



Tanzania Women Lawyers Association
(TAWLA)

Good Governance, Gender, Sexual and Reproductive Health Rights Training Manual



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LIST OF ABBREVIATIONS

AfCHPR	African Charter on Human and Peoples' Rights
CAT	Convention Against Torture
CIDA	Canada International Development Agency
CRC	Convention on the Rights of a Child
CRPD with Disabilities	International Convention on the Rights of Persons with Disabilities
CSOs	Civil Society Organizations
ECOSOC	The UN Economic and Social Council
FGM	Female Genital Mutilation
GAD	Gender and Development
GBV	Gender Based Violence
ICCPR	International Covenant on Civil and Political Rights
ICESCR Cultural Rights	International Covenant on Economic, Social and Cultural Rights
IDRD	International Declaration on Right to Development
ILO	International Labour Organisation
MDGs	Millennium Development Goals
MKUKUTA Umaskini Tanzania	Mkakati wa Kukuza Uchumi na Kupunguza Umaskini Tanzania
NSEGPR Reduction	National Strategy for Economic Growth and Poverty Reduction
NEMC	National Environmental Management Council
NEPAD	New Partnership for Africa's Development
NGOs	Non Governmental Organizations
PLHIV	Persons Living with HIV
SRHR	Sexual and Reproductive Health Rights
TAWLA	Tanzania Women Lawyers Association
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
WGI	Worldwide Governance Indicators
WID	Women in Development

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INTRODUCTION AND BACKGROUND

Tanzania Women Lawyers Association (TAWLA) is one of the leading women lawyers' organizations in Tanzania. TAWLA is a non-profit, non-partisan, non-governmental and human rights organization founded and registered in 1990 under the Societies Act. TAWLA's core values include civil rights, social justice, highest moral principles, transparency, integrity, mutual respect, gender equity, accountability and lifelong learning¹.

TAWLA's vision envisages a society that respects and upholds human rights and; its mission in society is, the professional advancement of its members and the promotion of women and children's rights as well as good governance.

As for good governance, TAWLA envisages to empower the poor by contributing in giving them more voice. Worldwide it is now widely recognized that good governance is a key element in poverty reduction. Thus, it was not an accident for Cluster III of MKUKUTA² to just focus on good governance and accountability. It is increasingly accepted that good governance is among the key ingredients of any successful strategy to reduce poverty. For instance, the New Partnership for Africa's Development (NEPAD) of 2001 has asserted that there could be no poverty reduction without good governance. Good governance is now a central part of the international development agenda. At the Millennium Summit that adopted the Millennium Development Goals (MDGs) the General Assembly of the United Nations in September 2000³, world leaders committed to the Millennium Declaration of the United Nations that set key objectives for the 21st century, including promotion of good governance. Thus, empowering the poor is in tune with the MDGs,

¹ For more information about TAWLA visit our website: www.tawla.org.

² Called in English as National Strategy for Economic Growth and Poverty Reduction (NSEGPR).

³ Millennium Summit of the United Nations was held in New York on 6-8 September 2000.



which provide a broad framework for halving of poverty by 2015⁴.

Overview of TAWLA programme on Good Governance, Accountability and Gender Equity

TAWLA is implementing a four year programme with the support of the Government of Sweden through Swedish International Development Agency (SIDA). The programme is on, ‘Enhancing Good Governance, Accountability and Gender Equity’, and will be implemented in four Regions of Arusha, Dar es Salaam, Dodoma and Tanga from June 2011 – May 2014. The programme is targeting towards achieving the TAWLA’s long term VISION of a society that respects and upholds human rights; with a MISSION of promotion of women and children’s rights and good governance. The programme also contributes to achieving the Millennium Development Goals (MDGs) and the National Strategy for Economic Growth and Poverty Reduction (NSEGPR) or in Kiswahili Mkakati wa Kukuza Uchumi na Kupunguza Umaskini Tanzania (MKUKUTA).

Under this programme one key aspect was to have a Manual on Good Governance and Accountability, Gender Equity and Sexual and Reproductive Health Rights.

Target Group, Focus and Objective of the Manual

This Manual is expected to be used as a reference and a resource book in the programme. It can be used in the training of any level including the grassroots level. However, the Manual is specifically written for trainers who will impart knowledge to local government leaders and other key players such as women leaders. The Manual addresses the concepts of good governance and gender equality and looks at ways of promoting them. The overall objective of the Manual is to enhance capacity and knowledge of various stakeholders in the thematic areas of Good Governance and Accountability, Gender Equity and Sexual and Reproductive Health Rights in Tanzania.

⁴ *The Millennium Declaration and the Millennium Development Goals (MDGs) were adopted by 189 Heads of States and Governments in 2000. According to Kofi Annan, former UN Secretary-General, this initiative represents a partnership between the rich and poor countries to fight extreme poverty and achieve concrete, measurable improvements in the lives of millions of men, women and children across the world. Tanzania is party to this initiative and that is why MKUKUTA has been premised in the context of the MDGs.*

Organisation of the Manual

This Manual is organised in Modules that are divided into three parts based on the thematic areas of TAWLA programme:

Part 1: Good Governance;

Part 2: Gender; and

Part 3: Sexual and Reproductive Health Rights (SRHR)

Training Methodology

The training methodology should base on the principles of adult learning: adult learn continuously by adding new knowledge, experiences and skills to the knowledge and experience they gained throughout their life. The trainer/facilitator should therefore avoid too much lecturing which is basically the transfer of knowledge from a trainer to trainee. Instead, he/she is required to encourage discussions and sharing of knowledge and experiences. The trainer is part of this learning process by gaining experience and knowledge him/herself. Thus it requires a trainer who is able to convey messages and to promote dialogue; who listens and tries to understand views and perceptions of others, who analyses views for further conceptualization and generalisation; who accepts and respects different opinions; and is open minded and committed to the task.

List of Methods Suggested

1. Discussion methods: This promotes optimal interactions and exchange between participants. Discussion can be conducted in a small group of maximum of seven people and participatory discussion of all participants in a penary. The trainer should encourage male and female participants to give their views and share their experiences on a topic or issue before giving definitions and information her/himself. Key questions include the following: what do you understand is meant by..., what do you think of..., what do you know about..., why do..., why not..., mention the.... etc. Never discourage participants by judging comments as “wrong” or “bad”. It is the task of the trainer/facilitator to take out the relevant points, add his/her points, summarize and draw conclusions during and at the end of the training.
2. Individual reflection: The trainer/facilitator gives the participants a few minutes to reflect on question of topic without talking and thereafter share their thoughts.
3. Statement game: Participants discuss topics guided by statements prepared in advance.



4. Presentation method: Provide questions or issues to the groups and ask them to discuss. Rotating presentation of group outcomes will be written on flip charts. Ask each group to choose a representative to present the group outcome.
5. Panel discussion: a selected group of participants discuss in front of the remaining participants about certain topics or statements prepared in advance. The trainer/facilitator or another participant becomes the chairperson. The trainer/facilitator can also involve the audience in the discussion. After the panel discussion the trainer/facilitator should summarize, add his/her views and draw final conclusions and lesson learnt.
6. Gallery walk: Flipcharts with outcomes of group discussions are put on a wall. Participants walk around and discuss independently and informally about an issue or issues hanging on the wall. Finally, the trainer/facilitator involves all participants to discuss what they have observed from gallery walk.
7. Role Play: A few participants are chosen to be actors in a play of which a certain setting/scenario is given. Guidelines are provided to play the roles, bearing in mind proper explanation about the aim of the assignment and the background/setting of play, preparation by the players, and preparation by the observers. The trainer has to prepare him/herself what questions to discuss after the performance in order to increase understanding and insights of the participants.



**Part I:
Good Governance**

Module 1:

**TERMS AND CONCEPTS:
INTRODUCTION AND MEANING OF
GOVERNANCE**

Overall Objective

The main objective is to enhance participants' knowledge on the concept of governance and good governance.

Specific objectives

The objective of this Module is to enable participants:

- i. To have knowledge of key terms and concepts, such as “governance” and “good governance.”
- ii. To understand good governance and its importance in improving the lives of people.
- iii. To understand the broad parameters of measuring governance.

EXERCISE

Choose appropriate methods of training such as group discussion, individual reflection or question and answer method and ask the participants to discuss the following:

- o What is Governance?
- o Under which contexts the issue of governance can arise? [E.g. central government, local government, international governance, NGO governance].
- o What is good governance? What are the characteristics of good governance?
- o Which behaviours or characters are examples of bad governance?

1.1 Introduction: What is Governance?

The word ‘governance’ has been given various interpretations. The World Bank defines governance as “the manner in which power is exercised in the management of a country’s economic and social resources for development.”⁵

According to UNDP the challenge for all societies is to create a system of governance that promotes, supports and sustains human development - especially for the poorest and most marginal. In this regard, UNDP states that “Governance can be seen as the exercise of economic, political and administrative authority to manage a country’s affairs at all levels. It comprises the mechanisms, processes and institutions, through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences.”⁶

It is very clear from these two definitions that the word ‘governance’ comprises of multifaceted elements. It means the process of decision-making and the process by which decisions are implemented (or not implemented). Governance can be used in several contexts such as corporate governance, international governance, national governance and local governance. When used under several contexts it can simply be defined as the exercise of authority, control, management and exercise of power by the governing body.

Governance refers to more than government itself. It refers to the “ordering of social life” or the way in which social institutions, both in the public and private sectors, actually work.

Governance consists of the traditions and institutions by which authority in a country is exercised. This includes the process by which governments are selected, monitored and replaced; the capacity of the government to effectively formulate and implement sound policies; and the respect of citizens and the state for the institutions that govern economic and social interactions among them.⁷

5 *World Bank, Managing Development: The Governance Dimension, a Discussion Paper prepared by a Bank-Wide Task Force, August 29, 1991 Washington D.C., p. 1.*

6 *UNDP, Governance for Sustainable Human Development, A UNDP Policy document, UNDP 1997 p. 2-3. Available at <http://mirror.undp.org/magnet/policy/chapter1.htm>.*

7 *See <http://info.worldbank.org/governance/wgi2007/>.*



Since governance is the process of decision-making and the process by which decisions are implemented, an analysis of governance focuses on the formal and informal actors involved in decision-making and implementing the decisions made and the formal and informal structures that have been set in place to arrive at and implement the decision.

Government is one of the actors in governance. Other actors involved in governance vary depending on the level of governance under discussion. In rural areas, for instance, other actors may include influential land owners, associations of peasant/farmers, cooperatives, NGOs, research institutes, religious leaders, finance institutions, political parties, the military etc. The situation in urban areas is much more complex. All available institutions and organizations found in urban areas comprise essential actors in governance.

1.2 What is Good Governance?

In the recent past the terms “governance” and “good governance” are being increasingly used in development literature, and by the citizens. Lack of good governance is being increasingly regarded as one of the major contributing factors to slow development and poverty reduction. It is in light of the latter, that major development partners and international financial institutions such as the World Bank are increasingly basing their aids and loans on the condition that reforms that ensure “good governance” are undertaken.

1.3 The Concept of Good Governance

The notion of good governance is relatively new. It surfaced in 1989 in the World Bank’s report on Sub-Saharan Africa, which characterized the crisis in the region as a “crisis of governance”.⁸ The World Bank was concerned about the ways in which governance influenced economic performance. In addressing governance, the Bank calls into question the ability, capacity and willingness of political authorities to govern effectively in the common interest.

8 *World Bank, Sub-Saharan Africa: From Crisis to Sustainable Development (Washington, DC: World Bank), 1989.*

There is heightened awareness that the quality of a country's governance system is a key determinant of the ability to pursue sustainable economic and social development.⁹

The term “good governance” has been defined according to characteristics or principles it bears. In any case, what should be included as principles may differ from one situation to another. Nevertheless, a number of people and organisations have reflected on a set of principles although with slight variations. For instance, the Framework for Commonwealth Principles on Promoting Good Governance and Combating Corruption¹⁰ mentions the following as essential principles in good governance: (i) ethics and integrity in the public and private sectors; (ii) effective economic and fiscal policies; (iii) improving the management, efficiency and delivery of public services; (iv) transparency and accountability; (v) effective institutional arrangements to resolve disputes between citizens, corporations and government (i.e., effective judiciary and legal system); and (vi) engagement of civil society.

The Worldwide Governance Indicators (WGI) project which prepared governance indicators for 215 economies over the period of 1996 – 2011, mentions six dimensions of governance. These are:

- Voice and Accountability,
- Political Stability and absence of violence,
- Government effectiveness,
- Regulatory quality,
- Rule of Law, and
- Control of corruption.¹¹

However, it is in the UNDP report— Governance for Sustainable Human Development, that a well refined definition of good

9 Santiso, Carlos, “Good Governance and Aid Effectiveness: The World Bank and Conditionality,” Paul H. Nitze School of Advanced International Studies, Johns Hopkins University, *The Georgetown Public Policy Review* Volume 7 Number 1 Fall 2001, pp.1-22.

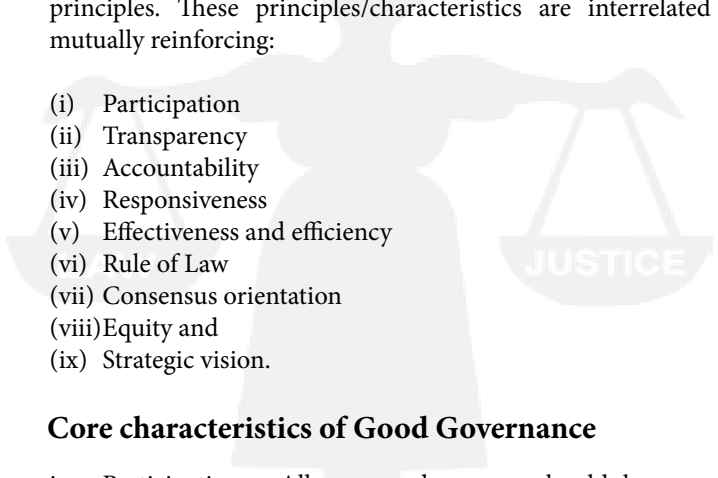
10 See *Commonwealth Secretariat, Fighting Corruption: Promoting Good Governance*, Commonwealth Secretariat, April 2000.

11 See, *The Worldwide Governance Indicators produced by Daniel Kaufmann, Brooking Institutions; Aart Kraay, World Bank Development Research Group; and Massimo Mastruzzi, World Bank Institute. Available at <http://info.worldbank.org/governance/wgi/index.asp> (accessed on 10th April 2013).*



governance is made. According to UNDP “Good governance is, among other things, participatory, transparent and accountable. It is also effective and equitable. And it promotes the rule of law. Good governance ensures that political, social and economic priorities are based on broad consensus in society and that the voices of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources.”¹²

From the definition given by UNDP, “Good Governance” has nine (9) characteristics which have been acknowledged as the core principles. These principles/characteristics are interrelated and mutually reinforcing:

- 
- (i) Participation
 - (ii) Transparency
 - (iii) Accountability
 - (iv) Responsiveness
 - (v) Effectiveness and efficiency
 - (vi) Rule of Law
 - (vii) Consensus orientation
 - (viii) Equity and
 - (ix) Strategic vision.

1.4 Core characteristics of Good Governance

- i. Participation - All men and women should have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their interests. Such broad participation is built on freedom of association and speech, as well as capabilities to participate constructively.
- ii. Rule of law - Legal frameworks should be fair and enforced impartially, particularly laws on human rights.
- iii. Transparency - Transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them.
- iv. Responsiveness - Institutions and processes try to serve all stakeholders.
- v. Consensus orientation - Good governance mediates differing

12 UNDP, *Governance for Sustainable Human Development*, 1997.

interests to reach a broad consensus on what is in the best interest of the group, and where possible, on policies and procedures.

- vi. Equity - All men and women have opportunities to improve or maintain their well-being, taking into accounts the differing needs of each group.
- vii. Effectiveness and efficiency - Processes and institutions produce results that meet needs while making the best use of resources.
- viii. Accountability - Decision makers in government, the private sector and civil society organizations are accountable to the public, as well as to institutional stakeholders. However, the accountability differs depending on the organization and whether the decision is internal or external to an organization.
- ix. Strategic vision - Leaders and the public have a broad and long-term perspective on good governance and human development, together with a sense of what is needed for such development.

1.5 Requirements for Good Governance

To achieve the core characteristics of good governance, certain features need to be seen in an organisational institution as well as community structures and its institutions. Good governance calls for having the following in place at national, district and organisation levels:

- Clear vision and mission
- Clear goals
- Clear plans
- Clear policies to guide in the implementation of the plans
- Good organizational structures, work processes and procedures
- Good performance management, monitoring and evaluation systems
- Ethical and accountable staff and other stakeholders, and
- Knowledgeable grass-root population that can ask/demand for accountability.

1.6 How do we Measure Good Governance?

In the development of a country, one of the most important factors is good governance. With good governance, a country, whether big or small, whether it has a large or small resource endowment, wherever



it is located, can succeed. Without good governance, a country with abundant natural resources will not succeed. In principle, good governance, as a concept, is applicable to all sections of society such as the government, legislature, judiciary, the media, the private sector, the corporate sector, the co-operatives societies, political parties, duly registered trusts, and organisations such as the trade unions and lastly the non-government organisations (NGOs).

Several indicators of governance can be used in measuring whether or not a country is making progress in good governance. These may include the following: availability of peace and security; respect to the rule of law; development of infrastructure; economic performance; physical quality of life, etc. Some of these indicators are relatively easy to measure, while others are more value laden. For example, indicators such as economic performance are measurable in GDP per capita and others such as rule of law are very difficult to measure. Many factors will have to be observed to measure the rule of law, including the following: access to justice, independence of the judiciary, response to the needs of the poor and vulnerable members of the society, compliance with human rights etc.

The Worldwide Governance Indicators (WGI) project reports aggregate and individual governance indicators for 215 economies over the period 1996–2011, for six dimensions of governance which are:

- i. Voice and accountability
- ii. Political Stability and Absence of Violence
- iii. Government Effectiveness
- iv. Regulatory Quality
- v. Rule of Law and
- vi. Control of Corruption.

Having seen the nine principles of good governance, the crucial issue is “what indicators do we look at and how do we measure our governance in the local setting?”

