



Practical Strategies for Enhancing the Protection of Women's Rights Within Tanzania Society Under the Scope of International, Regional, African and Tanzania Human Right System – A Review Study

Nhikilo Elias Joseph^{1*}, Sunil Kumar²

¹Ph.D. Student, Department of Political Science, School of Humanities, Starex University, Gurugram, Delhi, India

²Assistant Professor, Department of Political Science, School of Humanities, Starex University, Gurugram, Delhi, India

Abstract— The abstract underscores the profound impact of Tanzania's adoption of the Protocol to the African Charter, positioning it as a pivotal step towards prioritizing women's rights within the broader African Union framework. Despite acknowledged challenges, the thesis contends that successful implementation of the Protocol and the Banjul Charter holds the potential to effectively safeguard women's rights not only within Tanzania but also across other African states. Furthermore, the review article aims to delve into the nuanced ways in which these legal frameworks contribute to the advancement of women's rights, with a particular focus on key issues such as discrimination, violence, and reproductive health. By employing a methodology centered around extensive research in libraries and employing analytical approaches, the review article seeks to provide a comprehensive understanding of the mechanisms through which these frameworks impact the lives of women in the region. Overall, the abstract serves to highlight the transformative potential of legal instruments such as the Protocol and the Banjul Charter in promoting and protecting the rights of women in Tanzania and beyond, while also underscoring the importance of thorough analysis and research in assessing their effectiveness.

Index Terms— Women's rights in Tanzania, The Banjul Charter and the Maputo Protocol.

1. Introduction

Women's rights have long been recognized as a fundamental human issue, yet many countries still face challenges in ensuring the full realization of these rights. Globally, women play an essential role in economic development, being central to the workforce, entrepreneurship, and social well-being. However, women's rights, especially in legal, social, and economic arenas, remain under-protected in many regions. These challenges include inequality in education, healthcare access, employment, and protection from violence. While international frameworks such as the Universal Declaration of Human Rights (UDHR) advocate for gender equality, regional treaties like the African Charter on Human and Peoples' Rights

(Banjul Charter) and the Maputo Protocol provide specific guidelines for Africa.

The Banjul Charter, adopted in 1981 by the Organization of African Unity, establishes the importance of human rights, while the Maputo Protocol, adopted in 2003, expands on these rights, focusing on women's specific rights. These instruments emphasize the protection of women's rights, aiming to provide a framework for gender equality in African states. Despite these international commitments, many countries have struggled to implement and enforce policies to fully protect women, leading to a continuous fight for gender equality.

A. Statement of the Problem

The adoption of the protocol better known as “The Maputo Protocol” is a clear advancement in the African attitude by the formed African union initiating the rights of women in more serious on the African continent. The protocol has a sufficient number of provisions to cover the lacuna left in the African charter. This review article checks how this protocol and Banjul Charter cures the lacuna found in the two documents on women right's in Tanzania, Maputo protocol was ratified on 3/3/2007(<https://www.maputoprotocol.up.ac.za/tanzania>) and ratified the Banjul Charter on 21/10/1986.

Rural women are a key agent for development. They play a catalytic role in the achievement of transformation, economic, environmental, and social changes required for sustainable development. But limited access to credit, health care, and education are among many challenges they face, that are the women's rights not fully realized in Tanzania.

In the African continent, especially Tanzania customary practices are rooted in historical, economic, and social outlooks on how women position in legal matters. They are exposed to poverty, HIV/AIDS, globalization, and diseases. Several women are engaging in entrepreneurship in the non-formal sector about 60-80% of agricultural consumable products are

*Corresponding author: eliasjoseph437@gmail.com

produced by them.

<https://www.fao.org/3/x0250e/x0250e03.htm>

But, the Tanzanian culture is still marginalized women irrespective of their great contribution in agro consumable materials. Their position for a long period is still in some cases taken less as compared to men.

B. Objective of the Study

To propose practical strategies for enhancing the protection of women's rights within Tanzanian society, serving as a case study, under the scope of International Human Rights Instruments, Regional Human Rights Conventions, African Human Rights Instruments, and the local human rights system.

C. Research Questions

What measures and strategies should be put in place to strike a balance between Tanzania's deep-rooted cultural taboos and traditions and the full realization of women's rights, as envisaged in the Banjul Charter, its Protocol, and CEDAW?

