

# TANZANIA

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## 1 Population indicators

### 1.1 What is the total population of Tanzania?<sup>1</sup>

According to the 2012 Population and Housing Census (PHC) for the United Republic of Tanzania, Tanzania has a total population of 44 928 923 of which 43 625 354 are in Tanzania Mainland and 1 303 569 in Tanzania Zanzibar. The male population constitutes 21 869 990 and the female population 23 058 933.<sup>2</sup>

### 1.2 Describe the methodology used to obtain statistical data on the prevalence of disability in Tanzania and the criteria used to determine who falls within the class of persons with disabilities in Tanzania.

- The 2012 Population and Housing Census (PHC) did not obtain data on the prevalence of disability in Tanzania.
- Data on the prevalence of disability was obtained in the 2008 Tanzania Disability Survey,<sup>3</sup> the first population-based comprehensive disability survey, which was intended to determine the prevalence and living conditions among people with activity limitations.

The report on the 2008 Tanzania Disability Survey analysed disability in a way that conforms to the description under the United Nations Convention on the Rights of Persons with Disabilities (CRPD). Accordingly, the report regards persons with disabilities as:

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1 The United Republic of Tanzania is a union of Tanganyika (Tanzania Mainland) and Zanzibar (Tanzania Zanzibar).

2 The Government of Tanzania, 2012 Population and Housing Census Report [http://www.nbs.go.tz/sensa/PDF/Census%20General%20Report%20%2029%20March%202013\\_Combined\\_Final%20for%20Printing.pdf](http://www.nbs.go.tz/sensa/PDF/Census%20General%20Report%20%2029%20March%202013_Combined_Final%20for%20Printing.pdf) (accessed 12 May 2013).

3 Tanzania 2008 Disability Survey Report: Tanzania 2008 Disability Survey 10 June 2010.pdf (accessed 15 May 2013).

- [T]hose who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.<sup>4</sup>

The survey was based on the population aged 7 years and above.<sup>5</sup>

### 1.3 What is the total number and percentage of people, women and children with disabilities in Tanzania?

According to the 2002 National Census, Tanzania in 2002 had a total population of 34.6 million people. With the 2,9 per cent intercensal growth rates, the total population of Tanzania was estimated to be 40.6 million persons in 2008.<sup>6</sup>

- Out of the population of 3,166 800, 7,8 per cent aged 7 years and above had some form of activity limitation.<sup>7</sup>
- In terms of gender, 8,2 per cent females and 8,5per cent males had some form of disability.<sup>8</sup>
- The statistical data in the 2008 Disability Survey did not capture the number and percentage of children with a disability. Tanzania's United Nations Universal Periodic Review Report (UPR), reported a total of 746 183 children with various forms of disabilities for the period ending 2009. Of this number 388 015 were reported to be boys, and 358 168 were reported to be girls.<sup>9</sup>

### 1.4 What are the most prevalent forms of disability in Tanzania?

- The 2008 Disability Survey revealed the most prevalent forms of disability in Tanzania for the population aged 7 years and above. Difficulties in seeing were the most reported form of disability (3,7 per cent), followed by mobility (3,1 per cent), hearing (1,9 per cent), cognition (1,5 per cent) and communication (0,8 per cent).<sup>10</sup>
- The survey did not reveal any significant variation on severity among sexes, except for seeing and mobility, the proportion reporting was higher for females than males.<sup>11</sup>

## 2 International obligations

### 2.1. What is the status of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol to the Convention on the Rights of Persons with Disabilities in Tanzania?

Tanzania signed and ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) on 30 March 2007 and 10 November 2009 respectively, and the Optional Protocol to the (CRPD) on 29 September 2008 and 10 November 2009 respectively.<sup>12</sup>

4 2008 Disability Survey (n 3 above) iv-v.

5 2008 Disability Survey (n 3 above) 5.

6 2008 Disability Survey (n 3 above) 16.

7 2008 Disability Survey (n 3 above) 5.

8 2008 Disability Survey (n 3 above) 5.

9 Tanzania's United Nations Universal Periodic Review Report (19 July 2011) A/HRC/WG.6/12/TZA/1 (2011).

10 Population and Housing Census Report (n 2 above) 63.

11 Population and Housing Census Report (n 2 above) 64.

12 UN Enable *Convention and Optional Protocol Signatures and Ratifications* <http://www.un.org/disabilities/countries.asp?navid=12&pid=166> (accessed 31 June 2013).

**2.2 If Tanzania has signed and ratified the CRPD, when is/was its country report due? Which government department is responsible for submission of the report? Has Tanzania submitted its report? If not, what reasons does the relevant government department give for the delay?**

- Following the country's ratification of the CRPD, Tanzania's first Country Report was due on 9 November 2011.
- No report has been submitted to date.
- The Department of Social Welfare, under the Ministry of Health and Social Welfare, is the responsible government department for the preparation and submission of country reports. The department started the process of gathering information, and it is not clear when the report will be ready for submission.

