
Canadian-African Human Rights Engagements: A Literature Review and an Agenda for Future Research

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CANADIAN-TANZANIAN HUMAN RIGHTS ENGAGEMENTS: A CRITICAL ASSESSMENT OF THE LITERATURE AND A RESEARCH AGENDA

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Abstract

This article examines the historical background of human rights in Tanzania and the ways in which Canada has been engaging with Tanzania on the improvement of human rights. In the past, Tanzania was ruled by colonial powers, for which respect for human rights was never a priority. Having attained independence in 1961, however, the country did not adequately respect human rights. This is in part due to the argument that, if the British themselves did not practice it, then independent Tanzania should not be forced to. Furthermore, the introduction of human rights at the time held the potential to paralyze the struggle for nationalization. It was not until 1984 that the country included a bill of rights into its Constitution as a result of mounting pressure from the Tanganyika Law Society. Despite the fact that the country has a bill of rights and works towards the achievement of human rights, the attainment of these rights necessitates financial support from donors, such as the aid that Canada has provided thus far. Canada has given attention and support to areas such as education and women and children's rights. Nevertheless, the article suggests that more attention should be given to other human rights areas to ensure that citizens can fully enjoy their rights.

1. CANADA AND TANZANIA began their diplomatic relations in 1961, just after Tanzanian's independence in 1961. This relationship has continued to this day, with Canada supporting Tanzania in the execution of various development projects, many of which touch on human rights.¹ The purpose of this article is to discuss Canadian-Tanzanian engagements in the area of human rights. Since little, if any, scholarly work has focused directly on this important subject, this article is necessary and timely. The article is divided into four parts. Part I introduce the article and offer some background on the history of Tanzania. Part II discusses current trends in

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¹ Government of Canada, High Commissioner for Canada in Tanzania, *Canada-Tanzania Relations*, online: <www.canadainternational.gc.ca/tanzania-tanzanie/bilateral_relations_bilaterales/canada_tanzania-tanzanie.aspx?menu_id=7&lang=eng accessed>.

the human rights area in Tanzania. Thereafter, Part III focuses on Canadian-Tanzanian human rights engagements. Part IV concludes the article.

As a colony, Tanzania (formerly known as Tanganyika) was under the administration of the Germans between 1885 and 1919, after which the British became the trustees of the territory between 1919 and 1961. During this era, human rights were not, for the most part, observed because they were considered to contradict the aims of colonialism. Even after its independence, a concern for human rights (read as civil and political rights) was mostly resisted by the new Indigenous Government which argued, for instance, that it would not entrench a Bill of Rights in the Tanzanian Constitution because the absence of a bill of rights does not necessarily lead to a lack of respect for human rights (as was the case for hundreds of years in Britain).²

Furthermore, the social priority of the new government was the success of its policy of nationalization and Africanization. Accordingly, certain human rights claims were not high on the state's agenda. The case of *Hatimali Adamji v EAPT Corporation* provides a good illustration of this point.³ Here, Adamji's claim was that his forced retirement from employment as a result of the Africanization policy of the newly independent Tanzanian Government violated the Constitution's reference to a prohibition on racism. The plaintiff lost the case, however, as the court argued that since the Preamble was not part of the operative portions of the Constitution, it was not therefore part of the law of the land.⁴

It was not until 1984 that a bill of rights was incorporated into the Constitution of the country.⁵ Pressure from the Tanganyika Law Society and other sources encouraged the government to eventually agree to include a bill of rights in the Constitution. Since then,

² JT Mwaikusa, "The Genesis of the Bill of Rights in Tanzania" (1991) 3:4 Afr J Intl Comp L 680 at 681.

³ *Adamji v EAPT Corporation*, (1973) LRT 6 (Tanzania).

⁴ *Ibid* at 10.

