

Approved Draft



THE UNITED REPUBLIC OF TANZANIA

**TANZANIA 3RD, 4TH AND 5TH REPORTS ON THE
IMPLEMENTATION OF THE CONVENTION ON THE
RIGHTS OF THE CHILD (CRC) 2005-2011**

**SUBMITTED TO THE UNITED NATIONS COMMITTEE ON THE RIGHTS OF THE CHILD BY
MINISTRY OF COMMUNITY DEVELOPMENT, GENDER AND CHILDREN (MAINLAND)**

AND

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(ZANZIBAR)**

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LIST OF ABBREVIATION

ACRWC	:	African Charter on the Rights and Welfare of the Child
CAB	:	Child Advisory Board
CBO	:	Community-based Organisation
CBR	:	Community Based Rehabilitation
CCM	:	<i>Chama cha Mapinduzi</i>
CHADEMA	:	<i>Chama cha Demokrasia na Maendeleo</i>
CHRAGG	:	Commission for Human Rights and Good Governance
CJF	:	Child Justice Forum
CMA	:	Commission for Mediation and Arbitration
COBET	:	Complementary Basic Education in Tanzania
CPU	:	Child Protection Unit
CRC	:	Convention on the Rights of the Child
CSO	:	Civil Society Organisation
CUF	:	Civic United Front
DAC	:	Day of the African Child
DHU	:	Dispute Handling Unit
ELRA	:	Employment and Labour Relations Act
EPI	:	Expanded Programme on Immunization
FBO	:	Faith-based Organisation
FGM	:	Female genital mutilation
GDP	:	Gross Domestic Product
GNU	:	Government of National Unit
ICT	:	Information and communication technology
IECD	:	Integrated Early Childhood Development
ILO	:	International Labour Organisation
IMCI	:	Integrated Management of Child Illness
LGA	:	Local government authorities
LHRC	:	Legal and Human Rights Centre
LIA	:	Labour Institutions Act
MCDGC	:	Ministry of Community Development, Gender and Children
MDA's	:	Ministries, Departments and Agencies (Government entities)
MDGs	:	Millennium Development Goals
MHA	:	Ministry of Home Affairs
MKUKUTA	:	<i>Mkakati wa Kukuza Uchumi na Kuondoa Umasikini Tanzania</i>
MKUZA	:	<i>Mkakati wa Kukuza Uchumi Zanzibar</i>
MIMAM	:	<i>Mpango wa Maendeleo ya Afya ya Msingi</i>
MOHSW	:	Ministry of Health and Social Welfare
MSWYWCD	:	Ministry of Social Welfare, Youth, Women and Children Development
MVC	:	Most vulnerable children
NBS	:	National Bureau of Standards
NGO	:	Non-Governmental Organisation
NOLA	:	National Organization for Legal Assistance
NSGRP	:	National Strategy for Growth and Reduction of Poverty

OPAC	:	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
PADEP	:	Participatory Agricultural Development and Empowerment Project
PCE	:	Permanent Commission of Enquiry
PHCSDP	:	Primary Health Care Service Development Programme
PMCT	:	Prevention of Mother to Child Transmission Programme
PMO-RALG	:	Prime Minister's Office (Regional Administration and Local Government)
RCH	:	Nutrition Programme, Reproductive Child Health
RITA	:	Registration, Insolvency and Trusteeship Agency
SGBV	:	Sexual and gender-based violence
SMZ	:	<i>Serikali ya Mapinduzi Zanzibar</i>
TASAF	:	Tanzania Social Action Fund
TBC	:	Tanzania Broadcasting Corporation
TCRF	:	Tanzania Child Rights Forum
TDHS	:	Tanzania Demographic and Health Survey
TEHIP	:	Tanzania Essential Health Interventions Project
TLP	:	Tanzania Labour Party
U5NBRS	:	Under 5 National Birth Registration System
UDP	:	United Democratic Party
URT	:	United Republic of Tanzania
VAC	:	Violence Against Children
YCSPD	:	Young Child Survival Protection and Development
ZABEIP	:	Zanzibar Basic Education Improvement Programme
ZACA	:	Zanzibar Association for Children Advancement
ZAFELA	:	Zanzibar Female Lawyers Association
ZANECRI	:	Zanzibar Network for Children Rights
ZAPHA+	:	Zanzibar Association of People with HIV/Aids+

