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”reading, ‘riting and ‘rithmetic” -  
realising the right to primary education  
in practice  
A case study of Tanzania

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# Summary

This thesis addresses the right to education and its implementation. It briefly assesses the right to education while focussing on the right to primary education. The implementation of human rights as stated in international instruments can meet with hindrance in the form of cultural relativist arguments as well as resistance on pragmatic grounds. The case study carried out in Tanzania aims at assessing relationships between international standards, national regulations and the actual situation. Since girls are more often discriminated against than boys, a gender focus is used. Notwithstanding Tanzania's ratification of the major human rights instruments, rights fail to be turned into reality. The right to primary education is far from being implemented, despite seemingly strong official commitments and efforts. The non-realisation has been judged to be a result of several contributing causes; lack of financial resources, lack of strong political will, and lack of administrative skills and follow-up throughout the implementation process.

**Keywords: The Right to Education. Primary Education. Tanzania. Gender. Implementation of International Human Rights Instruments.**

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# Acronyms

|               |   |
|---------------|---|
| <b>BEMP</b>   | <b>Basic Education Master Plan of 1997</b>                            |
| <b>CADE</b>   | <b>Convention Against Discrimination in Education</b>                 |
| <b>CEDAW</b>  | <b>Convention on the Elimination of Discrimination Against Women</b>  |
| <b>CESCR</b>  | <b>Committee on Economic, Social and Cultural Rights</b>              |
| <b>CRC</b>    | <b>Convention on the Rights of the Child</b>                          |
| <b>ECOSOC</b> | <b>Economic and Social Council</b>                                    |
| <b>ETP</b>    | <b>Education and Training Policy of 1995</b>                          |
| <b>GA</b>     | <b>General Assembly</b>   |
| <b>GER</b>    | <b>Gross Enrolment Rate</b>   |
| <b>ICESCR</b> | <b>International Covenant on Economic, Social and Cultural Rights</b> |
| <b>IMF</b>    | <b>International Monetary Fund</b>                                    |
| <b>LHRC</b>   | <b>Legal and Human Rights Centre</b>                                  |
| <b>MDWC</b>   | <b>Ministry of Development, Women and Children</b>                    |
| <b>MOEC</b>   | <b>Ministry of Education and Culture</b>                              |
| <b>NER</b>    | <b>Net Enrolment Rate</b>   |
| <b>OAU</b>    | <b>Organisation for African Unity</b>                                 |
| <b>PSLE</b>   | <b>Primary School Leaving Exam</b>                                    |
| <b>SAP</b>    | <b>Structural Adjustment Program</b>                                  |
| <b>Sida</b>   | <b>Swedish International Development Co-operation Agency</b>          |
| <b>SRE</b>    | <b>UN Special Rapporteur on the Right to Education</b>                |
| <b>SSA</b>    | <b>Sub-Saharan Africa</b>   |
| <b>TAA</b>    | <b>Tanganyika African Association</b>                                 |
| <b>TANU</b>   | <b>Tanganyika African National Union</b>                              |
| <b>TSh</b>    | <b>Tanzanian Shillings<br/>(100 TSh =approx. USD 0.1)</b>             |
| <b>UDHR</b>   | <b>Universal Declaration of Human Rights</b>                          |
| <b>UN</b>     | <b>United Nations</b>   |
| <b>URT</b>    | <b>United Republic of Tanzania</b>                                    |
| <b>WB</b>     | <b>World Bank Group</b>   |

# 1 Introduction

## 1.1 Background - Short Presentation of the Problem and Choice of Subject

It is the author's belief that education is the basis for a functional and progressive society, whether concerning a country in the first or the third world. The actual realisation of the human right to education is therefore a salient issue. Further, no society will develop unless it involves the participation of *all* of its citizens, both male and female, in all areas.

Implementing the human right to education is often a prerequisite for the enjoyment of other fundamental human rights. According to a UNICEF report of 1999, about 1 billion people are illiterate in the world of today. About 130 million children aged 6-11 in developing countries are out of school; nearly 2/3 of them are girls.<sup>1</sup>

The benefits of education can and have been argued from several perspectives. When looked upon from a micro-perspective, education is necessary for individual development. The individual gains can for example be divided into instrumental value (as a means to getting a better job) and social value (greater knowledge and analytical skills).<sup>2</sup> At a macro-level, education is also a step towards reducing poverty, as well as furthering economic and social development of society as a whole. Economists therefore emphasise education as a means of increasing productivity and wealth in a given country. Conversely, this view is not the basis for this study – on the contrary it is considered a failure to view the human being as solely another factor of production and education as a pure investment in “human resources”. This study takes its point of departure in the rights-perspective; every individual has a right to develop through a basic level of formal education. The minimum for that level has been expressed in various human rights instruments over the past fifty years.

Thus, the larger framework in which this study is set is the human rights regime of the world today. Although human rights advocates congratulate themselves on achievements and progress made, it is important to point out the contrary arguments. The Declaration of Human Rights recently saw its fiftieth birthday, an event which was celebrated world-wide. Important critics have raised their voices to point out the weakness of the current human rights system.<sup>3</sup> First of all, the rights expressed in international instruments were based on thoughts articulated by

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<sup>1</sup> UNICEF, *The State of the World's Children 2000*, pp 56-57.

<sup>2</sup> Mbilinyi, 1973, quote in Carr-Hill, p 22

<sup>3</sup> See for example various articles in the recent book *Human Rights Fifty Years on - a Reappraisal*, edited by Tony Evans, 1998, Manchester: Manchester University Press

European, male philosophers, from the Enlightenment and onwards. The universality of rights has among other reasons been challenged on these grounds, and rightly so. Cultural relativists call for a more “truly” universal definition of rights, ethics or some regime of the sort, that would take the world’s diversity into full account which, it is claimed, not is the case today. The possible justifications of the human rights system shall not be further discussed here. On the contrary, the almost universal ratification of many of the most important international treaties is taken to be proof of the world-wide acceptance of the inherent nature of human rights. This assumption of course draws on the principle of *pacta sunt servanda*, meaning that states parties are under an unconditional obligation to implement ratified treaties. Again, this principle might be challenged by cultural relativist arguments, but it is here taken for granted as a cornerstone of international law. It has been claimed that human rights have been put into practice to a relatively limited extent and that breaches continuously take place. As in the national legal system, it is however easy to measure the breaches of given provisions, but a much more intricate task to measure possible “non-breaches” that would be an effect of the existence of certain instruments. It would be difficult to estimate the number of times states have chosen not to act against the spirit of treaties signed. That leaves us with the picture of the current alarmingly high level of human rights violations in all corners of the world, contrary to most official state declarations.

The human right to education, in particular its implementation, risks meeting with obstacles on many levels. Even if a vast majority of states agree on the importance of education in general terms the right to education can be costly to implement in several respects, especially in third world countries. If the infrastructure, physical facilities and manpower needed are lacking or inadequate, setting up and maintaining a structure for primary education will be expensive and also requires know-how. With World Bank constraints on public expenditure in developing countries, adequate primary schooling might be almost impossible to achieve. This argument can of course also be used for justifying unsatisfactory education supply by governments that consider it both economically and politically too costly to actually educate the people. As pointed out earlier, the rights-based view carries with it the notion that regardless of difficulties, states are bound by their commitments to the international community. It is therefore interesting to study how the right to education has been implemented in practice in a developing country.

The right to education is poorly implemented in the third world in general, and in Sub-Saharan Africa (SSA) in particular where enrolment and persistence in primary education remains at the world’s lowest level<sup>4</sup>. One out of three children of schooling age in this region is not enrolled in primary education today. This number will actually rise in the next 15 years, a trend only seen in SSA. Most of the out-of-school children are female; according to a 1993 estimate about 26

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<sup>4</sup> See Graph, UNESCO, available at [www.unesco.org/education/educprog](http://www.unesco.org/education/educprog), 000714

million African girls were out-of-school, and the number was expected to rise to 36 million by the year 2000.<sup>5</sup> This lack of education hits girls and women particularly hard since it results in perpetuating women's disadvantaged position in society, with little or no access to labour market, high maternal mortality rates, infant mortality etc. This fact creates a vicious circle that will be hard to break.<sup>6</sup> The situation of girls is therefore of particular interest in the discussion of realising the right to education.

Tanzania was from the early days of independence committed to creating a strong school system, as a step in the move towards Tanzanian socialism. Educating the masses was the basis for developing society and the UPE drive (Universal Primary Education) put Tanzania in the limelight as a role-model for other African countries. The economic crisis of the 1970's and 1980's and the ensuing Structural Adjustments Programmes (SAP:s) imposed by the World Bank have had a large impact on public expenditure in social sectors, mainly health care and education. Literacy rates have actually fallen since the early eighties, the peak of the UPE drive. Although enrolment statistics for the country as a whole do not show any gender disparities at primary level, this fact rapidly changes the higher up in the education system we get. At university level, only twenty percent of the students are female.<sup>7</sup> Thus, if the right to education even at a first glance seems to be inadequately implemented in Tanzania, this fact is even more true for the female part of the population.

## 1.2 Purpose, Questions and Limitations

The purpose of this thesis is to study how the human right to education has been implemented in Tanzania, concentrating on the right to primary education as spelled out by human rights instruments. The implementation is investigated through roughly three main viewpoints. First, there is an overlook at the financial possibilities or obstacles (chapter 5). Second the legal/administrative/political aspects are looked into (chapter 6). Third and last, the societal/structural impediments to the full realisation to the right to primary education are outlined. It is also a purpose of the thesis to investigate how educational laws that appear to be gender neutral still can create gaps in educational levels between the sexes. Understanding possible gender differences calls for a holistic approach, since the prerequisites for the educational system are set by the government and the society as a whole. The three main viewpoints are reiterated in the final chapter, where they are all discussed from a general point of view as well as a gender perspective.

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<sup>5</sup> UNICEF, 1993, Ouagadougou Declaration, p 5

<sup>6</sup> The paragraph is based on information from Oxfam, see [http://www.oxfam.org/educationnow/asking\\_why/index.htm](http://www.oxfam.org/educationnow/asking_why/index.htm) 000919

<sup>7</sup> TGNP, 1997. *Beyond Inequalities: Women in Tanzania*, p 43

Hence, the questions asked are the following:

*-What is the current status of the right to education in Tanzania - in national laws and policies and in practice?*

*-How do gender differences in primary schools show and why do they persist?*

The study of international instruments and their implementation in a given country means that the thesis will largely be of a descriptive character. Personal reflections and pointers are made mainly in the concluding remarks. Limitations are set by the use of a gender perspective along with the legalistic approach, concentrating on the obligations of the United Republic of Tanzania (URT) under international law. The study addresses the situation of Tanzania mainland, not taking into account the different set of laws and the reality at Zanzibar. A gendered perspective means focussing on equality between the sexes when regarding all stages in primary education – from enrolment to persistence to performance to dropping out. Although feminist legal theory is not the basis for this thesis, it is worth pointing out the discrepancies within this theory on the meaning and practical application of equality between the sexes - which could mean either equal legal standing, or equality in practice achieved through special measures/affirmative action. For a human right to become a reality I take the stand that rights must mean equality in practice, i.e. all means necessary must be used to achieve it. This distinction made, my study still leaves out many interesting aspects of a rights-based approach to education such as the special rights of disabled children, street children etc.

The term “education” as included in the “right to education”, is defined in the various HR instruments, encompassing a right to a minimum of seven years of primary education free of charge, normally undertaken from the age of seven to fourteen. It would be desirable that these years result in the pupil’s acquirement of the three R:s – reading, ‘riting and ‘rithmetic; that is, basic literacy and mathematical skills.

### **1.3 Method and Sources**

The basis for this thesis (the ontology) consists of the human rights framework as discussed above. Every human being has inherent rights, instituted in him at birth. The epistemology used is of a post-positivist nature. Whereas the positivist claims that there is an “objective reality” out there which can actually be observed and assessed by the researcher, the post-positivist complements this view with the awareness of the political nature of research and the transient nature of knowledge.

In trying to describe fairly the current state of the school system, literature by both foreign and native authors is used, as well as articles from different newspapers and magazines. A number of legal documents including international treaties, national legislation and policy documents are of course important. In assessing the implementation of human rights treaties the different government reports to treaty monitoring bodies/UN committees are analysed.

The Internet can be a rich source of information but selection of sites and data must of course be made with perspicacity and moderation. I have tried to stick with more or less official sites, under some type of external review or control. Finally I have used national education statistics (Ministry of Education and Culture, MOEC: *Basic Statistics in Education, BSE*), which are quite extensive and judged to be rather reliable. However, comparisons with other sources (UN sources as quoted in the thesis) suggest that the BSE may be overly optimistic. This might be due to the method of data collection/sources or the processing thereof, neither of which are explained in the Ministry's document. Statistics have therefore also been used with moderation, mainly to provide a few illustrations of arguments. Numbers also differ between investigations by different UN organs or private/state research authorities, and should therefore be taken as rough estimates, at least giving a pointer of the situation.

The single-case study has been argued to be a good method to employ when the researcher aims at explaining how and why a certain event or a development has taken place. It is further fit for studying contemporary events, especially for understanding complex social phenomena. Even the single-case study may include comparative elements. The findings of this study may therefore be of importance when discussing the situation in countries with roughly the same background. The case of Tanzania is not interesting as a typical example of a third world country that usually neglects implementing international obligations, but as an example where the phenomena corresponding to the right in question was respected and given priority for a long time. Education was initially not seen as a right but rather as a tool for furthering individual and societal development.

The Minor Field Study carried out in Dar-es-Salaam with surroundings consists of both literature studies and a number of qualitative interviews with different personnel. These interviews include people at relevant Ministries, staff at a Teacher's College and at Primary Schools during study visits. Further, interviews were made with representatives of some of the many local NGO's active within the fields of education, gender equality in society and child's rights. Personnel at different faculties at the University of Dar-es-Salaam have given valuable insights in their work with and for education. Finally, interviews include Swedish education consultants and embassy staff. Parts of this thesis build entirely on experiences during the study, especially chapters five to seven. Therefore, no footnotes or references to written material appear at certain sections in these chapters as they draw upon experiences acquired in Tanzania.

The empirical part of the study embraces a variety of aspects of the educational system. It does not pretend to be based on a thorough analysis of each actor and aspect of the system, but aims at making an overall assessment of the Tanzanian education system and the state of the right to education today. As this task is extensive, the results of this study to a certain extent stand for my personal perception of the system.

Since Tanzania from time of independence was committed to mass education, a certain amount of research has been carried out in the field. This research includes studies on gender (in)equality, access to school, etc, mostly due to the interest of individual researchers. Notably, there is a group of women academics at the UDSM that has through repeated work given legitimacy to the study of the impact of gender. Though, there does not seem to exist any studies on primary education from a rights perspective.

## **1.4 Thesis Structure**

The thesis begins by a discussion of the scope of education as a human right and in particular children's right to primary education. It continues with a brief overview of the political, economic and social situation of the URT in past and present days, which is followed by a study of the Tanzanian school system. Structural difficulties in implementing the right to primary education are outlined in the ensuing chapters, covering of first financial factors and second political factors. These are followed by the socio-cultural difficulties in realising a right to primary education, thus moving on to the underlying, individual factors. These chapters are followed by a discussion of the implementation of the right to education in the country. Finally, in the concluding chapter there is a summing up of discussions of impediments to the right to education, that is the financial, legal-administrative and societal factors discussed in previous chapters.

## 2 Education as a Human Right

### 2.1 The Human Right to Education - The General Picture

The right to education might be discussed from the perspective of different generations of rights, that is either as a civil and political right or an economic, social and cultural right, or possibly as a collective or group right. It has been claimed that education could fall under all three generations, thus making a strong case for this particular right.<sup>8</sup> Normally, the right to education is however considered to be a social right. States have so far been more reluctant to recognise the so-called second generation than first generation rights, since the former supposedly entails costs whereas the latter would not (a point which has been raised and debated in recent human rights debate, and investigated elsewhere). In the Vienna Declaration on Human Rights of 1993, states parties agreed on the definition of all human rights as inalienable, indivisible and interrelated, thus formally giving all human rights equal standing.<sup>9</sup>

Education is one of the fundamental human rights in the sense that it enables people to enjoy other human rights. However, education is scarcely defined as an inherent human right in national education strategies.<sup>10</sup> Only 142 of the world's countries have constitutional guarantees of the right to education, leaving out 44 countries.<sup>11</sup>

### 2.2 Applicable International Human Rights Instruments

This section gives an overview of the most important international instruments regarding education. Emphasis is placed on the Convention on the Rights of the Child (CRC) because of its practically universal ratification, along with its emphasis of the child as a rights-bearer. Furthermore, in the framework of the right to education a particular focus is set on children's rights to primary education.

The right to education was stated as early as in the Universal Declaration of Human Rights of 1948 (UDHR), see article 26. This provision is rather general,

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<sup>8</sup> For further discussion see Nowak, Manfred, 1995, "The Right to Education" in Eide, Asbjorn (ed) *Economic, Social and Cultural Rights*, p 195-197

<sup>9</sup> Vienna Declaration on Human Rights, 1993, art 5. Available at [www.unhchr.ch](http://www.unhchr.ch), 010503

<sup>10</sup> cf Progress Report of the Special Rapporteur on Education (SRE), 11 Jan 2000, paragraph 66

<sup>11</sup> Report of the SRE, 1 Feb 2001, p 22-23

stating that everyone should get basic education. It does not further elaborate on the concept “basic” education, nor distinguish the same from for example fundamental education or other phenomena. Additionally, article 26 states that education shall be free. These two principles have been kept since, and are echoed in all human rights instruments concerning education. Article 26, UDHR, leaves room for the individual state to choose the extent to which education shall be provided, as long as every citizen has a chance to get basic education. Moreover, it must be borne in mind that the Universal Declaration not is a binding text, but rather is a declaration of intent. It has however been widely distributed and could be more well known than later, binding legal texts.

