

Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Working Group on Arbitrary Detention; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on the right to education; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right to food; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls

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(Please use this reference in your reply)

14 October 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Working Group on Arbitrary Detention; Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on the right to education; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the right to food; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 42/16, 42/22, 44/10, 44/3, 44/5, 49/13, 44/8, 50/L.7 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the trial of Ms. Veronica Gabriel, a survivor of gender-based and domestic violence, incarcerated in Tanzania, who gave birth to her sixth child while deprived of her liberty. She reportedly also has mental illness and intellectual disability and has allegedly not received appropriate physical and mental health care and support while in detention.**

According to the information received:

The case of Ms. Veronica Gabriel

Ms. Veronica Gabriel was likely born in 1990 or 1991, grew up in extreme poverty in Mwabagaru Village, in the Geita region of Tanzania, where she lived with her father and her stepmother, in a situation of financial instability. She had very limited access to education, including education on sexual and reproductive health, as well as literacy. She was required to leave the family home at 18 years old, when Mr. Cosmas Charles paid her father a dowry to marry her. She was reportedly taken by Mr. Charles, where he had sex with her the same night. From then, Ms. Gabriel lived with Mr. Charles in his family home and had two children from her marriage with him: Jenifa, born in 2010 and Grace, born in 2012.

Ms. Gabriel has reportedly experienced continuous severe gender-based and domestic violence since her marriage, including when she was pregnant. During their marriage, her husband, Mr. Charles, repeatedly beat and insulted her. He was also reportedly physically violent with their first child, Jenifa and beat her on multiple occasions.

After experiencing gender-based and domestic violence for three years, Ms. Gabriel left Mr. Charles' home taking her two daughters with her, with nowhere else to go. She sought shelter with her brother for a brief period of time and then took her two daughters to live by themselves in a straw hut that she had found in Mwabagaru, Geita region, where she was a subsistence farmer. Ms. Gabriel's family ate only what she could grow or trade, which was also dependent on the climate conditions, among others, and allegedly on some days, when Ms. Gabriel was not able to farm any food, the family did not eat.

By that time, Ms. Gabriel had three other daughters, Gladness, born in 2015, Janeth, born in 2019 or 2020 and Jacqueline, born in 2020 with partners who reportedly left her. As a consequence, she raised her daughters by herself as a single mother. At this time, Ms. Gabriel reportedly started to financially struggle with taking care of herself and her five daughters. She felt that she had no one to ask for help and never enrolled her children at school because she could not afford it.

Understanding her economically precarious situation and having not received any education on sexual and reproductive health at any point in her life, Ms. Gabriel asked a traditional healer about ways to avoid pregnancy. The latter reportedly indicated that she should wrap a piece of her child's umbilical cord in black cloth and sew the parcel shut with black thread to avoid any future pregnancies. However, by the end of 2021, Ms. Gabriel became pregnant for the sixth time.

On 1 December 2021, after her and her children had reportedly not eaten for two days, Ms. Gabriel, who reportedly suffered from depression, felt that she had no one to whom she could turn for financial support and help and attempted to end the poverty in which her and her family were living by committing suicide by poisoning herself, as well as her five children. The same day, at around 12:00 pm Ms. Gabriel prepared food for her and her family and allegedly mixed a pesticide into rice. Her and her children ate the food and went to sleep. Two of the children, Jenifa and Janeth died, while Ms. Gabriel, the fetus and three of her children survived and were reportedly found by neighbors. The survivors remained in the hospital for five days.

Conviction of Ms. Gabriel for murder

While in the hospital, Ms. Gabriel was placed under family guard. On the third day in hospital, Ms. Gabriel who was pregnant was reportedly shackled to her bed and was released when the police transferred her to the police station on the fifth day after her hospitalization. Ms. Gabriel was arrested and held in Chato Police Station with her living children. She was then separated from her children before being transferred to Chato Prison, where she remains incarcerated as of late August 2022, without knowing about her children's whereabouts. According to the information received, Ms. Gabriel's mental health-care needs were not checked upon arrival at the prison. In addition, she was allegedly not provided with legal counsel at any of the early stages of her proceedings, neither at the hospital, nor when she was detained in Chato Police Station, and was not provided with a copy of her caution statement taken by

police officers at the prison.

