchi*, *An Nuur*, *Msema Kweli*, and *Rai*. The Government, under the Broadcasting Services Act, of 1993, established the Tanzania Broadcasting Commission, which is responsible for issuing broadcasting licenses and ensuring that radio and TV programmes in the country meet the required standards and do not corrupt public morals.

31. Freedom of the media has been associated with mushrooming privately owned television stations. Some of these are Independent Television (ITV), Dar Es Salaam Television (DTV), the Coastal Television Network (CTN), Star Television, Agape Television (ATN), East African Television (EA), TV Burudani, Abood Television, and SUA Television and Channel Ten. Clouds FM, Radio One, Radio Free Africa, Radio Tumaini, Radio Kuizera, WAPO Radio, Radio Uhuru, Radio Quoran and Sauti ya Injili are among the privately owned radio stations in the country.

32. The media practitioners have established the Media Council of Tanzania as a self-regulatory body to safeguard their rights. It is a voluntary, independent and non-statutory body established by journalists with the belief that the main role of media professionals is to serve the truth, guided by the principle of the public's right to information. The Council's objectives are to maintain freedom of the media and to ensure that editors, journalists, directors, producers, broadcasters and all others involved in the media respect the highest professional standards and comply strictly with the code of ethics.

33. The Media Council monitors infringements of the code of ethics and cooperates with governmental bodies at all levels. It also produces and disseminates reports to the public. The Government, on the other hand, has issued a directive that information desks should be set up in all ministries, departments and agencies to provide public information in the domain of the respective ministries, departments and agencies. The media have helped a lot in sensitizing the public about various issues such as sexual abuse, exploitation of minors, female genital mutilation and its effect on women's health, HIV/AIDS, the political and economic situation, etc.

Freedom of association and assembly

34. Article 20 of the Constitution of the United Republic of Tanzania explicitly provides that every person is entitled to freedom of association and peaceful assembly. The Organization of Tanzania Trade Unions Act of 1991 established the Organization of Tanzania Trade Unions (OTTU) as the autonomous umbrella representative of all Tanzanian workers. OTTU replaced the Jumuiya ya Wafanyakazi wa Tanzania (JUWATA) which was formally affiliated with the ruling CCM party, which decided to remove JUWATA from the list of mass organizations. Today workers are allowed to form trade unions at their workplace. Trade unions such as TUGHE, TRAWU and CHAWATA are affiliated with the Trade Union Congress of Tanzania (TUCTA), which was created under the Trade Union Act of 1998.

Right to work

35. The Constitution of the United Republic of Tanzania under articles 22 and 23 provides for equal rights and opportunities in employment for both men and women. Women are highly encouraged to apply for employment. Equal pay for equal work is a right of men and women. Paid maternity leave is granted every three years to every working female officer under the Standing Orders for the Public Service, 1994. The Constitution also spells out clearly the right of all persons to work without discrimination. This includes the right to free choice of profession, promotion, job security and employment, as well as to fringe benefits. The acts that provide security for employment in Tanzania are the labour laws such as the Workmen's Compensation Ordinance, the Regulation of Wages and Terms of Employment Ordinance,

the Employment Ordinance, the Severance Allowance Act, 1962, the Security of Employment Act, 1964 and the Industrial Court of Tanzania Act, No. 41 of 1967. However, there is a comprehensive labour relations legislation which has been passed by the National Assembly and which awaits operationalization.

36. However, the Constitution only provides and protects the right of those already employed. It is not guaranteed that every person will be provided with work. This is so because work as part of economic right is not considered as an inherent or inalienable right. It is among the rights accorded by the State within the limits of its economic capacity and development.

Right to public health and medical care

37. In Tanzania, the right to health falls outside the provision of the Bill of Rights. This right is provided under article 11 (1) in part II of the Constitution of the United Republic of Tanzania.

38. Prior to the mid-1990s, education and public health were provided free of charge by the Government. The policy of cost-sharing in education and health services was introduced in the mid-1990s. This policy was initiated in district and regional health centres. This exercise has proved to be helpful to vulnerable groups, for example the aged, children and women. Vaccinations for the six major diseases are still provided for free. Children below the age of 5 years, and the aged above 70 years get free medical treatment. All citizens get free medical treatment for diseases like tuberculosis, leprosy, polio and cancer. The Government, in doing away with harmful practices that affect individuals, has either enacted new laws or amended the existing ones, for example: the Sexual Offences Special Provisions Act, No. 4 of 1998 has established female genital mutilation as a criminal offence. Through non-governmental organizations and the mass media, the Government is educating its citizens about how bad the practice is for women's health. The Government will soon ratify the Maputo Protocol, which, among other things, prohibits and condemns all forms of harmful practices, including female genital mutilation.

