

ECA/ACW/WHLRF/TAN/97

**WOMEN'S HUMAN AND LEGAL RIGHTS WITHIN
THE FAMILY IN TANZANIA**

DAR ES SAALAAM
December, 1997

*Mrs. Maria E. Kisanga
For the ECA*

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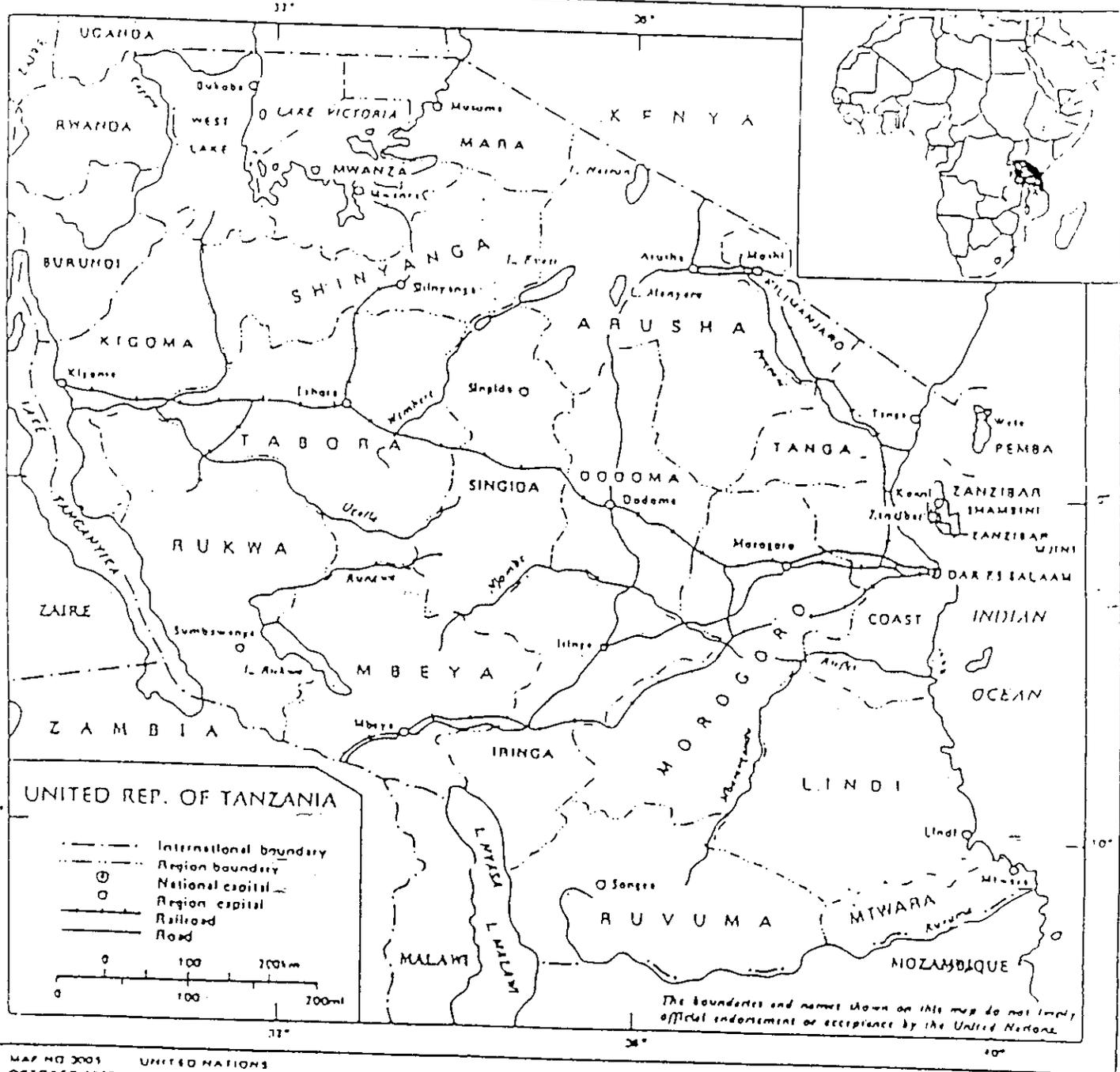
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(i)

TANZANIA



ACRONYMS

AIDOS	Italian Women in Development Association
ARWES	Association of Rural Women Entrepreneurs
BEST	Basic Education Statistics in Tanzania
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women.
CBO	Community Based Organization
CDTI	Commundity Development Training Insitute
CREW	Credit for Productive Activities for Women
CRC	Convention on the Rights of the Child
ECA	Economic Commission for Africa.
FGM	Female genital Mutilation
GAD	Gender and Development or Gender Analysis in Development
ICE	Institutue of Continuing Education
IDM	Institutue of Development Management
IRDP	Institute of Rural Development Planning
ITV	Independent Television
LHRC	Legal and Human Rights Centre
MCDWAC	Ministry of Community Development, Women Affairs and Children
NGO	Non governmental Organization
PFA	Platform for Action
RTD	Radio Tanzania
SUA	Sokoine University of Agriculture
TAHEA	Tanzania Home Economics Association

(iii)

TAWLA	Tanzania Women Lawyers' Association
TAMWA	Tanzania Media Women's Association
TGNP	Tanzania Gender Networking Programme
UNDP	United Nations Development Programm
UN	United Nations
UNIFEM	United Nations Fund for Women
WID	Women in Development

WOMEN'S HUMAN AND LEGAL RIGHTS WITHIN THE FAMILY IN TANZANIA

The United Republic of Tanzania is situated just south of the equator between the great lakes of Victoria, Tanganyika and Nyasa on the Western frontier and the Indian Ocean to the East. It shares common borders with eight countries: Kenya to the North; Uganda, Burundi and Rwanda to the North-West; Congo- Kinshasa, Zambia and Malawi to the West and Mozambique to the South. Tanzania is the twelfth largest country in Africa and covers some 945,000 square kilometres, including approximately 60,000 square kilometres of inland water. Although much of the land lies above 200 metres altitude, a narrow belt along the sea coast is at or near sea level.

In 1966, the population was estimated at 29.1 million with an average annual growth rate of 2.8 percent. The majority of the population (28.2 Million) reside on the mainland, while residents on Unguja and Pemba number 0.83 million people. The population of women was estimated to be 15 million which is about 51.5 percent of the total population. This study is confined to Mainland Tanzania.

The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community. (Vienna Declaration and Programme of Action part I para 18)

INTRODUCTION

Human Rights consist of demands or claims made by individuals or groups of individuals on society and the concern over the years has been the recognition, promotion and protection of rights so demanded or claimed. Following the struggles over the years, today society recognizes a wide range of human rights including civil and political rights, economic, social and cultural rights. At the same time, efforts have also been made to evolve mechanisms for the promotion and protection of those rights at the national, regional and international levels. At the international level there are for instance the Declaration of Human Rights and the international covenants and conventions. At the regional level there is for example, The African Charter on Human and Peoples Rights and at the national level there is the municipal law, the content of which vary from country to country. In Tanzania the municipal law consists of statutory law, customary laws, Muslim Law and case law (judicial precedents).

The concept of Human rights also involves the notion of duty and obligation. That is to say, recognition of rights is also accompanied by recognition of a corresponding duty or obligation. Thus, for instance, while it is recognised that the individual has certain basic rights, it is also recognized that individuals have certain duties and obligations to others individually or collectively in the society.

Human rights for women are not different from basic rights and fundamental freedoms enjoyed by all people men and women. The concept of women's human rights arise because of the inattention given to violations of basic rights and freedoms where women are concerned. Most violations of women's rights remain unchallenged, and action to expose and oppose such violations form only a small part of human rights action and litigation. There is great need to address the women's human rights to remove the inequalities between the sexes. There is unequal treatment between men and women; most power seems to lie with men who are architects of laws that protect peoples rights. It is argued that the laws made mainly by men and practised by men leads to non consideration of women's rights. Furthermore, some of the

cultural and traditional practices seem to violate women's rights. It is in this context that the Economic Commission for African (ECA) has commissioned studies in various countries, whose objective is to enhance the women's legal capacity in the spirit of the Dakar Platform for Action.

As given in the terms of reference the study seeks to

- (i) identify the kind of information that women need in order to better enjoy their human and legal rights within the family;
- (ii) propose institutional arrangements and/or mechanisms through which this information could be imparted to the women;
- (iii) identify one or more NGOs through which these arrangements/mechanisms could be established.

The objectives are to:

1. assess the level of dissemination and of women understanding and utilization of existing laws related to human rights within the family among women both in the urban and rural areas;
2. identify obstacles and constraints to the dissemination of the information.
3. propose practical measures for resolving the constraints identified in No.2;
4. Identify organizations and associations that are working to protect, promote and enhance women's human and legal rights in the family;
5. Sample the opinion of civil organizations and associations about the relevance and adequacy of the legal assistance provided to women.

THE METHODOLOGY

1. Literature review which included both international and local legal instruments on human rights and the laws protecting human rights within the family. These include such legal instruments as the Human Rights Charter, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Organisation of African Unity (OAU) Charter on Human and Peoples Rights and the African Charter on the Rights and Welfare of the Child. At the national

level a literature review of existing legislation, case law and research/writings on women and their legal rights especially those written during the pre and post Beijing UN Fourth World Conference on Women 1995 were reviewed.

2. Field work was confined to whether women (and men) know about their rights and to what society think about women's human rights and how to promote, protect and enhance them. It also tried to find out what organisations were doing on women's human and legal rights. Visits were made to institutions in Arusha, Dar es Salaam, Dodoma, Iringa, Kilimanjaro, Morogoro regions. Visits to institutions were geared towards finding out whether they deal with human rights of women at all and what they can do to protect, promote and enhance women's legal and human rights.

It was assumed that they could train the grassroots people as well as paralegals. Most of the institutions visited outside Dar es Salaam are training in nature; with WID/GAD departments/groups; all have outreach programmes; and they all train people who will work at the grassroots level. Furthermore, all had libraries. So the intention was also to find out whether they had within their libraries a WID/GAD Documentation Centre or area/corner which could serve as a network to the dissemination of information on women's human and legal rights.

3. A visit was also made to women groups in Tanga, an area where UNIFEM/UNDP support has been focused for the past seven years to deliver credit to women for their productive-activities. It was reasoned that women competing in the micro-enterprise activities would know and be able to enhance their knowledge of their human and legal rights and their ability to attain them. It was assumed also that the men around are also forced to change their attitudes towards women with money.
4. Other information about women's human and legal rights was gathered during attendance and facilitation of workshops and seminars to members of civil society.

- (a) The Ministry of Community Development Women Affairs and Children with the support of UNICEF organized a workshop to review the 1992 Women in Development (WID) Policy, at Kibaha Coast Region, from 27 - 31/10/1997. This workshop was attended by 20 experts on Gender as well as UNICEF from the Tanzania Office, various Ministries and Non-governmental organizations from the region. To give it emphasis and the political clout, the workshop was opened by the Minister for Community Development, Women Affairs and Children (who is a woman), in the presence of the Regional Commissioner for Coast Region (who is a man) the District Commissioner for Kibaha (who is a woman), and other officers from the regional and district offices. Members of the mass media were also present.
- (b) Furthermore, the Ministry organized a workshop to discuss a draft report prepared by a team of consultants and experts with the support of UNDP on Women and Gender Advancement in Tanzania. As a post Beijing activity the government has committed itself, among other things to give priority to enhance the women's legal capacity. This workshop took place at the Morogoro Hotel from 13 - 14th October, 1997 and was attended by over 100 senior officials at the national and regional levels from ministries, regions, nongovernmental organizations and the mass media. This workshop brought together experts from Mainland and from Zanzibar.
- (c). From 1-20 December, 1997 The Tanzania Home Economics Association (TAHEA) organised a series of seminars for members of the civil society on Food Security and the Rights to Land. Altogether seven villages were involved; they include Mkuza, Mwendapole, Visiga Msangani, Pangani, Mailimoja and Picha ya Ndege - all in Kibaha, Coast Region. Sixty people men and women in equal numbers were invited in each village. However, turnout averaged fifty; so altogether about 350 people were covered. Besides the villagers there were members from TAHEA, Members of Parliament, councilors, lawyers, officials from the Land Office and from Environment and Rural Planning

(d) Visits to Dar es Salaam Human Rights Non-governmental organizations.

In Dar es Salaam visits were made to The Tanzania Women Lawyers' Association (TAWLA), The Tanzania Media Women's Association (TAMWA), The Legal and Human Rights Centre (LHRC), and the Tanzania Gender Networking Programme (TGNP). These institutions are among the ones in the City who are promoting and protecting human and legal rights of people and of women and children in particular.

Limitations and Delimitations

During the period of study October to December, 1997, a group of journalists from the local mass media had been commissioned by the Tanzania Media Women Association to make a situation analysis seeking opinion on violations of women's rights at the family level. So a lot of the findings have been incorporated in the study. Furthermore, the study came when there has been a lot of discussions initiated by the government and picked by the gender NGOs on the question of Land tenure and Policy.

This work is divided into 7 parts. Part one deals with Literature review, part two deals with results of visits to training institutions; part three with results from visits to women groups in Tanga and part four deals with information from seminars/workshops. Part five discusses information from visits to Human Rights NGOs in Dar es Salaam which might co-operate with ECA. Part six is on the Problems and Constraints to women's enjoyment of their human rights while part seven talks of the proposals on how to address the problems. Conclusion includes appendices and recommendations to ECA. At the end are a list of references.-

PART ONE LITERATURE REVIEW

For women to enjoy their human and legal rights they need to know the rights and the laws, rules and regulations which protect such rights. During the ten years of implementing the 1985 Nairobi Forward - Looking Strategies (FLS) on the Advancement of Women within the context of Equality, Development and Peace, many people men and women have written on the

women's rights. The Tanzania government sector, nongovernmental organizations, (NGOs) the international community and the mass media produced and continue to produce masses of information on how women are discriminated and/or denied their human and legal rights as part of the pre Beijing preparation process and currently as the post-Beijing implementation activities. There is, therefore a plethora of literature on how are denied their rights and on the types of human rights violations in existence. Unfortunately, many people do not seem to be putting emphasis on the rights themselves.

The 1977 Constitution of the United Republic of Tanzania was revised in 1984 to incorporate a Bill of Rights. The rights provided therein are as they appear in the Human Rights Charter and the African Charter on Human and Peoples Rights; but the constitution in this respect does not define discrimination on the basis of sex; this is an unfortunate omission which needs to be readdressed immediately

The human rights of women have been discussed in many international fora as summed up in the Beijing Declaration and Platform for Action (PFA) para 210 to 218. The World Conference on Human Rights reaffirmed clearly that the human rights of women throughout the life cycle are an inalienable, integral and indivisible part of universal human rights. The International Conference on Population and Development reaffirmed women's reproductive rights and the right to development. Both the Declaration of the Rights of the "Child and the Convention on the Rights of the Child" guarantee children's rights and uphold the principle of non-discrimination on the ground of gender. (Para.216)

Para 214 of the Same (PFA) states " Equal rights of men and women are explicitly mentioned in the Preamble to the Charter of the United Nations. All the major international human rights instruments include sex as one of the ground upon which states may not discriminate. Both the African and the Tanzanian Platforms for Action indicate that Women's Legal and Human Rights should be given priority.