**2.3 If Tanzania has submitted the report in 2.2 and if the Committee on the Rights of Persons with Disabilities has reviewed the report indicate if the Committee made any concluding observations and recommendations in Tanzania's report. Was there a domestic effect in Tanzania on disability issues due to the reporting process?**

As noted in 2.2 above, Tanzania has not submitted its report to date.

**2.4 While reporting under various other United Nations instruments, the African Charter on Human and Peoples' Rights or the African Charter on the Rights and Welfare of the Child, has Tanzania also reported specifically on the rights of persons with disabilities in its most recent reports? If so, have concluding observations adopted by the treaty bodies, addressed disability? If relevant, were these observations given effect to? Was mention made of disability rights in Tanzania's United Nations Universal Periodic Review (UPR) report? If so, what was the effect of these observations or recommendations?**

A noted irregularity in Tanzania's United Nations' Universal Periodic Review Report (UPR)<sup>13</sup> was that the Constitution of the United Republic of Tanzania (the Constitution) does expressly prohibit discrimination on the ground of disability. The Bill of Rights in the Constitution does not expressly mention disability in article 13(5) (the non-discrimination article), but provides that:

For the purposes of this Article the expression 'discriminate' means to satisfy the needs, rights or other requirements of different persons on the basis of their nationality, tribe, place of origin, political opinion, colour, religion, sex or station in life such that certain categories of people are regarded as weak or inferior and are subjected to restrictions or conditions whereas persons of other categories are treated differently or are accorded opportunities or advantage outside the specified conditions or the prescribed necessary qualifications except that the word 'discriminate' shall not be construed in a manner that will prohibit the Government from taking purposeful steps aimed at rectifying *disabilities* (emphasis mine) in the society.

The word 'disabilities' in the latter part of this provision does not refer to persons with disabilities as a specific category of people subjected to discrimination, but refers to affirmative action to counter oppressive tendencies in general.

<sup>13</sup> Tanzania's UPR Report (n 9 above).

Tanzania reported in the UPR on the prevalence of disability. Some measures that were reported in the UPR include the adoption of the 2004 National Policy on Disability,<sup>14</sup> the enactment of the Persons with Disabilities Act 9 of 2010 and the continued implementation of the National Action Plan on Care Services, Training and Protection for Vulnerable Children. A further measure that was reported was the adoption of the 2011 National Disability Mainstreaming Strategy for the implementation of the African Decade of Disability (of which Tanzania is signatory).

**2.5 Was there any domestic effect in Tanzania's legal system after ratifying the international and regional instruments in 2.4 above?**

Tanzania adopted legislative measures to give effect to her international obligations with regard to the following:

- In 2009 Tanzania enacted the Law of the Child Act 21 of 2009 as a legislative response to her obligations under the CRC, as well as under the African Charter on the Rights and Welfare of the Child.
- In 2010 Tanzania enacted the Persons with Disabilities Act 9 of 2010 as a legislative response to her obligation under the CRPD. The domestic measures of this act have to be implemented.

**2.6 Do ratified international treaties automatically become domestic law under Tanzania's legal system? If so, are there any cases where the courts applied international treaty provisions directly?**

Tanzania follows a dualistic system in which provisions of international human rights treaties require a legislative process for purposes of domestication. Provisions of international human rights treaties have been incorporated through various pieces of legislation and policies. Courts in Tanzania have, in appropriate cases, given judicial notice to international instruments.<sup>15</sup> The Tanzanian Courts have generally used international law as an interpretative tool.

In 1993, the Court of Appeal, while interpreting the constitutional right to bail in *Director of Public Prosecutions v Daudi Pete*,<sup>16</sup> remarked that:

Since our Bill of Rights and duties was introduced into the Constitution under the Fifth Amendment in February, 1985, that is slightly over three years after Tanzania signed the Charter, and about a year after ratification, account must be taken of that Charter in interpreting our Bill of rights and duties.

The court further stated that:

It seems evident in our view that the Bill of Rights and Duties embodied in our constitution is consistent with the concepts underlying the African Charter on Human and Peoples' Rights as stated in the Preamble to the Charter.<sup>17</sup>

In the case of *Paschal Makombanya Rufutu v The Director of Public Prosecutions*,<sup>18</sup> the High Court found that:

14 The Government of Tanzania, National Policy on Disability (2004) <http://www.tanzania.go.tz/pdf/NATIONAL%20POLICY%20ON%20DISABILITY.pdf> (accessed 7 May 2013).

15 CB Murungu 'The place of international law in human rights litigation in Tanzania' in M Killander (ed) *International law and domestic human rights litigation in Africa* (2010) 61-63.

16 [1993] TLR 22 34-35.