The Convention Against Discrimination in Education (CADE) from 1960 was the first attempt since the UDHR to elaborate on the duties of states to organise public education. It provides more details on the actual formation of the national systems, naturally focussing on non-discrimination as suggested by its title. Article 1 states that discrimination in access to education is prohibited, including any distinction made on the basis of sex. Article 4 repeats the obligation of the UDHR to make primary education free and compulsory, now using the term primary education for the first time. The same article also specifies state obligations to formulate and apply policies for the promotion of equality, thus trying to ensure that goals of the Convention are put into practice.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966 and its articles 13 and 14 constitute a binding reaffirmation of the goals stated in the UDHR regarding the right to education. Article 13 makes the basic statement that primary education shall be compulsory and available free to all. The implementation of this right is of a progressive nature (art 14), and the state must do everything within its power to realise the obligations under the convention (cf the system of the CRC). In the comment on article 13 by the CESCR (the treaty monitoring body) the committee points out the difference between basic education and primary education, albeit acknowledging a close correspondence between the two. The committee endorses the stand taken by UNICEF that “[P]rimary education is the most important component of basic education”, meaning that basic education also can encompass other educational components. It is also pointed out that temporary special measures to bring about gender equality are not regarded a breach against the convention, as long as they are temporary and not continued after the goals they aimed to achieve have been reached.<sup>12</sup>

The Convention on the Elimination of Discrimination Against Women (CEDAW) from 1978 was the result of several years of work for a women’s rights convention. Ratifying states agree to incorporate the principle of equality of men and women in their legal systems, to establish public institutions for effective protection of women against discrimination and to ensure elimination of all acts of

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<sup>12</sup> Committee on Economic, Social and Cultural Rights (CESCR), General Comment 13, E/C.12/1999/10, par 9

discrimination against women by different actors; persons, organisations or enterprises. Despite the fact that the convention today has 167 signatories, it has remained a toothless instrument. As for the right to education, the convention emphasises equal access and opportunities and the removal of gender stereotypes within national education systems (see art 10). More specific demands are made on state efforts to reduce drop-out rates and organise alternative schooling for girls who leave school prematurely, art 10(f). The convention also recognises the different conditions for women living in rural and urban areas respectively, and therefore specifically points out the salience of the educational needs of girls and women living in rural areas (art 14.2.d). Hence, had the Convention and the supervisory Committee been more powerful, this instrument could have provided an excellent avenue for claiming women's and girls' human rights; a o to adequate primary education. Today, voices have instead been raised demanding that redress for violations against women's rights should be sought through regular UN mechanisms, to prevent further marginalisation.<sup>13</sup>

The first particular mentioning of the child as a rights-bearer was made early on, in the Declaration of the Rights of the Child. The Declaration was drawn up by the Save the Children and was endorsed by the League of Nations through a resolution in 1924. The Declaration was revised and passed by the UN General Assembly on two occasions, in 1949 and 1959 but still as a non-binding text. Notwithstanding its non-binding character, the declaration played an important role as an instrument for creating consensus regarding children's rights, even *ius cogens*, and for leading towards the Convention of the Rights of the Child. The work with drafting the CRC started in 1979. The Working Group proceeded on the basis of consensus which of course makes the process lengthy, but with the advantage that the final text passed more easily through the higher bodies of the UN system. The Convention was at last adopted by the GA on November 20, 1989.<sup>14</sup>

The CRC is probably the UN convention with the largest number of signatories; as of 15 May 2000, 191 UN member states and 1 non-member had acceded.<sup>15</sup> It assembles rights that are actually already given through other conventions. Yet, given the fact that children usually are in an even worse position than adults covered by those conventions, it was believed that the rights would be more easily accepted and implemented if taken up in a separate instrument. Breaches against the Convention are not justiciable in any international court. The implementation of the Convention is supervised by a Committee, whose work in

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<sup>13</sup> See for example Elissavet Stamatopoulou (chief of the New York Office of the UN Centre for Human Rights), 1995, "Women's Rights and the United Nations", in Peters, Julie and Wolper, Andrea (eds). *Women's Rights – Human Rights. International Feminist Perspectives*.

<sup>14</sup> Detrick, Sharon, (ed) 1992. *The United Nations Convention on the Rights of the Child*, p 19-22

<sup>15</sup> Convention on the Rights of the Child, 1989. Available at UNHCHR, see "Treaties", [www.unhchr.ch/pdf/report.pdf](http://www.unhchr.ch/pdf/report.pdf) 010503

particular includes monitoring the situation of children and pointing at negative trends. Monitoring is mainly done through country reporting, for which the Committee has established guidelines (see articles 43 and 44, CRC). The Committee's considerations are followed by a public statement on its findings. The Committee has expressed concern that it could be viewed as the sole monitoring body of children's rights, and to prevent such a course of events it actively seeks co-operation with UN specialised agencies (e.g. ILO) as well as NGOs.<sup>16</sup>

The Convention is "revolutionary" in its emphasis of the principle of "the best interest of the child" (art 3(1) CRC), and thus all provisions must be read in the light of this very principle<sup>17</sup>. This means that one must bear in mind that it is the child who is the centre of attention, it is from him or her that all rights flow. Another basic principle is that of non-discrimination spelled out in article 2, stating equal opportunities and rights for boys and girls. Article 4 lays out the general framework for the realisation of the convention. As for financing it declares that "States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation". The Committee has given this provision a dynamic interpretation, and so the lack of resources cannot be used by states as a simple excuse for not making reality of obligations under the Convention. If so, the government needs to show that it has actually done as much as it can to put the Convention into practice.<sup>18</sup> The term "resources" does not merely refer to financial ones, but also includes personnel, know-how and organisation.

The right to education and its objectives are laid out in articles 28 and 29. The provisions are rather extensive, covering many aspects of the field. Article 28.1 states that the right to education shall be achieved "progressively and on the basis of equal opportunity", again emphasising non-discrimination, and further that primary education shall be "compulsory and available free for all" (echoing the formulation of the ICESCR, art 13). The same article continues with stating that school discipline must consider "the child's human dignity", which has been interpreted by the Committee as prohibiting corporal punishment<sup>19</sup>. Article 28.3 says that States Parties shall promote international co-operation in matters relating to education. The latter paragraph, read together with art 4<sup>20</sup> has by some scholars been taken as a direct linkage between the problems with insufficient resources and international aid, thus compelling richer countries to take responsibility for international development.<sup>21</sup> This interpretation might be

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<sup>16</sup> Paragraph based on Hammarberg, Thomas, "Children" in Eide, (ed) 1995, pp 302-304

<sup>17</sup> See Hammarberg, 1995, "Children" in Eide, p 291-292

<sup>18</sup> Hammarberg, Thomas, 1994. *FN-konventionen om barnets rättigheter*, report no 16, Raoul Wallenberg Institute, p 14-15.

<sup>19</sup> Hammarberg, 1995, "Children" i Eide, p 296

<sup>20</sup> "...to the maximum extent of their available resources and, where needed, within the framework of international co-operation." CRC, art 4 *in fine*

<sup>21</sup> Hammarberg, 1994, p 14-15

regarded as innovative, but the wording and spirit of the Convention does show a new awareness of international solidarity and responsibility for the actual realisation of human rights globally.

Finally, it must be pointed out that the notion of children as individuals with rights of their own not only was welcomed and celebrated. Expressing children's rights in international instruments, as well as national regulations, met with scepticism and pessimism – both the concept as such and the outlook for implementing the rights. The perception of the child and of childhood is unarguably diversified throughout the world's regions. Arguing for children's rights is not an easy task since claims must always be seen in the socio-cultural context of a given region or country. Although the CRC is the most widely ratified human rights instrument, its implementation will, where the text so allows, be subjected to contextual interpretations.

This is especially true for the basic principle of "best interest of the child", which is of course dependant on national standards of interpretation. In spite of regional variations, minimum levels of each of the rights laid out in the CRC must be respected.

The right to education cannot easily be claimed in any international forum, possibly but not likely through regular UN human rights complaints procedures<sup>22</sup>. Its implementation will be instead be monitored by treaty monitoring bodies, mainly through state reporting. However, as this particular right is considered highly salient by the international community, it was believed that the creation of a thematic rapporteur on the right would ensure its actual realisation. So, the UNHCHR created a mandate in 1998 for a UN Special Rapporteur on the Right to Education<sup>23</sup> (hereafter the SRE), currently Ms Tomasevski. She has hitherto undertaken field trips to the UK and Uganda, and has transmitted several reports on the state of the right to education. Notably, the special rapporteur has made an analysis of the scope and nature of the right to education. These are summarised in a simplified "4A-scheme" which is also used by the Committee on Economic, Social and Cultural Rights.<sup>24</sup> The scheme enumerates four different analytical approaches that are supposed to cover the crucial aspects of the right. The first "A" stands for *availability* of primary education (PE). Education can be provided both by state and non-state actors, and includes creating a school infrastructure which normally entails a considerable investment. Secondly, states must ensure *accessibility* to PE, mainly through prohibiting discrimination on any basis, also ensuring that schools are within "safe" distance from pupils homes and finally addressing the obstacle constituted by school fees. States shall further

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<sup>22</sup> for example the so called 1503-procedure, established through ECOSOC Resolution 1503(XLVIII) of 27 May 1970, requiring that there are reasonable grounds to believe a State is responsible for a "consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms". See also *UN Fact Sheet no. 7, Communications Procedures*, UNHCHR, <http://www.unhchr.ch/html/menu6/2/fs7.htm> 010503

<sup>23</sup> Commission on Human Rights in its resolution 1998/33 of 17 April 1998

<sup>24</sup> CESCR, General Comment 13, E/C.12/1999/10, par 6 <http://www.unhchr.ch> 010503

ensure *acceptability* of education, that is make sure that schooling is acceptable to parents and children for example regarding curricula, teaching methods and language of instruction. Finally, education can be analysed by *adaptability*, for example that curricula and text-books meet changing needs of society, or in different social and cultural groups of society. This 4A-scheme should be viewed as a framework laying out the basic requirements on primary education systems, and its simplified nature makes it easy to apply to all countries. The scheme could of course also be followed by states wishing to assess the extent of their adherence to ratified instruments. Then again, states normally prepare national reports in accordance with guidelines set out by treaty monitoring bodies, basically covering the areas listed above.

## **2.3 International Conferences and Policy Statements**

As pointed out earlier, the international community has in the past few decades emphasised the importance of education as a means for promoting human rights in general, and for striving towards goals considered desirable, such as combating poverty, empowering women, protecting the environment and controlling population growth. These insights have been manifested in several international and regional or sub-regional conferences. An account is made below for a few of the more influential of these and the major goals set out.

The World Summit for Children, following up the commitments of the CRC, was convened New York in late 1990, gathering some seventy heads of state. The summit resulted in a Declaration with a Platform of Action specifying measures to be taken. One of the Declaration's basic principles is that children's rights and interest should be prioritised, so reiterating the basic principles of the CRC. These include rather far-reaching obligations focussing on child health and primary education, but do not constitute legally binding documents. The fact that all decisions were supposed to be taken in unanimity does however give the documents a certain weight.<sup>25</sup>

One of the most important conferences on human rights of the past century is the World Conference on Human Rights held in Vienna in 1993, gathering some 7 000 participants from IGO:s, national governments and NGO:s. It aimed at promoting commitment to human rights both at the international level and by individual governments. The conference resulted in the Vienna Declaration and Programme of Action, which covers most human rights, including the right to education. It points out the importance of education systems being guided by

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<sup>25</sup> Hammarberg, 1995, "Children" in Eide, p 289 f

basic human rights principles to a o promote tolerance and friendly relations (Part I, para. 33 and Part II, para. 80).<sup>26</sup>

Following the Fourth World Conference on Women, Beijing (1995), the Beijing “Platform for Action” was adopted. It states six major goals for education, notably the allocation of sufficient funds and the monitoring of the implementation of educational reforms.<sup>27</sup> Regarding education, declaration no 27 makes the following statement:

“We are determined to: Promote people-centred sustainable development, including sustained economic growth through the provision of basic education, life-long education, literacy and training, and primary health care for girls and women.”

The paragraph thus links the economic and humanist arguments in education, pointing out its role in development. The definition of development here is focussing on people, implying the more individual view of the enjoyment of rights. This view would add a new dimension to government responsibilities under the current international regime and furthermore strengthen the arguments for providing education, not only as creating an acceptable education system, but actually ensuring education to each individual. The Beijing Conference also emphasised the fact that gender stereotypes are perpetuated in most world cultures through upbringing of children. Therefore, it recommended that “...[i]n addressing issues concerning children and youth, governments should promote an active and visible policy of mainstreaming a gender perspective into all policies and programmes so that before decisions are taken, an analysis is made of the effects on girls and boys respectively”.<sup>28</sup>

1990 was proclaimed the Year of International Literacy by the GA.<sup>29</sup> The same year, the most important work to achieve the right to education globally so far was commenced at the 1990 World Conference on Education for All, held in Jomtien, Thailand. The initiative was taken by the executive heads of four UN agencies (UNDP, UNESCO, UNICEF and the World Bank), with UNFPA as a co-sponsor. The conference launched the project Education For All (EFA) with the ambitious objective of obtaining world-wide literacy by the year 2015. It resulted in the World Declaration on Education for All - Meeting Basic Learning Needs.<sup>30</sup> The preamble of the declaration starts out with the rights-perspective

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<sup>26</sup> See the Vienna Declaration and Programme for Action, July 1993, A/CONF.157/23, available at UNHCHR: <http://www.unhchr.ch> 010503

<sup>27</sup> UN Womenwatch, <http://www.un.org/womenwatch/forum/edu/edu.htm> 010607

<sup>28</sup> Report of the Fourth World Conference on Women, Sep 1995, A/CONF.177/20, par. 273, available at UNHCR: [www.unhcr.ch](http://www.unhcr.ch) 010503

<sup>29</sup> General Assembly (GA) resolution 45/104, 7 December 1987

<sup>30</sup> UNESCO, World Education Forum (WEF), The World Declaration on Education for All - Meeting Basic Learning Needs, 2000, see <http://www2.unesco.org/wef/en-conf/Jomtien%20Declaration%20eng.shtm> 010503

and continues with acknowledging the possibilities in education to promote social, economic and cultural progress, both at individual and societal levels, and also specifically notes the value of appreciating local and traditional knowledge. The special need to make efforts to promote girls and women's education were also strongly emphasised during the conference.

The so-called "Jomtien mid-decade meeting" was held in Amman, June 1996 and resulted in the Amman Affirmation, where states again reaffirmed the goals set in the Jomtien Declaration. It notes that primary school enrolment has increased, estimating fifty million more children enrolled than in 1990, and that the number of out-of-school children also was declining, indicating lower drop-out rates.<sup>31</sup>

The fourth global meeting of the International Consultative Forum on Education for All, also referred to as Jomtien + 10, was held in Dakar on 26-28 April 2000.<sup>32</sup> The EFA framework was replaced by the World Education Forum (WEF). The 1,100 participants adopted a document entitled "Education for All: meeting our commitments", reaffirming their commitment to achieving education for all by the year 2015. The conference had to acknowledge the fact that although progress had occurred (in some parts of the world more than in others) the earlier goals had not been achieved. Education for girls was again emphasised in the UN Secretary General Kofi Annans speech to the WEF, "Building a Partnership for Girls' Education". Some countries, including Tanzania, set up special EFA units within government educational administration to concentrate on the achievement of the declaration's goals (see further chapter 6 below).

## 2.4 Regional Instruments and Policies

The Organisation for African Unity (hereafter OAU) was established in May 25, 1963, and today consists of 53 member states.<sup>33</sup> About two thirds of these have signed the African Charter on Human and People's Rights (hereafter The African Charter)<sup>34</sup>, including Tanzania which signed the document on 31 May 1981 and then ratified it on 18 February 1984. Compared to other regional instruments<sup>35</sup>, the African Charter does not in itself guarantee any of the rights it states – rather it sets out certain rights that should be recognised by national legislation and courts. Article 17 of the African Charter lays out the right to education, emphasising the role of culture and traditions in education. This would mean that not only the

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<sup>31</sup> UNESCO, WEF, the Amman Affirmation, 1996, <http://www2.unesco.org/wef/en-conf/Amman%20affirmation.shtml> 010503

<sup>32</sup> The paragraph draws information from the UNESCO, WEF, available at <http://www2.unesco.org/wef> 010503

<sup>33</sup> OAU, available at <http://www.oa-oua.org> 000714

<sup>34</sup> The Charter was adopted by the eighteenth Assembly of the Heads of State in June 1981, and came into force on October 21, 1986

<sup>35</sup> cf the European Convention on Human Rights (1950) and the American Convention on Human Rights (1978)

formal, state education system is of importance, but also informal sources for education.

The African Charter on the Rights and Welfare of the Child (hereafter ACC), deposited at the OAU, was adopted in 1990 and entered into force in November 1999.<sup>36</sup> The ACC was just as the CRC developed to emphasise the rights of children. It recognises the principles of non-discrimination and best interest of the child. It echoes demands of international human rights instruments that every child has a right to education, which shall also be free of charge (art 11). One of the requirements particularly important in the African context is the demand that states ensure the possibility of girls to complete their primary education if they become mothers before completion (art 11.6). The ACC and its implementation are supervised by a Committee, which has been vested with more powers than its international counterpart to promote and develop the rights enshrined in the Charter.<sup>37</sup> To promote the goals contained in the two fore-mentioned instruments, the OAU has further set up a special Department of Education, Science, Culture and Social Affairs (ESCAS).<sup>38</sup>

Discussions on the disadvantaged position of girls in education in the African context started almost a decade ago. It led up to the Pan-African Conference for the Education of Girls, convened in Burkina Faso in 1993, and resulting in the Ouagadougou Declaration<sup>39</sup>. The main objective of the Conference was to create consensus on making girls' education a priority in educational development in Africa. Other aims were to identify the priority areas and draw up strategies for resource mobilisation, as lack of these was conceived as one of the major obstacles in girls' education.

## 2.5 The Right to Education - a Discussion

To sum up the above, it can be concluded that there obviously exists a sufficient number of instruments and guidelines on both international and regional levels to guide states to set up a primary education system, living up to an acceptable minimum level. Despite interest shown from the broad majority of the world's states to provide education for all, it is also obvious that the rights in question have not been implemented to a satisfactory extent.

Further, the notion that children possess rights as expressed in both international and national regulations has met with both scepticism and pessimism. Many states use cultural relativist arguments for the non-implementation of especially children's

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<sup>36</sup> the ACC had not been ratified by Tanzania as of end 1999, but was likely to soon be ratified and therefore is mentioned here.

<sup>37</sup> see ACC, available at UNHCR Refworld, [http://www.unhcr.ch/refworld/legal/instruments/children/afr\\_e.htm](http://www.unhcr.ch/refworld/legal/instruments/children/afr_e.htm) 010503

<sup>38</sup> OAU, available at [http://www.oau-oua.org/direc\\_info/dir\\_escas/index.htm](http://www.oau-oua.org/direc_info/dir_escas/index.htm) 000714

<sup>39</sup> UNESCO/UNICEF: Ouagadougou Declaration, Paris, 1993

rights. Without fully embracing these arguments, it should be admitted that the scope of rights will vary over the globe with different economic, social and cultural contexts. This fact becomes more true the less precise the international provisions are, notably true for defining concepts such as “the best interest of the child”, which is nonetheless one of the guiding principles of the CRC.

A world-wide definitions of the exact content of the right to education does not and cannot exist. What can then be expected of states? The European Court of Justice has recognised the flexibility of the right to education at state level, acknowledging that the regulation and provision thereof is a state obligation but “regulation [...] may vary in time and place according to the needs and resources of the community and of individuals”.<sup>40</sup> The scope of the right to education is more or less the same in all human rights instruments, albeit the CRC lays out more detailed provisions relating to basic education and the rights of the child. When could the right to education be said to be realised to a satisfactorily extent, at state level? Two main obligations of states can be singled out as minimum requirements, as defined by the SRE; first ensuring access to primary education through the provision of enough places in public schools, second that education is available free of charge.<sup>41</sup> The maximum standard remains the “full realisation” of the right to education, as set out by the Declaration on Education for All.