⁵ Michael Wambali, "The Enforcement of Basic Rights and Freedoms and the State of Judicial Activism in Tanzania" (2009) 53:1 J Afr L 34 at 35

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Tanzania has ratified many human rights conventions (and passed many pieces of related legislation), some which include the following: the *Convention on the Elimination of All Forms of Discrimination Against Women*,⁶ the *Convention on the Rights of the Child*,⁷ the *Convention on the Rights of Persons with Disabilities*,⁸ the *International Covenant on Civil and Political Rights*,⁹ the *African Charter on the Rights and Welfare of the Child*,¹⁰ and the *Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa*,¹¹ to mention a few.

II. CURRENT TRENDS IN THE HUMAN RIGHTS AREA IN TANZANIA

A. THE RIGHT TO LIFE

The *Constitution of the United Republic of Tanzania (last amended 1985)* provides for the right to life.¹² Despite the existence of this right, certain categories of people in Tanzania continue to face serious challenges in regards to their right to life because of their status within their communities. For instance, small minorities among those Tanzanians who believe in witchcraft have too often killed people living with albinism, and the state has made great efforts to arrest

⁶ 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981). Tanzania signed this convention in July 1980 and ratified it in August 1985.

⁷ 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990). Tanzania signed this convention in June 1990 and ratified it in June 1991.

⁸ 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008). Tanzania signed this convention in March 2007 and ratified it in November 2009.

⁹ 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976). Tanzania acceded to this covenant in June 1976.

¹⁰ 11 July 1990, OAU Doc CAB/LEG/24.9/49 (entered into force 29 November 1999). Tanzania signed this convention in October 1998 and ratified it in March 2003.

¹¹ African Union, 2nd Sess, 11 July 2003. Tanzania signed this protocol in November 2003 and ratified it in March 2007.

¹² 1977, art 14 (Tanzania).

and punish those who are found guilty of such killings.¹³ Nevertheless, such killings remain common enough that albinos live in constant fear for their lives.

Although it is of course true that the Tanzanian courts have sentenced some people to death by hanging for such killings,¹⁴ merely punishing a few perpetrators does not really address the real cause of the killings – *i.e.* a witchcraft-based belief that albinos are “potent medicine.” Imprisoning or executing some or even all of the killers after the fact will thus fail to get at the root cause of the problem. Rather the state needs to undertake a more effective community-awareness campaign about the right of every individual to live.

The right to life is also challenged when it comes to the death penalty. The Tanzanian penal code retains the punishment of death by hanging to those who kill others,¹⁵ but human rights activists (especially the non-profit organization known as the Legal and Human Rights Centre) have been campaigning for the abolition of this punishment on grounds that it is inhumane¹⁶. To date, Tanzania has not signed the *Second Optional Protocol to the International Convention on Civil and Political Rights on the Abolition of Death Penalty*,¹⁷ but it could be wise to do so taking into consideration the fact that criminal investigation could lead to false conclusions and convictions.¹⁸ Most significantly, the state could end up hanging a wrongfully accused person, especially in a country like Tanzania that is more deficient than some others in forensic investigation expertise. There are some who will point out that that the last execution in

¹³Fumbuka Ng'wanakilala, “Tanzania to hang blood-drinking killer of albino girl” *Reuters* (17 July 2017), online: <www.reuters.com/article/us-tanzania-albino-idUSTRE66R3XP20100728?>.

¹⁴ “Tanzania: Bukoba Court to hang two for albino’s death” *Metro Afrique* (16 November 2016), online: <www.metroafrique.com/2016/10/28/tanzania-bukoba-court-to-hang-two-for-albinos-death/>.

¹⁵ *Penal Code*, RE 2002, C-16, s 25 [Tanzania].

¹⁶ World Coalition Against the Death Penalty, *Legal and Human Rights Centre (LHRC)*, online: <www.worldcoalition.org/Legal-and-Human-Rights-Centre-LHRC.html>.

¹⁷ 15 December 1989, A/RES/44/128 (entered into force 11 July 1991).

