

## Child Marriage in Tanzania

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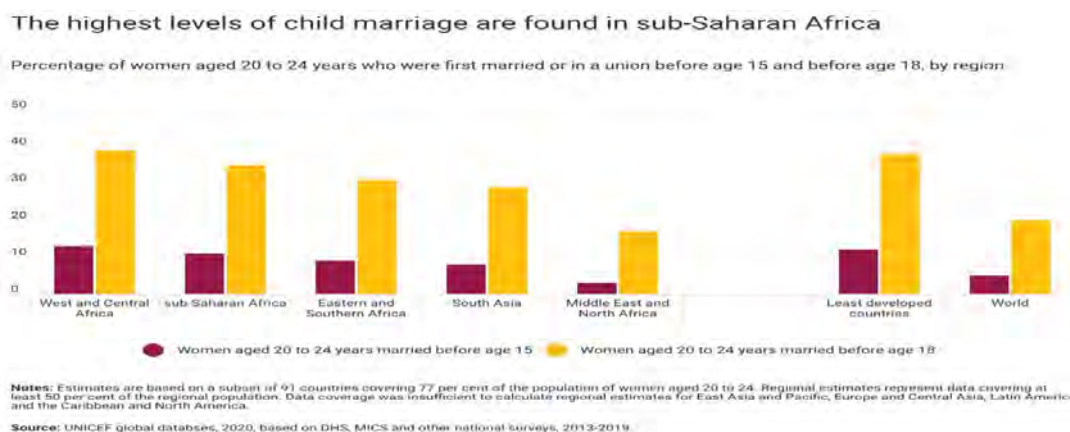
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### Abstract

Child marriage in Tanzania is a critical human rights issue in Tanzania and around the globe. This article focuses on the legal structure of Tanzania to show that Tanzania's Law of Marriage Act, Sections 13 and 17, enacted in 1971, violates its constitution and obligations in international human rights treaties and the Universal Declaration of Human Rights; mainly, they violate individuals' rights to equality, education, and their family's welfare. The reader will find that the legal and social structures within Tanzania are in conflict with global norms. In addition, the social structure that the government relies on to legitimize these sections of the Marriage Act continues to allow child marriage. This article resolves that child rights, precisely girls' rights, are inhibited through the enactment and continued application of the Law of Marriage Act, Sections 13 and 17. The article will conclude with some salient recommendations that assist Tanzania's government in resolving the issue.

*Keywords:* declaration of human rights, child marriage, ideology, culture, international treaties, Tanzania, United Nations.

According to a CNN 2018 report, “each year, 15 million girls are married before the age of 18” around the globe (Basu, 2018). It is estimated that by 2030, about 150 million girls will be married as children (Girls Not Birds, 2021). Further, according to UNICEF, the highest levels of child marriage in the world are in sub-Saharan African countries, as the following chart shows (UNICEF, 2021).



The chart shows that child marriage is more common in sub-Saharan African countries, including Tanzania. In Tanzania, the percentage of people married before the age of 18 years is 37 percent (SALC, 2019). The percentage is deemed so astronomical in the 21<sup>st</sup> century. Many

local and international organizations, such as Human Rights Watch, have urged the government of Tanzania to take significant steps to prevent child marriage. The lawmakers and leadership in Tanzania need to address this complicated issue in the coming years to provide the next generation with a better solution that safeguards the well-being of children.

### **Literature Review and Methodology**

The critical point in this article is whether Tanzania's Marriage Act sections (13) and (17) violate its own Constitution, the international human rights treaties, and the Universal Declaration of Human Rights that Tanzania is part of. The literature for this article focuses on the causes of child marriage in Tanzania as well as the citation of legal contexts for this cause. The article will illuminate some salient points that show that Tanzania's Marriage Act, sections 13 and 17, clearly violates Tanzania's Constitution, the Declaration of the Human Rights was adopted by the United Nations, and other treaties in the United Nations—and the human rights basic standards of living. This legal argument is supported by referring to and enumerating the Constitution of Tanzania and some of the treaties and universal human rights declarations that Tanzanians are part of. In addition, the argument will cite the outcome of one of the historical landslide cases affecting child marriage.