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<sup>40</sup> the Belgian Linguistics Case, judgement of 23 July 1968, as quoted in the Preliminary Report of the SRE, 1999, par 62

<sup>41</sup> Preliminary Report of the SRE, 1999, par 44

# 3 Tanzania at a Glance

Tanzania might be the only country in Africa which has suffered no internal strife. It is today one of Africa's poorest countries despite natural resources, moreover one of the largest receivers of development aid.

## 3.1 Historical overview

### 3.1.1 Early cultures

The history of Tanzania goes way back in time. Archaeological findings show evidence of both the "Zinjanthropus" and the "Homo habilis" (known as Handy man). The latter is considered the ancestors of today's homo sapiens. In the thousands of years to follow, different tribes immigrated and emigrated in the East African territory. Until this day the north and central parts of Tanzania are ethnically very diverse.<sup>42</sup>

The first people of a different continent that arrived to East Africa were the Arabs, traders who arrived on the coast. Already in the 13<sup>th</sup> century however, other nationalities such as the Persians, Egyptians, Indians and Chinese discovered the riches and trading possibilities of East Africa's coast. The main African trading objects were gold, ivory and rhino horns in exchange for guns, textiles and beads. As elephants were virtually destroyed in the mid-19<sup>th</sup> century, trade declined.<sup>43</sup> Arab influences are still strong along the coast and of course at Zanzibar, otherwise mainly showing through the spread of Islam.

Trade started to rise again in the end of the 19<sup>th</sup> century, now with the new terrible merchandise of human beings. Caravan routes were established to the interior for the purpose of slave trade. Buyers were at this stage mainly Arabs. Slaves were often obtained by negotiations with local chiefs but also convicted criminals were likely to end up being sold. More gruesome is the fact that more militant tribes raided their neighbouring tribes. Many were transported to Zanzibar (then an Arabic territory), which developed into a slave trading centre. Slaves were either put to work on the plantations of the island or shipped off to the Middle East. The size and extent of the slave trade is debated. According to some estimates approximately 1.5 million slaves were brought to the coast, of which a large number succumbed on the way.<sup>44</sup>

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<sup>42</sup> Hodd, Michael, 1998. *East Africa*, p 278-279

<sup>43</sup> Ibid, p 279

<sup>44</sup> Ibid, p 280

### 3.1.2 European colonialism

The territory which today constitutes mainland Tanzania was in the “scramble for Africa” (1884) put under German rule, taking the name of “German East Africa”. Following the outcome of World War I, Britain was allocated a League of Nations mandate to govern the area in 1919, which was by then renamed Tanganyika. The mandate included demands that the British prepare the country for self-government. This meant that several African political groups were created in the 1920’s, among others the Tanganyika African Association (TAA). In 1946 Tanganyika became a UN trust territory. Both the arrangements of the League of Nations and UN respectively were of importance to Tanzanian independence, since these arrangements gave the opportunity to put forward events and views in Tanzania to the rest of the world. However, struggles for independence continued within the country. In 1953 Julius Nyerere became the leader of the TAA, which the following year was transformed into the more political organisation Tanganyika African National Union (TANU). In the country’s first elections in 1958 and –59, the party won a good majority.<sup>45</sup>

### 3.1.3 Independence

The new government and the British government agreed at a constitutional conference in London to full independence for Tanganyika, to be achieved in December 1961. Nyerere was appointed the first Prime Minister, a post which was later changed into President after constitutional changes. This position was held by Nyerere until his resignation in 1985. In 1964 Tanganyika and Zanzibar merged into the United Republic of Tanzania (URT). The new country’s name was formed from a mix of the names of the two former states – Tan-zan-ia.<sup>46</sup>

In 1965 the government declared Tanzania a one-party system, which was upheld until 1992 when a multi-party system was introduced. The first multiparty elections which took place in October 1995 were won by the Chama Cha Mapinduzi (CCM), a party that had been created in 1977 through a merger of the two ruling parties, TANU and Afro Shirazi Party.<sup>47</sup> The second multiparty elections were held in end of October 2000, again won by the residing party. The current president is CCM leader Benjamin Mkapa.

Despite the fact that Tanzania has in recent years changed from socialism to capitalism its government has remained remarkably stable, in a continent otherwise so torn by internal conflicts. This might be accorded to the fact that the grip of the leaders on the country has been strong, or even to the traditionally

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<sup>45</sup> The Swedish Institute of International Affairs, 1995, *Tanzania*, Länder i fickformat no. 210, Stockholm, p 12-14

<sup>46</sup> Official website of the United Republic of Tanzania – Tanzanian High Commission, London., see ”History Profile” available at <http://www.tanzania-online.gov.uk>. 000915

<sup>47</sup> URT website, see ”National Politics” <http://www.tanzania-online.gov.uk>.000915

large presence of foreign actors in the country, and that the country although blessed with resources does not have the riches which are a source of conflict in many neighbouring countries (Angola, Congo etc). The situation of relative stability goes for the mainland, whereas the situation today is somewhat different in Zanzibar. The isle has been marked by unrest, a o violations against human rights, since 1995 when the CCM candidate won the elections with a minute minority and under unclear circumstances. These tensions were intensified during autumn 2000 both before and after the elections on October 30, when the ruling CCM party astonishingly won a clear majority of the votes, by many Zanzibarians considered as another unfair outcome. The elections were also strongly criticised by international observers and the international community. Protests on the island led to violent response by government forces in March 2001, killing some 30 people and injuring many more.

### 3.2 Economic Status

Tanzania came to independence with a very underdeveloped economy and extremely limited infrastructure. In an effort to create socially equitable and rapid development, it became an early proponent of African socialism, Ujamaa (roughly meaning “togetherness”). This policy was launched in 1967 under the Arusha Declaration, carrying with it nationalisation of banking, finance, industry and large-scale trade, marketing through boards, and the resettlement of peasants in communal villages (“vijiji vya ujamaa”) created out of large estates. At first progress was made in the fields of education and health but after this initial boom the formal economic base shrank. Production fell and the parallel economy became normal, which led to a decrease of spending on the social sectors. The Ugandan war, falls in commodity prices and failures of the policy itself in economic terms, brought the country to the verge of bankruptcy by the mid-1980s.<sup>48</sup>

The economic crisis of the 1980s led to a series of government measures to address structural problems in the economy, including the Structural Adjustment Programme (SAP; introduced in 1982) and the subsequent Economic Recovery Programme (ERP) launched in 1988<sup>49</sup>. In the 1990s, a new economic policy of liberalisation was introduced through the Zanzibar Declaration, revisiting some economic aspects of the Arusha Declaration. The earlier parallel economy has been integrated and growth stimulated, and has been ahead of population growth since 1986. This development has of course taken place at a considerable cost to social programmes.<sup>50</sup> Introducing World Bank programmes meant a shift of political ideology for Tanzania, away from the African socialism towards neo-

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<sup>48</sup> URT website, see “Economy/Background” <http://www.tanzania-online.gov.uk> 000915

<sup>49</sup> Tanzania’s report on the implementation of the CRC, submitted in 1999, CRC/C/8/Add.14/Rev.1 <http://www.unhchr.ch/tbs/doc.nsf> 010503

<sup>50</sup> URT website, see “Economy/Background” <http://www.tanzania-online.gov.uk> 000915

liberal economic guidelines for the economy which of course affect society at large. Two of the main traits of neo-liberal economic theory are the market and its functions and the individual as a rational decision-maker. These prerequisites have not been prevalent in the African context where most work and production takes place in the informal sector. To this is added the fact that most people are neither able to make the “rational and informed decision” nor free to do so, the latter being especially true for the female half of the population.

Improvements in production and exports have contributed to continued growth through the 1990s.<sup>51</sup> Growth in the 90’s meant an increase in industrial production and also in output of minerals (e.g. the local Tanzanite) and gold. Still, industry accounts for only 15% of GDP and is mostly limited to processing agricultural products and light consumer goods.<sup>52</sup> The backbone of the Tanzanian economy still is made up by agriculture, which accounts for 56% of GDP, provides 85% of exports, and employs 90% of the work force. Cultivated crops are limited to only 4% of the land area due to topography and climatic conditions<sup>53</sup>. However, ninety per cent of the total food requirement is locally produced<sup>54</sup>. Most Tanzanian families have their own little shamba (garden) for subsistence farming, growing the regular food-stuffs such as onions, carrots, maize, bananas.

Recent banking reforms have helped increase private sector growth and investment. This has in turn helped to attract a number of international companies which began new operations in Tanzania in the mid-90’s.<sup>55</sup> Short-term economic progress also depends on curbing corruption that exists on every level of administration; especially petty corruption is widespread.

The International Monetary Fund (IMF) has classified Tanzania as being one of the 126 developing countries<sup>56</sup> of the world. Tanzania is further one of the world’s poorest countries a GDP per capita of \$ 550 (purchasing power parity adjusted)<sup>57</sup>, compared to that of Sweden amounting to \$ 20,700<sup>58</sup>. It has been estimated that about 40 percent of the population in rural areas and 20 per cent in urban areas live below the poverty line<sup>59</sup>. Although growth has picked up, benefits do not reach the poor. One third of the country’s total budget is used for debt repayment.<sup>60</sup>

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<sup>51</sup>URT website, see “Economy/Background” <http://www.tanzania-online.gov.uk> 000915

<sup>52</sup> CIA World Factbook, (CIAWF) “Tanzania” <http://www.odci.gov/cia/factbook> 010417

<sup>53</sup> URT website, “Economy/Background” <http://www.tanzania-online.gov.uk> 000915

<sup>54</sup> Tanzania’s report on the implementation of the CRC <http://www.unhcr.ch/tbs> 000710

<sup>55</sup> URT website “Investment” <http://www.tanzania-online.gov.uk> 000702

<sup>56</sup> The term is used for the bottom group in IMF’s hierarchy of advanced economies, countries in transition, and developing countries.

<sup>57</sup> According to a 1999 estimate, see CIAWF <http://www.odci.gov/cia/publications/factbook/geos/tz.html> 000919

<sup>58</sup> CIAWF, “Economy” <http://www.odci.gov/cia/publications/factbook/geos/sw.html> 000919

<sup>59</sup> World Bank, 1995. *African Development Indicators*, WB: Washington, DC

<sup>60</sup> OXFAM, <http://www.oxfam.org.uk/atwork/where/africa/tanzania.htm> 010502

### 3.3 A Few Demographic Facts

Tanzania's population has been estimated at slightly over 35 million people. Fertility rates are appreciated to be around 5,5 children per woman. Maternal mortality rates are high, and the infant mortality rate is estimated at 81 deaths/1,000 live births (2000 est.). Nearly half of the population is under 15 years of age; only 3 % of the population are believed to have surpassed the age of 65.<sup>61</sup> This constellation of the population of course puts the educational system under large constraints and will continue doing so in the near future. As in many other third world countries, the HIV/AIDS epidemic is a factor that makes an impact on society and which should not be forgotten. According to a UNAIDS estimate, about 1 300 000 Tanzanians are infected with HIV<sup>62</sup>.

There is also a constantly ongoing urbanisation in Tanzania just like in many other countries. Approximately 1/3 of the Tanzanian population will be living in urban areas by 2001, and Dar es Salaam alone could be receiving about 100.000 to 300.000 new inhabitants per year<sup>63</sup>. Most of these end up in shanty towns in the outskirts of the city. One reason for this rural-urban migration is the dual economy – the traditional agricultural economy of rural areas versus the modern, capital-based economy of cities. Poverty is also more pronounced in the rural areas, where 60 per cent of the people are classified as poor, compared to only 39 percent of the urban people<sup>64</sup>. People move into town in hope of finding a paid job in the industry with a cash salary, permitting to have a “modern” lifestyle.

### 3.4 Institutional Structure

The Tanzanian administration starts at top level with central government, headed by a president. Tanzania is divided into 25 administrative regions, 20 in the mainland and 5 in the Isles. The mainland is further divided into 106 districts, which are in turn subdivided into divisions, wards and village governments. The government machinery was decentralised in 1972 to promote people's participation in development planning and to facilitate local decision-making. The district is the key unit in terms of administration, planning, budgeting and resource allocation.<sup>65</sup> Women are rarely represented in decision-making, at any level. The civil service is the largest employer of women in the public sector, with a share of 32 % women employees. These are however mainly found in administration and hardly any is found in middle or senior positions. Following the 1995 elections,

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<sup>61</sup> All figures from the CIAWF, "Tanzania", "People", <http://www.odci.gov/cia/factbook/010417>

<sup>62</sup> UNAIDS/WHO, 2000. "Tanzania Epidemiological Fact Sheet", p 3  
[http://www.unaids.org/hivaidsinfo/statistics/june00/fact\\_sheets/pdfs/tanzania.pdf](http://www.unaids.org/hivaidsinfo/statistics/june00/fact_sheets/pdfs/tanzania.pdf) 010514

<sup>63</sup> Ngware, Suleiman, 2000. *Urbanising Tanzania*. DSM University Press, Introduction

<sup>64</sup> URT, MOEC, National Report, second Draft, November 1999: *Education for All: the 2000 Assessment*.

<sup>65</sup> Tanzania's report on the CRC, "Administration", <http://www.unhchr.ch/tbs> 000710

only 16 percent of the 275 seats in parliament were held by women. At local level, it is mandatory that at least 25 per cent of the district and village councillors be women. In practice only six per cent of these were women in 1993. Women are also under-represented in the judiciary, according to a recent study accounting for only 16 percent of resident magistrates, none of the Court of Appeal judges and only one of the High Court judges.<sup>66</sup>

### 3.5 Legal System

The legal system is at large based on the old English Common law system and is in principle derived from three different sources; customary law, religious law and statutory law. Any judicial review of legislative acts is limited to matters of interpretation. The current Constitution dates from 25 April 1977. It was amended in 1984 with a Bill of Rights, which states that “all people are equal before the law”. However, sex (or gender) is not singled out as specific ground for discrimination. There is not any single law or unified system that deals with gender issues, which facilitates discrimination between men and women in practice. Despite this, the High Court held a customary rule to be discriminatory and contrary to article 13 of the Constitution. Interpreting this document in light of major international and regional instruments, it was argued that gender discrimination would be contrary to the spirit of the Bill of Rights<sup>67</sup>. In 1998, Commissioners were appointed to hear the citizens’ views on constitutional reform, and there is recent work with setting up a Human Rights Commission. Tanzania has not accepted compulsory ICJ jurisdiction<sup>68</sup>.

The court system has also been kept as outlined by the British. The first instance, the Primary Court of law, deals with minor offences, taking on both civil and criminal cases. The District Court deals with more serious offences. Both the Court of Appeal, with 28 judges, and the High Court, 7 judges, travel around the country and assemble in the major cities.

The first legal source is customary law, which supposedly is drawing on “traditional culture”. This is to a large extent a construction from colonial time when diverse customary practices were codified, possibly with colonialists’ interpretations. The laws in question represent the norms of the 80 percent ethnic groups with patrilineal systems, thus “choking” matrilineal communities. One of the major rights differences between the sexes is the possibility of owning land, which is connected to a variety of other benefits such as access to credits. The limited female land ownership is however limited all over the world, constituting one of the more notable breaches of women’s human rights. An example of Tanzanian discrimination under customary law is the inheritance of land, from which both

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<sup>66</sup> TGNP, 1997, p 34-35

<sup>67</sup> *Ephraim v. Pastory* (1990), quote in Ncube, Welshman, 1998, p 38

<sup>68</sup> CIAWF, “Government” <http://www.odci.gov/cia/publications/factbook> 000919

daughters and widows are barred. The Law Reform Commission of 1987 was asked to look into the questions of inheritance, and subsequently made recommendations for changes. However, in 1999 the Ministry of Justice had not taken any action regarding those recommendations, despite pressure from various actors in different forums<sup>69</sup>. Also the 1992 Presidential commission of Inquiry into Land Matters reviewed land ownership, but took a more conservative stand and recommended “village tenure” of land, in practice putting land under control of (male) village chiefs<sup>70</sup>. Customary law thus provides the base for perpetuating a patriarchal society. Male superiority is taken for granted and “internalised” in the minds of both women and men.

The second legal source is religious law, which mainly means Islamic law and the Koran. It is mostly applied in Moslem Zanzibar and communities along the coast. People have the choice between going to the ordinary or the religious court.

Last there is the statutory law. An example is the Law of Marriage Act of 1971, with the purpose to unify provisions of the different legal systems.<sup>71</sup> This Act was a landmark as it tried to create gender equality. Minimum age for marriage was set to 15 for girls and 18 for boys, and the couple had to agree on whether the marriage should be polygamous or monogamous. The Act further gives a divorced woman the right to keep property she acquired during marriage. The women who dare break traditional views of the society and actually bring their cases to court, are usually discriminated against by judges who ask them to prove that they were working during marriage (giving them means to purchase the property in question).<sup>72</sup>

There are so-called legal clinics for women to provide counselling on rights and also defending them in court. These clinics are scarce and as noted earlier women who claim their rights through formal avenues are often not taken seriously, and sometimes outcast by their families.<sup>73</sup>

## Discussion

The legal system sometimes seems to contradict itself, as purposes of certain laws are contrary to other principles. Even if laws are changed and the human rights Commission is vested with some real power, the everyday situation of men and women will not change if they are not informed about their rights and obligations.

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<sup>69</sup> *Towards Gender Equality in Tanzania. A Profile on Gender Relations*. Sida, 1999 p 12

<sup>70</sup> Stella Bendera, 1999, “Promoting Education for Girls in Tanzania” in Heward, Christine and Bunawaree, Sheila (eds), *Gender, Education and Development. Beyond Access to Empowerment*, p 122

<sup>71</sup> *Towards Gender Equality in Tanzania. A Profile on Gender Relations*. Sida, 1999, p 13

<sup>72</sup> For a further discussion on the gender issue in Tanzania’s legal system, see *Towards Gender Equality in Tanzania. A Profile on Gender Relations*. Sida, 1999. “Gender Relations and the Law”, pp 11-13

<sup>73</sup> TGNP, 1997, p 33

So-called “legal literacy campaigns” have been undertaken. They show results but are normally rather small-scale and impact is therefore limited. Legal issues are discussed in radio and in publications but these efforts are also urban-based.

The danger of contradictions between laws, inherent in the current legal system, becomes particularly evident when it comes to gender questions. Statutory law may at some points at least try to be gender equal, whereas customary law normally not is imbued with equality concerns. It can also be noted that the rural-urban divide, obvious in financial and demographic areas, also shines through in the application of laws. Customary laws are more oppressive in rural areas, and women and girls are less aware of their rights than in urban areas.