1.7 Failure to observe Good Governance

The opposite of good governance is bad governance. Bad governance is being increasingly considered as one of the root causes of all evils, including slow development in societies. Without good governance the voice of the most vulnerable members of the society will not be heard, decisions will be unfair, corruption will thrive, the government will be characterized with lack of transparency, accountability and inefficiency. When there is failure to observe good governance, human rights cannot be respected and protected in a sustainable manner. The implementation of human rights relies on a conducive and enabling environment. This includes appropriate legal frameworks and institutions as well as political, managerial and administrative processes responsive to the rights and needs of the population. Without good governance, the end users of services or the one affected by the decision of the government will suffer. Further down the line, the citizenry will be marginalised and the powerful few interests will overshadow those of ordinary citizens.

1.8 Why Good Governance?

With good governance corruption is minimized, the voices of the most vulnerable in society are heard in decision-making. Good governance is also responsive to the present and future needs of the society. The following are, therefore, some the benefits of good governance:

- o Democratic election, accountability and replacement of authorities
- o Voice and demand for accountability will be respected
- o Stability and lack of violence
- o Efficiency of institutions and resource management
- o Effective regulatory framework
- o Government effectiveness
- o Respect for institutions, laws and interactions among players in civil society, business, and politics
- o Reduction of corruption, and
- o Respect for the Rule of law.





Module 2

GOVERNANCE AND HUMAN RIGHTS

Overall Objective

The main objective is for the participants to understand that respect for Human Rights is fundamental to good governance.

Specific objectives

Specific objective of this module is to help the participants:

- (i) To know various types of human rights.
- (ii) To be able to link between human rights and good governance.
- (iii) To appreciate the importance of human rights in good governance.

EXERCISE

Ask the participants the following questions:

- o What is the meaning of “human rights”?
- o Mention examples of human rights that they know.
- o How are human rights different from other rights such as legal or contractual rights?
- o What are the various sources where human rights are written?
- o Who has the obligation to respect and protect human rights?



2.1 Introduction: Good Governance and Human Rights

Good governance and human rights are mutually reinforcing. Human rights principles provide a set of values to guide the work of governments and other political and social actors. They also provide a set of performance standards against which these actors can be held accountable. Moreover, human rights principles inform the content of good governance efforts: they may inform the development of legislative frameworks, policies, programmes, budgetary allocations and other measures.

Human rights are rights which a person has by virtue of being a human person. They are inherent in man; they arise from the very nature of man as a social being. Human rights constitute a body of unique values which are highly cherished and respected to ensure human dignity. Every human being has the same fundamental social, cultural, civil, and political rights as any other person by virtue of their humanity. These rights are universal (enjoyed by all) indivisible (cannot be taken away from human being), interdependent, and interrelated. All rights are useful because they depend on each other. Promotion of one right helps to realize another right.

The need to protect and promote human rights is predicated on the standards contained in the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966, the International Covenant on Economic, Social and Cultural Rights of 1966 and other regional human right treaties such as the African Charter on Human and Peoples' Rights of 1981.

While it is important to supply good governance through accountability mechanisms, it is equally necessary to encourage the public to demand good governance by educating them about their rights and providing them with access to legal representation when they feel that they have been treated unfairly, or their rights have been violated or restricted.

2.2 Rights that Create the Space for Civilians to Participate in the Governance of State

The true test of “good” governance is the degree to which it delivers on the promise of human rights: civil, political, social, cultural, and economic rights. According to the Office of the UN High Commissioner for Human Rights, the key question in governance is: are the institutions of governance effectively guaranteeing the right to health, adequate housing, sufficient food, quality education, fair justice and personal security?

Democratic states respect the right of citizens to take part in the governance of the state. It is through elections that the right to take part in governance is realized for most citizens. The Constitution of the United of United Republic of Tanzania of 1977 protects this right under Article 21(1). However, the same Constitution limits the enjoyment of the right to political participation by making it impossible to run for any political post without being nominated and sponsored by a political party. It is expected that, under the new Constitution independent candidates will be allowed to run for elections.

There is a spectrum of rights under international human rights framework that is also recognized in the national frameworks to bind actors (largely government actors) to Good Governance and Accountability. The spectrum of rights outlined in this part is based on the ratified international conventions/instruments and national laws of Tanzania.¹³ However, these rights are not exhaustive. The trainer/facilitator should be acquainted with various human rights which are contained in treaties ratified and accepted by the Government of Tanzania.

2.3 Civil and Political Rights

The core instrument for civil and political rights is the International Covenant on Civil and Political Rights (ICCPR), a legally binding

13 *These instruments include, Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of Persons with Disabilities (CRPD), the African Charter on Human and Peoples’ Rights (AfCHPR), etc*



treaty to which Tanzania is a State party. This instrument contains all the rights which enable an individual to participate in the governance of his/her country. Government should understand that it is required to provide immediate protection of these rights, and may not invoke limited budgetary resources as justification for not respecting and protecting these rights. Most of these rights are contained in the Constitution of Tanzania. Example of these rights includes the following:

2.3.1 The Right to Life

The right to life can be considered to be a supreme right from which no derogation should be permitted. Every human being has the inherent right to life, and this right must be protected by law. A basic principle of human rights law is that no person shall be arbitrarily deprived of life. The right to life is provided for under Article 3 of the Universal Declaration of Human Rights (UDHR), Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), Article 4 of the African Charter on Human and Peoples Rights (AfCHPR), and Article 14 of the Constitution of the United Republic of Tanzania of 1977.

The right to life is the most important of all rights, because without it, there would be no ability to enjoy other rights and freedoms. Other rights add quality to the life because they depend on the pre-existence of life.

2.3.2 Freedom of Assembly

The right to freedom of assembly enables a person to have a platform to share his or her concerns with others. This right is protected by various international legal instruments including the Universal Declaration of Human Rights which, states that: “Everyone has the right to freedom of peaceful assembly and association.”

2.3.3 Freedom of Association

Freedom of association means the right of individuals to associate with others, to collectively express, promote, pursue and defend common interests. The right to freedom of association involves the

right to join, form, and withdraw membership from different kinds of groups, associations and partnerships. The fulfilment of this right requires non-interference of the state in the formation and affairs of associations that functions within the scope of law. It also requires the assistance of the state in creating and maintaining environment that is conducive for the exercise of this right. This freedom enables people who share similar interests to come together and form organizations that represent their interests.

2.3.4 Freedom of Expression

A hallmark of a democratic society is the opportunity for free and public debate, in which dissenting opinions can be fully voiced and views can be disseminated even though they may sometimes shock, offend, or disturb. For a democratic society to flourish, freedom of opinion and expression must be fully guaranteed and protected. The right to freedom of opinion, expression, and information has long been regarded as “a fundamental human right and an essential foundation of a democratic society. It is a right whose existence allows other democratic freedoms to be guaranteed.”¹⁴

The right to freedom of opinion, expression, and information is provided under Article 18 of the Constitution of the United Republic of Tanzania. Also, the Declaration of Principles on Freedom of Expression in Africa of 2002 requires states to guarantee the right to information. This is because, without sufficient information the citizens cannot participate meaningful in the governance of their country.

2.3.5. The Right to Liberty and Security of Person

Article 9 of the ICCPR states that everyone has the right to liberty and security of person, that no one shall be subjected to arbitrary arrest or detention, and that no one shall be deprived of his liberty except on such grounds and in accordance with procedures established by law. The right to security of person is associated with the right to liberty and includes the right, if one is imprisoned unlawfully, to the remedy of habeas corpus. This right is also guaranteed under Article 6 of the AfCHPR and Article 15 of the Constitution of the United Republic of Tanzania.

¹⁴ Commonwealth Secretariat, *Freedom of Expression, Assembly and Association: Best Practice*, Marl bough House, London, 2002 p. 15.



The right to security of person is also viewed in the context of the prohibitions of torture, cruel and inhuman punishment. In this regard, Article 7 of the ICCPR states that no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation. This prohibition is also contained under Article 13(6)(e) of the Tanzania Constitution. Moreover, article 8 of the ICCPR states that no one shall be held in slavery, and that slavery and the slave trade in all their forms (including sexual exploitation through forced prostitution) shall be prohibited.

2.4 Economic and Social Rights

Economic, social, and cultural rights are part of the Universal Declaration of Human Rights, and are legally protected by the International Covenant on Economic, Social and Cultural Rights (ICESCR) to which Tanzania is a party. This covenant comes with some immediate State obligations. States party to the Covenant are obliged to provide core essentials of each standard, e.g., in education, health, social protection and cultural life. Economic, social and cultural rights have traditionally been referred to as the second generation of human rights. These rights include the right to work, the right to free choice of employment and to just and favourable conditions of work, the right to form and join trade unions, the right to social security, the right to health and the right to own property.

The basic principle of human rights is that all human rights are interdependent and interrelated. The fulfilment and protection of one right helps in the fulfilment of other rights. For instance, provision of education helps to realize other rights such as adequate standard of living, access to information and ability to participate meaningful in the political process. Therefore, economic and social rights are paramount in order to attain and fulfil other human rights, including civil and political rights and the right to development. The Constitution of the United Republic of 1977 does not guarantee many of these rights. It guarantees only the right to work (Article 22) and the right to own property (Article 24). It is our hope that the new Constitution will protect all social and economic rights such as the following:

2.4.1 The Right to Work

Tanzania has ratified the International Labour Organization's (ILO) core labour conventions, including those related to the freedom of association and the right to organise and collective bargaining. In the Constitution of the United Republic of Tanzania of 1977 it is clearly provided that every person has the right to work and is entitled to equal opportunity and right on equal terms to hold any office or discharge any function under state authority. In addition, legislation such Employment and Labour Relations Act, 2004 and Labour Institutions Act, 2004 protect labour rights as recognised in the ILO Conventions.

2.4.2 The Right to Own Property

Property is any physical or intangible thing that is owned by a person individually or jointly with other people. Depending on its nature, an owner of property has the right to use his/her property as he/she pleases, including the right to consume, sell, rent, mortgage, transfer or exchange. Article 17 of the UDHR provides that everyone has the right to own property alone as well as in association with others, and no one shall be arbitrarily deprived of his or her property. The Convention on Elimination of Discrimination Against Women of 1979(CEDAW) provides for equal property rights between spouses "in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration" (Art. 16(1)(h)). At the national level, Article 24 of the Constitution of the United Republic of Tanzania, 1977 stipulates that every person is entitled to own property and has a right to the protection of his property held in accordance with the law. The most fundamental property for many Tanzanians is land. And the primary legislation governing land ownership is the Land Act, No. 4 of 1999 and the Village Act, No. 5 of 1999.

2.4.3 The Right to Education

The right to education is a fundamental human right and is essential for the exercise of all other human rights. It promotes individual freedom and empowerment and yields important development



benefits. The right is explicitly recognized by UDHR, which provides that: “Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit (Art. 26).” This right is also guaranteed under Article 13 of ICESCR, Article 17 of AfCHPR, and Article 28 of CRC.

The Constitution of Tanzania recognises the right to “self-education” (Article 11(2)) as a fundamental objective and directive principle of state policy. It is not mentioned as a right capable of being enforced. Although this right is not justiciable in courts, the Government is charged with the duty of respecting and incorporating it into state policy.

2.5 Rights of Vulnerable Groups

Vulnerable or special groups, from a human rights perspective, are groups that due to their social, economic or physical status easily become immediate victims of human rights violations and therefore require special protection. These groups are often put at risk and discriminated in society due to biological, historical and other social-economic differences. These groups include, women and girls, children, persons with disabilities, elderly persons, persons living with HIV and AIDS, refugees, internally displaced persons, stateless persons, national minorities, indigenous peoples and migrant workers. International conventions, domestic legislation and policies protect rights of such special groups against discrimination. These groups are supposed to enjoy all the rights just like any other members of the society. Let us see the following examples:

2.5.1 Women’s Rights

Women are vulnerable to human rights violations. Technically, women rights are human rights and Tanzania is a signatory to both international and regional instruments that guarantee the special rights of women. These are the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples’ Rights on

the Rights of Women in Africa (Maputo Protocol). Under these two major treaties, women are entitled to enjoy all rights, including rights which are peculiar to women due to their biological difference with men.

2.5.2 Children's Rights

Children still face many problems that threaten their lives. Children living in rural areas, for instance, are seriously affected by poverty and inadequate social services, including lack of water, poor nutrition, inadequate health facilities and inaccessible education facilities. Likewise, most children are victims of physical and sexual violence, child labour, child trafficking, diseases, malnutrition, torture and cruelty treatments, and lack of proper care and maintenance. In 1989 the United Nations adopted the International Convention on the Rights of the Child (CRC), and in 1990 the African Charter on the Rights and Welfare of the Child was adopted. Tanzania has ratified these instruments and enacted the Law of the Child, Act 2009 to give effect to these instruments.

2.5.3 Rights of Persons with Disabilities

According to the Tanzania Disability Survey of 2008, about 3.2 million Tanzanians aged 7 years and above (7.8% of the population) have some form of activity limitation, and 5.4 million (13.2% of the population) are affected by a disability. The prevalence is higher in rural areas (8.3%) than in urban areas (6.35%). Tanzania has signed and/or ratified several UN treaties and declarations regarding the rights of persons with disabilities, including the UN Declaration on the Rights of Persons with Disabilities of 1975, the United Nations Convention on the Rights of Persons with Disabilities of 2006 (CRPD) and its Optional Protocol, and the UN Standard Rules on Equalization of Opportunities for People with Disabilities of 1993. Tanzania was also among the first country in Africa to prepare a plan to implement "The African Decade of Persons with Disability 2000-09", as well as being a member of the African Rehabilitation Institute. In implementing the CRPD the Government enacted the Persons with Disability Act, 2010. In addition to that the Government developed and launched a National Disability Policies of 2004. Persons with disabilities are entitled to enjoy all rights and accorded special measures of protection.



2.5.4 Rights of Indigenous and Minority People

There are various international instruments that protect the rights of indigenous and minority people. Such instruments are the United Nations Declaration on Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992, The ILO's Convention 169 on Indigenous and Tribal Peoples of 1989 and the United Nations Declaration on the Rights of Indigenous People, 2007. There are no specific legal instruments providing for the rights of minorities or indigenous peoples in Africa. However, the principles of non-discrimination, equality, freedom and human dignity are reflected in a number of regional legal instruments. These can be used to protect rights of the people falling in these groups. In its report in 2005, the Working Group of Experts on Indigenous Populations/Communities of the AfCHPR defined indigenous peoples to have the following characteristics; (a) Culture and ways of life which are different from the mainstream society. (b) Culture and ways of life under threat or at risk of extinction.

In Tanzania, for instance, indigenous or minority groups may include the Hadzabe community, who live around Lake Eyasi to the South of the Ngorongoro Conservation Area in northern Tanzania. Another example is the Maasai people, who live along the Rift valley and scattered in various regions of Tanzania Mainland, as well as the Ndorobo people, who are divided into two groups Waakie and Waarmanik, found in Kiteto district in Arusha and Handeni district in Tanga. Indigenous people in Tanzania have been affected mostly by foreign investment in mining, agriculture and tourism industries. For instance, incidents of forceful eviction of Maasai have been reported several times which threaten their survival and existence.¹⁵

2.5.5 Rights of Persons Living with HIV/AIDS (PLHIV)

Many human rights issues associated with HIV and AIDS have arisen, such as stigmatization, discrimination in employment, and the right to health and other social rights and guarantees. In response to these human rights issues, there are a number of international instruments that protect the rights of persons living with HIV and

¹⁵ See *Human Rights Reports issued by Legal and Human Rights Centre.*

AIDS.¹⁶ Tanzania has also enacted the HIV and AIDS (Prevention and Control) Act, 2008. The Act provides for HIV prevention, care, and treatment, and protects the rights of people living with HIV. It also defines the roles and responsibilities of all sectors in addressing HIV. The Act specifically states that, “Every person, institution, and organization living, registered, or operating in Tanzania shall be under general duty to . . . reduce the spread of HIV . . . [and] increase access, care, and support to persons living with HIV and AIDS” This Act provides a body of human rights to persons living with HIV.

2.6 Collective Rights

There are other rights which are not enjoyed individually but collectively. These are called collective or group rights. Such kind of rights include: the right to self determination, the right to peaceful life, the right to development, the right to clean and safe environment, and the right to benefit from the national natural resources. Collective rights are protected by such international instruments, including the Universal Declaration of Human Rights and the African Charter on Human and Peoples’ Rights.

2.6.1 The Right to Development

The International Declaration on the Rights to Development (IDRD) of 1986 defines the right to development as an inalienable human right by virtue of which, every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development.

In Tanzania, there are policy and legal frameworks to ensure implementation of this right. For instance, Article 8 of the Constitution of Tanzania states, as a matter of State policy, that “the primary objective of the Government shall be the welfare of the people” and Article 9 directs State authority and all its agencies to

¹⁶ *These instruments include the following: The Declaration of Commitment on HIV/AIDS (Global Crisis – Global Action); The United Nations Millennium Development Goals (MDGs), General Comment 14 of the Committee on Economic, Social and Cultural Rights and The Commission on Human Rights Resolutions on the Right to the Highest Attainable Standard of Health. The International Guidelines on HIV/AIDS and Human Rights, 2006, Consolidated Version –UNAIDS and OHCHR, confirms the relationship between HIV/AIDS and human rights.*



ensure “national wealth and heritage are harnessed, preserved and applied for the common good, “the use of national wealth places emphasis on the development of the people and in particular is geared towards the eradication of poverty, ignorance and diseases” and that “human dignity is preserved and upheld in accordance with the spirit of the Universal Declaration of Human Rights.”

2.6.2 The Right to Clean Environment

Environmental preservation and protection, along with sustainable use of natural resources, have been growing international concerns. Environmental degradation threatens access to clean air, food security, and safe water. Increasing pollution results in an increase in health problems. Article 24 of the AfCHPR recognizes that all people shall have the right to a general satisfactory environment favourable to their development. In many other international conventions, the right to environment is closely linked to the right to health. The ICESCR calls upon states to improve all aspects of environmental and industrial hygiene in order to achieve the full realization of the right to health. Similarly, the CRC calls upon states to consider the dangers and risks of environmental pollution in maintaining the right to health and underscores the necessity of education on hygiene and sanitation. One of the MDGs is integrating the principles of sustainable development into country policies and programmes, and reversing the loss of environmental resources by 2015.