On 16 December 2021, the state charged Ms. Gabriel with the murder of two of her daughters in the District Court of Chato. During this hearing, she was reportedly not provided with a lawyer. On 11 August 2022, Ms. Gabriel had a preliminary hearing and was reportedly represented by a different lawyer than hers, allegedly due to a lack of notification to them. She is currently awaiting trial on murder charges. The Tanzanian Penal Code (CAP 16. R.E. 2019) provides for the death penalty for murder in section 196, which must be imposed mandatorily pursuant to its section 197.

In March 2022, Ms. Gabriel appeared before a court in Chato as part of her pre-trial procedures and was reportedly deprived of effective legal representation.

Inadequate detention conditions and adverse effects on Ms. Gabriel's health condition

Reports indicate that, while in detention in Chato Prison, Ms. Gabriel did not receive comprehensive physical or mental health care or support, including specific maternal health care during the seven months she was deprived of her liberty during her pregnancy. On 26 May 2022, Ms. Gabriel gave birth to David, her sixth child while in prison, allegedly entirely alone on the floor of a prison washroom corridor, until prison officers found her and cut the umbilical cord. Ms. Gabriel was reportedly brought to the hospital by prison officers for a check-up. Ms. Gabriel and her sixth child were in good health and the hospital returned her with her baby to the prison the following day. As a newly nursing mother, she reportedly did not receive adequate neonatal care after returning to prison. She has reportedly been sleeping with her baby in a small prison cell with 11 other women.

Since her detention, in December 2021, Ms. Gabriel has allegedly not had any contact with the outside world, except with her legal team that visits her.

According to the information received, in June 2022, she underwent an evaluation conducted by a clinical psychologist, hired by her legal team, who diagnosed her with major depressive disorder and reactive attachment disorder. It was reported that her mental health continues to deteriorate, which could be exacerbated by the reported lack of adequate access to physical and mental health care and support while in prison.

We are concerned, that if convicted, Ms. Gabriel faces the death penalty which could be imposed on her following judicial procedures that may not consider her history of survivor of domestic gender-based violence as mitigating factors. While taking into consideration that your Excellency's Government has put in place a *de facto moratorium* since 1994, we wish to take urgent comprehensive measures to protect Ms. Gabriel integrity, as well as her mental health, while in detention, by considering her longstanding psychologically traumatizing experiences of abuse, among others and providing her appropriate access to physical and mental health care and support.

As previously communicated to your Excellency's Government (UA TZA 2/2022), we note that there are meaningful similarities among women subject to mandatory death penalty for murder in Tanzania, including histories of long-term abuse and absence of effective legal and psychological assistance. In this regard, we recall that the Special Rapporteur on extrajudicial, summary or arbitrary executions called on states in 2017 to review laws, criminal procedures and judicial practices to ensure that they take full account of women's backgrounds, including histories of prior abuse, noting that such considerations are particularly crucial in cases involving capital punishment (A/HRC/35/23). We emphasise that mandatory death sentences are inherently over-inclusive and unavoidably violate human rights law.

