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Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

United Republic of Tanzania

Addendum

**Views on conclusions and/or recommendations, voluntary commitments
and replies presented by the State under review**

* The present document was not edited before being sent to the United Nations translation services.

1. The Government of the United Republic of Tanzania has carefully reviewed the 153 recommendations made by member states during its Universal Periodic Review (UPR) in October 2011.
2. The Tanzania delegation had in October 2011 accepted 96 recommendations, rejected 4, and deferred 53 for further consideration. In compliance with paragraph 86 of the Draft Working Group Report, on the Universal Periodic Review for Tanzania, the Government of Tanzania undertook to examine the 53 recommendations and to provide responses on or before the 19th session of the Human Rights Council.
3. This Addendum addresses all the 53 recommendations which were deferred.

No. of recommendation Response

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| 86.1. | This recommendation enjoys our support in part , in relation to the accession/ratification of CAT whose process is currently being considered by the Government at the Cabinet level. The Government does currently not consider a priority signing and ratifying OP-ICESCR, ICCPR-OP1 and OP2, and OP-CAT due to legal and technical reasons. |
| 86.2. | The recommendation enjoys our support.
The Government will consider whether or not to sign and ratify ICRMW after a careful study of its technical, legal and resource implications. As demonstrated in our National Report, currently Tanzania is a party to the ILO Conventions. The Labour law framework in place is also applicable to all workers including migrants. |
| 86.3. | The recommendation enjoys our support in part in respect of CAT and CPRMW as shown in 86.1 and 86.2. Tanzania signed CED in 2009 and is considering its ratification. As for OPII ICCPR, Tanzania still retains death penalty; the same is expected to be deliberated during the Constitutional review process. For our position on OPIICCPR. See Para 86.1. |
| 86.4. | The recommendation enjoys our support. The process of ratifying CAT is at the Cabinet level. Currently the Constitution of the United Republic of Tanzania prohibits torture. Remedies for victims of torture are available through the Basic Rights and Duties Enforcement Act and the Commission for Human Rights and Good Governance. |
| 86.5. | The recommendation enjoys our support. See 86.1 and 86.4 above. |
| 86.6. | The recommendation enjoys our support in part in relation to CAT. See 86.1, 86.4 and 86.5 above. Ratification of its Optional Protocol is not a priority for the time being. |
| 86.7. | The recommendation enjoys our support. Tanzania is currently considering to ratify CAT. See 86.1, 86.4 and 86.5 above for our position. |
| 86.8. | The recommendation enjoys our support. See 86.1, 86.4, 86.5 and 86.7 above. |
| 86.9. | The recommendation enjoys our support in part. In respect of CAT see 86.1 and 86.4. As for OPII ICCPR see 86.1 and 86.3. |
| 86.10. | The recommendation enjoys our support in part. See 86.1, 86.3 and 86.4 above. |
| 86.11. | The recommendation enjoys our support. See 86.1, 86.3 and 86.4 above. |
| 86.12. | The recommendation enjoys our support. See 86.1, 86.3 and 86.4 above. |

<i>No. of recommendation</i>	<i>Response</i>
86.13.	The recommendation enjoys our support in part. See 86.1, 86.3 and 86.4 above.
86.14.	The recommendation enjoys our support in part. See 86.1, 86.3 and 86.4 above.
86.15.	The recommendation enjoys our support. This recommendation is taken care of by The Constitutional Review Act no 8 of 2011. ¹
86.16.	The recommendation does not enjoy our support. The United Republic of 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. Similarly, Tanzania's past record of interaction with UN Special procedures is open to possibility of discussions with the various Special procedures. Requests for visits will be considered positively on a case by case basis on the strength of merit of each proposal.
86.17.	The recommendation does not enjoy our support. See 86.16 above.
86.18.	The recommendation does not enjoy our support. See 86.16 above.
86.19.	The recommendation does not enjoy our support. See 86.16 above.
86.20.	The recommendation does not enjoy our support. See 86.16 above.
86.21.	The recommendation does not enjoy our support. The establishment of a de jure moratorium is closely linked with the application of death penalty in Tanzania. It is our considered view that internal consultations and public opinion should be given highest consideration before any policy measure is undertaken. Furthermore, death penalty, being one of the burning issues, will be deliberated in the forthcoming constitutional review process.
86.22.	The recommendation does not enjoy our support. See 86.21 above.
86.23.	The recommendation does not enjoy our support. See 86.21 above.
86.24.	The recommendation does not enjoy our support. See 86.21 above.
86.25.	The recommendation does not enjoy our support. Tanzania wishes to reiterate its position expressed in the National UPR Report, the Minister's Statement delivered in October during the review as well as the position expressed during the consideration of our Fourth ICCPR Report in July 1999. See 86.21 above. In the meantime the Government continues to educate the public on the general world's trend on the death penalty.
86.26.	The recommendation does not enjoy our support. See 86.25 above.
86.27.	The recommendation does not enjoy our support. See 86.25 above.
86.28.	The recommendation does not enjoy our support. See 86.25 above.
86.29.	The recommendation does not enjoy our support. See 86.25 above.
86.30.	The recommendation does not enjoy our support. See 86.25 above for our position on death penalty, See 86.1, 86.3 and 86.21 for OP2 ICCPR and 86.21 on the issue of moratorium. However, the rationale for involving the projected constitutional reforms is noted.