# 4 Education in Tanzania, Past and Present

## 4.1 History of Education in Tanzania

### 4.1.1 Early days of Education

Formal education was first introduced in Tanzania by European Christian missionaries in the mid-1860's. The 1927 Education Ordinance regulated the relationship between the government and voluntary agencies, which were required to follow national curricula.<sup>74</sup> Colonial administrators did not see the importance in giving formal education to the people of their territories. In 1925 the so-called "Education for adaptation" set the guidelines for educating Tanzanians. Education should be directed towards the basic, local needs of the people. Women's needs were estimated through their roles as wives/mothers. This education policy failed and was later replaced by the plan "Education for Modernisation" which mainly provided schooling for Europeans and Asians, giving education to Africans only to the extent required to supply administration with some extra manpower.<sup>75</sup>

### 4.1.2 Independence - Education as a Political Instrument

Tanzania's first president had a large impact on the development of the country in all areas. The so-called *Ujamaa* policy included demands for educating the masses in order to increase growth. Nyerere's devotion to equality and the fact that he had in earlier years worked as a teacher, led to an emphasis on the importance of universal education.

The 1961 Education Ordinance and the Education Act of 1962 reorganised the earlier system. First, the policy of organising schools according to racial belonging was abolished and replaced by a unified education policy applicable to all ethnic groups within the country. Second, Tanzania needed a large number of administrators working within sectors of organisation, management and government, to replace the former colonialist workforce. Therefore efforts were initially concentrated on expanding higher education. The Education Act placed responsibility for primary education on local governments, which should set up local education authorities. Local communities managed to mobilise both people and resources for the construction of new schools. The curricula were also adapted to the proper Tanzanian needs. Kiswahili was introduced at primary

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<sup>74</sup> Abuhashim Masudi, 1995 "The Role of donors and NGO:s in Primary Education", in *Papers in Education and Development*, No. 16, 1995, p 106

<sup>75</sup> Peasgood, Tessa, et al, 1997. *Gender and Primary Schooling in Tanzania*, p 1

schools as a means to promote national identity. The history course was rewritten from an African perspective.<sup>76</sup>

### **4.1.3 The First Five Year Plans**

In the first Five Year Development Plan (1964-1969) priority was given to primary education, which should at least ensure permanent literacy for all. Higher education was focussed at providing manpower for the government which was seen as the only employer of qualified labour, and thus was thought capable of setting both supply- and demand-levels of higher education. Although this policy ignored social benefits and needs of the private sector for skilled labour, it was in force until the 1980's. In the late 1960's all government policies were to a large extent influenced by socialistic values. The education system should be reformed and expanded to attain social mobilisation and to promote both social and economic development in Tanzania. These new goals were expressed in the Arusha Declaration of 1967, which was followed by the declaration of the policy of Education for Self-Reliance (ESR). The latter called for providing primary school students with skills for mainly work in the agricultural sector. The programme was not a great success since both students and parents tended to see it as a policy that would continue to tie people to the land, or as a form of economic exploitation of the students. The 1969 Education Act gave central government full responsibility for all education levels, including financial responsibility. Education policy still aimed at creating a socialist and self-reliant society.<sup>77</sup>

The second Five Year Development Plan (1969-1974) encouraged an expansion of the number of primary schools. The goal was to attain Universal Primary Education (UPE) by 1989, and consequently it was decided in 1973 to abolish school fees.<sup>78</sup> As a consequence of the political climate, all mission schools and colleges were nationalised and placed under control of the MOEC through the 1969 Education Act.<sup>79</sup>

### **4.1.4 Working towards Universal Primary Education**

The 1974 Musoma Declaration aimed at making primary education compulsory, universal and terminal. It moved forward the UPE implementation date to 1977. The declaration also aspired to improve adult education to achieve mass education. These new, ambitious goals called for a major increase of input on the "supply-side" of education. Therefore, during the period of 1974-1979 a number

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<sup>76</sup> URT, *BSE. A Synthesis and Interpretation of Basic Statistics in Education in Tanzania*, 1999, p 1

<sup>77</sup> *Ibid*, p 3

<sup>78</sup> Peasgood, 1997, p 4

<sup>79</sup> URT, *BSE*, 1999, p 1

of steps were taken to achieve UPE, a o training of extra teachers, recruitment of retired teachers and government supply to communities of building materials for new schools. By the late 1970's enrolment had increased fourfold. By 1980 the gross enrolment ratio (hereafter GER)<sup>80</sup> reached its top level at about 93 per cent. However, this development was hard to maintain – both the numbers of enrolment as well as quality standards in primary schools. Enrolments declined and dropouts increased. Many had expected possibilities for a better future and were disappointed by the results of primary school.<sup>81</sup>

A new Education Act was passed in 1978 (no. 25, 1978). First, it codified certain changes that had already been made since the former Act. It also emphasised education at all levels, and encouraged further improvement of teacher training and of curricula and adequate teaching materials.<sup>82</sup> Shortly thereafter, in 1980, a Presidential Commission on Education was appointed to study the education system and make recommendations for the coming twenty years. The Commission's report was delivered two years later and the government adopted most of its recommendations. These included institutionalisation of pre-primary education, improving quality of PE and increasing the number of teachers and their quality.<sup>83</sup>

Thus, education and the education system have had a high priority in Tanzanian politics over the past fifty years. The issue is under constant debate and revision.

## **4.2 Current School System**

Although efforts made in Tanzania during the 70's and 80's to mass educate the people were rather successful, schooling has deteriorated in later years and the trend is still pointing downwards. This fact can be blamed on a number of reasons, including bad planning, bad implementation and economic constraints. Many aspects of the primary education system are in desperate need of raise in quality.

### **4.2.1 Administration System**

Administration of schools is carried out by a number of actors at all levels throughout the system. At the district level, power and authority to make decisions rests with District Councils as well as School Boards and Committees. The District Councils are responsible for effective management of funds as well as discussing and endorsing district education plans. At district level there should be

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<sup>80</sup> GER measures the ratio of students actually enrolled in school as a quota of the total number of children that should be in school. WB report (1999) p 65

<sup>81</sup> Peasgood, T, 1997, p 6-7

<sup>82</sup> URT, *BSE*, 1999, p 2

<sup>83</sup> *Ibid*, p 3

established a District Education Committees with membership from various departments at the District Council, NGO:s, religious institutions and private individuals who own schools. The committees provide technical advice to the District Council on all matters pertaining to education, and to development of education and EFA plans in particular.

Education Officers exist at two administrative levels. The Regional Education Officer (REO) who acts as a link between the MOEC and the region. The District Education Officer (DEO) is the actor actually carrying most of the implementation of Ministry Directives. The DEO is supposed to have a team working with him to carry out the different tasks. They are all accountable to the District Executive Officer, which is found under the Ministry of Local Government (the MOEC handles all matters of secondary and higher education). The DEO is responsible for hiring teachers to primary schools and also for disbursing salaries paid by the government. Further, School Inspectors are appointed by the Ministry to supervise school facilities and work (par 40-42, Education Act).

The School Committees shall represent the community served by the school. It normally consists of the head teacher and a couple of teachers from the school in question, along with parents from nearby villages. At the end of the administrative system are the School Boards that run schools and take care of recurrent matters.

Management of the school sector has been somewhat confused, and the problem was supposed to be straightened out by the 1995 Education and Training Policy (ETP) and the subsequent Basic Education Master Plan (BEMP). These aimed at providing clear policy guidance and improving overall management of primary education. At school level, most head teachers do not have special training in neither administrative nor instructional leadership, and they are not accountable to the community. At both community and district level, skills in planning and management are normally weak. Funding at district level is low and accountability is not well spelled out.<sup>84</sup>

#### **4.2.2 Education system**

The system is divided into a structure of 2-7-4-2-3+ years. The optional 2 years of pre-primary school were established in the 1995 Education act (par 35A), and should be commenced at the age of five. Most of the pre-primary schools are owned and managed by private and religious actors, currently some 3 700 centres catering for 175 000 pre-school children.<sup>85</sup> Pupils shall be enrolled in primary school at the age of seven, starting in Standard I, continuing up to Standard VII. This is also a novelty from the new Education Act (par 35.1); enrolment in Standard I had previously been allowed up to the age of thirteen. In

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<sup>84</sup> URT Report on CRC, par 319.e

<sup>85</sup> MOEC, 1999. National Report, *EFA: the 2000 Assessment*, par 7.1.1

Standard IV students do the National Examinations, to determine whether they may move up to standard V or not. Students may repeat classes up until Standard IV after receiving a special permit from the Regional Education Officer (REO). Repetition is allowed until Standard VII but only in special cases. At the end of Standard VII the Primary School Leaving Exam (PSLE) is undertaken covering all subjects, divided into three parts; mathematics, language and general knowledge. Junior secondary school consists of Form I-IV, which is followed by two years of advanced secondary. Students can then continue to university level.

There were 10,878 public and only 13 private primary schools in 1994.<sup>86</sup> The number of private schools was expected to rise as a consequence of the 1995 Education Act which has a more liberal view as for the education system than old laws. Under the new provision any individual, NGO, religious group or parastatal may open schools. The 1995 Act therefore makes a new division of schools into three different categories (par 31.1):

- government schools maintained and managed by the local authorities,
- grant aided schools managed by non-government organisation that get government subvention or aid,
- non-government schools wholly maintained and managed by NGO:s.

All the above are still required to follow the goals, curricula demands on facilities etc. set on a national level.

Different investigations of literacy rates show rather divergent results. According the CIA 1995 estimate, about 68 % of the population was literate, meaning that the people aged 15 and over can read and write either Kiswahili (Swahili), English, or Arabic. This comprises only 57 % of the women, compared to 79 % of the men.<sup>87</sup> The MOEC gives a more optimistic assessment of the state of literacy, basing its statistics on literacy tests conducted between 1975 and 1992. It shows a literacy rate of 84 % for the whole population in 1992, with a male rate of 87 % and a female rate of 81%.<sup>88</sup> Both sources show that literacy rates have been falling, despite various government measures such as ordering teachers to teach evening adult literacy classes.

### **4.2.3 Enrolment, Performance, Pursuit and Drop-Out**

Enrolment has been on a decline since the mid-eighties. The school-age population is constantly growing, but enrolments are increasing very slowly, which means that gross enrolment of children in the relevant age group is actually decreasing. A study in 1996 by the MOEC shows that GER at primary schools

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<sup>86</sup> Peasgood, 1997, p 10

<sup>87</sup> CIAWF, "Tanzania", "People", <http://www.odci.gov/cia/publications/factbook> 000919

<sup>88</sup> URT, *BSE*, 1999, p 18

declined from the peak of 98 per cent in 1980 to about 75 per cent in 1994, NER dropped from 69.7% to 56.7% in the same period.<sup>89</sup> This shows a steady decline in primary school enrolment. The decline, as cited by earlier research, is attributable to various factors; including but not limited to, the poor learning environment and the lack of confidence among parents in the relevancy and quality of primary education (see further elaboration in chapter 7). As a consequence of these factors, among others, a large part of the primary school aged children is out of school. The actual number varies in different studies carried out but is estimated between 40 per cent of the age group, up to 50 per cent or more.<sup>90</sup> Of those who do enrol, only 40 per cent complete their primary education.<sup>91</sup>

Region is the factor where disparities in enrolment numbers show most clearly, according to a MOEC comparison of enrolment data between 1992 and 1997. The largest increase in net enrolment rates (NER) is seen in Dar-es-Salaam, Mwanza and in the Coast area (10-20 % increases in NER). Other regions show practically no change at all, or even a slight decrease. UNESCO has made a categorisation of countries as for levels of primary schooling, divided at four levels; very high, high, low and very low levels. As a country, Tanzania falls within the category of “low level of primary schooling”, despite certain regional peaks.<sup>92</sup>

Nation-wide, figures for enrolment are also low when it comes to higher education. Out of the relevant age groups, only some 7 percent of the potential pupils are in secondary school and only one percent is in higher education. Tanzania has one of the world’s lowest transition rates from primary to secondary school<sup>93</sup>. The small chances of continuing with higher education might be a factor influencing school-going on lower level.

According to the MOEC data there is virtually no gender gap when it comes to enrolment in Standard I today. The disparities however tend to increase with age and, as mentioned above, at university level women account for less than twenty percent of enrolled students, a development due to a number of factors, existing already at the basic levels of education. During the 1960’s, female enrolment was only half the number of male enrolment. This gender gap was narrowed as enrolment increased nation-wide, and levels have been almost equal since mid-eighties.<sup>94</sup> Moving on to secondary level, enrolment figures for Form I do not show large gender disparities. Girls accounted for 47 % of Form I students in 1995 compared to only 31 % in 1975. This change might be attributed to changes in government policies, possibly the special quotas for girls. Yet, only half

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<sup>89</sup> MOEC as quoted in Stella Bendera, 1999, “Promoting Education for Girls in Tanzania”, in Heward and Bunwaree, p 120.

<sup>90</sup> See URT Report on the CRC, par 319 and the recent UNICEF study.

<sup>91</sup> URT Report on the CRC, par 319.a

<sup>92</sup> URT, *BSE*, 1999, p 9

<sup>93</sup> CRC report, par 316, 319

<sup>94</sup> URT, *BSE*, 1999, p 24

as many girls as boys have hitherto managed to complete their secondary education.<sup>95</sup> This fact can in part be blamed on girls' transition to higher grades through quotas. Girls do not have the actual knowledge required and are therefore less likely to succeed from the beginning.

Likewise, performance is related to region and social class, but invariably to gender (see chapter 7). Girls perform poorer than boys because of a number of factors. To mention but a few, first, teachers might give less time to girls or ignore them and girls are sometimes even told in school that they are stupid, and secondly, girls do not have time to do homework because they are busy doing chores.

Drop-out rates have been rising the past few years according to the MOEC statistics, although these hardly reflect the actual situation. There is a long process before children are struck out of the school records, that therefore do not give an accurate picture of drop-outs. The official records state that the main reason for drop-outs are the national examinations given in standard IV which many pupils fail.<sup>96</sup> Since they do not get promoted to a higher grade they drop out of school altogether.

## Discussion

So, the Tanzanian devotion to education in the years following independence lead to a short boom in literacy rates, at one point being among the highest in SSA. Due to financial constraints following the economic hardships and furthermore parental disillusionment of the benefits of literacy and primary education, enrolment rates dropped sharply and literacy rates with them. Today only half of the children in the relevant age group are in primary school. Tanzania also has one of the lowest transition rates throughout the education system in all Africa. Although gender differences are virtually non-existent as for enrolment in Standard I, such differences become more apparent at higher educational levels.

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<sup>95</sup> URT, *BSE*, 1999, p 27

<sup>96</sup> URT, MOEC Report, 1999, *Education for All: the 2000 assessment*

# 5 Financing Education in Tanzania

How education is financed and where financing comes from is of course a crucial issue when it comes to ensuring education for all. Most developing countries allocate a relatively small share of their budget on services such as health and education. According to a recent survey in 27 developing countries, the budget share spent on basic social services on average 13 percent, mounting to 20 percent in five of the countries surveyed.<sup>97</sup> To some extent this fact is due to very scarce government resources; in Tanzania, expenditure on debt repayment is four times higher than on primary education.<sup>98</sup> Then again, the low education expenditure is also attributable to political will and in many third world countries military expenditure takes a much larger portion of the government budget than the social sector.

## 5.1 Government Budget and Financing of Education.

Public expenditure on the education sector has gone through significant changes since the early 1990's. The sector share of the overall government budget was declining over the period between 1994/95 and 1997/98, from 26 per cent in 1994/95 (3.5 of GDP) to estimates of 22 per cent in 1997/98 (2.3 of GDP)<sup>99</sup>. The current official goal is to increase this share to 25 per cent of budget.<sup>100</sup> The educational sector's share of GDP is however less than the other East African countries<sup>101</sup>, and given the fact that Tanzania's GDP is very low, actual available resources remain small.

In the fiscal year of 1998/99, overall government recurrent spending share for education increased to 24.2, up from 21.9 in 1997/98. Actual expenditures have however deviated by up to 10 percentage points from approved budget. In 1995/96 actual expenditure on primary, secondary and teacher education sub-sectors were below approved budgets, while expenditure on higher education was above. In 1996/97 three of the five educational sub-sectors spent over the approved budgets.<sup>102</sup>

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<sup>97</sup> UNICEF, 2000. *The State of the World's Children 2000*, p 38

<sup>98</sup> Oxfam, quoted in kuleana, 1999, p 8

<sup>99</sup> URT, MOEC report, 1999, *Education for All: the 2000 Assessment*, par 7.2.5.1

<sup>100</sup> as recently pledged by President Mkapa, quoted in kuleana, 1999, p 28

<sup>101</sup> Kenya spending almost 7 per cent and Uganda 3 per cent of its GDP, see kuleana, 1999, p 26

<sup>102</sup> URT, MOEC report, November 1999: *Education for All: the 2000 Assessment*, par 7.2.5.1

As pointed out earlier, resources allocated to education are inadequate. The government is the main funding agency of basic education, as it should be. Government estimates claim that a total of 6 per cent of the GDP is spent on education. According to official sources, 60 per cent of the total expenditure on education is provided by government, 30 per cent by households and 10 per cent by external donors.<sup>103</sup> Different sources give different figures, it has also been estimated that at least 40 per cent of the costs are borne by parents.<sup>104</sup>

In 1990, the total recurrent expenditure allocated to primary education was 46% of the total education budget after dropping from 58% in 1982/83. The figure was recovered to 65% (1998) following government determination to improve the financing of basic education, with the current goal to allocate 70 per cent of the education sector budget to PE.<sup>105</sup>

Over the past five years, government spending per pupil enrolled in primary education has been rising in nominal terms. However, the share of wage spending for the sub-sector's resources was estimated to have risen to 82.6 per cent 1996/97. The recurrent non-wage spending per pupil would thereby have drastically reduced, in real numbers now TSh 800, with actual spending increasingly diverging from approved allocations.<sup>106</sup> Other estimates claim that some 90 per cent of the PE budget are allocated to teacher salaries. Still, these salaries are too low to survive on (approximately 40 000 TSh monthly). Thus overall, the already considerable costs to parents have increased as they attempt to make up for some of the shortfall of public funds and institutional costs. When compared to higher education, one hundred times more is spent on each university student than PE pupil, although university students are likely to come from wealthier families and although government has not made the same commitments to higher as to basic education. Yet, higher education is also under-funded.<sup>107</sup>

Parents' contribution has been increasing over the years from TSh 20 to 2000 (equivalent of US\$ 2.5) during the second half of 1998. However, prices of instructional materials and equipment as well as transportation costs have increased over time so that in real terms the increased fees do not take unit cost into account. However, parents have been meeting other substantial costs in terms of construction of classrooms, school uniforms, desks, sports equipment, food, exercise books and learning materials

At primary school level, there are four different sources of funding; revenue from the central government, local governments levies on residents, "school fees" and

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<sup>103</sup> URT, CRC report, par 319.g

<sup>104</sup> World Bank Study of 1997, as quoted in kuleana, 1999, p22

<sup>105</sup> URT, MOEC report, 1999, *Education for All: the 2000 Assessment*, 6.0

<sup>106</sup> Ibid, par 7.2.5.2

<sup>107</sup> kuleana, 1999, p 27

in some schools income from sales of productive activities (mainly vegetables grown in the school *shamba*). Certain studies by local researchers have earlier recommended that this system be kept and that costs be shared between all actors in society, also including foreign donors and voluntary agencies.<sup>108</sup> This argument is mainly based on the reality that the national revenue system does not work satisfactorily and cannot provide the means needed. Also the 1995 Education and Training Policy acknowledges the fact that the government does not have enough resources to finance free education. The system should therefore aim at involving other actors such as NGO:s, private organisations, individuals and communities. These actors should also be encouraged to set up schools at all levels.<sup>109</sup>

Women's rights NGO:s have called for the inclusion of a gender perspective into budgetary work. These demands are raised on the ground that division of labour as well as incomes are different for women and men, which should be reflected in budgets.<sup>110</sup> A large majority of the people working in the non-wage sector is women, doing all the household work and work on the family *shamba*/farm. This work is not included in the calculation of total GDP (as in all countries throughout the world), which only contains cash generating activities. Women's work is therefore undervalued and considered less important than men's work. It has been claimed that if budgets were made with an appreciation for women's work, measures would be taken for facilitating their work, spending money on e.g. providing water closer to homes. Decreasing the workload of women and thereby also for girls has an impact on education outcomes (chapter 7).

