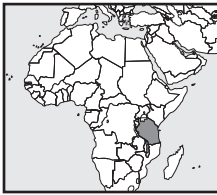


TANZANIA

International obligations remain unfulfilled



Tanzania has signed numerous international treaties guaranteeing the right to social security for all, and the International Labour Organization maintains that the country can afford to provide modest levels of countrywide social security protection for all its citizens. For the moment, however, social security schemes are largely limited to those working in the formal sector of the economy, who represent only a fraction of the population.

SAHRINGON -Tanzania Chapter
Richard Shilamba

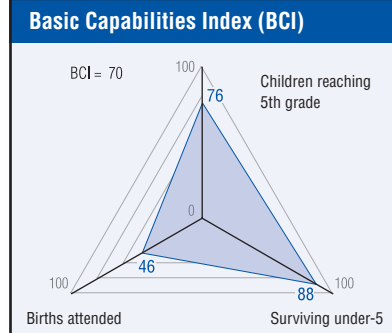
Tanganyika attained independence from British rule on 9 December 1961 and became a member of the United Nations that same month. For its part, Zanzibar became independent on 10 December 1963, and joined the United Nations shortly after. On 26 April 1964, after the Zanzibar revolution of January 1964, the governments of Tanganyika and Zanzibar merged the two countries into one, the United Republic of Tanzania, which became a single member of the United Nations on 1 November 1964.

The country has ratified a number of UN treaties guaranteeing the right to social security to all, including the International Covenant on Economic, Social and Cultural Rights of 1966, which stipulates in Article 9: "The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance."

It was further established in the Constitution of the United Republic of Tanzania of 1977 that "the state authority and all its agencies are obliged to direct their policies and programmes towards ensuring ... that human dignity is preserved and upheld in accordance with the Universal Declaration of Human Rights." The Declaration clearly guarantees in Article 22: "Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality." In addition, Article 11(1) of the Constitution reads: "The state authority shall make appropriate provisions for the realization of the 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."

The need to submit reports to treaty monitoring bodies

All states parties to the International Covenant on Economic, Social and Cultural Rights are obliged under Article 16 to submit regular reports to the Committee on Economic, Social and Cultural Rights "on the measures which they have adopted and the progress made in achieving the observance of the rights recognized therein."



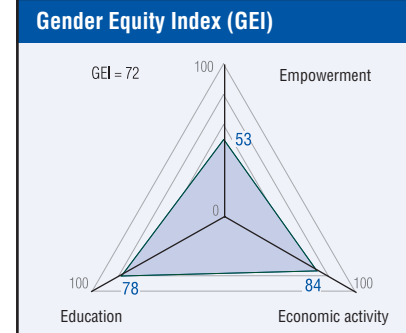
Although Tanzania ratified the Covenant on 11 September 1976, and by doing so, was obliged to submit its initial report within two years of that date and thereafter after every five years, the government submitted its initial report on 10 September 1979, and since that first report – a full 28 years ago now – the government has not submitted a single periodic report to the committee.¹

Furthermore, both Articles 9 and 11 of the country's constitution, which guarantee the right to social security as per the Universal Declaration of Human Rights and "appropriate provisions for the realization of the person's...social welfare at times of old age, sickness or disability and in other cases of incapacity," respectively, fall outside of the Bill of Rights incorporated in Chapter III of the Constitution, which makes the right to social security unenforceable in the country.

We strongly recommend that the government comply with its obligation to submit periodic reports to treaty monitoring bodies, in order to maximize and facilitate the fulfilment and implementation of international treaties guaranteeing the right to social security. In addition, the government needs to incorporate the right to social security in the constitutional Bill of Rights, so that people are able to seek redress of their violated social security rights through court and non-court processes.

The right of unemployed people to enjoy social security

The current social security laws and schemes cover only people employed in the public and private for-



mal sectors, who account for only a fraction of the country's population of 34.5 million people. According to the most recent government labour force survey, of the 15.3 million people employed, 84% were employed in traditional agriculture, 6% in the informal sector, 4% in the private formal sector, 3.5% in domestic work, 2% in government, and 0.5% in the parastatal sector.²

The Parastatal Pension Fund (PPF),³ created by Act No. 14 of 1978, provides social security services to employees of parastatal organizations, government agencies, privatized parastatal organizations and private companies not covered by any other social security fund. Contributions are made to the PPF on a monthly basis, and are calculated as 20% of the employee's salary, which can be divided in two ways: 5% contributed by the employee and 15% by the employer, or 10% contributed by each. Employers are required to submit both their own contribution and their employees' share (deducted from their salaries). The PPF also operates a separate scheme known as the Deposit Administration Scheme, geared to employees who are working on a contractual or part-time basis.

