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# Racism, Racial Discrimination, Xenophobia and Related Intolerance in Education

## The Case of Adolescent Girls in Tanzania

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### Education in Durban

The Durban Declaration and Programme of Action, adopted by consensus at the 2001 World Conference against Racism in Durban, South Africa, made key recommendations in the sphere of education: (1) the need to guarantee access and inclusion of all children and adults to a quality education, eliminating intra-school and outside-school factors that hinder access, attendance and success in learning experiences; (2) full, precise and objective teaching and communication of the history, culture and contributions of all the different populations; (3) the guarantee of opportunities for indigenous populations to learn in their mother tongue and (4) Human Rights education.

Seven years later, these recommendations remain largely unattended. Racism, Racial Discrimination, Xenophobia and Related Intolerance are still endemic to the education system in many contexts, leading to severe inequalities in access and retention of schooling, and to the perseverance of intra-school processes that directly violate the principles of human rights and dignity.

### The violation of adolescent girls' right to education in Tanzania

Thousands of girls worldwide are forced to drop-out from school because of pregnancy, early marriage, domestic labour and gender discriminatory practices. In countries like Liberia, Mali, Nigeria, Swaziland, Togo, Uganda and Zambia, pregnant girls are reportedly expelled from school on the grounds of premarital sexual relations.<sup>1</sup> Their expulsion from school, on supposedly moral grounds, is a violation of their right to education that grossly discriminates and stigmatizes, and condemns them to a cycle of poverty.

Forcing pregnant girls out of school furthermore violates the principle of “the best interest of the child” as stipulated by the UN Convention of the Right of the Child (1989).

Tanzania has made progress towards achieving gender parity in primary education but the law and practice still discriminates against girls. The Tanzanian Law of Marriage Act [1971] allows a girl as young as 14 to be married<sup>2</sup>, thereby causing marriages to be one of the main reasons for female drop-out and exclusion from education.<sup>3</sup> Furthermore, a 2002 regulation from the Tanzanian government (GN295 of 2002 Cap. 66.) demonstrates the implicit acceptance by authorities of the expulsion of pregnant girls. Although there have been attempts to revise the law, the practice is still widespread and numbers speak for themselves: “according to the ministry of education and culture statistics, 2,227 girls were forced out of school due to pregnancies in 2003”.<sup>4</sup>

The UN Committee on the Elimination of Discrimination against Women (CEDAW) has clearly expressed its concern over the matter and has recommended strengthening the implementation of re-entry policies after child birth in Tanzania. Furthermore, the African Charter on the Rights and Welfare of the Child explicitly recognizes the right of pregnant girls to an education<sup>5</sup>. In response to such very clear normative legal standards, countries such as Kenya, Zambia, Botswana, Guinea, and Malawi now permit re-entry of girls into formal education after child birth.<sup>6</sup>

By forcing pregnant girls out of school, the Tanzanian government, in what should be their role as the prime duty bearer to ensure the right to education of all its citizens, becomes directly responsible for gender discrimination and for violating the right to education. It does so by not making it **available** on a basis of equal opportunity, when discriminating against pregnant girls; by not making it **accessible**, when denying access to pregnant girls, thereby punishing victims rather than perpetrators; by not making it **acceptable**, when failing to create girl-friendly schools free from physical and sexual violence; by not making it **adaptable**, when failing to respect, protect and fulfil girls' rights, and in not taking into account their voice and life situation, thereby continuing discriminatory practices in violation of the best interest of the child.

## International Law

The principle of equal treatment and non-discrimination is enshrined in all international Human Rights legislation. "Education must be accessible to all in law and fact, without discrimination. The prohibition against discrimination is subject to neither progressive realization nor the availability of resources", says General Comment 13 of the Committee on Economic, Social and Cultural Rights. According to international human rights law on education and non-discrimination (CERD, art. 5; ICESCR art. 13 and 14; CRC art. 28 and 29; African Charter on Human and People's Rights art. 2 and 17; and the African Charter on the Rights and Welfare on the Child art. 3, 4 and 11) government obligations related to the right to education can be framed according to "four As": Availability, Accessibility, Acceptability and Adaptability.

## Recommendations

- The Durban declaration and plan of action must be reaffirmed and states must guarantee its immediate implementation;

- States must acknowledge the persistence of racism and multiple discrimination within the education system and must therefore put in place appropriate legislation and affirmative action policies to tackle the problem;
- National and local laws, policies and programmes must put in place a curriculum that is based on the acknowledgement and appreciation of difference and on the principles of human rights education, as well as the central role education can play in combating racism and discrimination must be recognized;
- States must immediately ratify international agreements related to the fight against racism and discrimination in education. We underline the importance of universal ratification of the International Covenant on Economic, Social and Cultural Rights (1966) as well as its Optional Protocol, approved in December 2007 by the United Nations General Assembly. We also call on states for universal ratification of the UNESCO Convention against Discrimination in Education (1960).

## References

<sup>1</sup> Tomasevski, K. (2003) *Education Denied: Costs and Remedies* (New York: Zed books) p. 165.

<sup>2</sup> Under Marriage Act 1971 Part 2 section 13. minimum age is 18 for males and 15 for females; courts may permit underage marriage of parties who have reached 14 years of age if specific circumstances make marriage appear desirable.

<sup>3</sup> Duncan Wilson (2003) *Human Rights: promoting gender equality in and through education*. p. 15

<sup>4</sup> NNOC (2005) "The Non- Government Organisations' Report on the Implementation of the United Nations Convention on the Rights of the Child in Tanzania". p. 42. Dec. 2005.

<sup>5</sup> OAU Doc. CAB/LEG/24.9/49 (1990) (in force since Nov. 1999). Article 11 (6) states: "6. States Parties to the present Charter shall have all appropriate measures to ensure that children who become pregnant before completing their education shall have an opportunity to continue with their education on the basis of their individual ability".

<sup>6</sup> Duncan Wilson (2003) *Human Rights: promoting gender equality in and through education*. p. 14.