The obligation on states regarding financing of primary education is also set out by the CRC art 4, which "[w]ith regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation". The actual scope of the expression "available resources" might of course be discussed. Could the government be claimed to be in breach of its obligations because of cost-sharing measures, albeit imposed by the WB?

So, recent policies developed by also the MOEC (the Basic Education Master Plan in particular, see further below) call for other sources than government funds in the provision of primary education. These include more private actors, making communities participate with labour in also constructing school buildings and desks. The BEMP also counts on greater donor assistance, which is questionable for primarily the sustainability of programmes. To sum up the above sections, it can be concluded that inadequate resourcing is one of the main reasons why Tanzania

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<sup>108</sup> Justinian Galabawa, 1991, "Financing education in Tanzania: Strategies during the ERP period" p 46-48 in *East African Journal of Education*, vol 1 no 2 1991.

<sup>109</sup> MOEC, *Education and Training Policy*, 1995, pp 90-91

<sup>110</sup> TGNP, 1999. *Budgeting with a Gender Focus*

face difficulties in living up to international obligations for provision of primary education.

## 5.2 Impact of External Actors

The realisation of the right to education is in practice dependent on economic conditions. External actors influence the scope and limitations of the right to education through the funding granted. Actors include intergovernmental organisations, bilateral development partners and NGO:s. Development aid has been declining the past ten years. Aid for education has however increased relatively speaking.<sup>111</sup>

### 5.2.1 The World Bank Group

The largest and also most influential of external actors is the World Bank, influencing government budgets through loans, demands on debt servicing and probably also different economic programmes. These Structural Adjustment Programmes (SAP:s) normally set conditions on lowered government spending as well as opening up of domestic markets. The WB, being a UN specialised agency, should logically apply human rights standards set by the UN in its work. Such an obligation has however not been fully recognised by the WB, although the Bank in recent years has made certain statements in the direction of accepting the inclusion of some human rights aspects in its programmes (as opposed to the IMF). When it comes to the Bank's total education lending only a small share is directed to primary education, constituting a mere 30 per cent of lending to the sector.<sup>112</sup>

The effects of SAP:s imposed by the WB was the dominant issue for development theorists during the 1980's<sup>113</sup>, which is of course not to say that these discussions have played out their role today. It is a known paradox that programmes which are supposedly designed to help structure economy and turn around a downward spiral (albeit mainly through opening up domestic market to international competition and investment) end up working contrary to their purposes. The poorest share of a population is the one to suffer most when SAP:s are introduced as a consequence of cuts in social services. The programmes have furthermore been developed without a gender perspective, and have hit women extra hard.<sup>114</sup> This fact was pointed out by the URT reports on the implementation of CEDAW. The Tanzanian representative noted how the ongoing economic reforms had adversely affected women, *inter alia*, because of their low

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<sup>111</sup> Progress Report of the SRE, 2000, par 13

<sup>112</sup> Ibid, par 26

<sup>113</sup> Heward, Christine and Sheila Bunawaree (eds), 1999. *Gender, Education and Development. Beyond Access to Empowerment*, p 2

<sup>114</sup> Nelly Stromquist, 1999, in Heward and Bunawaree, p 18

incomes and levels of education and their poorer ability to compete in the free market.<sup>115</sup> Women have to add new ways of increasing household economy to their already heavy workload when government social expenditure is cut. Girls of poor families already have a lesser chance to enrol or continue schooling than their brothers, so their chances of getting education become even smaller.

As noted above, social services normally take a small proportion of government budget in the third world. This share usually decreases further after application of SAP:s. One might argue that education's share of budget would have been decreased even without WB programmes, since these are applied in countries already in a state of economic decline. It is never easy to isolate one factor such as the SAP and investigate its effects on a certain outcome. It might therefore also be argued that negative effects following the introduction of an economic programme could be due to internal factors such as civil strife, drought etc.<sup>116</sup> The effects of SAP:s on the educational system have however been studied in 21 different African countries that adopted SAP:s and ten countries that did not. This study shows that 2/3 of the "SAP-countries" decreased their spending on social services compared to only 1/10 of the "non-SAP-countries". Likewise it was found that gross primary enrolment rates increased in SSA countries without SAP:s with 5,5 % yearly in the 1980's, compared to an increase with 0,4 % in SSA countries under WB programmes. The same negative trends were seen in repetition rates, completion of primary school and transition from primary to secondary school.<sup>117</sup>

The World Bank modified its view on social services in 1995, appreciating the goods of social service expenditure. The bank stated that investing in girls' education would yield externalities (i e entail more advantages than solely education *per se*), for example reduced fertility rates and improved child health. Although the argument remains purely within the liberal economic framework, this statement put girls' education high on the agenda for international actors. It is not difficult to see perils in using economic arguments for furthering education for all. However, efficiency arguments are popular with policy makers since it is easy to show achievement as measured in a certain amount of dollars.

Effects of SAP:s in Tanzania included cuts in expenditure on basic social services. Part of these costs was intended to be borne by households, thus introducing "cost-sharing" in social services as health and education. As many Tanzanian many families live off subsistence farming, they do not have a cash income. Consequently, cost-sharing in practice means that they are denied their rights to health, education etc unless they have been able to save up some money when it is time to use these services.

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<sup>115</sup> Concluding Observations of the Committee on the Elimination of Discrimination against Women : United Republic of Tanzania. 06/07/98. A/53/38/Rev.1, par 208

<sup>116</sup> Nelly Stromquist 1999 in Heward and Bunwaree, p 20

<sup>117</sup> Ibid p 21

As already noted, the actual realisation of the right to primary education to a large extent depends on financial resources, or the lack thereof. Tanzania, like other LDC:s, has in this respect been much at the mercy of international finance bodies. The recipe has so far been based on traditional liberal economic thought. These thoughts are here interpreted as meaning opening up markets to international competition, attracting investors, creating preconditions for an ever growing economy and increase in wealth, thus creating a basis for government expenditure on basic services as primary education. Unfortunately, history has proven this theory wrong. Although Tanzania is experiencing some growth, the country is at the same time struggling with an increasing international debt as well as constraints on social services, as a consequence of IMF conditionality, which hampers government efforts concerning the primary education system.

### 5.2.2 Other External Actors

Donors make large contributions to the education sector in Tanzania, both providing technical skills and funding different projects. Donors include international organisations, bilateral co-operation projects as well as large international NGO:s, e g CARE Tanzania. Donor interest has lately shifted towards primary education. Their shortcomings notably lie in creating sustainable projects. Efforts initially judged successful might not survive once donors are gone. As awareness is raised on the problem, efforts are underway to create more long-term plans. Even relatively successful projects have not been possible to replicate nation-wide, as often hoped, since conditions are often case-specific. Today, more aid is directed towards a large scale, to sectors instead of individual projects.<sup>118</sup> One example would be the involvement of Swedish Sida in primary education, now concentrating all efforts to solely the development and production of textbooks and the training of more teachers.

Another problem with donor involvement in developing different donor projects has been the lack of co-ordination among donors and also between donors and the government. As a step in solving these problems, a meeting was held with these parties in 1995, the "Government Donor Review". It showed that donors in general were frustrated about lack of realistic policy goals and real decentralisation, and there was little consensus on issues.<sup>119</sup> The new government policies and documents of 1995 might have helped point out areas of concern. Donor efforts to co-ordinate programmes have been made in recent years and are still under way, first and foremost within the EU frame but also between European and North American countries. The Tanzanian government includes

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<sup>118</sup> Abuhashim Masudi 1995, "The Role of Donors and NGO:s in Primary Education", *Papers in Education and Development no.16*

<sup>119</sup> Mike Klernan 1995, "Review of Government-Donor Meetings on Primary Education", in *Papers in Educaiton and Development no.16*

donor participation in education policy documents, counting on continued contributions, since education depends on donors to a not insignificant extent.

If the perspective on education as a human right only vaguely is present in state policies, the same is also true for donors. These see support to education as steps towards meeting human needs, developing human resources, part of social development or possibly as a path towards empowerment for especially women and children. Co-ordination should also help formulate a common policy for the aims for providing primary education.

## **Discussion**

The Tanzanian education sector is under-funded. Although primary education takes a large part of the education budget, the allocated funds are not sufficient to cover costs for primary schooling. Parents contribute a large share of the means for recurrent expenditure. This is a step in the “cost-sharing” programmes demanded by the World Bank. Contributions from donors are crucial for upholding the education system, and counted on by the government. To increase the value of these contributions, there is however a need for increased efficiency in managing funds as well as transparency. Finally, certain groups claim that if a gender perspective was included already in budget work, this might ultimately lead to an improvement in the situation of girl pupils.

# 6 The Child's Right to Education in Tanzania

Many different actors influence the actual implementation of the right to primary education in Tanzania. Since the government remains the primary actor its role and doings will be investigated both at the national and international scene. None of the international instruments (see chapter 2) dealing with the issue make any exact statements on how the states should make reality of their obligations, as long as minimum standards are fulfilled. In addition the role of NGO:s is discussed here as these are important in both lobbying for and providing education, not the least on primary level.

## 6.1 Rights and Duties in the National Legal and Administrative Framework

The education system and rights to education are regulated in a number of documents as accounted for above. The current constitution of the URT spells out the right for everyone to pursue education up to any level he or she wishes (par. 11). This right does however not fall under the bill of rights and is not justiciable in court. The 1978 Education Act echoes the Constitution in paragraph 56, stating that "...every citizen of the URT shall be entitled to receive such category, nature and level of national education as his ability may permit him".

In 1995 a new Education Act (no. 10, 1995) was passed to amend existing provisions. It adjusted and modernised the education system to the more liberalised societal structure. One noteworthy amendment regards the offences regulated in paragraph 59. Offences may consist of maintaining and managing schools without permission, teaching without holding teacher's licence, imposing school fees not approved by the Commissioner. To these categories an anti-discrimination clause is added, prohibiting discrimination based on sex, creed, political persuasion or socio-economic status (par 59.j). It might seem these categories should have been evident already through earlier legislation and accession to international treaties. The provision is totally in line with international obligations on implementing the right to education. It can be asked whether the discrimination on socio-economic basis includes refusing to allow pupils to attend school because of non-payment of cost-sharing fees? If so the provision seems contrary to WB demands and national regulations.

The 1995 Act was followed by the Education and Training Policy Document the same year, laying out new policies for the education sector. The Education and Training Policy (ETP) sets out some 150 policy statements. It aims at liberalisation and privatisation with the objective of facilitating universal access to

education, all in line with liberal economic ideals. In this spirit, the policy emphasises creation of partnership and co-operation between the state and other providers of education and training. It calls for a widening of the financial resource base, decentralisation, quality control and assurance, broadening access and equity and improving the relevance of education for it to be effective in self employment. The 1995 Education and Training Policy specifically points out the importance in addressing special needs of girls. It also shows a presence of a rights perspective as it states that one of its goals is to “promote access and equity through making access to basic education available to all citizens as a basic right”.<sup>120</sup>

Related to these developments, the Education Sector Development Programme (EdSDP) was established in 1997, aiming at improving quality of and access to all types of education at all levels. It revolves around issues of systems, structures, management and administration, quality, access, participation, equity and finance, in short all aspects of the educational system regarded as problematic. Hence, the programme is an attempt to make a true overview of education, taking on a holistic approach in order to place each component of the education system in its context. The programme is supported by both international and bilateral donors.<sup>121</sup>

The most recent policy document, currently in use, is the Basic Education Master Plan of 1997 (BEMP). It constitutes the operationalisation of the earlier ETP and gives detailed instructions on the goals for education; goals that seem more realistic than those of earlier plans. As for outcome, government strives towards improving student performance and raising completion rates in PE to 80 per cent by 2002.<sup>122</sup> The BEMP points out the importance of viewing education sector in the broader framework, as an integral part of the government system, within for example different development and administrative programmes.

A novelty introduced by the BEMP is the flexibility regarding the educational sector. This is shown through an openness to private actors and the decentralisation of decision-making to local levels, which are also given responsibilities for textbooks and buildings and to alter curriculum according to regional needs. Decentralisation thus means a transfer of power to local levels, which will deal with more practical issues of primary education. The role of the MOEC also changes and the Ministry is to become more of a policy making and monitoring institution. The importance of alignment between these different administrative levels (national regional local) is strongly emphasised. The plan is further imbued with an efficiency discourse. Efficiency primarily applies to the use of already existing funds, but also the use of classrooms and teachers. The BEMP

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<sup>120</sup> Basic Statistics in Education, Data Analysis (1961-1997), MOEC, DSM, 1999 p 6

<sup>121</sup> Information from the Swedish Embassy of Tanzania. Available at <http://www.sida.se>

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<sup>122</sup> URT, *BEMP*, 1997, p 12

gives detailed guidelines in four main areas: improvement of equitable access, quality improvement, planning and management and finally teacher education and upgrading<sup>123</sup>. The gender differences have been noted and it is pointed out that they do not consist in enrolment differences but are related to performance. It is noted that the main reasons for gender differences are socio-cultural and economic factors, but a few government efforts are to be made to address the situation. Notably, a special fund shall be set up to provide a girls' scholarships scheme for secondary education.<sup>124</sup>

Work for changing and amending laws in the education sector is constantly underway at the Ministry of Education (MOEC). Normally proposals on changes are drafted by the MOEC and sent to MoJ for opinions.<sup>125</sup> At present, work concerns several aspects of the school system. These include overviews of the regulations on absenteeism from school and remedies therefore, possible punishment for teachers who will not let pupils attend class if they fail to pay school contributions, matters of registration and finally possibilities for change in the corporal punishment.

In November 1990 a new Ministry of Community Development, Women's Affairs and Children was established and a o given special responsibility for following up on the Declaration of the World Summit on Children. According to the official report on implementation of the CRC, Tanzania was able to ratify the convention in 1991 largely as a result of the work of the new Ministry. However, it has also been claimed that this new Ministry was created for appearance. It has been shut out from decision-making on crucial issues formally within its field. It has also obtained very little funding and the persons working within the MCDWC often lack either the interest or the power to achieve real change of the situation.

In addition, a gender co-ordinating unit (GCU) has been established within the MOEC. Its task is to co-ordinate gender issues, monitor gender activities in schools and conduct research. The unit is mainly sponsored by donors such as UNESCO and Sida, and carries out tasks on a project basis. The unit has no autonomy to criticise or change MOEC practises. It is not officially within the MOEC structure and is composed of ministry personnel who have other responsibilities within other departments.<sup>126</sup> Hence, this unit has not had a large impact on ministry work.

A summary of the above indicates that legal and structural changes of the mid-90's are of a serious nature, although the specific measures to address gender issues do not seem to have had a real impact.

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<sup>123</sup> URT, *BEMP*, 1997, pp 23-40

<sup>124</sup> *Ibid*, p 4

<sup>125</sup> The final draft would then be sent to the Cabinet, then to Parliament for voting. The final bill becomes operative through publication by the Minister.

<sup>126</sup> Stella Bendera in Heward and Bunwaree, p 126

## 6.2 National Reports and Policies

Following the 1990 World Summit on Children, Tanzania held a National Summit for Children in 1991. It was attended by members of the National Assembly, and adopted seven of the major goals of the international summit. Regarding education, goals were to achieve universal access to basic education and to reduce adult illiteracy with a focus on women.<sup>127</sup>

As a follow-up, the Minister of education in 1990 appointed a committee to work out suggestions for an improved education system for the 21<sup>st</sup> century. The committee's work resulted in a number of suggestions for a more effective schooling system. Of particular interest are the proposals for removing all gender biases in both learning materials and in access to school, along with general efforts to increase enrolment. As for funding it was recommended that the share of the education sector's budgetary allocation be increased from 12 % to 20 % by the year 2000 and further that the share for PE be increased, recommendations which have to a certain extent been followed so far. Finally, it was recommended the so-called cost-sharing measures should involve parents, communities and private participation to finance proposed extension of the education system.<sup>128</sup>

The Tanzania Education Institute and the MOEC conducted a curriculum review in 1997. It attempted to among other measures put gender and family life education in the formal education system. It also indicates that girls should be encouraged to study subjects that are more valuable regarding future employment opportunities, and that they are not "streamed" into traditional classes as earlier.<sup>129</sup>

Poverty eradication is a top priority on the political agenda in Tanzania, and education is acknowledged as a way out of poverty (of course this means that education itself has to be "rescued" from the effects of poverty). Two principal documents have been drafted suggesting measures to fight poverty, the Development Vision 2025 and Poverty Eradication Strategy 2015. Measures outlined in the Development Vision 2025 include "optimal mobilisation, utilisation and control of both local and international resources, greater democracy and more political maturity among Tanzanians for assurance of national peace, security and participatory development initiatives".<sup>130</sup>

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<sup>127</sup> Basic Statistics in Education, Data Analysis (1961-1997), MOEC, DSM, 1999, p 4

<sup>128</sup> Ibid, p 4

<sup>129</sup> Stella Bendera in Heward and Bunwaree, p 129

<sup>130</sup> MOEC, National Report, second Draft, November 1999: *Education for All: the 2000 Assessment*, <http://www2.unesco.org/wef/countryreports/tanzania/contents.html> 010503

These somewhat lofty and utopian goals are followed by an enumeration of specific measures for the education sector under the poverty agenda:

- ensuring the rights of all children to basic, good quality education
- equity by gender, and special programmes to enrol and retain girls in schools and colleges;
- public subsidies or loans for the poor children who cannot afford school fees;
- encouraging the private sector to be more active in the education sector;
- increased public allocation of more resources to the education sector;
- provision of life-skills to all children in schools;
- enhancement of greater community participation in education;
- strengthening adult literacy, numeracy, and writing skills.