D. Methodology

The research utilizes both reviewing papers and other materials already published sources of information to gather data and insights. These sources include reviews of various legal instruments such as covenants, constitutions, statutes, general comments, and court decisions. Additionally, the research draws from textbooks, essays, theses, journals, and key documents such as the Maputo Protocol, Banjul Charter, and Banjul Charter. To complement the research, appropriate websites have been consulted, ensuring a comprehensive and well-rounded exploration of the subject matter. This approach allows for a thorough examination of women's rights in Tanzania in light of international and regional human rights instruments and the specific challenges they face.

E. Research Objectives

- 1) To assess how women's rights are safeguarded in Tanzania in accordance with International Human Rights Instruments, Regional Human Rights Conventions or covenants, African Human Rights Instruments, and the local human rights system.
- 2) To analyze the current state of women's rights protection in Tanzania within the context of International Human Rights Instruments, Regional Human Rights Conventions/covenants, African Human Rights Instruments, and the local human rights system.
- 3) To propose practical strategies for enhancing the protection of women's rights within Tanzanian society, serving as a case study, under the scope of International Human Rights Instruments, Regional Human Rights Conventions, African Human Rights Instruments, and the local human rights system.

F. Sampling

As far as it involved the review study, the research focused on selecting different literature, articles and research studies done in Tanzania regardless of their regions, type and nature

exploring the major challenges practical strategies for enhancing the protection of women's rights within Tanzanian society, serving as a case study, under the scope of International Human Rights Instruments, Regional Human Rights Conventions, African Human Rights Instruments, and the local human rights system.

2. Literature Review

The Banjul Charter and the Maputo Protocol emphasize the prohibition of discrimination based on gender, race, religion, ethnicity, origin, wealth, birth, and family, among others (Okere). Despite these frameworks, women in many developing countries, including Tanzania, continue to face exclusion and lack representation in various areas, leading to outcomes that do not incorporate their perspectives. The theory of social inclusion highlights the need to address inequality and promote equal opportunities for marginalized groups, including women, youth, and people with disabilities (World Bank, 2018). However, despite the existence of African human rights instruments, women's rights remain significantly marginalized across many African countries, with Tanzania being a key example.

This study aims to explore the factors that contribute to the marginalization of women in Tanzania, despite the country's ratification of both the Maputo Protocol and the Banjul Charter (Centre for Human Rights Hosts a State Party Reporting Workshop on the African Charter and the Maputo Protocol in Eswatini, n.d.; UNTC). Historically, Tanzanian society (then Tanganyika) was stratified by gender, a system of social division known as social stratification (Maddox, 1996). In many African societies, women have been, and continue to be, primarily responsible for managing household welfare, including providing food, healthcare, education, and family planning. Despite these essential roles, women are often denied access to justice, political participation, and adequate education and healthcare (Khumalo).

A study by Demirguc-Kunt and Klapper (2012) notes that the theory of financial inclusion stresses the importance of providing all individuals, regardless of gender, income, or disability, with access to financial services. However, Tanzania's patriarchal structure has historically excluded women from positions of power. In many traditional Tanzanian cultures, women are expected to remain silent, reflecting the broader issue of gender inequality. Although women's rights are formally recognized as human rights, the Banjul Charter falls short of other international human rights instruments in adequately protecting these rights (State Reporting). Additionally, the African Commission on Human and Peoples' Rights, the body responsible for enforcing the Banjul Charter, faces significant challenges in fulfilling its mandate (Viljoen & Louw, 2007).

A critical question arises as to whether the African human rights system has a robust judicial body capable of resolving gender-based legal issues. If so, the next concern is the extent to which women's rights are being considered. The Maputo Protocol marks a significant step forward in advancing women's rights on the African continent. This Protocol addresses some

of the gaps left by the Banjul Charter, and this study examines how both instruments work together to address women's rights in Tanzania. Tanzania ratified the Maputo Protocol on March 3, 2007 (Khumalo), and the Banjul Charter on October 21, 1986 (UNTC).

The research further explores how the African Charter on Human and Peoples' Rights and the Maputo Protocol operate in tandem to enhance women's rights in Tanzania, particularly in the political, social, cultural, and economic spheres. Charles Worth and Rebecca J. Cook (1990) stress the importance of giving special attention to women's rights to ensure these rights are not merely theoretical but practically applied, particularly in areas like politics, culture, and the economy. A study by Karugial *et al.* (2021) indicates that government loans to women and youth have positively impacted agricultural productivity, income, and employment. Rugumu (1998) argues that ensuring equal treatment in recruitment, training, and promotion improves the quality and performance of public services. Nonetheless, women still face barriers and discrimination in social, political, economic, and cultural contexts.

