

**Date: 4th April 2024**

**TO WHOM IT MAY CONCERNED:**

**OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS**

**PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND**

**TEL: +41 22 917 9000, FAX: +41 22 917 9008**

**E-MAIL:** [registry@ohchr.org](mailto:registry@ohchr.org), [**ohchr-registry@un.org**](mailto:ohchr-registry@un.org)

**RE: INPUT TO THE STUDY ON CARE AND SUPPORT, PURSUANT TO HRC RESOLUTION 54/6**.

**Introduction**

The Zanzibar Federation of Disabled People Organizations (which is also known as “Shirikisho la Jumuiya za Watu Wenye Ulemavu Zanzibar-SHIJUWAZA” was founded in 2014 with six members of Organisations of People with Disabilities (OPDs) to better the lives of disabled people by addressing their exclusion from rights and opportunities. Presently, the organisation has twelve members of OPDs. The SHIJUWAZA aspires to bring together disability groups in Zanzibar, develop skills for assessing the success of programs, promote representation in decision-making bodies, and fortify connections through networking and collaborative processes with partners and stakeholders.

The organisation’s objectives are to combat marginalization and encourage social inclusion for those with disabilities. The organisation was officially registered by Zanzibar Society Act No. 6 of 1995 in 2014 with a registration number of 2278 and in 2021 registered under the Business Entities Registration Act No. 12 of 2012 with the registration number Z0000119457.

Presently, the organisation is working with the Norwegian Association of Disabilities (NAD) on two projects. The Economic Empowerment Project (EEP) or Kijaluba iSAVE EEP”. This pilot project (2022-2024) aims to promote the economic independence of persons with disabilities by breaking barriers to their participation so they can actively contribute to the development of their communities. Another project is on SHIJUWAZA Organizational Development Project (ODP). It addresses major structural and systematic issues identified during the Organizational Capacity Assessment (OCA) as well as builds the capacity of the Staff and the Governance to set the organisation into the growth path. It is also aimed to shape SHIJUWAZA into a complying organisation.

***Vision***: A responsive and inclusive society that respects and protects the rights of People with disabilities (PWDs) in Zanzibar

***Mission:*** SHIJUWAZA strives to advance and empower DPOs in Zanzibar through the provision of demand-driven capacity development programs, organizing advocacy and policy debates, service delivery and public awareness programs for improved socio and economic well-being of Persons with Disabilities.

***Areas of Work:***

1. **Lobby and Advocacy:** to ensure the inclusion of People with Disabilities in development programmes through guaranteed access to human and disability rights, the SHIJUWAZA has continuously approached several actors in public and private sectors to advocate for inclusive laws, policies, and socioeconomic programmes.
2. ***Public Awareness and Sensitization:*** The Federation carries out regular public awareness and sensitization programs to create public understanding of disabilities issues and inform their roles so that can take appropriate action in minimizing negative perceptions against persons with disabilities. The Federation also uses media and consultation to engage private sectors in supporting and promoting the rights of persons with disabilities.
3. ***Resource Mobilization:*** The SHIJUWAZA is mobilizing financial, human, and material resources to support disability and inclusion interventions in Zanzibar, aiming to provide universal access to facilities and services to all vulnerable populations, including children, women, youth, and the aged.
4. ***Institutional Capacity Building:***This involves strengthening institutional capacity involves key organizational development issues such as financial sustainability, human resource development, resource management, good governance, and human rights advocacy techniques.
5. ***Fostering Partnership, networking, and Collaboration****:* SHIJUWAZA envisages partnership, networking, and collaboration with various organisations at National and International levels to benefit from sharing experiences, learning best practices and new approaches, getting external exposure, and receiving advice for achieving its desired goal of improving the welfare of Persons with Disabilities.