So, these goals echo commitments made in ETP and BEMP, although adding a few utopian and seemingly impossible dimensions. The measures place high demands on the government and require a considerable amount of activity on its part. Just the first point mentioned above (ensuring primary education of good quality for all) requires both an enlargement of the existing school infrastructure as well as training more teachers and upgrading quality of existing teacher stock, both of which are costly. Although one of the goals is to increase public allocations, earlier reports have concluded that it is impossible for the revenue system to provide more funds. The drafters of the poverty reports have deviated from the earlier realistic goals of the ETP and BEMP.

The development of above-mentioned policies and evolution of education reforms, as well as the National Conferences on Education of 1991, 1993 and 1996, were followed by a number of advocacy workshops. It seems demands of international instruments and conferences have been considered and incorporated in the development of new government policies and a framework is established for the attainment of EFA goals and targets.

### **6.3 International Treaties and Government Reports to the UN**

Tanzania acceded to both the CESCPR and CCPR on June 10, 1976. The CRC was ratified as of 10 June 1991.<sup>131</sup> Many African countries do not submit reports to treaty monitoring bodies, as demanded by Conventions, in particular not to the Committee on the Rights of the Child, or states submit inadequate reports claiming that certain articles not are applicable in the African context.<sup>132</sup> This has conversely not been the case with Tanzania, which has submitted several reports and progress reports to monitoring bodies, albeit overdue and sometimes leaving out information or figures required. A reading of these reports provides an

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<sup>131</sup> Ratifying States Parties, see UNHCHR, <http://www.unhchr.ch/pdf/report.pdf> 000714

<sup>132</sup> Ncube, 1998, p 4

interesting although sometimes overly optimistic assessment of the situation of the supply of primary schooling in the country.

CEDAW was ratified in 1985 and Tanzania has submitted reports to the treaty monitoring body, the Committee. At the Committee's consideration of the progress reports in 1998, the Tanzanian representative informed about steps taken to inform the public of women's rights, notably the publication of a booklet on women's rights, and the translation of the Convention into Kiswahili. The representative also brought up the more advantageous climate for NGO:s which had led to positive effects on the spread of information of girl's and women's rights. Regarding education, the representative pointed at special measures taken to increase the participation of girls, but also that drop-out rates remained high and the share of girls in higher education remained low. The Committee in turn pointed out the need for continued work to reform laws to achieve equality, notably the inclusion of gender as a specific ground for discrimination in the Constitution. The committee stated that traditional practices and the multiplicity of laws hinders the advancement of women. Even where legislation is in place to ensure equality between women and men in Tanzania, women's human rights were often violated in reality. It also noted the problems associated with the prevailing stereotypical roles of women and men. Therefore constant revision of laws and especially their implementation was recommended.<sup>133</sup>

In 1999, Tanzania submitted an extensive report on the implementation of the CRC to the supervisory Committee. It managed to cover almost all aspects of the Convention and its incorporation in Tanzanian law and reality, in both mainland and on Zanzibar. The report notes that in recent years, it seems the child's right to education has witnessed erosion. It however also points out the recent efforts to improve the educational system, mainly through developing the ETP and BEMP (both of which aimed at creating harmonisation of all structures, plans and practices in education). The report concludes that work for improving the situation is underway and that the trend is positive, and that lack of resources is the major obstacle for implementation of the CRC.

Tanzania is also one of the many countries that set up a special supervisory organ, to facilitate reporting on national measures for the implementation of EFA goals, the National EFA Assessment Group.<sup>134</sup> The membership of this committee consists of senior officers from various government departments<sup>135</sup> and also representatives from institutions such as NGO:s, Teachers Trade Union, and other resource persons. The Tanzanian EFA goal was achieving UPE and an

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<sup>133</sup> Concluding Observations of the Committee on the Elimination of Discrimination against Women : United Republic of Tanzania. 06/07/98. A/53/38/Rev.1, paras.211-212. Available at: [www.unhchr.ch/tbs](http://www.unhchr.ch/tbs) 010503

<sup>134</sup> Reporting in accordance with par 8 of the GA resolution A/52/84 on Education for All.

<sup>135</sup> education and culture, vocational training, development planning, finance, social affairs, health, labour and youth, publicity and mass media, community development

enrolment of all school age children (seven year olds) by the year 2000 and further ensuring that 80% of these children complete the primary school cycle by the age of 15. This was to be realised by improving school infrastructure, facilities and human resources development. The EFA-committee submitted a report on the achievement of official government goals. The EFA-report claims that basic educational opportunities have been expanded in the last ten years, probably referring to the natural rise in the number of teachers and facilities; which does however not match population growth. The problems identified regarding the primary education system includes variations in regional enrolment patterns, shortage of essential resources, irrelevant curriculum, late school enrolment, and lack of qualified teachers. These shortages are countered by very detailed provisions on how the system will be improved; i a through the procurement of 5 000 new classrooms by 2000/01, upgrading all B/C-grade teachers to A-level, double shift teaching in urban schools etc.<sup>136</sup>

The report continues with saying that “ [T]he EFA 2000 Assessment exercise in Tanzania has shown quite clearly that the government has been striving to achieve EFA goals. The government has put in place several measures and used various strategies to accomplish the commitments.” The document however also acknowledges that although government and its partners have managed to set in motion processes of addressing challenges facing basic education and training, the progress towards EFA has been much slower than anticipated. Economic problems are cited as the reasons for the slow attainment of goals (implementation of the SAP, debt servicing and problems facing the national economy).

Thus, judging from the above account, the Tanzanian leadership is committed to changing the negative trends in education. Reports to national organs as well as international bodies acknowledge difficulties in implementing a right to education for all children, which are mainly blamed on economic constraints, but point out all the work constantly carried out in the sector. Goals set out several of the major reports remain utopian. It should be asked whether policy makers have an accurate perception of the situation, when setting out goals to make sure that all children of relevant age be in primary school by the year 2000. And yet, as seen earlier, almost half of the children in the relevant age group are out of school.

## **6.4 Policies to Assist Girls' Participation in Education**

Government documents and efforts of the past decade show an awareness of gender issues and include commitments to changing the inequalities in primary education. Special commitment has been expressed at international conferences such as the 1995 Beijing Conference on Women.

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<sup>136</sup> URT, MOEC report, 1999, *Education for All: the 2000 Assessment*, paragraph 2.2

During the Beijing conference, several commitments were made in the speech by the Tanzanian representative, aiming at the realisation of the goals set out in the Beijing platform for action. Regarding education, these aimed at achieving a number of goals by the year 2000: increased pre-school enrolment from 2% to 50%, increased primary school enrolment from 18% to 100%, increase primary school completion to 80%, reduce illiteracy rate by 50% and eliminate gender disparities in education system.<sup>137</sup>

A practical example of recent legal reform is the slightly improved situation for young mothers. Teenage mothers who are in their final years of primary school when they became pregnant, may study at home and will be allowed to take exams at school. This measure should be of little influence in practice. Its effectiveness presupposes making it widely known in schools and society in general. Still, social structures would make it difficult to realise the scheme, especially since the girl's workload at home is too heavy to allow for extra studies.

There are of course alternatives to public education for providing formal basic education. To mention but one example, volunteer programs have been organised by the Peace Corps in collaboration with the Ministry of Education. These programs "are having a major impact on the lives of girls through sports, girls' clubs, workshops, and by generally modelling a love for math and science."<sup>138</sup> The latter have been emphasised for their importance for labour market opportunities. These voluntary programs must not be seen as a substitute for governmental responsibility.

One of the major programmes in Tanzania to further girls' education is the Complementary Education Programme, COBET, set up by Unicef in co-operation with the MOEC. Unicef policy is to view education as a right, and so the basis for this programme is a rights perspective. The COBET is part of BEMP, and its curriculum was developed by experts from various national educational organs.<sup>139</sup> COBET aims at giving a second chance to orphans and children of single parents, especially girls who for one reason or other could not continue with formal education. The COBET philosophy differs from national PE standards on a few counts: no fees, no uniforms and no caning (discipline is supposed to be enforced through peer education). Pupils take reading, writing and math but also do classes of life skills, civics and lessons in personality enhancement. Enrolment is voluntary and the children decide when to start studying and when to end. The children have been divided into two cohorts: those aged between 8 -13 years old and

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<sup>137</sup> UN Womenwatch, <http://www.un.org/womenwatch/world/africa/afcommit.htm#> 010607

<sup>138</sup> as pointed out at the women's conference in Beijing by working group member from Tanzania <http://www.un.org/womenwatch/forum/index.html> 010607

<sup>139</sup> MOEC, the Tanzania Institute of Education (TIE), the Institute of Adult Education (IAE), the University of Dar es Salaam (UDSM) and the national Examinations Commission of Tanzania (NECTA).

those in the 14 -18 bracket. The COBET curriculum has been compressed to fit into just a three-year period after which the children qualify for entry examinations into secondary schools just like those who went through the seven-year period of primary education. Unfortunately, the COBET programme is only operating in two regions of the country. Further, although the programme has been deemed successful, it is rather unfair to compare it to national primary education which does not have the same resources at its disposal. Likewise, it is feared that the programme will break down as soon as donors decide to leave. COBET does however give a second chance to many children and can serve as a model for the national system when it comes to policy goals such as the corporal punishment and schoolgirl pregnancy.

## **6.5 Political Will**

Governmental and presidential speeches show commitment to raising levels of quality and enrolment in education. Political speeches and statements are however often filled with empty, crowd-pleasing rhetoric. The official commitment to better education has, as demonstrated above, been expressed through national conferences and reforms of the education sector in the mid-1990s as well as other action in recent years. One example is the president's meeting in 1999 with a group of pupils, representatives for different primary schools, for discussing matters of importance to pupils. These children put forward demands that a number of problems be addressed regarding school environment. The top three of the listed problems included school fees/contributions for various purposes, further, beating and corporal punishment in schools and finally other mistreatment by adults in society in general. It can of course be asked to what extent such meetings are orchestrated by school representatives and government officials. It can be claimed that meetings of the kind merely are set up for creating presidential goodwill and legitimacy among the electorate, while at the same time as highlighting areas in need to the international donor community. Regardless of the stand taken, the above-mentioned meeting unarguably pointed out and made public a few of the most salient issues of the education system.

It has been alleged that education no longer is a priority of the political agenda. Recent reforms, reviews of laws, policy formulations by different committees as well as reports do nonetheless show interest in improving the educational system and providing primary education for all. Likewise, the president recently expressed that the education sector was to be one of the areas emphasised in the coming years. Then again, previous efforts have not yet had much of an impact in practice, since lofty goals seem to remain declarations of intent rather than actual steering guidelines. Provision of primary education remains unsatisfactory on many counts. One of the problems is the growing number of school-age children in the relevant age group and lack of school places. Taking the example of Dar-es-Salaam, for the school year of 2001, many schools experienced demands on enrolment of children that was twice the number of school places. In Tabata

Primary School, almost 900 children came to enrol for Standard I, but capacity was limited to some 300 pupils. Head teachers were forced to decide on different selection criteria, thus leaving out the majority of potential pupils.

## 6.6 NGO Involvement

NGO:s are playing an increasingly important role in politics and society in general. It should be borne in mind that the term NGO can encompass various types of actors, ranging from international organisations to just small scale projects initiated by one person. In 1993 more than half of the WB:s funding to Africa was channelled through NGO:s.<sup>140</sup>

This increased funding of course strengthens the influence and power of the organisations in question. It is important that NGO:s have a say in the decision making processes since these organisations often are active on a grassroots level and therefore able to assess the salient and immediate needs of the population of a certain region, class etc. On the other hand, it might be dangerous to strengthen NGO:s if at the expense of governments. In many third world countries, state structures are already weak and it can therefore be argued that sponsoring NGO:s undermines the role and power of the state. NGO:s can further be criticised for having short-term objectives and since there is no supervisory organ there is no way to hold organisations responsible for failures, as is the case with the elected government.

Yet, the Tanzanian NGO community has been virtually exploding in recent years. An ever increasing number of organisations are set up not the least for advocating women's and children's rights. Some of the larger and also among the most important for the purpose of this study comprise the Kuleana Child's Rights Centre, Tanzania Gender Network Programme (TGNP), Tanzania Media Women's Association and Forum for African Women Educationalists (FAWE) and UMATI that provides education for young mothers. Resources are scarce and most NGO work depends on efforts by the people involved. Projects will often remain on a very small-scale level if external actors cannot sponsor work. Organisations receive funding from international donors and through bilateral aid. NGO work ranges from putting certain issues on the political agenda, raising awareness on issues in society, to practical work. For the education sector this can mean improving quality in existing schools through providing written material.

Occasionally, NGO:s will co-operate with ministries to carry out research on topics within its field. In Tanzania as in most other countries there is a flow back and forth of people involved in one particular issue, from professional occupation, to academic work, to a government position, to NGO involvement. It has been alleged that people who enter in the civil service, for example ministry positions,

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<sup>140</sup> Heward and Bunwaree (eds), 1999, p 4

tend to be more moderate in their claims than while still in NGO advocacy, since they do not dare stick out their necks. It should be noted that many NGO:s are set up by women. This is one of the few avenues that can be used for putting forward female claims to equality in education, as women are under-represented at central and local government levels, in educational administration and at school level. NGO:s are also important merely as a means for interaction. In Tanzania, men can socialise in bars, at sports events and other meeting places which serve as opportunities to discuss questions considered important. Since women traditionally have not been moving around as much, organisations permit them to share experiences and exchange ideas.

## **Discussion**

Recent changes in the education sector show efforts to change the primary education system to the better. However, reports to international bodies as well as national reports make an overly optimistic assessment of the current situation, which will become ever more strained taking the demographic change into account. There is today a disparity between the actual situation and official goals and statements by leading politicians. An example would be the policy statements for improving the situation of girls, which so far have resulted in few real measures, rather insignificant in practice. NGO's are putting more pressure on political decision-makers in notably the areas of children's and women's rights.

# 7 Primary Education and Impediments at Societal Level

The above chapters have accounted for structural factors influencing outcomes in primary education. This section will deal with different societal factors hampering primary schooling. These are of both an economic and socio-cultural nature, and can be viewed at both structural and individual levels.

## 7.1 Obstacles to Schooling – Costs

### 7.1.1 Poverty

It has been argued that poverty *per se* would not be a factor influencing gender inequalities. Poverty would influence enrolment levels for all school children, whereas gender inequalities mainly are due to cultural and social norms. These do not automatically change when income increases.<sup>141</sup> These views can be said to be supported by the existing statistics, which do not show any differences in numbers of enrolments with regard to gender. However, most researchers and interviewees agree that poverty does affect gender balances. When a family with limited means can send only one child to school, they will choose the boy. Girls will be married off to a new family and their education is a “bad investment”, and girls are further in some areas viewed as less intelligent than boys. This line of argument seems to be more influential in persistence/drop-out throughout schooling.

### 7.1.2 Direct Costs

To reiterate a few points of previous chapters, primary education is according to UN conventions and regional instruments, supposed to be provided for by the government and be available free of charge. This is however not the case in Tanzania where “cost-sharing” is applied to primary education in accordance with SAP:s. Cost-sharing means in practice that parents pay a certain sum for each student. World Bank research suggests that parents’ contributions might actually amount to about one third of total national primary school expenditure.<sup>142</sup>

Parents are expected to pay school fees - also called “desk fees” and “maintenance fees” - to the school principal/head teacher at the beginning of each school year (in January), covering for example textbooks, exercise books and desks. The official enrolment fees are set by the government and this official fee

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<sup>141</sup> Colclough et al, 1998, p 25

<sup>142</sup> WB 1997, as quoted in Stella Bendera, 1999, in Heward and Bunwaree, p 124

per pupil was recently increased, today amounting to 2 000 TSh.<sup>143</sup> Informal fees, covering buildings, sports equipment and school supplies as chalks etc, have also risen the last decade at the local, school level. At the same time, real incomes have fallen the last two decades, thus adding to difficulties for parents in putting their children in school. Desk fees in 1993 ranged from T.Sh. 1,580 to 18,500 per year, with an average of 4,700.<sup>144</sup>

School uniforms are a requirement in schools throughout the education system, from primary schools up to students at Teacher Training Colleges (although not at university). It is on average the largest expense parents have to pay for their children, normally some T.Sh. 3,000 to 3,500 which could vary a lot between regions. There is of course a market for second hand school uniforms where clothes can be found at lower prices. The term “school uniform” at primary school level does not refer to a special type of uniform but to a norm set by the local school how students should be dressed, often consisting of dark-blue shorts/skirts and white shirts. The uniform seems to be another part of the school system introduced under British rule and still kept. It seems unclear whether the school uniform-requirement is actually decreed by the government or merely a norm upheld by the individual schools out of tradition. Researchers have claimed that it is not a formal requirement although teachers believe its existence is expressed in national regulations.<sup>145</sup>

### 7.1.3 Indirect Costs

Although direct costs might seem high, especially for single parents or households with one sick parent, it seems that indirect costs (“opportunity costs”) in general actually are a greater obstacle for especially girls in attending school. Many families cannot survive without the income of their children. Children help with household work within the compound, food production and taking care of animals. Example is given by a study carried out in Dar-es-Salaam, Shinyanga and Arusha, which shows that most of the out-of-school children aged 5-10 were herding cattle.<sup>146</sup>

The tasks and thus the opportunity costs however differ for girls and boys. Studies in different African countries reveal that girls mainly work in the home, whereas boys either work on the family farm/other farm or engage in petty trade or other cash earning activities.<sup>147</sup> The boys’ work is mostly seasonal, whereas the girl might be permanently needed to help in the household. This implicates that

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<sup>143</sup> kuleana, 1999, p 128

<sup>144</sup> Peasgood, 1997, p 25

<sup>145</sup> Ibid, p 25

<sup>146</sup> Makusi et al(1990) quoted in Peasgood, T, p 26

<sup>147</sup> See Peasgood, T, 1997, p 52. For further discussion on the same topic regarding Ethiopia and Guinea, see Colclough et al (1998) p 16 f.

boys' education tends to have a lower overall opportunity cost than that of girls, although boys earn more per hour than girls do.<sup>148</sup>

## **7.2 Obstacles - Related to Schools and Infrastructure**

### **7.2.1 Enrolment**

The official age for enrolment in primary school is seven years. This requirement is however not adhered to strictly by parents for different reasons, despite the possibility of incarceration in case of breaches. Some parents do not want to enrol their children until a younger sister or brother is old enough to take over their tasks at home, such as looking after the younger children, cattle herding, collecting firewood etc. Some parents enrol their children later, so that they are old enough to leave home and seek employment once they have finished school. In some parts of the country girls are enrolled at a younger age than boys because of parental fear that they mature, and risk getting pregnant if they are sent to school after puberty.<sup>149</sup> Of the personnel interviewed for this study, most claimed that the main obstacle for enrolment was lack of money – parents may need an extra year to try to save up money, which is why many children are enrolled at the age of eight to nine. Other studies show that cost-sharing policy is one of the main reasons for keeping children out of school.<sup>150</sup>

### **7.2.2 Schools**

After the extensive UPE-drive, school buildings and facilities have deteriorated. Sometimes teachers are forced to move classes outdoors, holding classes under a tree. Most schools do not have enough toilets, which is more of a problem for girls than boys, especially during menstruation when some girls are taken out of school altogether.<sup>151</sup>

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<sup>148</sup> Peasgood, T, 1997, p 57

<sup>149</sup> Ibid, 1997, p 17-18

<sup>150</sup> see a.o. Tessa Peasgood et al, 1997, and the report by kuleana.

