



APRIL 18, 2016

Letter from Human Rights Watch to the United Republic of Tanzania on Compliance with UN CEDAW Committee Decision

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Re: Compliance with UN CEDAW Committee Decision—Case of E.S. and S.C. v. United Republic of Tanzania

Your Excellencies,

We write to respectfully urge you to ensure that the United Republic of Tanzania complies with the recommendations of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW Committee) in the case of E.S. and S.C. v. the United Republic of Tanzania (Communication No. 48/2013, U.N. Doc. No. CEDAW/C/60/D/48/2013). This case involved two widows, E.S. and S.C., who were denied the right to inherit from their husbands and the possibility of effective redress through Tanzania's courts.

In April 2015, the CEDAW Committee issued its decision in this case, which it reviewed under its Optional Protocol mechanism. It found that Tanzania had violated the rights of E.S. and S.C. under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) by failing to revise or amend its sex-discriminatory codified customary inheritance laws. Under those laws, neither widow had the right to administer her deceased husband's estate or to inherit any of his property, despite the existence of constitutional provisions guaranteeing equality and non-discrimination. The CEDAW Committee concluded that Tanzania's "legal framework, which treats widows and widowers differently in terms of their access to ownership, acquisition, management, administration, enjoyment and disposition of property, is discriminatory" and violates CEDAW. It also found that Tanzania had denied the widows "equality in respect of inheritance and failed to provide them with any other means of economic security or any form of adequate redress."

The CEDAW Committee found that the courts' handling of the widows' case constituted "a denial of access to justice" and thereby amounted to a failure to provide an effective remedy. It reached this result because the lower court refused to order relief despite finding discrimination against the widows, and the Court of Appeal waited four years before hearing their appeal and then rejected it "on a mere procedural technicality for which the authors were not responsible."

The CEDAW Committee recommended that Tanzania compensate and provide reparations to the two widows; repeal or amend the discriminatory customary law provisions; ensure access to effective remedies by guaranteeing that courts will refrain from excessive formalism and unreasonable and undue delays; harmonize competing legal systems of succession/inheritance; and undertake other measures to eliminate discrimination with respect to inheritance and administration of property.

One year later, the government of Tanzania has not adequately complied with the CEDAW Committee decision. We understand that E.S. and S.C. have received no financial compensation or reparations from the courts, Parliament, or the executive branch. In a submission to the CEDAW Committee in connection with its March 2016 review of the country's compliance with CEDAW, the government of Tanzania reported that it had "communicated with the relevant District Council," undertaken "capacity-building for judges, judicial

personnel and lawyers,” and undertaken a mapping of women’s access to justice. While these may be helpful steps, they fall far short of the reforms and other measures recommended by the CEDAW Committee. The CEDAW Committee reiterated the urgency of this matter in its recent concluding observations on Tanzania.

In 2014, Human Rights Watch submitted a joint letter to members of the Tanzania Constituent Assembly, urging it to ensure that the new constitution expressly and clearly guarantees full equality for women and equality of both spouses in marriage, including in matters relating to property ownership and inheritance, among others. The current draft of the proposed constitution has helpful provisions on discrimination against women, and will be a good basis for reforms once adopted. But even before adoption of the new constitution, there are many reforms that the Tanzanian government can and should undertake to eliminate discrimination against women with respect to inheritance and administration of property. The existing Constitution’s article 13 guarantees women equality under the law with men without discrimination based on sex, and article 107A(2) guarantees “compensation” to “victims of wrongdoing” and also guarantees that courts will not be “tied up” by “technicalities” that “may obstruct dispensation of justice.”

We urge you to act without delay to provide compensation and reparations to E.S. and S.C., and to undertake the other reforms and measures recommended by the CEDAW Committee.

Thank you for your attention to this matter.

Sincerely,

Liesl Gerntholtz

Executive Director, Women's Rights Division

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- [Women's Rights](#)
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committee