### **The Causes of Child Marriage in Tanzania**

In society, lawmakers have to consider the background of the culture to enact the law or amend the law or the constitution. This is part of the conundrum of Tanzanian child marriage. It is the problem of existing laws and desired cultural norms. Many reasons might cause a child to be married at an early age, but research shows that most of them fall into three categories: poverty, gender ideology, and culture.

#### **Poverty**

Many African countries struggle with poverty due to the lack of resources. Poverty is a driving factor in causing girls to marry too early in Tanzania (Forward, 2017, p.69). Families seek some poverty relief by getting their girls married early to alleviate future hardships they may encounter. For example, a 22-year-old Tanzanian female says, "I know that some parents marry off their daughters because of poverty and ignorance because they see that by marrying off their daughters early, they might be relieving some family burden" (Forward, 2017, p.58). Marriage is a source of income for low-income families (Forward, 2017, p.33). Families are given cows as a dowry for their girls; a cow is a source of income that helps them overcome some of the difficulties and challenges of daily life (Forward, 2017, p.33). Even though parents negotiate with the groom for how many cows or goats he will provide in exchange for marrying their young daughter, it is challenging to address the consequences of child marriage among people who fear the threat of poverty. To be more precise, many families struggle with living, and they have several children and try to get a cow or goat to keep up providing the necessities for their other children. They think it would be premature to get their girls married at an early

age, but they have no other choice. Therefore, they have their girls get married to get some food for their other children. They will not be convinced to change their norms or behavior due to the lack of necessity they need to keep themselves and their kids alive and secure some economic security offered by the dowry. However, no alternative option for providing for their families is available. Michele Gelfand explores the notion of fear as an attribute of poverty in her book “Rule Makers, Rule Breakers,” indicating how “the lower class see the world through a prism of threat” (Gelfand, 2018, p. 119).

### **Gender Ideology in Tanzania**

The complication of society in Tanzania results in a violation of women's dignity. One salient point that contributes to the lack of women's rights is gender ideology. Customary gender ideologies in many social orders are connected to social developments that depict men as the family leader, partially clarifying why men are paid higher wages and hold the substance of elected political offices (Dutt & Grabe, 2017, pp.309-324). In other words, some scholars such as Galtung describe that one type of gender ideology is patriarchy, which is “seen as the institutionalization of male dominance in vertical structures, with very high correlations between position and gender, legitimized by the culture” (Galtung, 1996, p.40). In addition, Dutt and Grabe (2017, p. 99) posit several complicating factors for women in Tanzanian society: (a) Women in a patriarchal society are consigned more often to the neglected homegrown circle, economically relying on male partners, and a higher vulnerability to intimate partner violence; (b) customary gender ideology identifies with “men's disproportionate power and control over women,” (p.99); (c) interviews and surveys led by different societies across five continents show that gender ideology predicts a large group of outcomes, including acknowledging violence against women and beliefs about women's viability as political pioneers; (d) The survey results show how ideology is incorporated into the values and perspectives that are essential for keeping a specific local area's norm and as an outline of the framework of the actual beliefs held by individuals in the community, and (e) gender ideology can be considered to function in a way that preserves primary disparities that detriment women. The gender ideology is highlighted because women in Tanzania have been deprived of their essential rights, such as education and participation in deciding what is best for them in their daily lives, by men who predominantly exercise their power over women. In addition, women have no right to participate in the political atmosphere to determine the best interests of women in Tanzania. As a result, historically, the government in Tanzania suppressed girls' rights, including but not limited to the right to education.

### **Culture**

Culture always plays an essential role in shaping society. Culture is one of the reasons people rely on to justify their behavior and actions. In Tanzania, people practice some traditions that influence society to accept the idea of child marriage. For instance, Avalos et al. (2015) explained that (a) families who let their daughters get married at an early age are deemed to

preserve the value of morality; (b) getting married early protects girls from committing adultery that shames their families; and (c) older husbands can be viewed as a method of guaranteeing that girls follow the cultural standard and not commit immoral behavior.

