

**Mr. President and the High Commissioner,**

On behalf of the United Republic of Tanzania, I am honoured to address the Human Rights Council on this occasion of the adoption of our second Universal Periodic Review (UPR) Report.

My delegation participated in the review of the State's second National Report during the 25<sup>th</sup> Session of the Universal Periodic Review Working Group in May this year. We approached the review process with an open mind and spirit and had a constructive dialogue with the distinguished members of the Working Group. During the consideration we reported on; the implementation of the recommendations accepted by the State under the first review cycle, developments in the human rights situation in the country since the adoption of the first National Report and challenges faced in the promotion and protection of human rights in the country over the review period.

**Mr. President,**

In the course of the Working Group review session, **86** delegations took the floor, formulating questions and recommendations. I would like to thank, once again, all the Member States and Observers of the Human Rights Council for their active contribution to a fruitful dialogue on the performance of Tanzania under the first review cycle. I would like to assure the delegations that my Government has given its full attention to all the recommendations.

The United Republic of Tanzania received **227** recommendations in total, clustered in a number of thematic issues. We accepted **130** recommendations, Rejected **72** recommendations and **25** recommendations were deferred for further consideration. We then proceeded to hold consultations with both State and Non-State Actors

from both sides of the Union on all the recommendations. This was in adherence to the principle of broad based consultations which guides the Universal Periodic Review process. The outcome of the consultations has led to the status of the recommendations being presentation today.

**Mr. President,**

The recommendations **accepted** by the United Republic of Tanzania are aligned with areas identified in the National Report and in compliance with the Constitution, policies and laws of the land. They are reflective of on-going initiatives and seek to enhance the Government's efforts and commitments towards promotion and protection of human rights in the country. In their thematic areas, the accepted recommendations pertain to: international human rights instruments, the Constitution making process, violence against women and children, strengthening the National Human Rights Institution, the rights of persons with disabilities, rights of the elderly, free and fair elections, environmental protection, land rights, access to water, health and education, freedom of association and expression, anti-corruption measures, access to justice, prison conditions, the Sustainable Development Goals Agenda 2030, international cooperation, training on law enforcement officers on human rights, anti-discrimination, the National Human Rights Action Plan and adherence of National laws to International Human Rights standards.

I wish to inform you of developments regarding the status of four (4) initially accepted recommendations, three (3) of which focus on the same matter being that the age of marriage between boys and girls should be non-discriminatory and fixed at eighteen (18) years for both sexes. This is to be achieved by amending the Law of Marriage Act, 1971. The recommendations also called for the State to prevent child, early and

forced marriage. We wish to reiterate the position that the State does not condone or sanction forced marriage. Further, I wish to inform this August body that a Constitutional Petition was filed at the High Court challenging the issues of discrimination and the age of marriage provided by the Law of Marriage Act, 1971. The matter is currently at the Court of Appeal. Therefore, in respect of the principle of separation of powers and the fact that the Law of Marriage Act, 1971 has been the subject of protracted debate touching on religious, cultural and traditional practices, all Recommendations relating to the age of marriage and the Law of Marriage Act, 1971 can not be accepted at this stage as they are awaiting the decision of the Court of Appeal. These recommendations have therefore being rejected.

The fourth issue concerns the recommendation to assist persons with albinism by drawing up and implementing with stakeholders, a comprehensive plan to address their problems including; massive public awareness campaign; free healthcare services such as preventive cancer treatment; protection mechanisms; investigation and prosecution of perpetrators of violence against them and reparation to victims of such attacks. The State generally accepts all aspects of the recommendations save for the issue of reparations. This is a matter which will have to be addressed comprehensively within the State before commitments can be made. This recommendation has been accepted in part.

**Mr. President**, the Government of the United Republic of Tanzania would like to reaffirm its commitment towards implementing the accepted recommendations. We remain allied to the Vienna Declaration and Program of Action and shall continue to implement our National Human Rights Action Plan in collaboration with stakeholders.

