

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

**TIKE MWAMBIPILE (1st Applicant)
EQUALITY NOW (2nd Applicant)**

V.

THE UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 042/2020

CASE SUMMARY

I. THE PARTIES

1. Tike Mwambipile, the First Applicant, is a national of the United Republic of Tanzania and Equality Now, the Second Applicant, is a Kenya based Non-Governmental Organization, working on women's rights issues on the continent, with observer status number 281 before the African Commission on Human and Peoples' Rights (hereinafter referred to as the "Applicants"). The Application is filed against the United Republic of Tanzania (hereinafter referred to as the "Respondent State").

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

2. This Application concerns the ban by the government of the United Republic of Tanzania of pregnant girls from attending public primary and secondary schools and preventing them from re-accessing the schools even after delivery.

B. Alleged violations

3. The Applicants allege the violation of:
 - i. Articles 1 (*Obligations of Member States*), 2 (*Freedom from Discrimination*) and 17(1) (*Right to Education*) and 18(3) (*Protection of the Family and Vulnerable Groups*) of the African Charter on Human and Peoples' Rights (hereinafter referred to as the "Charter");
 - ii. Articles 1, 3, 4, 11 and 24 of the African Charter on the Rights and Welfare of the Child (hereinafter referred to as the "African Children's Charter");
 - iii. Articles 2 and 12 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (hereinafter referred to as "Maputo Protocol"); and
 - iv. Articles 1, 2, 3 and 4 of the United Nations Educational, Scientific and Cultural Organization Convention against Discrimination in Education (hereinafter referred to as "UNESCO Convention against Discrimination in Education").

III. PRAYERS OF THE APPLICANTS

4. The Applicants have filed a request for provisional measures together with the Application. In the request for provisional measures the Applicants pray the Court to:
 - i. Order the Respondent State and its officers to stay the implementation of Regulation No. 4 of the Education Regulations (Expulsion and Exclusion of Pupils from Schools) of 2002 and directives of the Respondent State's officers on banning the resumption of studies in public schools, by girls after giving birth; and
 - ii. Issue any other order or directives this Court will deem fit and just to grant pending determination of the main Application.

5. In the main Application, the Applicants pray the Court to:
 - i. Declare that the exclusion and expulsion of pregnant girls and adolescent mothers from accessing public education in the Respondent State violates the right to education under Article 17(1) of the Charter, Article 11 of the African Children's Charter, Article 12 of the Maputo Protocol, Article 13 and 23 of the African Youth Charter, Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women, Article 28 and 29 of the Convention on the Rights of the Child, Article 13 of the International Covenant on Economic, Social and Cultural Rights, Article 18(4) of the International Covenant on Civil and Political Rights, Article 1, 3 and 4 of the Convention against Discrimination in Education, and Article 26 of the Universal Declaration of Human Rights.
 - ii. Declare that the current policy implemented by the Respondent State that prohibits pregnant girls and adolescent girls from attending school both in written policy and in state declarations is grossly unlawful, discriminatory, not in the best interest of the child and that it violates their rights to non-discrimination in accordance with articles 2, 17(1) and 18(3) of the Charter, Articles 1, 3, 4, 11 and 24 of the African Children's Charter, Articles 2 and 12 of the Maputo Protocol and Articles 1, 2, 3, and 4 of the UNESCO Convention against Discrimination in Education.

- iii. Order the Respondent State to immediately revoke the prohibitive policy (both the expulsion regulation and implementation of declarations) and amend its legislation to protect the right to education.
- iv. Order the Respondent State to immediately repeal Regulation No. 4 of the Education Regulations (Expulsion and Exclusion of Pupils from Schools) of 2002 to remove “wedlock” as a ground for expulsion and amend the Marriage Act of 1971 to harmonize the age of marriage to 18 for both boys and girls.
- v. Order the Respondent State to develop strategies, programmes and nationwide campaigns that focus on addressing the issue of teenage pregnancies through public education, or awareness on sexual and reproductive health and rights as well as an end to child marriages as this increased community knowledge on family planning and contraceptives will support efforts to address the high rate of teenage pregnancies.
- vi. Order the Respondent State to develop strategies and nationwide campaigns to enable teenage mothers to attend school. This may range from providing subsidies to enable girls with children to attend school to developing alternative schooling offering the same quality and standard of education as offered in mainstream schools as well as developing and implementing relevant re-entry policies for girls who have given birth.
- vii. Order the Respondent State to put in place constitutional, legislative and administrative measures to guarantee the right to education including its enforceability domestically as well as a right to remedies including reparations, and eradicate discriminatory laws and policies that impede the right to education within six (6) months.
- viii. Order the Respondent State to report to the Court within a period of six (6) months from the date of judgment on the implementation of this judgment and consequential orders.
- ix. Order the Respondent State to publish this judgment on the official website of its judiciary and the minister responsible for legal affairs, within two (2) months from date of notification of this decision.
- x. Declare violations of other human rights which were not specifically mentioned by the Applicants in this Application.
- xi. Issue any other remedy and/or relief that the Court will deem to grant.
- xii. Order the Respondent State to pay the Applicants costs.