**INPUT TO THE STUDY ON CARE AND SUPPORT, PURSUANT TO HRC RESOLUTION 54/6**.

**Overview of Human Rights in Zanzibar:**

The human rights aspect in Zanzibar is well vested in the Zanzibar Constitution of 1984. Chapter two of the Constitutions focuses on “FUNDAMENTAL OBJECTIVES AND DIRECTIVE PRINCIPLES AND POLICIES OF THE REVOLUTIONARY GOVERNMENT OF ZANZIBAR”. In this chapter, section, 10(5) states: *“That in the implementation of the said policy every citizen in terms of justice is treated equally, accorded equal responsibility and opportunity in accordance with the law, human dignity, and other human rights are respected and cherished, freedom, absence of favouritism, the impartiality of the Judiciary and opportunity of access to the courts of law is guaranteed and respected”.*

Section 10 (6) of the Constitution on health, education, and culture, clearly says: *“Shall direct its policy toward ensuring that every person has access to adequate health care, equal opportunity to adequate education for all and that Zanzibar culture is protected enhanced and promoted”*. Towards work objective, section 10 (7) of the constitution indicates that: *Every person who is able to work has the opportunity to work, and work means any legitimate activity by which a person earns a living, disadvantaged groups such as the elderly, the sick, children and disabled are assisted. In section 10 (9) the constitution commits that “All Government organs shall, and its servants follow and adhere to the international treaties on human rights and good governance.* On protection of freedom, of assembly and association, section 20(1) of the Constitution states that: *Every person is entitled to freedom, subject to one's free and freely and peaceably assemble, associate and co-operate with other persons, and more especially to form or join associations or organisations formed for workers human rights organisations or other organisations for his benefit and which are established in accordance with the laws of the land”.*

On the Fundamental rights and individual freedoms, section 25(1) of the Constitution states that: *Every person in Zanzibar without prejudice to that person's tribe, place of origin or domicile or any other relations whatsoever, political lineage, colour, religion or sex has the right and duties to enjoy fundan1entaI human rights and personal freedom provided that personal freedom shall not be exercised in a manner that neither infringes upon the rights and freedoms of others nor the public interest, that person shall be entitled to get and receive protection of each and all of the following:*

1. *the right to live, the right to individual freedom and protection in accordance with the law;*
2. *freedom of thought, freedom of expression, freedom of assembly and association; and*
3. *the rights to domestic privacy and protection of one's property and the right for that property not to be taken away without fair compensation.*

**Question #1:**

In your country, regional or at the global level, how are the following **rights recognized and protected under national, regional and/or international law**? Please provide concrete examples, such as legal provisions, jurisprudence of courts and/or human rights mechanisms:

1. **Human rights of unpaid and paid caregivers**, including those who are women, persons with disabilities, children and older persons.

In Zanzibar, caregivers are found in at least four formally established centres: Orphanages, the Elderly, Daycare, and the Red Cross. There are both public and private caregivers’ centres. All caregivers in these centres are paid based on the government minimum wages and are protected under the Public Service Act No. 2 of 2011. It occasionally happens to have unpaid caregivers who are most of the time students engaged in internship programmes. Regarding other rights such as education, health, housing, legal capacity, rest and leisure, marriage etc, the caregivers are equally benefiting all of these rights. For example, the Public Service Act and Zanzibar Employment Act No. 11 of 2005, mandate employers to allocate a budget for training employees. The Elder Person Affairs Act No. 2 of 2020 provide legal provision for the Local Government Authority to establish community bases care and support services to accommodate elder persons residing within their jurisdiction. The support services define by section 3 of this Act include: legal aid, psychological support, health services, nursing, and any other support depending on the circumstance of the elder person.

However, the Zanzibar Children Act No. 6 of 2011, restricts or prohibits employment of children under 18 years. So, in practice, there are no paid or unpaid child caregivers in the formally established centres. According to this Act, child labour is interpreted as:

*“Child labour” means labour that is exploitative, hazardous to a child, or forced upon a child as contemplated in sections 99, 100, and 102 of the Children Act, and which:*

1. *by its nature or circumstances is likely to harm the health, safety, or morals of a child;*
2. *is inappropriate for that child’s age; or*
3. *places the child’s well-being, education, physical or mental health, or spiritual, moral or social development at risk.*

*but excludes duties performed by a child, in accordance with the evolving maturity of the child and in the child’s best interests and subject to the child’s human rights, to contribute to the* well-being of his family and community.