In a report by the Ministry of Health, Community Development, Gender, Elderly, and Children (2017), Another cultural factor found in regions of Tanzania that legitimizes child marriage is peer pressure. For example, “In Tabora, 33% of participants pointed out that peer pressure is a push factor for child marriage” (Forward, 2017, p.32). In Manyara and Coast, which are two regions in Tanzania, the percentage of child marriage is 23% and 20%; one woman interviewed in Manyara says about peer pressure, “When she sees that her friends have gotten married, she will see children, success and the good things that will be happening there. It may be that she is married within the neighborhood, so it may be that she sees the good things happening and she thinks that, if I’m married, I will be that” (Ministry of Health Report, 2017, p.32). Another girl says, “All my friends were getting married, and I was the only one who could remain single. So, I decided to marry so that I could do and talk about the same things with my friends, about families and children” (Ministry of Health Report, 2017, p.32).

Another tradition that leads to child marriage in Tanzania is what is called “samba,” when the family takes their daughter, who reaches 12 years of age, to the traditional healer to get traditional medicine to be able to attract men and then to wait for ten days to get married and celebrate a wedding ceremony (Ministry of Health Report, 2017, p.32). Thus, families try to make their daughters appealing to men for the purpose of arranging a marriage.

### **Consequences of Child Marriage:**

Based on the national survey conducted in 2017, the following consequences are the most damaging effects resulting from child marriage: “lost educational opportunity, economic insecurity and continued poverty, contracting HIV/AIDS or STIs, unable to have a career, teen pregnancy, miscarriage, maternal mortality, infant mortality, verbal abuse, physical and emotional abuse, sexual abuse, lack of autonomy, and psychological distress” (Ministry of Health Report, 2017, p.75).

### **Law of Marriage Act Violates the Constitution of Tanzania and Several International Treaties and Universal Declaration of Human Rights**

In 1971, Tanzania’s government enacted the Law of Marriage Act to regulate the marital relationships of Tanzanian citizens. One of the critical reasons the Tanzanian government passed the Marriage Act was to resolve the “choice of law” issue, which could occur when a dispute arose from different interpretations or applications of private law (Rwezaura, 1994). Avalos et al. (2015) provide a detailed view of this system: (a) The colonial occupation in sub-Saharan countries allowed the creation of plural legal systems. They existed essentially because Western law was understood to apply in the colonial states, including Tanzania, while simultaneously, the colonial authority conceded restricted acknowledgment of the existing indigenous framework of the law; (b) this overlap led to the creation of various laws within the territories of the sub-

Saharan states, which later merged into a single general set of indigenous laws; (c) Judges were obligated to decide the appropriate law relevant to a given transaction or dispute in complicated areas of private law; (d) most of the individuals for whom indigenous law was material were African, while Europeans and individuals of other cultures favored Western law; (f) Africans who embraced the Islamic faith likewise acquired an additional arrangement of law (other than African customary law) that courts could apply to them in certain circumstances; (g) Nevertheless, on the grounds of the impact of the social and economic revolution, including the influence of religion and the development of metropolitan, various Africans turned out to be incompletely consolidated into the Western system. For the above reason, Tanzania enacted the Law of Marriage Act that assists its citizens, despite their backgrounds and differences, in exercising their marital relationships within the Marriage Act.

Sections 13 and 17 of the Marriage Act articulate the minimum age of marriage for boys and girls. Section 13 states the following:

- (1) No person shall marry who, being male, has not attained the apparent age of eighteen years or, being female, has not attained the apparent age of fifteen years.
- (2) Notwithstanding the provisions of subsection (1), the court shall, in its discretion, have power, on application, to give leave for a marriage where the parties are, or either of them is, below the ages prescribed in subsection (1) if
  - (a) each party has attained the age of fourteen years; and
  - (b) the court is satisfied that there are special circumstances which make the proposed marriage desirable

A person who has not attained the apparent age of eighteen years or fifteen years, as the case may be, and in respect of whom the leave of the court has not been obtained under subsection (2), shall be said to be below the minimum age for marriage” (“The Law of Marriage Act,” 1971). Section 17 explicitly states that the girl under age 18 years shall obtain the consent of her father, mother. Or her guardian to get married” (“The Law of Marriage Act,” 1971).

### **Law of Marriage Act Violates the Constitution of Tanzania:**

Articles 12.1, 12.2, and 13.1 of the Constitution of Tanzania explicitly articulate the equality between males and females. Article 12 states that “(1) All human beings are born free, and are all equal. (2) Every person is entitled to recognition and respect for his dignity” (Equality of Human Beings Act, 1984, Art. 6; *The Constitution of the United Republic of Tanzania*, 1977).

