



UNITED REPUBLIC OF TANZANIA

STATEMENT

BY

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(GOOD GOVERNANCE) OF THE UNITED REPUBLIC
OF TANZANIA**

**DURING THE ADOPTION OF
THE UNITED REPUBLIC OF TANZANIA’S
UNIVERSAL PERIODIC REVIEW OUTCOME**

GENEVA – SWITZERLAND

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Check against Delivery

**Madam President,
Madam High Commissioner,
Excellencies, Permanent Representatives,
Distinguished Delegates, Ladies and Gentlemen.**

On behalf of the United Republic of Tanzania, I am both humbled and elevated to have the honour of addressing the plenary of the Human Rights Council on this occasion of the adoption of our first Universal Periodic Review Outcome.

My delegation participated in the Working Group session for the review of the human rights situation of our country in October last year. We approached the review process with an open and transparent spirit; we had a very enriching and constructive dialogue with the distinguished members of the Working Group, sharing with them all the positive developments, our priorities as well as the remaining challenges.

Madam President,

During the course of the Working Group review session, 54 delegations took the floor, formulating questions and recommendations. I would like to, once again, thank all the Member states and Observers of the Human Rights Council for their active contribution to a meaningful and credible dialogue on the performance of Tanzania, with regard to adhering to our international human rights obligations. I would like to assure the Council and all the delegations here present that the Government of the United Republic of Tanzania has given its full attention to all the recommendations.

Madam President,

The United Republic of Tanzania received 153 recommendations in total, clustered in a number of thematic issues. We agreed to 96 recommendations directly in the Working Group, 4 recommendations did not enjoy our support and 53 were deferred for further consideration. In their thematic order, they focus on the scope of international obligations, legislation, infrastructure, policies, discrimination, right to life, administration of justice, right to privacy, freedom of expression, right to work, standard of living, education, indigenous peoples and their rights, collaboration with civil society as well as technical assistance.

Madam President

Regarding the accepted recommendations, I wish to state that they correspond mostly to areas that we have already identified in the course of the preparation of the National Report as crucial areas which require further attention. They are essential to the context of the efforts for promoting human rights in Tanzania. The recommendations address a wide range of issues, some of which are partly implemented. In other areas, they affirm our commitment to existing policies and reaffirm the political will to accelerate the process of implementation through the relevant national plans and agenda in the years ahead. Therefore, the recommendations were accepted with a strong willingness to redouble our efforts for the sake of improvement of human rights of our people.

Madam President,

With regard to these accepted recommendations let me now review some significant changes that have occurred since our Report last October;

Some delegations had recommended that the Government accelerates the formation of a Special Commission to supervise the Constitutional reforms.

I am now delighted to inform this august body that the Constitutional Review Bill has been passed into law known as the Constitutional Review Act No 8 of 2011. It has been enacted for purposes of providing for the establishment of the Constitutional Review Commission, which will among other things, be responsible for coordinating and collecting public opinions on the new Constitution, examining and analyzing public opinions, as well as preparing and submitting the Final Report on the public opinions. The Act also provides for a procedure for constituting the Constituent assembly, the conducting of the referendum as well as other related matters. This mechanism, to a large extent, has established a clear modality of access for the public to give input in the process of reviewing the Constitution. It has been set in a way that public opinions will be thoroughly considered and those agreed by consensus will be included into the new Constitution.

Similarly, pursuant to the provisions of the Act, His Excellency the President, has through Government Notice No 66 of February 2012, extended invitations to Political Parties, Religious Institutions, the Civil Society and other interested groups to each submit three names of people they recommend to be considered for membership of the Constitutional Review Commission. Suffices to state that the Commission is

expected to commence its work before end of June this year.

Madam President,

Regarding the recommendation to finalize the National Action Plan on Human Rights, I would like to state that, in keeping with its obligations arising from the Vienna Declaration and Programme of Action that was adopted in Vienna in 1993, Tanzania has continued to engage all relevant stakeholders involved in this task. Indeed it is heartening to note that, as one of Tanzania's priorities enumerated in the National Report, the development of this important framework is now progressing well. Already, a National Technical Committee comprised of the members from the Government, the Commission for Human Rights and Good Governance and the Civil society is in place for spearheading these efforts. It is also worth to note that the UNDP under one UN framework is supporting this initiative. The development of the Draft National Human Rights Action Plan is expected to be finalized by June 2012.

We shall continue to update the Council on the implementation of the already accepted recommendations.

Madam President,

Allow me to move to the recommendations which did not enjoy our support. As already stated, we outrightly rejected 4 recommendations on the occasion of the consideration in the Working Group, these pertain to issues of homosexuality as well as abolition of the bride price and polygamy. As for the same sex unions, we indicated our firm position that

these are not culturally as well as legally accepted in Tanzania. They were further rejected on the basis that they violate and infringe cultural, religious and moral norms of our society. The recommendation on the abolition of the bride price and polygamy is yet another area which is benchmarked on the enjoyment of cultural and religious rights of our people, at the same time safeguarding the importance of these values.