Para 54 of the African Platform for Action (APA) states that human rights are inalienable birth rights for every human being regardless of race, religion, creed, nationality or sex and they are not dependent on the State. The states are expected to introduce measures in their constitutions to provide fundamental rights and freedoms to both men and women (para 35). Para 56 calls for evaluation of national laws and policies in Africa with a view to reform them in conformity with the 1993 Vienna Declaration and Programme for Action of the World Conference on Human Rights. The Vienna Conference declared that violation of women's rights is violation of human rights.

The Tanzania Platform for Action (TPA) put women's rights as number one priority area p102. It seeks to increase the women's legal capacity by revising all discriminative laws and by enacting new non discriminative laws. Further, it aims at increasing the legal literacy for masses and for women in particular. The strategy of implementation include public debates, meetings, workshops, video interviews, radio and publications. Training and gender sensitization is also proposed.

The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) or the Women's Convention as is popularly known, which was ratified by Tanzania in June, 1985 and the Convention on the Rights of Child, CRC ratified in May 1991, define clearly the rights of women and the girl child. The fact that Tanzania ratified them without reservation indicates great willingness and determination to remove gender discrimination and accord men and women equal rights. The preamble to CEDAW expresses the commitment "to adopt measures required for the elimination of discrimination in all its forms and manifestations". The discrimination must be tackled in the private lives and relationships of citizens and not only in public sector activities.

Among others the African Charter on Human and Peoples Rights guarantee, freedom of religion, the right to receive information, to express ones opinion, freedom of association and assembly. Further, it guarantees the right to property, to work, to equal remuneration for equal work, to the enjoyment of "the best attainable state of physical and mental health" Article 16; and the right to education and the right to take part in the cultural life of one's community as well

as the [Art.17(3)] duty of the state to promote and protect the morals and traditional values recognized by the community.

Article 18 describes the family as “the natural unit and basis of society” and declares inter alia, that “states shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community”. It further describes that the State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the women and the child as stipulated in international declarations and conventions.

For these rights to be fully enjoyed they need to be part of domestic laws, something which is not yet fully done in Tanzania. In the Sub-Programme for Women’s and Gender Advancement, a list of 12 laws which affect women as appended in this study is given. These laws are also mentioned in the workshop report on “Sensitization of Women on Legal Questions” by the Ministry of Local Government, Community Development and Co-operatives (1989).

The Rights of women in marriage

Marriage in Tanzania is governed by the Law of Marriage Act No.5 of 1971, which deals also with divorce, child custody and division of matrimonial property. Marriage is defined by section 9(1) as the voluntary union of a man and a woman intended to last for their joint lives. Two types of marriages are recognized in section 10 : Monogamous and polygamous; but section 20 provides that a monogamous marriage can be converted into a polygamous marriage if the husband and wife agree to the conversion except where the marriage is between two Christians and was celebrated in church in Christian form (section 11). Recognition of such marriages is evidenced in the marriage certificate where a couple has three choices for name and signature:- monogamous, polygamous, potentially polygamous. It has been known that some women who believed that they had contracted monogamous marriages found out later that they had signed for the potentially polygamous marriages.

The Act emphasizes in Section 15 that “no woman who is married shall, while that marriage subsists, contract another marriage.” It is contended that the above provisions on

polygamous marriage do not accord equal treatment to men and women and should, therefore, be deleted. Polygamy is inconsistent with equality of the sexes.

Section 12 of the Law of Marriage Act states that a marriage is terminated by the death of either party thereto." In addition section 68 states, notwithstanding any custom to the contrary, a woman whose husband has died shall be free -(a) to reside wherever she may please and (b) to remain unmarried or, subject to the provisions of section 17, to marry again any man of her own choosing. Some customs require the widow to continue to live in the matrimonial home but others require the widow to be inherited by the relative of the late husband. Such practice denies the widow her right to choose another spouse

Rule 66 A of the Local Customary Law (Declaration) Order 1963, GN.279 of 1963 deals with residential rights of the widow in the matrimonial home. It states, in part, that the widow may claim her right to reside in a house of the deceased's kinsfolk. In *Scholastica Benedict v. Martin Benedict*, Court of Appeal of Tanzania at Mwanza, Civil Appeal No.26 of 1988 (unreported) the Court of Appeal held that the appellant widow was not entitled to reside in the matrimonial house in Bukoba township: rather she had to move to an inferior house at Kanoni Shamba which, according to the decision of the clan council and the administrators, was the share of inheritance of the adult daughter of the deceased and the appellant.

It is submitted that this decision puts women to some disadvantage. It is capable of producing disorientation in the widow who moves to new and unfamiliar neighbourhood. The widow is also denied her right to decide where to live.

It seems that the practice of wife inheritance which is widespread in Tanzania contradicts these provisions. In a recent case, *Chilala Mwaja v. Balala Masaka* (1981) TLR 180, the Court of Appeal of Tanzania held that no rule of customary law which permits a son of a deceased father to inherit his wife or wives can any longer be recognised as applicable since such purported marriage is within the prohibited relationship and, therefore, a nullity - section 14(3) of the Law of Marriage Act 1971. This decision is limited in extent; it outlaws wife inheritance of father's wife/wives by a son. It does not affect wife inheritance in general. It is

recommended that in a proper case, the Court of Appeal of Tanzania should be urged to hold that wife inheritance in general is inconsistent with sections 12 and 68 of the Act.

Age of Marriage, Consent and Dowry

The age at which parties may marry differs between girls and boys. Section 13(1) provides that a man can marry on attaining the age of 18 years while a woman can do so on attaining the age of fifteen years. However, Subsection (2) of the section gives the court discretionary powers to grant leave for a marriage where the parties or one of them is below the prescribed ages as long as they are not below the age of 14 years. The court can exercise such powers if it is satisfied that there are special circumstances which make the proposed marriage desirable.

Consent

Consent is provided for by Section 16 where it is stated that no marriage shall be contracted unless there is consent which is given freely and voluntarily by both parties. Many customary law marriages are usually arranged by the parents of the parties and consent, especially from the girls is not a prerequisite. On the other hand, Section 17 imposes the requirement of consent for females below the age of 18 years. Such consent must be obtained from either the parents or a guardian. In practice consent is given by the father and not the mother.

Marriage with consent of parents defies the age of majority as provided for in the Age of Majority Act of 1970. It would seem that the parents do not know the law; or the man of 60 or 70 years who marries a child does not know the law either. Most often in traditional societies children are never heard; once there is consent by the parents, on her part she is not involved and therefore her right is violated.

The section on consent is sometimes abused. Parents and the bride groom to be, violate the rights of the girl. Maybe because of their own good. For example, one hears such comments as "when you marry a young one it is re rejuvenating", stated by men, while the parents (in many cases) are those who have economic problems and/or who are very traditional. Those who marry many women is more of prestige especially in urban areas while in the rural areas it is more of an economic issue to get labour force. Take for example, a case reported in the Independent

Television (ITV) of 5/12/97. A man got money for redundancy; instead of investing it productively, he decided to marry a second wife. He accordingly sought the permission of the first wife by telling her categorically that whether she liked it or not, he was going to get married; and he would not divorce her.

Dowry

The question of dowry is dealt within section 41 which provides that a marriage which has complied with all the express requirements of the Act shall be valid notwithstanding any non-compliance with any custom relating to dowry or the giving or exchanging of gifts before or after marriage.

In practice, dowry, depending on customs, can be an important prerequisite to any marriage. This provision was tested in court in the cases of *Laijunius v. Ndiinga* (HCD, 1971 No.331) and *Ramadhaniu Mohammed v. Mohammed Omari* (unreported) where it was expressly stated that it was wrong to take away the wife and children from a man simply because he has failed to pay the dowry. However, in many ethnic groups in Tanzania and elsewhere in Africa, dowry is part of the legal procedure of marriage. Once dowry is given in marriage the woman becomes the legal wife of the man she is married to. Children born of this union in many cases belong to the husband. Rule 175 of the Local Customary Law (Declaration) Order 1963, GN.279 of 1963 states that children who are born to persons married to one another belong to the father. The term "father" is used to mean a recognized husband of the children's mother.

Presumption of marriage

Presumption of marriage is provided for in section 160 where it is stated that if it is proved that a man and a woman have lived together for two years or upwards, in such circumstances as to have acquired the reputation of being husband and wife, there shall be a rebuttable presumption that they were duly married. This is so if the two had the capacity to marry.

High Court judges have disagreed on whether the section was intended to cure marriage ceremonies which have not complied with certain procedural requirements such as the giving of

notice of intention to marry, etc., or whether it was specifically enacted to create a statutory presumption of marriage of reputation where parties have not gone through any marriage ceremony whatsoever. In *Francis Leo v. Paschal Simon Maganga* (1978) L.R.T n.22 the judge stated that this section "does not automatically convert concubines into wives at the end of two years or more of cohabitation." He held that in order to rebut the presumption of marriage, it is sufficient to "establish that the two never went through a ceremony of marriage recognised under the act." This view puts women at a disadvantage in that the woman is asked to produce evidence of a marriage ceremony, which renders the whole provision meaningless. This view should be rejected. In *Elizabeth Salwiba v. Peter Obara* (1975) L.R.T. n.52 another judge held that the following three conditions must be fulfilled before section 160 is applied, i.e.

- (i) proof of cohabitation for at least two years;
- (ii) proof of having acquired the reputation of being husband and wife within the immediate society;
- (iii) proof that "the man and woman were in fact and in law not married." This view is correct and in a proper case, the court can grant a decree of divorce - *Menrad Mpombo v. Joyce Mpombo*, High Court of Tanzania at Mtwara, PC Matr.Appeal No.16 of 1989.

Age of Couples

The Law of Marriage is silent on the age of couples. This has led to girl children being married to older men, sometimes men who might be their grandparents. Most of such children enter into polygamous marriages where they are dominated by the elder husbands and suffocated by the co-wives. Thus limiting their knowledge and understanding of human rights for women

Divorce

In case of divorce or separation the matrimonial property that was jointly acquired is divided equally between the spouses. But if the marriage is terminated by the death of one of the partners, then it is the law of succession which is used. The Law Reform Commission of Tanzania, has argued that since death is a permanent termination of marriage property should be divided as in case of divorce. If treated so then the widow would automatically get half of the property and only half will be subjected to inheritance procedures.

A wife gets problems when it comes to divorce especially under Moslem law. In the ITV programme of 27/10/97, a man who got money and wanted to marry a second wife, told his first wife that he only knows how to marry but not how to divorce. Such a woman would face a lot of unnecessary problems before she gets divorce so that property can be divided. In some instances, man gives the woman partial divorce (talaka moja). This means that the woman cannot get married elsewhere and cannot enjoy division of matrimonial property.

Property rights of Women

Closely connected with questions of marriage and divorce is the question of property rights as between men and women generally and husband and wife in particular. The Tanzania constitution provides the right of ownership to individuals irrespective of sex. Section 56 of the Law of Marriage provides that a married woman shall have the same rights as has a man to acquire, hold and dispose of property whether immovable or movable'. Married spouses can also acquire, own and hold property jointly. But in marriage property may be improved by the joint efforts of spouse. The problems may arise when there is a break up of the marriage and the courts have to decide on the extent of contribution by each partner. Most often the women tend to lose. The bulk of Tanzanian women are in agriculture and petty trade over and above their domestic duties. What they produce is directly consumed and their work goes unevaluated and unpaid in monetary terms. On the other hand men are engaged in formal employment and their earnings and expenditures can be easily quantified in monetary terms. Thus whereas it is very difficult to quantify with any reasonable precision the extent of contribution made by women in acquisition of matrimonial assets, the reverse is mostly the case. The first major step in the right direction was taken by the Court of Appeal in a famous case of Bi Hawa Mohamed v. Ally Sefu which recognized domestic duties and child care as amounting to contribution to matrimonial assets according to section 114 of the Law of Marriage. It has been found out that "due to abject poverty amongst the people, in most cases there is nothing worthwhile to divide (Shaidi etal p.61). Polygamous marriages compound this further. In such houses there are many mouths to feed, clothe, accommodate and care for. In such cases the courts end up dividing worn out mattresses and crockery, adding misery, to the parties concerned, observed a learned primary court magistrate still, one would argue that women should be made aware of this right. It is not apparent whether the wife's domestic duties would be taken into account in households which

employ domestic labour. No literature exists on that; yet a discussion with primary court magistrates revealed that they have pointed out that the major problem facing them is that there is no standard criterion which they may use in quantifying and assessing the value of non-monetary forms of contribution to matrimonial assets - Each case is thus decided on its merits and similar cases end up being decided differently.

Inheritance Rights of Women

The issues of inheritance in Tanzania are rather complicated as they are governed by four laws: Customary, Islamic, Stare Indian Succession Act of 65 and succession. Non-Christian Asiatic Ordinance of . The build of the African community religions or otherwise use customary laws codified in 6 for the patrilineal societies and which have to be proved for the matrilineal groups who form percent of Tanzanian communities. Those who profess Islam are governed by Islamic law except where by applying the mode of life test, it can be shown that customary law is the appropriate law. Europeans, other communities such as non-Moslem Asians as well as Africans whose mode of life no longer conform to customary practices are governed by the Indian Succession Act.

That being the case women do not know which law to use, Mukoyogo , Gondwe 5, , and Rwebangira argued that women's position is better under the Indian Succession Act, rather secure under Islamic law even though practice may prove otherwise and that it is under customary law that the position of women seems to be unfavourable. But the discriminatory nature of these laws, can be remedied/redressed through the Bill of Rights. This has been done by the high court in the case of Bernado Ephraim V Holaria Pastory and Anoth: PC civil Appeal No. Of unreported where Justice Mwalusanya held that a customary rule which bars only female heirs from alienating clan land is discriminatory and hence unconstitutional. But it is a few women who can access the high court to have their grievances redressed.

Further, practice under inheritance laws in Tanzania shows that there is close connection between ethnicity and religious affinity. Where there is a conflict of law, the courts have adopted the mode of life test. For African Christians, the test would be whether the deceased had in his life time abandoned his customary way of life "in favour of what may be called Christian and non

traditional way” in which case the Indian Succession Law would apply. This is illustrated by the case of Innocent Mbilinyi Deceased 6. A Mngoni from Songea, Mbillinyi was married to a woman from Kilimanjaro and the two settled in the Dar es Salaam City as a Christian couple. At his death relatives wanted to disown the widow. But after the mode of life test the widow was given her rights under the Indian Succession Act. [According to this act a widow gets half the property].

For African Muslims, it is the intention of deceased which determines whether Islamic or Customary Law is applicable. Once this intention passes the mode of life test, the widow inherits one eighth of the deceased property. Whereas the Law of Marriage confers on the spouses the right to own property either separately or jointly, security of rights at the event of the death of one spouse is not guaranteed. Therefore, there is need to review the laws of inheritance to come out with a common Law of Succession and Inheritance in Tanzania.