17 At 35.

18 Miscellaneous Civil Cause No 3 of 1990 (unreported) 10-11, partly reproduced in Murungu (n 15 above) 63.

If there is any ambiguity or uncertainty in our law, then the courts can look at the international instruments as an aid to clear up the ambiguity and uncertainty seeking always to bring it into harmony with the international conventions.

In *John Byombalirwa v Regional Commissioner, Kagera and Regional Police Commander, Bukoba*<sup>19</sup> the High Court held that, the provisions of Universal Declaration of Human Rights of 1948 (UDHR) should be consulted. The Court in particular stated that:

If there is any doubt as to the obligation of the law enforcement agencies and other members of the executive branch of the government in returning the seizure goods to the suspects who have been cleared by courts I wish to point to Art. 17(2) of the Universal Declaration of Human Rights of 1948 which provides that, no one shall be arbitrarily deprived of his property.

In 2005, the High Court in *Legal and Human Rights Centre, Lawyers' Environment Action Team (LEAT) and National Organisation for Legal Assistance v Attorney General*,<sup>20</sup> confirmed the status of the UDHR in the Constitution of Tanzania. It held that:

Tanzania is a party to various international Human Rights Instruments. The Universal Declaration of Human Rights (UDHR), which is the core of the International Human Rights law, is incorporated in article 9(f) of our constitution. Article 7 of the UDHR provides for equality before the law and bars discrimination. Article 21 of UDHR provides for the right to participate in the government of one's country directly or by (*sic*) freely chosen representative.

These cases demonstrate the commitment of the courts in Tanzania with regard to applying and incorporating international human rights instrument provisions into domestic law.

**2.7 With reference to 2.4 above, has the United Nations CRPD, or any other ratified international instrument, or parts thereof, been incorporated verbatim in national legislation? Provide details.**

- Tanzania enacted the Persons with Disabilities Act in 2010.
- This Act reflects in various provisions the CRPD and other international instruments. This is evident from section 4 of the Act, which sets-out the principles of the Act.<sup>21</sup>

<sup>19</sup> [1986] TLR 73 84.

<sup>20</sup> High Court of Tanzania, at Dar es Salaam (Main Registry) Misc Civil Cause No 77 of 2005 (unreported) 39.

<sup>21</sup> Section 4: 'The principles of this Act shall be:  
 (a) respect for human dignity, individual's freedom to make own choices and independency of persons with disabilities;  
 (b) non discrimination;  
 (c) full and effective participation and inclusion of persons with disabilities in all aspects in the society;  
 (d) equality of opportunity;  
 (e) accessibility;  
 (f) equality between men and women with disabilities and recognition of their rights and needs; and  
 (g) provide basic standard of living and social protection'.

### 3 Constitution

**3.1. Does Tanzania's Constitution contain provisions that directly address disability? If so, list the provisions and explain how each provision addresses disability.**

- The Constitution of the United Republic of Tanzania (the Constitution),<sup>22</sup> does expressly mention disability in article 11.
- Article 11 does not fall within the Bill of Rights<sup>23</sup> of the Constitution.<sup>24</sup>

**3.2 Does Tanzania's Constitution contain provisions that indirectly address disability? If so, list the provisions and explain how each provision indirectly addresses disability.**

- The Bill of Rights in the Constitution does not expressly mention disability or persons with disabilities.
- Reference in the Constitution to 'all human beings', 'all persons', 'every person', 'every citizen', 'no person', and 'any person' can be interpreted to include persons with disabilities.

### 4 Legislation

**4.1 Does Tanzania have legislation that directly addresses disability? If so, list the legislation and explain how the legislation addresses disability.**

- Tanzania enacted disability specific legislation in 2010, the Persons with Disabilities Act. The Act was enacted particularly to make provisions for the health care, social support, accessibility, rehabilitation, education and vocational training, communication, employment or work protection and promotion of basic rights for persons with disabilities.<sup>25</sup>
- The Act provides amongst other things for: (i) principles and obligations for realisation of the rights of persons with disabilities;<sup>26</sup> and (ii) it sets out a broad institutional arrangement operating at National level, that is the National Advisory Council for Persons with Disabilities down to grass-root level, that is village and *Mtaa* (street) Committees all with mandates to amongst others, protect and promote all matters relating to the welfare and development of persons with disabilities.<sup>27</sup>

Along with the Persons with Disabilities Act, several other legislation equally contains direct provisions addressing disabilities. The following table lists some of these laws:

<sup>22</sup> 1977 (as amended from time to time).

<sup>23</sup> While disability is expressly mentioned in article 11, The Bill of Rights starts from article 12-30 in the Constitution of the United Republic of Tanzania.

<sup>24</sup> Article 11(1): 'The state authority shall make appropriate provisions for the realisation of a person's right to work, to self education and social welfare at times of old age, sickness or disability and in other cases of incapacity. Without prejudice to those rights, the state authority shall make provisions to ensure that every person earns his livelihood'.