¹⁸ *R v. Mbushuu Dominick Mnyaroje and Another*, High Court of Tanzania (Dodoma), Criminal Case No. 44 of 1991 Reported in 1994 2 LRC 335.

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Tanzania took place in 1994,¹⁹ so the likelihood of being executed is in practice very low. Nevertheless, one can argue that those who are in prison under a death sentence are being psychologically tortured just by awaiting their execution.²⁰

B. RIGHTS OF PERSONS WITH DISABILITIES

Tanzania has made significant efforts to ensure that the rights of persons with disabilities are protected. These efforts include the signature and ratification of the *United Nations Convention on Persons with Disabilities*,²¹ the optional protocol to this Convention,²² and the enactment of a domestic law that caters to the rights of persons with disabilities (PWDs).²³ The Act has interesting provisions on how such persons should be treated, but the main problem has been with its implementation. There have been serious challenges when it comes to building friendly policies and infrastructure that will enable PWDs to access public services that may help them engage in activities that can contribute to their development. For instance, people who are physically disabled are still facing public transportation challenges. Thus, much is expected from the government to ensure that despite their disabilities these people enjoy the same rights as others.

C. RIGHTS OF WOMEN

Women in Tanzania have for a long time been disregarded and considered to be properties of their fathers and their husbands. They are regarded as weak members of the community who

¹⁹ Parliamentarians for Global Action, *Global Parliamentary Platform for the Abolition of the Death Penalty*, online: <www.pgaction.org/campaigns/abolition-of-the-death-penalty.html>.

²⁰ "Is Death Penalty a Form of Psychological Torture?" *CAN Daily News* (27 March 2017), online: <www.patheos.com/blogs/catholicnews/2017/03/is-the-death-penalty-a-form-of-psychological-torture-this-author-says-yes/>.

²¹ *Supra* note 8.

²² Sida, *Disabilities Rights in Tanzania*, (Sida, December 2014), online: <www.sida.se/globalassets/sida/eng/partners/human-rights-based-approach/disability/rights-of-persons-with-disabilities-tanzania.pdf>.

²³ *Persons With Disabilities Act, 2010*, No 9 of 2010 (Tanzania).

cannot do much for the benefit of the community. Tanzania has ratified the Convention on the Elimination of Discrimination against Women²⁴ and some measures have been taken by the country to ensure that women are given equal opportunities in every sector. A good example is found in the number and quality of its female parliamentarians. Although some women hold special seats, the community is also slowly gaining confidence in electing female legislators, who make up a total of 36.9% of the parliament as per the results of the 2015 general election.²⁵

Indeed, the current the Vice President is a woman and four women out of fifteen ministries serve as full ministers.²⁶ The country has in place an ambitious plan through the adopted Southern Development Cooperation (SADC) Protocol of 2008 on gender development to ensure that by 2015 there will be a 50:50 gender representation in all administrative positions.²⁷ The plan has not been achieved thus far, but hopefully by 2030 there may be some achievements.²⁸

The Law of Marriage Act of 1971 (revised edition of 2002, hereinafter referred to as the LMA) is in tandem with the Constitution of the United Republic of Tanzania because it gives women the right to own and dispose of property.²⁹ Previously, there were some communities in Tanzania that did not allow a woman to own land. Despite the existence of various laws and policies that aim at empowering women, there remains a tendency among women to see themselves as incapable of doing some things without the assistance of men. More needs to be done to ensure that women are better educated and empowered to understand that they can do as

²⁴ *Supra* note 6.

²⁵ International Women's Day 2016, *Planet 50:50 by 2030*, online: <www.tz.undp.org/content/tanzania/en/home/presscenter/articles/2016/03/08/international-women-s-day-2016-planet-50-50-by-20300.html?cq_ck=1457452323494>.

²⁶ United Republic of Tanzania, *President's Special Website* (27 March 2017), online: <www.ikulu.go.tz/index.php/administration/cabinet>.

²⁷ art 12.