Sen (1999) discusses social exclusion, which includes discrimination based on race, gender, and ethnicity, as well as limited access to education, healthcare, business opportunities, and reproductive health services. December Green (1999) writes about the challenges women face, such as female genital mutilation, domestic violence, sexual harassment, and other forms of violence, including in government offices. These barriers prevent women from fully realizing their rights. Rebecca J. Cook (1993) notes that while women's rights are documented, they are often not enforced, as some African societies still treat women as inferior to men. Christine M. Chinkin (1994) explores the feminist movement's focus on the struggle for women's political, social, and cultural rights, noting that women face abuse and violence in these areas.

In Tanzania, women continue to experience violence and discrimination in economic, political, and socio-cultural spheres. Ngwena (2016) writes about the discrimination women face in areas such as marriage, inheritance, family planning, and reproductive health. Women are often excluded from making decisions that directly affect their lives. Collectively, these authors highlight the need for a more effective system to ensure the full realization of women's rights, both in Africa and globally.

3. African Human Rights System Conceptual Framework in Women's Rights Context

The end of World War II and the establishment of the United Nations marked a pivotal moment in the protection of human rights. The adoption of the Universal Declaration of Human Rights (UDHR) in 1948 laid the foundation and provided the momentum for regional human rights systems (While the UDHR itself was not legally binding, it set the stage for subsequent international instruments that did carry legal force, such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, together known as the International Bill of

Rights (Gabrielle Kirk McDonald and Olivia Swaak-Goldman, 'European Convention for the Protection of Human Rights and Fundamental Freedoms: 4 November 1950 (Excerpts) (Including Protocols 4, 6 and 7). The UDHR preceded the international instruments that gave it binding force, that is, the International Covenant on Civil and Political Rights, and the International Covenant on Economic Social and Cultural Rights, which together make up the International Bill of Rights. (Cop Burak and Doğan EYMİRLİOLU, 'The Right of Self-Determination in International Law towards the 40th Anniversary of the Adoption of ICCPR and ICESCR' (2018) 10 PERCEPTIONS: Journal of International Affairs 115). As a contribution to the ever-increasing body of human rights norms at the international law level, the African Human Rights System should be regarded as unique and a potent tool for vindicating human rights in an African context (Julius Clement Mashamba, 'A Study of Tanzania's Non-Compliance with Its Obligation to Domestic International Juvenile Justice Standards in Comparison with SOUTH AFRICA' (The Open University of Tanzania 2013).

The African human rights system is the most recent of the three regional human rights systems and was established under the authority of the African Union (AU). Similar to the Inter-American System (and the original design of the European System), it encompasses both a commission and a court, each with complementary mandates. (Association of Southeast Asian Nations (ASEAN) Secretariat, *ASEAN Intergovernmental Commission on Human Rights: Terms of Reference: One Vision, One Identity, One Community* (ASEAN Secretariat 2009). The colonization of Africa, including Tanzania (then Tanganyika), by various colonial powers significantly altered the cultural and societal landscape of the continent. The rich tapestry of African values, rooted in historical, social, cultural, and religious practices, was often superseded by the values and systems imposed by the colonizers.

African societies, including Tanganyika, were generally hierarchical and patriarchal, although there were exceptions (The Matrilineal Peoples of Eastern Tanzania (Zaramo, Luguru, Kaguru, N' <<https://www.taylorfrancis.com/books/mono/10.4324/9781315309613/matrilineal-peoples-eastern-tanzani-zaramo-luguru-kaguru-ngulu-beidelman>) Women in many cases had limited roles in the administration of their societies. However, it's worth noting that in certain societies, wealthy or elderly women, as well as single women, played more integral roles in both the political and economic life of their communities (Fatsah Ouguerouz, *The African Charter of Human and People's Rights: A Comprehensive Agenda for Human Dignity and Sustainable Democracy in Africa* (Martinus Nijhoff Publishers 2003).

4. Human Rights in Tanzania in Pre-Colonialism Era

Human rights were already present before the establishment of the state, the global order, and the rule of law. They only signify an understanding and dedication to upholding, advancing, and defending human rights. In this context, the term "human rights" refers to both the rights in treaties and