<sup>25</sup> Preamble to the Act.

<sup>26</sup> Secs 4-7 of the Act .

<sup>27</sup> Secs 8-14, together with the 1st, 2nd, 3rd and 4th Schedules to the Act.

Persons with Disabilities Act	Disability specific legislation. A comprehensive piece of law that directly provides for disability related matters.
Employment and Labour Relations Act 6 of 2004.	<p>The Act expressly prohibits discrimination on multiple grounds including disability. In section 7(4) employers are forbidden to discriminate directly or indirectly against an employee, in any employment policy or practice, on any of the following grounds: colour, nationality, tribe or place of origin, race, national extraction, social origin, political opinion or religion, sex, gender, pregnancy, marital status or family responsibility, disability, HIV/Aids, age or station of life.</p> <p>Section 37(3)(b)(ii) therein provides that it shall not be a fair reason to terminate the employment of an employee for reasons related to disability.</p>
Law of the Child Act 21 of 2009.	<p>This Act similarly outlines multiple grounds including disability on which grounds, discrimination is not allowed.</p> <p>In section 5(2), a person shall not discriminate against a child on the grounds of gender, race, age, religion, language, political opinion, disability, health status, custom, ethnic origin, rural or urban background, birth, socio-economic status, being a refugee or of another status.</p> <p>The Act also in section 16(p) considers a child as in need of care and protection if that child is under the care of a person with a disability and such disability hinders the person from exercising proper care or guardianship.</p>
The Penal Code, Cap 16 R.E 2002.	According to section 137, any person who, knowing a woman to be an idiot or imbecile, has or attempts to have unlawful sexual intercourse with her in circumstances not amounting to rape, but which prove that the offender knew at the time of the commission of the offence that the woman was an idiot or imbecile, commits an offence and is liable to imprisonment for 14 years, with or without corporal punishment.
Mental Health Act 21 of 2008	<p>Another broad piece of legislation providing comprehensively on all matters related to mental disorders. It was particularly enacted to provide for the care, protection and management of persons with mental disorders and to provide for their voluntary or involuntary admission in a mental health care facility.</p> <p>The Act has established the Mental health board, mandated to amongst other things supervise and monitor the provision of mental health care services and assurance of quality by inspecting facilities within the mental health care facilities.</p>

**4.2 Does Tanzania have legislations that indirectly address disability? If so, list the main legislation and explain how the legislation relates to disability.**

National Education Act 25 of 1978	<p>Section 56(l) guarantees every Tanzanian citizen the right to receive such category, nature and level of national education as his ability may permit him.</p> <p>Subsection 2 determines that no person may within Tanzania, be denied an opportunity to obtain any category, nature or level of national education on the grounds of his race, religion, political or ideological beliefs.</p>
The National Elections Act, Cap 343 R.E 2010	<p>Persons with disabilities are covered under section 10 of the Act which determines that all citizens who have attained the age of 18 years, irrespective of ones' ability or disabilities, are entitled to register as voter(s).</p>
The Commission For Human Rights And Good Governance Act 7 of 2001	<p>Section 6(l) mandates the Commission to carry out functions including the following:</p> <ul style="list-style-type: none"> <li>• to Promote within the country the protection and the preservation of human rights;</li> <li>• to receive complaints in violation of human rights generally;</li> <li>• to investigate or inquire into complaints concerning practices or actions by persons holding office in the service of the government, public authorities or other public bodies, including private institutions and private individuals where those complaints allege abuse of power, injustice, unfair treatment of any person, whether a complainant or not, in the exercise of their official duties;</li> <li>• to promote ratification of or accession to treaties or conventions on human rights, harmonisation of national legislation and monitor and assess compliance, within the United Republic, by the government and other persons, with human rights standards provided for in treaties or conventions or under customary international law to which the United Republic of Tanzania has obligations; and</li> <li>• subsection (2) is to the effect that, without prejudice to Provisions of subsection (1) the Commission shall, generally in relation to members of the public, use the Commission's good office to promote, protect and where necessary to provide assistance to persons whose human rights have or are in imminent danger of being violated.</li> </ul>



## 5 Decisions of courts and tribunals

- 5.1 Have the courts (or tribunals) in Tanzania ever decided on an issue(s) relating to disability? If so, list the cases and provide a summary for each of the cases indicating what the facts, the decision(s), the reasoning and impact (if any) the cases have had.**
- Unable to report on the extent to which courts in Tanzania have decided on issues relating to disabilities.

## 6 Policies and programmes

- 6.1 Does Tanzania have policies or programmes that directly address disability? If so, list each policy and explain how the policy addresses disability.**

Tanzania had since 2004 adopted the following policies or programmes:

- National Policy on Disability;<sup>28</sup>
- Construction Industry Policy,<sup>29</sup> which highlights the need for building regulations to ensure accessibility to built environments for PWDs; and
- National Strategy for Growth and Reduction of Poverty (NSGRP),<sup>30</sup> which recognises disability as a cause of poverty.