Article 13 states that “(1) All persons are equal before the law and are entitled, without any discrimination, to protection and equality before the law” (The Constitution of the United Republic of Tanzania, 1977). The Constitution asserts in Article 13.5 that the government should not discriminate between people based on many factors, one of them is the factor of sex: “(5) For this Article, the expression ‘discrimination’ means to satisfy the needs, rights, or other requirements of different persons based on their nationality, tribe, place of origin, political opinion, colour, religion, sex, or station in life such that certain categories of people are regarded

as weak or inferior and are subjected to restrictions or conditions whereas persons of other categories are treated differently or are accorded opportunities or advantage outside the specified conditions...” (The Constitution of the United Republic of Tanzania, 1977).

Many treaties, such as the International Covenant on Economic, Social, and Cultural Rights, the Convention on the Rights of the Child, and the International Covenant on Civil and Political Rights, emphasize equal treatment among males and females. In addition, many political philosophers underline that equality is one of the fundamental justices that should be adopted and embedded within the global legislative statutory system. One of the eminent political philosophies is John Rawls, who underlines the two principles in his book “Theory of Justice.” His theory of Justice comes from the original position in the two principles of Justice (Rawls, 1999, p.53). The first principle states that “each person is to have an equal right to the most extensive” total system of the same fundamental liberties “compatible with a similar” system of liberty for all (Rawls, 1999, p.53). The second principle states that “social and economic inequalities are to” satisfy two conditions “(a) reasonably expected to be everyone’s advantage and (b) attached to positions and offices open to all (Rawls, 1999, p.53).

These two principles ought to be the solution to the problem of choice. Rawls’ (1999) original position is based on the veil of ignorance that states people in the original position do not know anything about specific identities. When someone makes his or her choice, “no one knows his or her place in society,” his or her “class position or social status,” his or her strengthened intelligence, or even his or her “natural assets and abilities” (Nozick, 2013, p. 189). The principles are selected “behind a veil of ignorance” (Nozick, 2013, p. 189). No one can make a decision favoring his or her side. All individuals will be in a similar situation. Hence, in the choice of principles, no one has an advantage or disadvantage in the outcome of a natural choice. Consequently, the principles of justice are fair and just (Nozick, 2013, p. 189). The Constitution of Tanzania is parallel to Rawls’s theory of justice. Girls have the same right of treatment as boys treated in Tanzania. It seems the issue with the government is the enforcement mechanism. The government does not want to enforce the Constitution and amend the Law of Marriage Act to be compatible with the Constitution. The government should not play the roles that make girls suffer from their original position of being female. No gender can take advantage of another gender just because of their natural assets and abilities. Girls have the right to choose whoever they want to be with for the rest of their lives. In addition, and most importantly, the government contradicts itself. The Constitution is crystal clear about treating everyone equally, regardless of gender. Thus, the government has an obligation to comply with its Constitution and enforce the decision of both the High Court and the latest decision in 2019 of the Court of Appeal and amend the minimum age to 18 years for girls in the same way as the minimum age for boys.

### **African (Banjul) Charter on Human and Peoples’ Rights**

Fifty-four member-nations of the African Union (1999) signed and ratified the African Charter on Human and People’s Rights. (African Commission on Human and People’s Rights,

2021). Tanzania signed and ratified the African Charter on Human and People's Rights in 1984. Compared to the Constitution of Tanzania, among other older regional constitutions, the Charter makes essential progress in African countries in promoting human rights. However, some African countries do not fully comply with the Charter, following their older practices and laws instead. Tanzania is one of those countries that violate the Charter. The Marriage Act in Tanzania violates Article (18)(3), which states, "the State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the women and the child as stipulated in international declarations and conventions" (25+ Human Rights Documents, 2005, p. 123). Tanzania violates Article 18.3 by differentiating the minimum age in marriage between males and females, as section 13 in the Law of Marriage Act articulates. There might be a logical reason when the law was written, but the logic is outdated or no longer exists. Article 18.3 refers to the child's rights in other international treaties and declarations.