²⁸ IPP Media, *Many Girls Suffer Violence: We Need to Empower them* (27 March 2017), online: <ippmedia.com/en/safu/many-girls-face-challenges-we-need-empower-them>.

²⁹ Act No 5 of 1971 RE 2002, C-29, s 58 (Tanzania).

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much if not more than men. Some laws need to be amended in Tanzania to accommodate the fact that the *Convention on the Elimination of Discrimination against Women* (CEDAW) maintains that women shall have equal responsibilities with men.³⁰ For example, when one reads the LMA, he or she finds that the law states the duty of a man to maintain a woman and children but a woman can do so only when the man is incapacitated and unable to maintain the family.³¹

If the aim is equality, then there is a great need to ensure that those discriminating laws are changed. Tanzanian culture, however, upholds the idea that, despite the changing of laws, women will never be placed in the same position as men. Alongside legislative amendment, more education is needed to inform men on the capabilities of women for both the development of families and the nation as a whole.

D. RIGHTS OF CHILDREN

Having ratified the Child Convention,³² Tanzania enacted the Child Act³³ that aimed at ensuring that the rights of children in Tanzania are well protected. More importantly, the country has introduced free elementary education, which supports the constitutional right of Tanzanian children to education. Until recently, many children could not continue with their secondary education because the cost of tuition fees.

The government is struggling to provide reasonably priced secondary education, but challenges remain which militate against its ability to achieve this objective (*e.g.* in the areas of building and furnishing classrooms and hiring enough teachers). Without the availability of sufficiently trained teachers in the country, the goal of ensuring that Tanzanian children enjoy

³⁰ art 16(1)(c).

³¹ s 63.

³² *Supra* note 7.

³³ Act No 21 of 2009, Cap 13 (Tanzania).

their human right to education is unattainable.³⁴ Currently, the majority of teachers lack the expertise required to transform the lives of children in schools. In addition to these problems, the current government is seeking to eliminate ghost-workers from the federal payroll and has, for over a year now, forbidden any new hires. Since public school teachers are public employees, this means that graduates of up-to-date teacher training programs were not hired for the last academic year and, so far, have not been hired for the current one either. There is, therefore, an increasingly problematic shortage of teachers in public school classrooms.

Despite the passage of this law for the protection of children, children continue to suffer abuse at the hands of both strangers and people who are closely related to them. Some children have even been raped by their parents or by other members of society, thereby subjecting them to mental and physical trauma.³⁵ Others have been subjected to hard labor,³⁶ a kind of physical exertion that hampers their educational and healthy development.

On a more positive note, however, Tanzania was the first country in Africa to undertake a study on sexual violence against children. The results showed that three out of every ten girls and one of every seven boys had suffered sexual violence.³⁷ While the results of this study are depressing, the fact that the issue has been taken seriously enough to launch such a study is a positive development. More efforts need to be taken to educate the public about children's rights because otherwise children will continue to suffer at the hands of their abusers.

³⁴ UN, "Towards Universal Primary Education: The Experience of Tanzania" (2007) XLIV, online: <unchronicle.un.org/article/towards-universal-primary-education-experience-tanzania>.

³⁵ Susanne Babel, Trauma: Childhood Sexual Abuse, (29th March 2017), online:

<https://www.psychologytoday.com/blog/somatic-psychology/201303/trauma-childhood-sexual-abuse>.

³⁶ Kizito Makoye, "Thousands of children rescued from dangerous work in Tanzania gold mines" *Reuters* (30 June 2015), online: <www.reuters.com/article/us-tanzania-children-workers-idUSKCN0PA1ZO20150630>.