According to the Children Act, voluntary caregivers are required to practice “Kafalah” which means the commitment to voluntarily take care of the maintenance, protection, and education of the child in the same way as the biological parents of the child would do. UNICEF defines “Kafalah” as an alternative family care option for children outside of parental care practised by Muslims around the world (An Introduction to Kafalah, UNICEF, 2023).

The Elder Person Affairs Act No. 2 of 2020, provide an obligation to the family caring for the elder person as explained in section 18, that: (a) provide love, affection, food, shelter and accommodation, (b) complement the efforts of the government and local government in providing medical expenses for the elder person suffering from illness and provide him with nursing care, (c) facilitate him to stay with his spouse unless there are compelling circumstances for them to be separated, (d) sustain the possession of his properties including houses, estate or any other income from such properties owned by him, and (e) provide any other relevant assistance where necessary. According to this Act, an elder person means any person from the age of 70 years and above.

1. **Human rights of recipients of care and support**, including those who are women, persons with disabilities, children and older persons;

The human rights of recipients of care and support, including women, persons with disabilities, children, and older individuals, are crucial for ensuring their well-being and dignity. In Zanzibar, recipients of care and support, are provided with housing, health services, rest and leisure, and hygiene facilities, and children in the orphanage centres are provided with education. In addition, the Government of Zanzibar established a Social Protection Policy to facilitate the establishment of a Social Pension Programme for the elderly above 70 years, who paid a monthly subsistence allowance. Likewise, the Government established a Health Service Fund, which has a package to support elders and persons with disabilities.

For maintenance of a child placed in a residential establishment, the Zanzibar Children Act No. 6 of 2011, section 31(1) has a legal provision for a Court to intervene to ensure good maintenance of a child, and states that*: “the Court may order that the parent, guardian, relative or caregiver of a child placed in a residential establishment, foster care or another form of alternative care contribute towards the maintenance of the child”.* Section 10(1) of the same Act provides the rights of children to good living conditions. It states that: A child shall have the right to good conditions of living necessary for his development, including: -

1. *nutritious food; (b) shelter; (c) appropriate clothing; (d) appropriate care and protection, which involves adequate medical care and immunization; (e) education, including religious education; and (f) sport.*

Section 10(3) of the Children Act provides a provision for the government subject to its national condition and in case of needs, to provide material assistance and support programs to parents, children, and other child-related individuals, including nutrition, clothing, housing, protection, and special care.

Other human rights of the recipient of care and support are on the issue of ‘consent’, especially for HIV testing for children. The Children Act says in section 112(1) that: A child may not be tested for HIV except when: (a) it is in the best interests of the child and consent has been given by:

1. the child, if the child is: (i) 16 years of age or more; or (ii) under the age of 16 years but has sufficient maturity and mental capacity to understand the benefits, risks, and social effects of such a test,
2. the parent or guardian, if the child is under the age of 16 years and is not of sufficient maturity to understand the benefits, risks, and effects of such a test,
3. the Minister responsible for children, if the child is under the age of 16 years and is not of sufficient maturity to understand the benefits, risks, and effects of such a test;
4. the superintendent or person in charge of a hospital or the Regional Director of a Clinic, if:
5. the child is under the age of 16 years and is not of sufficient maturity to understand the benefits, risks, and implications of such a test;
6. the child does not have a parent, guardian, or caregiver; or
7. a Children’s Court, if: (i) consent in terms of paragraph (a), (b), (c) or (d) is unreasonably withheld; or (ii) the child or the parent, guardian or caregiver of the child is incapable of giving consent.

