

United Nations Study on Violence against Children

Response to questionnaire received from the
Government of the United Republic of TANZANIA

UNITED REPUBLIC OF TANZANIA
MINISTRY OF COMMUNITY DEVELOPMENT GENDER AND CHILDREN

RESPONSE TO THE QUESTIONNAIRE ON STUDY
ON VIOLENCE AGAINST CHILDREN

I Legal framework

International human rights instruments

1. The Government of the United Republic of Tanzania (URT) ratified the Convention on the Rights of the Child (CRC) in 1991. Likewise in year 2003 it ratified the Optional Protocol to the CRC on the sale of children, child prostitution and child, pornography and Optional protocol to the CRC on involvement of children in armed conflicts. The URT at regional level signed the African Charter on the Rights and Welfare of the Child (ACRWC) in 1998 and ratified it on 2003.

In 1998 the Southern African Development Community (SADC) Heads of State and the Government, Tanzania being a member signed an Addendum to the 1997 SADC Declaration on Gender and Development entitled "The Prevention and Eradication of Violence Against Women and Children".

Legal provisions on violence against children

2. The Government of the URT is committed to eradicate all forms of discrimination against any person on the grounds of gender, age, colour or tribe as stipulated in the Constitution. Violence against children is addressed in Tanzania by enacting legislative formulation of policies as well as National Plan of Action for the Prevention and Eradication of Violence against Women

and Children. The Sexual Offences (Special Provision) Act 1998 was enacted with the aim of protecting the dignity and integrity of women in matters pertaining to rape, defilement, sodomy, sexual harassment, incest, female genital mutilation, child abuse and child trafficking. The Government is also in a process of drafting the Law relating to children and reviewing the Law of Marriage Act of 1971 and the Succession and Inheritance laws.

3. Specific legislative provision on:

- ❖ Prevention of all forms of physical, sexual and mental violence, injury or abuse, neglect or negligent treatment and sexual abuse.
 - The Parliament of the URT enacted the sexual Offences (Special Provisions) Act of 1998. This piece of legislation has outlined offences against women and children in a clear manner than hitherto. It has introduced new offences like sexual harassment, sexual abuse and trafficking of persons. In addition the Act provides for stiff punishment and the right of compensation to victims of violence. The Act also provides protection to 'where a child of less than eighteen years of age is a witness, a victim, an accused or a co-accused, in a case involving a sexual offence, the child shall be tried in camera and separately from the adult co-accused, or the evidence of the child shall be adduced in proceedings conducted in camera.

The sexual offences (Special Provisions) Act has added a new section in the Penal Code Section 169 A on "cruelty to children," to protect children against ill treatment, neglect and injury.

However, efforts are underway by the Government to draft a "Children's law" which among other things, will give a clear definition of prevention of the worst forms of physical, sexual and mental violence, injury or abuse, neglect or negligent treatment, sexual abuse and elimination of all forms of child labour.

4. **Corporal punishment:**

Corporal punishment is allowed in schools and in the penal system. However, it is officially strictly controlled. The Government has provided guidelines on the regulation and control punishment in schools, in which the number of strokes have been reduced from 6 to 4. According to the new regulation, only the Head Teacher/Headmaster of school is allowed to administer corporal punishment and there is provision for penalising teachers who fail to comply with this regulation. Also, the government is making efforts to regulate corporal punishment. The Government has put a provision which put limit to the number of stroke, which may be inflicted upon. "No sentence of corporal punishment shall in any case exceed twenty stroke, in the case of adults and twelve strokes in the case of juveniles" as it is provided under section 8 (2) of the Corporal Punishment Ordinance Cap 17. However, even at community level corporal punishment is in existence, as parents still think it is a good thing to administer corporal punishment as part of the socialization process.

5. According to the punishment for rape, a replacement of section 131 of the Penal Code has been made in the Sexual Offences (Special Provisions) Act of 1998. Under section 6 (2) of the Act, the Penal Code has been replaced with the following:

"(3) Notwithstanding the provision of any law where the offence is committed by a boy who is the age of eighteen years or less he shall:

- (a) If a first offender be sentenced to corporal punishment.
- (b) If a second time offender be sentenced to imprisonment for a term of twelve months with corporal punishment.
- (c) If a third time and recidivist offender he shall be sentenced to life imprisonment pursuant to subsection (1)
- (d) Notwithstanding the preceding provisions of this section whoever commit an offence of rape to a girl under the age of ten years shall on conviction be sentenced to life imprisonment".

6. In order to ensure the protection of asylum seekers and unaccompanied children especially girls, the Government of URT has instituted measures, which will ensure adequate protection. All refugees and asylum seekers, including unaccompanied girls, are properly registered and documented upon arrival at entry points before they are sent to designated areas.

Refugee children, like any other refugee, enjoy access to the existing asylum procedures in the country. During emergency situations whereby refugees enter *en masse*, refugee children undergo the same processes, such as the screening process at entry points or reception centres, registration, medical examinations, access to food and non- food items.