³⁷ UNICEF and US Centers for Disease Control and Prevention –Muhimbili University of Health and Allied Sciences, *Violence Against Children in Tanzania, Findings from a National Survey 2009* (11 August 2011), online: https://www.unicef.org/media/files/VIOLENCE_AGAINST_CHILDREN_IN_TANZANIA_REPORT.pdf

E. THE RIGHTS OF MINORITIES

Minorities are defined as those people whose religious beliefs, traditions, culture or status place them at a disadvantage in a particular society.³⁸ Minority groups in Tanzania have historically been considered to be those who wish to preserve their language and culture. With the development of human rights, however, there are the rights of LGBTQ peoples to consider. These rights are not recognized in Tanzania. It is a criminal offence in Tanzania to have sex “against the order of nature,” though what is considered to fit within this prohibition is not defined in the relevant Act. The provision states that: “any person who (a) has carnal knowledge of any person against the order of nature commits an offence, and is liable to imprisonment for life.”³⁹

One South African commentator is of the view that the decision of Malawian courts to apply a similar provision to a particular individual, and thereby passing a sentence of 15 years imprisonment on the accused person, contravened the person’s right to privacy.⁴⁰ As a constitutional argument, this point is incredibly poignant. It is no wonder then that LGBTQ persons tend to be harassed by both state and non-state actors in Tanzania. For example, the Minister for Constitutional Affairs recently announced the closure of all non-governmental organizations that support LGBTQ persons in any way. If caught, these people would be considered to be just as guilty of a criminal offence as those members of the LGBTQ community.⁴¹

³⁸ Chris Maina Peter, “Human Rights of Indigenous Minorities in Tanzania and the Courts of Law” (2007) 14:4 Intl J on Minority and Group Rts 455.

³⁹ *Penal Code*, *supra* note 15, s 154.

⁴⁰ Moses Phooko, “Homosexuality and Privacy: *Rep v Soko & Another* Under the Magnifying Glass” (2011) 5:1 Malawi LJ 55 at 55.

⁴¹ Sophie Tremblay, “‘Seeds of hate’ sown as Tanzania starts LGBT crackdown” *The Guardian* (8 August 2016) online: <www.theguardian.com/world/2016/aug/08/seeds-of-hate-sown-as-tanzania-starts-lgbt-crackdown>.

Such persecution has been fueled in part by the widespread belief in Tanzania that LGBTQ relationships and activities are acts that have been fostered by western culture, despite the existence of literature showing that homosexuality has been in Africa for a long time, with Tanzania being no exception.⁴²

III. CANADIAN/TANZANIAN HUMAN RIGHTS ENGAGEMENTS

A. IMMUNIZATION SUPPORT IN TANZANIA – TOWARD THE LIVED ENJOYMENT OF THE RIGHTS TO HEALTH AND LIFE

This was a two- year project through which Canada supported UNICEF to perfect the cold chain capacity and enhance storage facilities for vaccines at both regional and national levels. The obvious aim was to save the lives of Tanzanian children from morbidity, mobility, and mortality.

This project enabled many health officials in Tanzania to receive training. It also supported the provision of walk-in cold rooms for the storage of medicines to protect against polio, tuberculosis, measles, and tetanus.⁴³ This is a very good contribution from Canada because it aims at protecting the right to health (and therefore to life) of Tanzanian children who have historically suffered deprivations of these rights due to their lack of adequate access to these vaccines.

Canada also supported the implementation of a project run by a non-governmental organization known as SIKIKA,⁴⁴ to inform citizens about various HIV/AIDS policies, the rights of health services users, and the duties of health care providers.⁴⁵ This kind of health care support

⁴² Kåre Moen et al, “Same-Sex Practicing Men in Tanzania from 1860-2010,” (2014) 43:6 Archives Sex Behav 1065.

⁴³ Government of Canada, Global Affairs Canada, *Project Profile – Support for Immunization in Tanzania*, online: <w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/a035143001>.

⁴⁴ SIKIKA is a Non-Governmental Organization based in Tanzania advocating for health rights among other things, online: <sikika.or.tz/>. The NGO’s name is a Swahili word which means “be heard”.

⁴⁵ Government of Canada, Global Affairs Canada, *Project Profile – Improved Accountability in the Health and HIV/AIDS Sectors*, online: <w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/a035070001>.