<sup>151</sup> Peasgood, T, 1997, p 21

Physical facilities is one of the major problems, and a government estimate shows the following shortages:

Table 1: Facilities of Schools

| Facilities       | Shortages |
|------------------|-----------|
| Classrooms       | 38,122    |
| Teachers' Houses | 87,117    |
| Toilets          | 106,795   |
| Desks            | 851,290   |
| Tables           | 119,879   |
| Chairs           | 135,223   |
| Cupboards        | 90,940    |

Source: Best 1997 Regional Data.

The teacher/pupil ratio in Tanzania recommended by national regulations is 1:45 (one teacher to 45 pupils). This rate is seldom achieved, classes can have up to one hundred pupils, and the actual average size of class reached 88 pupils in 1996. The teacher/pupil ratio is affected by factors such as teaching-learning environment, community rate of literacy, community economic base, and other factors such as health (e.g. HIV/AIDS status), business trend etc.<sup>152</sup>

School books and learning material is produced and supplied by the MOEC. They are however not at all sufficient and there are often only some ten books per class.

Schools are often at a rather long walking distance from pupils' homes, a fact which might create an obstacle difficult to overcome and hitting girls extra hard. In rural areas children may have to walk from half an hour to one hour to and from school. Since school starts early in the morning, usually 7 am, this means getting up before sunrise. Pupils furthermore risk being harassed on the way to or from school.

School days start with cleaning the schoolyard and a thorough inspection of nails and hands, and then continue with various classes until around 3 o'clock in the afternoon. These long school days often pass without food. Yet nutrition is of course vital to efficient learning. Some teachers argue that it is better not to have a canteen in schools, since it would only make class differences more visible in schools when some pupils can afford to pay for lunch while others can not. Children who have the possibility sometimes bring fruits or vegetables from home to fight off hunger. The role of nutrition in educational achievements has been

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<sup>152</sup> URT, MOEC report, 1999, *Education for All: the 2000 assessment*, par 7.2.7

noted in government reports, which claims efforts to reduce child mortality and improve children's nutritional status.<sup>153</sup> It has been argued that nutrition and health could be viewed as integral part in the factual realisation of the right to primary education.<sup>154</sup>

### **7.2.3 Teachers**

Teachers can be one of the greatest assets but also greatest disappointments of schools. They account for a large part of the quality-side in education. Today the percentage of teachers classified as grade A teachers (holding a degree from a TTC) is too small, merely amounting to some 30-45 per cent. The Education and Training Policy of 1995 requires all primary school teachers to have a minimum of Grade A certificate by 2003/04. The strategic objective is to upgrade all Grade B/C teachers to Grade A by 2003/04. Those proven to be unable to upgrade themselves, regardless of assistance provided shall be encouraged to retire voluntarily.<sup>155</sup> The current situation means that most teachers have little more than primary education themselves. Many do not have any pedagogical training but still try to pass on the knowledge they have.

Teachers' salaries are very low, often too low to make a living on. Many teachers therefore take extra work outside of schools, growing their food, driving taxis and giving private lessons. Sometimes they are even absent from their regular work for this reason. A majority of all teachers are men. It is however important for young children to have role-models of both sexes, especially for girls, who might already be discouraged about their prospects and often see the only future as becoming somebody's wife.

## **7.3 Other Obstacles to Primary Education**

Socio-economic factors play a big role in children's education. These factors influence both the opportunity of parents to send children to school as well as how education is valued.<sup>156</sup>

### **7.3.1 Women's Status in a Patriarchal Society**

Societal values and "peer pressure" are influential in decisions of families regarding education of their offspring. The status of women in society in general should be linked to whether girls get education or not.

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<sup>153</sup> URT, MOEC report, 1999, *Education for All: the 2000 assessment*, par 7.2.7

<sup>154</sup> Lynch, James, 1997. *Education and Development: A Human Rights Analysis*. p 17 f

<sup>155</sup> MOEC, BSE, 1999

<sup>156</sup> Peasgood, 1997, p 70 f

First of all, when it comes to legal rights Tanzanian women have less favourable standing in society overall than men (cf “Legal System” above). This shows i a in family laws: married women do not have inheritance rights upon the death of their husbands and they only enjoy the use of property by virtue of their male children. If a woman has no children, she is accorded very limited rights. Unmarried daughters also suffer from similar problems since they have no full inheritance rights to family property, compared to their brothers.<sup>157</sup> In some regions (mainly rural areas), girls and women are considered as property as they are bought through a bride price, and if their husbands die they may be inherited by his brothers.<sup>158</sup> Women’s subordination and lack of rights also shines through in a high rate of domestic violence. Research on High Court cases has shown 70 known cases of women killed by their husbands between 1992 and 1996.<sup>159</sup>

However, the role of the man as the head of the household is changing. This is among other things an effect of women’s increasing economic independence through small-scale business and petty trade (see below). It might also be an effect of growing urbanisation, and the spread of the notion that women and men actually are equal under the constitution.<sup>160</sup> This has resulted in the father withdrawing from his family duties, spending more time away from the home, which has become more culturally acceptable. He also tends to spend “his” money on eating out (which was earlier considered as shameful), on drinking and on prostitutes.<sup>161</sup> Thus, in the end, the extra income the woman may produce does not contribute to a higher standard of living for the household or to increased possibilities for children to be sent to school.

Still, although society and traditional patterns may be altering, change is slow. Girls are still socialised to believe that they are inferior to men and cut out for different roles than men, from their birth, shining through e g in the lullaby sung to children conveying different messages depending on the sex of the child.<sup>162</sup> In many regions there is a very clear hierarchy within the family – the father is the head of the family, followed by the mother, then the sons, and at the bottom the daughters are found, doing the chores that are not “appropriate” for their brothers to do such as collecting firewood, cutting grass for making baskets etc<sup>163</sup>.

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<sup>157</sup> Tanzanian report on the CRC, <http://www.unhchr.ch/tbs/doc.nsf> 010503

<sup>158</sup> Mabala, Richard and S.R. Kamazima, 1995. *The Girl Child in Tanzania. Today’s Girl, Tomorrow’s Woman. A Research Report*, p 89-90

<sup>159</sup> TAMWA, 1997, quoted in Hweard and Bunwaree, p 127

<sup>160</sup> Mabala and Kamazima, 1995, p 88

<sup>161</sup> Ibid, p 28 f

<sup>162</sup> Ibid, p 21

<sup>163</sup> Ibid, p 31

### 7.3.2 Access to Labour Market

Women have less access than men to employment in the formal sector, which is the largest employer for the educated share of the population. Only 4.4 per cent of the women are engaged in paid work, compared to 12.6 per cent of the men.<sup>164</sup> Female wages are typically 60 to 70 percent of those paid to men.<sup>165</sup>

However, women's working status is changing. They are increasingly active in the informal sector, running beer clubs and restaurants. This new enlarged economic independence of women has several different implications for family life. Although female confidence and acceptance of working women is strengthened in society, working for cash income might implicate that men neglect their family responsibilities keeping their "own" income to themselves, and also that girls must take over more household tasks, thus further impairing their possibilities for education.<sup>166</sup>

### 7.3.3 Marriage

The official minimum age for marriage is eighteen years. This legislation is however not truly supervised or enforced and therefore age of marriage will mainly depend on ethnic group. Thus, among the Haya the age of marriage is about 16 years, and among some coastal groups girls could be married as early as at 14 years of age.<sup>167</sup>

In the patrilineal society, girls' /women's status is changed through marriage. She is then expected to give up ties with her "old" family and instead be taken up into the "new" family. Therefore, daughters are only of any "use" to her parents until the time she is given away in marriage, when her father also gets a dowry/bride price from the future husband<sup>168</sup>. Paying for the education of daughters can therefore be seen as investing in someone else's family. This fact becomes particularly clear when education of girls actually affects the bride price in the negative: spending time in school impedes her learning how to cater for a family and the household, and educated women are also likely to be less obedient to their husbands.

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<sup>164</sup> Peasgood, 1997, p 28

<sup>165</sup> Nelly Stromquist, 1999 "The Impact of SAP:s in Africa and Latin America", in Heward and Bunwaree, p 18

<sup>166</sup> Peasgood, 1997, p 53

<sup>167</sup> Ibid, p 51

<sup>168</sup> Ibid, p 52

### 7.3.4 Initiation Ceremonies

Initiation (Kiswahili “Kunemwa”) is carried out in many Tanzanian regions, but not all. It has notably been perpetuated in Muslim parts of the country, where traditions are stronger than in Christian areas. Initiation takes place at the onset of puberty, and is supposed to mark the point of entry into adulthood. The rites are different for the two sexes. Girls are mainly prepared for family life; how to take care of themselves during menstruation, to work hard and to respect the elders, to be obedient and submissive wives. Boys are rather taught to conform to the society they live in, to respect the elder and self-defence.<sup>169</sup> Thus the initiation rites perpetuates gender stereotypes and roles. A strong reason for not giving up the ceremonies is that they are expected to perpetuate norms that build up a stable society. However, one of the effects of the ceremony is that girls are given the impression that future expectations are to become a wife and a mother. Therefore female pupils might not see any reason for staying in school, but drop out (in cases where girls have a choice in the first place). In some societies it is furthermore considered to be shameful for girls to return to schools after initiation.<sup>170</sup>

### 7.3.5 Class, Tribe and Region

The notion of class varies between countries and can be defined in several different ways within one setting. Class is a factor influencing choices at in many aspects of peoples’ lives. This is one of the reasons why feminist theorists recently have under critique, concentrating exclusively on gender and thereby leaving out other possible explanatory factors to social problems that might be just as important. Women should further not be treated as a homogenous group and therefore in some cases a factor such as class might be more influential for discrimination than gender. The latter argument has been put forward by researchers at the UDSM, claiming that that social class is the most influential factor when it comes to enrolment and persistence of pupils in primary school. Higher classes are believed to first of all afford education for all their children, and secondly to see the importance of finishing primary and secondary education, thus providing quality of life and greater prospects for both sons and daughters.

One way to define class is through level of education. This implies that educational levels of parents are of importance when it comes to enrolment of children in school. It also seems that especially the educational level of fathers have a large impact on decisions whether to send girls to school or not.<sup>171</sup> This is due to the fact the father is the head of the family, and usually takes the ultimate decision over his children’s futures. Studying households and their decisions means

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<sup>169</sup> Peasgood, 1997, p 151

<sup>170</sup> Colclough et al, 1998, p 22

<sup>171</sup> Mbilinyi, 1973, quoted in Carr-Hill, p 25

entering the private sphere and is usually not an easy task. However, some household data does exist in Tanzania. One study of income and educational levels of parents shows that male-headed households spend 66 % less than female-headed ones on children in primary school.<sup>172</sup> It is also suggested that an educated mother has a higher “bargaining power”, meaning that the household will to a larger extent prioritise children’s education.

Tribe is an important factor for self-identification in Tanzania. Tribe might be defined and investigated along regional divisions, which would however probably not give an accurate result since movement is becoming more common. Class seems to be a more important factor when it comes to impact on decisions for education than tribe. One exception to the rule would be the Maasai, the nomad people of northern Tanzania. They are more close-knit than most other tribes and prevailing values seem hard to change. As they are often moving around their children are denied education.

Moreover, regions shows very different educational patterns. Net enrolments vary from some 40 per cent of the children (Kagera) up to 75 per cent (Kilimanjaro).<sup>173</sup> These trends normally follow metropolitan areas vs rural areas. Pupils in urban areas in general perform better than those living in rural areas. However, boys in rural areas manage to outshine girls in urban areas. To help this negative trend, pupils of urban areas have been selected to higher studies through special quotas. These quotas have recently been under discussion and might be about to be abolished. If so, the result is likely to be that no pupils from the regions along the coast (now sending one or two students to secondary education thanks to quotas) will have the chance to get higher education.<sup>174</sup>

### **7.3.6 Impact of Religion**

Religious affiliation seems to have some impact on schooling. Enrolment rates are usually higher for children whose families confess to Christianity or Islam, which might be due to the fact that literacy is highly appreciated in these faiths. Also, missionaries have made investments in schools, further emphasising the importance of formal education as well as providing it.

### **7.3.7 Pregnancy and Expulsion from Schools**

Parents worry that daughters get pregnant while in school, which is one reason why girls are not allowed to continue schooling after initiation/puberty. This fear is however ungrounded in practice; in regions where education for girls is stressed,

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<sup>172</sup> Stella Bendera, 1999, ”Promoting Education for Girls in Tanzania” p 117 in Heward and Bunwaree

<sup>173</sup> URT, BEMP, 1997, p 3

<sup>174</sup> Information from Marjorie Mbilinyi, November 2000

there are fewer teenage pregnancies.<sup>175</sup> In some societies it is considered as very shameful to have an unmarried, pregnant daughter.<sup>176</sup> Daughters are sometimes thrown out of home when pregnancy is found out.

The expulsion of pregnant school-girls cannot be found in the national legislation (the Education Act), but supposedly in national regulations.<sup>177</sup> The practice has also been expressed in a directive from the MOEC, and since the practice has been cemented by educators it continues to be upheld. According to recent statement by the MOEC, work is underway to ensure schooling for pregnant girls. It does not seem to have had effect yet.

Pregnancy has in one research study been cited by school-girls as the largest problem by far in schooling. Pregnant school-girls are through practice expelled from school. According to the MOEC, some three thousand girls are expelled from school every year. The number of girls leaving school because of pregnancy is likely to be much higher, since girls often prefer dropping out giving other reasons. In the primary schools visited for this study, there were allegedly a couple of cases every year or every two years. One earlier study suggests 3.5 pregnancies per primary school per annum. This would mean that the actual number of girls expelled is some 40,000 pregnancies per year, or thirteen times larger than the official record. The fact that girls become pregnant while still of school-age is due to the early onset of sexual activity (often linked to initiation) as well as a hitherto rather low use of contraceptives.<sup>178</sup>

According to the penal code a person can be held responsible for impeding a pupils access to school. This does not only include parents refusing to send their children to school, but can also be applied on boys/men making a schoolgirl pregnant. Sometimes girls are forced to give the name of the man in question, but there is no follow-up and supposedly no man has so far been convicted on this count. It has been suggested that also schoolboys causing pregnancy should be expelled.<sup>179</sup> Such a course of events would however only deny an even larger number of pupils their right to education. According to the penal code it is also forbidden to engage in sexual activity with any pupil still in school. This would include pupils up to Form I, that is at the age of 18 given that the pupil started school at the age of seven.

Sometimes the girl takes up her studies at a different school after giving birth to the child, which is however not common practice. An alternative way to education is offered by the NGO called UMATI. It gives girls who dropped out of school

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<sup>175</sup> Mabala and Kamazima, 1995, p 69

<sup>176</sup> Colclough et al, 1998, p 21

<sup>177</sup> see a o URT report on the CRC, par 319.f. The regulation in question seems difficult to find and its existence has been questioned, although it is here taken as a fact that such a document does exist.

<sup>178</sup> kuleana, 1999, p 57-58

<sup>179</sup> Ibid, p 60

because of pregnancy a chance to complete their primary education and also learn life skills. UMATI today only exists in Iringa and Dar. Several other NGO efforts with the same goal have been made, but they are only to be found in urban areas and are still too scarce to fill the actual need.

Thus, schoolgirl pregnancy and ensuing expulsion victimises girls in many ways. First, the girl is socially stigmatised, sometimes cast off by her parents, and loses her status in society; further, she is denied the right to primary education as stated in the international instruments and at national level.

### **7.3.8 Sexual Harassment**

Sexual harassment has in surveys been cited as the second most important problem for girls in school. Girls are harassed by both teachers and boys. Research suggests that misuse of teacher power is widespread – girls risk getting low grades, humiliation or corporal punishment if they refuse to respond to teachers' suggestions. The majority of harassment cases pass without any consequences. Even if boys or men are reported they will not suffer any real sanctions, normally only a warning or threat of suspension if harassment is repeated. The most flagrant case is the rape of a school-girl, where the teacher was merely transferred to another school.<sup>180</sup>

### **7.3.9 Corporal Punishment**

The corporal punishment is regulated in the 1978 Education Circular regarding the Use of Corporal Punishment in schools. The act only allows punishment to a very limited extent, which is not at all adhered to in practice. On the contrary, teachers carry sticks in class and these are even depicted in textbooks. Several child's rights advocates and NGO's have rather successfully lobbied against the corporal punishment, at least managing to put the issue on the agenda. Punishment has in fact been abolished at certain schools. This is not an effect of legal acts but of ground-level discussions among parents and teachers. The practice is probably upheld through habitude, many teachers express fear that pupils will not concentrate or obey orders if not under threat of punishment.

### **7.3.10 Impact of HIV/AIDS**

HIV/AIDS is a factor changing society in most countries in SSA. According to a UNAIDS estimate there were about 667,000 orphans alive and under the age of 15 in Tanzania in the end of 1999, who had lost their mother or both their parents

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<sup>180</sup> kuleana, 1999, p 56-57

to AIDS.<sup>181</sup> Even if children are not contaminated or suffer effects of the disease themselves, they are required to stay at home and care for sick family members. This includes providing food and subsistence for the family. Of the many orphans a large part end up at the streets, spending their time trying to survive and not going to school. In the extended African family most orphans will be cared for by a relative. Children are required to contribute to their own livelihood and might not be allowed to school. These are only a few of the possible consequences of HIV/AIDS on the education of school-aged children and the disease clearly leaves an impact also on primary education.

### **7.3.11 “Returns to Schooling”**

Again it is here pointed out that talking about “returns” or outcomes of education usually is an argument used in a macroeconomic discourse. Here the terms signify outcomes or results for the individual child after completion of PE. These are clearly different for girls and boys. All pupils should however leave school with a basic knowledge in reading and writing as well as mathematics. Acquirement of such skills is a measure of quality in education. School might actually be “deskilling” pupils if time in school is not spent adequately, because children miss knowledge they might have acquired at home; local life-skills.