For persons with disabilities, the Children Act also provides provisions of protection and other entitlement. Section 11(1) of the Act says: “No person, authority, institution or other body shall treat a child with disabilities in a degrading manner. Likewise, section 11 (2) says: *A child with disabilities shall be entitled to special care and protection and shall have effective access to and receive inclusive and non-discriminatory education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child achieving the fullest possible social integration and individual development, ensuring his dignity and promoting his self-reliance and active participation in the community*. The Act also defines parental role and responsibilities in section 12(1) stating that: *Parents and any other person legally responsible for a child shall have the duty to secure the child’s right to life, dignity, respect, leisure, liberty, health, education, protection, shelter, and anything else necessary for the child’s physical, mental, spiritual, moral and social development.* The individuals could be the biological parents, caregivers in the centres, or those who practice the ‘Kafalah’ system.

The Elder Persons Affairs Act No. 2 of 2020 stipulates several rights of an elder person including general rights section 5 such as participating in the affairs of the society and community in any position appropriate to his interest and capability, participating in activities that enhance his income-generating capacity, live in dignity and be free from abuse, access services related to social protection activities, among others. Specific rights include the right to legal representation, rights to identification for accessing social services, rights to human dignity, rights to protection and safety, right to health, right to information, rights of admission into public and private premises, sports, recreational, leisure and cultural right, right to privacy, and property right. Likewise, the Act mentions the rights of elder persons residing in the community-based care and support services and include as indicated in section 24: (a) reside at a family home or institution for as long as practically and reasonably possible, (b) pursue opportunities for full development of his potential, and (c) benefit from family and community care and protection in accordance with society’s system of culture values.

1. **Human rights relevant to self-care of caregivers and recipients of care and support**, including those who are women, persons with disabilities, children and older persons

**Human rights relevant to self-care of caregivers:** The caregivers have the right to ensure they are providing caring services in a conducive environment and acknowledged by the responsible authority, which could be the government, private institution, or individual like a family. The self-care of caregivers have the rights over their health protection such as demanding the provision of PPE, regular medical checks, and not being exposed to any health risk. The Children Act provides provisions in section 135(1) for a Minister to make regulations to establish training centres for childcare workers intending to work in approved residential establishments or, daycare centres. This legal arrangement provides an opportunity for caregivers especially for childcare workers to get some training, of course, related to their work.

Such recognition and protection may be made in relation to, but not limited to, the rights to work, social security, adequate housing, health, education, enjoyment of scientific advancement, legal capacity, equality in marriage, independent life in the community, rest and leisure, and the rights relevant to participation. It may include the recognition of care and/or support as human right(s) under the law.

**Question #2**

Concrete **policy or programmatic** **measures taken to promote and ensure the rights of caregivers and recipients of care and support** in national care and support systems,mentioned under Question 1 above. If possible, please indicate the impacts of such measures.

In the context of Zanzibar, there are various policy and programmatic measures taken by the government to ensure the rights of caregivers and receipts of care and support. Among these measures is the enactment of various laws and policies frameworks that allow the provision of these services as well as creating an enabling environment for service providers and receivers, the establishment of departments/institutions/agencies that take management roles of these issues, for example, the social welfare department, children's division, Department of the welfare of the elderly and so forth, budget allocation by the government to support the management and operation of caregiving centres, as well as to establish systems for identifying centres/people who provide care and support services. All these measures have become an important part of protecting the rights of caregivers and recipients and to recognize their contribution to society. These measures have also had very positive impacts on both sides for caregivers and recipients, some of the impacts are as follows: -