HIV/AIDS

39. The HIV/AIDS epidemic has posed a serious threat to our country. By December 2001 the United Republic of Tanzania had over 2 million people living with HIV/AIDS. More than 700,000 are suffering from AIDS. Between 1 January and 31 December 2002, a total of 12,675 cases were reported to the National AIDS Control Programme from all Tanzanian mainland regions. Many Tanzanian families have been affected by the scourge, yet stigma and discrimination remain high within communities, workplaces and health services. In the year 2001 President Benjamin Mkapa declared HIV/AIDS a national disaster and the Tanzania Commission for AIDS Prime Minister's Office was formed. The Tanzania Commission for AIDS has been addressing, among others, the HIV/AIDS policy, which addresses information campaigns, transmission from motherhood to child, antiretroviral treatment and stigma and discrimination. The Government has reviewed laws affecting the spread of HIV/AIDS. A report has been completed and awaits an official launch. This exercise was done in order to come up with comprehensive legislation that will address issues relating to HIV/AIDS. The Government is in the process of reviewing laws affecting HIV/AIDS. Awareness and intervention programmes are organized at the community level in order to negate the spread of HIV/AIDS.

Malaria

40. Malaria is a more deadly killer than HIV/AIDS. The Government is waging a war against malaria in collaboration with development partners. The campaign targets the use of treated mosquito nets, cleaning up the environment and fumigating mosquito-breeding areas. The Government is combining poverty eradication efforts with the fight against malaria: for example, free mosquito nets are provided to pregnant women and children and prices of treated mosquito nets are subsidized so that they can be affordable.

Social security

41. The social security system in Tanzania, as in other developing countries, is not as well defined as in the developed world. Security depends on arrangements in its existing structures, such as the extended family system. There are social security systems or forms of social insurance systems pertaining to employment injury, old age and death. These systems are financed by contributions from employees and workers. They are the National Social Security Fund, the Parastatal Pension Fund, the Local Authorities Pension Fund, the National Insurance Corporation and the National Health Fund, which is compulsory for civil servants. There is a form of modern social security for those who are in wage/salary employment. However, owing to changes that are taking place as a result of economic reforms and modernization, some of the traditional social security systems and institutions, such as the extended family system, are dying away.

Right to education and training

42. The Education Policy document is supported by the Constitution of the United Republic of Tanzania. Article 11 (2) provides for the right to self-education, while under article 11 (3) the Government is duty bound to ensure a conducive environment for education.

43. Two laws are in place to ensure the implementation of the Education Policy: the National Education Act, No. 25 of 1978 (for Tanzania mainland) and the Education Act, No. 6 of 1982 (for Zanzibar). The National Education Act provides for compulsory enrolment in primary education between the ages of 7 and 13 years. The education system of Tanzania mainland provides seven years of compulsory primary education, four years of secondary education and two years of advanced-level education. In Zanzibar, the Education Act guides primary education. Compulsory education constitutes 10 years of schooling: 7 years of primary education and 3 in Junior Secondary School.

44. In its effort to promote and protect the morals and traditional values, the Government has formulated the Cultural Policy of 1999 in order to ensure the promotion and protection of culture. The Government, through the National Museum of Tanzania, has established a system whereby each tribe is given the opportunity to display its culture. The tribes are required to register their cultural symbols with the National Museum, with the objective of preserving them.

Article 6

Information on judicial and legislative measures

45. The United Republic of Tanzania's legal system through its Constitution has been structured similarly to the common law framework. That is to say, Tanzania has received the common laws through the Judicature and Application of Laws Ordinance of 1961, modified to accommodate the Tanzanian environment. Section 2 (2) of the Ordinance gives power to the High Court of Tanzania to adjudicate both criminal and civil cases.

46. The separation of powers is recognized under the Constitution and State power is exercised by the executive, the legislature and the judiciary. The independence of the judiciary is provided under article 107 A of the Constitution and the supremacy of the legislature by article 64.

47. Ward tribunals are administrative bodies that administer justice at grass-roots level. They deal with conciliatory matters. They do not form part of the court hierarchy. These ward tribunals are not well established throughout the country. The number of tribunals compared with the number of citizens they serve. However, the ward tribunals have resolved a number of matters that would have otherwise ended up in court and take a long time to be determined. Ward tribunals play a vital role in access to justice.