### **African Charter on the Rights and Welfare of the Child**

The African Charter on the Rights and Welfare of the Child (1999) emphasizes the notion of rights, freedom, and duties imposed on the African Unity towards the child's welfare. Article 2 of the treaty explicitly defines "the child" under this treaty as "any child below the age of 18 years" (African Charter on the Rights and Welfare of the Child, 1999, p. 9). Tanzania signed the Charter on October 23, 1998, and ratified it on March 3, 2003 (African Committee of Experts on the Rights and Welfare of the Child, 1999). However, despite the interceding 20 years during which policies and practices could have been updated to match this agreement, the Law of Marriage Act still violates the following articles of the Charter:

- Article 1 states that "Member of the Organization of African Unity, Parties to the present Charter shall recognize the rights, freedom, and duties enriched in this Charter...." (African Charter on the Rights and Welfare of the Child, 1999, p.8).
- Article 3 denotes the child's rights and freedoms (African Charter on the Rights and Welfare of the Child, 1999, p.9).
- Article 4 emphasizes the concept of the child's best interest (African Charter on the Rights and Welfare of the Child, 1999, p.9).
- Article 7 demonstrates that the child has the right to express his or her opinion without fear or obligation imposed upon them (African Charter on the Rights and Welfare of the Child, 1999, p.10).
- Article 11 accentuates the child's right to education (African Charter on the Rights and Welfare of the Child, 1999, p.11).
- Article 21 imposes an obligation against the States to protect the child from harmful social and cultural practices (African Charter on the Rights and Welfare of the Child, 1999, p.18).

### **Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa**

Tanzania became a participating party to and ratified the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa on March 3, 2007 (Tanzania, 2021). One of the most significant protocols encompassing all women's rights in Africa is binding to all members. Still, Sections 13 and 17 of the Law of Marriage Act violated Article 5 of the protocol, emphasizing that "women and men enjoy equal rights and are regarded as equal partners in marriage" (Maputo Protocol on Women's Rights in Africa, 2020).

### **The Convention on the Rights of the Child**

Tanzania signed the Convention of the Rights of the Child on June 1, 1990, and ratified it on June 10, 1991 (United Nations Human Rights Treaty Bodies, 2021). Even though the Convention does not explicitly state the right of marriage for children, including the minimum age of child marriage and discrimination between boys and girls, we can derive them from the language of some treaty articles. The following articles embed the right of marriage within their language. In addition, they prohibit discrimination between boys and girls. I will highlight the articles of this Convention that Tanzania violates.

#### **Article (1)**

Article (1) defines the meaning of child with the purpose of the treaty's provisions application. Article (1) states that "For the purpose of the present Convention, a child means every human being below the age of 18 years unless the law applies to the child, the majority is attained earlier" (25+ Human Rights Document, 2005, p.81). The following articles imply marriage rights as one of the child's fundamental rights.

#### **Article (2)(2)**

Article (2)(2) states that "state parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment based on the status, activities, expressed opinions..." (25+ Human Rights Document, 2005, p.81). Tanzania explicitly violates this article by differentiating the legal eligibility age of boys and girls in marriage.

#### **Article (3)(2)**

Article (3)(2) emphasizes states' duties to protect the child's interest. It is imperative to say that marriage rights are of interest to the child and that the State should consider this when enacting the law. Article (3)(2) says, "States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being..." (25+ Human Rights Document, 2005, p.81).

#### **Article (6)(2)**

Article (6)(2) states that "States Parties shall ensure to the maximum extent possible the survival and development of the child" (25+ Human Rights Document, 2005, p.81).

#### **Article (12)**

Article 12 emphasizes that "State Parties shall assure to the child who is capable of forming his or her views the right to express those views freely in all manner affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child" (25+ Human Rights Document, 2005, p.82). Any child has the right to make the choice.



Article 12 gives the child the right to express their point of view regarding marriage. Hence, no one has the right to confiscate their rights in marriage or any necessary right that impacts the child's life.

#### **Article (19)**

Article 19 expands the child's protection to include any physical or mental injury. However, the Marriage Act in Tanzania gives full authority to the husband to abuse and hurt his wife at any time without any intervention from the government (Ezer et al., 2006). Article 19 explicitly states that "States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardians(s) or any other person who has the care of the child" (25+ Human Rights Document, 2005, p.84).

#### **Article (24.3)**

Article 24.3 articulates that "State Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children" (25+ Human Rights Document, 2005, p.86).

A plethora of justifications for peoples' actions come from the practicing of traditions and cultures, including the cultural practice of child marriage. However, not all traditions serve the interests or welfare of children.