written laws as well as the rights advanced by the judiciary. Pre-colonial African communities placed more emphasis on collective expression than the current understanding of human rights, which emphasizes individual protection. (Stelios Michalopoulos and Elias Papaioannou, 'Pre-Colonial Ethnic Institutions and Contemporary African Development' (2013) 81 *Econometrica: journal of the Econometric Society* 113.) Within the boundaries of family, clan, or kinship, fundamental rights, and obligations were safeguarded and accepted. Human rights depended on an individual's standing, such as their place of birth, tribe, or social group. The idea of human rights was present in both culture and religion. For instance, equality and non-discrimination rights were valued and upheld in pre-colonial African communities. Rather than being safeguarded by laws, human rights were frequently upheld through clear-cut practices such as conciliation and mediation. The History of Human Rights in Tanzania |Raphael Kamuli academia.edu' <<https://www.academia.edu/38380317/the-history-of-human-rights-in-tanzania>> accessed 2 June 2024.) In pre-colonial African communities, the idea of the right to life was influenced by both positive obligations and negative rules, such as not killing. The Human Rights Committee has modified this notion so that nations have a positive obligation to encourage survival and a negative duty to refrain from killing. ('Human Rights in Tanzania' (Amnesty International)

<https://www.amnesty.org/en/location/africa/east-africa-the-hornandtakes/tanzania/reportTanzania/> In pre-colonial Africa, exercising rights and freedoms also required that each member of the community fulfil their obligations. It was everyone's responsibility to keep the community safe and help those who were in need. (Human Rights in Africa: Nyerere and Kaunda on jstor' <https://www.jstor.org/stable/20751857>. The African Charter on Human and People's Rights has upheld this.

5. Limitations and Considerations

A. Challenges

In Tanzania, deeply entrenched traditional practices and cultural norms often marginalize women's rights despite legal provisions. The gap between legal frameworks and practical implementation reflects broader systemic issues, such as societal attitudes and inadequate enforcement.

B. Legal and Cultural Tensions

Tanzania's experience highlights the tension between modern human rights norms and traditional cultural practices, which can sometimes hinder progress in achieving gender equality.

While the Banjul Charter represents an important regional commitment to human rights in Africa, its effectiveness is limited by enforcement issues and historical and cultural factors. Women's rights, in particular, face significant challenges, demonstrating the need for continued efforts to integrate gender perspectives and strengthen the implementation of human rights instruments.

C. Paper Polishing Hindrances

There have been some limitations in this paper writing like;

poor and delayed internet access to the correspondent web for the literature, some literatures are hidden that are not easily accessed, the issue of time in reading more literature. As due to distance, budget and costs factor, the researcher failed to conduct primary data collections.

In the future research we should not focus only on literature review but also focus also in deploying more data through using other collection methods like primary in order to have more current, quality and timely information for the better findings and solutions. The researcher should also consider the time and budget arrangement in future study.

6. Conclusion and Recommendations

A. Recommendations

To ensure women's rights are fulfilled, protected, and promoted in Tanzania's human rights system, the following steps should be taken:

1) *Mending the Law Which Repugnant with the United Republic of Tanzania Constitution*

The government should remove or correct provisions that contravene the Bill of Rights enshrined in the Constitution. The government should revise all statutes and remove provisions that violate women's rights enshrined in the Constitution, as these provisions contravene the Maputo Protocol and the Constitution and in most human rights cases the court declares most of the provisions of the statutes unconstitutional and instructs the government to initiate a bill for the legislature to remove the provision or to amend the law.

This will ensure that the country adheres to equality and respects the rights of its citizens. For example, the Law of the Marriage Act allows a girl to be married at 15 years old; this curtails the rights to education, and the court has issued a judgment and declared this provision unconstitutional. But to date, the government does not initiate any procedure for amendment of the law hence women are still facing hardship in full some realizations of women's rights.

2) *Amending the Basic Rights and Duties Enforcement Act (Cap 3) of 2019*

Under the Basic Rights and Duties Enforcement (Practice and Procedure) Rule, 2019 says the court may, upon a request by any party invite or allow a man with expertise in a particular issue to appear as a friend of the court in the proceedings before it. This rule is not certain whether a woman is allowed and in practice most of the friends of the court are men it is very rare to see a Tanzania woman in this position no matter whether the matter before the court is directly involving a woman.

3) *Promoting Women's Rights Awareness*

The government should make sure social media like Television at least ten Channels per day to discuss women's rights for half an hour. And imparting education from the family level, kindergarten, primary, secondary, high school, and university on women's rights. NGO, big musicians both gospel singers and non-gospels singers should advocate at least for every album to include one song on women's rights.

4) *Strengthening the Judiciary*

The government should be strengthening equality while

appointing judges. In most cases judges are men. The qualification is the same for men and women but in practice within ten judges 2 are women and 8 are men. This does not mean there are no women with qualifications to seat as judges. Hence, I advise that the appointment authority should make sure to consider gender balance. This will bring confidence and perhaps the inferiority complex will be solved if a high position like this in an important organ will have gender balance. The constitution is not certain on equal number in regard to sex, hence these issues should be checked by government.