## **Discussion**

The above account has named several explanatory factors in order to determine underlying reasons for girls’ lesser educational output. The list could in all likelihood be completed with several more factors. There is no single, decisive factor explaining why girls get less education than boys. Many factors are difficult to distinguish from others and many work as catalysts for others. One of the main obstacles is the traditionally subordinate status of girls and women in society, resulting in girls’ education not being taken seriously. This reasoning also affects family spending on daughters’ schooling. Direct costs constitute another of the main reasons why parents do not manage to send their children to school, although indirect costs may be important for notably the poorest families. There are a few things that could easily be changed within the frame of the school system itself. These are the problems caused by the expulsion of pregnant school-girls as well as the use of corporal punishment in classrooms, both of which constitute breaches against international law.

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<sup>181</sup>UNAIDS, [www.unaids.org/hivaidsinfo/statistics/june00/fact\\_sheets/pdfs/tanzania.pdf](http://www.unaids.org/hivaidsinfo/statistics/june00/fact_sheets/pdfs/tanzania.pdf)  
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# 8 Implementing the Human Rights perspective on Primary Education in Tanzania

## 8.1 Children's Rights as Human Rights

As in many other states, the education sector in Tanzania has not been guided by the view on primary education as a right that must be granted to each child in the relevant age group (7-14 years in this case). The right to education is one of the few human rights that encompasses not only rights to but also a duty to participate for the rights holder. Accordingly, there is a duty under Tanzanian law (Education Act par 35) of parents to send children to school as well as duties of children to attend class, that are enforceable through national regulations. Under the constitution there does however not exist any justiciable right to education, nor under laws or regulations, not even to primary education as provided in the human rights instruments ratified by the URT.

Many earlier efforts to raise child's rights issues have seen these rights from a charity or developmental perspective. Conversely, the point of departure of the CRC is the rights perspective, which is upheld through the work of the treaty monitoring body. When viewing the right to primary education from the perspective of children, the inherent paradox of children's right becomes clear. This paradox is that children are entitled to enjoy certain rights and are to be protected against harmful practices as expressed in human rights instruments, while at the same time not enjoying legal capacity before any judicial body. They have so far been seen as "legal objects rather than subjects".<sup>182</sup>

The family is the key unit in African society, notably pointed out in the ACC (*i a* art 18) and so, the family might be the major violator as well as the protector of children's rights. Normally human rights provisions aim at protecting individuals against violations by the state in the public sphere, and they therefore traditionally deal very little with breaches in the private sphere, such as violence against women and children. Efforts to instil respect for children's rights must however be directed towards both the public and private spheres. Again drawing on thoughts of rights and cultural contexts, it has been claimed that arguing for children's rights is particularly difficult within the African context. The culture does not see children as individuals with voices and rightful demands of their own. Individual child's rights would be contrary to the idea that children have uncompromising obligations and duties towards their parents, the elders of the community and ancestors. The child's primary obligations are instead towards contributing to the

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<sup>182</sup> Ncube, 1998, p 16

livelihood of the family, which cannot be waved on grounds of rights claims, for example to education. Child's rights advocates have therefore often been met with distrust, as importers of Western ideals and culture.

## **8.2 Avenues for Ensuring a Right to Primary Education**

Domestic courts could have a role to play in realising the right to primary education, if using applicable human rights instruments as guidelines when interpreting national laws, as in some other SSA countries.<sup>183</sup> In fact, the Chief Justice of Tanzania, Hon. Francis Nyalili, has stated that the mere fact that Tanzania has not passed a law to incorporate the CRC is not a great setback, since the principles embodied in the convention are found in the Bill of Rights that can be used to ensure the protection of children's rights.<sup>184</sup> Since such a right to primary education is not justiciable in court under national provisions as it is not placed under the constitutional Bill of Rights, it is impossible to bring complaints against the state for not providing education for all, or for not providing education of sufficient quality and equity. Even if rights were justiciable, the claimants would still have to be parents, since children are not subjects allowed to place claims. Courts are further one of the few links between law-makers and the people, thus exerting influence through implementing laws that have a potential of changing societal attitudes.

Instead, to truly ensure children's rights in practice, the right to primary education in particular, a new institution would be needed in the institutional framework. This might seem an inadequate demand considering the abundance of administrative institutions and bodies, but is essential for ensuring the rights in question. As children are not in the position to claim rights, it is questionable if the soon-to-become-reality Human Rights Commission would also address children's rights and the CRC. An alternative could be the appointment of an Ombudsman for children, concentrating solely on children's issues, which would also help change views and attitudes towards children. Of course, such an institution would need to be backed up by adequate funding and vested with some real powers to take measures, or it might end up as yet another paper tiger (as the various gender units in Ministries etc) without real impact in practice.

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<sup>183</sup> Ncube, 1998, p 30-31

<sup>184</sup> quote in Ncube, 1998, p 37

## **8.3 Current Human Rights Violations in the Primary Education System**

In spite of the recent reforms undertaken in the field of education, certain obvious breaches against the right to primary education still persist in Tanzania. First, there is the continuing system of using corporal punishment in primary schools, running contrary to human rights instruments. Article 28(2), CRC, expresses that States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the Convention (such as the "best interest of the child"). Even more worrying is the fact that punishment does not stop at the rather limited extent endorsed by the state but is wide-spread, even normal, as the means of managing classes. To end the practice would therefore require changing attitudes among both teachers and parents. The few schools that today are "cane-free" are so because of initiatives by parents and teachers, after NGO advocacy and workshops to show alternatives. Yet, efforts to abolish caning should be part of government policies.

Second, the expulsion of pregnant school-girls is inconsistent with all ratified instruments. The noteworthy efforts that have been made not the least through conferences in the African setting, have not been followed through in practice in Tanzania. Despite the fact that the government acknowledges the right of pregnant school-girls to get their primary education, speeches seem merely to pay lip service to be in line with obligations. The few changes undertaken are slow and rather insignificant in practice.

Third, the introduction of cost-sharing measures, the school fees, are a violation of basic provisions on the right to education, that "primary education shall be compulsory and available free for all". Then again, these fees are mainly an effect of World Bank policies, and therefore critique shall be directed against the UN financial bodies. However, certain costs remain that are not attributable to the WB. Notably, costs for school uniforms that constitute a large part of parents' spending on education. In a country classified as a LDC, where many people do not have a cash income, it is time to abolish the obligation on school uniforms, at least at the primary level. Otherwise, availability of primary schooling, as stated in "available free for all", is further watered down.

## **Discussion**

The above are only a selection of the most obvious cases of non-implementation of human rights instruments. Notably the use of corporal punishment and the ongoing expulsion of pregnant schoolgirls are breaches against international human rights instruments that could be remedied through government directives. To truly address the issue of universal enrolment, the government would need to

concentrate on numerous other, underlying socio-cultural and economic phenomena. These would include actively fighting the wide-spread use of child-labour mainly as domestic workers, providing social safety nets for street children and not the least change attitudes towards the female half of the population.

## 9 CONCLUSION

Regardless of time and place, education and learning remain some of the most important aspects of human life. Education is a part of the life of each and every individual from the cradle to the grave. It ranges from the first impressions and learning of infants, to a life of learning of skills. It ranges from kindergartens up to the highest academic and research institution the world can present.

Yet, the current sad state of education in the world remains as some 130 million children aged 6-11 are out of school in the world today. Despite a number of international treaties and conferences, pledges and efforts made, recent estimates suggest that there still will be an estimated 75 million children out of school in 2015. Although the overall trend is positive, enrolments and literacy rates continue to decline in SSA.<sup>185</sup>

### 9.1 Financial Aspects of the Implementation of the Right to Education in Tanzania

*“With international co-operation, universal primary education is affordable. Estimates suggest that it would cost about \$8 billion a year over the next ten years. This represents about four day’s worth of global military spending, or less than half of the amount that American parents spend on toys for their children each year.”* (Oxfam)<sup>186</sup>

The above quotation suggests the feasibility of an actual realisation of the right to education world-wide. It does however also draw upon notions of international responsibility and solidarity for realising human rights. As argued above, certain international instruments might imply this very obligation by all States Parties to contribute to the factual realisation of certain rights. Such a scenario nevertheless remains a utopian experiment of thought, in a time where shares of industrial countries’ international aid budgets fail to live up to the goal set by the international community.

As previously argued, it is difficult to accept that constraints on government expenditure on social services, even introducing “cost-sharing” measures in for example education, are demands that actually can be legitimately imposed by a UN body as the WB. Such financial constraints seem all the more inconceivable in a country stricken by poverty as Tanzania. Almost half of the primary school-aged children are already not in school, and the demographic structure carries with it an urgent need to build out the education sector. Instead, IMF

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<sup>185</sup> Oxfam, Education-now Campaign, [www.oxfam.org.uk/educationnow/plan.htm](http://www.oxfam.org.uk/educationnow/plan.htm), 010415

<sup>186</sup> Oxfam, Education-now Campaign, [www.oxfam.org.uk/educationnow/plan.htm](http://www.oxfam.org.uk/educationnow/plan.htm), 010415

conditionality limits the managerial capacity of governments and also forces states into breaches against international human rights obligations. Hence, the lack of resources and the failure of the Tanzanian government to provide primary education “free of charge” (cf the CRC) is in part due to factors beyond the control of the government.

The above justification is however conveniently used by governments to meet critique for non-realisation of especially the so-called second generation rights. Nonetheless, states are also required by international instruments to realise rights “to the maximum extent of their available resources” (art 4, CRC). Could this include transferring funds from certain sectors to others in budgeting, in order to realise the “most salient” human rights? When considering the high levels of e.g. military expenditure, a change of government priorities seems only natural from the human rights perspective – which is however not always the guiding star in political policy making. The expression “maximum extent” could also imply the efficient use of existing resources, for example administrating funds more efficiently and controlling corruption.

As also outlined above, the economic crisis, increased budget constraints and a declining real income for the average Tanzanian seem to have a larger impact on girls’ enrolment in comparison to that of boys. Thus, financial aspects are also crucial for gender equality, and gender concerns should be streamlined into all government work, including budgeting.

In the discourse of arguing for improvement of education, economic arguments have been put forward by both the government as well as international finance bodies. It has here been argued that viewing education solely as investing in human resources is an approach that could unarguably achieve the goals set out in human rights instruments, but for the wrong reasons. Instead, the value of education *per se* for every individual must be recognised. This could and should be achieved through the human rights argument, drawing on e.g. article 4 CRC, and as outlined below.

## 9.2 Legal Aspects of the Implementation of the Right to Education in Tanzania

*“Like Janus, the Roman guardian of portals, education has two faces: the one in front promises to unlock other rights where the right to education is guaranteed, while the one at the back exhibits compounded denials of rights stemming from the denial of the right to education.”*

(the Special Rapporteur on Education)<sup>187</sup>

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<sup>187</sup> Annual Report of the Special Rapporteur on the Right to Education, 11 Jan 2001, E/CN.4/2001/52, p 3

The great importance attributed to the implementation of the right to education on the international scene is *a o* due to its importance for enjoyment of other rights in life. The non-implementation has met with cultural relativist arguments. It has however been pointed out that in the African context, as in others, these arguments are often “neither African nor cultural”<sup>188</sup>, but merely arguments put forward by ruling *élites* to conveniently justify failure to realise rights in practice.

The CRC requires in its article 4 that “States Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention”. It is the duty of the State to implement and concretise the rights expressed in international human rights instruments, but the implementation of rights ultimately depends on the “good will” of the State. As so many other states, Tanzania does not primarily see primary education as a right, even less as a right of individual children. The constitution states that “The Government shall endeavour to ensure that there are equal and adequate opportunities to all persons to enable them to acquire education and vocational training at all levels of schools and other institutions of learning“ (art 11.3). To say that Tanzania has fully implemented the right to education in law would require a strengthening of the right to education, primary education in particular, putting the right under the Bill of Rights encompassed in the Constitution. It can be asked whether legal acts are the adequate means for achieving change of the current situation? Laws passed by the parliament, elected by the people, are not the least important for indicating the goals to strive towards. They are furthermore important for purposes of achieving changes of attitude.

As the above statement by the SRE expresses, a person must be made aware of the existence of rights before he or she can claim the same. Workshops and advocacy for human rights raises “legal literacy” in society. Building human rights awareness has so far mostly been a task of NGO:s, but the public sector likewise has a responsibility and a part to play. Primary education should therefore include human rights education, and steps in this direction have already been taken in Tanzania.

As noted above, it can be even more problematic to claim children’s human rights than human rights in general. The child is to be protected from violations on both macro and micro level; the state as well as adults such as parents and teachers. Children further do not have a voice of their own and could not claim the right to education even if it were justiciable in national courts. Their rights must be watched over by adults and such surveillance is currently carried out in Tanzania by an ever increasing variety of child’s rights advocates. The rights of children would be strengthened through the appointment of an Ombudsman, or an institution of the kind.

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<sup>188</sup> Ncube, 1998, p 9

Girl's rights to education are overlooked even more frequently than boys' rights. As showed above, inequalities in the right to primary education are merely a reflection of underlying structures of society in general. Achieving change in education means addressing these structures. The Constitution already states that men and women are equal before the law. Equality must however be achieved in all legal acts, starting with equal marriage and family rights and, above all, property rights. Furthermore, it is essential to ensure that these existing laws are turned into reality, which is where the truly hard work begins.

### **9.3 Political and Institutional Aspects of the Implementation of the Right to Education in Tanzania**

*“[The sectors of] Agriculture and Education are of high concern and will be prioritised the next years. I have great confidence in the new Ministers[...].”*  
(president B. Mkapa as quoted in the Guardian, Tanzania, 1 December 2000)

Political reforms of the 1990's show a great commitment to improving the system of education, and the crucial documents of 1995-96 moreover show an awareness of the two aspects here argued as most crucial: the human rights feature and the gender perspective. However, what seems to be the greatest problem for realising a right to primary education in Tanzania today is not the lack of steering documents or goals, but the great disparity between government goals and the actual situation. With half of the primary school aged population out of school, the government goals of universal enrolment are far from close to reality.

The gaps between legal provision and reality are to some extent due to lack of administrative skills when it comes to implementation. To be effective, policy documents need to be spread throughout the whole administration, from the top and down to local levels, the actual classrooms. Implementation requires both funding and skilled manpower. Material needs to be prepared, sent out and implemented through seminars or workshops. Later on, follow up will make an assessment of progress while at the same time pushing efforts further. Without the proper implementation, policies will remain within the walls of government no matter how well drafted and well intended they may be.

So, there is an awareness at Ministerial and University levels about human rights and gender concerns. This rights awareness is unfortunately virtually non-existent outside urban areas. Results mostly depend on gender sensitisation and work shops carried out by not the least NGO:s. If the people in need of education are to claim this right, they must first be aware of the existence of human rights. How can anybody otherwise be expected to know about rights, when there is not even

basic literacy? As pointed out earlier, from the human rights lawyer's perspective, the task of giving the people the right to basic education is but one step in making reality of the other rights of treaties signed and ratified. The perspective of the CRC should be one most accurately expressing how education should be viewed – as an inherent human right, flowing from the individual child.

Since abuses of women's and girls' human rights continue to be the largest violation of these norms, it is important that gender aspects be included in all policy making. Since violations of both women's rights and children's rights in the African context are not isolated individual abuses, but structural and ongoing, there is a need for overarching special measures. Indeed, the most recent Tanzanian reports and policy papers in primary education do show sensitivity to the special needs of girls, and certain special measures have been laid out to redress inequalities. Unfortunately, these measures fail to be implemented in practice since their relevance is not understood in society in general. Implementation lacks programmes to change societal attitudes. Women's "empowerment" has become a catchword in recent discourses of development, human rights and gender. Empowerment is a broad term and therefore could be defined from many different angles. Empowering girls in the field of education would mean giving them a real possibility to make choices about their education and future. This means involving both women within the educational field and girl pupils, in administration and planning projects at micro-level. The "bottom-up" perspective is usually more effective when it comes to achieving sustainable change in societal patterns than the "top-down" approach. Female representation normally helps putting "female issues" on the agenda, both in national politics and in each discussion on micro-level regarding girl's access etc to primary education.

The urgency for actually starting to achieve some real changes in primary schooling in Tanzania is painfully clear, especially given the demographic situation in the country. In a society where almost half of the population is under 15 years of age, it is imperative to start building out the primary school system at a large scale and keep working with improvements of the school system. Facilities must be built or renovated, teachers of good quality must be provided and last not the least, the importance of primary education for *all*, regardless of gender and economic status, must be strongly emphasised. These steps call for the attention and involvement of all of the above-mentioned actors. Pressure from NGO:s, the electorate and donors will be helpful in making the government live up to its commitments.

As renewed efforts are made world-wide to achieve education for all, and the downward spiral has been turned in all regions except Sub-Saharan Africa, it can only be hoped that real change will occur also in Tanzania in a not too distant future.

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# APPENDIX - Legal Texts

## National Provisions

### The Constitution of the United Republic of Tanzania

#### Article 11

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.

Every person has the right to self-education, and every citizen shall be free to pursue education in a field of his choice up to the highest level according to his merits and ability. The Government shall endeavour to ensure that there are equal and adequate opportunities to all persons to enable them to acquire education and vocational training at all levels of schools and other institutions of learning.

## Regional Provisions

### African Charter on Human and People's Rights, 1981

#### Article 17

Every individual shall have the right to education.

Every individual may freely, take part in the cultural life of his community.

The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

## International Provisions

### Universal Declaration of Human Rights, 1948

#### Article 26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

### Convention Against Discrimination in Education, 1960

#### Article 1

1. For the purpose of this Convention, the term "discrimination" includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

- (a) Of depriving any person or group of persons of access to education of any type or at any level;
  - (b) Of limiting any person or group of persons to education of an inferior standard;
  - (c) Subject to the provisions of article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or
  - (d) Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man.
2. For the purposes of this Convention, the term "education" refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.

#### Article 4

The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

- (a) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;
- (b) To ensure that the standards of education are equivalent in all public education institutions of the same level, and that the conditions relating to the quality of education provided are also equivalent;
- (c) To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity;
- (d) To provide training for the teaching profession without discrimination.

### International Covenant on Economic, Social and Cultural Rights, ICESCR, 1966

#### Article 13

The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
- (a) Primary education shall be compulsory and available free to all;
  - (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
  - (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
  - (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
  - (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.
3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum

educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

#### Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

### Convention on the Elimination of All Forms of Discrimination Against Women, CEDAW, 1978

#### Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in preschool, general, technical, professional and higher technical education, as well as in all types of vocational training;

Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

The same opportunities to benefit from scholarships and other study grants;

The same opportunities for access to programmes of continuing education including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

The same opportunities to participate actively in sports and physical education;

Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

#### Article 14

States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: (...)

d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;

## Convention on the Rights of the Child, CRC, 1989

### Article 28

1. States Parties recognize the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
  - (a) Make primary education compulsory and available free to all;
  - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
  - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
  - (d) Make educational and vocational information and guidance available and accessible to all children;
  - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

### Article 29

1. States Parties agree that the education of the child shall be directed to:
  - (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
  - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
  - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
  - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
  - (e) The development of respect for the natural environment.
2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.