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86.31.	The recommendation does not enjoy our support. See 86.25 for death penalty and 86.21 for OP2 ICCPR above.
86.32.	The recommendation does not enjoy our support. See 86.25 for death penalty and 86.21 for OP2 ICCPR above.
86.33.	The recommendation does not enjoy our support. See 86.25 for death penalty and 86.21 for OP2 ICCPR above.
86.34.	The recommendation enjoys our support in part. See 86.1 and 86.21 for OP2 of ICCPR. See 86.25 on Civic Education.
86.35.	The recommendation does not enjoy our support. See 86.1 above.
86.36.	The recommendation enjoys our support in part in relation to protection of women and girls from sexual 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. The issue of sexual violence is a matter of concern for the Government as well as other actors. A number of measures including both legal and social campaigns have been taken by the Government in order to address this scourge. However, the concept of marital rape does not enjoy our support. In our case it should always be addressed in the backdrop of competing needs for ensuring the sustenance of marriage institution at the same time with the need to criminalize rape in all its forms. The current legislation recognizes statutory rape for separated couples and girls less than 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 and wider debate.
86.37.	The recommendation enjoys our support in part to the extent that the Government is committed to addressing issues of eradication of child labour, violence and sexual abuses as well as street children. However, corporal punishment is not administered on children.
86.38.	The recommendation enjoys our support in part. See 86.37 above.
86.39.	The recommendation does not enjoy our support. The minimum age of marriage crosses traditional, cultural and religious practices. The matter will be taken to the people for public opinion and a white paper charting the exercise is in due process.
86.40.	The recommendation enjoys our support. The Government is determined to review its laws governing freedom of the press in Tanzania. 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 Inform Bill is still in an initial stage.
86.41.	The recommendation enjoys our support. See 86.40 above.
86.42.	The recommendation does not enjoy our support. The Constitution of the United republic of Tanzania provides for freedom of expression which is exercised in

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	accordance with the law.
86.43.	The recommendation enjoys our support in part, for the reasons stated under 86.40 and 86.41 above.
86.44.	The Recommendation enjoys our support. The Constitutional Review Act no 8 of 2011 has taken care of this fundamental aspect. The Act has incorporated provisions which provide for the right to assembly and participation throughout the Constitutional review process. ²
86.45.	The recommendation does not enjoy our support. Regarding forced evictions and toxic spillage into drinking water, the Constitution guarantees right to property and also land laws prevent forced evictions and provide for compensation where land is used for public interest. As for water control, the National Water Policy of 2002 is in place. The Water Supply and Sanitation Act of 2009 provides for punishment to persons responsible for water pollution and the Environmental Management Act establishes the Environmental Management Council which amongst its duties is to evaluate projects, potential environmental risks and impacts in this area.
86.46.	The recommendation enjoys our support in part. Tanzania has no problem with its policies to ensure access to land and water for pastoralists. The Land use Policy has been translated into legislation and the pastoralists, like other land users has the right to use the land and the water facilities available. However, the issue of cross boarder pastoralism requires further analysis and consultations with all relevant stakeholders.
86.47.	The recommendation does not enjoy our support. Corporal punishment does not apply in the education system. It is provided for by law, as part of our penal system and is administered under the Corporal Punishment Act and Regulations made under the Act, as well as the Prisons Act for persons who have been 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 one decade. This punishment has already been abolished for Tanzania Zanzibar and preference is given to community services. Moreover, 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 as recommended or envisaged.
86.48.	The recommendation does not enjoy our support. Tanzania wishes to reiterate its position stated during the UPR of its National Report in October 2011. We indicated that the term ‘ an indigenous peoples ’ is not applicable as all Tanzanians of African descent are indigenous to Tanzania. However, the Government recognizes the vulnerability of some of the marginalized communities and to this end it has been responsive to their needs and it will surely

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	continue to do so.
86.49.	The recommendation does not enjoy our support. The Government of Tanzania is always committed to preserving its cultural and traditional way of life to its people. To this end it has established a Ministry entrusted with Cultural affairs to oversee these issues. The recommendation is rejected in as far as it relates to the protection and preservation of the way of life of indigenous peoples, a concept which is still contentious in Tanzania.
86.50.	The recommendation does not enjoy our support. In accordance with the general principles of equality and fairness, Government always investigates where there are allegations of forced land conflicts. Remedies are also available in case of land conflicts. See 86.48 above.
86.51.	The recommendation does not enjoy our support. The Land Act as well as the Village Land Act of 1999, provides for a legal framework giving legal certitude in terms of property in particular with regard to land ownership and eviction. However the notion of recognition of the rights of indigenous peoples is rejected for the reasons advanced under 86.48 above.
86.52.	The recommendation does not enjoy our support. In the absence of indigenous peoples in Tanzania, there is no need to set up such a mechanism. See 86.48 above.
86.53.	The recommendation does not enjoy our support. Submission of a Midterm Term Report to the Human Rights Council on the implementation of UPR Recommendations is one of the best practices. However, given the resource and time implications for carrying out this exercise, Tanzania is of the considered view that, it will continue to honor its 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.

Notes

¹ The Act Provides for the establishment of the Constitutional Review Commission, which will among other things, be responsible for coordinating and collecting public opinions on the Constitution, examining and analyzing public opinions, as well as preparing and submitting the Final Report on the public opinions. The Act has also been enacted for purposes of providing for a procedure for constituting the Constituent assembly, the conduct of the referendum, establishment of fora 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.

² For instance, section 18 of the Act provides for the establishment of fora for constitutional review which shall provide public opinions on the Draft Constitution through meetings organized by the Commission. The Act also provides for the organization of the meetings and debates by any person or any organization wishing to do so, in accordance with the Act.