Considering the ongoing development of an emerging customary law standard prohibiting the death penalty as a form of cruel, inhuman, or degrading punishment,¹ we respectfully call on your Excellency's Government to **consider officially abolishing the death penalty** in the country. In this regard, we wish to recall that on 28 November 2019, the African Court on Human and Peoples' Rights found that the mandatory death penalty in Tanzania is inconsistent with the African Charter on Human and Peoples' Rights (Banjul Charter).²

We are issuing this appeal in order to safeguard the rights of Ms. Gabriel from irreparable harm and without prejudicing any eventual legal determination.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information and, to the extent available the results of any judicial or other investigation conducted in connection with the allegations of gender-based and domestic violence faced by Ms. Gabriel and one of her children by Mr. Charles.
3. Please provide information on measures taken to provide women survivors of gender-based and domestic violence and in situation of poverty with appropriate shelter and adequate measures of subsistence.
4. Please explain why Ms. Gabriel has had very limited access to education, including education on sexual and reproductive health. Please also provide information on measures adopted to ensure that persons living in poverty as well as persons victim of gender-based and domestic violence enjoy their right to education.

¹ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/77/270.

² *Ally Rabaju and Others v. United Republic of Tanzania*, Application No. 007-2015, Judgement on Merits and Reparations, Press Release, African Court on Human and Peoples' Rights, 28 Nov. 2019, at 6.

5. Please provide detailed information on the state of health of Ms. Gabriel and the steps taken to ensure that she and her sixth child have appropriate access to medical health care and support including psychological support and maternal health care while in detention.
6. Please provide detailed information about the whereabouts of Ms. Gabriel's other children and the steps taken to ensure their protection and guarantee of their rights, including their right to education.
7. Please provide detailed information on the criminal charges issued against Ms. Gabriel and the steps taken to ensure her the right to a fair trial.
8. Please provide information on measures taken to implement the ruling of the African Court on Human and Peoples' Rights in relation to the inconsistency of the mandatory death penalty in Tanzania with the Banjul Charter.

We would like to express our most urgent concern about the potential sentence of Ms. Veronica Gabriel and her mental health condition, which could have been exacerbated by the lack of access to appropriate health care and psychological support while in detention.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We would also like to inform your Excellency's Government that having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may also transmit a case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
standard of physical and mental health

Mumba Malila
Vice-Chair of the Working Group on Arbitrary Detention

Gerard Quinn
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Farida Shaheed
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Morris Tidball-Binz
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Michael Fakhri
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Diego García-Sayán
Special Rapporteur on the independence of judges and lawyers

Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences

Dorothy Estrada-Tanck
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards.

We would like to draw the attention of your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), acceded to by Tanzania on 11 June 1976. Article 6 of the ICCPR enshrines the right of every individual to life, which constitutes a *jus cogens* and international customary law rule. In this regard, we recall that all measures of abolition of the death penalty should be considered as progress in the enjoyment of the right to life (see Human Rights Committee, General Comment No. 6). This means that, conversely, a resumption of executions leads to less protection of the right to life (see Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/69/265), as guaranteed by article 6 of the ICCPR. We stress that when executions have been suspended for an extended period of time, it is unlikely that their resumption may be justified by objective reasons and that there exists no evidence that the death penalty has a deterrent effect against crime.

In relation to the death penalty, it has long been regarded as an extreme exception to the fundamental right to life. We would like to highlight that article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty (Safeguards), approved by the Economic and Social Council on 25 May 1984 (resolution 1984/50), provides that capital punishment may only be carried out pursuant to legal procedures which give all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of ICCPR. Only full respect for the most stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from an arbitrary execution. We remind the authorities that under universal standards of due process and fair trial, the imposition of the death penalty is always arbitrary and unlawful when the court ignores or discounts essential facts that may have significantly influenced a capital defendant's motivations, situation and conduct, including their exposure to domestic violence and other abuse. Along these lines, the Human Rights Committee has pointed out that "mandatory death sentences that leave domestic courts with no discretion on whether or not to designate the offence as a crime entailing the death penalty, and on whether or not to issue the death sentence in the particular circumstances of the offender, are arbitrary in nature. The availability of a right to seek pardon or commutation on the basis of the special circumstances of the case or the accused is not an adequate substitute for the need for judicial discretion in the application of the death penalty" (CCPR/C/GC/36, para. 37). The categorical distinctions that may be drawn between offences in the criminal law are not sufficient to reflect the full range of factors relevant to determining whether a death sentence would be permissible in a capital case. In such cases, individualized sentencing by the judiciary is required in order to prevent cruel, inhuman or degrading punishment and the arbitrary deprivation of life.³ We also refer to article 3 of the aforementioned Safeguards emphasizing that the death sentence may not be carried out on persons with mental disability. States are to "refrain from executing persons that have diminished ability to understand the reasons for their sentence (CCPR/C/GC/36, para. 49).

³ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/4/20, para 4.

Furthermore, we encourage you to prevent the circumstances surrounding the imposition or execution of the death penalty which can also constitute cruel, inhuman or degrading treatment or punishment or even torture. Physical or mental torture or other cruel, inhuman or degrading treatment or punishment, particularly the so-called death row syndrome, may inflict pain and suffering on convicts and their relatives which may well amount to torture or other cruel, inhuman or degrading treatment or punishment (see Report of the Special Rapporteur on Torture, A/67/279, para. 75).

We also wish to refer to the African Court on Human and Peoples' Rights' decision made on 28 November 2019, which found that the mandatory death penalty in Tanzania is inconsistent with the African Charter on Human and Peoples' Rights (Banjul Charter).⁴ Furthermore, article 6(4) of the ICCPR and article 7 and 8 of the above-mentioned safeguards establish that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence and that amnesty, pardon or commutation of the sentence of death may be granted.

We would like to refer your Excellency's Government to article 9 of the ICCPR provides that no one shall be subjected to arbitrary arrest or detention, and that no one shall be deprived of liberty without due process of law. In particular, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) expressed concern that "women continue to face multiple barriers in obtaining access to justice, including the unavailability of courts, legal fees and a lack of legal literacy, especially in rural areas" and, by recalling its General Recommendation No. 33 on women's access to justice, it recommended to your Excellency's Government to "ensure that women have effective access to justice throughout the State party by establishing courts, including mobile courts, enhancing women's legal literacy, raising awareness of their rights, providing legal aid and ensuring that fees are reduced for women with low incomes and waived for women living in poverty" (CEDAW/C/TZA/CO/7-8, paras. 12-13). Further, article 9 (2) provides that anyone who is arrested shall be informed, at the time of arrest, of the reasons for his or her arrest and shall be promptly informed of any charges against him or her. According to article 9 (3), anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. Article 9 (3) also provides that it must not be the general rule that persons awaiting trial be detained. As reiterated in the jurisprudence of the Working Group on Arbitrary Detention as well as General Comment N° 35, pretrial detention is an exceptional measure and must be assessed on an individualized basis. In addition, we wish to remind your Excellency's Government that article 9 (4) of the ICCPR guarantees the right of everyone deprived of their liberty to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful.

Further, we wish to bring to the attention of your Excellency's Government article 14 of the ICCPR, which enshrines the right to a fair trial and due process. In particular, article 14 (3) of the ICCPR guarantees the right of any individual charged with a criminal offence to have adequate time and facilities for the preparation of their defence, to communicate with counsel of their own choosing, and to be tried without undue delay. In accordance with principle 9 and guideline 8 of the Basic Principles

⁴ *Ally Rajabu and Others v. United Republic of Tanzania*, Application No. 007-2015, Judgment on Merits and Reparations, Press Release, African Court on Human and Peoples' Rights, 28 Nov. 2019, at 6.

and Guidelines, and as reiterated in the jurisprudence of the Working Group on Arbitrary Detention, persons deprived of their liberty have the right to legal assistance by a counsel of their choice, at any time during their detention, including immediately after the moment of apprehension, and must be promptly informed of this right upon apprehension. Access to legal counsel should not be unlawfully or unreasonably restricted.