- 6.2 Does Tanzania have policies and programmes that indirectly address disability? If so, list each policy and describe how the policy indirectly addresses disability.**

Some of the programmes and plans include, the National Action Plan on Care Services, Training and Protection for Vulnerable Children,<sup>31</sup> the National Poverty Eradication Strategy<sup>32</sup> and the National Women and Gender Development Policy.<sup>33</sup>

<sup>28</sup> n 14 above.

<sup>29</sup> The Government of Tanzania, Construction Industry Policy (2003) [http://www.ncc.or.tz/CI\\_P.pdf](http://www.ncc.or.tz/CI_P.pdf) (accessed 18 May 2013).

<sup>30</sup> The Government of Tanzania, National Strategy for Growth and Reduction of Poverty (NSGRP) (2005) [http://www.povertymonitoring.go.tz/Mkukuta/MKUKUTA\\_MAIN\\_ENGLISH.pdf](http://www.povertymonitoring.go.tz/Mkukuta/MKUKUTA_MAIN_ENGLISH.pdf); and the Government of Tanzania, National Strategy for Growth and Reduction of Poverty II (NSGRP II) <http://www.povertymonitoring.go.tz/Mkukuta/Mkukuta%20English.pdf> (both accessed 18 May 2013).

<sup>31</sup> Citation and check link [http://www.riatt-esa.org/sites/default/files/files/resources/national\\_costed\\_plan\\_tanzania.pdf](http://www.riatt-esa.org/sites/default/files/files/resources/national_costed_plan_tanzania.pdf) (accessed 10 May 2013).

<sup>32</sup> NSGRP (n 30 above).

<sup>33</sup> The Government of Tanzania, Policy on Women in Development in Tanzania (1992) <http://www.tanzania.go.tz/pdf/policyonwomenindevelopment.pdf>; and the Government of Tanzania, National Strategy for Gender Development [http://www.mcdgc.go.tz/data/Tanzania\\_-\\_National\\_Strategy\\_for\\_Gender\\_Development.pdf](http://www.mcdgc.go.tz/data/Tanzania_-_National_Strategy_for_Gender_Development.pdf) (both accessed 3 August 2013).

## 7 Disability bodies

### 7.1 Other than the ordinary courts or tribunals, does Tanzania have any official body that specifically addresses the violation of the rights of people with disabilities? If so, describe the body, its functions and powers.

- The Department of Social welfare under the Ministry of Health and Social Welfare is the specific government department which has a mandate to address issues relating to welfare of persons with disabilities.
- The Commission for Human Rights and Good Governance, a national human rights institution, has a wider mandate to address violations of human rights in general.
- The Persons with Disabilities Act makes provision for a mechanism for a broader institutional framework:<sup>34</sup>
  - The Act establishes the National Advisory Council for Persons with Disabilities to oversee, at a National level, amongst other mandates, the promotion of implementation and the equalisation of opportunities for persons with disabilities.
  - The Persons with Disabilities (General) Regulations<sup>35</sup> will implement the council.

### 7.2 Other than ordinary courts or tribunals, does Tanzania have any official body that, though not established to specifically address the violation of the rights of people with disabilities, can nonetheless do so? If so, describe the body, its functions and powers.

- The Commission for Human Rights and Good Governance is a constitutional body,<sup>36</sup> established to address violations of human rights.<sup>37</sup> Its mandate includes: (i) the promotion within the country of the protection and the preservation of human rights; (ii) receiving complaints on the violation of human rights generally;

34 Secs 8 -14.

35 Created under section 61 of the Persons with Disabilities Act.

36 Art 129(1) of the Constitution provides as follows:

'There shall be a Commission to be known as the Commission for Human Rights and Good Governance, whose functions shall be prescribed in Article 130 of this Constitution.

Art 130(1) provides:

'Commission for Human Rights and Good Governance shall discharge the following functions:

(a) to sensitise countrywide about preservation of human rights and duties to the public in accordance with the Constitution and the laws of the land;

(b) to receive complaints in relation to violation of human rights in general;

(c) to conduct inquiry on matters relating to infringement of human rights and violation of principles of good governance;

(d) to conduct research, to impart or disseminate to the public countrywide education in respect of human rights and good governance;

(e) if necessary, to institute proceedings in court in order to prevent violation of human rights or to restore a right that was caused by that infringement of human rights, or violation of principles of good governance;

(f) inquire into the conduct of any person concerned and any institution concerned in relation to the ordinary performance of his duties or functions or abuse of the authority of his office;

(g) to advise the Government and other public Institutions and private sector in respect of human rights and good governance;

(h) to take necessary action in order to promote and enhance conciliation and reconciliation among persons and various institutions appearing or being brought before the Commission.