48. The court hierarchy begins with the primary court comprised of a primary court magistrate and two lay assessors. The participation of assessors in the administration of justice gives recognition to the principle of people's involvement in the dispensing of justice. The decision recognized by law is of the majority. In the High Court, the assessors' work is to advise the Court in matters of fact, not law. District courts are presided over by a district court magistrate, resident magistrates courts by a resident magistrate and the High Court by a judge. Lay assessors in the High Court sit with the judge in criminal matters like murder, treason and economic crimes; in the High Court assessors do not sit on civil matters. Apart from the fact that the High Court has wider jurisdiction in dealing with disputes, it also has two divisions dealing with commercial and land matters respectively. The Court of Appeal of Tanzania is the highest in the legal system of the country. At the moment it is comprised of seven justices of appeal.

49. There are also special courts in Tanzania, for instance the court martial established by The National Defence Act, No. 24 of 1966 which deals with military discipline, the Industrial Court Act No. 14 of 1997, which deals with labour disputes, juvenile courts dealing with juvenile justice, housing tribunals established by Government Notice No. 435 and No. 240 of 1990 dealing with tenancy disputes, the Tax Revenue Appeals Board established by Act No. 15 of 2000 dealing with tax disputes, and the ward tribunals for settling disputes at the village and ward levels.

50. Apart from the ordinary court system, a Special Constitutional Court is established under article 125 of the Constitution of the United Republic of Tanzania. The sole function of the Court is provided under article 126 of the Constitution of the United Republic. It, is to hear and

determinate, on an ad hoc basis, matters referred to it concerning the interpretation of the Constitution where such interpretation or its application is in dispute between the Government of the United Republic and the Revolutionary Government of Zanzibar:

“... the Special Constitutional Court shall not have power to inquire into or to alter the decision of the High Court or the decision of the Court of Appeal which has been given in accordance with the provisions of article 83 of (the) Constitution or the decision of the Court of Appeal which has been given in accordance with article 117...”

Remedies against racial discrimination

51. In order to ensure that racial discrimination is dealt with accordingly, the Government, as per article 129 of the Constitution, has in the year 2000 established the Commission for Human Rights and Good Governance in lieu of the defunct Permanent Commission of Enquiry. In performing its functions the Commission conducts inquiries into complaints of human rights violations, that have been lodged with it. The Commission has dealt with such complaints as East Africa Gold Mines Limited in Tarime District against Resolute (Tanzania) Limited and others at Nzega, and against the Government in Serengeti District. The Commission has also published a report on prison conditions in Tanzania. The Commission is playing its role of educating the public by conducting meetings, workshops and symposiums to sensitize the masses on human rights.

52. The legal framework has a dual system in regard to international conventions and treaties. International conventions do not operate in Tanzania until translated into domestic legislation. The process of ratification must be followed by legislation so as to put the convention on the same footing as other statutes. Ratification is done by Parliament under article 63 (3) (e) of the Constitution. Courts have emphasized that the Government has to adhere to its obligations under the international or regional conventions. In the case of *Transport Equipment Ltd., and John Nolan v. Devram P. Valambhia*, Civil application No. 49 of 1993, it was held (obiter dicta) that the fact that an international convention to which the Republic of Tanzania is a party is not incorporated into the Tanzanian law does not absolve the Government of the duty to adhere to its undertaking. International conventions are recognized by signing alone, and as such create an international custom that is recognized in general practice. As a custom derived from the general principles of common law, it is thus drawn from the obiter dicta cited above that even if the Convention is not incorporated into domestic law, it may be invoked in Tanzania as part of customary international law (obligatory norms). This view is obiter dictum under our Constitution and in State practice such treatment does not put conventions that have not been incorporated into domestic law on an equal footing with municipal law, as norms are low in the hierarchy of laws, indeed, lower than the local customary law which is codified. The Government is currently undertaking reforms in the legal sector, including a review of its statutory laws. The review is important for the purpose of removing contradictions between domestic law and international instruments. The State's commitment is unfettered.

53. The Bill of Rights enshrined in the Constitution of the United Republic of Tanzania and incorporated in its articles 12-29 follows the Universal Declaration of Human Rights. As noted above, these rights are justiciable in accordance with the Basic Rights and Duties Enforcement Act, No. 33 of 1984. All statutes must abide by these principles; otherwise, they could be

declared unconstitutional by the courts. A common attack on these provisions is on the clawback provisions, on the basis that they do dilute human rights. The matter has been tested in court in the case of *Director of Public Prosecutions v. Daudi Pete* [1993] TLR 22. The Court of Appeal stated that “any statute which is so broad as to fall part within and partly outside the parameters of the article (article 30 of the Constitution) would not be validated because, through attempts to protect society it endangers it”. The Government is in the process of reviewing the Constitution in order to improve the provisions of the Constitution where it is necessary.