In relation to Ms. Gabriel's conditions of detention, in particular the allegations of lack of access to physical and mental health care and support, we would like to remind your Excellency's Government article 12, coupled with article 2.2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which your Excellency's Government acceded on 11 June 1976, which enshrines the right of everyone, including people prisoners and detainees, to the enjoyment of the highest attainable standard of physical and mental health. Accordingly, States have the obligation to refrain from denying or limiting equal access for all persons, including prisoners or detainees, to health preventive, curative and palliative services (Committee on Economic, Social and Cultural Rights (CESCR Committee), General Comment No. 14, para. 34). The CESCR Committee recommended to your Excellency's Government to "take steps to ensure that women in rural areas, and in particular those who are heads of household [...] have improved access to health, education, clean water and sanitation services, income-generating projects" (E/C.12/TZA/CO/1-3, para. 8).

The Committee stresses that reproductive health is an integral part of the right to health and that States have the obligation to fulfil the right of everyone to reproductive health, and "should aim to ensure universal access without discrimination for all individuals [...] to a full range of quality sexual and reproductive health care, including maternal health care" (Committee on Economic, Social and Cultural Rights, General Comment No. 22, paras. 1 and 45). Furthermore, the UN Standard Minimum Rules for the Treatment of Prisoners ("Mandela Rules") adopted unanimously by the UN General Assembly (A/RES/70/175) establish States' responsibility to provide health care for prisoners (Rules 24 to 35). In particular, prisoners are entitled to the same standards of health care that are available in the community, free of charge and without discrimination (Rule 24.1); Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals (Rule 27.1).

The Working Group on Discrimination against Women and Girls recommends that States must ensure timely access to maternal health services and emergency obstetric care, including treatment for pregnancy-related morbidities, to all women without discrimination (A/HRC/47/38, para 77, c.). In this regard, we wish to draw your Excellency's Government's attention to the Mandela Rule 28, which establishes that women shall have access to special accommodation for all necessary prenatal and postnatal care and treatment and arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. Specifically in relation to detained pregnant women, rule 64 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the "Bangkok Rules") by the General Assembly in resolution 65/229 states that a preference for non-custodial treatment for pregnant women and women with dependent children and which also require adequate hygienic conditions and physical and psychological health services for pregnant women.

In this connection, the Working Group on discrimination against women and girls has recommended that States take steps to address women's deprivation of liberty and all of its root causes, including intersectional forms of discrimination, such as women with disabilities and/or other marginalized women, by making available effective gender-specific interventions that aim primarily to divert women away from the criminal justice system, by integrating into the national system the standards provided in the Bangkok Rules, and by addressing the underlying factors leading to women coming into contact with the criminal justice system. The experts called to end incarceration of women with intellectual disabilities and mental health concerns (A/HRC/41/33) and recommended.

In its report to the Human Rights Council on women's health and safety (A/HRC/32/44) and in its paper on Women's Autonomy, Equality and Reproductive Health, the Working Group on discrimination against women and girls stressed that abortion is a health care matter and access to safe and legal abortion is intrinsically linked to women and girl's right to life, health, equality, dignity and privacy. States have the obligation to respect, protect and fulfill women's right to equal access to health-care services and eliminate all forms of discrimination against women in relation to their health and safety. This obligation entails providing women with autonomous, effective and affordable access to health and ensuring that barriers to women's enjoyment of the right to the highest attainable standard of physical and mental health are dismantled, including by exercising due diligence. Denying women access to information and services which only they require and failing to address their specific health and safety, including their reproductive and sexual health needs, is inherently discriminatory and prevents women from exercising control over their own bodies and lives. Furthermore, women may be denied such services through the reduction of availability and accessibility, deterrence from health care professionals and deprivation of women's autonomous decision-making capacity.

In relation to education, including sexual and reproductive health education, the CEDAW Committee recommended to Tanzania to "increase the budget allocated to education for the construction of additional schools, especially in rural areas", as well as to "introduce without delay, an age-appropriate curriculum at both the primary and secondary levels on sexual and reproductive health and rights and responsible sexual behaviour" (CEDAW/C/TZA/CO/7-8, para. 31). In this regard, the Working Group on discrimination against women and girls recommended that States ensure educational curricula throughout all levels and types of schooling include training on women's human rights norms as the basis for gender-sensitive education (A/HRC/41/33).