5) *Limiting Executive Power*

The president should consider gender balance in appointing high-position leaders regarding educational qualifications rather than gender. For example, Directors, Permanent secretaries of various ministries, ministers, Judges, Regional commissioners, and District commissioners. In the United Republic of Tanzania Constitution, there is no mention that the appointment should consider half men and half men in the total number of a certain high position. Before Women were fewer with qualifications to hold high positions but now there are so many women with over qualifications and experience but they are not appointed to high positions. Among other reasons, they must take maternity leave after three years sometimes fewer years, and most of the time they will leave the office for milking their kids. This exclusion should be checked well to make sure women's rights are protected in Tanzania.

6) *Conclusion*

This review article has examined the position of women's rights within the African system and Tanzania as a case study. It has shown that the Maputo in the Tanzania human rights system is an indication that protection of the human rights of women in Tanzania is increasingly featuring in its agenda. Support for legislation against discrimination has continued to grow since adoption of the Protocol. But there is no doubt that a serious gap still exists between *de jure* and *de facto* recognition of women's rights. The examination of the content and the processes available under the Protocol reveals a sense of a legal and policy approach that recognizes that law alone cannot make the desired change in the status of women in Africa and Tanzania in particular.

Discrimination against women will not be abolished by modifying laws alone. But the law plays an important part along with the commitment of states and civil society, particularly women's groups to implement the law. The commitment of African States, Tanzania as a case must include not only legal but financial investment in providing health care, education, and work skills for improving the status of women.

The law must be complemented with positive attitudinal change on the part of everyone, women, judges, legislative bodies, law enforcement agents, and all segments of society to the issue of women's rights. The Protocol serve as a legal instrument containing minimum standards for education, health care, and other protections for African women and their rights Tanzania as a case study. A reoccurring theme in the study of women's human rights in Tanzania is the impact and effect of patriarchal structures and institutions on the ability of women to obtain solutions propounded for this problem by legal

scholars include education and dialogue rather than formal, abstract, and legalistic approaches. Such approaches involve mutual respect, understanding, dialogue and sensitivity, and equality among parties. Others include the application of local solutions and the empowerment of indigenous people. Local non-governmental organizations often have a basic understanding of the issue in their society and can provide the necessary impetus for action.

The fact that NGOs face fewer bureaucratic obstacles and political constraints than official bodies grant them the opportunity to be effective in advancing the rights of women. NGOs in the grassroots have access to information and local sources unavailable to the government and can positively act in collaboration with local communities to provide services that can enhance and empower women, such as family planning and education, health care, credit, and income-generating activities.

Women's NGOs have the collective ability to work together to serve as pressure groups to ensure governments fulfill their obligations under international and regional human rights treaties. example, the women's NGO network has been effective in bringing international pressure to bear in exposing the systematic violence and rape now used as a weapon of warfare in many parts of the world, including Tanzania. Outdated laws which have long been amended within the jurisdiction in which they were originally developed need to be repealed or amended, taking a cue from jurisdictions where positive improvements have been achieved in terms of human rights.

The Protocol has advantages as a symbolic instrument and in real terms. The actual existence of the Protocol gives the sense that women's rights exist for African women and Tanzania as a case study. Though couched in general terms, the Protocol can as a uniform guide to the implementation of equal rights on the African continent. The Protocol serves to focus public attention and opinion continued existence of some undesirable practices and the need to eliminate them.

It has the potential of generating further debates, and discussions that will cast light on the scope and nature of women's rights problems, obstacles to their solution, and means of attacking the problems. The Protocol provides a broad framework of general norms and standards intended to guide government action affecting women's rights in Africa Tanzania as a case study. If effectively utilized, the Protocol serves as a basis for scrutinizing and influencing government policies. Tanzania adopted in the constitution of the United Republic of Tanzania under Constitution. But the gap still existing there are some rights are not fully realized like economic and political rights. Women have little access to both economic and political opportunity in rural and urban areas.

Conclusion, women's rights protections are crucial for the economic, political, and social-cultural development of any country as in Tanzania the same. As for equal development, the government must uphold women's rights as provided in Maputo Protocol. It is true in Tanzania women's rights are included in the constitution as under article 12-29. But there are still provisions in the statutes that violate women's rights. Hence the government needs to correct such provisions and adhere to equality for all human beings. My future work will build upon

the broad base of this present piece to address some of these questions all to examine how, concretely, the law can make a difference in the daily lives of Tanzania women's to access equally rights in term of social-cultural, political and economic fully as men.

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