For its part, the National Social Security Fund (NSSF), created under Act No. 28 of 1997, is a compulsory scheme which covers all employees in the private sector, including employees of companies, non-governmental organizations, embassies based in Tanzania employing Tanzanians, and associations and organized groups employing people in the informal sector, as well as government and parastatal

¹ <www.unhcr.ch/TBS/doc.nsf/newhvsSubmittedbycountry?OpenView&Start=180.1&Count=15&Expand=180.4#180.4>

² <www.tanzania.go.tz/economicsurvey1/2002/part1/humanresources.htm>

³ <www.ppfz.org>

employees on operational services and temporary employees. Under this scheme, NSSF administers and pays to qualified insured individuals both long-term or pension benefits (retirement pension, invalidity pension, survivors pension) and short-term benefits (funeral grants, maternity benefits, employment injury/occupational disease benefits and health insurance benefits).⁴

The National Health Insurance Scheme (NHIS) covers only central government employees along with their spouses and up to four children or legal dependants. It is mandatory for these employees to contribute to the NHIS. The required contribution is 6% of the employee's salary, divided equally between the employee and the government.

Meanwhile, the Community Health Fund (CHF), set up under the Community Health Fund Act of 2001, is basically a district-level prepayment scheme for primary health care services, targeted at the rural population and the informal sector. A household joins the CHF by paying an annual membership fee to gain unlimited access to outpatient services at CHF participating facilities. Families that cannot afford to pay the annual membership fee are supposed to obtain a free CHF card. In practice, voices from the field show that CHF membership contributions are very low and largely declining, leaving the unemployed in rural areas without any reliable social security coverage.⁵

In terms of human rights and social justice, the unemployed need to be included in the social security mechanisms enjoyed by the small minority employed in the formal sector (Van Ginneken, 1999). The Social Security Department of the International Labour Organization (ILO)⁶ maintains that Tanzania can afford modest levels of countrywide social security protection for all its citizens, both unemployed and employed, so as to cover at least basic health care, access to schooling and basic pensions (i.e., old age, invalidity and survivors' pensions). The latter two in particular are major instruments in combating the social fall-out of HIV/AIDS. According to the ILO, such a modest government package would cost less than 6% of Tanzania's GDP.

Numerous countries around the world have established unemployment compensation schemes to assist workers who have lost their jobs through no fault of their own with monetary payments for a given period of time or until they find a new job. This compensation is designed to give an unemployed worker time to find a new job equivalent to the one lost without major financial distress. In Tanzania, however, people who lose their employment are entitled only to termination benefits. The government has not yet ratified either the ILO Unemployment Convention (C2) of 1919, which proposes measures for "preventing or providing against unemployment," nor the Unemployment Provision Convention (C44)

of 1934, which establishes guidelines with regard to unemployment insurance and other forms of relief for the unemployed.

We strongly urge the government to ratify and implement all ILO conventions guaranteeing the right to social security for the unemployed, and to introduce a social security scheme geared to this purpose.

... and of rural women, particularly mothers

Tanzania has ratified the UN Convention on the Elimination of All Forms of Discrimination against Women of 1979. Article 11 of the Convention provides that "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular... the right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave."

According to the 2002 Population and Housing Census, Tanzania has a population of 34.5 million people, of whom 77% live in rural areas while the remaining 23% are in urban areas. Women constitute 51.1% of the entire population (17.6 million).⁷

Women face extra responsibilities and risks, such as those involved in childbearing, which require extra social security protection. Late Tanzanian President Mwalimu Julius Kambarage Nyerere (1977) once concluded that "when a society... takes care of its individuals, then no individual within that society should worry about what would happen to him tomorrow if he does not hoard wealth today." Most rural women in Tanzania are not in a position to "hoard wealth" and live in conditions of extreme poverty, which contributes to their risk of maternal mortality. The high maternal mortality rate in the country is largely due to a lack of deliberate social security coverage for all women wherever they are, and in particular, those living in rural areas.