Tanzania has ratified various international conventions dealing with the rights to health and right to clean environment. It has also taken steps towards improving environmental protection. The Environmental Management Act No. 20 of 2004 established the National Environmental Management Council (NEMC) to oversee issues of environmental management. The High Court of Tanzania in the case of Festo Balegele and others v. Dar es Salaam City Council held that Article 14 of the Constitution which protect the right to life includes the right to clean and safe environment because logically without clean and safe environment there cannot be life.

2.6.3 Consumers' Rights

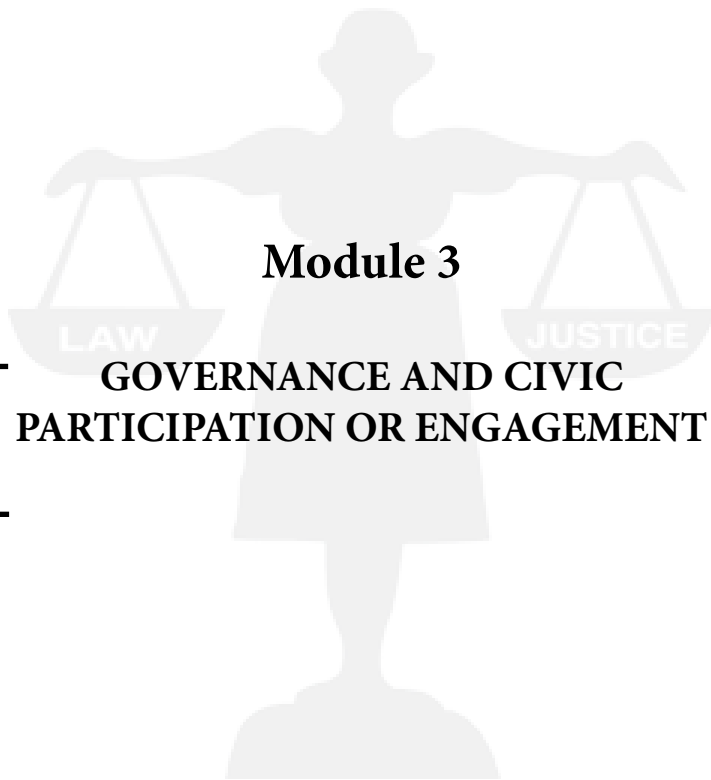
Protection of consumers' rights has always been a challenge to governments in countries practicing market economy. The UN General Assembly adopted the UN Guidelines for Consumer Protection on 9 April 1985 for the following reasons: to take into account the interests and needs of consumers in all countries, particularly those in developing countries; and to recognize that consumers often face imbalances in economic terms, educational levels and bargaining power. The Guidelines require governments to develop and maintain a strong consumer protection policy, taking into account the eight general guidelines and other relevant international agreements. In Tanzania the law that deals with consumer rights is the Fair Competition Act of 2003.

2.7 Conclusion

There is a growing conviction that the implementation of human rights principles will strengthen social harmony and cohesion, advance the process of development, and promote the accountability and legitimacy of governments. Human rights, when objectively applied, ensure that the benefits of human development reach even the most disadvantaged people. Notably, the human person is at the centre of both human rights and human development. When human development and human rights advance together, they reinforce each other— thereby expanding people's capabilities in protecting their fundamental rights and freedoms.

In implementing human rights so as create the space for civilians to participate in the governance of State, the Government has three basic duties: The duties to respect, protect, and fulfill the realization of human rights. The duty to respect requires the duty-bearer not to breach directly or indirectly the enjoyment of any human right. The duty to protect requires the duty-bearer to take measures that prevent third parties from abusing the right. The duty to fulfill requires the duty-bearer to adopt appropriate legislative, administrative, and other measures towards the full realization of human rights.





Module 3

GOVERNANCE AND CIVIC PARTICIPATION OR ENGAGEMENT

Overall Objective

The overall objective of this Module is to show that Participation is the key issue in any democratic governance.

Specific objectives

At the end of the training the participants are expected to have better understanding of:

- (i) What is civic participation or engagement.
- (ii) The justification for civic participation.
- (iii) Forms of civic participation, and
- (iv) Importance of civic participation to good/democratic governance.

The Trainer/Facilitator can create any relevant exercise for the Participants before the training begins.

3.1 Introduction

The right to participate is not limited to the context of development only. It is a very general right that has a bearing on all spheres of public affairs, and as such it is equally applicable to developed as well as developing countries. This is evident from the following excerpt from Article 25 of the ICCPR: 'Every citizen shall have the right and the opportunity ... To take part in the conduct of public affairs, directly or through freely chosen representatives ...' Thus the universality of the right to participate has been recognized beyond dispute, underlining the intrinsic value of participation in all spheres of public life.

The role of public participation in economic and human development has been enshrined in the 1990 African Charter for Popular Participation in Development and Transformation.

3.2 Civic Participation or Engagement

One of the most basic definitions of civic participation or engagement involves thinking about how government, society, and citizens interact. Civic participation or engagement refers to a condition in which every citizen has the means to actively engage in public sphere, including political processes. A fundamental aspect of a democratic state is the right of its citizens to participate in decision-making processes. The success of development and participatory governance depends on both a robust state and an active civil society with healthy levels of civic engagement. Empowered and active citizenship is an end in itself: It is essential for inclusive growth and national ownership.

Civic engagement also refers to that process whereby citizens or their representatives are able to engage and influence public processes, in order to achieve civic objectives and goals. The 1993 UNDP Human Development Report describes civic engagement as "a process, not an event that closely involves people in the economic, social, cultural and political processes that affect their lives."

Civic participation helps to influence institutions, policies and processes for equitable and sustainable development. This is why

UNDP supports governments to create mechanisms for citizens' engagement in policy processes, including marginalized sections of the population such as indigenous peoples, women and the poor. It also focuses on increasing the capacities and skills of civil society organizations (CSOs) to effectively participate and engage in decision making processes and hold states to account.

For UNDP, the term civil society includes the full range of formal and informal organizations that are outside the state and the market, such as social movements, volunteer organizations, mass-based membership organizations, faith-based groups, NGOs, community-based organizations as well as communities and citizens acting individually and collectively.



The principle of civic engagement underscores the most basic principle of democratic governance, i.e. sovereignty resides ultimately in the people- in the citizenry. Also, civic engagement is about the right of the people to define the public good, determine the policies by which they will seek the good, and reform or replace institutions that do not serve that good. Generally, public participation seeks

and facilitates the involvement of those potentially affected by or interested in a decision. The principle of public participation holds that, those who are affected by a decision shall have a right to be involved in the decision-making process. Public participation implies that the public's contribution will influence the decision.

In some countries public participation has become a central principle of public policy making. In the UK, for example, it has been observed that all levels of government have started to build citizens and stakeholders engagement into their policy-making processes. This may involve large-scale consultations, focus group research, online discussion forums, or public deliberations etc. In Tanzania, as of recent past, we have witnessed a situation in which the public has been involved. A good example is the public consultation in making a new Constitution.

3.3 Forms of Civic Participation

Civic engagement can take many forms— from community service and individual volunteerism to organizational involvement and to electoral participation. Here civic participation includes efforts to directly address an issue, work with others in a community to solve a problem or interact with the institutions of representative democracy. These forms comprise formal and informal participations.

While the traditional form of civic engagement involved citizens during large-scale and organized general elections after every four or five years, this is now felt to be insufficient. The modern mechanisms for civic participation include consultations, partnerships, seminars, workshops, working groups, working meetings, modern communication media (e.g. email, virtual consultation forums), interviews, surveys, and meetings with institutions, among others. A study published by the Center for Information and Research on Civic Learning and Engagement at Tufts University in the U.S divided civic engagement into 3 categories: civic, electoral, and political voice.¹⁷

17 Keeter, Scott; Cliff Zukin, Molly Andolina, Krista Jenkins (2002). "The civic and political health of a nation: a generational portrait". Center for Information & Research on Civic Learning & Engagement.

Measures of civic engagement

Civic	Electoral	Political voice
Community problem solving	Regular voting	Contacting officials, involvement in policy making
Regular volunteering	Persuading others to vote	Contacting the print media
Active membership in a group or association	Displaying signs, stickers, banners etc	Contacting the broadcast media
Participation in fund-raising run/walk/ride	Campaign contributions	Protesting and other means

Direct civic engagements in public governance are now taking place at different levels – at policy development through engaging the necessary stakeholders, and at local level— especially in local government planning and development; and where possible in budgeting and auditing.

The government, both at the central and local levels has to take a proactive role to ensure that there are opportunities for public involvement. For instance, the success and effectiveness of public hearings conducted by the local government councils depends majorly on the commitment of local government to transparency and public participation.

Civil society organisations should not only act as watchdogs, but also influence public opinion in terms of supporting or being against local government policies and practices. They should often initiate the formation of watchdog committees and citizen advisory groups and facilitate their activities. Civil society organisations have for long played a significant role in enhancing a culture of participation across the world.

3.4 Significance of public participation

Public participation aims at bridging the gap between state actors, civil society, private sector and the general public. A society with heavy civic culture participates more in managing their affairs. It is now a policy and legal requirement to consult stakeholders in order to make development plans and services more responsive to local needs.

It is also common knowledge that public participation leads to behavioural change. This arises when people are aware, informed, and self-convinced that the change is needed. It encourages civic and community responsibility in that citizens feel obliged to support a particular activity. Citizens' oversight promotes transparency in government and ultimately prevents abuse of power. In turn, this promotes good governance.

However, the most important question is whether a citizen is supposed to participate. Many citizens do not participate in their government affairs. They don't vote or participate in most of the other ways. Deciding whether to participate and how much time to spend in participation is important. In order to make good decisions, you must think about several things. Some of these are:

- the purpose of our government;
- how important your rights are to you;
- how satisfied you are with the way the government is working.

Participation in government is in our own self-interest. We should be sure the people we "hire" (elect) can do the job we are hiring them for. Once they get the job, we should keep an eye on them to make sure they are doing that job. If they do a good job, we may not watch them as closely. If they do a bad job, we may watch them very closely and may even decide to replace them. The amount of time we spend participating will probably depend on how well we think our elected officials are doing. If everything is going well, we will spend less time than if we are concerned that someone is violating our rights and is not performing to our expectations. If we are pleased with the government, we may vote and do little else. If we are dissatisfied, however, we will probably take other types of actions.

3.5 Ways in which Citizens can make their Voice Heard

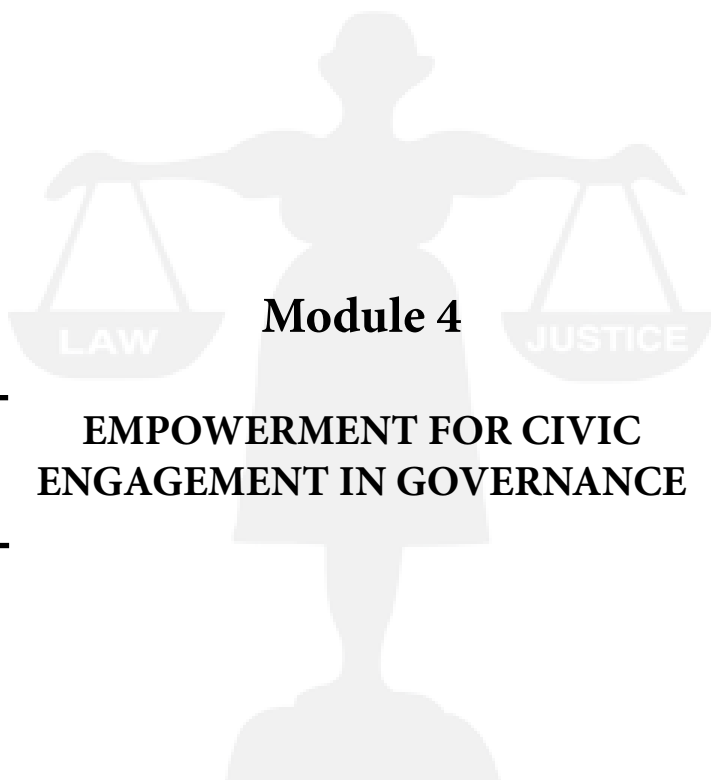
The government protects many rights for anyone who lives in the country. However, citizens have one right which non-citizens do not have. That is the right to vote and be elected to public office. But, while elections are common in 'democracies' there is an equally common experience that elections don't ensure that our Voices are heard in the representative bodies and the decisions made reflect our ideas and aspirations. The following are platforms where the voice of the people can be heard:

1. Participatory workshops
2. Village meetings
3. Information and citizen complaint offices
4. Sector collective action groups
5. Public hearings for accountability
6. Public hearings for budgeting
7. Citizen oversight committees
8. Radio audiences
9. Committees, e.tc.

However, there are many other formal and informal or indirect ways in which people can try and make their voices heard. These ways are such as advocacy, demonstrations and through media. Below is the list of some of these ways:

- looking for information in newspapers, magazines, and reference materials and judging its accuracy;
- voting in local and national elections;
- participating in a political discussion;
- trying to persuade someone to vote a certain way;
- signing a petition;
- wearing a button or putting a sticker on the car;
- writing letters to elected representatives;
- contributing money to a party or candidate;
- attending meetings to gain information, discuss issues, or lend support;
- campaigning for a candidate;
- lobbying for laws that are of special interest etc.





Module 4

EMPOWERMENT FOR CIVIC ENGAGEMENT IN GOVERNANCE

Overall Objectives

The main objective is to appreciate the need for empowerment and civic engagement in governance.

Specific objectives

- i. To be able to relate empowerment and governance.
- ii. To show various ways in which empowerment can be done in Tanzania to ensure civic engagement.

EXERCISE

The trainer should inform the participants that there is lack of profound civic participation in Tanzania. For instance in the 2010 General Elections only 34% of all registered voters turn out to cast their votes. Similarly, there is lack of interest on many people to participate in various public affairs. As a result, it may be difficult to ensure respect for the principles of good governance.

In light of the above provide the following questions and ask the participants to discuss in groups and finally make presentation. You can also choose any other methods which you think are suitable.

- o What are the various methods for civic engagement or participation?
- o Do you think there is adequate civic engagement or participation in your area? How?
- o What do you think are the barriers/limitations for civic engagement or participation?
- o What should be done to improve civic engagement or participation



4.1 Introduction

The purpose of this chapter is to provide mechanisms on how to fill a profound civic empowerment gap in Tanzania. There is widespread recognition that political power is distributed in vastly unequal ways among the citizens. Citizens with low or moderate incomes and without political posts speak with a whisper that is lost on the ears of inattentive government while the advantaged roar with the clarity and consistency such that policymakers can readily heed. Political influence seems to be limited entirely to affluent and middle-class people. The opinions of millions of ordinary citizens in the bottom third of the income distribution have no discernible impact on the behaviour of their elected representatives.

This Module clarifies the ways in which both as contextually located civic institutions and as primary deliverers of civic education, can and must help address this unjust civic empowerment gap, especially among historically marginalized populations.

As a general definition, empowerment is a multi-dimensional social process that helps people gain control over their own lives. It is a process that fosters power (that is, the capacity to implement) in people, for use in their own lives, their communities, and in their society, by acting on issues that they define as important.

Pursuing and seeking accountability in this artificially created unequal World is inevitable. According to the basic parameters of accountability, holding another actor accountable entails sanctioning that actor if he/she fail to fulfil his/her obligations without a justification or excuse.

Less powerful actors therefore cannot hold more powerful actors accountable, because they cannot sanction more powerful actors. Inequality is unlikely to disappear, so there is a pressing need for seeking accountability in diverse pro-active ways/forms that are feasible under conditions of inequality, but which deliver as many as possible the benefits of standard accountability. Empowerment is one key way to enable the less privileged to protect and demand their rights

Empowered and active citizenship is an end in itself: it is essential for inclusive growth and national ownership. Civic participation and empowerment refer to a condition in which every citizen has the means to actively engage in the public sphere, including political processes. The Millennium Declaration emphasizes the value of inclusive political processes that allow genuine participation by all citizens. Broad-based citizen's participation is crucial to achieving the MDGs. Under this condition, civil society must be empowered. The first thing is to create an enabling environment so as to ensure access to information and freedom of expression.

UNDP, for example, fosters inclusive participation and civic engagement at the local and national levels, with a focus on:

- Electoral laws, institutions and processes
- Strengthening parliament's relationships with civil society
- Mobilization channels such as political parties and civil society organizations
- Communication channels in relation to access to information, e-governance and independent media.¹⁸

4.2 Some Methods of Empowerment for Civic Engagement

4.2.1 Elections

Elections are a transformative tool for democratic governance. They are the means through which people voice their preferences and choose their representatives. To advance these goals, UNDP helps countries around the world acquire the necessary skills to organize elections that enjoy the confidence of electoral stakeholders. By allowing the genuine participation of all citizens, elections are crucial in achieving the Millennium Development Goals.

Elections, however, are only one aspect of democratic governance, they must be accompanied by strong and diverse institutions that provide equal protection to all people, fair distribution of resources and access to political power. People are less likely to resort to violence to resolve their differences or to make their voice heard if

¹⁸

Visit:http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/focus_areas/topics_civic_engagement/inclusive-participation/.



they can participate in credible and inclusive elections. However, you need good citizens who are able and ready to participate. Good citizens may be those who vote, protest, boycott, run for offices, join political parties, join civic organizations, circulate e-mail petitions, write influential political blogs, “tweet” or text message about political events being kept under a news blackout, and attend neighbourhood council meetings. Good citizens may not, however, merely keep to themselves; by simply not being a burden to others is not sufficient for good citizenship.¹⁹ But all these can be done through civic education and voters education campaigns.

Approach: Free and Fair Elections, Inclusive and Participatory Political Parties

Free and Fair Election: In election it is important to respect the will of the people. This can be guaranteed through credible and inclusive elections at all levels under the management and supervision of independent and permanent electoral management bodies.

Inclusive and participatory political parties: The right to participate in the political arena is a central element of stable governance. Political parties are the basis for participatory governance and serve as the vehicles through which groups with political differences can compete non-violently for power. Through these groups, political opponents can engage each other in a constructive way, forging relationships across party lines and establishing lines of communication. Political parties are responsible for developing positions on key public issues and cultivating candidates who compete for elected office during election season. They also help to facilitate and stimulate public debate and structure political competition and participation. Under the political arena it is important to ensure issue-based politics, rather than politics based solely on ethnicity, religion, mudslinging or other potentially divisive lines, which can increase the potential for conflict.