The Right to confer citizenship

In Tanzania a woman cannot transmit her citizenship to her husband onto her children. This of course is discrimination which can be redressed under the constitution. But so far no woman has tested this in court.

The right to Personal integrity and human dignity

Violence against women is a violation of the right to personal integrity and human dignity. Violence against women has recently been recognized as a human rights issue by the United Nations. Violence against women has been declared to include: “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life.” (Economic and Social Council 1992)

Article 2 of the UN declaration states that the definition should be understood to encompass, but not be limited to, physical, sexual, and psychological violence occurring in the family and in the community, including battering, sexual abuse of female children, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to

women, non spousal violence, violence related to exploitation, sexual harassment, and intimidation at work, in educational institutions, and elsewhere, trafficking in women, forced prostitution, and violence perpetrated or condoned by the state.

For purposes of this study violence against women in Tanzania should also include the killing of old women (in Mwanza and Shinyanga regions) suspected of witchcraft. For example on the 18/11/97 Radio Tanzania (RTD). The killing of old women suspected of witchcraft is very barbaric. Some of the reasons were recently uncovered by TAMWA. On the 18/11/97 Radio Tanzania (RTD) announced that TAMWA reported from Shinyanga that women are being killed because of polygamy. Some men wish their wives dead and therefore hire killers and pretend that the wives are witches. The other problem is due to envy; where wives have farms being tilled by hired labour, this makes co-wives or husband envious and killers are hired in the name of witchcraft. The issue is complicated because of ignorance and lack of education among most of the population. It is ironical that those who diagnose women as witches are men.

The Government is taking strong measures against this risk to life. The hired killers are being hounded and prosecuted for criminal offences. But, the attitude of the majority of law enforcers who are mainly men leaves much to be desired. The other major abuses include wife battering, rape, child abuse including circumcision of girls and heavy work load.

Many laws are used to deal with the problems of violence against women. Wife battering is dealt with under the law of Marriage which outlaws beating by spouse. However, there is no specified punishment for the offending spouse under this law.

The sufferer has to resort to other laws such as the penal code No.16 where she has to obtain a police form Number 3 (PF3) and take it to hospital for doctors to certify the extent of physical damage done. She then takes the PF3 form back to the Police who then initiate prosecution procedure. If proved guilty, the husband can expect a maximum of five years imprisonment. This procedure is lengthy and cumbersome because the battered woman has no place to stay. She has to go back to the matrimonial home. Sometimes she is persuaded by the police and even by the courts to drop charges against her husband and settle the matter in the

family. Currently only TAMWA runs crisis centres where the women are counselled. There is need for government to establish such centres also for NGOs can only supplement government efforts.

The TAMWA findings in Kilimanjaro region indicate that many women have killed themselves because of family problems or have been killed by husband battering (RTD 1/12/97). In 1997 there were 187 suicides and 117 wife battering cases. When it comes to rape until it is proved the woman's ordeal is even more painful, even though the punishment could be a life sentence. Child defilement can fetch a 35 year imprisonment. But the truth remains that the procedure is lengthy.

Of recent times children seem to be denied their rights, some are abandoned by parents/guardians, some are battered, ill treated and overworked. Such phenomenon has led to an increase in the number of street child. On 19/11/97 it was reported by Radio Tanzania that research by the Human Rights Centre shows that Dar es Salaam is leading, followed by Dodoma (the proposed capital of the country) in denying children their rights and in violence against children in terms of rape, sodomy, heavy workload and for a longtime abandoning and battering. Dodoma is among the five regions in Tanzania where female genital mutilation (FGM) is practised. The others are Arusha, Kilimanjaro, Mara and Singida.

Furthermore, TAMWA is reported by Radio Tanzania (RTD) on 26/11/97 to have been told by the Director of a Woman's NGO that the Human rights of a Maasai Woman are not fulfilled. The women are subjected to heavy workload, to rape, to child marriage (even a 12 year old), to non decision-making, to exploitation, to female genital mutilation and to poor nutrition for the girl child.

In many cases, circumcision or FGM which is regarded as an initiation rite, is accompanied with marriages sometimes to very old men in polygamous houses. The rights of such children to "a healthy physical and psychological growth and maturity" are violated.

It has also been reported at meetings/workshops and in the Mass Media that some women especially in Kilimanjaro have been circumcized without their knowledge during birth. What a painful discovery when they are told!

The Right not to be discriminated

The Human Rights Charter prohibits discrimination, and the United Nations has attempted to put a stop to human rights violations by adopting the International Bill of Rights, for Children the Convention on the Rights of the Child (CRC) and for women the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW). CEDAW acknowledges in its preamble that extensive discrimination against women continues to exist and makes it very clear that such discrimination violates the principles of equality of rights and respect for human dignity.

Article I of CEDAW defines discrimination as “any distinction, exclusion or social, cultural, civil or restriction made on the basis of sex in the political, economic, social cultural, civil or any other field”.

The general rights and duties under the Women’s Convention are outlined in Articles as follows: Article 3 provides that all appropriate measures must be taken by states to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis equality with men. Equality for women is further emphasised specifically in fourteen other subsequent articles:

Under Article 4 special measures for maternity protection are recommended and such measures should not be considered discriminatory. The Convention also affirms women’s right to reproductive choice and family planning.

Article 7 of the Convention guarantees women the right to vote, to hold public office and to exercise public functions.

Article 9 provides for the Nationality of Women irrespective of their marital status. The Convention thereby, draws attention to the fact that women’s legal status have been linked to marriage, making them dependent on their spouse for their identity.

Article 10 (h) obliges states parties to take appropriate measures to include educational information and advice on family planning to help ensure the health and well being of families.

Articles 11, and 13 affirms the rights of women to non-discrimination in education, employment, economic and social activities.

Article 14 emphasis that the contributions of rural women should be given more attention in policy planning.

Article 15 affirms the full quality of women in civil and business matters. It declares non existence any instrument restricting women's rights.

Article 16 the issue of marriage and family relations are discussed affirming equal rights and obligations of women and men with regards to choice of spouse, parenthood, personal rights and command over property.

Article 16 (e) gives women the right to have information education and means to enable them to exercise these rights.

Article 1 of the Convention on the Rights of the Child (CRC) defines a child as every human being below the age of 18 years unless the law of the child's country is otherwise. Tanzania ratified this convention without reservation upholding the age as it is stipulated in the Law of Majority which is 18 years. Articles providing for how best the child can be protected in society include" member states should ensure that a child suffers no discrimination and that states should protect children from all forms of sexual abuse, neglect or exploitation and that all children should get free and compulsory primary education.

The Socialization Process

Discrimination starts with the socialization process. In Tanzania, as it is common in other parts of Africa, boys and girls are socialized differently. While boys in the rural areas are given toy arrows and bows or clubs and in the urban areas toy guns and cars to play with (an indication that they are expected to grow up to be hard and ruthless), girls are given dolls and toy cooking pots (an indication of their motherly and wifely roles in future). Thus sisters and brothers are brought up to lead separate lives. If the play toys were the same a sister and a brother would be intimate and share ideas.

In the family the girl child is discriminated against in education because she is considered as a prospective wife and mother, who will only be of benefit to another family, the one she will be married to. In Tanzania there are more illiterate women than men in the ratio of illiterate men to illiterate women. Furthermore, post secondary education favours men. According to BEST in 1995, the ratio of men to women at Primary level was 52% to 48%; at O-level secondary 55% to 45%, at A-Level secondary 72% to 28% while at University level it was 83% to 17% and at the technical colleges it was 94% to 6%. It is clear from these statistics that there is need to put emphasis on higher education and on literacy which should incorporate legal literacy.

In cases where funds are inadequate the choice as to who should go to school falls on the boy. The argument is that the boy will perpetuate the family name and continue the lineage whereas the girl child would get married. Furthermore, parents continue to withdraw their girl children from school for various reasons such as lack of finance, marriage and housework. This is a detriment to the girl child in particular and to the nation at large. It is a case of direct discrimination.

The traditional practice of girl child marriages is also discriminatory and damaging to health, social and psychological well being of the girl child. The boys are left free until they are men.

The other area of discrimination is in the reasons given for a certain traditional practice conducted on the girl child as against the male child. An example of a traditional practice with discriminatory undertone towards the girl child is circumcision. Traditionally while the girl child is circumcised in order to curb her sexual instincts and desires, thereby making her less prone to promiscuity, (which is in reality not correct), the boy child is circumcised to give him added sexual drive and superiority (thereby making him more prone to promiscuity). The dangers healthwise (medically and psychologically) of female circumcision are never taken into consideration. Those who have realized these dangers are currently mounting campaigns against women circumcision. These include NGOs and local authorities such as the Musoma Rural District Council which has made by laws to prohibit circumcision of girls. It is recommended

that such efforts be supported to help parents understand the harm they are doing to their children in the name of something they can prevent. The Australian NGO - International Women Development Agency (IWDA) has supported efforts to eradicate circumcision in Dodoma region through the local women branch of the Inter African Committee on the Eradication of Traditional Practices that have ill effects on Women.

The Socialization process in Tanzania builds a male dominated culture which is dependent on attitudes and behaviours glorifying dominance, male superiority, with subjugation of women and the qualities of nurturance and caring. Such socialization has led to the enactment of laws that discriminate women. For example, the Local Customary (Declaration) Order, No. 4 of 1963, GN No.436/63 which contains among others rules regulating inheritance has some discriminating tendencies against women. Rule 20 provides that

"Women can inherit, except for clan land which they may receive in usufruct but may not sell. However, if there is no male of that clan, women may inherit such land with full ownership".

Courts have been applying the rules to the letter. However, in the case of Ndewawiosia d/o Ndeamtso v Immanuel s/o Malasi HCD No.127, 1968) the then Chief Justice of Tanzania, Augustino Saidi granted a daughter the right to inherit clan land, and in so doing he correctly described the plight of women.

"Now it is abundantly clear that this custom, which bars daughters from inheriting clan land and sometimes their own father's estates, has left a loophole for underserving clansmen to flourish within the tribe. Lazy clan members anxiously await the death of their prosperous clansmen who happens to have no male issue and as death occurs they immediately grab the estate and mercilessly mess up things in the dead man's household, putting the widow and daughters into terrible confusion, fear and misery. It is quite clear that this traditional custom has outlived its usefulness. The age of discrimination based on sex is long gone and the world is now in the stage of full equality of all human beings irrespective of sex, creed, race or colour."

A more recent case is that of Bernado Ephrahim v Horaria Pastory and Gervas Kaizelege. (Civil Appeal No.70; 1989) In this landmark case, a High Court Judge used Article 13 (3) of the Bill of Rights prohibiting discrimination against women and allowed a woman to sell clan land. In his judgement, Justice Mwalusanya states:

"I have found as a fact that S.20 of the Rules of Inheritance G.N. No.436/1963 of the Declaration of customary law, is discriminatory of females in that unlike their male counterparts, they are barred from selling clan land. That is inconsistent with Art.13(4) of the Bill of rights of our Constitution on account of sex."

However, the customary law is unchanged to date.

The Right to Family Planning

The right to control one's fertility is now widely recognized as a basic human right. There is overwhelming evidence that women want only the number of children they can care for and educate satisfactorily.

CEDAW in Article 16 (e) puts emphasis on equal responsibility for men and women in Family Planning. It states that women should be accorded the same rights as men to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.

In Tanzania family planning policy is guided by the government through the Ministry of Health. Family Planning counselling and methods are available at the Mother Child Health Clinics (MCH) throughout the country, at clinics owned by the Tanzania Family Planning Association (UMATI) and currently at Private Clinics such as the Marie Stopes. The tendency has been to target women without sufficient involvement of men. The result is that men remain ignorant and get offended and sometimes act to the disadvantage of the women. Take the case reported in the Gender Statistics Newsletter recently. An angry man confronted a nurse at the UMATI clinic holding a half-used cycle of contraceptive pills demanding explanation as to why his wife was given the pills without his consent.

"Did you give these to my wife? I found them under her pillow", the man asked. The scared nurse just sighed and when the man left the clinic, she said the Family Planning Policy was partly to blame for not involving men in family planning matters p.5.

The other problem confronting women is the inaccessibility to modern family planning methods. The 1996 Tanzania Demographic and Health Survey indicates that 24 percent of

currently married women in Tanzania have unmet need for family planning. It is not yet an open policy to cater for unmarried women. Furthermore some religious groups are opposed to modern methods of family planning. They want people to stick to the safe days method which does not work unless men co-operate.

PART TWO

RESULTS FROM VISTS TO TRAINING INSTITUTIONS

Altogether five training institutions upcountry i.e. outside Dar es Salaam were visited. There include the Institute of Rural Development Planning (Dodoma), the Institute of Continuing Education (ICE), Sokoine University of Agriculture, and the Institute of Development Management (IDM) Mzumbe in Morogoro, the Co-operative College Moshi in Kilimanjaro and the Community Development Training Institute (CDTI) Tengeru - Arusha Region. In Iringa a visit was made to the women's only CDTI Rungemba which is in Mufindi District.

The training institutions have something focusing on women's issues, but the curricular does not incorporate human and legal rights of women as such. In CDTI Tengeru, a course on human and legal rights was established in 1996 but it has to close due lack of finances. Most of the institutions leave it to the women members of staff to deal with "such issues". The women staff such as those at Moshi Co-operative College, ICE at SUA and IDM Mzumbe need a part on the back for what they are doing. Some have managed to raise the awareness and support of their male colleagues. But for the purposes of this study these institutions cannot yet be categorized as working to protect, promote and enhance women's human and legal rights in the family. What they have in common is that their training and activities are addressed to the majority of the rural population or to those who are going to work at the grassroots level. The proposal here is that government and the respective boards of the institutions be sensitized to include human rights education in the curricula. Such training should be part of the ongoing democratic process in Tanzania.

It was also found out that all the institutions have well stocked and well managed libraries. The SUA and CDTI Tengeru libraries are headed by women. It is only the Moshi Co-operative College, which has a WID/GAD Documentation Centre within the Library. This Centre is headed by a Senior Woman Librarian. In this place are stocked books and literature written on gender/women and some written by women themselves. Such a collection provides easy dissemination of information about the human and legal rights of women. The Moshi Co-operative College has also got an e-mail that will facilitate net working with the Ministry of Community Development, Women Affairs and Children where a Documentation/Information and Communication Centre is being established with the help of the Italian Government through the Italian Women in Development Association (AIDOS). This Ministry is the government institution charged with spearheading promotion of the status of women in Mainland Tanzania.

Having said that, discussion will centre on the four major nongovernmental organisations in Dar es Salaam, which are recommended for close links with the Economic Commission for Africa (ECA). These are the Tanzania Legal and Human Rights Centre (LHRC), the Tanzania Women Lawyers Association (TAWLA), the Tanzania Media Women Association (TAMWA) and The Tanzania Gender Networking Programme (TGNP).