**PART A:
COMMON CORE DOCUMENT**

GENERAL INFORMATION ABOUT THE REPORTING STATE PARTY

1.1 General Background

1. The State Party, United Republic of Tanzania (URT), ratified the Convention on the Rights of the Child in 1991. It acceded to the Optional Protocol on the Involvement of Children in Armed Conflict in November 2004 and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography in April 2003. The State Party also ratified the United Nations Convention against Transnational Organized Crime and its two supplementing Protocols in May 2006. It ratified ILO Convention No. 182 (1999) on the worst forms of child labour in 2001, ILO Convention No. 138 (1973) on the minimum age Convention in 1983, and the African Charter on the Rights and Welfare of the Child (ACRWC) in March 2003. It further ratified the African Charter on the Rights and Welfare of the Child in 2003; and it is a state party to a number of international and regional human rights instruments to which it has been submitting periodic progress/implementation reports as required under the said International human rights instruments.

2. In August 2004, the State Party submitted its second periodic report on the Convention on the Rights of the Child. The report was considered by the United Nations Committee on the Rights of the Child in Geneva in May 2006. The State Party also submitted its initial reports to the two Optional Protocols to the CRC in 2006 and were considered in 2008. This current document is the consolidated third, fourth and fifth reports due on 9 January 2012 (that is, 18 months before the due date of the fifth report), as directed by the Committee in its previous Concluding Observations.¹ This document has been prepared in conformity with the Treaty-specific Guidelines regarding the form and content of periodic reports to be submitted by States Parties under Article 44(1)(b) of the CRC, which were developed in accordance with the harmonized guidelines on reporting to the international human rights treaty bodies (last revised in 2009).² It also prepared in compliance with the Committee's directive made in its previous Concluding Observations to the effect that the consolidated reports should not exceed 120 pages.³

3. In the preparation of these consolidated reports, government ministries, departments and agencies (MDA's), NGOs and other relevant international organizations such as the International Labour Organization (ILO), UNICEF, Save the Children, Tanzania Child Rights Forum (TCRF) with specific expertise of members of the Forum namely Legal and Human Rights Centre (LHRC) and National Organisation for Legal Assistance (**nola**), the International Committee of the Red Cross and the International Organization for Migration - were consulted in the preparation of this report. To achieve this, the report was disseminated to all relevant stakeholders, and a consultative meeting was held to discuss these consolidated reports and agree on the

¹ CRC/C/TZA/CO/2 dated 21 June 2006 (para. 74).

² HRI/GEN/2/Rev.6.

³ See CRC/C/118.

sufficiency and correctness of the information contained therein. Children were also widely and adequately consulted in the preparation and validation of the reports.

1.2 History, Geographical Location and Climate

4. The State Party is located in Eastern Africa between Longitude 29° and 41° East, Latitude 1° and 12° south. As a semi-autonomous country within the State Party, Zanzibar is located in the Indian Ocean; about 30km off the east coast of Africa, between Latitude 5 and 7 degrees south off the equator. Zanzibar consists of two Islands, Unguja and Pemba, and several other smaller islands some of which are uninhabited. Tanzania is the largest country in East Africa, covering 946,166 Sq.km, out of which Zanzibar covers an area of 2,654sqkm out of this, Unguja, which is the largest, has an area of 1,666 square kilometres while Pemba has an area of 988 square kilometres.⁴ The State Party borders countries of Burundi, Democratic Republic of Congo, Kenya, Malawi, Mozambique, Rwanda, Uganda and Zambia. It is also bordered by three great Lakes-Lake Victoria, the source of the Nile River, in the north, Lake Tanganyika to the west and Lake Nyasa to the south west. The land boundaries of the State Party with its neighbours cover about 3,402km, including the border with Burundi (415km), with Kenya (769km), with Malawi (475km), with Mozambique (756), with Rwanda (217km), with Uganda (396km), and with Zambia (338km).⁵

5. The State Party was formed on 26th April, 1964 out of the union of two hitherto countries namely Tanganyika and Zanzibar, which consists of two large Islands, Unguja and Pemba and few sparsely populated islands such as Tumbatu and Uzi in Unguja, Kojani, Fundo, Shamiani and Makoongwe in Pemba. Whereas Tanganyika became a sovereign state on 9th December, 1961 and became a republic in the following year; Zanzibar became independent after the revolution on 12th January 1964. The State Party is a unitary republic consisting of the Union Government and the Zanzibar Revolutionary Government.

