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EQUALITY NOW

Tanzania

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Executive Summary

In this submission, Equality Now provides information as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*:¹

- Equality Now highlights its concerns about failure of the implementation of laws to protect girls fleeing FGM and the Government of Tanzania's inaction to address the issue of discriminatory laws governing marriage in Tanzania.
- Equality Now makes a number of recommendations for action by the Government of Tanzania to address these areas of concern.

Promotion and protection of human rights on the ground

Female Genital Mutilation (FGM)

1. FGM includes a range of practices varying from the partial or complete removal of the female genitalia for non-medical reasons. In Tanzania, FGM is practised by specific ethnic groups in the Dodoma, Singida, Arusha, Kilimanjaro and Mara regions. Although the FGM national prevalence rate in Tanzania is 14.6%, it is very high in the regions where it is practised. This includes Tarime district, which has a particularly high rate of FGM when compared to others. According to a 2002 survey conducted by Tanzanian partner organization – the Legal and Human Rights Center (LHRC), FGM is openly practiced with impunity in Tarime with a prevalence rate of about 85% among rural females in the region. The practice is performed on cohorts of girls in ceremonies that take place at least every two years in almost the entire district. During this period, many girls in this community drop out of school and are married off after undergoing FGM.

2. Although the government of Tanzania prohibits the practice of FGM under its Sexual Offences Special Provision Act 1998, its response to prevent mass mutilation taking place in practicing communities has been inadequate. The law provides that anyone having custody, charge or care of a girl under eighteen years of age who causes her to undergo FGM commits the offence of cruelty to children. Yet, only a handful of cases have ever reached the courts in recent years and the police are reluctant to arrest and prosecute the perpetrators.

3. In November 2010, press reports gave an early warning signaling planned mutilation of over 5,000 girls to take place during FGM ceremonies in the Tarime district of the Mara Region of Tanzania. Following the reports, Equality Now issued an urgent alert requesting the government of Tanzania to take immediate action to stop the mutilation of girls and to arrest the perpetrators. Although the law enforcement agencies were aware that mass mutilations were to take place, no action was taken to protect girls from undergoing the practice or arrest of any perpetrators. Whilst a number of police stations house units to specifically address gender-based violence, including enforcement of the anti-FGM law, the police failed to protect the girls from FGM. Several girls fled for fear of being mutilated and were housed in local shelters.

¹ Contained in *Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1*, section I, adopted 27 September 2007

4. It is not known precisely how many of the 5000 girls deemed at risk of FGM in Tarime between November and December 2010 underwent the mutilation. However, reports from a field visit to the region conducted by one of Equality Now's partners - the Legal and Human Rights Centre (LHRC) - an NGO based in Tanzania, showed that from 28 November 2010 to 6 December 2010 alone, over 700 girls were mutilated. LHRC only managed to save eight girls who were at risk from undergoing FGM who were taken to a rescue center.² Whilst it was common knowledge that the communities practice mass mutilation every two years, there was no attempt by the statutory and law enforcement agencies to educate the communities against FGM and to impress on them the illegality of the practice.

5. The government of Tanzania has an obligation under international and regional human rights laws to ensure that the practice of FGM is eliminated. In 2007, Tanzania ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Article 5(a) requires State Parties to conduct public awareness and education outreach programmes on the effect of FGM, and Articles 5(c) and (e) require States Parties to provide protection to women at risk of being subjected to FGM and to support victims of FGM through providing basic services such as health services, legal and judicial support, and emotional and psychological counselling. Tanzania is also a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), both of which call for an end to FGM. Article 2(f) of CEDAW obliges States Parties to undertake all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against women. Article 24(3) of the CRC requires that States Parties take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of the child.

6. In 2008, in its concluding observation, CEDAW expressed its concern at "the continued prevalence of the practice in some regions of the country..." and "the weak enforcement of the prohibition of female genital mutilation..." The CEDAW Committee is also concerned with "the continued legality of the practice upon women over 18 years of age, who are usually pressured or forced into undergoing the practice," CEDAW 41st Sess., para. 121, U.N. Doc. CEDAW/C/TZA/CO/6 (2008). In 2006, in its concluding observations, the CRC Committee stated that it is concerned "that FGM is still widely practiced," CRC 42nd Sess., para. 50, U.N. Doc. CRC/C/TZA/CO/2 (2006).

Polygamy and Child Marriage

7. Section 10 of Tanzania's Law of Marriage Act, 1971, as amended by Act 23/73, Act 15/80 and Act 9/96, allows polygamous marriage. Section 13 states the minimum age of marriage for males is 18 and for females is 15. Section 15 of the Act only allows men, not women, to contract more than one marriage at a time.

8. This is in conflict with Tanzania's Constitution as well as Tanzania's international legal obligations under the Convention on the Elimination of All Forms of Discrimination Against

² See Sengu H., Report on FGM Fact Finding Mission Conducted at Tarime District, November-December 2010 (Legal and Human Rights Centre), on file at Equality Now.

Women (CEDAW), the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child.

9. In 2008, the Committee on the Elimination of Discrimination against Women expressed concern “at the lack of priority given to comprehensive legal reform to eliminate sex-discriminatory provisions and to close legislative gaps in order to bring the country’s legal framework fully into compliance with the provisions of the [Convention on the Elimination of All Forms of Discrimination against Women] and to achieve women’s de jure equality . . . , in particular, about the delay in the passage of the proposed amendments to the Law of Marriage Act of 1971” CEDAW, 41st Sess., para. 111, U.N. Doc. CEDAW/C/TZA/CO/6 (2008). In 2009, the Human Rights Committee stated that Tanzania “should, as a matter of priority, bring its laws governing the family and personal status in line with articles 3, 17, 23 and 26 of the [International Covenant on Civil and Political Rights], in particular with regard to the minimum age of marriage for women.” CCPR, 96th Sess., para. 9(a), U.N. Doc. CCPR/C/TZA/CO/4 (2009).

10. Tanzania further promised to “revoke any laws that discriminate on the basis of sex” in the Platform for Action adopted in Beijing at the Fourth World Conference on Women. In 2000, the General Assembly reviewed the Platform for Action and established a target date of 2005 for the revocation of discriminatory laws. That target date has passed with Tanzania’s discriminatory laws still in place.

Recommendations for action by Tanzania

11. Equality Now urges the Human Rights Council to call on the Government of Tanzania to:

Undertake public education campaigns against FGM

- It should partner with the voluntary sector with expertise on FGM and should conduct intensive public awareness campaigns and education outreach programmes on FGM in the practising communities

Provide guidelines, protocols and training on FGM for professionals

- Even though there is a law against FGM in Tanzania, this is not enough to protect girls and women from the abuse of FGM. The government should develop guidelines and protocols and provide training and skills development for professionals. Joint working protocol across social services, health, education and the voluntary sector should be put into place to prevent and protect girls from undergoing FGM.

Take a proactive stance on the protection of girls from FGM

- The government should be proactive in the protection of girls against FGM. It should anticipate mass mutilation during FGM seasons and allocate additional resources to the statutory agencies responsible for child protection.

Support systems for girls fleeing FGM

- The government should ensure that support systems (e.g. helplines and temporary shelters) are in place to support and protect girls fleeing FGM. It should ensure that girls who are mutilated receive health care and that perpetrators are brought to justice.

Reforming the Marriage Act

- Tanzania's Law of Marriage Act discriminates against Tanzanian women and girls and should be reformed in order to provide equal protection under the law to both sexes; and to conform to regional and international human rights standards.