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could have a major impact on a majority of Tanzanians who have no prior knowledge on their health rights.

B. THE REGISTRATION OF CHILDREN

The Government of Tanzania, with the assistance of the Government of Canada through the former Department of Foreign Affairs, Trade and Development,⁴⁶ started a campaign to register children below the age of five. The aim of registering children seeks to ensure that, by knowing the number of children in the country, their needs can be better met.⁴⁷ The Tanzania Child Act provides for a child's right to be registered at birth.⁴⁸ For a long time, Tanzania did not have birth certificates due to the lack of knowledge on the part of citizens about the importance of registering and regarding the role that the birth certificate plays in modern society. What is more, many citizens lack the means to pay for the issuance of their birth certificates.

While the cost of obtaining these certificates is independently quite problematic, travelling to the correct office, often several times, in an effort to obtain one, further exacerbates the costs involved and the time many Tanzanians must invest in the process. Therefore, Canada's involvement in supporting free registration of children in Tanzania has helped many children get registered and therefore obtain their birth certificates. One would suggest that the exercise should continue in order to help a majority of children enjoy this right.

C. SUPPORTING THE IMPROVEMENT OF QUALITY EDUCATION – TOWARD THE LIVED ENJOYMENT OF THE RIGHT TO EDUCATION

The quality of education in Tanzania has, for some years now, been declining from its very high quality in early post-independence decades. The government has made great efforts to ensure

⁴⁶ Tanzania, *New Birth Registration System expanded to Mwanza* (11 May 2015), online: <www.unicef.org/esaro/5440_tz2015_birth-registration-mwanza.html>.

⁴⁷ Government of Canada, Global Affairs Canada, *Project Profile – Scaling-up Birth Registration Using Innovative Technology*, online: <w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/d000402001>.

⁴⁸ *Supra* note 33, s 6(3).

that children in Tanzania enjoy quality education. This is both for their own betterment as well as that of the country as a whole. Canada, through the department of Global Affairs Canada (GAC),⁴⁹ has supported a nongovernmental organization called '*Hakielimu*', which translates to "the right to education". *Hakielimu* sensitizes many of the members of various communities on the status of education in Tanzania. Its activities have awakened government leaders to start rectifying the situation. For instance, many schools lacked desks, an issue that was effectively portrayed in *Hakielimu*'s advertisements.

Canada's support of this NGO is thus of great importance to Tanzania. In addition to that, the Government of Canada, through GAC, funded a project through which teachers and the community were trained in the art of making learning environments more attractive to children, so that they may enjoy being at school while at the same time improving the quality of their education.⁵⁰

D. ENDING GIRL CHILD VIOLENCE AND FORCED MARRIAGE: TOWARD THE LIVED ENJOYMENT OF WOMEN'S RIGHTS AND THE RIGHTS OF FEMALE CHILDREN

Many girls in Tanzania suffer from violence and most of them do not report these incidences out of fear, particularly in those cases where the violence is perpetuated by people to whom victims may be related and may face direct threats from their attackers. Those incidences include sexual violence, forced marriage, female genital mutilation, and physical abuse. Most of violent acts are done by close relatives, which is why they often go unreported. The sexual violence directed towards girls prevents them from attending school and some end up with early pregnancies,

⁴⁹ Government of Canada, Global Affairs Canada, *Project Profile- Education Results Accountability-Hakielimu Institutional Support 2013-2018*, online: <http://w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/d000260001>

⁵⁰ Government of Canada, Global Affairs Canada, *Project Profile – Play for Advancement of Quality Education* online: w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/d000893001.