Madam President,

This now brings me to the deferred recommendations. I would like to reiterate once again that Tanzania benefited immensely from all the views expressed by all delegations during the process of the review. In view of the nature of the deferred recommendations, we took them back to the Capital for further consideration and consultations. Suffice to state that these are issues which we believed required exhaustive deliberations both within the Government and in the public sphere before any commitment could be made by the Government. In this respect, we are glad to report that during the intervening consultative period, we have considered the substance of each and every one of the recommendations. This has been done with active participation of all relevant stakeholders from both within and outside the Government, taking into account that broad based consultations has been our guiding principle throughout the UPR process.

Madam President,

Indeed in order to garner views of all relevant stakeholders concerning our position on the recommendations, a stakeholder's workshop was organized in December 2011 under the auspices of the Government of the United

Republic of Tanzania and the UN. Stakeholder's views and comments were considered and incorporated into the Addendum on Views on Conclusions and or Recommendations, Voluntary Commitments and Replies submitted to this forum. It is our sincere hope that, this information will pave way for other short, medium and long term processes or decisions that will be deliberated upon and approved by the Cabinet for some of the remaining pertinent recommendations.

Madam President,

I am happy to announce that, from the Addendum which has been availed for circulation during this meeting, we have accepted some more recommendations, bringing our final number of accepted recommendations to 107 in full and 13 in part. Regarding the remaining recommendations that we could not agree to at this stage, we would like to emphasize that an inclusive dialogue and a debate on them will certainly continue.

Allow me now touch on the specifics of the deferred recommendations.

(a) **Accession/Ratification of core International Human Rights Instruments**

Madam President, Tanzania agrees in part, with the recommendations to consider ratifying other core international human rights instruments as demonstrated in the Draft Working Group Report. We take our obligations very seriously and our focus is on ensuring the full and effective implementation of our treaty obligations. While Tanzania may not be a party to a particular Treaty yet, it does not mean that in practice, its

policies are not already fully or largely in compliance with its provisions. We will continue to study the technical and resource implications of acceding to further major human rights treaties in keeping with our policy to keep the core international human rights instruments under constant study. To this end I am happy to inform this Council, of our intention to consider accession to the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, among other instruments. This process is at the stage of cabinet approval.

(b) **Standing/open invitations for special procedures.**

Madam President, With regard to issuing or extending an open invitation for special procedures, I wish to state that Tanzania has been regularly receiving Special Rapporteurs and will continue to work with other Special procedure mechanisms of the Human Rights Council taking its capacity, the priority areas for the country as well as the need for adequate preparations for such visits.

While the United Republic of Tanzania is committed to cooperate with this august body and its special mechanisms, I am pleased to inform you that our Government is also working with other mechanisms. At this moment of the adoption of our report, a Country Review Mission Team of the African Peer Review Mechanism is in the Country reviewing good governance issues on four thematic areas. These are democracy and political governance, economic and management governance, corporate governance and socio-economic governance. Likewise on the 20th September 2011, Tanzania committed itself to join the Open Government

Partnership (OGP) initiative which aims at making Government business more open to its citizens. It aims at improving public service delivery, government responsiveness, and combating corruption and build greater trust. OGP also provides an opportunity for Tanzania to hasten, enhance and promote good governance.

In this regard, requests for visits will be considered positively on a case by case basis on the strength of merit of each proposal.

(c) **Abolition of the Death Penalty and establishment of a De jure moratorium,**

Madam President, Some delegations recommended that we should consider abolition of the death penalty and or formalize the de facto moratorium as a step towards its complete abolition. We wish to state categorically that this recommendation does not enjoy our support due to the position stated in our National Report and the Statement delivered during our review in October. We would like to emphasize that Tanzania attributes the importance of the public at large in debating on the appropriateness of this penalty; hence the Government cannot single-handedly abolish this form of punishment without involving the people of Tanzania. While holding our principled positions that honor widely accepted views and opinions of our people, the Government shall in collaboration with other stakeholders continue to educate the public on the world's general trend towards death penalty.

Madam President,

As for the establishment of a de jure moratorium, It is our considered view that, in view of its connection with the issue of death penalty, internal consultations as well as public opinion should be given highest consideration. Furthermore, we do also believe that, most of these contentious or burning issues will be deliberated upon in the forthcoming constitutional review process.

(d) **Protection of women and girls from sexual violence also in marriage.**

Madam President, this brings me to the recommendations advanced that Tanzania should step up its efforts to protect women and girls from gender based violence also in marriage. The issue of gender based violence is a matter of concern for the Government as well as other actors. A number of measures including legal and social campaigns have been taken by the Government in collaboration with the Civil Society in order to address the issue of gender based violence. The Constitution of the United Republic of Tanzania prohibits discrimination on the basis of among other things sex and gender. The Penal Code Cap 16 of the laws and the Sexual Offences Special Provisions Act criminalize various forms of gender and sexual based violence, including rape, sexual assault and harassment, sex work and trafficking. While this recommendation enjoys our support in part, we do not accept any importation of the concept of marital rape embedded there in.