37 Commission for Human Rights and Good Governance Act 2001, Cap 391 R.E 2002.

(iii) inquiring into complaints alleging violation of human rights; and (iv) in case of necessity, it can institute proceedings in a court of law against any person or body alleged to have violated human rights.

- The Commission, at its headquarters, has for many years maintained a desk for 'special group rights', where the rights of PWDs were directly addressed. Recent developments in the field of disability established a new exclusive desk for addressing disability issues.

## 8 National human rights institutions

### 8.1 Does Tanzania have a Human Rights Commission or an Ombudsman or a Public Protector? If so, does its remit include the promotion and protection of the rights of people with disabilities? If your answer is yes, also indicate whether the Human Rights Commission or the Ombudsman or Public Protector has ever addressed issues relating to the rights of persons with disabilities.

- See 7.1 and 7.2 above.
- Tanzania has a Commission for Human Rights and Good Governance, a constitutionally created body.<sup>38</sup> The Commission is mandated, amongst others, to promote within Tanzania the protection and the preservation of human rights.<sup>39</sup>
- The Commission also has a mandate to promote ratification of, or accession to treaties or conventions on human rights, monitor and assess compliance by the government and other persons with human rights standards provided for in treaties or conventions or under customary international law to which Tanzania has obligations.<sup>40</sup>

## 9 Disabled peoples organisations (DPOs) and other civil society organisations

### 9.1 Are there organisations that represent and advocate for the rights and welfare of persons with disabilities in Tanzania? If so, list each organisation and describe its activities.

Tanzania has a total of ten Disabled Peoples' Organisations (DPOs) that represents and advocate for rights and welfare of people with disabilities. These organisations are:

- Tanzania League of the Blind (TLB)
- Tanzania Association of the Physically Handicap (TAPH)
- Tanzania society of the Deaf (TAD)
- Tanzania Association of the Deaf-Blind (TASODEB)
- Kilimanjaro Association of Spinal cord Injuries (KASI)
- Tanzania Association for the Mentally Handicapped (TAMH)

<sup>38</sup> n 36 above.

<sup>39</sup> Sec 6(1)(a) of the Act (n 37 above).

<sup>40</sup> Sec 6(1)(l) of the Act (no 37 above).

- Psoriasis Association of Tanzania (PSORATA)
- Tanzania Users and Survivors of Psychiatric Organisation (TUSPO)
- Association of Spinal bifida and Hydrocephalus Tanzania (ASBAHT)
- Tanzania Albino Society (TAS)

**9.2 In the countries in your region, are DPOs organised or coordinated at a national and/or regional level?**

At national level, DPOs are organised to form the Tanzania Federation of Disabled Peoples' Organisations (TFDPO), a non-governmental federation established in 1992. This Organisation is as an umbrella organisation with ten national DPOs as members.<sup>41</sup> The organisation's main objective is to afford a common voice with regard to issues of lobbying and advocacy for the rights and welfare of PWDs.

**9.3 If Tanzania has ratified the CRPD, how has it ensured the involvement of DPOs in the implementation process?**

In Tanzania, DPOs and their umbrella organisation TFDPO, commonly known as *SHIVYAWATA*, regularly take part in discussions with the government on issues affecting the lives of people with disabilities.<sup>42</sup>

**9.4 What types of actions have DPOs themselves taken to ensure that they are fully embedded in the process of implementation?**

Lobbying, advocacy and awareness-raising activities amongst DPOs and PWDs themselves, remains the main cause of action to promote awareness to the needs of PWDs and to develop models that will enable their effective participation in the process.

**9.5 What, if any, are the barriers DPOs have faced in engaging with implementation?**

The following factors account for the major challenges DPOs face in their need to take an effective role in implementation process: (i) financial constraints necessary for mobilisation; (ii) lack of community awareness and involvement on matters concerning PWDs; and (iii) inadequate representation in decision-making bodies, from grassroots to national level.

**9.6 Are there specific instances that provide 'best-practice models' for ensuring proper involvement of DPOs?**

- PWDs and DPOs are concerned that the Persons with Disabilities Act only affords minimum assurance that they will in future be given wider platforms for their rights and being fully included.
- These concerns are due to the very broad institutional framework set-out in the Act, which do not address the inclusion of PWDs and DPOs in their compositions. This will minimise their influence in future processes.

41 TFDPO website: <http://www.shivyawata.or.tz/> (accessed 19 May 2013).

42 ILO publication [http://www.ilo.org/wcmsp5/groups/public/@ed\\_emp/@ifp\\_skills/documents/publication/wcms\\_111461.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_emp/@ifp_skills/documents/publication/wcms_111461.pdf) (accessed 19 May 2013). Check link and please provide a full citation.