It is also important to pay special attention to engaging women, minority ethnic groups, and other marginalized populations in the development of political parties. So, take special care to

¹⁹ Meira Levinson, Chapter 13: *The Civic Empowerment Gap: Defining The Problem And Locating Solutions*, Harvard University, *Handbook of Research on Civic Engagement in Youth* (2010). Lonnie Sherrod, Judith Torney-Purta & Constance A. Flanagan (Eds.) NY: John Wiley and Sons. 978-0-470-522274-5

ensure that all groups have access to the political process and can promote candidates to run for office. Ensuring representation of marginalized groups is a fundamental aspect of ensuring broad-based public involvement and support for political processes. Recognize and empower women in these activities, as they often make up the strongest pillar for socio-economic development. CEDAW and other instruments recognize and mandate the participation of women in the political process. Consult and inform women's organizations about political processes, support women's participation in government administration, and provide training and resources aimed at developing female leadership. Depending on the situation, quotas or other such mechanisms may be an effective way to help correct power imbalances and ensure full participation of marginalized groups.

Capacity building: As part of empowering civic engagement through political processes, it is important to provide political parties with necessary trainings and support, but ensure neutrality in delivering that support. Many political parties will have limited know-how in civic processes. Assist parties in strengthening their voter bases by training them to be responsive to the needs of their constituencies. Help smaller parties to increase their impact by building coalitions across society. Ensure equal access to media outlets, opportunities for campaigning, and training forums for the purpose of informing party members about their roles and responsibilities.

4.2.2 Empowerment of Civil Society

Civil society occupies the political space between the individual and government. It is a public sphere where citizens and voluntary organizations can engage freely outside the government and the private sector. Civil society organizations can include a wide range of non-governmental organizations, advocacy groups, charities, faith-based organizations, civic education organizations, business and professional associations, or community groups, among many others. These organizations embody an active citizenry that reflects the values of those it represents, based on cultural, ethical, political, or other such considerations. They often serve as a link between the state and population, help to influence and monitor government decisions; mobilize the population and educate them on their rights, responsibilities, and opportunities to influence the government



policies and lobby for reform; also assist in public service delivery; and facilitate intergroup dialogue.

Approach: Legal Framework, Fostering public debate and support CSOs

Legal Framework: Establishing legal and regulatory frameworks for the formation and operation of CSOs to ensure they have a basis in law is paramount. Laws should guarantee the right of association, expression, information, and participation. Legal standing can enhance the contribution of CSOs to society by legitimizing their activities, decreasing potential public mistrust in them, and ensuring their accountability. No statutory or regulatory framework, however, should encroach upon the independence or freedoms of these organizations, which is paramount to their effectiveness. Civil society activists should not be threatened or harmed and should not be imprisoned without sufficient reasons. They should be able to freely assemble and file complaints against the government for abuses.

Inclusivity in developing CSOs: If they are not diversified, civil society organizations can be perceived as exclusionary. Emphasize inclusivity in CSOs to ensure that their work fully represents the interests and values of what may be a very diverse population. In this regard encourage CSOs to build bridges across social groups and avoid reinforcing divisions based on identity or status. Pay close attention to marginalized groups, particularly women, given their demonstrated potential for big contribution in the society. The civic engagement of women may help ensure, for example, that there is support for laws that address women's issues. These laws may include protecting women from domestic violence, safeguarding their inheritance rights if their husbands die, and ensuring their rights in customary marriage, which is important, particularly to many rural women.

Foster and support community-based development: Community-based development involves partnering with the local population to design and implement programs aimed at meeting the needs of communities. Such programs have an inherent and profound benefit for people who are the target because they cultivate local leadership

and ownership and broaden civic participation in political processes. They also teach people basic organizational and management skills, such as resource management, budgeting and accounting, and project evaluation.

Respect for the rights and their contribution: In a way of facilitating their smooth operations it is important that civil society should be provided with legitimate public forums and mechanisms for peaceful debate. Through these means, the population can also peacefully participate in politics, provide a check on the government, and influence government policy. Without opportunities for civic engagement, motivations for violence may be more likely to increase, as the population seeks to ensure their voice is heard and their needs are met. Civic participation and empowerment also require respect for fundamental civil and political rights of minority groups, including the perception that these rights can be freely exercised without fear of retribution.

It must also be understood that many forms of civil society play an important role of filling the vacuum of service delivery that the state failed to provide. To leverage existing capacity, it is crucial to conduct rigorous assessments and analyses of the diverse landscape of organizations that are already present and identify those with the potential to play a positive role, as well as those that have played a negative role. Maximize the potential of civil society in promoting socio-economic development and promotion good governance by providing them with the opportunity to monitor and evaluate programs.

Capacity building: However, many local organizations such as CSOs or CBOs may lack the necessary skills and resources to perform their functions, and will likely be hampered by weak membership bases and a lack of visibility. The lack of sustainable funding is another recurring challenge, so it is important for these organisations to be assisted to build their capacities rather than letting them die. Assistance can be in the form finance, skills training and mentoring programs. However, it is important not to encourage dependency since CSOs/CBOs are expected to drive their own agendas and seek out innovative sources of funding and support.

Promote accountability: Establishment of civil societies can serve as an entry point for organizations controlled by those who seek to manipulate the population. Other CSOs may form simply to take advantage of robust flow of funds from various sources. Promote accountability of these organizations by establishing CSOs' registration procedures and encouraging development of important corporate governance mechanisms— boards of directors, audits, and bylaws—to ensure that CSOs operate within the law and with respect for human rights. However, this requirement should not be used to interfere with their operations.

4.2.3 Independent Media

Democracy flourishes when all voices are of equal importance and everyone participates in decisions affecting his/her life. Two rights stand out in all open democratic societies — freedom of expression and access to information. Democratic governance requires the participation of the people yet the voices of the poor, women and minorities too often go unheard. It requires 'inclusive participation' in which all people take part in the government of their country.

To be effective in imparting information, the media should be assisted in accessing information held by public bodies. By the use of modern technology through various media outlets, the media people can play an important role. Access to information is vital for transparency, accountability, participation and rule of law — all are hallmarks of democratic/good governance. Access to information empowers people to take an active part in political decision-making, including the free and open debate essential to sustain pluralistic regimes.

Approach: Independent Media and Access to Information

Independent media: An independent media sector includes print, broadcast, or Web-based outlets that serve the public interest by disseminating information to the population about social, economic, and political developments. These may exist from grassroots to the national level. Journalists in the media sector typically include publishers, editors, producers, and reporters. Among the primary functions of the media is to report on the actions of the government (local and central) and provide a public forum through which the population can debate issues peacefully and voice its concerns about

their government. Without a functioning media sector that is free from censorship, the population cannot fully participate in political processes, exercise their civic rights and responsibilities, or express their needs to political officials. Access to information is a basic human right and entails that information is available in a format and language that is usable and understood by the population.

Legal framework to protect the rights of journalists: Media outlets are the main sources of information. Some of their information may be detrimental to some people who are either in power or influential individuals. It is therefore possible for journalists to be persecuted, kidnapped, or murdered for their views and activities by the government or by opposition groups. Other serious offenses against media may involve ransacking of offices; denial of registration or funding; libel suits and other forms of harassment; and death threats targeted at reporters, editors, and owners. To safeguard the greatest possible freedoms for the press, a strong legal framework for media is needed to clearly define media freedoms and prevent the government or other groups in society from unlawfully censoring information. Laws, however, are worthless without an effective judiciary that is willing and capable of administering justice to violators of the law.

Ensure that media outlets are representative of and accessible to the population: The ability to access information on political processes, basic rights, and public services is recognized as a human right. Large rural populations may be illiterate, which may render print outlets ineffective. Limited access to television sets may also mean radios are a more appropriate medium for information. Also consider the languages in which information is published to ensure that all segments of the population have a means for consuming the information. Create a diverse array of outlets that includes the voices of women, minorities, and other marginalized groups without creating disharmony among various social groups.

Sustain a media sector that is pluralistic, transparent, sustainable, and independent: These characteristics are vital if the media sector is to perform its key function of ensuring government accountability for its actions by keeping the population abreast of key political developments. A pluralistic media sector includes a diverse array of voices with competing perspectives, including marginalized



populations such as women and minorities. A transparent media sector prizes truth and credibility in the reporting of information. A sustainable media sector is one that comprises local staff with the capacity to generate and manage revenue needed to finance its operations. Assessing fully the media landscape and the enabling environment in which it operates is a necessary first step in developing a sustainable media sector. An independent media is free from government control or political influence and enjoys the freedom of speech.

Development of journalism training and education programs: Professional training and education programs should underscore journalistic concepts such as truth, impartiality, and public service. Due to historical reasons or exclusion many journalists may not have been exposed to international standards for journalism. Journalism education should go beyond ethnical principles to include comprehensive education on critical business concepts that are key to sustainability of outlets—competition in the media market, management of sales and advertisement activities, and administrative capacities.



Part II: Gender

Module 5

**UNDERSTANDING OF KEY GENDER
TERMS AND CONCEPTS**



Overall Objective

The general objective of this Module is to sensitize participants on the concept of gender and other related concepts.

Specific objectives

At the end of the training the participants are expected:

- (i) To differentiate between gender and sex.
- (ii) To understand that gender is a term to indicate differences between men and women based on societal norms and values.
- (iii) To understand other key concepts like gender equity and gender equality.

EXERCISE 1

Before explaining to participants the meaning of different terms and concepts relating to Gender read the following statements one by one and ask the participants to indicate in each statement whether it refers to Sex or Gender. Then provide them with the answers and discuss the answers in the plenary.

List of statements – with answers

1. Women can breastfeed babies, men cannot. (S)
2. In Ancient African men went out for hunting while a woman stayed at home, did the weaving and handled family business.
3. Men inherit property and women do not. (G)
4. In most companies men are directors, while women work at lower levels. (G)
5. According to UN statistics in a certain year, women do 70 percent of the world's work but their earnings for it amount to only 10 percent of the world's income. (G)
6. Women usually bathe a 1 year old child and men do not. (G)
7. Women are better at fine work, while men do the heavy work. (G)
8. From a certain age boys can grow a beard, girls cannot. (S)
9. Men are better with numbers and technology, while women have difficulty in working with numbers. (G)
10. Women are emotional, men are rational; (there is debate about S and/or G)
11. Men mostly take the major decisions in the family; women play a less important role in family decision making. (G)

EXERCISE 2

- o Start by asking the participants what they understand by the term gender or what they think of when they hear the concept of gender. Ask them the difference between gender and sex.
- o Invite each participant to reflect on his/her tasks and responsibilities in his/her daily life and ask them to list down in their notebook. Select a few examples from male and female participants and make comparison. Ask the participants to state whether each task jotted down relates to sex or gender. Ask them to distinguish between those tasks which are reproductive from those which are productive and social or community related.
- o Discuss in plenary why differences between men's and women's tasks and responsibilities exist at home and in the work situation. Tell them to point out the consequences of these differences.

Discuss with the participants the answers to these questions.



5.1. Gender

The terms “Gender” and “Sex” are different, although they relate. Gender can be defined variously as follows:

Gender refers to the social differences between females and males throughout the life cycle. The social differences are learnt in different circumstances and conditions. These social differences and social roles are changeable over time and have wide variations both within and between cultures.

Gender also refers to the socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for men and women. In other words, it simply means being male or female (not being man or woman).

At times Gender also refers to the socially constructed roles and responsibilities of women and men. It can also include the expectation held about the characteristics, attitudes and likely behaviours of women and men (femininity and masculinity). These roles and expectations are learned, changeable over time and variable within and between cultures.

Gender can also mean widely-shared ideas and expectations concerning women and men. These include ideas about typically feminine/female and masculine/male characteristics and abilities, as well as common expectations about how women and men should behave in various situations.

Gender in some other circumstances has been defined as ‘a concept that refers to social differences, as opposed to the biological differences between men and women. These differences come about as a result of what men and women have learnt over time. Such differences are changeable over time and may have wide spheres of influence both within and between cultures.

However, neither women nor men are homogeneous groups. All individuals are also distinguished and characterised by what they own as well as the social categories to which they belong e.g. age, ethnicity and social class.

Yet in other circumstances, Gender can also refer to the economic, social, political and cultural attributes and opportunities associated with being male or female. The nature of gender definitions (what it means to be male or female) and patterns of inequality vary among cultures and change over time.

Example of Roles, Behaviours and Attributes associated with Gender

FEMALE ATTRIBUTES MALE ATTRIBUTES

- 
- Emotional
 - Emotionally strong
 - Communicate softly
 - Assumed to be passive
 - Organised
 - Responsible
 - Domestic role
 - Home makers
 - Mothers
 - Responsible for childcare
 - Health care providers
 - Nurses
 - Dominating because of expectations from society
 - Aggressive
 - Uncommunicative
 - Independent
 - Bold
 - Rational
 - Strong
 - Head of household
 - Providers
 - Decision makers
 - Traditional Leaders



5.2 Gender Roles

Gender roles can be defined as the behaviours and attitudes expected of male and female members of a society by that society. Gender roles vary. Different cultures impose different expectations upon the men and women who live in that culture and are described as being 'socially constructed'. This means that gender roles are shaped by a multiplicity of social, economic, political, cultural and other factors, and will change with changes in these formative influences.

5.3 Sex

Sex refers to physiological attributes that identify a person as male or female.

Sex can also be defined as the biological and physiological characteristics that define men and women. While a man has a penis, a woman has a vagina.

Sex is biologically determined, universal and permanent in nature. It is the physiological difference between male and female.

Your sex is whether you have male organs or female organs. Some genitals are not clearly male or female.

A Summary of the Difference between Sex and Gender

SEX	GENDER
Biological	Cultural
Given by birth	Learned through socialization
Universal	Varies from culture to culture
Therefore cannot be changed	Therefore can be changed

For example, women deliver babies, men impregnate	For example, men and women can be recruited as soldiers, cooks, and nurses
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5.4 Sexuality

Sexuality is the way in which an individual experiences being male or female. This includes physical and biological aspects of one's life (e.g. menstruating, being pregnant, or having sexual intercourse), as well as emotional aspects (such as having feelings for another person) and social aspects (such as behaving in ways that are expected by one's community, based on whether one is male or female; this includes gender roles).

5.5 Gender Identity

Gender identity means how someone feels about themselves as a woman or a man i.e. self sense of being a female or a male.

Gender identity refers to a person's private sense of, and subjective experience of, their own gender. This is generally described as one's private sense of being a man or a woman, consisting primarily of the acceptance of membership into a category of people: male or female.

Your gender identity is how you accept yourself and who you believe yourself to be. You usually believe you are male, female, or some combination.

All societies have a set of gender categories that can serve as the basis of the formation of a social identity in relation to other members of society. In most societies, there is a basic division between gender attributes assigned to males and females. In all societies, however, some individuals do not identify with some (or all) of the aspects of gender that are assigned to their biological sex.

Gender identity in children begins to form around the age of three. Gender identity is affected by influence of others, social interactions, and a child's own personal interest.



5.6 Gender Relations

Gender relations refer to how men and women relate to each other, resulting in manifestations of gender based power. This arises from the roles men and women are expected to play and the impact of their interactions. The family is a good example, as men assume the earner and leader roles and women assume the domestic and childcare roles. These power relations are uneven because the male has more power in making legally influential decisions. Roles, assumed attributes and social systems lead to the creation of blueprints for behaviour. If we do not conform to these roles we are seen to be deviant by society. Power relations always result in one party being worse off than the other and create social imbalances.

In gender relations, the main issue is whether men or women have more power or authority than the other? If the answer is yes, then this creates inequality in the relationships between men and women. The use of gender relations as a tool of analysis shifts the focus from viewing women in isolation from men.

5.7 Gender equality

Gender Equality means equal rights, responsibilities and opportunities for women and men; according equal consideration to the interests, needs and priorities of women and men. Gender equality does not imply a goal of non-differentiation between the sexes, but rather the elimination of adverse discrimination based on sex (e.g., lower remuneration for women doing the same work as men). Gender equality exists when both sexes are able to share equally in the distribution of power and influence; have equal opportunities for financial independence; enjoy equal access to education and the opportunity to develop personal ambitions, interests and talents; share domestic responsibilities; and are free from coercion, intimidation and GBV at work and at home. (Definition used by United Nations Population Fund, UNFPA)

We can also say, Gender equality also refers to the equal enjoyment by all persons regardless of their sexes of socially valued goods, opportunities, resources and rewards. Equality does not mean that women and men are the same but that their enjoyment of rights,

opportunities and life chances are not limited by whether they were born female or male.

In other words, it means that men and women enjoy the same status. They are entitled to share the same opportunities and benefits for realising their human rights and potential to contribute to, and benefit from, all spheres of society. For example, both have same right to food, shelter, clothing, school, medical care, employment, ownership of property etc.

5.8 Gender equity

Gender equity is the act of giving fair treatment to men and women according to their respective needs. Gender equity is the process of being fair to women and men. To ensure fairness, measures must often be available to compensate for historical and social disadvantages that prevent women and men from otherwise operating on a level playing field. For example, section 60 of the Village Land Act No. 5 of 1999 establishes a village land council to mediate disputes concerning land. According to this section, a village land council shall consist of not less than five and not more than seven members, of which not less than two members must be women. This gender equity provision, tries to ensure fair treatment to women, so that they may not be excluded as members of the village land council.

Gender equity leads to gender equality. For example, an affirmative action policy that supports female-owned businesses or special seats for women in Parliament and local councils is gender equitable policy because it leads to equal rights between men and women.

5.9 Gender Sensitivity

Gender sensitivity is the act of being aware of the ways people think about gender, so that individuals rely less on assumptions about traditional and outdated views on the roles of men and women. In language and the humanities, this is often expressed through people's language choice. People can choose more inclusive language that doesn't define gender, and many new words that are gender neutral have entered languages like English to substitute for more gender specific terms. Example of such words includes chairperson instead



of chairman, humankind/person instead of mankind etc.