Madam President, we are mindful of the fact that the issue of marital rape should be addressed in the backdrop of competing needs for ensuring the sustainance and sanctity of marriage as an institution at the same time with the need to criminalize rape in all its forms. Much as sexual violence is outlawed in our penal system, the legislation in question only recognizes statutory rape for separated couples and girls under eighteen years of age. With the diverse opinions and issues on the subject, the question of introducing marital rape for married couples, being an alien concept in the country requires a deeper, wider and culturally sensitive debate.

(e) **The right to education, Violence against children including corporal punishment.**

Madam President, Regarding our position on corporal punishment in relation to the right to education, we wish to state from the outset that the same does not apply in the educational setting. Corporal punishment is provided for by law, as part of our penal system and is administered under the Corporal Punishment Act and its Regulations, as well as the Prisons Act to persons convicted of certain offences. This punishment is not applicable to females, and males who are over fifty five years. The procedure for the administration of the punishment has strict controls to eliminate any likelihood of arbitrariness and to ensure the protection of the health of the concerned. As a result of these procedures and controls, the sentence has not been administered for more than a decade.

Madam President, in addition to what I have already stated, it is pertinent to note that, canning (and not corporal punishment) is administered to pupils and students for acts of gross indiscipline. The Education Act and its Regulations prescribe a strict framework within which it is to be administered in schools. Therefore canning of miscreant students in schools is viewed as a legitimate and acceptable form of punishment in Tanzania. It was not the intention of the law makers that it should be violent, abusive and or degrading but rather a constant reminder for pupils to adhere to education guidelines and regulations in schools.

(f) **Minimum age of marriage for boys and girls**

Madam President, during the course of the review, some delegations had recommended for the minimum age of marriage for boys and girls to be set at 18. The Law of Marriage Act has been a subject of a protracted debate. The debate pertains to issues of gender equality specifically rights of women and girls. The Legislation is currently in the process of review in order to take on board, the rights of every citizen. The difficult challenge facing this process pertains to sensitive issues of culture, traditions and religion with the rights of some sections of the society especially women and girls. This makes the process to be delicate and if not properly handled may be volatile. A Government white paper has been prepared in order to engage a dialogue of the people for the purpose of obtaining a balanced position in the matter.

(g) **Media Law and Freedom of the press**

Madam President, Some delegations had recommended for the adoption of the new media laws enshrining the freedom of the press. Four months ago, we stated before the Working Group, that the Government is determined to review its laws governing freedom of the press in Tanzania. We are happy to update the Council that the Cabinet Papers for both the Media and Newspapers Bill in respect of Tanzania Mainland are in their final stage of completion at the Cabinet level. As for Tanzania Zanzibar, the process for enacting the Right to Information Bill is still in an initial stage. We shall update the Council on the progress made with regard to this process at an opportune time.

(h) **The right to assembly throughout the process of reviewing the Constitution.**

Madam President, On the recommendation for the respect of the right to assembly throughout the process of reviewing the Constitution, I am pleased once again to announce that, this recommendation has enjoyed our support as the Constitutional Review Act no 8 of 2011, has taken care of this fundamental aspect. The Act contains provisions which provide for the right to assembly and participation throughout the Constitutional review process.

(i) **Recognition of the notion of the Indigenous peoples and their rights.**

Madam President, During the consideration of our National Report last year, I explained to the Working Group on Tanzania's position on indigenous peoples. In a nutshell we indicated that the term '**an indigenous peoples**' is not applicable as all Tanzanians of African descent are indigenous to Tanzania. The position remains the same. However, the Government recognizes the vulnerability of some of the marginalized communities and to this end it has been responsive of their needs and it will surely continue to do so.

(j) **Submission of a Midterm Report to the Human Rights Council.**

Madam President, Submission of a Mid Term Report to the Human Rights Council on the implementation of UPR Recommendations sounds to be one of the best practices for the States to adopt. However, given the resource and time implications for carrying out this exercise, we are of the considered view that, we will continue to honour our human rights obligations by among other things reporting regularly to the sessions of this Council and other Treaty Bodies as and when necessary just before our next follow up to the process in 2016.

Madam President,

The success of the UPR process is based on how we are able to translate this process into concrete action. We are mindful of the fact that this requires sustained effort and political will. We are determined to engage the civil society and other relevant stakeholders in the process of implementation of the UPR recommendations. Suffices to state that, the recommendations will be translated into Kiswahili our national language and disseminated to the public and within our national institutions. At this juncture, let me also reiterate that, we will keep on the momentum in our international human rights obligations. Let me urge the international community particularly the United Nations to continue in lending full support to efforts being made by the Government towards the implementation of its human rights obligations. We shall continue to value both technical and financial support from development partners and the One UN system.

In conclusion, **Madam President**, we look forward to further interaction during this session, as our ambition in this process, has always been to learn in order to enhance our ability to protect and promote human rights of our people effectively.

I thank you for your kind attention.