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which can lead to deaths. It is important to note that Canada is funding a project to end gender violence in Tanzania.⁵¹

Despite the fact that some people are currently aware of the need to avoid abusing children, there is also a need for ensuring that abusers are educated on the dangers associated with gender violence, especially when directed against girls. Some parents force their children to marry at an age when they are not ready to take up family roles. Hence, The High Commission of Canada in Tanzania is supporting a project to end forced child marriages,⁵² which is good for the development of these children because it allows them to fully realize their dreams, rather than having them dashed through forced early marriage and early parenthood which does not allow them to continue with school.⁵³

E. TOWARD THE LIVED ENJOYMENT OF THE RIGHTS OF THE ELDERLY IN TANZANIA

Elderly people in Tanzania suffer abuse by the communities around them⁵⁴. In some areas they are labeled as witches simply because of their red eyes, which are caused by the smoke due to use of firewood for cooking. Some have been killed as a result of witchcraft beliefs.⁵⁵ The legal and human rights center in Tanzania, through correspondence with the police force, discovered that at least 425 elderly people were killed on the basis of witchcraft beliefs in 2015.⁵⁶ The Government of Tanzania has thus been warning people to avoid taking the law into their own

⁵¹ Government of Canada, Global Affairs Canada, *Project Profile – Together for Girls: Ending Violence Against Children*, online: <w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/d000939001>.

⁵² High Commission of Canada in Tanzania, *Child Early and Forced Marriage in Tanzania* (23 March 2017), online: <www.canadainternational.gc.ca/tanzania-tanzanie/eyes_abroad-coupdoeil/CEFM-MEPF.aspx?lang=eng>.

⁵³ Human Rights Watch, *Tanzania: 1.5million Adolescents Not in School*, (23 March 2017), online: <www.hrw.org/news/2017/02/14/tanzania-15-million-adolescents-not-school>.

⁵⁴ Roxanne Muiruri, *An Exploratory Study of Elder Abuse in Tanzania* (27 March 2017), online: <www.peercorpstrust.org/pidfspdf/Muiruri_R_Final.pdf>. This was a thesis presentation at the School of Public Health at the University of North Texas.

⁵⁵ HelpAge International, *Women's rights in Tanzania*, online: <www.helpage.org/what-we-do/rights/womens-rights-in-tanzania/>.

⁵⁶ Legal and Human Rights Center, *Tanzania Human Rights Report 2015*, (23 March 2017), online: <www.humanrights.or.tz/userfiles/file/TANZANIA%20HUMAN%20RIGHTS%202015.pdf>.

hands, but elderly people still suffer discrimination, contrary to the country's constitution (which provides for the right to life and not to be discriminated against regardless of ones status in life⁵⁷).

However, the government should put policies in place and design mechanism to help elderly persons who live in or face dangerous conditions. Similarly, despite the government's efforts to help the elderly to acquire free medical treatment, evidence suggests that they are still suffering when they go to hospitals for free service. This is often caused by the fact that free medical treatment is only offered in public hospitals, and in most cases public doctors and caregivers do not pay much attention to elderly peoples.⁵⁸

F. SUPPORTING DEMOCRACY AND ELECTIONS IN TANZANIA: TOWARD THE LIVED ENJOYMENT OF THE RIGHT TO VOTE

Tanzania gained independence in 1961 through the struggle by the political party Tanganyika National Union (TANU) under the late Mwalimu Julius Kambarage Nyerere. In 1977 TANU united with Afro Shiraz Party (ASP) and thereby Chama Cha Mapinduzi (CCM) was formed. CCM was the only party in Tanzania until 1992, when multiparty system was introduced.

The presence of the multi-party system came with many challenges because those in leadership were (and is still) not ready to see an opposition party taking power. This has resulted in abuse of democracy. In Tanzania, mainland elections have generally constituted free but not necessarily fair processes, while in Zanzibar it has neither been fair nor free.⁵⁹

⁵⁷ arts 13, 14.

⁵⁸ *Supra* note 56.

⁵⁹ Bertelsmann Stiftung's Transformation Index (BTI) 2016 Report, *Tanzania Country Report*, online: <www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Tanzania.pdf>.