For centuries, many words referring to all people were specifically masculine. Terms like “man,” and “mankind,” which are used to describe all human beings, exclude females. While some people argue that such terms do include women, it’s been argued that these words have a belittling effect on women. True gender sensitivity, it is said, moves past these terms to include all and exclude none. It is further contended by experts that the use of such terms is by no means innocent, and they have a negative cultural effect felt beyond the words. By making women either absent or non-apparent in terms like “mankind,” instead of “humankind” they become worthless and society will see them as possessing less value. This societal view in extreme forms is of detriment and corresponds to discrimination against women.

5.10 Gender Balance

Gender Balance means the degree to which men and women hold the full range of positions in a society or organization (more accurately, “sex ratio”). The long-term objective, as defined by the UN General Assembly, is to achieve a 50/50 gender balance.

5.11 Gender Perspective

Gender Perspective means, with respect to any social phenomenon, policy or process, it is important to expose gender-based differences in status and power, and considering how such discrimination shapes the immediate needs, as well as the long-term interests, of women and men. (See, e.g., 1995 Beijing Platform for Action).

In other words, gender perspective is approaching a sociological issue or idea within the framework of gender. For instance, there are many ways to discuss employment. From a gender perspective, the discussion changes to a male/female framework and new topics emerge such as “the second shift,” what specific equipments will be needed which address gender needs.

Therefore, Gender sensitivity or using a gender perspective means that:

- a differentiation is made between the needs and priorities of men and women,
- the views and ideas of men and women are taken seriously,
- the implications of decisions on the situation of women relative to men are considered: who will gain and who will lose,
- action is taken to address inequalities or imbalance between men and women.

5.12 Gender-Based Violence (GBV)

Gender-Based Violence (GBV) is an umbrella term for any harmful act that is perpetrated against a person's will based on socially-ascribed (gender) differences between males and females. Acts of GBV violate a number of human rights principles enshrined in international instruments. Globally, GBV has a disproportionate impact on women and girls, due to their subordinate status in society and their increased vulnerability to violence. GBV varies across cultures, countries and regions. Examples include: sexual violence; and domestic violence.

5.13 Gender Mainstreaming

Gender mainstreaming is the “The process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally, and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve gender equality.” (1997 UN Economic and Social Council, ECOSOC).

In other words, gender mainstreaming means incorporation of gender perspectives into all policies, programmes and activities and consideration of gender as a critical variable in any development analysis and demonstrating how decisions might affect women



differently from men.

Mainstreaming is not achieved by adding a “women/gender equality component” to an existing activity, or by simply increasing women’s participation. It means bringing the experience, knowledge and interests of women and men to bear on the development of an agenda or programme.

Gender mainstreaming can also mean a strategy to assess the implications for both men and women, of any planned actions, policies or programmes in all areas and at all levels. This approach recognizes the need to take social and economic differences between men and women into account to ensure that proposed policies and programmes have intended and fair results for women and men, boys and girls.

5.14 Affirmative Action

Affirmative Action is a social justice measure meant to remedy past and present discrimination, eliminate effects of barriers to opportunity and create mechanisms to bring about equality, equity, parity and justice. It refers to policies, plans, programmes or practices that are designed to combat the effects of discrimination against a particular group and to correct historical imbalances. For example, the creation of special parliamentary seats for women is an affirmative action to increase women’s representation in parliament. This is one strategy that ensures women participation in governance.

5.15 Gender Analysis

Gender analysis means the variety of methods used to understand the relationships between men and women, their access to resources, and the relative constraints they face. Gender analysis recognizes that gender, and its relationship with race, ethnicity, culture, class, age, disability, and/or other status, is important to understanding the different patterns of involvement, behaviour and activities that women and men have in economic, social and legal structures. (Definition used by the Canadian International Development Agency, CIDA.)

Exercise:

1. What does empowerment mean?
2. Is there a difference between men's empowerment and women's empowerment?
3. What are the arguments in favour of and against women's empowerment?
4. Mention examples of empowerment.

5.16 Gender Empowerment

Empowerment can be seen as the process and end result of improvement in autonomy through various means such as access to knowledge, skills and training. The acquired improvement is then applied. The process and result of empowerment is a critical issue in development.

Empowerment is therefore the process through which those in disadvantaged positions increase their capacities to participate in society and enjoy a status similar to the others, for example, in access to knowledge, allocation of resources, decision making and power structures.

Marginalized people who lack self-sufficiency become, at a minimum, dependent on charity, or welfare. They lose their self-confidence because they cannot be fully self-supporting. The opportunities deny and deprive them of the pride of accomplishment which others, who have those opportunities, can develop for themselves. This in turn can lead to psychological, social and even mental health problems.

Empowerment is then the process of obtaining these basic opportunities for marginalized people, either directly by those people, or through the help of non-marginalized others who share their own access to these opportunities. It also includes actively thwarting attempts to deny those opportunities. Empowerment also includes encouraging, and developing the skills for, self-sufficiency, with a focus on eliminating the future need for charity or welfare in the individuals of the group. This process can be difficult to start and to implement effectively, but there are many examples of empowerment projects which have succeeded.



Empowerment of women, also called gender empowerment, has become a significant topic of discussion in regards to development and economics. Entire nations, businesses, communities, and groups can benefit from the implementation of programs and policies that adopt the notion of women empowerment. Empowerment is one of the main procedural concerns when addressing human rights and development.

The Human Development and Capabilities Approach,²⁰ The Millennium Development Goals, and other credible approaches or goals point to empowerment and participation as a necessary step if a country is to overcome the obstacles associated with poverty and development.

5.17 Women-in-Development (WID) approach

The Women-in-Development (WID) approach was the original/old approach aimed at integrating women into the existing development process to counteract the exclusion of women in this process. It focuses on women and, therefore, suggests women's projects or women's components in integrated projects to increase women's productivity or income or to ameliorate their household tasks and responsibilities.

5.18 Gender-and-Development (GAD) approach

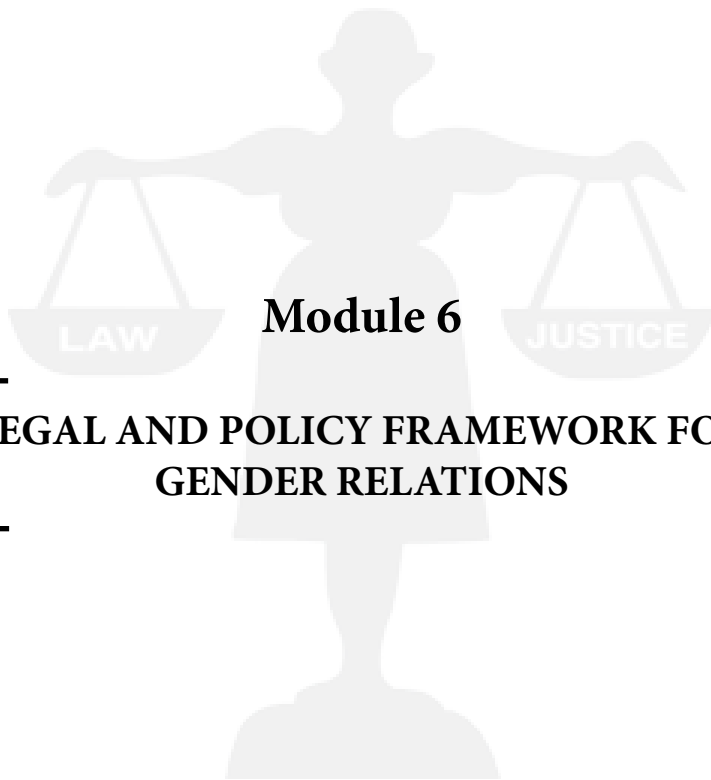
The Gender-and-Development (GAD) approach (a new approach) focuses on the relations between men and women. It wants to re-address the unequal relations of power that prevents equitable development and women's full participation. It aims at equitable and sustainable development in which both women and men are decision makers.

²⁰ Since 1990, the United Nations Development Programme (UNDP) has been publishing Human Development Reports at the global, regional, national and local level. The main message is based on the "capability approach" of economist and Nobel Prize laureate Amartya Sen. The message in these reports is simple: development is about giving people the opportunities to live lives they value, and about enabling them to become actors in their own destinies.

Ask the participants the following Questions:

What are the new terms and definitions which the participants did not know before? Ask them how are these new definitions helpful to them?





Module 6

LEGAL AND POLICY FRAMEWORK FOR GENDER RELATIONS

Overall Objective

The general objective is to familiarize participants with international, regional and national laws that address gender perspective
Specific objectives

- (i) To increase understanding of participants of laws which govern gender issues.
- (ii) To understand strategies that can be used to reduce gender disparities and improve status of women.
- (iii) To know various initiative taken the Government to reduce gender disparities.

EXERCISE

Ask the participants to list the international treaties and national laws which address the problem of gender inequalities.

6.1 International and National Legal Frameworks Governing Gender

This Module covers the legal framework within which all aspects relating to gender are covered. It should be understood that Gender Issues is not only a local issue but it is an international issue. Gender issues are all about equality and equity between men and women regardless of their status in life. There are many international and regional human rights instruments, programs and actions which address gender issues.

Every Member State of the United Nations is obliged to enact national laws that are in consonance with the different conventions and declarations of the UN. In the same manner, members of the African Union are expected to make laws, policies and development strategies that are in tandem with the spirit of the instruments they have signed and ratify. Tanzania being a member of international and regional communities has also taken a lot of efforts and made commitment to ensuring gender issues are at the centre. There are national laws, policies and programmes which are gender sensitive.

The United Nations has eight core human rights instruments. These are the Universal Declaration of Human Rights (UDHR:1948), the International Covenant on Civil and Political Rights (ICCPR:1966), the International Covenant on Economic, Social and Cultural Rights (ICESCR:1966), the Convention on the Elimination of Racial Discrimination (CERD:1965), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT:1984), Convention on the Elimination of all forms of Discrimination against Women CEDAW:1979), and Convention on the Rights of the Child (CRC:1989).

In the African region there are about five major human rights instruments. These core instruments are the African Charter on Human and Peoples Rights (AfCHPR:1981), African Charter on the Rights and Welfare of the Child (1990), African Charter on Human and Peoples Rights on the Rights of Women in Africa (2004), African Youth Charter: 2006, and Convention Governing the Specific Aspects of Refugee Problems in Africa.

All international and regional human rights instruments have articles that aim at affording men and women, boys and girls dignified lives and enjoyment of human rights to its fullest. All these instruments create an enabling environment for the accomplishment of gender equality agenda. However, there are particular instruments which specifically address women and gender issues.

6.2 International and Regional Instruments

6.2.1 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

The main international Treaty for the Rights of Women, officially known as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), is a pragmatic international agreement addressing the rights of women and girls.

CEDAW was adopted by the United Nations General Assembly in 1979 and entered into force as an international treaty in 1981. Tanzania ratified this Convention on 20 August 1985. All member States to CEDAW, including Tanzania have committed themselves to implement the rights and various principles containing in the CEDAW to ensure equal opportunities between men and women and to avoid discrimination against WOMEN.

CEDAW states that, Discrimination against women shall mean distinction, exclusion, or restriction made on the basis of sex which has the purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.



ABOUT CEDAW

CEDAW defines the right of women to be free from discrimination and sets the core principles to protect this right. It establishes an agenda for national action to end discrimination, and provides the basis for achieving equality between men and women through ensuring women's equal access to, and equal opportunities in, political and public life as well as education, health and employment. CEDAW is the only human rights treaty that affirms the reproductive rights of women.

6.2.2 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women In Africa (Maputo Protocol)

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa of 2004, better known as the Maputo Protocol, is the Bill of Rights for women in Africa. It is almost similar to CEDAW. It guarantees comprehensive rights to women including the right to take part in the political process, to social and political equality with men, to control of their reproductive health, and an end to female genital mutilation. As the name suggests, it was adopted by the African Union in the form of a protocol.

This ground-breaking protocol, for the first time in international law, explicitly sets forth the reproductive right of women to medical abortion when pregnancy results from rape or incest, or when the continuation of pregnancy endangers the health or life of the mother.

Additionally it explicitly calls for the legal prohibition of female genital mutilation, and prohibits the abuse of women. The rights of particularly vulnerable groups of women — including widows, elderly women, disabled women, pregnant or nursing women and women in detention facilities are specially recognised and protected.

6.2.2 Fourth World Conference on Women, Beijing Declaration and Platform for Action of 1995

The Beijing Platform for Action aims at furthering women's empowerment and discusses the importance of women in society as key contributors to the economy and combating poverty, as well as the critical role they play within the family, community and workplace.

Beijing Declaration and Platform for Action of 1995 calls on governments to:

- Review all laws and legal practices to ensure the implementation of the principles and procedures of all relevant international human rights instruments by means of national legislation (para. 124-d, e);
- Revoke any laws that discriminate on the basis of sex and remove gender bias in the administration of justice; (para. 232-d);
- Ensure access to free or low-cost legal services, including legal literacy, especially designed to reach women living in poverty; (para. 61-a); and
- Ensure that women have the same right as men to be judges, advocates or other officers of the court. (para. 323-m).

The Beijing Platform for Action establishes three fundamental principles for the equality of women:

- (i) empowerment of women;
- (ii) promotion of women's human rights; and
- (iii) promotion of women's equality.

SEE A COMPREHENSIVE BEIJING PLATFORM FOR ACTION AT THE END OF THIS CHAPTER



6.2.3 The Millennium Development Goals (MDGs, 2000)

At the 2000 Millennium Summit the international community adopted the Millennium Declaration, committing itself to a global project designed to definitively reduce the many aspects of extreme poverty. The eight MDGs, with specific targets related to the Millennium Declaration to be achieved by 2015, are as follows, including MDG 3 on gender equality:

1. Eradicating poverty and hunger in the world,
2. Achieving universal primary education,
3. Strengthening gender equality,
4. Reducing child mortality,
5. Improving maternal health,
6. Combating HIV/AIDS, malaria and other diseases,
7. Ensuring environmental sustainability,
8. Developing a global partnership for development.

6.2.4 Other Equally Important Instruments from Africa

- Solemn Declaration on Gender Equality in Africa (2004).²¹
- SADC Declaration on Gender and Development (1997).
- Addendum on the Prevention and Eradication of Violence against Women and Children (1998).
- SADC Protocol on Gender and Development (2008).
- The East African Community Strategic Plan on Gender, Youth, Children, Social Protection and Community Development (2011- 2015).

²¹ In July 2004, the AU met for its Third Ordinary Session in Addis Ababa, Ethiopia. During the summit, the heads of state adopted the Solemn Declaration on Gender Equality in Africa, which affirmed the commitment of member states to the task of mainstreaming gender into the AU's approach to health, human rights, education, economic development, governance, and peace and security. This was the first time a continental organization took ownership of gender mainstreaming at the highest level, prioritizing issues such HIV/Aids and the recruitment of child soldiers.

6.3 National Framework and Commitments

6.3.1 The Constitution of the United Republic of Tanzania

The Constitution of the United Republic of Tanzania of 1977 has some provisions which guarantee the right to equality of all human being (Article 12) and equality before the law without any discrimination and to equal protection under the law (Article 13). The Constitution clearly prohibits any kind of discrimination based on nationality, tribe, place of origin, political opinion, colour, religion, station in life and sex. In attempt to ensure gender equality or equity in the decision making process, the Constitution requires that women should form thirty percent (30%) of all members of Parliament (Article 66 (1)).

Since the Constitution is the supreme law of the country other laws should not contradict with constitutional provisions.

6.3.2 The Women and Gender Development Policy, 2000

The Women and Gender Development Policy, 2000 was formulated to create an environment to ensure that gender perspective is mainstreamed into all policies, programmes and strategies. In order to meet this objective, the national machinery initiated the establishment of gender focal points in ministries, independent government departments, regional and local authorities. These focal points in turn are responsible for gender mainstreaming in their respective plans and programmes. The policy also aims at empowering women to overcome gender related problems and consequently reduce poverty. Women and men are urged to fight against poverty and harmful traditional practices such as widow cleansing and others evils.

The policy recognizes that there are traditional customs such as female genital mutilations (FGM) that have a negative impact on women and sets out a strategy for the eradication of those bad and harmful traditional practices and customs. The policy advocates for women and men to plan the size of their families according to their capacity in order to be able to maintain and educate their children.



The policy also educates the society to follow family planning in order for women to have enough time to breast-feed their children, to rest and be involved in other social and economic activities effectively. The policy set out strategies aimed at the empowerment and development of women.

6.3.3 National Strategy for Gender Development

The Ministry of Community Development, Gender and Children (MCDGC) was established in 1990 as the national machinery for spearheading gender development in the country. Apart from facilitating the formulation of Women and Gender Development Policy of 2000, the Ministry also spearheaded formulation of National Strategy for Gender Development (NSGD).

The aim of the NSGD is to consolidate and speed up implementation of the Women and Gender Development Policy, 2000 which strives to redress gender gaps and inequalities between men and women. It also aims to guide implementers to incorporate gender concerns into their policies, plans, strategies and programmes with a view to implementing commitments at international, regional and national levels. The NSGD highlights the major issues of concern to gender equality while exposing the challenges ahead. It thus provides guidance on interventions to be made and identifies roles of various actors and stakeholders.

6.3.4 The National Strategy for Growth and Reduction of Poverty (MKUKUTA)

The National Strategy for Growth and Reduction of Poverty, known as the MKUKUTA (Mkakati wa Kukuza Uchumi na Kupunguza Umaskini Tanzania) was approved by Cabinet in February 2005 for implementation over five years (2005-2010). After the first circle of its implementation until 2010, MKUKUTA is now in the second phase.

MKUKUTA is the national strategy used as a vehicle for realizing Tanzania's Development Vision 2025 and as part of commitment by the Government of the United Republic of Tanzania to the achievement of the Millennium Development Goals (MDGs). The MKUKUTA is strongly outcome focused and aims to foster

greater collaboration among all sectors and stakeholders. It has mainstreamed cross-cutting issues (gender, environment, HIV/AIDs, disability, children, youth, elderly, employment and settlements), and is organized around three clusters:

Cluster 1: Growth and reduction of Income Poverty

Cluster 2: Improved quality of life and social wellbeing, and

Cluster 3: Governance and Accountability.