PART THREE

RESULTS FROM VISIT TO UNIFEM CREDIT SUPPORTED WOMEN GROUPS IN TANGA REGION

Tanga Region, one of the three smallest regions in Mainland Tanzania, is located on the shores of the Indian Ocean. It is bordered by Kenya on the North, the Indian Ocean on the East, Kilimanjaro Region on the North West, Arusha and Morogoro regions on the West and the Coast (Pwani) region on the South. It is divided into six administrative districts of Handeni, Korogwe, Lushoto, Muheza, Pangani and Tanga. Its population amounted to 1,283,636 in the 1988 census. At a growth rate of 2.8 percent per annum by 1997 the population was estimated at 1,336,400 million. 80 percent of this population lives in the rural areas depending on rained agriculture. Women account for 50.6 percent of the population.

The main export crops are tea, coffee, sisal, cardamon, fruits and vegetables, while the food crops are maize, potatoes, bananas, rice, cassava, beans, pigeon peas, and groundnuts. Livestock is also kept at the low lands.

Women are the main actors in agriculture, producing both cash and food crops. They also engage in other non farm activities to augment family income. Such activities include petty trade and local beer brewing at the trading centres along the major trunk roads leading to Moshi, Arusha and Nairobi Kenya and to Tanga and Mombasa, Kenya. Almost all the trading centres have electricity tapped from the national grid and are connected with telephones.

With the support of UNIFEM a credit scheme for women's productive activities was established in four of the districts of Tanga by the Ministry responsible for Women's Affairs in 1989. These are Handeni, Korogwe, Lushoto and Muheza Districts. One of the objectives of the scheme was to develop and test an appropriate credit methodology that could be replicated elsewhere in the country. The project uses the Grameen Bank model of the solidarity group approach. Loans are made to individuals in a group of five. Five groups in a village form an Association of Rural Women Entrepreneurs (ARWES). The group members guarantee each other and ensure repayment through group pressure. Repayment is made through the ARWES to the project and it is mandatory for every member to save at least five hundred shillings (equivalent to 1US\$) when established in 1992). The project provides intensive training and business advisory services to potential borrowers. Credit guidelines exist and since 1995 the project graduated to a credit NGO called CREW.

By 1997 CREW had 231 women groups with a membership of 922 people organized into 55 ARWES as shown below:

District	No. of Groups	No. of ARWES	No. of Members	No. of Clients	Loan Amount T.Shs. Million
Handeni	72	19	139	139	38.8
Korogwe	32	11	171	171	41.9
Lushoto	41	9	215	215	60.5
Muheza	86	16	397	186	52.5
Total	231	55	922	711	193.5

Source: CREW Files

The information presented below is a result of focus group discussions narrations from women and men and observations. Many group members preferred dialogue to private questioning - About 120 women were met in the three districts of Handeni, Korogwe and Muheza. Time did not allow for a visit to Lushoto.

The human rights variables used were gender relations at the family level, in credit acquisition and in credit utilization, decision making on community issues and on income expenditure, responsibility and control over production, use of increased income, property ownership, and relations in marriage and understanding of the socialisation process in general and child upbringing.

A few women interviewed and in group discussions all women admitted to feeling empowered because they contributed to the welfare of their families in terms of food, clothes, medical care, school fees and other house hold items. For example, one Zigua woman from Handeni District said that she had been able to save some money (20,000/=) at the Bank. When her son fell sick she was able to pay 15,000/= for his treatment. She also said that she usually pays school fees for her children and buys foodstuff when her polygamous husband cannot afford any. She has seven children and she runs a small restaurant along the highway.

The right to access credit and its attendant benefits to women is well demonstrated by two women from Korogwe district. A married woman with seven children, who is a tailor and also makes doughnuts, got a loan and did business. She was able to open her own account, pay back

the loan, expand her business and make enough profit to open a firewood business for her daughter. The other woman who is married with eight children got a loan for establishing a grocery. She admitted to having her husband's support, but maintained that she is in control. "My husband supports me in my business, but I have full responsibility; I keep my business records and have trained my secondary school children in business management. I purchased a 2 acre maize field at 40,000/= and have 50,000/= in my personal account". The access to credit can be said to have made men and women to critically analyse the society and recognize discriminatory practices that were previously accepted as normal and as God given. The question posed here was whether the credit support has allowed women to understand their rights and their situation better in terms of the unequal distribution of resources and responsibilities within the household, and in terms of ownership and decision-making in community organizations. It transpired that women still believe that their lower socio- economic position and the traditional gender division of labour is "natural and God given". Despite the fact that women are organized in groups and in ARWES they have not been given gender sensitization courses and they have not been able to conscientize the community to minimize their insubordination. Thus cultural values and religious beliefs are impending forces; yet there are some successes and failures as demonstrated by the following.

A 42 year old Zigua woman from Handeni district, married with six children received a loan of 300,000/= to support her goat meat selling along the highway. She said "For a woman to prosper in business she has to be very close to her husband, maintain transparency and respect. I am now pleased with my marriage because now my husband trusts me; I am the custodian of the family income, we now budget together and he lends me a hand in my business".

On the other hand a man of 75 years from the same ethnic group, married to four wives, had this to say "The 10 percent cash security was raised by me to enable my youngest wife secure a loan from CREW. In our culture and our Moslem belief, it is impossible for the woman to do things without the consent of the husband, as there will be two bosses in the house. The credit support has been of great help to me, the loan money assisted me during the burial of my beloved son, of my first wife. The money also saved my entire family for it helped to buy food during the food shortage period. In a polygamous household like mine the loan has to be managed by

the head of the household to ensure family dignity and harmony". Perhaps there is need for African gender specialists to start training women on how to make the best of polygamous marriages. The gender issues in such households have to be examined in relation to human rights of women not just in terms of equality with men.

It was observed that some women have entered what is traditionally regarded as the male domain to do intercity/town trade, food processing, butchery, timber and owning mule carts. Such activities expose them to various occupational hazards and to various legal aspects and enhance their ability to seek for information regarding their rights.

Because they make frequent trips to the cities to do their business their spouses have also assumed a new role of taking care of the family. As one 34 year old Bondei woman with three children, from Muheza district put it " I got the cash security from my husband. With my friends we supply maize to Dar es Salaam market. We plan the trips, hire transport, leave our families for weeks. My husband is not employed, so I ask him to assist in household activities. I am always busy, so he takes care of the children and he is always willing to do it, he is usually assisted by some members of the family. I notice some silent resistance from my mother in-law and the sisters in-law but the added family income makes me feel proud."

The credit support has also improved family relationship as demonstrated by one 38 year old woman in Korogwe district who had this to say. "My husband failed to maintain his milling machine. He gave me cash security so that I secured a 300,000/= loan. I repaired the machine; I have full control; I supervise the operations and collect the revenue. I have 50,000/= in my personal account. This has made my life easy and improve relations with my husband, children and I am highly respected by my relatives".

It was also confirmed by the women group members and a few men who were around, that credit has changed the gender relations in a positive manner. The discussions indicated that there was increased women's involvement in decision making, in controlling household resources, in freedom to use their time and that of their husbands, in acquisition of entrepreneurial skills and husbands assistance in the household chores.

One 56 year old male village leader conceded that credit is of great assistance to women and their families. "Since my wife got a loan from CREW, things have improved in my house. We used to cultivate four acres by hand and do all the farming by hoe; now we have expanded our farm to five and a half acres and most of the farm work is done by hired labour. Our standard of living has also improved; we now have new clothes; we used to feed on vegetables but now we eat meat. My wife is a good manager, she always makes profit and never loses a cent."

It was also observed that despite women's understanding of their rights to ownership and control of resources, they are still guided by custom and traditions which accord control, ownership and inheritance of family resources and property to men. For example, a number of women in all districts were involving their male children in their business more than their daughters. The argument was that the girls would soon leave to get married.

It was also noted that men tend to domineer. For example, in one village in Handeni and one in Korogwe, some husbands escorted their wives to group meetings and tended to take the lead in answering the questions. The men tend to see women as passive and lacking confidence, while the women tend to accept their position as being normal and natural. But in Muheza women councillors are conscientized; they know their rights and they realize that their subordinate position is perpetuated by customs and traditions. They have already tabled an agenda in the District Council to wage a war against traditions that oppress and discriminate women. They have resolved to sensitize the community at ward levels on the same issue. According to the 1992 election law, at least 25 percent of councillors must be women and at least 15 percent of parliamentarians must be women. The present government has pledged to have the number of seats for both increased to at least 30 percent by the year 2000.

To sum up it can be said that where women have access to credit and hence to resources there is less danger of divorce, separation, rural-urban migration, family upheavals and poverty. Women entrepreneurs have more knowledge about their rights, they get such exposure through training, travel, through understanding loan procedures and how to protect their businesses. Part of their household items include radio so that they can follow national events which nowadays include a lot on the rights of women as part of the post - Beijing activities in Tanzania. With the

support of their spouses and with savings they are able to pay for services to claim their rights. The training they have got has helped them gain confidence.

PART FOUR

WORKSHOPS AND SEMINAR RESULTS

The results from Seminars/workshops organized by the Ministry of Community Development and Women Affairs and Children and TAHEA appear below.

Coast Region

The Coast Region shares its borders with the Indian Ocean, Dar es salaam, Tanga and Morogoro Regions. It is one of the few regions characterized as having a matrilineal society where lineage is through the maternal uncle. (It is estimated that twenty percent of the Tanzanian population is matrilineal). In his speech during the Workshop on WID Policy Review, the Coast Regional Commissioner said that women in the Coast Region contribute a lot to the welfare of families. There are 353,939 of them, contributing sixty percent of the labour force in the predominantly agricultural society.

The major crops include cashew nut, rice, cassava, coconut, fruits, fish and animal husbandry. Women supplement the agricultural produce with income generating activities incorporating food stalls, pottery, restaurants, grain milling, poultry and dairy cattle keeping.

Access to credit for the income generating activities require women to be in groups. It was reported by the Regional Commissioner that 207 women groups with a total membership of 1662 have accessed credit. This is a coverage of only 0.4 percent of the total number of women, so it is negligible. Furthermore, the ILO, Ford Foundation and the WDF money benefited only 157 groups. The lack of credit to the majority of women implies that they get very little income and therefore they are unable to pay for advocates or to follow cases in court.

It was thus that the workshop had to engage in long debates about constraints to women's attainment of their rights if the educated people seem to find it so difficult to change their archaic attitudes. These problems and constraints form part of those already enumerated elsewhere in this study.

Furthermore not many officers admitted to having taken any action to ensure that women get their rights. Those who have are in the training/education field where they are freer to discuss such issues. Some of those in the legal profession have never questioned deeply the oppressive customary laws. Some even go to the extent of defending them in the name of "a people are known by their culture". The fact that cultural norms need not discriminate or oppress is yet to be internalized.

TAHEA Seminars on Food Security and Land Issues in Kibaha District.

The Tanzania Home Economics Association (TAHEA) organized sensitization and awareness creation seminars on the rights of villagers to land ownership for ensuring food security at the family level. The government has recently given out a Land Policy and it intends to prepare a Land Law soon. It is currently seeking opinion of civil society on the draft proposal for the Land Bill.

Seminars took place between 1st and 20th December 1997 in 10 villages of Kibaha District. A total of 270 men and women within the age range of 20 to 80 years attended. The participants were drawn from the village government leaders, youth groups, TAHEA members and government institutions within the neighbourhood of the villages. They were of different educational levels from primary to University degree holders, some were illiterate. The author was among the TAHEA Resource persons from the headquarters. Other resource persons came from TAHEA, Kibaha branch, the Ministry of Lands and Human Settlements, the Ministry of Agriculture, the Ministry of Community Development Women Affairs and Children (MCDWAC), The Ministry of Health, Tanzania Women Lawyers Association (TAWLA) and TAMWA.

The results from the series of seminars indicate that people know that they need to keep land for themselves as a right, but they are not quite clear about the legal issues pertaining to land ownership. Almost all did not know about the Land Policy. Many women have no ownership rights to land and the majority are not aware of the importance of individual or joint title deeds. Many women trust their husbands to deal with land issues. They do not know where to get help when they face problems which need legal advice. It was stated that the women in Kibaha District get only their clothes, the mats, cooking pots, which are usually clay, and some other small domestic items when their husbands die, or during divorce. Every other property is assumed to belong to the husband. So when a husband dies land is grabbed from the woman by the male relatives of the husband. Divorces are quite common in the area especially in polygamous households. The other problem noted especially by the women participants was the fact that men waste too much time in local beer drinking and in playing games especially 'BAO' which is famous along the Tanzania Coastal area. Thus women are left oppressed by heavy workload. It was also stated that the fact that men (not women) are allowed to merge or lease land with title deeds leads to families being deprived of land. Women have no say in such cases, as most decisions are expected to be made by men only.

Specific Village results

- In Mkuza where there were 23 women and 31 men participants with an age range of twenty to eighty years- there were many complaints of land being sold by male villagers to investors. This meant that families will have to be uprooted and sent to till virgin land, where the women would have to toil hard, to only get very little, which is inadequate for family needs. The women questioned the fairness of their husbands right to sell land without consulting them. There was a general ignorance about human rights, land rights and how to deal with land invaders legally. At the end of seminar the participants condemned all sorts of discrimination and agreed to participate in a 10th December rally to mark "16 Days of Violence".

- Land ownership is difficult in Mwendapole because it is unsurveyed and boundaries are not clear. So people squabble for land, and it is the women who end up the losers.
- In Visiga a few wealthy or people with clout own many hectares of land which is not fenced and underdeveloped. Women not knowing whether the land is owned or not, use it only to have their crops destroyed or confiscated. Their cry for ownership of their own land goes unheard.
- In Msangani the complaint was that too much land is being allocated to the Army at the expense of villagers. Yet the villagers stated that they did not know the boundary of their village. There is also a threat to the environment as a lot of wood is being cut without plans for afforestation. In this areas it is the women who are responsible for the search of firewood, and so it means they have to walk far in its search. Furthermore, women are not allocated land for development of fuel wood lats.
- The problems in Pangani were centred on water. It is usually the women who have to fetch water for their families and for community activities. There were complaints from the men that women were not fetching enough water for the men to use in the construction of the village school. The village planning committee had divided the roles of men and women for the school building project in a stereotyped manner. That is by making women and men transfer their domestic roles to the village activities. The complaint from the women was that they were being overworked and that they had to use their own buckets to fetch the water. Furthermore, they questioned the practice of making them fetch the water when the youth were not given a role. In the final analysis it was found out that the real problem was that the women were denied their right to participate in the decision making, process and so they were resentful. On the

other hand men think that they have the right to decide for women. This attitude of thinking and making women feel inferior to men, unless checked, will put a break or a speed governor on development and the poverty eradication process will derail.

- Maili moja and Mlandizi which are semi-urban have problems of fast increase in population making land access problematic women complained of the problems the face in acquiring land titles. The said the procedure is long and follow up takes a lot of their time, which they cannot afford.

Information from Workshop on Sub-Programme for Women's and Gender Advancement 1997/98-2003

At the Beijing Fourth World Conference on Women in September, 1995 the Government of Tanzania committed herself to implementing the Platform for Action. Until the 2003 it has chosen to concentrate on four areas of critical concern. These are the enhancement of women's legal capacity; women's economic empowerment and poverty eradication; enhancing women's education, training and employment; and empowerment for political and decision-making.