Although there have been several government initiatives, including the provision of free health care services, insecticide-treated mosquito nets and counselling to pregnant women, maternal mortality is both high and increasing: from 529 maternal deaths for every 100,000 live births in 1996 to 578 out of every 100,000 in 2005.⁸ As a partial solution, we would recommend a GDP-based social security scheme for rural women and particularly mothers.

More than two million AIDS orphans require basic services

Tanzania is a party to the UN Convention on the Rights of the Child of 1989. Article 26 of the Convention establishes that "States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law."

Tanzania has an HIV/AIDS prevalence of about 7% (6.3% for males and 7.7% for females) among adults aged 15 to 49. Urban residents have considerably higher infection levels (10.9%) than rural residents (5.3%). The estimated number of people living with HIV/AIDS is two million, and the government has registered two million HIV/AIDS orphans. However, the number of HIV/AIDS orphans doubled from one million in 2003 to two million in 2005 (TACAIDS, 2005) which means the current number is almost certainly considerably higher and increasing.⁹

In view of the large proportion of the population made up by children¹⁰ and the growing number of orphans due to HIV/AIDS and other calamities, there is a clear need for a comprehensive social security scheme to provide children with basic services, and in particular, education. In trying to solve this problem, Tanzania has established social security 'safety nets' incorporated into the country's ongoing Economic and Social Action Programme (ESAP). One of these safety net programmes is the creation of the Mwalimu Nyerere Educational Trust Fund, which is being used to sponsor orphans to attend school.

In reality, however, this fund has not been able to assist all orphans in need of education at various levels. Some local government authorities and schools have shifted the burden to unknown strangers, as orphaned schoolchildren are seen roaming offices and streets with local government letters authorizing them to seek financial support from good Samaritans.¹¹

It is recommended here that the international community extend its support to assist Tanzania in establishing a social security scheme which ensures access for all children, including orphans, to basic and further education, including university studies.

Unguaranteed rights of persons with disabilities

Social security and income-maintenance schemes are of particular importance for persons with disabilities. As stated in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993), "States should ensure the provision of adequate income support to persons with disabilities who, owing to disability or disability-related factors, have temporarily lost or received a reduction in their income or have been denied employment opportunities."

(Continued on page 246)

4 <www.nssf.or.tz/services.php>

5 Participants remarks, SAHRIINGON-Tanzania Public Expenditure tracking system feedback session, May 2007, Babati.

6 <www.ilo.org/public/english/protection/secsoc/projects/africa.htm>

7 <www.tanzania.go.tz/census/>

8 H.E. Ali Hassan Mwinyi, former president of Tanzania speech to a rally on 23 March 2007 to commemorate women and girls who died due to childbirth and pregnancy complications.

9 <data.unaids.org/Topics/UNGASS2003/Sub-Saharan-Africa/tanzania_ungassreport_2003_en.pdf>

10 The Tanzania Population and Housing Census of 2002 indicates that children under 18 constitute 50.6% of the population. <www.tanzania.go.tz/census/>

11 Letter from Babati District Commissioner dated 11 January 2007 with reference number DC/BBT/V.10/5/Vol.V/56 urging good Samaritans to assist a Gidas Secondary student.

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According to Article 28 of the UN Convention on the Rights of Persons with Disabilities, adopted 6 December 2006, "States Parties recognize the right of persons with disabilities."¹² The government has not yet ratified this important convention, making it difficult for persons with disabilities to enjoy the right to social security that it guarantees.

Encouraging signs

The Governor of the Bank of Tanzania, Daudi T. Balali, acknowledged in March 2007 that the greater part of the country's population is still dependent on the traditional social security system, now getting weaker every day as a result of the corrosive effects engendered by urbanization and threatening diseases like HIV/AIDS. According to him, "Because of the difficult economic environment and diseases like HIV/AIDS which have torn apart the traditional fabric and economic might, . . . accessibility to social welfare services by disadvantaged groups is limited." Governor Balali underlined that "this trend calls for a rethink on the way people are organized in the provision of social security by, among other things, exploring new ways of improving coverage as well as benefits in order to fulfil obligations as stipulated in Article 22 of the Universal Declaration of Human Rights of 1948."¹³ We are all happy with this observation and urge the government to work on it. ■

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