The Second National Strategy for Growth and Reduction of Poverty (MKUKUTA II) is now being implemented between 2010/11 to 2014/15. MKUKUTA II builds on its predecessor's strategy. Gender issue being one of the cross cutting issues is mainstreamed in all the three clusters.

The MKUKUTA framework identifies broad outcomes for each cluster under which a set of goals are defined with an associated set of specific operational targets with timeframes. For each operational target, specific interventions/activities or actions are identified. While it may not be possible, in a manual like this one, to trace all areas under the three clusters where gender issues are addressed, the following are 10 goals having gender perspective in MKUKUTA:

- (i) Reducing income poverty of both men and women in rural and urban areas;
- (ii) Improving quality of life and social well-being, with particular focus on the poorest and most vulnerable groups;
- (iii) Ensuring equitable access to quality primary and secondary education for boys and girls, universal literacy among men and women and expansion of higher, technical and vocational education;
- (iv) Improved survival health and well-being of all children and women and of specially vulnerable groups;
- (v) Access to clean, affordable and safe water, sanitation, decent shelter and a safe and sustainable environment and thereby, reduced vulnerability from environmental risk;
- (vi) Adequate social protection and provision of basic needs and services for the vulnerable and needy;
- (vii) Effective systems to ensure universal access to quality and affordable public services;



Group work

Divide the participants into three groups and assign the groups the following questions;

1. Are you aware of some gender discriminative laws? If yes, mention any laws which you think are gender discriminative.
2. Are you aware of customs and traditions which are gender discriminative? Which ones and how are they discriminative?
3. What should be done to advocate and promote gender equality in our daily lives? At home, in school, in working places, in community etc.

BEIJING PLATFORM FOR ACTION: STRATEGIC OBJECTIVES

Women and Poverty

- ✓ Review, adopt and maintain macroeconomic policies and development strategies that address the needs and efforts of women in poverty;
- ✓ Revise laws and administrative practices to ensure women's equal rights and access to economic resources;
- ✓ Provide women with access to savings and credit mechanisms and institutions;
- ✓ Develop gender-based methodologies and conduct research to address the feminization of poverty.

Education and Training of Women

- ✓ Ensure equal access to education;
- ✓ Eradicate illiteracy among women;
- ✓ Improve women's access to vocational training, science, and technology and continuing education;
- ✓ Develop non-discriminatory education and training;
- ✓ Allocate sufficient resources for and monitor the implementation of educational reforms;
- ✓ Promote lifelong education and training for girls and women.

Violence Against Women

- ✓ Take integrated measures to prevent and eliminate violence against women;
- ✓ Study the causes and consequences of violence against women and the effectiveness of preventive measures;
- ✓ Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking.

Women and Armed Conflict

- ✓ Increase the participation of women in conflict resolution at decision-making levels and protect women living in situation of armed conflicts or under foreign occupation;
- ✓ Reduce excessive military expenditures and control the availability of armaments; Promote non-violent forms of conflict resolution and reduce the incidence of human rights abuse in conflict situations;
- ✓ Promote women's contributions to fostering a culture of peace;
- ✓ Provide protection, assistance and training to refugee women in need of international protection and internally displaced women;
- ✓ Provide assistance to the women of the colonies and non-self-governing territories.

Women and the Economy

- ✓ Promote women's economic rights and independence, including access to employment and appropriate working conditions and control over economic resources;
- ✓ Facilitate women's equal access to resources, employment, markets and trade;
- ✓ Provide business services, training and access to markets, information and technology, particularly to low-income women;
- ✓ Strengthen women's economic capacity and commercial networks; eliminate occupational and all forms of employment discrimination;
- ✓ Promote harmonization of work and family responsibilities for women and men

CONTINUE...BEIJING PLATFORM FOR ACTION: STRATEGIC OBJECTIVES

Women in Power and Decision-Making

- ✓ Take measures to ensure women's equal access to and full participation in power structures and decision-making;
- ✓ Increase women's capacity to participate in decision-making and leadership.

Institutional Mechanism for the Advancement of Women

- ✓ Create or strengthen national machineries and other government bodies;
- ✓ Integrate gender perspectives in legislation, public policies, programmes and projects;
- ✓ Generate and disseminate gender-disaggregated data and information for planning and evaluation.

Human Rights of Women

- ✓ Promote and protect the human rights of women, through the full implementation of all human rights instruments, especially the Convention on the Elimination of All Forms of Discrimination Against Women;
- ✓ Ensure equality and non-discrimination under the law and in practice;
- ✓ Achieve legal literacy.

Women and the Media

- ✓ Increase the participation and access of women to expression and decision-making in and through the media and new technologies of communication;
- ✓ Promote a balanced and non-stereotypes portrayal of women in the media.

Women and the Environment

- ✓ Involve women actively in environmental decision-making at all levels;
- ✓ Integrate gender concerns and perspectives in policies and programmes for sustainable development;
- ✓ Strengthen or establish mechanisms at the national, regional and international levels to assess the impact of development and environmental policies on women.

The Girl Child

- ✓ Eliminate all forms of discrimination against the girl child;
- ✓ Eliminate negative, cultural attitudes and practices against girls;
- ✓ Promote and protect the rights of the girl child and increase awareness of her needs and potential;
- ✓ Eliminate discrimination against girls in education, skills development and training;
- ✓ Eliminate discrimination against girls in health and nutrition;
- ✓ Eliminate the economic exploitation of child labor and protect young girls at work;
- ✓ Eradicate violence against the girl child;
- ✓ Promote the girl child's awareness of and participation in social, economic and political life;
- ✓ Strengthen the role of the family in improving status of the girl child.



- (viii) Rights of the poor and vulnerable groups are protected and promoted in the justice system;
- (ix) Reduction of political and social exclusion and intolerance; and
- (x) Improved personal and materials security, reduced crime, eliminate sexual abuse and domestic violence.

6.3.5 National Legislation

There are many pieces of legislation in Tanzania which are gender sensitive and thus require gender equality and offer protection in case of discrimination or abuse of women's rights. The following are just examples:

1. Sexual Offences Special Provisions Act, 1998 (SOSPA) which amended the Penal Code, Cap 16. It redefines the previous existed crimes such as rape and introduces new sexual crimes to offer more protection to women. See Section 130 (rape); Section 138D (sexual harassment); Section 169A (cruelty to children).
2. The Land Act, and Village Land 1999 provide for the right of every adult woman to acquire, hold, use and deal with land in the same extent as any man as one of the National Land Policy (S. 3 (2)).

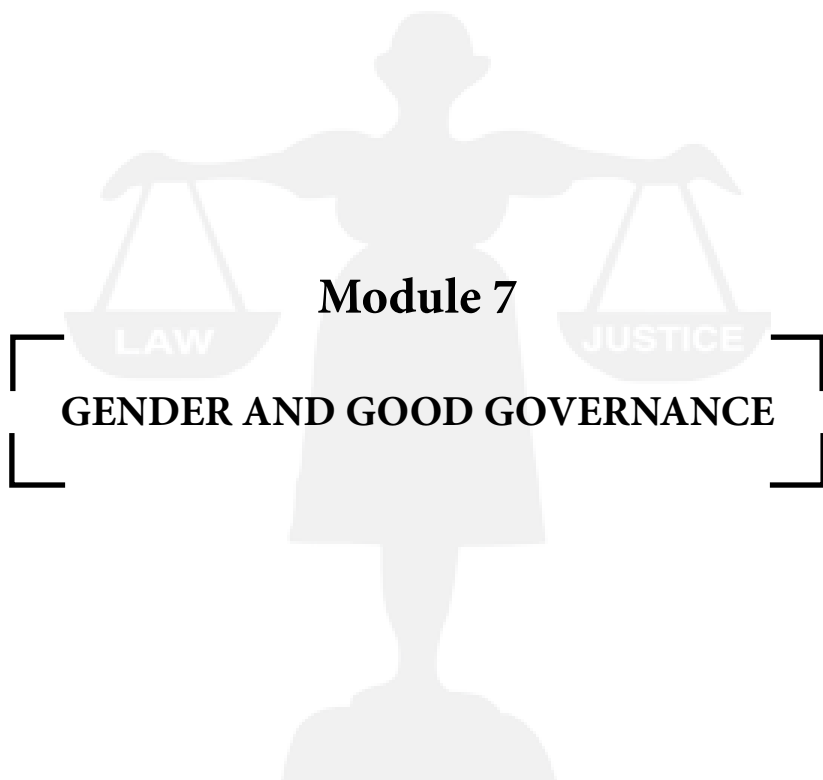
The Village Land Act 1999 allows the use of customary law but states that:

Section 20 (2)- Any rule of customary law and any decision taken in respect of land held under customary tenure, whether in respect of land held individually or communally, shall have regard to the customs, traditions and practices of the community concerned to the extent that they are in accordance with fundamental principles of the National Land Policy..., that rule of customary law or any such decision in respect of land held under customary tenure shall be void and inoperative and shall not be given effect to by any village council or village assembly of any person or body of persons exercising any authority over village land or in respect of any court or other body, to the extent to which it denies women, children or persons with disability lawful access to ownership, occupation or use of any such land.

The Village Land Act establishes a body such as Village Land Council to mediate between parties in case of land disputes. The Council shall consist of not less than five nor more than seven persons, of whom not less than two shall be women (s. 60 (2)).

3. The Employment and Labour Relations Act, 2004 prohibits any kind of discrimination in employment. Section 7 requires every employer to ensure that he/she promotes an equal opportunity in employment and strives to eliminate discrimination in any employment policy or practice.





Module 7

GENDER AND GOOD GOVERNANCE

Overall Objective

The general objective is to sensitize the participants that good governance respects gender equality.

Specific objectives

- (i) To understand and reflect upon barriers to gender equality.
- (ii) To increase understanding on the quality of gender sensitive governance.
- (iii) To sensitize participants about approaches to development which are gender sensitive (WID and GAD approaches).

7.1 Introduction

All of our societies are characterized by a rich diversity: we find young and old people, people with different skin colour and hair, with different outfits, rich and poor and so on. Whatever social-economic or other differences that exist, any person is either a man or a woman from the moment of his/her birth based on distinct biological features. After birth a boy is brought up to behave and act according to norms expected of men, while a girl is learnt how to behave and act in a way 'proper' for women. Boys and girls often play different games inside and outside the house—games which pave way for activities each could do in adult life. How parents bring up a boy or girl influences his/her choices and opportunities later in life. If parents attach high value to a girl's education it will make it easier for her to continue schooling than when parents discourage a girl to go to school. The way parents treat their children depends to a large extent on what the family and the wider society consider proper roles, responsibilities and activities of men and women. For women, for example, it is less accepted for them to speak in public or to participate in formal (mixed) organisations. This makes women to shy away from politics and leadership.



EXERCISE

Role Play: Form groups of 5 to 6 persons each, of women only and of men only. Let them exchange their responsibilities. Ask one group to prepare a role play in which they perform the tasks of the opposite sex at home. Ask another group to prepare a role play in which they perform the tasks of the opposite sex for the work situation (organisation). The remaining participants will be observers.

- o Discuss afterwards how the players felt about the tasks they performed; what did they like, what not, would they like to change responsibilities with the persons of the other sex (why not).
- o Discuss why difference between men's and women's tasks and responsibility exist at home and in the work situation. Point out the consequences of these differences: The different opportunities open to men and women due o the division of labour and responsibilities between men and women. Ask the participants' opinion about the inequalities in opportunities. Finally ask the participants what they have learnt from the assignment.

7.2 Barriers to Gender equity and equality

There are many barriers for women to realize equality with men. These can be grouped under the following interrelated headings:

- (i) Denial: The basis of resistance is complete denial of existence of gender gaps or discrimination by some members of the society. Some people do not see what is wrong with the current arrangement were women do not enjoy the same rights and opportunities as men. And their main argument is that, that is the order of nature.
- (ii) Inversion: This is outing blame on the victim. In other words, following the claim that equality of opportunity already exists, it may be further claimed that it is women's own fault if they are not participating sufficiently or not coming forward to take advantages of opportunities open to them.

- (iii) Lip-Service: Like in other strategies, people do not challenge the policy of empowering women, on the contrary the policy may actually be praised as absolutely desirable but there is no follow up and serious implementation.
- (iv) Tokenism: This involves having a token woman in all discussions to address gender issues and acknowledge the woman's point of view; but there is nothing serious regarding consideration for gender mainstreaming.
- (v) Active Institutional resistance: This refers to the reluctance displayed by various institutions of governance towards promoting gender parity. The institutions of governance are largely occupied by men who are socialized in patriarchy—a world of male supremacy. Thus, it is often difficult to advance gender equality and equity processes. This is why, for example, issues of gender-based violence (GBV) and domestic violence are seen as not serious offences by almost all state institutions unlike the way the state and its institutions treat other offences.

Generally, the patriarchal structures in family, community and government have entrenched male domination leading to the subordinations of women. Such a society perpetrates such structures as the norm, whilst women are not aware of their rights.

Specific barriers and disincentives for women's participation in decision making process

Notwithstanding the above mentioned barriers in the realization of gender equality the following have been mentioned by both men and women to be specific barriers for women to take an active role in decision-making process:

- Image of roles of men and women: Men contrary to women are supposed to be in control of the public and (mostly) of the private sphere, thereby disqualifying women. Politics and leadership are seen as a men's affair.



- Due to the above image, women in decision-making bodies or committees have to prove themselves twice as much as their male counterparts.
- Women in decision-making positions are often attacked because they are seen as too assertive and showing ‘inappropriate behaviour’.
- Self-image of women: Many women do not feel that they have the capacities and the courage to play a role in decision-making.
- Fear. The public and private forms of violence exercised by men against women operate as threats.
- Women’s different roles, working and care taking with their many responsibilities at home are often conflicting and prevent women from taking an active role in decision-making processes.
- Women’s lower, level of education, professional experience, and income and time availability disadvantage women compared to men.
- Lack of (or fewer) female role models and mentors does not encourage women to enter decision making bodies.
- The culture of politics: The masculinity of political parties, the timing of meetings and sessions, the distance of politics from daily realities play another barrier.
- The culture of bureaucracy, in which men form the majority, is felt a not-women-friendly and even intimidating environment for women to work or to make their opinions heard.
- Due to cultural barriers, there is lack of support from other women and lack of understanding about gender issues in male-dominated organisations.

Existing power relations also determines to a large extent how resources are distributed or who obtain access and control of resources. Power relations are highly gendered. Societal accepted roles of men and women, their tasks and responsibilities determine who can actually influence the processes of decision-making. Additionally, capabilities and opportunities of men and women to influence decision-making process play a role in the ‘power’ game. There a great inequalities between men and women. These inequalities have impact on women’s opportunities to contribute meaningful to their households, family or societal welfare. While in all societies differences between men and women exist—which are

felt as not desirable (these are called gender-gaps), efforts must be made to reduce or close the gap or, in other words, to bring more balance in the situation of men and women.

7.3 Is it Possible to Bring Change that guarantees women's rights despite barriers?

A society is not static; ideas, norms and values change over time. Also about what is acceptable behaviour for women and for men do change. When we ask our grandparents about the way they were told to behave and what activities to do, we will notice a lot of differences with the behaviour and activities of the boys and girls of today. Nowadays many more girls go to school and take up a career, many more girls and boys find (paid) jobs outside their home village. Biologically, boys and girls of today are not different from their foremothers and fathers. But the differences are the results of changes in the traditions, norms, values and ideas in the society and in the world at large. So, many roles, responsibilities and activities of men and women are expected to be different from those of their foremothers and fathers. Nowadays, every community, even the remotest one is in one way or the other influenced by regional, national and global developments.

7.4 What can be done in Gender and Governance?

Governance is one area where gender analysis has shown the lack or inadequate presence of women all over the world, and Tanzania is no exception. This is very critical because it is through participation in governance that any group of people can seek to influence decisions for their overall good. Participation of all groups in governance and decision-making is one of the principles of good governance. Thus, the question is whether good governance is 'good' when it does not listen to the voices of both men and women. Is governance 'good' when it does not consider their different roles and responsibilities? Is it 'good' when it does not create equal opportunities for men and women to take part in decision-making process in society—at work and in the home? Good governance is a complex issue with multi-faceted requirements. According to the UN High Commissioner for Human Rights, there is good governance when there is respect for human rights, including women's rights.



Participation of women in governance is essential for the empowerment of women. Women equal participation in political life plays a pivotal role in the general process of the advancement of women. Women in decision-making positions are able to influence policies, resources and deployment of such resources to bridge inequalities, including gender inequalities. It is important to encourage women to participate in governance and to ensure that they use those positions to advance gender sensitive policies and advocate for women concerns and those of their communities. Without the active participation of women and the incorporation of women's perspectives at all levels of decision-making, the goals of equality and development for all cannot be achieved.²²

In order to create sustainable equal and democratic governance, where women and men have equal access to decision-making, equal access to services and equal treatment in these services, the gender perspective must be mainstreamed into all areas of policy making and management in both local and central government.

When sufficient number of women take part in decision-making, it is likely that women's concerns besides men's concerns become part of the agenda. However, there are three critical conditions:

- Women need the confidence and capacities to speak out;
- Men need to have a positive attitude towards women's participation and inputs;
- Both men and women need to be critical about the implications of decisions on men and on women and need to be committed to ensure equal benefits for men and women.

The Convention on the Elimination of Discrimination Against Women (CEDAW) and other agreements and plans of action mentioned earlier are very important instruments which provide standards to be followed by all States to close gender gap. All these documents include a set of actions to integrate gender concerns and perspective in policies and programmes for sustainable development. The key concept in these agreements and plans of action is gender equality; which means equal rights, voice, responsibilities and opportunities for men and women in societies, at work and in the

²² See *Beijing Platform of Action; Section—Women in Power and Decision Making*.

home. Gender equality does not mean that men and women are or must be equal in all what they do, think or feel. It refers to the process of balancing unequal relations between men and women, which are unequal due to societal norms and values.

Addressing inequalities between men and women implies questioning the inequalities in society—concerning roles, division of labour, valuation, access and control of resources and decision-making, rights, power relations as they present in law, rules, regulations and practice. Next, it involves taking actions for change by men as well as women since it concerns balancing relations between the two. It is a process of change (more on mindset) at the level of personal norms, behaviours and beliefs as well as at all levels of society, from the national society to the family.