Implementation requires a strategy that will allow involvement of all government sectors, nongovernmental organizations (NGOs), community based organizations (CBOs) and the international community. With financial support from UNDP, the MCDWAC appointed a team of consultants and experts to prepare such a programme. This is known as a Sub-programme of the full community developing programme being implemented by the MCDWAC.

The consultants were required to identify and initiate discussions with key players and stakeholders about the sub-programme. A two days national workshop attended by 60 people including the Minister for the MCDWAC and high ranking officials from government sectors NGOs, CBOs and the international community was organized from 13-14th October, 1997 at Morogoro to discuss the consultants report.



Issues of relevance to this study discussed at the workshop include the constraints to women legal and women human rights. These were summed up as inadequate legal literacy, grassroots not being recipients of the legal system existence of discriminatory provisions in some statutory laws, inadequate legislative protective mechanism in the legal system; insensitive investigations and prosecution of cases involving violence against women and children; existence of customary laws and practices that are discriminatory against women on issues of property inheritance, particularly on land as well as institutionalized violence against women including wife battering, rape, female genital mutilation FGM and the existence side by side of a multitude of laws statutory, religions and customary. (P.1 of Sub-Programme). The proposals of how to solve some of the problems and enhance the women's legal capacity were then summarized on a Logframe Entitled Enhancement of Women's Legal Capacity.

The major activities include increasing the women's use of legal institutions by introducing women friendly procedures, guidance and counselling. To introduce outreach campaigns and introduce the mostly urban based legal aid clinics and crisis centres into small towns and districts. To review laws and develop a non discriminatory legal system which incorporates the international human rights instruments such as those of the convention on the Elimination of All forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC). The specific laws which are under review (as shown in Appendix III include the Law of Marriage Act of 1971, the Succession Law and the Law of the Child. Others called for review are shown on Appendix II.

It was also proposed that new laws should be enacted to eradicate customary laws which discriminate or which impact on women negatively. It was further proposed that gender sensitizing and training be mounted and targeted at legal reformers, administrators of justice, prosecutors and the public in general.

As noted, the LOGFRAME needs a lot of supporters. Perhaps ECA could help in the campaign for gender sensitization and training and in the spreading of the legal aid clinics and crisis centres.

PART FIVE
VISITS TO HUMAN RIGHTS NGOS IN DAR ES SALAAM

In Dar es Salaam visits were made to the Legal and Human Rights Centre (LHRC), the Tanzania Media Women Association (TAMWA), The Tanzania Women Lawyers Association (TAWLA), The Tanzania Gender Networking Programme (TGNP).

I. Name: The Legal and Human Rights Centre (LHRC)

Address: Ocean Road/Tulyer House, 2nd Floor

P.O. Box 75254

Dar es Salaam, Tanzania

Tel: 255-51-29620

Fax: 00 - 255 - 51-113177

Type: A. private, voluntary, non-governmental, non partisan and non-profit making company without shares limited by guarantee.

Registration: Registered under the companies Ordinance Chapter 212 of the laws of tanzania in September, 1995.

Sources of Funding Membership fee, consultancies, and donations. Currently activities are being funded by NOVIB and Ford Foundation.

Objectives:

- (i) To disseminate legal and human rights knowledge to vulnerable groups in the society through training, advocacy, distribution of materials and or information and to represent poor in court.
- (ii) To promote, respect and observance of human rights and democracy.
- (iii) To promote respect and observance of rule of law and due process.
- (iv) To promote consumer protection
- (v) To promote public awareness in the field of environmental protection.

- (vi) To create networks with public interest and human rights organisations, non governmental organisations, universities, relevant research institutions, religious associations and law societies.
- (vii) To publish articles, leaflets, booklets, posters etc, on legal and human rights knowledge.
- (viii) To provide on request consultancy services to governmental and non governmental organisations provided it is within the spirit of social and educational objects of LHRC.
- (ix) To organise and sponsor conferences, seminars, workshops, meetings and such other fora with a view to promote social and educational objects of LHRC.
- (x) To do all such other things as are incidental or conducive to the attainment of the above objectives or any of them.

Provided that the objectives of LHRC shall not extend to putting up or supporting candidates for government or local authority elections which would make it a Political Party within the meaning of a political party as stipulated in the Political Parties Act, 1992.

Strategies

1. Conventional and Participatory legal researches to determine target group needs and identify the major human and legal rights issues.
2. Training of trainers (paralegals) who are persons of clout from the communities with the ability to service immediate needs of non complex legal issues.
3. Lobbying, Advocacy and networking
4. Counselling, arbitration and litigation in respect of legal aid cases.
5. Publication and information dissemination.

Organization

There is a general assembly which is the highest policy organ. A board of Directors which is appointed by the General Assembly is the decision making body and supervision of the organisations activities. It employs the workers and ensures availability of resources for the organisation. Of the 11 members of the board, 6 are women. So there is no doubt that the issues

of the human and legal rights of women are upper most on the agenda. This is reinforced by the fact that the Executive Director who heads a secretariat of 6 professionals and 7 support staff is a Women Lawyer. One of the six professionals is based at the sub office in Arusha, the second largest city in the country by a Lawyer.

Activities

1. Outreach which involves the training of trainers or paralegals who are strategically placed persons from the identified target group. These are trained on basics of law which directly affect their daily lives or are likely to affect them. It is expected that such training which is given in simple Kiswahili; will enable community members to become aware of their rights and become activists in their own cause. The LHRC has outreach programmes in the pastoralist areas of Arusha Region [Kiteto, Loliondo, Terrat, Katesh, Yaeda Chini, Mbulu and Orkesumet). They are also in Mkomazi - Kilimanjaro Region.

2. **Legal Aid**

Those who cannot afford to hire the services of advocates are counselled, reconciled where possible and have their court documents prepared and in some cases represented in courts. During the legal aid clinic days (Mondays and Fridays from 3.30 p.m. to 6.00 p.m) clients are equipped with knowledge on necessary legal and court procedures. The LHRC clinic is located near the TAMWAs crisis and legal clinic centre. Through networking it is planned that TAMWA will concentrate on the crisis centre and leave the legal aid clinic to LHRC.

3. **Information Dissemination**

This involves radio programmes, publications, advocacy, lobbying and monitoring. Seminars, workshops and canvassing on specific issues of human rights during parliament sessions are some of the strategies used. The aim is to inform members of the public and decision-makers about the legal and human rights issues and intergrate them into their activities. The main target group include members of parliament, councilors, Ward Executive Officers and other law enforcers as well as the general public. Some of the materials been distributed include such things as *how to write a will. All people are Equal. Battering is Evil etc. etc.* These are displayed on notice boards, sent to institutions and divided to the target groups.

Knowledge of Women's human and legal rights

LHRC has found out that many of the women in the urban areas seem to know their rights but they are ignorant and afraid of the legal procedures used to attain their rights. The legal counselling and preparation of document for court are a major tool towards, empowering them. In the pastoralist rural areas the major human rights issues include acceptance or taking for granted that attitudes and practices that have ill effect on women and the girl child are rights of the perpetrators. There are practices such as child marriages, polygamy, oppressive workload for women and children, wife battering, female genital mutilation, incest rape such punishment can be to the mother who is not liked by the father, or where the child is weak or cannot work or is naughty and other vile actions such as taking a girl to school as punishment. Furthermore women are not allowed to attend training or to express their opinions in front of men. In some cases women are treated as properties of men, bought through bride price paid in terms of cattle. There are some instances where some men sell their wives to other men, just as they would sell cattle. In such circumstances the LHRC has had to bring to the awareness of the men that they were breaking some laws of this country by dehumanizing women. Another issue was the denial of water to communities (Kibaya, Kiteto) thus forcing women to trek very far in search of water. The demand from these people is that water is a human rights issue.

Dissemination of Information

Information has been disseminated during participatory needs assessment exercises; through training courses for communities and for ward executive officers and through the distribution of the reports on such courses and researches to the trainees to other legal and human rights NGOs and to the public in general. For example during training courses issues raised include the rights of women and establishment of follow up committees to publicise the issues and sell the human rights elements.

During training sessions women with legal problems come for counselling and advice. In Katesh for example their main problems were mainly on land, child custody and maintenance. Such counselling and advice when well taken helps to spread knowledge on legal and human rights.

People are also given a lot of literature on the human and legal rights. The topics favoured for training/dissemination include: Human Rights, The constitutional Rights, the Land Law, Laws of Inheritance, The Law of Marriage, Divorce, Police and Citizens Rights, the Rights of the Child; Local Government, Corruption etc. On the wider scale, dissemination over the national radio is done three times a week through periods named Mwangaza (i.e. Light) at 1.30 p.m. on Sundays when it is assumed that most people are at home. It is also broadcasted in the Darubini (Microscope) periods on Mondays 6.30 p.m. and on Thursdays 6.15 p.m.

Networking

In the activities in the pastoralist areas LHRC has worked closely with community based organisations CBOs such as - Ilaramatak Lolkorenei in Simanjiro and Mkomazi; the Barbaig NGO BULGALDA and the women's NGO - known as HAWOCODA in Hanang District Networks with the other human and legal rights NGO such as WILDAF - Tanzania, TAMWA, Tanzania Women Lawyers Association (TAWLA), the Tanganyika Law Society (TLS), the University Legal Aid Clinic etc. is also very strong. (The List of the Tanzania Human Rights NGOs is attached for ease of reference).

Recommendation

The LHRC is recommended as one of the effective NGO for raising awareness and for disseminating legal and human rights of women at the family level. It works for both men and women and it networks well with government, nongovernmental organizations and community based organisations. It has the approach that augus well for developing actions to "protect and promote the human rights of women and the girl child as an integral part of the universal human rights' (Beijing Platform for Action p.3)

2. **Name:** Tanzania Women Lawyers' Association (TAWLA)

Address: P.O. Box 9460,

Dar es Salaam

Tele: 255-51-113626 or 29090

Fax: 00-255-51-32342

Type: Non-governmental, non-profit making society for all women lawyers who are citizens or residents in Tanzania

Registration: It was established in 1990 but got the certificate giving it the right to file cases for women in court in 1996. [Note - the others with such a certificate are the Tanganyika Law Society and the University of Dar es Salaam Legal Aid Scheme.]

Source of Funding: Membership fees; donations; consultancies and fund raising - currently there is support from the Danish International Agency (DANIDA)

Objectives:

1. To act as a forum for women lawyers in Tanzania to foster mutual support and guidance in professional advancement.
2. To establish an effective information centre for purposes of maintaining and improving the standard of professional expertise.
3. To promote research in the development of the law generally and particularly in relation to the objectives of this Association. To print, publish and publicise the research findings and other activities of the Association.
4. To provide assistance to women and children in matters related to their legal rights, and in particular to educate women on their rights.
5. To foster solidarity with other non-governmental women's organizations within and outside Tanzania.
6. To do such other things as may be conducive to the attainment of the foregoing aims and objectives or any one of them.

Organisation

The highest Policy making body is the General Assembly which comprises all members. Currently there are 135 Women Lawyers. The Executive Council consists of five office bearers (Chairperson, Vice Chairperson, Honorary Secretary, Honorary Treasurer and Honorary Publicity Secretary) five members elected by the General Assembly and a representative from each of the Committee established. Currently there are five committees: the Legal Defence and Legal Aid Committee (about 30 people) the Publicity and Legal Literacy Committee (about 19 members),

the Legal Research Committee, the Business Consultancy Committee and the Fund Raising Committee. Day to day activities are supervised by a full time employed lawyer who is answerable to the Executive Council.

Activities

1. Legal Defence and Legal Aid: About 8 - 10 women lawyers meet every Wednesday from 4 - 7 p.m.(i.e. after official office hours) for consultation with women who have problems. They take cases and follow them up. There is a form that the women have to fill to help TAWLA assess the income level, the problem and the type of assistance needed. When necessary TAWLA provides advocates to file cases for the women. It sorts out its clients to ensure that they are not been represented by other legal aid associations. In some instances, TAWLA prepares the court documents and counsel and guides the women on how to appear in court to seek their rights using the documents which are submitted to magistrates or judges.

TAWLA has found out that women face problems under the following: Laws of inheritance, divorce and child custody. Inheritance is governed by customary laws, Islamic law and the statute law (Indian Succession Act of 1865), which can also be used by Christians. Customary laws are fraught with problems for women who get disinherited by male in laws or who can only inherit through their male children or through being inherited by the male relatives of the deceased husbands. In the urban areas it was found out that some women do not know their rights to property. For example, they do not insist that property be jointly owned and they do not put a caveat on the family property to protect it from being abused by the spouse. At the death of the spouse, therefore, the woman and her children start to suffer when customary laws are involved. Furthermore, the problem is that many people are not used to writing a will and so estate administrators use customs and traditions to give justice. But sometimes, TAWLA noted, even wills get contested by the male relatives to prejudice the women. The perpetration of clan burial places is also prejudicial to women, who are disinherited when they refuse to move from the urban areas to reside where their husbands have been buried in the villages.

With the Indian Succession Law, women find it difficult to prove that as a couple they were not living traditionally. This is so because customary laws are supreme and also because there is a tendency of traditional practices being imported from the rural areas into the urban areas. TAWLA cited only a few examples where African Women have been given their rights under the Indian Law of Succession. Such cases involved Christian couple from different ethnic/racial groups who settled in the urban areas and cut off ties with the traditional mode of life.

Contribution to Law Reform

Two TAWLA members work with the Law Reform Commission established since 1987 to review and recommend to government laws for amendment or for new enactment. 10 Laws are earmarked for review. These include the Laws of inheritance, The children's laws and the Law of Marriage.

TAWLA noted that the causes of the problems faced by women are a result of women's ignorance of the laws and the legal rights; oppression by customs and traditional practices and sometimes both operate simultaneously. For example, the urban educated couple might be ignorant of the traditional laws whereas those in the rural would hold the erroneous belief that property belongs to men. Furthermore, whereas men of today understand the need for women to own land, the problem is that some parents who wish to leave their daughters land are prevented by the traditional customary practices or by religion.

(2) Legal Literacy and Publicity

TAWLA carries out legal literacy to create awareness and knowledge of the law procedures to be used in property allocation, and in the attainment of human and legal rights generally. A proposal for funding on Legal Literacy and Outreach Programme has been prepared. It seeks to use a multi prong approach including use of print and electronic media, meetings/seminars and training of trainers as paralegals: (1) TAWLA is aware of the problems. Currently women do not get time to listen to radio or to watch television and they hardly get time to read.(2) Effectively meetings and seminars would require qualified lawyers who are available.

(3) The training of trainers would focus on people with clout such as religious leaders, government and traditional leaders, influential people within the community etc.

Legal Research

TAWLA conducts research in order to identify, highlight and correct the existing inequalities. Presently, TAWLA through DANIDA funding will carry out a research on all those in need of legal aid and on those who provide it and who disseminate information on legal rights and legal aid. The findings will be discussed at a meeting of all institutions providing legal aid, the Judiciary, the Ministry of Justice and Constitutional Affairs, the Ministry of Community Development, Women Affairs and Children etc.