#### **Article (28)**

Article (28) expressly states, "States Parties recognize the right of the child to education, with a view to achieving this right progressively and on the basis of equal opportunity" (25+ Human Rights Document, 2005, p.86). One of the most pernicious results of the Marriage Act is that married girls are expelled from school once they become pregnant—even though, ostensibly, pregnancy is the desired outcome of marriage. This action by Tanzania's government violates the child's rights to education and equal opportunity. As noted in Ezer's report, "many interviewees specifically stated that child brides have difficulty completing their education and noted the adverse impact of not completing an education" (Ezer et al., 2006, p. 366).

#### **Article (32)**

Article 32.1 highlights the state's responsibility to protect the child from economic exploitation (25+ Human Rights Document, 2005, p.87). In Tanzania, some relatives, such as grandfathers, avail themselves of getting their young granddaughters married by asking the groom to give them sheep or cows in exchange for their granddaughter's marriage (Bridge Trade, 2017).

#### **Article (34)**

Article 34 accentuates that "States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse" (25+ Human Rights Document, 2005, p.87). When the coercion of a child to get married at an early age becomes the law, the child's protection becomes a violation of this article. The Marriage Act contradicts the purpose of this article to

protect a child's freedom from any sexual abuse that evolves as a result of getting married at a young age.

### **Article (36)**

Article 36 states that “State Parties shall protect the child against all other forms of exploitation prejudicial to any aspect of the child's welfare” (25+ Human Rights Document, 2005, p.88). As time goes on, the child's welfare fades away, and many burdens and hardships resulting from getting married early are imposed on girls that make their lives miserable.

The Marriage Act in Tanzania violates all the treaty articles mentioned above. We live in the twenty-first century, and many aspects of life have been changing. Hence, the government of Tanzania needs to be flexible with the changes and make their children's lives more prosperous and joyful.

### **International Convention on Civil and Political Rights**

Tanzania became a party to the convention and ratified it on June 11, 1976 (United Nations Human Rights Treaty Bodies, 2021). However, even though Tanzania ratified the convention, sections 13 and 17 of the Law of Marriage Act violated the following articles of the convention: Article 23.3 unequivocally states, “no marriage shall be entered into without the free and full consent of the intending spouses” (25+ Human Rights Document, 2005, p.21). Article 24 clearly articulates the protection of a child “as a minor on the part of his family, society, and the State” (25+ Human Rights Document, 2005, p.21).

### **International Convention on Economic, Social, and Cultural Rights**

Tanzania is one of the parties to the comprehensive International Convention on Economic, Social, and Cultural Rights, which was implemented on January 3, 1976 (25+ Human Rights Document, 2005, p.9). Tanzania ratified the convention on June 11, 1976 (United Nations Human Rights Treaty Bodies, 2021). Tanzania has not complied with its obligations to the convention, however, and in 2024, is still in violation of multiple sections of the convention, as follows:

- Article 1.1: People have the right to pursue social, economic, and cultural development (25+ Human Rights Document, 2005, p.9). Marriage is one of the social and cultural practices. Therefore, forcing girls to marry against the will below the age of 18 violates this article.
- Article 3 overtly ensures equal rights for both male and female genders in social, economic, and cultural dimensions (25+ Human Rights Document, 2005, p.10). Girls deserve to be treated with the same rights to autonomy as boys socially, economically, and culturally.
- Article 13.1–13.4 highlights the right to education (25+ Human Rights Document, 2005, p.12), but as noted above, married girls are expelled once pregnant. As the spouses of child brides are not under a legal obligation to refrain from intercourse with girls of school age,

the right of child brides to education is violated by the natural consequences of the standard cultural expectations of marriage.

### **Convention on the Elimination of All Forms of Discrimination Against Women**

This convention was the first to articulate the Bill of Rights for women exclusively. Tanzania signed this convention on July 17, 1980, and ratified it on August 20, 1985 (United Nations Human Rights Treaty Bodies, 2021). Sections 13 and 17 of the Law of Marriage Act violate articles 5 and 16 of this convention. Article 5 articulates that the state has an obligation to amend the social and cultural patterns of demeanor that suppress one sex (25+ Human Rights Document, 2005, p.47).