* The presence of strong laws that govern social welfare issues of caregiving services resulted in to increase in the number, quality, and security of service centres established, it will be remembered that before 1964 caregiving centres in Zanzibar were very few. The situation became different after 1964 when the government implemented several laws and policies that govern this matter and hence the rights of caregivers and receivers have been improved in terms of quality services, cleanliness and hygiene, environmental health, and access by adopting friendly and reasonable accommodation standards of the infrastructures that support all people, including people with disabilities or the elderly and children.
* The safeguarding of the caregivers and receivers has been improved. The existing laws have focused on the safety of service providers and service recipients by establishing solid foundations that support the entire operation of caregiving services. For example, section 134 of the Children Act, gives power to the Minister to make regulations prescribing the standard of care in all residential establishments for children, and daycare centres. Likewise, section 138 (1) of the Children Act gives power to the Minister to make regulations prescribing procedures, requirements and forms relating to the admission, removal, and transfer of children from approved residential establishments, placement of children in foster care, adoption, child labour, and approved residential establishments.
* Laws forbid mixing children in adult centres to avoid potential harm and also the people who serve children have set special criteria to ensure children's safety becomes a priority. Similarly, laws have given guidelines to other groups such as the elderly, people with disabilities, etc. to ensure that they grow up safely at all times.
* The availability of basic services has improved due to the government allocating a budget to serve the centres owned by the government. Services such as food, shelter, sanitation, clean and safe water, electricity and other social services have improved since every year the government provides a special budget for the operation of these centres. Even in the case of private centres, the government has been striving to connect them with development stakeholders to be given financial contributions that support their operation.
* Caregiving services in Zanzibar are running more professionally due to the existence of strict laws governing these services. Acts of abuse and humiliation for care receivers have become not part of life inside the centres. Caregivers and receivers respect their boundaries in accordance with the laws of the country.
* The presence of these services has also provided job opportunities for the citizens of Zanzibar with relevant qualifications and professions. Due to the continued growth of caregiving services in Zanzibar, many government and private centres have been established that have provided employment opportunities for skilled citizens in the fields of social welfare, education, health, environment, and other jobs that do not require specific professions.
* Helps the government to undertake effective monitoring of the centres and services they provide.
* Ensures government commitments in the implementation of the measures. The policy statements set by the government obligate it to be responsible and take measures to promote caregiving services in Zanzibar.
* The recipients are guaranteed livelihood support and other social support services within the centres and this situation reduces stress among the recipients as well as reduces the burden on the families of the recipients most of them are families with poverty backgrounds and low life standards.

Such measures may include but are not limited to, social security/protection, working conditions, human support, childcare, long-term care and support, health services, education, transportation, housing, water and sanitation, assistive devices, digital technology, deinstitutionalization[[1]](#footnote-1), access to justice, governance, financing, monitoring and evaluation, and awareness raising.

**Question #3**

**Main challenges faced at the national level** in creating robust, resilient and gender-responsive, disability-inclusive, and age-sensitive care and support systems with full respect for human rights.

In Zanzibar, the challenge includes but not limited to:

* Resource, financial and technical staff to address human rights matters at all levels.
* The infrastructure system to support disability inclusion is not enough across the country.
* Awareness of having flexible caregiving centres which observe gender-responsive, disability inclusion and other human rights aspects still under development.
* The provision of sign language interpreters in crucial service sectors, such as education and health, tends to be low largely due to the shortage of trained human resources and is further compounded by limited financial allocation in relevant sector budgets for such services (Country Report, 2021. Situational Analysis of the Rights of Persons with Disabilities in Tanzania)
* Disability-related indicators are not adequately reflected in Household Budget Surveys of 2019/2020 for Zanzibar. This adversely affects the capacity of stakeholders to ascertain the prevalence of people with disabilities living below the national poverty line compared with the rest of the population, and thereby direct policy action (Country Report, 2021. Situational Analysis of the Rights of Persons with Disabilities in Tanzania

**Question #4**

As much as possible, we would appreciate receiving the following information in relation to your responses to points 1 and 2 above:

* + **Data disaggregated by sex/gender, age, disability**, and if possible, also by other grounds, including income, race/ethnicity, geographic location, migratory status and other characteristics;
  + **Information on people** **who are in vulnerable situations and/or who face intersecting forms of discrimination**, such as single parents, widows/widowers, children deprived of family environment; persons with disabilities and older persons in care institutions; as well as those who are affected by humanitarian crises, armed conflicts, disasters; living in poverty; living in rural areas; migrants, refugees, asylum seekers; belonging to minorities or indigenous communities; and those who are deprived liberty.

**Older Persons:**

A report by HelpAge International (2009) revealed that in Zanzibar, 4 per cent of the population is over 60, while older men and women lead 16.5% of the homes. These individuals frequently provide essential care to children even if they are not the heads of the households.