Support to TAWLA

The government is very positive about legal aid to the poor and especially to women and children. The courts are helpful and appreciate TAWLA's efforts in the promotion and protection of the children and women's rights. TAWLA as advocates do help the courts through the preparation of case documents and the unearthing of new knowledge on the problems.

TAWLA enjoys also the popularity of many donors. It is recommended to ECA to work with this powerful association of learned women lawyers.

3. Name: Tanzania Media Women Association (TAMWA)

Address: M̄kunguni Street near Kisutu Market

P.O. Box 6 143,

Dar es Salaam, Tanzania

Tel: 255-52-32181

Fax: 00-255-51-115278

Type: Professional Association for women in the media, it is a non profit non governmental organisation.

Registration: Registered in November, 1987

Membership: TAMWA is a membership organization. Full membership is conferred to Tanzanian professional women journalists with a minimum of two years training or three year working experience. Co-operated membership may be accorded to experts in other fields or disciplines whose expertise can be of benefit in the furtherance of the objectives of the association irrespective of gender. Associate membership is accorded to journalism students and those with less than three years in the filed.

Objectives:

TAMWA uses the media to sensitize society on gender issues and advocate and lobby for policy and legal changes which favour the promotion of the human rights of women and children. To fulfill this mission TAMWA embarks on gender sensitization programmes for promoting gender equality for development through the media and enhance the journalistic skills of its members through training. The objectives are:

1. To create a forum for exchange of ideas on technical skills and resources for promoting women in all walks of life.
2. To produce literature, radio and film programmes, on women activities or issues.
3. To organise meetings, workshops seminars and study tours.
4. To do research on issues that will enhance the status of women.
5. To create crisis centres for women and help women to know and to attain their human and legal rights

Organisational Setup

The highest body of authority in TAMWA is the Annual General Meeting (AGM) of its members which meets once a year. The management of the Affairs and conduct of the Association is vested with the Executive Board elected by the General Meeting every two years. The Executive Board comprises:- The Chairperson, Vice Chairperson, The Secretary General, The Deputy Secretary General, The Treasurer and Two members who are not office bearers.

The Executive Board is second in the hierarchy

Day to Day Activities Execution

The day to day running of the Association is done by the secretariat headed by a Director supported by programme Officers and support staff. Formulation and implementation of programmes is conducted through interest based committees of members based on the tools of the trade mainly: print, Radio, Television, through the advocacy and lobbying committee, and the Crisis Centre.

The Last Ten Years

Since its inception TAMWA has consciously and tirelessly worked to uplift the status of women in our society by informing and highlighting the issues and problems which act as barriers to emancipation as full and equal members of the society. This has been done through research work, meetings and seminars, news reports and features, radio and television. A women's magazine Sauti ya Siti published since 1988, by TAMWA has acted a flagship of the association, as an example of positive portrayal of women in the media and as a means of sensitizing and informing women and society on the issues and concerns of women. Sauti ya Siti which comes out quarterly has been augmented by popular education material i.e. booklets, pamphlets and posters since 1990.

From 1990, TAMWA has been running a Crisis Centre in Dare salaam providing legal aid and counselling services to women and children who are victims of gender based violence. The Centre also conducts outreach work in communities with the aim of sensitizing them on gender based violence and providing legal literacy.

TAMWA runs training workshops at the Crisis Centre for women's groups on paralegal and counselling skills and so far 17 community based centres have opened in different parts of the country, which give support to victims of gender based violence.

Another initiative made by the crisis centre has been training workshops for Police Officers on gender sensitization, counselling and human rights so as to enable them give sympathetic assistance to victims of gender based violence such as rape, defilement, sexual harassment and domestic violence.

Legal literacy through outreach and popular education materials

The Crisis Centre implements a legal literacy programme which informs communities on various issues concerning human rights and also provides information on practical things to do when one is raped, or facing problems of inheritance after the death of a spouse or matrimonial issues and child custody.

The Rights of the child

TAMWA has done substantial work in mobilizing for the rights of children especially the girl child and as made substantial inroad on the issue of girl child domestic workers.

Reproductive Health Rights

Every year in May, TAMWA organizes a Day of Action on Reproductive Health Rights to highlight a major health problem concerning women. Health has received particular attention in TAMWA's activities during the last ten years. One of the major programmes has been the HIV/AIDS, information programme through outreach, targeting youths in schools and colleges.

Cancers which affect women most, like breast and cervical cancer have been substantially covered in the media by TAMWA members educating women on how for instance, they can examine themselves for breast lumps. Other issues which have been taken up by TAMWA in the course of the years are: abortions, dangerous cosmetics, female genital mutilation, plague.

16 Days of Activity

Since 1992 TAMWA has hosted an annual function to mark the International Day against Gender Violence, like the testimonials given by victims of violence in 1995 and the Virgil to mourn women who died as a result of gender based violence in 1996 in an effort to sensitize the public on atrocities committed against women and children.

Festivals

Every three years, TAMWA holds a cultural festival with a specific theme to celebrate womanhood, like the festival of Kanga held in 1995. TAMWA has always nurtured fledgling theatre arts groups and has given publicity support to musical groups with a marked emphasis on the positive portrayal of women in song and drama.

Video Production

The Association has produced several doc.-drams on specific themes like- Human Rights Education, Kanga as a Medium of Communication, Girl Child Labour, Family planning etc.

Documentation

TAMWA runs a library and documentation centre rich in gender issues including health, education, research methodologies manuals, development and human rights. The library has a children's section.

Core Programme

Sensitization, Advocacy and Lobbying to Break free of gender violence 1997-1999. TAMWA has initiated a three year programme aimed at sensitizing and providing information on gender based violence with a long term strategy on eradicating the scourge in Tanzania - using the media as tools for impacting messages.

The programme "sensitization, Advocacy and Lobbying to Break free of Gender Violence" is a comprehensive public campaign using the media to sensitize and mobilize

the public and policy makers to fight against gender violence and to ensure that women and children get legal and human rights without discrimination.

The public campaign will involve radio and television programmes, coverage in the print media and outreach work in the communities. It will involve lobbying and advocacy work among policy makers for change on policy and legal reform to make the environment conducive for the eradication of gender based violence.

TAMWA intends to work closely with communities, other non governmental organizations the parliament and the government during the next three years on effort to make Tanzania a safe, woman and child friendly society.

Sources of Funding

Membership fee, fund raising and donations, many individuals, organisations and donor agencies have supported TAMWA. These include the Royal Netherlands Embassy, HIVOS, NOVIB SIDA - Sweden CIDA Canada CODE, NORAD, UNICEF, ASW, DANIDA, WORLD VIEW, ILO, International Foundation, Ford Foundation, Path.

Networking

TAMWA networks with various NGOs in Tanzania and abroad and is a member of several clusters/coalitions notable among them, the Legal and Human Rights Cluster, the Women Domestic Workers Cluster, the Task Force on the proposed Land Bills and the Whither Feminist Activism Coalition. Networking has enhanced the Associations programmes and in most of these clusters TAMWA acts as a mouthpiece for the campaigns as most of its members (90%) work in the mainstream media, therefore act as a conduit for implementing information to the public through their respective media organs.

Achievements

1. Has created a lot of awareness on the condition and rights of women in Tanzania.
2. Has established crisis centres for women victims of violence

3. Has impacted positively on the portrayal of women in the mass media.
4. Has counselling services for victims of violence.

TAMWA is strongly recommended as a very powerful NGO that can spearhead societal change of attitudes and practices that negate women's achievement of their rights. The existence of crisis centres throughout the country is a great help to women in danger of their human life.

4. **Name: Tanzania Gender Networking Programme: (TGNP)**

The other upcoming NGO with impact is the TGNP established under the companies ordinance as a non profit making NGO at the end of 1993. It has so far engaged in gender sensitization using the transformation approach. It enjoys a lot of donor support and has well trained programme officers and trainers on gender issues generally. Through its annual gender studies week it impacts a lot of members of the civil society. This organization has great potential for impacting gender main-streaming into all sectors of society.

PART SIX.

THE PROBLEMS AND CONSTRAINTS

Problem of Availability and Dissemination of Legal Documents

It is one thing to have human rights guaranteed and safeguarded by international regional and national instruments, but quite another thing to ensure that the rights are in fact enjoyed by those for whom they are guaranteed and secured. In the context of Tanzania there are practical obstacles to people enjoying their human rights especially women. This include lack of awareness or sufficient awareness of these rights. These rights are guaranteed in the constitution or secured by ordinary legislation but the dissemination of the constitution and the other laws is minimal. These are in very limited print and not evenly distributed. They are found mainly in the urban centres in government offices and universities throughout the country. The Constitution and the laws are not taught in schools. For example, 24 primary schools visited in

six regions of Mainland Tanzania, none had a copy of the Constitution, which is written in Swahili, the national language. Therefore, the bulky of the population including the educated are unaware of the human rights provisions.

Women's Ignorance of own rights

The problem of womens ignorance of their own rights is aggravated by the high percentage of illiteracy especially among the rural population. Although Tanzania has had success stories of mass literacy, most people relapse to illiteracy due to unavailability of reading materials. The rural libraries, which were very extensive in the 1970s and early eighties, are no longer in existence.

Lack of Crisis Centres

Furthermore, the absence of places, other than police or courts, where people could go for help when their rights are abused, poses a great problem. For instance, battered women would wish to have a place to stay to gain strength before they can institute any legal procedure.

Problems of Language of Rights Documents

The accessibility is even more minimal and in fact practically non-existent when it comes to the international/regional instruments such as CEDAW and CRC and the African Charter on the Rights and Welfare of the Child (ACRWC). Whereas CRC & ACRWC have been publicized during annual celebrations of the OAU Day of the African Child 16th June, CEDAW is yet to be effectively disseminated.

Apart from the country's constitution which is in Kiswahili, all the other human rights instruments and laws are in the English language which is not the language of the majority. There are pilot schemes to translate these into Kiswahili, for example, CEDAW and CRC have been translated by Ministry of Community Development, Women Affairs and Children into Swahili but their circulation is still very limited. WILDAF Tanzania has also translated the Beijing Platform for Action into Kiswahili and indeed the national Platform for Action is in Kiswahili. Still they are not widely disseminated.

Attainment of Rights is Expensive

The other problem faced by women lies in the fact that even when they are aware of their rights and how to attain them they lack the ability and means to protect and vindicate their rights. The majority of those who know are employed either formally or informally but their income is so low that they cannot afford the services of advocates who are mainly urban based and quite expensive.

Inadequate knowledge on Procedures

Most people are not aware or familiar with the procedures of instituting court proceedings for claiming or protecting their rights. This is because business in court is governed by law such as the (1) Civil procedure Code (2) the Magistrate Court Act and (3) the Appellate Jurisdiction Act and (4) the Court of Appeal Rules. These laws are not familiar to the masses especially to the women.

Lack of Legal aid

As said before many women cannot afford advocates who know the procedure, and therefore cannot protect their rights. This problem is aggravated by the fact that in Tanzania there is no provision for legal aid in civil matters. Indeed the Tanzanian Bill of Rights makes no provisions for legal aid to poor litigants. Considering the problem of poverty which is widespread among the masses and especially to women, it is apparent that most violations of human rights have no chance of reaching the courts because the victims cannot afford the necessary expenses for the purpose.

Traditional Practices that have ill effect on Women

Another challenge to people's attainment of their human rights arises from the attitudes, traditions and customary practices of the people in society. This is particularly relevant to women and children. Traditionally the attitude of the Tanzanian society has been that women are inferior to men. Of course, today this attitude has changed to some extent because of the influence of education, but customs die hard. In the traditional society the woman's place is in the kitchen and so there is little or no need at all to send girls to school. A married woman cannot claim equality with her husband. Indeed in some cases she is regarded as a minor and in

others, she is treated as the property of her husband. This attitude has far reaching implications. Generally, women are backward in terms of education. A woman does not own property including that of her own labour. The property and income of the family is controlled by the husband, and upon his death the property devolves on his male heirs or male relatives, and she herself is inherited by the brother or male relative of the deceased husband.

Violence against Women

Furthermore because of the attitude that women are inferior, married women are sometimes subjected to domestic violence which can result in considerable or serious injuries at time. Yet by reason of her inferior position and her dependence on her husband, she dares not report the matter to authorities, or if she does, the police decline to take action on the ground that it is purely a family affair between husband and wife which is traditionally accepted as part of wear and tear of married life.

Female circumcision

Then there is the customary practice of female circumcision. This is accepted in about six to seven of the twenty regions of Mainland Tanzania, and therefore, no one, including the victim herself, is prepared to come forward and complain about it.

Witchcraft

Beliefs in witchcraft and superstitions pose great problems to women especially the old ones. In places like Mwanza and Shinyanga regions with a large populations, old women are often regarded as witches and are killed off sometimes by their own kin.

Inadequate education and sexual harassment

Even in the less traditional societies, especially in the urban areas where education and contact with other cultures, has had some influence on people's attitudes, there are still some elements which militate against realization of the human rights of women. For example, in the matters of education the intake into higher secondary schools and institutions of higher learning as well as to vocational training shows glaring disparities against women. In matters of

employment, there are sometimes cases of sexual harassment of female employees by their male bosses or male colleagues; and as regards recruitment to senior or top positions there is obvious discrimination against women.

Non access to Courts

All the instances set above constitute clear violations of the fundamental human rights of women. But for various reasons rooted in societal attitudes and customary practices, such violations do not reach the courts. That is clearly a set back on the effectiveness of the legal system including the courts as the enforcement machinery for human rights.

Problems of Child Abuse

In Tanzania there are practices of child abuse which are quite common. These include the above mentioned circumcision or genital mutilation, forced or arranged marriages for girls and child labour which in most instances involve discontinuing the children's education, and, in the case of child labour, overworking the children. These violations are committed notwithstanding the fact that in some cases there are laws specifically covering them, such as the law prohibiting child labour. The violations do not reach the courts because those who commit them are interested parties, while the victims by reason of their age, obedience to parental authority and sometimes because of their own economic conditions, cannot be expected to take any action. Furthermore such violations are not condemned in the Constitution.

Food taboos

In matters of diet men in some parts of the country such as in Kilimanjaro region, tend to get the best of the food - for example the protein part of the diet. The women and children, who need the protein most have to go with very little of it. Feeding of pregnant and lactating mothers leaves much to be desired also. The maternal mortality in Tanzania is thus very very high.

Discriminative Laws

In some instances laws enacted by parliament discriminate against women. For example, while under the Citizenship Law, the age of majority is 18 years, the Law of Marriage Act,

permits marriage of women under the age of 18 while maintaining the age of marriage of men at 18 years

Some customary laws discriminate against women such as those which refuse women ownership of property. Even the laws of inheritance do not separate assets acquired between husband and wife during their marriage. What should be divided for inheritance should not involve the personal property of the remaining spouse. For this makes women suffer.

PART SEVEN

HOW TO ADDRESS THE PROBLEMS

The Study shows that Tanzania has been lucky to have enjoyed peace, order and stability, and since 1992 has a multiparty democracy. The existence of these conditions serve to create a climate in which basic human rights and fundamental freedoms are best safe-guarded.