The Government shall also continue to strengthen its National Human Rights Institution by continuing to allocate financial, human and logistical resources based on the national capacity and the national budget.

Poverty reduction and the development of Tanzania for all Tanzanians shall continue to be addressed through a human rights based approach to development as the sustainable development goals are being incorporated into the National 5 year Development Plan. Therefore, the civil, political, economic, social and cultural rights of women, children, the elderly, persons with disabilities, and vulnerable groups in the context of Tanzania shall continue to be addressed through the various recommendations. Further, the Government continues to implement Anti-corruption measures with a view of accelerating development. In this regard, a division of the High Court to try Corruption and Economic Crimes Cases was established in July 2016.

**Mr. President,**

I now move to the recommendations which were **rejected**. These pertain to issues and matters contrary to the Constitution, policies and laws of the land, as well as religious and cultural beliefs. These are recommendations on abolition of the death penalty; same sex relations; a single anti-discrimination legislation on inheritance, succession and land rights issues; marital rape; indigenous peoples rights; having a standing invitation policy for special procedures and to ensure asylum seekers and refugees have access to work and freedom of movement. We also did not accept recommendations loaded with several issues, some being acceptable and others not acceptable by the State.

It should be noted that in Tanzania there are no indigenous people as defined by the United Nations or by the African Union. The position in the United Republic is that all Tanzanians of African descent are indigenous to Tanzania.

Refugees and asylum seekers are regulated by the Refugee Policy and the Refugee Act (No. 9 of 1998) both of which are in-line with international law in practice and Tanzania finds no need to re-address either. Further, refugee issues require a global solution and collaboration between States.

The State has also rejected recommendations calling for a single anti-discrimination legislation which encompasses a range of issues such as inheritance, succession, land rights and economic empowerment all in one piece of legislation. There are various pieces of legislation which provide these respective rights and promote the rights and welfare of women and the State finds no imminent need to articulate the various issues into a single legislation.

The State still retains the death penalty in its Statutes for specified offences and finds no reason to change its position on such a sentence. Also, we wish to reiterate our position on same sex relations and the recommendations made remain rejected for being contrary to our laws, moral, religious and traditional norms. Further, the concept of marital rape is one which requires further analysis as our communities do not believe that there could be marital rape.

There are also developments with regard to three (3) Recommendations which were initially rejected.

The State has reconsidered and accepted the recommendation to widen the social welfare domain and make it available to its beneficiaries.

However, the breadth of the extension of the social welfare domain shall be subject to resource availability.

The State has also accepted the recommendation to increase measures taken to counter homelessness and the lack of adequate and affordable housing especially for vulnerable people such as those living in poverty and single mothers. There are ongoing initiatives in the country such as the Tanzania Social Action Fund (TASAF) which seeks to enhance the livelihoods of single mothers in poverty stricken areas. Also, the social welfare system offers assistance to vulnerable people who are defined in the State as women, the elderly, children, persons with disabilities and people with HIV/AIDS. The State shall endeavour to implement the recommendation subject to resource availability.

The State has also accepted the recommendation to strengthen efforts to protect the rights of people with albinism, and other vulnerable and minority groups. The State shall continue to strengthen its efforts and the recommendation is accepted based on the understanding that minority groups refers to vulnerable groups as defined by the State.

**Mr. President,**

Allow me now to proceed with the **deferred** recommendations. These are the recommendations which required further consultations with the policy makers and implementing actors and I shall now proceed with the specifics of the deferred recommendations based on their thematic categorisation.

## **1. Access to Information and Freedom of Expression**

States recommended that the State amend the Cybercrimes Act and the Statistics Act both of 2015 for infringing upon access to information and freedom of expression. As stated during our review, the State considers the Cybercrimes Act of 2015 a good piece of legislation. This Act has far reaching effects as, among others benefits, it protects children from crimes such as child prostitution, child pornography and the privacy of individuals against unlawful invasion. Similarly, the legislation prohibits acts and omissions leading to terrorism, genocide, and crimes against humanity. It also provides remedies to victims from abuse of the Act by law enforcement officers. In any case, there are two ongoing Constitutional Petitions filed by citizens in the Courts challenging various provisions of the legislation. Therefore, the State can not commit to amending the legislation at this stage and is awaiting the various Judgements which will guide the way forward.