### **Universal Declaration of Human Rights**

The Universal Declaration of Human Rights is an example of what is known as a “primary soft law” because although it is not legally binding or enforceable as a treaty, many binding treaties adopt provisions embedded in this declaration when determining their agreements. For instance, “The UN Declaration of Human Rights on the Rights of the Child...calls the Universal Declaration of Human Rights the ‘basis for its adoption’” (Hannum et al., 2011, p. 144).

Although it is not enforceable itself, Article 16 of the declaration is notable because, for the first time, the Court of Appeal in Tanzania, in the *Gyumi v. Attorney General* case, referred to the declaration in its reasoning for dismissing the case and upholding the High Court’s decision to nullify sections 13 and 17 of the Marriage Act. Article 16 articulates that no marriage is valid for participants of either gender, male or female, without the full consent of the intending spouses (Hannum et al., 2011, p. 6). To my knowledge, no other court in Tanzania has yet referred to the UDHR in any key cases.

## **Rebeca Z. Gyumi V. The Attorney General**

### **Synopsis**

In Miscellaneous Civil Case No. 5 of 2016, Attorney Rebeca Gyumi appeared before the High Court of Tanzania to argue that sections 13 and 17 of the Law of Marriage Act were Unconstitutional (FB Attorneys, 2019). She claimed that the above sections violated Articles 12, 13, and 18 of the Constitution of the United Republic of Tanzania of 1977, as amended. Furthermore, Gyumi demanded the enactment of a declaration that, first, sections 13 and 17 of the Law of Marriage Act be considered null and void, obliterated from the statute, and, second, that the minimum age for girls to be married should be set at 18 years old. In 2016, the High Court ruled that sections 13 and 17 of the Law of Marriage Act violated the fundamental aspects of equality stated in Articles 12.1 and 13.1 of the Constitution and declared that sections 13 and 17 are unconstitutional (FB Attorneys, 2019). The High Court ordered that the government of Tanzania, through the Attorney General, comply with the Constitution and amend sections 13 and 17 to be compatible with the Constitution's wording within a year from

the decision date. The Attorney General appealed the High Court's decision to the Court of Appeal, which dismissed the appeal on October 23, 2019 (FB Attorneys, 2019).

### **Conclusion**

To sum up, this article shows that Tanzania's Marriage Act, sections 13 and 17, violate its constitution and its obligations in international human rights treaties and the Universal Declaration of Human Rights; mainly, they violate individuals' rights to equality, education, and their family's welfare, as I highlighted in this article.

The government of Tanzania should take significant steps to amend sections (13) and (17) of the Law Marriage Act and make it compatible with its constitution, the High Court decision, the Court of Appeal, and international treaties that the government of Tanzania ratified.

Alongside amending the law of marriage to be compatible with the Constitution, the government should implement welfare programs that help families overcome the economic hardships they encounter. As I mentioned above, one main reason for child marriage is poverty. This writer concludes that the government is obligated to alleviate poverty among its citizens.

Another resolution to the problem of child marriage in Tanzania is that the international community should put more pressure on the government of Tanzania to reform the law of marriage and protect girls from cultural and economic exploitation. One mechanism of pressure is to suspend any aid that Tanzania's government gets from the international community. For instance, in 2018, The European countries and the World Bank suspended all assistance to Tanzania due to its repressive policies that abuse human rights (Niba, 2018).

Finally, according to Human Rights Watch, the government, along with NGO(s), should adopt and implement programs that help increase awareness of the severe long-term consequences of child marriage. In addition, empower women to know their rights and obligations toward their community by having them participate in government legislation and decision-makers. Human Rights Watch proposed some significant proposals to help combat child marriage in Tanzania (No Way Out: Child Marriage and Human Rights Abuses in Tanzania, Human Rights Watch, 2016). First, the international community, through the United Nations, should urge the president of Tanzania to stop the expulsion of married and pregnant girls from school. Second, get pregnant girls access to secondary education. Third, enact the law that "criminalizes sexual violence in marriage." Fourth, implement a national plan that addresses child marriage and the consequences resulting from getting married at an early age by conducting survey and dialogue that involves children's rights groups, women, health professionals, and other providers along with the government to reform the law to the best interest of girls (No Way Out: Child Marriage and Human Rights Abuses in Tanzania, Human Rights Watch, 2016).

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