CEDAW

CEDAW defines discrimination against women as any distinction, exclusion, or restriction made on the basis of sex which has the purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

By accepting the Convention, States commits themselves to undertake a series of measures to end discrimination against women in all forms, including:

- to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;
- to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- to ensure elimination of all acts of discrimination against women by persons, organisations or enterprises.



The Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life—including the right to vote and to stand for election, as well as the right to education health and employment. States parties agree to take all appropriate measures, including legislation and temporary special measures such as affirmative actions, so that women can enjoy all their human rights and fundamental freedoms.

Note:

1. The Facilitator should also make reference to the strategic objectives of Beijing Platform of Action that appears in Module 6.
2. Other documents which the Facilitator can make reference include, the National Women and Gender Development Policy, 2000 and National Strategy for Gender Development.

7.5 Gender Sensitive Good Governance

Efforts have to be made to balance inequalities between women and men in order to realize good governance. The following questions are important to be addressed when promoting good governance:

- Do men and women have the same access to decision making process?
- Do men and women have the same opportunities to take part in these processes?
- Are men's issues and women's issues getting the same attention in decision-making processes?
- What are the implications of unequal participations and unequal attention to critical issues expressed by men and women?
- What are obstacles and opportunities for changing inequalities?
- How can inequalities between men and women with regard to participation and sharing of benefits be overcome?

We call this way of looking at good governance as gender perspective, leading to gender sensitive good governance.

7.6 WID and GAD approaches

Over the years we have learnt how important it is when designing development programmes to differentiate between needs and opportunities for men and those of women. We know that different activities or programmes for men and for women may need to be formulated to ensure that both benefit. Some programmes follow a so-called Women-in-Development (WID) approach, others a Gender-and- Development (GAD) approach. The WID approach of 1970s aimed at integrating women into the existing development process to counteract the exclusion of women in this process. It focuses on women and, therefore, suggests women's projects or women's components in integrated projects to increase women's productivity or income or to ameliorate their household tasks and responsibilities. GAD's approach emerged during the 1980s as a response to some of the challenges that were faced by the WID approach. The central focus of GAD is the need to address discrimination against women and gender inequality in the context of gender relations. This means that, rather than working exclusively with women, GAD approaches work tactically with both women and men, in recognition of the fact that efforts to promote gender equality require commitment and behaviour changes from both sexes.

GAD approach, therefore, focuses on the relations between men and women. It wants to re-address the unequal relations of power that prevents equitable development and women's full participation. It aims at equitable and sustainable development in which both women and men are decision makers. GAD approach requires empowered women, i.e. women who are able to living their lives in the fullness of their capabilities and their own choices in respect of their rights as human being. Empowerment, in this sense, refers to the process in which men and/or women reflect upon their reality and question the reasons for their situation in society; and next, develop alternatives options and take opportunities to address existing inequalities. See an example below.



Example of Project that used GAD approach in Egypt²³

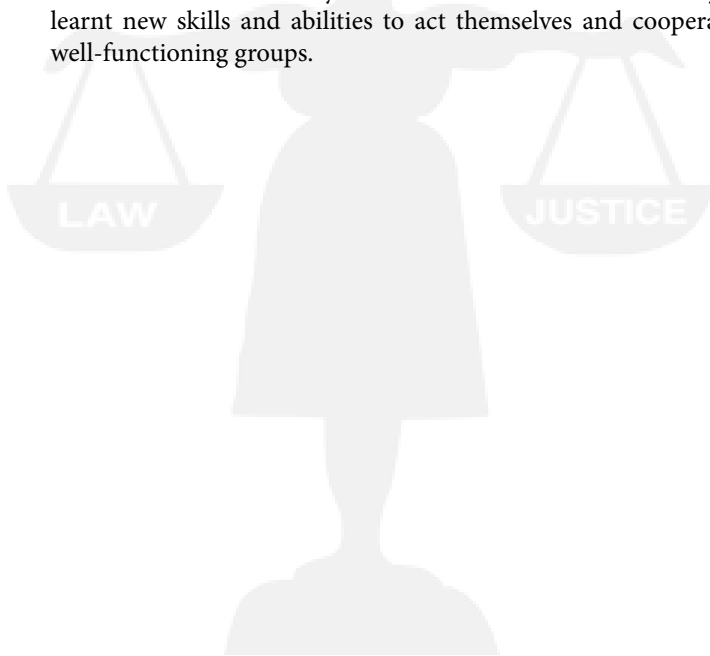
In two small towns at the eastern banks of the Nile River, an NGO called CEOSS implemented a project. It aimed at improving the living conditions of the population and increasing the ability of farmers to develop solutions to the problems they face in their daily life. In these small towns, families live in houses densely packed in narrow streets. At the start of the project a need assessment was carried out in which both men and women actively participated. The most important problem women faced was the disposal of the household waste and garbage, while men farmers gave priority to reducing the cost of chemical fertilizer. In these towns cattle are kept inside the home and there is little or none organized collection or disposal of manure, stable or household waste. Each day women have to go outside their household to bring dry soil from the field to dry the stable. The manure produced—which is of low quality—is brought to the fields by men. Further, women dump their household waste beside the river or along the irrigation and drainage canals.

Men's group and women's groups were set up to discuss how to address the problems and how to take action. The women's groups decided to collect manure, straw and urine from the stable and combine it with organic waste and kitchen ash in a pit prepared in the stable itself. This innovation proved highly successful in different respects. For the women, it saved them a lot of time in going to the fields, making the manure and dumping the household waste outside. They were relieved of their daily task to clean the animals in the river because the stables were cleaner. Additionally, cleaner stables and animals made it possible to collect much cleaner milk which benefited both animal and human health. Men profited because they did not have to carry manure to their fields everyday anymore. Also, less weeding work was required. The richer manure increased the yield slightly but very importantly, costs of chemical fertilizer were reduced. Apart from these benefits there were environmental benefits as streets, canals and other waterways were less polluted.

These changes in the age-old system of cattle, waste and manure had important gender implications. The existing division of labour in the household did not change. However, women engaged in

²³ See Verona Groverman et al, *Gender Equality and Good Governance: A Training Manual Developed by CEOSS, Cairo, February 2005* p. 16.

a new activity: the building of the improved stable with a pit to collect garbage and manure with the help of their husbands. Women also stated to play an important role in discussions and decision-making. Many women developed skills in dialogue, analysis and problem solving, while a number of them developed leadership and management skills. This is certainly had an impact on their position in the community. Not only women's self-esteem increased. The women's groups were also recognized in the community as focal points for other development activities, such as related to health issues. Over time, more and more women joined the groups. In some groups discussions started about issues and roles of the women in the community, but the men farmers too felt they had learnt new skills and abilities to act themselves and cooperate in well-functioning groups.





Part 3:
**Sexual and Reproductive
Health Rights**

Module 8

**SEXUAL AND REPRODUCTIVE HEALTH
RIGHTS (SRHR)**

8.1 Introduction: The Right to Health

The Constitution of the World Health Organisation (WHO) declares that it is one of the fundamental rights of every human being to enjoy “the highest attainable standard of health.” The right to health includes access to timely, acceptable, and affordable health care of appropriate quality.²⁴ The World Health Organisation defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.”

The right to health has been enshrined in international and regional human rights instruments as well as national constitutions of many countries. Article 25 of the Universal Declaration of Human Rights (UDHR) states that “Everyone has the right to a standard of living adequate to the health, and well-being of himself and his family.” The United Nations further defined the right to health in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Covenant protects the “right of everyone to the enjoyment of the highest attainable standard of health” and calls for the “provision for the reduction of...infant mortality and for the healthy development of the child; the improvement of all aspects of environmental and industrial hygiene; the prevention, treatment and control of epidemic, endemic,²⁵ occupational, and other diseases; and the creation of conditions which could assure to all medical service and medical attention in the event of sickness.”

8.2 Components of the Right to Health

To clarify and operationalise Article 12 of ICESCR which protects the right to health, the UN Committee on Economic, Social and Cultural Rights, which monitors compliance with the ICESCR adopted a General Comment on the Right to Health in 2000. The General Comment states that the right to health extends not only to timely and appropriate health care but also to the underlying

²⁴ See the Website of WHO on the Right to Health. www.who.int/mediacentre/factsheets.

²⁵ Endemic and epidemic are both words relating to diseases, but something endemic is found in a certain place and is ongoing, and epidemic describes a disease that's widespread. A disease that is endemic is found in a certain geographic region or in a specific race of people. Malaria is endemic to parts of Africa because it's hot and mosquitoes love it. Epidemic describes a disease that is widespread, affecting an “atypically large number of individuals within a population, community, or region at the same time.”



determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health.

Again, the General Comment states that the right to health contains four elements as follows:

- Availability, which means a sufficient quantity of functioning public health and healthcare facilities, goods and services, as well as programmes.
- Accessibility, meaning health facilities, goods and services accessible to everyone. And accessibility has four overlapping dimensions: i) non-discrimination, physical accessibility, economic accessibility (affordability) and information accessibility.
- Acceptability. All health facilities, goods and services must be respectful of medical ethics and culturally appropriate as well as sensitive to gender and life-cycle requirements.
- Quantity. Health facilities, goods and services must be scientifically and medically appropriate and of good quality.

8.3 Sexual and Reproductive Health

8.3.1 Sexuality

Before defining sexual and reproductive health it is important to know the meanings of 'sexuality' because it is a word relevant to sexual health. According to WHO, sexuality is a central aspect of being human throughout life and it encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviours, roles and relationships. While sexuality can include all of these dimensions, not all of them are always experienced or expressed. Sexuality is influenced by the interaction of biological, psychological, social, economic, political, cultural, ethical, legal, historical and religious factors.²⁶

26 World Health Organization, *Draft Working Definition, October 2002.*

8.3.2 Sexual Health

The word Sexual Health means a state of physical, emotional and social well-being related to sexuality: not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experience, free of coercion, discrimination and violence. WHO states that, for sexual health to be attained and maintained, the sexual rights of all persons must be respected, protected and fulfilled.²⁷ What are those sexual Rights?

Sexual Rights embrace human rights that are already recognised in national laws, international human rights documents and other international agreements. These rights include the right of all persons, free of coercion, discrimination and violence to:

- receive the highest attainable standard of health in relation to sexuality, including access to sexual and reproductive healthcare services;
- seek and impart information in relation to sexuality;
- receive sexuality education;
- have respect for bodily integrity;
- have a free choice of partner;
- decide to be sexually active or not;
- have consensual sexual relations;
- have consensual marriage;
- decide whether or not and when to have children;
- pursue a satisfying, safe and pleasurable sexual life.

8.3.3 Reproductive Health

Reproductive health means a state of complete physical, mental and social-well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the rights of men and women

27 World Health Organization, *Draft Working Definition, October 2002.*



to be informed and to have safe access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate healthcare services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.²⁸

8.3.4 Relationship between Sexual Health and Reproductive Health

From the definitions given above it is obvious that the main difference between sexual health and reproductive health is that the former is broader than the latter. While sexual health refers to all health aspects relating to sexuality, including the absence of disease (such as sexually transmitted diseases); dysfunction or infirmity; and having pleasurable and safe sexual experience, free of coercion, discrimination and violence, on the other hand reproductive health refers to the well-being of reproductive system. This includes the state of the fallopian tubes, ovulation, cervix, uterus and reproductive hormone balance, etc. For this matter, a person's sexual health can influence his/her reproductive health. For instance, sexually transmitted diseases which go untreated, may, at the very least, impair the ability to reproduce, transmit diseases on to an unborn foetus, or affect the ability to conceive. So, although sexual health and reproductive health are separate aspects of physical well-being they are actually inter-related. Incidentally, even having good sexual health does not necessarily follow that reproductive health is also good. But everything one does should be geared towards maintaining both.

²⁸

UN Programme of Action adopted at the International Conference on Population and Development, Cairo, 5-13 September 1994, Para 7.2a.

8.4 Sexual and Reproductive Health and Rights (SRHR)

8.4.1 Background and Problems

Sexual and reproductive health is the ability of all men and women to exercise control over their sexual and reproductive lives. However, around the world, discussion of human sexuality and reproductive health and rights has often been considered too socially and politically sensitive or too personal for serious exploration or public debate. However, governments implement laws and programmes that have direct or unanticipated impacts on these human rights or freedoms with little or no input from those most affected. As a result, healthy development, autonomy and personal rights have sometimes been compromised.

Reproductive health problems remain the leading cause of ill health and death for women of childbearing age worldwide. Impoverished women, especially those living in developing countries, suffer disproportionately from unintended pregnancies, maternal death and disability, sexually transmitted infections including HIV, gender-based violence, and other problems related to their reproductive system and sexual behaviour due to gender inequalities. Women do suffer from harmful traditional practices like female genital mutilation (FGM), early and forced marriage, various taboos or practices which prevent women from controlling their own fertility, nutritional taboos and traditional birth practices, male child preference and its implications for the status of the girl child, early pregnancy, widow inheritance and widow cleansing etc.

Furthermore, individual women and men do face inequalities in reproductive health services. Inequalities vary based on socio-economic status, education level, age, ethnicity, religion, and resources available in their environment. It is possible for example, that low income individuals lack the resources for appropriate health services and the knowledge to know what is appropriate for maintaining reproductive health. According to the WHO, reproductive and sexual ill-health accounts for 20% of the global burden of ill-health for women and 14% for men. But, physical or sexual violence is a public health problem that affects more than one



third of all women globally. Dr. Margaret Chan, Director-General of WHO says, “These findings send a powerful message that violence against women is a global health problem of epidemic proportions.”

The critical importance of reproductive health to development has been acknowledged at the highest level. The 1994 International Conference on Population and Development (ICPD) in Cairo was a milestone in the history of population and development, as well as in the history of women’s rights. At the conference the world agreed that population is not just about counting people, but about making sure that every person counts. A total of 179 governments signed up to the ICPD Programme of Action which set out to, among other things:

- provide universal access to family planning and sexual and reproductive health services and reproductive rights;
- deliver gender equality, empowerment of women and equal access to education for girls.

Again, at the 2005 World Summit, world leaders added universal access to reproductive health as a target in Millennium Development Goals framework.

8.4.2 Sexual Rights and Reproductive Health Rights

The international community now agree that “Everyone has the right to enjoy reproductive health, which is a basis for having healthy children, intimate relationships and happy families.”²⁹

Sexual and reproductive health and rights or SRHR is the concept of human rights applied to sexuality and reproduction. It is a combination of four fields. These are sexual health, sexual rights, reproductive health and reproductive rights. In the concept of SRHR, these four fields are treated as separate but inherently intertwined. From various literatures, distinctions between these four fields are not always made. Due to close connection, sexual health and reproductive health are sometimes treated as synonymous to each other, as are sexual rights and reproductive rights. In some cases, sexual rights are included in the term sexual health, or vice versa.

²⁹ See *Summary of the Programme of Action from the International Conference on Population and Development (ICPD)*.

For purpose of our discussion it is only important to know what sexual rights and reproductive rights are so that we can be able to protect and advocate them.

The right to sexual and reproductive health implies that people are able to enjoy a mutually satisfying and safe relationship, free from coercion or violence and without fear of infection or pregnancy, and that they are able to regulate their fertility without adverse or dangerous consequences.

The 1995 Beijing Platform of Action established that human rights include the right of women freely and without coercion, violence or discrimination, to have control over and make decisions concerning their own sexuality, including their own sexual and reproductive health (Para. 96). This paragraph has been interpreted by many countries as the applicable definition of women's sexual rights. It was stated by the defunct UN Commission on Human Rights that if women had more power, their ability to protect themselves against violence would be strengthened.³⁰

With the view to addressing sexual and reproductive inequalities, the 14th World Congress of Sexology (Hong Kong, 1999), the World Association for Sexual Health (WAS, formerly known as World Association for Sexology) adopted the Universal Declaration of Sexual Rights, which includes 11 Sexual Rights. These are:

1. The right to sexual freedom.
2. The right to sexual autonomy, sexual integrity,³¹ and safety of the sexual body.
3. The right to sexual privacy.³²
4. The right to sexual equity.
5. The right to sexual pleasure.
6. The right to emotional sexual expression.
7. The right to sexually associate freely.

³⁰ See E/CN.4/RES/2005/84 and E/CN.4/RES/2005/41

³¹ *Sexual autonomy means the capacity of a rational individual to make an informed, uncoerced decision about sexuality. Integrity is the inner sense of "wholeness" deriving from qualities such as honesty and consistency of character. As such, one may judge that others "have integrity" to the extent that they act according to the values, beliefs and principles they claim to hold.*

³² *Privacy is the ability of an individual or group to seclude themselves from the rest*



8. The right to make free and responsible reproductive choices.
9. The right to sexual information based upon scientific inquiry.
10. The right to comprehensive sexuality education.
11. The right to sexual and reproductive health care.

On the other hand, Reproductive Rights are legal rights and freedoms relating to reproduction and reproduction health. According to the WHO, reproductive rights rest on the following:

1. Recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so;
2. The right to attain the highest standard of sexual and reproductive health; and
3. The right of all to make decisions concerning reproduction free of discrimination, coercion and violence.³³

8.5 Legal Instruments for the Protection of SRHR

Instruments that enshrines wider rights to equality, health, life and dignity are many including the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the African Charter on Human and Peoples' Rights, including the Constitution of the United Republic of Tanzania. However, specific international instruments that address SRHR are:

- The Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (CEDAW).
- The African Charter on Human and Peoples Rights on the Rights of Women in Africa, 2004 (Maputo Protocol).
- International Conference on Population and Development (ICPD) and Programme of Action, 1994 (often known as the Cairo Declaration). The ICPD PoA was the first and most comprehensive international document to embody concepts of reproductive health and rights and sexual health.