Also, there are some administrative procedures used in refugee camps to deal with the problem of refugee children who have been separated from their families during the fighting. Normally such children are attached to foster families, which would ensure that all the basic needs of those children are met. Attempts to trace family members are made through the family tracing programme conducted by the Tanzania Red Cross Society (TRCS).

7. The Government is in the process of drafting a single piece of legislation related to children which would, *inter alia*, provide a uniform definition of the term "child" and protect children from abuse, neglect and other violations of their rights. Also, the government of the URT is reviewing the laws of succession and inheritance and the Law of Marriage Act No.5 of 1971 with a view of incorporating the specific interests for protecting women and children.
8. Studies and surveys undertaken to assess the impact of legal measures to address violence against children.
 - (i) Kiota Women's and Health Development Organization (KIWOHEDE), a Tanzania NGO has conducted studies on Tanzania prisons and suggested means and ways of

intervention. KIWOHEDE acted as a human rights for children in conflict with the laws, worked to build the network and raise awareness about their problems and referral to the appropriate authorities and organizations.

(ii) The Legal and Human Rights Center conducted a study on the administration of juvenile justice in Tanzania

so as to specifically establish the actual situation about the administration of juvenile justice in the country with a view of identifying possible entry points for intervention on a multi-faceted approach. The objectives of this study were:

- ❖ To identify problems inherent in the administration system of juvenile justice in the country;
- ❖ To expose injustice or misconducts if any, amongst juvenile justice personnel in the country;
- ❖ To document, where imperative, peculiar case studies so as to establish the extent of administration or mal administration of juvenile justice in the country.
- ❖ To collect data (and document them), from the police, social welfare offices, courts and prisons about the manner juvenile justice is administered or mal-administrated in the country
- ❖ To document and publish data obtained therein for the propose of:
 - Influencing policy and law makers.
 - Stimulating public awareness on international principles of juvenile
 - Encouraging transformation of attitudes and intellectual culture
 - Using them in creating and building awareness on international principles of juvenile justice amongst the juvenile justice personnel as well as the public at large

- To collect actual facts that can facilitate developing tools necessary for public training, including, but not limited to, trainers of trainers in the form of training/working manuals.
 - (iii) UNICEF's Report of the Stocktaking Exercise of Child Abuse and Trauma Materials and Consultations
 - (iv) Kuleana an NGO on child rights has carried out studies in Mwanza Region on child Domestic Workers, Children in Conflict with the Law and the Expulsion of pregnant school girls in primary schools.
 - (v) Tanzania Media Women's Association (TAMWA) has carried out a small study on the underlying factors for the inflow of house girls from specific regions
 - (vi) The Legal and Human Rights Centre has conducted a newspaper survey of child abuse incidences that were reported from January 1996 to June 1997. The problem of street children and on Female Genital Mutilation (FGM) covering five Mainland regions in 1999.
 - (vii) The Social Welfare Department has carried out a study on street children in Mtwara Urban
 - (viii) In 2003, the Commission for Human Rights and Good Governance (CHRAGG) inspected 38% of the 120 prisons in Mainland Tanzania. The inspection report among others raises concern on the mixing of children and adults in adult prison and the pathetic situation of children of imprisoned mothers who have to stay with their mothers in prison due to lack of alternative care system for them.

Minimum age for sexual activity

10. According to the Penal Code a girl of 14 years and below cannot give consent to sexual intercourse. The Sexual Offences Special Provisions Act of 1998 has proposed to raise the age to 18 years. In Zanzibar the age of consent is 14 or at whatever age a girl reaches puberty

(secs. 124 and 125 of the Penal Code). No age of consent for boys is created although a boy under 12 is not considered capable of intercourse (sec. 14, Penal Code).

11. According to the Law of Marriage Act No. 5 of 1971, the Minimum age for girls to marry is 15 years while for boys is 18 years.

Sexual exploitation of children

According to the Rapid Assessment made in 2001, on children in prostitution in Tanzania, the phenomenon of children engaged in prostitution is growing quickly and steadily and lightly pronounced in major towns and at the main truck centres along the highways. Prostitution involves quite a number of children including those of 10-17 years old who do not have families, have criminal records of drug abuse and who have very few social skills and lack parental guidance, love, affection and care.

The Government in collaboration with stakeholders including NGO, Civil society, religions institutions, has taken measures to curb the problem. These measures include:

- Ratification of the Optional Protocol to the CRC on the Sale of children, child Prostitution and child Pornography.
- Ratification of ILO convention No.182 on Worst Forms of Child Labour to eliminate exploitation of children
- Non Governmental Organizations are offering life skills to children to enable them to be self-reliant. There are programmes that equip girls in person life skills and income generating activities at the centres and as well as in the community.
- Vocational training that offers tailoring classes, batik, drama, arts and craft, cookery, and in educating stigma.
- A series of targeted direct action/intervention aimed at highly vulnerable group of the worst forms of child labour have been undertaken. At least 5,000 children from 11 districts in Tanzania engaged in prostitution will be reached but many more will be prevented from entering into prostitution or

other worst forms of child labour. In total, over 30,000 Tanzania children will be reached through direct interventions.