54. In the process of ensuring that justice on basic rights is provided efficiently, a procedure involving three judges has been set up. The United Republic has 11 High Court registries. These are in Arusha, Moshi, Tabora, Dodoma, Mwanza, Mtwara, Mbeya, Songea, Dar Es Salaam, Tanga and Bukoba. The Government is planning to have High Court registries in all 22 regions.

Practices and decisions of courts

55. It can be said that the country’s political parties observe the principle of non-discrimination and have made it part and parcel of their constitutions. For example, articles 4 (1) (2) and 5 (11) of the Constitution of the ruling CCM party condemn racial discrimination of any kind; NCCR Mageuzi also condemns racial discrimination in its constitutions (art. 13); the Constitution of the Democratic Party (chap. one) emphasizes that one should not be discriminated against; the Constitution of the United People’s Democratic Front (chap. two, art. 9 (c)) condemns racial discrimination of any kind; the Constitution of the Civic United Front (art. 6 (1)) discourages discrimination; the constitutions of the Forum for the Restoration of Democracy (chap. one, art. 6 (1) (b)), the Constitution for Multi Party Democracy of Tanzania (art. 2 (3)) and the Tanzanian Labour Party (art. 8 (1)) also condemn racial discrimination. However, Tanzania has not yet established specific tribunals to deal with racial discrimination issues because they are not rampant. There are however, some tribunals which deal with civil matters only (see paragraph 49).

Information in connection with general recommendation XXV (2000) on article 6

56. Tanzania is complying with the above-mentioned general recommendation, which upholds the right to seek just and adequate reparation or satisfaction for any damage suffered as a result of racial discrimination as embodied in article 6 of the Convention. Tanzania’s legal system has the power to award compensation to a person who has suffered damage as a result of humiliation and racial discrimination.

Article 7

Education and training

57. In the 1970s Tanzania was very active in the campaign against illiteracy. By the mid-1980s, literacy was about 80 per cent of the total population as primary education and adult education were free. Today, the quality of education at all levels has suffered. This is due to economic and social problems. Adult illiteracy has increased from 10 per cent in 1986 to 16 per cent in the early 1990s and is currently growing, according to UNICEF, at an estimated rate of 2 per cent per annum.

58. The gross enrolment in tertiary education is about 1 per cent of the age group with similar gender, social and regional disparities. However, primary school enrolment increased in 2002 with the abolition of compulsory school contributions. As regard to secondary education, the transition rate from primary to secondary schools has increased from 19.5 per cent in 2001 to 21.7 per cent in 2002. The number of girls joining form V has also increased from 38 per cent to 42 per cent and a total of 4,367 students of forms I to VI continued to be supported under the Girls Secondary Education Support Programme, which supports competent female students whose parents cannot afford to meet school fees. In order for the community to participate in the implementation of the Primary Education Development Programme, 15,991 classrooms were constructed in 2002, against the target of 13,868 classrooms. An achievement during the year has raised the general enrolment rate to 98.6 per cent while the net enrolment rate was recorded at 80.7 per cent, a little bit below the target of 85 per cent by 2003. The data show that the total number of students has increased by 23 per cent. The Government, in order to meet the students' requirements, increased by 5.8 per cent the number of teachers and increased by 4.8 per cent the building of primary schools (UNICEF data). The Government, appreciating the importance of education, provides free universal primary education. However, parents have to pay fees and other expenses for their children for higher education. The Government provides loans to students pursuing further studies in universities and other tertiary institutions.

Combating prejudices which lead to racial discrimination

59. Although Tanzania does not have a policy on racial discrimination, the Education Act strictly prohibits enrolling pupils and students on a racial basis. That being the case, education has no room for racial discrimination in Tanzania

60. In 1974 the Government took the initiative to enrol children of ethnic groups, for example the Maasai, Wahdzabe and Barbaig, in primary and secondary schools with special pass marks in order to appraise them academically at those levels.

61. The Government has also formulated a Cultural Policy whose objectives are:

- (a) To promote Kiswahili as the national language;
- (b) To promote vernacular languages;
- (c) To promote arts and crafts;
- (d) To protect and promote the cultural heritage;
- (e) To ensure that recreational activities take cognizance of national values;
- (f) To sensitize the public to participate fully in cultural activities;
- (g) To ensure that the family is respected as a basic and important institution;
- (h) To promote education and training in different cultural professions.

III. CONCLUSION

62. The United Republic of Tanzania appreciates the work done by the Committee on the Elimination of Racial Discrimination in promoting human rights among the people of the world. This is a way of checking and balancing the State party functions in order to safeguard the dignity of human beings. The Government is committed to implement the International Convention on the Elimination of All Forms of Racial Discrimination and to report to the Committee periodically. Although it has not been the case in the past, with this report we start a new chapter in the reporting process to the Committee as required under article 9 of the Convention.