33 See Homepage of World Health Organisation on Sexual and Reproductive Health.

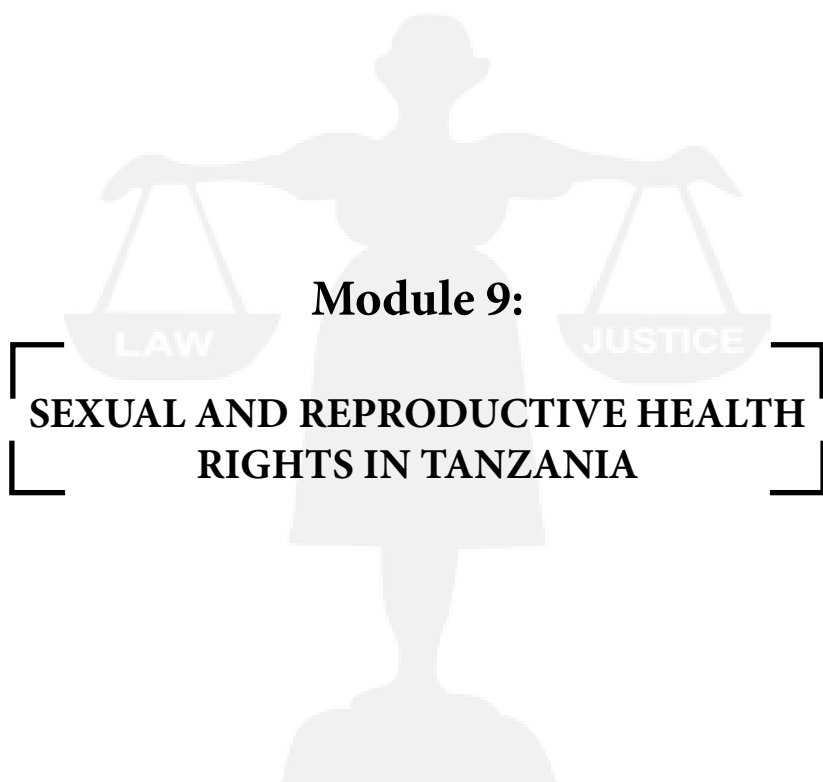
- Beijing Platform of Action, 1995. This was the first declaration to embody the concept of sexual rights, followed by the Universal Declaration of Sexual Rights, 1999 (mentioned above).
- United Nations Special Session on HIV/AIDS: Keeping the Promise: Declaration of Commitment on HIV/AIDS 2001 (often known as UNGASS). It recognises the importance of empowering women, PMTCT, VCT, the rights of women and sexual and reproductive health.
- The Fifth African Regional Conference on Women and the United Nations Fourth World Conference on Women.
- Abuja Declarations on HIV/AIDS, Tuberculosis and other related Infectious Diseases, 2001.

8.6 Some Barriers of Enjoying SRHR for men, women and adolescents

There are many barriers or challenges in the actual enjoyment of Sexual and Reproductive Health Rights especially to women and girls. Some of these barriers include the following:

- (i) Social, cultural and economic barriers which greatly affect the ability of women and girls to protect themselves from forced marriage, unwanted pregnancy and forced sex. One of the effects is that women become susceptible to sexually transmitted diseases including HIV.
- (ii) Incorrect or inadequate information and ignorance about sexual and reproductive health.
- (iii) Inaccessibility to sexual and reproduction health care; difficulty in travelling, obtaining services and the costs related.
- (iv) Fear that their confidentiality will be violated if the information is shared to another person like healthcare practitioners or law enforcement officials.
- (v) Personal or family barriers that deter women or girls from accessing and using contraceptives.
- (vi) Religious beliefs may also influence men, women and adolescents from accessing SRHR e.g. choice of family planning.
- (vii) Male dominance which, for instance, pose problems to women in negotiating condom use with their male partners and fear of violence from their partners.





Module 9:

SEXUAL AND REPRODUCTIVE HEALTH RIGHTS IN TANZANIA

Overall Objective

The main objective is to enhance participants' knowledge on the situation of Sexual and Reproductive Health in Tanzania.

Specific objectives

The objective of this Module is to enable participants:

- i) To understand the actual situation of accessibility and utilization of reproductive health services in Tanzania.
- ii) To understand the challenges in the reduction of maternal deaths in the country.
- iii) To know the legal and policy framework that has been set in Tanzania to address SRHR, and finally
- iv) To reflect on the steps/measures to be taken to deal with SRHR challenges in the country.

9.1 High Levels of Maternal Mortality in Tanzania

Tanzania is among countries with the highest maternal mortality ratios (MMR) in the world. The Tanzania Demographic and Health Survey (TDHS)³⁴ shows that MMR has decreased from 578 to 454 maternal deaths per 100,000 live births between 2005 and 2010. Currently, 8000 maternal deaths occur in a year equivalent to one maternal death every hour. Despite an observed decrease in MMR, however the pace has been considerably slow to reach the target set by Millennium Developing Goals (MDGs) of reducing the MMR in Tanzania to 193 by the year 2015. To every maternal death it is estimated that, at least 20 women who survive develop permanent disabilities including obstetric fistulae, secondary infertility and chronic pelvic pains.³⁵

In recent years there have been a raise of the indirect causes of maternal deaths including HIV/AIDS, Malaria and Tuberculosis but still the majority (80%) of the maternal deaths are due to complications directly related to the pregnancy itself (Direct causes). These conditions include haemorrhage (28%), obstructed labour (11%), Sepsis (8%),³⁶ complications of abortion (15-23%), hypertensive disorders in pregnancy and eclampsia (18%). Maternal deaths due to direct causes are preventable if timely appropriate treatment is accessed.

9.2 Organization of Health Care Services

The National health policy emphasizes on quality primary and reproductive services for all, in which all reproductive services should be free of charge in public and private facilities.³⁷ The Ministry of Health and Social Welfare (MoHSW) has constitutional and operational responsibility of formulating, monitoring and implementing policies and guidelines to ensure the every citizen receive quality health services.

³⁴ NBS [Tanzania] and Macro International Inc. *Tanzania Demographic and Health Survey (TDHS)*, 2005; NBS [Tanzania] and Macro International Inc. *Tanzania Demographic and Health Survey 9TDHS*, 2010.

³⁵ UNICEF, *State of the World's Children's Report*, New York, 2009.

³⁶ Urassa E. et al., *Maternal Mortality in Tanzania: medical causes are interrelated with socioeconomic and cultural factors*, *SAMJ*, 1996; 86(4): 436-444.

³⁷ *The United Republic of Tanzania, National Package of Essential Health Interventions, Tanzania: MoHSW, 2000.*

The health provision in Tanzania follows the primary health care system with the dispensaries and health centres at the community level. The community (village) has community health workers (CHW) whose responsibility is to provide health education, and participate in public health interventions. The dispensaries and health centres provide treatment of minor ailments and the reproductive and child health services. Then, major illnesses are referred to the district and regional hospitals which provide higher level of expertise of health services. At the National level there are Referral and Specialized Hospitals which are tertiary facilities acting as referral centre for district and regional hospitals.

9.3 The Accessibility and Utilization of Reproductive Health Services

Tanzania has a good network of health facilities with 90% of Tanzanians living within 10 km from health facility.³⁸ The distribution of health facilities has an urban bias, resulting in limited accessibility of care to rural communities. All health facilities provide reproductive and child health services including antenatal care, delivery care, postpartum care, family planning, screening for HIV/AIDS and prevention of maternal to child transmission (PMTCT), and other reproductive tract infections, and post abortion care.

Antenatal care: The MoHSW recommends women to make at least four antenatal care (ANC) visits. Ninety four per cent (94%) of pregnant women make at least one ANC visit and 62% of women have four or more visits.³⁹ Despite high ANC attendance, only 14% of pregnant women start ANC during the first trimester.

Delivery and postpartum care: Despite a high ANC attendance, half of the women deliver outside the health facilities. Delivery outside facilities is associated with delay to recognize maternal and newborn complications and thus delay to get right treatment. Eighty three per cent of women who deliver a baby outside the health facility do not receive a postnatal check-up, and only 13%

³⁸ *The United Republic of Tanzania, MoHSW, HIV/AIDS and Malaria indicators survey, Dar es Salaam, 2008.*

³⁹ *NBS [Tanzania] and Macro International Inc., Tanzania Demographic and Health Survey (TDHS), 2005.*



are examined within 2 days of giving birth as recommended.⁴⁰ It has been observed that women with high income, education and living in urban areas are more likely to deliver and postnatal care compared to their counterparts.

PMTCT Services: According to the HIV/AIDS and malaria indicator survey (2008),⁴¹ 7% of women 15-49 years are HIV infected. The HIV prevalence is highest in Iringa (14%) and lowest in Arusha, Manyara and Kigoma (2%). The PMTCT services are now available in almost all public health facilities in the country. Increase in this service entails a more workload to the available staff and more cost to the government.

Family planning: Tanzania as in many developing countries, large families is still the norm. The total fertility rate (TFR) is 5.4 with women in rural have higher (6.1) TFR than urban (3.7).⁴² Using modern contraceptives can increase the intervals thus lowering the TFR. The use of modern contraceptives is low; the TDHS⁴³ shows that the modern contraceptive rate among married women is 27%, the highest in Kilimanjaro region (38%) and lowest in Northern Zanzibar (5.4%). Thirty four per cent of women sexually active do not use contraceptives despite the fact that they don't want to become pregnant.

Post abortion care: Though data on unsafe abortion is difficult to get due to restrictive laws but small hospital based studies have shown that abortion is common and account for half of the gynaecological admissions in the hospitals.⁴⁴ A community based study in Ilala district, Dar es Salaam showed that complication of abortion

⁴⁰ *Ibid*

⁴¹ *The United Republic of Tanzania, MoHSW, HIV/AIDS and Malaria indicators survey. Dar es Salaam, 2008.*

⁴² *NBS [Tanzania] and Macro International Inc. Tanzania Demographic and Health Survey (TDHS), 2005.*

⁴³ *NBS [Tanzania] and Macro International Inc. Tanzania Demographic and Health Survey 9TDHS), 2010.*

⁴⁴ *Sorensen B et al., Substandard emergency obstetric care – a confidential enquiry into maternal deaths at a regional hospital in Tanzania, Tropical Medicine and International Health, 2010, 15(8): 894-900; Rasch V. et al., Unsafe abortion in urban and rural Tanzania: method, provider and consequences, Tropical Medicine and International Health, 2009, 14(9):1128-1133.*

contributes 15% of the total maternal mortality⁴⁵ while another study in Hai District showed that unsafe abortion accounted for a quarter of maternal deaths.⁴⁶

Unsafe abortions are the result of unwanted pregnancies. It has been reported that one-third of unintended pregnancies in Africa end in abortion, with Eastern Africa leading with 118 per 1000 women of childbearing age getting unsafe abortion. Quality post abortion care services are crucial to evade maternal deaths due to spontaneous and unsafe abortion complications. In Tanzania there is inadequate provision of post abortion care services especially in the dispensaries and health centres, thus mainly denying services for women within these areas, which are mainly rural.

9.4 Challenges in reduction of maternal deaths

High maternal mortality in Tanzania is contributed by high TFR, low utilization of the family planning services, post abortion services, and delivery and postnatal services. Majority of maternal deaths can be prevented if access to family planning services and prompt treatment of pregnancy and delivery complications is granted. Financial constraints, long distance to health facilities, lack of transportation and inadequate capacity of health facilities in terms of available space, medicines and supplies are identified as barriers.

The Tanzania service provision assessment (2007),⁴⁷ estimates a deficit of 64% of health care providers. This leads to excessive workload to the available providers thus poor services. Negative attitude among health providers worsen the situation. Negative perception on reproductive health services contribute to poor utilization. Poverty in the community, low socio-economic status of women, low levels of education of women contributes to maternal deaths. Lack of good governance and accountability mechanisms contribute to health providers' laxity in their duties and misappropriation of meagre funds available.

⁴⁵ Urassa E. et al., *Maternal Mortality in Tanzania: medical causes are interrelated with socioeconomic and cultural factors*, *SAMJ*, 1996; 86(4):436-444.

⁴⁶ Mswia R. et al., *Community-based monitoring of safe motherhood in the United Republic of Tanzania*, *Bulletin of the World Health Organization*, 2003, 81(2):87-94.

⁴⁷ NBS [Tanzania] and Macro International Inc. *Tanzania Service Provision Assessment Survey*, 2007



9.5 Tanzania Laws and Policies Related to SRHR

The Ministry of Health of Tanzania has estimated 30% of maternal deaths result from unsafe abortion.⁴⁸ Actual comprehensive data is difficult to obtain due to CRIMINALISATION and STIGMA surrounding this issue.⁴⁹ Policies and laws relevant to SRHR,

- National Health Policy,
- National Population Policy 1992,
- National Plan of Action to Combat FGM 2001-2015,
- National Multi-Sectoral Framework on HIV/AIDS 2008-2010,
- HIV and AIDS (Prevention and Control) Act 2008,
- National Policy on PMTCT 2002,
- The Law of Marriage Act, 1971,
- Employment and Labour Relations Act, 2004.

The Constitution

The Constitution provides what already exists in some of the international instruments. Various articles of the constitution elaborate on 'right to equality' under Article 12, article 13 - speaks of 'recognition and respect for [one's] dignity'. Article 16 guarantees 'respect and protection of private communications' while Article 29 explains on 'equal protection under the law and non-discrimination.

The Penal Code

There is absolute prohibition on termination of Pregnancy in Tanzania. Under the Penal Code, section 230, termination of pregnancy is lawful where it is done to 'preserve the life or health of the pregnant woman.' This provision is widely understood to permit termination of pregnancy to safeguard the life and health of the pregnant woman. It creates a lawful exception to criminalization and provides a defence in circumstances where a person, in good faith and with reasonable care and skill, performs a surgical abortion to preserve the pregnant woman's life. In such circumstances, the

⁴⁸ Ministry of Health and Social Welfare, *Post-Abortion Care Clinical Skills Curriculum: Volume 2, Trainee's Handbook 40* (2002).

⁴⁹ Neil Price et al., *Addressing The Reproductive Health Needs and Rights of Young People Since ICPD: The Contribution of UNFPA and IPPF, Tanzania Country Evaluation Report 24* (2003).

person performing the procedure is not criminally liable.

Section 150-152 of the Penal Code, criminalises only ‘unlawful’ acts related to termination of pregnancy. These sections refer to criminal liability of provider (any person to attempt to procure an abortion), the pregnant woman (who attempts to procure her own pregnancy) and the supplier (who provides drugs or equipment used to induce an abortion).

Section 204 and 219 differentiates between unlawfully procuring an abortion and that of murder or manslaughter. Section 204: offence of murder or manslaughter becomes applicable only when the foetus is born alive and physically exists outside the pregnant woman’s body. Section 219 provides for the offence of ‘child destruction.’ The act stipulates that the foetus is capable of being born alive after 28th week of pregnancy. Such will be regarded unlawful, unless it is to ‘preserve the life of the woman.’

Relevant Case Law on Termination of Pregnancy relevant to Tanzania

No post-independence Tanzanian case law interpreting the Mainland Tanzanian Penal Code provisions on abortion. However, pre-independence case law, which continues to have legal authority in Tanzania, can be used to interpret the Tanzania’s abortion law. For example *Rex v. Bourne*⁵⁰ is the case which identifies circumstances in which abortion could be “lawfully” procured. The ruling effectively created a mental and physical health exception to the criminalization of abortion—and clearly provided for access to legal abortion in cases of rape. Tanzania continues to have an abortion provision nearly identical to this case. The decision in *Mehar Singh Bansel v. R*,⁵¹ is binding in Tanzania and it affirms the decision in *Rex v. Bourne*. In this case, the Supreme Court of Kenya defined an “illegal operation” as one “which is intended to terminate pregnancy for some reason other than what can, perhaps be best called a good medical reason,” which the Court interpreted to be “the genuine belief that the operation is necessary for the purpose of saving the patient’s life or preventing severe prejudice to her health.”

⁵⁰ *Rex v. Bourne*, [1939] 1 K.B. 687.

⁵¹ *Mehar Singh Bansel v. R*, [1959] E. Afr. L. Rep. 813, at 832.



9.6 What should be done to advocate for SRHR?

In advocating for Sexual and Reproductive Health Rights, various methods can be used depending on the target group. Methods which can be used to conduct advocacy to women may be different from those used for men, youth and policy/decision makers. However, the following suggested methods can be used to all target groups:

- Community based awareness campaigns to address gender inequalities and promote women's right to control what happens to her body including ability to decide not to have sex and whom to have sex with.
- Advocate for legal reforms of national laws that are restrictive or inhibitive to gender equality (e.g. inheritance laws and the Law of Marriage Act, 1971), and enforcement of laws that facilitate access to SRHR like the HIV/AIDS (Prevention and Control) Act 2008, Sexual Offences Special Provisions Act, 1998,) and those laws that promote gender equality including access to equal employment and education opportunities and ownership of land (including the Employment and Labour Relations Act, 2004, Land Act, 1999 and Village Land Act, 1999)
- Dialogue sessions about SRHR with different groups; adolescents, community leaders, health personnel, local government authorities, women and men.
- Advocate for accessible legal services for victims of SRHR and ensure enforcement of their rights.
- Promote maximization of access to quality, non-judgemental sexual and reproductive health services to all and dissemination of correct information.

Summary of Key Terms on Sexual and Reproductive Health Rights

- Sexual Health: includes healthy development, equitable and responsible relationships and sexual fulfilment, freedom from illness, diseases, disability, violence and other harmful practices related to sexuality.
- Sexual Rights: the rights of all people to decide freely and responsibly on all aspects of their sexuality, including protecting and promoting their sexual health, be free from discrimination, coercion, or violence in their sexual lives and in all sexual

decisions, expect and demand equality, full consent, mutual respect and shared responsibility in sexual relationships. For instance, everyone has the right to say “no” to sex if he/she does not want it.

- Reproductive Health: the complete physical, mental and social well-being in all matters related to the reproductive system including a satisfying and safe sex life, capacity to have children and, freedom to decide if, when and how often to do so.
- Reproductive Rights: the rights of couples and individuals to decide freely and responsibly the number and spacing of their children, to have the information, education and means to do so, attain the highest standards of sexual and reproductive health and, make decisions about reproduction free of discrimination, coercion and violence.
- Reproductive care: includes, at a minimum family planning services, counselling and information, antenatal, postnatal and delivery care, health care for infants, treatment for reproductive tract infections and sexually transmitted diseases, safe abortion services (where legal) and management of abortion-related complications, prevention and appropriate treatment for infertility, information, education and counselling on human sexuality, reproductive health and responsible parenting and discouragement of harmful traditional practices such as FGM. And, if additional services such as treatment of breast and reproductive system cancers and HIV/AIDS are not offered, a system should be in place to provide referrals for such care.

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