More generally, we also would like to refer your Excellency's Government to General Comment No. 14 adopted by the CESCR Committee, which interprets the right to health, as defined in article 12.1, as an inclusive right extending not only to timely and appropriate health care but also to the access to health-related education and information, including on sexual and reproductive health (GC 14, para. 11). In its General Comment No. 22, the CESCR Committee reiterates that "the right to the highest attainable standard of health not only included the absence of disease and infirmity and the right to the provision of preventive, curative and palliative health care, but also extended to the underlying determinants of health", which "is applicable to the right to sexual and reproductive health" (para. 7). The Committee indicates that "it extends beyond sexual and reproductive health care to the underlying determinants of sexual and reproductive health, including access to safe and potable water,

adequate sanitation, adequate food and nutrition, adequate housing, safe and healthy working conditions and environment, health-related education and information and effective protection from all forms of violence, torture and discrimination and other human rights violations that have a negative impact on the right to sexual and reproductive health” (para. 7).

The Committee stresses that the realization of the right to sexual and reproductive health requires that States parties also meet with their obligations under other provisions of ICESCR, for example, the right to sexual and reproductive health, combined with the right to education (articles 13 and 14) and the right to non-discrimination and equality between men and women (articles 2(2) and 3) or the right the right to sexual and reproductive health, combined with the right to work and the right to non-discrimination and equality between men and women, among others (para 9). The CESCR Committee emphasizes that “individuals belonging to particular groups may be disproportionately affected by intersectional discrimination in the context of sexual and reproductive health”, including groups such as poor women, among others which are more likely to experience discrimination (para. 33). The Committee stressed that “the realization of the rights of women and gender equality [...] require repealing or reforming discriminatory laws, policies and practices in the area of reproductive health [...] including by] the removal of all barriers interfering with access by women to comprehensive sexual and reproductive health services, goods, education and information” (para. 28). The Committee also indicated that “States are required to provide age-appropriate, evidence-based, scientifically accurate comprehensive education for all on sexual and reproductive health” (para. 47).

In his report on sexual education, the Special Rapporteur on the right to education stressed that international human rights standards clearly establish the human right to comprehensive sexual education, which is indivisible from the right to education and is key to the effective enjoyment of the right to life, health, information and non-discrimination, among others. States must ensure that they respect, protect and implement the human right to comprehensive sexual education, by acting with due diligence and taking all measures necessary to ensure its effective enjoyment, without discrimination, from the early stages of life. The absence of planned, democratic and pluralist sexual education constitutes, in practice, a model of sexual education (by omission) which has particularly negative consequences for people’s lives and which uncritically reproduces patriarchal practices, ideas, values and attitudes that are a source of many forms of discrimination. The right to sexual education is particularly important to women’s and girls’ empowerment and to ensuring that they enjoy their human rights. It is therefore one of the best tools for dealing with the consequences of the system of patriarchal domination by changing social and cultural patterns of behaviour that affect men and women and tend to perpetuate discrimination and violence against women. Since broad segments of the population are excluded from sexual education policies, States need to make a greater effort to reach the people who, in principle, are excluded from the educational system. (A/65/162, para. 75-77 and 82).

In this regard, the Working Group on discrimination against women and girls has stressed that States have the duty to continue to meet their core obligations when crisis strikes, which include the obligations to provide access to family planning services, including emergency contraception, maternal health services, safe abortion services and post-abortion care and counselling for those in need, to prevent and treat

HIV/AIDS and other sexually transmitted infections, to ensure access to comprehensive education and information on sexual and reproductive health and to ensure that survivors of gender-based violence have access to comprehensive medical treatment, mental health care and psychosocial support, among other services (A/HRC/47/38).

Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women guarantees women and girls' right to access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning, while article 12 sets out the obligation of States Parties to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

We would also like to recall that article 14 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, ratified by Tanzania on 3 March 2007, guarantees the rights to health and reproductive rights, including the right to have family planning education, and mandates that States Parties shall take appropriate measures to provide adequate, affordable and accessible health services, including information, education and communication programmes to women.

We also wish to remind that Bangkok rule 6 that indicates that "the health screening of women prisoners shall include comprehensive screening to determine primary healthcare needs and also shall determine [...] mental health-care needs [...]; the reproductive health history of the woman prisoner, including current or recent pregnancies [...]" among others.

In relation to allegations regarding Ms. Gabriel's health condition, we would like to refer your Excellency's Government to Principle 8 of the United Nations Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care, which indicates that "Every patient shall have the right to receive such health and social care as is appropriate to his or her health needs, and is entitled to care and treatment in accordance with the same standards as other ill persons." (Principle 8. United Nations Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care).

With regards to the situation of Ms. Gabriel, prior to her detention, in particular the fact that she reportedly grew up in extreme poverty in a rural area and was affected by gender-based and domestic violence, we wish to recall that the CEDAW Committee stressed the marginalization of young women from formal labour markets and recommended to your Excellency's Government to "adopt effective measures, including skills training, incentives for and encouragement of women to work in non-traditional fields and temporary special measures, to achieve de facto equal opportunities for women and men in the labour market [...]" (CEDAW/C/TZA/7-8, paras. 32-33). In the same vein, previously, the CESCRC Committee recommended to Tanzania that "the State party takes measures to increase access of women to employment in the formal sector, in particular those living in rural areas (E/C.12/TZA/CO/1-3, para. 9). In addition, the CESCRC Committee recommended to your Excellency's Government to "take steps to address chronic food insecurity, chronic malnutrition and the critical nutritional needs of children [...]" (E/C.12/TZA/CO/1-3, para. 21).

We would like to also refer to the CEDAW Committee's General Recommendation No. 35, which recommended to States to take specific measures to prevent, protect, prosecute and punish the perpetrator, as well and provide redress to the victim (para. 28). The Committee further recommended to States to [a]dopt and implement effective legislative and appropriate preventive measures to address the underlying caused of gender-based violence against women, including patriarchal attitudes and stereotypes, inequality in the family and the neglect of denial of women's civil, political, economic, social and cultural rights, as well as to promote women's empowerment, agency and voice" (para. 34).

We also would like to recall that the CESCRC Committee urged your Excellency's Government "to take steps to prohibit and criminalize domestic violence and spousal rape and ensure that all perpetrators of such crimes are prosecuted", that "the victims of domestic violence have access to justice, by encouraging the reporting of crimes, and that perpetrators are prosecuted and punished" and to "ensure that victims have access to adequate services for recovery, counselling and other forms of rehabilitation, and take steps to raise public awareness of domestic violence and spousal rape" (E/C.12/TZA/CO/1-3, para. 13). Furthermore, the CEDAW Committee recommended to your Excellency's Government to "to ensure that all cases of violence against women are thoroughly and effectively investigated" and "to strengthen services for women who are victims of violence, including by establishing shelters throughout the territory of the State party and ensuring the availability of psychosocial rehabilitation and reintegration programmes" (CEDAW/C/TZA/CO/7-8, para. 22).

In her report presented to the Human Rights Council in June 2022, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health recalled the State responsibility for gender-based violence, which includes "acts or omissions by non-State actors attributable to the State, or for its failure to comply with its due diligence obligation to prevent or investigate, prosecute, punish or provide reparation for such acts or omissions" (A/HRC/50/28, para. 51). She also stressed that [g]ender-based violence against women can vastly impact woman's health, leading to injuries, unintended pregnancies [...], mental health illnesses including anxiety and depressive disorders [...], suicide and homicide, among other problems" (A/HRC/50/28, para. 45).