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Canada, through its High Commission to Tanzania started a project aimed at supporting Tanzania in conducting its elections and enhancement of its democracy.⁶⁰ The project is mainly aimed at improving the quality of Tanzania's electoral institutions and ensuring that conflicts that emanate during elections are nipped in the bud. The involvement of all citizens in the electoral process is emphasized by this project; particularly the involvement of women and disabled persons, who are often forgotten or prioritize.⁶¹ This kind of support is needed because electoral institutions in Tanzania sometimes lack good infrastructure for ensuring that voters get the equipment for them to vote.⁶²

G. THE PROVISION OF LEGAL AID TO THE DISADVANTAGED: TOWARD THE LIVED ENJOYMENT OF THE RIGHT OF ACCESS TO JUSTICE

Lord Denning once propounded "... not every man who has the ability to defend himself on his own ... He may be tongue tied or nervous, confused or wanting intelligence ... if justice is to be done, he ought to have the help of someone to speak for him."⁶³

Women, children, disabled persons, and the elderly persons (especially those in rural areas) in Tanzania are, in some instances face, a disadvantage in terms of their access to justice. This is due to the fact that accessing justice requires understanding of legal technicalities. Additionally, access to financial resources is still a challenge to these groups in Tanzania.⁶⁴

⁶⁰ United Nations Development Program (UNDP), *Government of Canada Support to Electoral Cycle Program*, online: <www.tz.undp.org/content/tanzania/en/home/presscenter/articles/2014/03/27/government-of-canada-support-to-electoral-cycle-programme.html>.

⁶¹ Government of Canada, Global Affairs Canada, *Project Profile – Strengthening the Electoral Process and Democracy*, online: <w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/a035586001>.

⁶² Legal and Human Rights Center and Tanzania Civil Society Consortium For Election Observation, *Report on the United Republic of Tanzania General Elections 2015*, online: <www.humanrights.or.tz/userfiles/file/Report%20on%20the%20Observation%20of%20the%202015%20General%20Elections%20in%20Tanzania.pdf>.

⁶³ *Pett v Greyhound Racing Association Ltd*, [1969] QB 125.

⁶⁴ Kees Groenendijk, "Everyday Justice for Everyday Problems, The approach of the Legal Services Facility toward increasing access to justice, in particular for women, in Tanzania", online: <tls.or.tz/wp-content/uploads/2015/03/Everyday-Justice-for-Every-Problems.pdf>.

Despite the fact that legal representation is a constitutional right,⁶⁵ challenges surrounding it are not well effectively addressed by the State. A few Non-Government Organizations are providing legal aid, as well the Tanganyika Law Society and the school of law of the University of Dar es Salaam.⁶⁶ Having realized the need for improving access to justice as a right to every citizen, the National Organization for Legal Assistance of Tanzania, with support from Canada through the GAC, has managed to support disadvantaged groups, including women, disabled persons, and the elderly, to facilitate access to- not access justice.⁶⁷

IV. CONCLUSION

The article has presented the historical background of human rights in Tanzania, from the time of colonial masters to the present independent State. Despite the fact that human rights are currently protected by the Constitution and by Tanzanian laws, significant violations of these rights still occur in the country. Legislation defending human rights exists, but implementing those laws remain a challenge.

It is also worth highlighting that Canada has and is still funding a number of different human rights projects surrounding women and children's rights. More assistance from Canada is, however, needed to promote/protect the rights of minorities, the elderly, and of disabled persons in Tanzania to ensure that *all* Tanzanians enjoy their constitutional and internationally guaranteed human rights.

It is also suggested that Tanzanian leaders put into action what is currently available in its laws. These leaders are well placed to understand the importance of observing human rights, yet they themselves are often guilty of violating them. Thus, empirical research is needed to

⁶⁵ Article 13(6) (a)

⁶⁶ *Supra* note 56.

⁶⁷ Government of Canada, Global Affairs Canada, *Project Profile – Improving Access to Justice for the Disadvantaged in Tanzania*, online: <w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/a033838001>.

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understand and communicate the nature, accomplishments, problems, and impact of these engagements more critically.