**9.7 Are there any specific outcomes regarding successful implementation and/or improved recognition of the rights of persons with disabilities that resulted from the engagement of DPOs in the implementation process?**

- The enactment of the Persons with Disabilities Act and its most recent regulations of May 2013 are directly linked to the DPOs' engagement in the 'CRPDs' implementation.

**9.8 Has your research (for this project) shown areas for capacity building and support (particularly in relation to research) for DPOs with respect to their engagement with the implementation process?**

No.

**9.10 Are there recommendations that come out of your research as to how DPOs might be more comprehensively empowered to take a leading role in the implementation processes of international or regional instruments?**

No.

**9.11 Are there specific research institutes in your region that work on the rights of persons with disabilities and that have facilitated the involvement of DPOs in the process, including in research?**

- The Comprehensive Community Based Rehabilitation in Tanzania (CCBRT), a locally registered non-governmental organisation, has since its establishment in 1994 been engaged in research and rehabilitation activities in Tanzania.<sup>43</sup>
- CCBRT comprises of a well-established disability hospital in Dar es Salaam; community programmes across Tanzania; a training and advocacy unit for among other things PWDs.
- Yearly approximately 120 000 adults, children with disabilities and their caregivers receives a better quality of life through CCBRT services.<sup>44</sup>

## 10 Government departments

**10.1 Do you have government departments that are specifically responsible for promoting and protecting the rights and welfare of person with disabilities? If so, describe the activities of the departments.**

As indicated in 7.1 above, the Department of Social Welfare, under the Ministry of Health and Social welfare, has a mandate to promote and protect the rights and welfare of PWDs in Tanzania.

<sup>43</sup> CCBRT website: <http://www.ccbirt.or.tz/> (accessed 10 May 2013).

<sup>44</sup> As above.

## 11 Main human rights concerns of people with disabilities

### 11.1 What are the contemporary challenges of persons with disabilities in Tanzania? (For example, in some parts of Africa ritual killing of certain classes of PWDs such as people with albinism occurs. Tanzania has been in the headlines in this regard. We should have a way of interrogating customary practices that discriminate, injure and kill persons with disabilities).

Around 2008 persons with albinism, in particular those in rural Tanzania, experienced killings virtually due to the irrational belief that their body parts carry the potential for economic wealth. Nearly 60 incidents were reported, and criminal charges instituted against the suspected.<sup>45</sup> Many people still express their grievances on the manner the government responded to the incidents, and the manner in which the cases are delayed in the judiciary, to date, well after four years the status of many of those cases are unknown.

### 11.2 How does Tanzania respond to the needs of persons with disabilities with regard to the areas listed below?

<p>Access to public buildings, premises, transport services, stations and platforms services and other recreational services.</p>	<p>The question particularly in respect of access to public buildings, started to be addressed in 2003 when the National Construction Industry Policy was adopted.<sup>a</sup></p> <p>The policy acknowledged the absence of appropriate building regulations that would ensure adherence to accessibility standards.</p> <p>Nevertheless, the question is now comprehensively addressed in law pursuant to the enactment of the Persons with Disabilities (General) Regulations of 2012.</p> <p>These regulations extensively address accessibility in part IX (regulations 49-55), in which it is explicitly required, in mandatory terms that all public buildings, premises, transport services, stations and platform services, and other recreational services should be accessible to persons with disabilities.</p>
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45 EB Makulilo E 'Albino killings in Tanzania: Illogical thinking and racism?' *Peace & Justice Conflict Theory and Analysis* (2004) 594 1 [http://www.academia.edu/223271/ALBINO\\_KILLINGS\\_IN\\_TANZANIA](http://www.academia.edu/223271/ALBINO_KILLINGS_IN_TANZANIA) 4 (accessed on 29 July 2013).

Access to education and vocational training.	<p>The 2004 National Policy on Disability sets out in lucid terms the policy objective that the government in collaboration with stakeholders shall improve skills training for people with disabilities.</p> <p>This policy objective was concretised under the Persons with Disabilities Act, which under sections 27-29 makes it a fundamental entitlement for PWDs to enjoy as a matter of rights, education and training services.</p> <p>Further, the Act has established the National Fund for Persons with Disabilities to finance amongst other things education and vocational training for persons with disabilities.<sup>b</sup></p> <p>Furthermore, the most recent 2012 Persons with Disabilities (General) Regulations under part IV (regulation 11-21) provides for equality in education, support including school transport facilities for children with disabilities, accessibility, as well as adopting budget guidelines to explicitly mention disability to the government budget for education sector.</p>
Access to employment	<p>Regarding access to employment for persons with disabilities, the Employment and Labour Relations Act 6 of 2004, in unequivocal terms prohibits discrimination on grounds of Disability.<sup>c</sup> Accordingly, employers who are convicted of having discriminated against any employee on the ground of disability shall be liable for a fine not exceeding five Million Tanzania Shillings, approximately four thousand (USD).</p> <p>The Persons with Disabilities Act guarantees PWDs' access to employment in broader terms by empowering the minister responsible for persons with disabilities, in collaboration with the minister responsible for employment, to enact regulations requiring employers with the work force of twenty and above to employ persons with disabilities based on a quota system and to ensure that 3 per cent of it constitutes persons with disabilities.<sup>d</sup></p> <p>These regulations are now in place and as envisaged under the Act, they, under part VIII (regulations 40-48) extensively provide for employment based on a quota system, complaint mechanism and career advancement.</p>