Human Rights Awareness creation

It seems that one of the most effective remedies is to create or increase people's awareness of their fundamental human rights and freedoms. This is of paramount importance because unless a person knows or is conscious of his/her right, he/she cannot think of protecting or vindicating it. Creating or increasing people's awareness of their fundamental rights can be achieved in a number of ways.

→ It can be done by mounting a human rights literacy campaign through the media including the press, radio and television, public lectures and seminars, publications of human rights literature, and by incorporating in the syllabus the teaching of human rights at all levels of education in the country.

→ The laws of the country including the Constitution which incorporates the Bill of Rights and which is written in Kiswahili should be publicised. There should be enough copies of these to go around and they should be available at a price which is affordable by the masses.

→ Many laws used in Tanzania were written during the colonial times in English, a language which is not known to many. Some other laws are in other languages such as Arabic for Muslim Laws. This language is mainly a privilege of men in Tanzania. There is need

therefore of adopting Kiswahili as the language for all laws to enable more women to benefit from them.

→ In trying to create or increase people's awareness of their human rights, the government must be expected to play a leading role. In fact according to CEDAW, the international bill of rights and specifically under Article 25 of the African Charter on Human and People's Rights, a specific duty is imposed on States Parties to the Charter to ensure that the enshrined rights under the Charter are understood and respected in those countries. It should be mentioned here that the enshrined rights under the Charter largely correspond with the guaranteed rights in the Bill of Rights drafted into the Tanzania Constitution.

Legal Aid

Together with increasing the level of awareness of human rights, efforts must also be made to extend or widen the scope for legal aid to those who need it because at the moment the extent of its availability in Tanzania is too restricted and it is urban based.

Socialization for equal rights for men and women

The government should intensify its efforts to dismantle the die hard attitude of regarding women as inferior members of society through public speeches, and adoption of policies designed to redress the present imbalance between the sexes in matters of education, opportunities of access to credit, employment and promotion as well as appointment to leadership positions.

Incorporating International Instruments in Domestic Laws

Tanzania has ratified many of the human rights instruments including CEDAW and CRC. But they need to be internalized by incorporating them into domestic laws so that they can be brought closer to the people. It will make it easier for the people to have access to the provisions of the instruments, to be familiar with them and to apply them because they will then be enforceable directly by our courts. It is not sufficient to have them just translated into Kiswahili.

Training of Paralegals

Indeed seminars and workshops should be organised to discuss the human rights including gender issues and to train human rights personnel to disseminate human rights knowledge and information to the masses at the grassroots level and to women in particular. Training of paralegals and trainer of trainers is an important step in helping women attain their human rights. The trainers of trainers would be an asset in the running of seminars and workshops.

Interpretation of Laws to Accord Women their rights

Magistrates and judges in particular have a big role to play in adjudicating upon disputes involving violations of women's rights in accordance with international human rights norms. In that process they sometimes have to interpret provisions of the municipal law which sanction curtailment or restriction of fundamental rights and freedoms. For instance, the constitution of Tanzania contains a Bill of rights, guaranteeing fundamental rights and freedoms of the individual, but the same provisions make allowance for laws which restrict or curtail the enjoyment of those rights and freedoms in certain circumstances. Thus the judges have a duty to interpret such derogation laws or clauses so as to ensure that the guaranteed rights and freedoms are not rendered meaningless. Likewise, in applying international human rights norms, judges have the task of resolving conflicts which sometimes arise between such norms and the domestic laws, customary law or customary practices.

Simplifying Court Procedures

Furthermore, judges who have control over court business can simplify the procedures for filing complaints in court so as to encourage ordinary members of the public and especially women to approach the courts for protection of their human rights.

In the course of the proceedings and especially when delivering judgements involving human rights, judges may comment or expound on human rights issues raised in the proceedings in order to enlighten the parties and the general public on such matters. Furthermore, judges may give public lectures and also publish books or articles designed to educate the general public on the rights of women.

Women to claim for their rights

In all these endeavours by the society as a whole the women must continue to be aggressive and in the forefront in asserting and claiming for their rights. They must constantly remind the rest of the society to recognize and respect those rights and in particular press on the government to do all it can to help and ensure that the guaranteed rights of women are realized. No doubt there will be obstacles here and there in trying to achieve this objective. For instance, there is the question of financial constraint which forces the government to operate on tight budgets, a situation which in many instances is further aggravated by the implementation of the Economic Structural Adjustment Programmes. Such constraint can restrict what the governments, as the main actors, can do to promote and safeguard women's rights. However, given the commitment and the will, we are confident that these problems can be overcome, and that enjoyment of women's rights will one day become a reality. The government of Tanzania has committed itself as part of the post Beijing activity, to enhance the women's legal capacity.

Increase NGO and Mass Media efforts

It is quite apparent, however, that the government itself, cannot fulfil this obligation, especially considering the current economic difficulties which have been aggravated by implementation of the Structural Adjustment Programmes imposed by the international financial agencies. To fulfil that obligation states can and should count on the support of other agencies, including NGOs, the private media including the press radio and television, religious bodies and other institutions, and indeed, individuals working in the field of human rights.

In this respect it is necessary to underscore the importance of the role which NGOs and the media can play. NGOs such as associations of lawyers, teachers, trainers and doctors have the advantage of being flexible and informal in their operations. They can reach the masses at the grassroots level by visits, organizing regular seminars and legal clinics, training paralegal personnel to disseminate human rights knowledge and information and to offer counsel services including legal aid.

The media, especially the radio and television, is a very powerful method of transmitting information. It has the advantage of transmitting the message directly to the audience and it can

be seen and heard simultaneously and by large sections of the population at the same time. Its message can reach even those who cannot read and write. And this is of great importance considering the existing high degree of illiteracy among the masses especially in the rural areas. NGOs and the media, therefore, can play a very effective role in the field of human rights education, and the government should be encouraged to make appropriate use of them.

Introduce Human Rights Education

Human rights education should not target the potential victims of human rights violations only. It should also be directed at the potential violators of those rights. This includes, for instance, members of the police force whose duties expose them to practical human rights situations such as effecting arrests and extracting information from suspects. These need to be sensitized by impressing upon them the need to respect human rights of the suspects and not to act in excess of their powers. Likewise those who initiate and make laws need to be sensitized on the human rights of women. These include the attitude that women are inferior to men, with its far reaching consequences of marginalizing the women politically, socially and economically.

Enact Laws to protect Human rights of Women

To correct this situation, the government should take positive action to enact laws recognizing for women those rights which traditions and customary practices deny them such as the right to own, inherit and dispose of property. Other laws may be passed to proscribe practices such as female circumcision, marriages of girls below the statutory age of majority which is 18 years in Tanzania and inheritance of the widow by the brother or male relative of the deceased husband. These measures must be taken. Because the society cannot claim to make real development or progress in the field of human rights if women continue to be marginalized and their human rights continue to be violated, more so as women comprise a little over one half of the Tanzanian population.

Empower Women Economically

Then there is need for improved economic conditions. The economic conditions obtaining in Tanzania today are characterised by wide-spread poverty both at the individual and government levels. Because of such poverty individuals cannot reach their basic needs, and the

government is unable to finance their programmes and to make provisions for essential services for their people. As a result of that our government is forced to implement the Structural Adjustment Programmes imposed by the international financial agencies which in some respects only serve to make the situation worse especially so for women. This poses a very serious problem to the realization of basic human rights especially the social and economic rights which require financing. In those circumstances the governments is urged to forge dynamic and imaginative policies aimed at achieving substantial increases in the national productivity. And everyone in the society, including institutions or organizations, should strive to join hands with the government to achieve that end. The government should continue its endeavour to mobilise credit for women and youth. This will in the long run empower them economically for the attainment of their rights.

Increase and Support Crisis Centres

It is proposed that crisis centres be spread throughout the country. Both local and international support to NGOs willing to run crisis centres should be mobilized.

Improve general education and employment of women

Women can only make effective changes in their lives if they are well educated, employed and allowed to work freely without being sexually harrassed. The Government should make it a priority to get women into higher education and to give qualified women top posts.

Mainstream child and women's rights into the planning process

If men and women will enjoy their human and legal rights they have to be intergrated into the plans of their every day activities. There is need therefore, of government and her partners in development to mainstream the human rights of women and children at all levels of planning.

Seriousness in law enforcement

First people should be obedient to laws and the law enforcers should be serious in ensuring that laws that prevent discrimination and attainment of rights are complied with. There is need for institutions like the Police, Prisons, Judiciary and Legal constitution being gender sensitized as well as being given chance to discuss how they can ensure that the laws and the

constitution work to accord people their rights. Funds should be earmarked to enable them hold meetings/workshops/discussion groups

CONCLUSION AND RECOMMENDATIONS TO ECA

Lack of women's full enjoyment of their human and legal rights is apparent in Tanzanian Society. Most of the laws including Islamic laws are in foreign languages and so women, the majority of who are illiterate cannot understand them. The operation of four types of laws - statute, religious, customary and case law makes legal assistance to women rather difficult and sometimes irrelevant. Sometimes one type of law when used, may be discriminative while the other might have been better. Furthermore, there is inadequate information on the human and legal rights of women. Many people tend to hold onto traditional attitudes and practices because in Tanzania customary laws seem to be given undue emphasis. The Muslim laws are thought of as originating from God so nobody is expected to question them. Understanding of one's rights is also a result of accessing them especially through utilization of the legal system. The poverty of many Tanzanians and especially that of women makes it practically impossible for women to engage legal counsel; and there are hardly any legal aid clinics. The government needs to institute legal aid to women otherwise the few NGOs helping women cannot do it alone. They are expected to complement government efforts surely. Women need to be given legal literacy, be taught about legal procedure etc. if they are to fully agitate and claim their rights. May be, the greatest hurdle is that of removing discriminative laws. Granted that law reform is a long process but in Tanzania it seems to be taking too long. It is more than ten years since notice of laws oppressive to women were brought to the notice of the Law Reform Commission and to the government yet nothing has been done. The Parliament seems insensitive to the sufferings of women. Granted they make positive statements when they are confronted, but the action needed from them is changing the obnoxious discriminative laws and enacting positive laws which empower women and the children. A lot of efforts are thus called for from all the women in all walks of life to network together and to lobby for changes in societal attitudes and practices. It is recommended that ECA.

- (1) supports the training of paralegals who can then train women as well as disseminate human rights information.

- (2) works closely through the Human rights NGOs and other human rights institutions such as Universities, Omdusman, and the proposed National Human Rights Commission etc. to help women attain their legal rights, as well as to bring legal awareness to the masses.
- (3) Works with the Ministry of Community Development, Women Affairs and Children (MCDWAC) in training and dissemination of human and legal rights. Currently the MCDWAC enjoys the support of the Italian Women in Development Association (AIDOS) in the establishment of a Documentation/Information Centre with a Communication Strategy which targets at the grassroots. ECA could provide funds for training workshops/seminars. Such money is not within the AIDOS/MCDWAC Project.
- (4) could provide funds for awareness creation on CEDAW. This should include funds for printing and distribution of brochures etc.
- (5) ECA could bring the issues of Human and Legal rights to the conference of Ministers responsible for planning to work out modalities for mainstreaming into economic planning activities.
- (6) could support a gender sensitive conference of law enforcers and of women machineries to learn about women's human rights and to exchange ideas on how best to ensure that women are enjoying their rights.
- (7) could support consultant studies to remove sexist language used in national legislation, in court proceedings and judgements.

TANZANIA HUMAN RIGHTS NGO'S

- **The Legal and Human Rights Centre (LHRC)**
P.O. Box 75254, Dar es Salaam - Human Rights Trainer
Tele/Fax 255-51-113177 - Helen Kijo-Bisimba
Contact- Executive Director - Evod Mmanda
Subject: Legal and human rights issues in civil society. - Anna Mghwira

- **Tanzania Gender Network Programme**
P.O. Box 8921, Dar es Salaam, Tanzania - Demere Kitunga
Telephone 255 - 55-118030 - Agripina Mosha
Fax 255 - 51 - 22971 - Christine Warioba
Contact- Program Co-ordinator
Subject: Gender issues.

- **Kuleana Centre for children Rights**
P.O. Box 27 Mwanza
Telephone (255 - 68) 500911 or 500912
Fax: 255 - 68 - 42402 or 500486
E mail: Kuleana @ tan 2. Healthnet. Org.
Contact - Director
Subject: children's rights

- **Tanzania Women Lawyers Association**
P.O. Box 9460 Dar es Salaam - Trainer
Telephone 255-51-113626 or 29090 - Miss Mwendwa Malecela
Fax 255 - 51 - 32342 - Mrs. Winnie Korosso
Contact - Chairperson
Subject: Women's Legal and Human rights issues and children rights.

- **Women Legal Aid Centre** - Trainer

P.O. Box 10463, Dar es Salaam - Dr. Asha Rose Migiro

Tele/Fax 255 - 51 - 183028 or 113177 - Scolastica Julu

Contact - Chairperson - Nakazael Tenga

Subject: Women's rights - Monica Mhoja, Lucy Nambuo

- **East African Support Unit for NGO's EASUN**

P.O. Box 6120 Arusha Tanzania

Tele. 255 - 57 - 8803

Fax 255 - 57 - 8289

Telex 255 - 57 - 42074

Contact: Programme Officer civil society

Subject: NGO Support - Advocacy

- **Kilimanjaro Women Information**

Exchange and Exchange Company,

P.O. Box 376,

Moshi: Women's Rights

Tel: 055 - 51121 or 50237

Contact: Managing Director

- **Tanganyika Law Society**

Human Rights Project

P.O. Box 2148, Dar es Salaam, Tanzania

Tel. 255-51-21907

Contact: Secretary

Subject: Human rights Institutional capacity building.

- **Tanzania Media Women's Association** - Trainers
 P.O. Box 8981, Dar es Salaam - Marie Shaba
 Telephone 255 - 51 - 32181/115278 - Laila Sheikh
 Contact: Director
 Subject: Women rights Advocates
- **Women Advancement Trust**
 Tele/Fax: 255-51-183028
 Contact: Co-ordinator
 Subject: Women's rights and property rights
- **Environmental, Human Rights Care and Gender Organisation**
 (ENVIRO - CARE)
 P.O. Box 9824, Dares Salaam, - Trainer
 Tel: 255-51-74009 - Dr. Ruth Meena
 Contact: Co-ordinator
 Subject: Women and Children rights.
- **HAKI ARDHI**
 P.O. Box 35083 - Prof. Issa Shivji
 Tel.255-51-152963/153455
 Contact: Prof. Issa Shivji
 Subject: Land Rights.
- **Koshika Women's Group**
 Physical Address - SUWATA Building
 Room 12 - Dar es Salaam, Tanzania
 P.O. Box 868
 Tel 255 - 51 - 183028
 Contact: Ms Keziah Robi Makoyo - Director
 Subject: Rights of Domestic Servants, Women and Economic Empowerment

- **Centre for Entrepreneur Gender**
Environment Information and Research
P.O. Box 77587, Dar es Salaam
Tel: 255-51-111950
Fax: 255-51-153152
Mobitel. 255-51-0811320552
Contact: Executive Director
Subject: Disadvantaged Youths esp. Girls and disabled girls women retrenches
episode women micro-entrepreneurs.