With regard to amending the Statistics Act of 2015, the State also considers this a good law which establishes the National Bureau of Statistics as the National statistics office responsible for the production, coordination, supervision, dissemination and custodianship of official statistics of the Country. Therefore, recommendations to amend the Statistics Act, of 2015 remain rejected.

We received a recommendation to facilitate the work of independent and pluralistic media, including citizen journalists. The media and citizens continue to enjoy their right to access information and freedom of expression which is guaranteed by Article 18 of the Constitution of the United Republic of Tanzania and laws of the land. The recommendation is

therefore rejected. However, the media continues to be regulated for the benefit of the media and the citizens themselves as part and parcel of good governance.

A number of States recommended the State adopt through an inclusive process a revised Access to Information Act and Media Services Act. This recommendation is rejected. However, we would like to update the Council that since our Review in May, the Access to Information Act, 2016 has just been passed in the September 2016 Parliamentary Session. Similarly, the Media Services Bill, 2016 has also just undergone a first reading in the September Parliamentary Session. Both the Act and the Bill underwent rigorous scrutiny by a wide spectrum of State and Non-State stakeholders.

## **2. The Right to Health-Abortion**

The State received a recommendation to implement the provisions in the African Union's Maputo Protocol into its national legislation, including women's right to medical abortion in cases of sexual assault, rape, incest and where the life of the mother or foetus is in danger.

The State endeavours to domesticate applicable aspects of the Maputo Protocol in a progressive manner. However, the Penal Code (Cap 16 of the laws) provides for lawful abortion only when the life of the mother is in danger. The issue of abortion carries cultural and religious sentiments and the State can not commit to start a national debate on the issue at this juncture. Therefore, the Recommendation is rejected.



### **3. Non-discrimination-The Age of Marriage**

A number of recommendations were also deferred calling for the age of marriage between boys and girls be non-discriminatory, be set at eighteen (18) years, and for the State to develop an Action Plan to address the consequences of early child marriage. However, as explained above all Recommendations relating to the age of marriage, the Law of Marriage Act of 1971 including the aspect of developing the Action Plan to address the consequences of early child marriage have been rejected pending the decision of the Court of Appeal.

### **4. Rights of the Child-Universal and Free birth Registration**

We reported in our National Report that the State had embarked on implementing universal birth registration and we were lauded for this initiative. It was recommended the Government accelerate its efforts and that birth registration and issuance of birth certificates be free of charge and have universal coverage. Indeed, the State began the under 5 birth registration in collaboration with the United Nations Children Fund (UNICEF) in 2013. The program is being implemented in two Regions and is soon to extend to a third region. The State acknowledges the importance of child registration which is also a right under the Law of the Child Act of 2009. In this regard, the State shall continue to expand the program as its resources permit. The two recommendations on this matter are accepted.

### **5. Rights of Persons with Albinism**

We deferred three recommendations relating to the rights of persons with albinism.

A recommendation was issued to amend the Traditional and Alternative Medicines Act, No. 23 of 2002 to prevent practitioners harming persons with albinism. The State wishes to clarify that the Act was enacted to regulate Alternative and Traditional Health Practitioners. The former are formally trained with skills in alternative medicine while the latter are recognised by the community as competent persons to provide health care. The Act does not sanction harming persons with albinism or any other persons by practitioners and such acts are perpetrated by individual practitioners contravening the law and not otherwise. The legislation itself, the Penal Code Cap.16 and the Witchcraft Act provide penalties for unlawful acts conducted by practitioners or any other person aimed at promoting acts of witchcraft. The recommendation is therefore rejected.

We received a recommendation to provide financial and structural support to civil society organisations to conduct awareness raising campaign against discrimination of persons with albinism.