- a. (n 29 above).  
b. Sec 57(3)(a) of the Persons with Disabilities Act.  
c. Sec 7 of the Employment and Labour Relations Act.  
d. Sec 31(2) of the Persons with Disabilities Act.

### 11.3 Does Tanzania provide for disability grants or other income support measures for persons with disabilities?

Since independence, Tanzania has never put in place any form of grants, or income supporting measures for persons with disabilities. Recently under section 57 of the Persons with Disabilities Act, a mechanism was established for a National Fund for Persons with Disabilities.<sup>46</sup> The fund has not yet been established.

It is foreseeable that when the fund is established, some form of the grant/funds will be allocated particularly to finance education and vocational training, a

46 Sec 57(1) of the Persons with Disabilities Act provides: 'there shall be within the office of the Commissioner, a Fund to be known as the National Fund for Persons with Disabilities.'

rehabilitation programme on disability, issuing grants to associations of persons with disabilities and financing researches on disabilities.<sup>47</sup>

**11.4 Do people with disabilities have a right to participation in political life (for example, political representation and leadership, and voting independently) in Tanzania?**

Article 21 of the 1977 Constitution guarantees every Tanzanian, including persons with disabilities, the right to take part (directly or indirectly) in matters relating to the governance of the country. This right has further been explained under the National Election Act, Cap 343 R.E 2010, which sets out voter qualifications. Under Section 10 of this Act all citizens who have attained the age of 18 years, irrespective of ones' ability or disabilities, are entitled register as a voter.

Section 51 of the Persons with Disabilities Act, contains provisions with regards to PWDs political rights.<sup>48</sup>

<sup>47</sup> Sec 57(3) of the Persons with Disabilities Act.

<sup>48</sup> Sec 51 of the Persons with Disabilities Act provides:

- (1) Every person with disability who has attained the age of eighteen years and above shall be entitled to enjoy and exercise political rights and opportunity as any other citizen without any form of discrimination.
- (2) Subject to subsection (1), a person with a disability shall have a right to vote, hold public office and otherwise participate in the political rights and opportunity as any other citizen without any form of discrimination.
- (3) The Minister shall, after consultation with the Council and National Electoral Commission -
- (a) ensure that the right and opportunity for persons with disabilities to vote and be elected in public office is guaranteed by-
- (i) ensuring that voting procedure, facilities and materials are appropriate and accessible to understand and use;
  - (ii) ensuring that voter registration locations are accessible to persons with disabilities;
  - (iii) ensuring that all polling places in each voting centre have accessible requirements to voters with disabilities including accommodation of voters who use wheelchairs and devices for persons with low vision and tactile ballot templates for visually impaired and deaf blind persons;
  - (iv) providing training for poll workers on the rights of persons with disabilities and the practical means of assuring their rights;
  - (v) ensuring that voters with disabilities have the same degree of information available when casting their ballot as others;
  - (vi) encouraging and providing reasonable accommodation to persons with disabilities to stand for elections, and to hold office and perform all public functions at all levels in the Government;
  - (vii) guaranteeing the free expression of the will of the persons with disabilities as electors, and where necessary, at their request, allowing assistance in voting by a person of their own choice;
  - (viii) setting up criteria and procedures to be applied in appointing qualified persons with disabilities to be elected or be appointed to represent persons with disabilities in all decision and policy making process during the elections, through affirmative action or special prescribed arrangements;
- (b) promote actively an environment on which persons with disabilities can effectively and fully participate in the conduct of public affairs without discrimination and encourage their participation in the public affairs including-
- (i) participation in non-governmental organizations and association concerned with public and political life of the country including the activities and administration of political parties;
  - (ii) Forming and joining organizations of persons with disabilities to represent their interest at all levels.
- (4) Where a voting place under this section is inaccessible to persons with disabilities, alternative location shall be identified and publicized to be used by such persons.
- (5) The Government shall initiate and encourage appointment of persons with disabilities in the organs of the Government at all levels'.



## **12 Future perspective**

### **12.1 Are there any specific measures with regard to persons with disabilities being debated or considered in Tanzania at the moment?**

The need for effective implementation of the Persons with Disabilities Act and the regulations thereof are being considered.

### **12.2 What legal reforms are being proposed? Which legal reforms would you like to see in Tanzania? Why?**

See 12.1 above.