However, it should be noted that the time and efforts devoted by Zanzibar’s old men and women to care for children in the households are legal obligations of an elder person as provided by Elder Person Affairs Act No. 2 of 2023, section 17(1) which stipulates that “every elder person has the responsibilities towards his family, community, the Government and international communities and section 17(2) says, an elder person shall: (a) mentor and pass on knowledge and experience to the children and young generations, (b) facilitate dialogue and solidarity within his family and communities and (c) play a role in mediation and conflict resolution.

**The person with Disabilities:**

The National Council of People with Disabilities is still working to establish a database of persons with disabilities for Zanzibar. At present, there is limited data to figure out the number of people with different categories of disabilities, ages, and geographical locations. Nevertheless, the Country Report of 2021 on Situational Analysis of the Rights of Persons with Disabilities in Tanzania, indicates that overall disability prevalence rates for people aged 5+ are 3.2% (3.03% (M) and 4.06% (F) in Zanzibar. Data-based on 2019/20 Zanzibar Household Budget Survey - HBS). Further disaggregation data from the report shows that:

* For children and young people aged 5-24, the disability prevalence rate is 1.8% in Zanzibar.
* Women have higher prevalence rates of disability than men.
* In Zanzibar, 4.1% of women live with a disability compared to 3.0% of men.
* Prevalence rates among children, however, do not show significant differences between boys and girls in Zanzibar, with sex differences only appearing in early-to-mid-adulthood.
* In Zanzibar, disability prevalence increases in adulthood and rises steeply among older adults. In Zanzibar prevalence rates stay consistently low until the 35–54-year age group, when women in particular face an increase in prevalence rates.

**Information on people** **who are in vulnerable situations and/or who face intersecting forms of discrimination:**

**Persons with Disabilities:**

Country Report of 2021 on Situational Analysis of the Rights of Persons with Disabilities in Tanzania indicates that person with disabilities faces social stigma, stereotypes, and discrimination. It further makes a note that these are the prominent factors that limit persons with disabilities from being able to achieve true equality and access to opportunities. These stereotypes and discriminations are often reflected in individual and community perceptions of people with disabilities as having less capacity and value. Marginalised groups within the disability spectrum, such as women, older adults and children, people with intellectual impairments, rural dwellers, etc., are particularly vulnerable to stigma and discrimination due to a lack of diversified advocacy and sensitization efforts.

The report also indicates a lack of an intersectional lens in legislation: In this aspect, the report says that the legal frameworks to protect the rights of persons with disabilities fail to adopt an intersectional lens to address the diverse needs of marginalised groups within the disability spectrum, such as women, older adults and children, people with intellectual impairments, rural dwellers, etc., and thus fails to guarantee rights to education, employment, healthcare, and social support to all persons with disabilities. The failure to adopt a gendered lens makes the laws and policies non-compliant with CEDAW. Moreover, there is a stark contrast in attitudes and service delivery available in urban and rural areas.

Likewise, the report shows inadequate education and awareness in the face of people with disabilities. The report mentioned that there is inadequate awareness and education about the causes of disability and the potential of people with disabilities, the economic costs of exclusion and the gains made by the inclusion of people with disabilities. Disability inclusion is not seen as a complex technical issue that may require architectural knowledge, physiotherapy, rehabilitation, speech therapy, sign language and specialised care and services. Further, the role of non-inclusive environments and infrastructure towards disability exclusion is not acknowledged enough.

Report Prepared by

ZANZIBAR FEDERATION OF DISABLED PEOPLE ORGANISATIONS (SHIJUWAZ),

Email: [shirikishodpo@gmail.com](mailto:shirikishodpo@gmail.com)

THANK YOU!

1. [https://www.ohchr.org/en/documents/legal-standards-and-guidelines/crpdc5-guidelinesdeinstitutionalization-including](https://www.ohchr.org/en/documents/legal-standards-and-guidelines/crpdc5-guidelines-deinstitutionalization-including)

   [↑](#footnote-ref-1)