This recommendation has been accepted in part as the State provides structural support to Civil Society Organisations as it has already established a normative framework by enacting legislation such as the Non Government Organisation Act, Cap 24 and the Societies Act, Cap 337 which establish various Civil Society Organisations. These legislations ensure that Civil Society Organisations are able to seek funding to implement their activities and to operate within the provisions of the law. However, it is not State policy to fund the activities of Civil Society Organisations either generally or with a specific focus such as persons with albinism. It is noted that the Persons with Disabilities Act, 2010 establishes a National Fund for Persons with Disabilities generally and not

for persons with albinism in particular. Therefore, this aspect of the recommendation does not enjoy our support.

It was also recommended we deepen cooperation with stakeholders to fight discrimination and violence against persons with albinism and in particular with the Independent Expert on the Enjoyment of Human Rights by Persons with Albinism, in full respect of the independence of her mandate.

The State is cognizant of the imperative of cooperation amongst stakeholders in the fight to end discrimination and violence against persons with albinism and continues to extend hands of friendship to work together to end the senseless attacks and killings of persons with albinism. The State is willing to receive the Independent Expert, however her mandate must be exercised in accordance with the laws of the land.

## **6. Corporal Punishment**

The State received a recommendation to prohibit all forms of corporal punishment. However, corporal punishment is provided for by law, as part of our penal system vide the Corporal Punishment Act, Cap 17 and its Regulations. Therefore, this recommendation is rejected.

## **7. Elections**

We duly considered the recommendation to play an active role to ensure inclusive and legitimate democracy in Zanzibar by supporting a reconciliation process in Zanzibar that leads to a truly representative Government of National Unity, as required by the Constitution of Zanzibar. This recommendation has been rejected as it is based on the premise that there is no inclusive and legitimate democracy in Zanzibar while there is indeed a legitimate Government as a result of free and fair elections. It

should be appreciated that every political party was at liberty to contest during the elections which took place in March, 2016.

In view of the foregoing, we would like to inform the Council that the total number of accepted recommendations is 131. The total number of rejected recommendations is 94 and a total of 2 recommendations have been have been accepted in part.

**Mr. President,**

The Government of the United Republic of Tanzania is prepared to fully implement the recommendations it has accepted. Indeed, the task ahead is to translate the recommendations into a reality for Tanzanians. This we shall endeavour to achieve by cooperating with the National Human Rights Institution, Civil Society Organisations, the Media, Development Partners and other Non-State Actors. As mentioned in our National Report, the State will be looking for collaboration and support in the following areas:

- i. Human rights training and awareness programs,
- ii. Preparation and submission of human rights reports under the International Covenant on Civil and Political Rights, the Convention on the Rights of Persons with Disabilities, the International Convention on the Elimination of Racial Discrimination and the African Charter on Human and Peoples' Rights, and
- iii. Implementation of the National Human Rights Action Plan.

On behalf of my Government I would like to reiterate our key National priorities and commitments as expressed in our National Report being:

- i. Implementation of the National Development Vision 2025 and 5 year development plans which have incorporated the Sustainable Development Goals,
- ii. Solidification of the Union,
- iii. Free basic Education,
- iv. Prioritising Anti-Corruption measures as part of the national agenda on Good Governance,
- v. Combating economic crimes including tax evasion and to strengthen the tax collection system in order to fund development projects and improve delivery of services,
- vi. Finalisation of the Constitutional Review Process,
- vii. Implementation of the National Human Rights Action Plan and
- viii. Establishment of a framework to provide for and coordinate legal aid issues

**Mr. President,**

I wish to thank you for your continued leadership. I also wish to thank the Human Rights Council Secretariat and the UPR Secretariat for all their support and guidance.

**In conclusion,** Mr. President I would like to re-affirm the State's commitment to the Universal Periodic Review process. Our commitment has always been to learn through the UPR process with the overall objective of enhancing our role as the main duty bearer in the promotion and protection of human rights in Tanzania. **I THANK YOU.**