- **Journalists Environmental Association of Tanzania (JET)**
P.O. Box 15674, Dar es Salaam,
Tel: 255-51-180005
Fax: 255-51-180005
Contact Mr. Clement Mshana
Subject: Programmes on environmental issues

- **Para legal Aid Scheme for Women, Tanga**
P.O. Box 2146 or 1963 - Trainer
Tanga - Tanzania - Mrs. Mary Mwingira
Tel: 255-53-47528/255-53-42277
Contact:Co-ordinator
Subject:Women and Children's rights

- **Tanzania Association of NGO's (TANGO)**
P.O. Box 31147, Dar es Salaam, Tanzania
Tel: 255-51-0812-783175
Contact:Chairperson or Secretary General
Subject: Umbrella Organisation

Tanzania Family Planning Association (UMATI)

P.O. Box 1372,

Dar es Salaam, Tanzania

Tel: 255-51-116361/850421

Fax: 255-51-807297/25491

Contact: Executive Director

Subject: Reproductive Health

• **Women in Law and Development in Africa (Tanzania Chapter)**

P.O. Box 10463, Dar es Salaam

- Trainers

Tel/Fax: 255-51-113177

- Mrs. Judith Odunga

Contact: Executive Committee Member

- Mrs. Helen Kijo-Bisimba

Subject: Network on Women's Human Rights.

- Scholstica Jully, Demere
Kitunga

• **Tanzania Home Economics Association (TAHEA)-**

Trainers

P.O. Box 1125, Dar es Salaam, Tanzania

- Mrs. Freda Chale

Tel: 255-51-110146-9ext.367

- Nora Bwizilili

Fax: 255-51-666152

- Mrs. Flora Massoy

Contact: Nora Bwizilili

- Mrs. Maria Kisanga

Subject: Women's Rights including Reproductive Health, Rights to ownership of property and to decision making.

• **Tanzania Association of the Disabled (CHAWATA)**

P.O. Box 2361, Dar es Salaam,

Tel: 255-51-864683

Contact: Co-ordinator

Subject: Education, Employment and poverty relief for the Disabled.

- Amnesty International Tanzania Section** - Trainer
 P.O. Box 4331, Dar es Salaam - Dr. Emanuel Kandusi
 Tel: 255-51-31708
Contact: Administrative Secretary
Subject: Human Rights

Tanzania Human Rights Association]Human rights
 P.O. Box 181684]Education and
 Fax: 184689]Civic rights.
Contact: Mr. Kaonekana
Subject: Human Rights

Women's Research and Documentation - Trainers
 Project Association' - Ms. S. Kassim
 P.O. Box 35108 - Mrs. P. Mosha
 Dar es Salaam - Mrs. A. Ndaalio
 Tel: 255-51-43500 - 8 Ext. 2460
 Mobile: 0811 - 334640
Contact: Convenor
Subject: Women's human rights and other common issues.

Tanzania Law and General Publishers Trust Fund
 P.O. Box 7401
 Dar es Salaam, Tanzania
 Fax: 00-255-51-602312
Contact: The General Secretary
Subject: Sensitization of Communities on various socio-legal issues through literature, publications and legal education.

Zanzibar Human Rights Association

P.O. Box 185

Tel: 33551 (H) 0812 781630

E-mail: ally @ Saleh. zenj.glcom.com

Contact: Ally Saleh, Ag. Executive Secretary - Trainer.

**LAWS THAT AFFECT DIRECTLY WOMEN AND
CHILDREN'S RIGHTS**

1. Law of Marriage Act No.5 of 1971
2. Probation of Offenders - Cap.247 of 1947 Rev. 1962
3. Affiliation Ordinance Cap. 278/1949 (Amendment) 1964.
4. Adoption Ordinance Ca. 355/1955
5. Children and Young Persons Ordinance Cap.13/1937 Rev. 1964
6. Disabled Persons Care and Maintenance Act. No.3/1982
7. Employment Ordinance Cap. 366
8. Education Act No.25 of 1978 revised 1995.
9. Penal Code Cap.16
10. Age of Majority (Citizenship Laws) act No.24/1970
11. Customary Law Declaration Order 1963
12. Probate and Administration of Deceased Estate Ordinance Cap.445.

**EXTRACT OF CABINET DECISION NO.23 OF AUGUST 1996: KEY ISSUES IN
LAW OF MARRIAGE ACT 1971, CHILD LAW AND SUCCESSION LAW**

To change/revise laws and regulations which discriminate women

I. THE 1971 MARRIAGE ACT.

Section 13

The age of marriage should be 18 years for both genders instead of 15 years for girls and 18 years for boys.

Section 23 (1)

Emergency Marriages should be avoided and strictly controlled.

Section 114

Division of assets in dividing the assets acquired during marriage, death should be considered as divorce and on that basis all wealth acquired during marriage should be divided. The remaining partner should get her/his share before the assets are divided to others.

Section 160

Pre-assumption of Marriage. This section should be removed so as to reduce the number of women taken as concubines losing their right once the relationship is broken.

Care and Protection of the Child. The law should clearly spell out indicators to be sued in giving the child custody once the marriage is broken

The Social welfare officer should involve the close family members of the couple in conflict in obtaining information that is going to be used in deciding on the matrimonial status.

In case of a divorce or separation children less than 15 years especially girls, should be left with their mothers because this is the time when children need counselling from their mothers. In case of divorce all parents should take equal responsibility in upbringing their children.

Proper arrangements should be made to guarantee safe children upbringing in case separation occurs by deducting from the salary of the father an amount that can serve the children. In rural areas, the fathers should contribute something in kind to guarantee children's comfort.

Regulations regarding domestic violence should be revisited and consolidated in order to minimize incidents of beating women

II INHERITANCE RIGHTS

There should be a common regulation which will cover all women so that women would not lose their rights due to customary, religious and civil laws existing parallel.

Assets acquired between husband and wife during their marriage should not be involved in inheritance before the living partner gets his/her shares of private property. Personal assets should not be involved in inheritance.

Division of assets should be made equally without taking into consideration customary law declaration of 1963.

It should be made a crime to chase the widow and children from the residence of the deceased unless the house belongs to an employer.

Regulations should be translated so that they can be understood by women.

Children born out of the wedlock should inherit from their mother's side. Foster fathers can also make the children inherit their property.

III LAWS ON CHILDREN

The Affiliation Ordinance Cap 278/1949 Amm.1964

The amount to be paid for child maintenance should be based on the income of the father and the cost of living at that particular time. In rural areas where incomes are low the fathers should make their contributions in food form or in kind which can reduce the upbringing burden on the women.

Children and Young Persons Ordinance Cap 13/1937 Rev. 1964, probation of offenders Cap 247/1947 Rev. 1962

In punishing children who committed crimes, the punishment given should not violate the CRC. Children who have committed crimes should not be mixed with adults in prison.

Employment Ordinance Cap.366

The age of employment should be 18 years. If it is necessary for one to be employed under the age of 15, precautions should be taken to guarantee safe health of the child.

QUESTION AND ANSWER DISCUSSIONS ON WOMEN'S RIGHTS

The following discussion with Mr S. Makundi a University graduate of sociology/anthropology from Kilimanjaro region sums up the rights of women under patriachal traditional and customary practices as presented in a form of Question (Q) and Answers (A) dialogue.

Q: Do you know your rights at the family level?

A: Yes, to a certain extent.

Q: Which are the ones you know?

A: I know I will inherit the family plot, because I am the last born boy.

Q: Do you have a last born sister?

A: Yes.

Q: What will her rights be?

A: She is already married in the village and her rights will be in her husbands family

Q: What rights has she got in her husband's place?

A: I am not quite sure, but her boy children will inherit and take care of her at old age. If she does not have a boy/boys she will lead an unhappy life because her future is not guaranteed and the family of the in-law and relatives will despise her as one who has failed to produce an heir. The husband might be persuaded to get a child out of wedlock. Being a Christian he cannot just divorce her but he can bring the boy child for her to care so that there will be an inheritor. He will just go to Church and confess and continue to live as if nothing happened. After all, in our society children belong to the father.

Q: Does she participate in making decisions?

A: To some extent for example, in terms of planning the menu and in terms of what to do and how to use the women's crops such as milk, beans, bananas, yams, peas, vegetables, fruits that do not have much price e.g. avocado, guava, lemons, oranges etc. She has no decision on the men's cash crops such as coffee, and animals. Women do not participate in slaughter, or selling of cattle, goats, sheep. She can be consulted/told that the animal

is being sold, but her authority is ignored despite the fact that she is the one who cares for the animals.

Q: Does she have decision on family wealth?

A: Yes to a certain extent - in the sense that all the income from the so called women's crops is hers.

Q: How about the right to decide on her children's marriage and bride price?

A: Always the first contact on issues of marriage is the father who informs the wife after the visitors have left. This means the father can make the decision even before informing the wife.

Q: Has the girl got any choice of spouse?

A: The girl to get married has the choice of spouse but there are problems with some girls being married without their consent.

Q: What do you mean exactly?

A: A girls can be literally grabbed from the street/pathway by the husband to be with the help of his friends and taken away and forced to marriage. What follows is that information is taken to the girls parents to the effect that they should not search for their daughter. If the girl's parents agree, then negotiations for bride price and other traditional marriage etiquet are started. Traditionally all these forms of marriage are acceptable. They become officiated later.

Q: What right has the women over household tools?

A: Tools/household equipment, cooking pots, grass cutters, peelers, etc belong to a woman whereas those for men's work including matchets, axes, coffee pulpers, beehives etc belong to men. On the other hand the man can decide on the use of women implements but not vice versa.

Q: Who has decision on land matters?

A: Decisions on land remains with the owner, who is the husband and the wife can use husbands land but not to lend. Disobedience can lead to beating, or separation.

Q: Who normally takes care of the farm?

A: Both husband and wife, but if the farm is unkept it is usually the wife who is blamed although the crops are for both, so heavy burden hangs on the woman

Q: What can you say about the right not to be battered/or given violence?

- A: By-laws insist on good crop production and environmental care to ensure good harvest. This means hard work by the family. If this does not happen it is the wife who is blamed and sometimes beaten by husband for putting him to shame.
- Q: Can women participate at family clan decisions?
- A: In many clans women do not participate in discussions/decisions on various issues of the clan including land. Even when parents would like to give their girls a piece of land, the members of the clan can refuse and even contest in court for her not to be given. In this case the court, using customary law denies the man the right to give his daughter clan land.
- Q: What about decision on Inheritance?
- A: If the mother dies the girls can only be given the clothes; the household utensils are left to the in-laws (the brothers wives). It is assumed that other wealth belongs to the husband and his clan.
- Q: What is the situation when the husband dies?
- A: If husband dies, a man must be chosen to be head of that household; to ensure that clan interests are guarded. It is assumed that a woman cannot/should not make decisions for the clan. Therefore, the acting head becomes the mouthpiece of the woman. This means the woman is not given any freedom of expression. This practice has now been exported to the town where it is reinforcing attitudes of inferiority among the women.
- Q: How about the right to Education? How many sisters have you got?
- A: I have 4 brothers and 8 sisters
- Q: What is the level of education of your sisters and brothers?
- A: One of the four brothers completed O-levels and trained as a technician, the other three have all got University education. Of the sisters only one has a University degree, 5 completed their primary education and the other two completed their O-levels.
- Q: Why is it that the girls have lower education than the boys?
- A: (1) Attitudes - May be they knew they could get husbands.
 (2) Performance of girls was lower than that of boys. May be because of extra household chores and lack of push from society.
- Q: Can you comment on the health of women? Is there maternity leave for example?

- A: The women enjoy a maternity leave of three to six months in our community. During this time all work is done by other women. Indeed before the economic erosion, this practice was a must for six months but nowadays the months are decreasing.
- Q: Does the maternity leave depend on the sex of the child?
- A: No. Maternity leave is the same for either sex. In fact each child is fed and taken to the clinic equally.
- Q: What is the space between children?
- A: On an average of two years.
- Q: How is this achieved?
- A: Nowadays through visits to clinics where they get contraceptives.
- Q: How many women go for contraceptive advice?
- A: I would say many
- Q: How did they know about it?
- A: Through the MCH clinics.
- Q: How do those who do not access contraceptives space their children?
- A: Through social sanctions, attitudes and counselling. For example, it is believed that a woman should not have a child and a grand child at the same time. Remember that the mother - in - law is expected to be the traditional birth attendant. So her daughter - in - law or her own daughter cannot act as midwife to her. It is customary that if it happens that a woman has abandoned this traditional practice and regulation as given during counselling and guidance before marriage, she is reprimanded by a group of women elders. The husband is also brought before a sitting of clan elders for reprimand and advice as well. For men are also counselled before marriage. The withdrawal and safe days are the usual traditional methods of birth control.

QUESTIONNAIRE ON WOMEN'S HUMAN AND
LEGAL RIGHTS

1. Do you believe there exists discriminatory practices against any of the sexes (male or female) in our society?
2. Traditionally, are there preferences for sons rather than daughters in your society?
3. If yes, why is that so?
4. What is your opinion about female circumcision?
5. Are you aware of the health implications of female circumcision?
6. How do you regard the socialisation process (how children are brought up depending on their sex) in your community or among your people?
7. Traditionally, what is the expected age of marriage for female children amongst your people?
8. What about the men?
9. Are female children betrothed to men from birth?
10. If yes, why?
11. What is your opinion of child marriage?
12. Do you believe a woman should be beaten by her husband or any other family member, whenever she commits an offence?
13. If yes, why?
14. Do you think religion (Christianity or Islam), discriminates in any way against women?
15. If yes, why?
16. In your culture, do husbands and wives have equal property rights?
17. If no, what is/are the difference/s?
18. What about inheritance rights? Do they have equal inheritance rights?
19. If no, what is/are the difference/s?
20. Do spouses have equal rights to divorce? Please explain

21. When one of the spouses die, are the burial rites uniform in both cases (i.e. man and woman)?
22. Are there special rites in your culture for widows that do not apply to widowers (men)?
23. If yes, what are these rites and why is this so?
24. How does the bride-price system operate in your area?
25. In your opinion, does bride price enhance the status of women or not?
26. If yes, why?
27. What are the property rights of the following category of women in your society:
 - a. Daughters
 - b. Unmarried women;
 - c. Married women;
 - d. Divorced women;
 - e. Widows;
28. Can a married woman enter into contracts, buy or sell property, including land or even open a bank account without her husband's authorisation?
29. If no, why?
30. Under customary law operational in your area, can a divorced woman, own some of the property acquired by both she and her husband during the marriage?
31. If no, why?
32. Must your wife seek permission from you to gain employment, seek family planning advice and/or obtain an international travel passport?
33. Would you-(the man) do the same?
34. Do you know whether a Tanzanian renounce her citizenship, when marrying a foreigner?
35. If yes, why?
36. Can the foreign husband, like the foreign wife, obtain residency permit?
37. If no, why?

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