6. Tanzania Mainland has four distinct climatic zones: the humid coastal zone, the central plateau zone, the lake zone with high rainfall and the southern highlands zone which is the most fertile and density populated. Most Tanzania's high mountains including the Mount Kilimanjaro, Africa's highest mountain, and volcanic in origin created the Great Rift Valley which forms a trench up to 2000 metres deep through the plateau from the Jordan Dead Sea to Mozambique.

7. The climate of Zanzibar is equatorial and humid. The maximum temperatures revolve around 30°C during the hot season lasting from December to March and minimum temperatures are approximated at 20°C during the cool season lasting from June to November. Zanzibar has two main rain seasons, the long rainy period (*Masika*) during March to June and short rainy period (*Vuli*) that starts in October and ends in December. The humidity is high

⁴ Revolutionary Government of Zanzibar, *Comprehensive Multi-year Plan – Zanzibar, 2010-2014*. EPI/MoHSW Zanzibar, July 2009. Available on http://www.who.int/immunization_financing/countries/cmyp/Zanzibar_cMYP_2010-2014.pdf (accessed 23 November 2011).

⁵ Legal and Human Rights Centre and Zanzibar Legal Services Centre, *Tanzania Human Rights Report 2010*. Dar es Salaam, Legal and Human Rights Centre, 2011. P. 27.

ranging from 900 – 1000 mm during heavy rain season and 400 – 500 mm during short rainy period. The humidity is slightly higher in Pemba in comparison to Unguja. Because of the two rainfall peaks, Zanzibar is usually green all the year.⁶

8. Surrounded by three largest lakes in Africa – Victoria, Tanganyika and Nyasa, the State Party is endowed with abundant wildlife consisting of 15 national parks⁷ and 17 game reserves⁸. Forming one of Africa's most dense forests, the State Party also boasts itself of a number of mineral, including Phosphates, Tin, iron core, Diamond, Coal, Uranium, Gold, Natural Gas and Tanzanite, which is only available in Tanzania.

1.3 Population

9. The State Party has a projected population of 43 million people in 2011⁹ compared to 34.4 million people in 2002 when the last national census was conducted, more than half of whom are children-under the age of 18 years.¹⁰ The Mainland population is predominantly rural whereby 75% of the populace live in rural areas and depends on the underdeveloped smallholder primary agriculture production.

10. The population of Zanzibar shows an increase from 640,685 in 1988 (1988 census) to 981,754 in 2002 (2002 census). The population was estimated to be 1,193,383 in 2008, projected from 2002 National Population census. Of this population, the under 1-year is 47,205 and the under 5-year is 217,168.¹¹

11. Overall, the 2002 population census reports that children constitutes about 51% of the entire Tanzanian population and about 10 per cent of children under the age of 18 have lost their mother, or their father, or both.¹²

1.4 Political Governance and Administration

12. The State Party, which is divided into 30 regions, 25 in Tanzania Mainland and 5 in Zanzibar Islands, is a democratic state that conducts periodic elections after every five years.

⁶ Revolutionary Government of Zanzibar, *Comprehensive Multi-year Plan – Zanzibar, 2010-2014*. Op. cit.

⁷ The largest national parks are the Serengeti located in Northwest of the country (14,750sq.km); Ruaha National Park (13,000sq.km); Ngorongoro National Park (8,320sq.km); and Mikumi National Park (3,230sq.km). Other national parks are: Tarangire, Katavi, Saadani, Udzungwa, Kilimanjaro, Kitulo, Mahale Mountains, Manyara, Arusha and Gombe.

⁸ These game reserves are Selous located in Lindi Region (50,000sq.km); Ruangwa in Ruangwa District (9,000sq.km); Kigosi in Shinyanga District (8,000sq.km); and Myowosi in Kibondo District (6,000sq.km). Others include Burigi in Biharamulo and Karagwe Districts; Uwanda in Sumbawanga District; .Maswa in Mawswa District; Kizigo in Manyoni District; Uмба in Lushoto District; Mkomazi in Lushoto and Same Districts; Ibanda in Karagwe; Saa Nane in Mwanza District and Mount Meru in Arumeru District.

⁹ This projection is based based on the 2002 Census.

¹⁰ See the 2002 Tanzanian census that was conducted in August 2002 by the National Bureau of Statistics (NBS) of the Government of Tanzania.

¹¹ Revolutionary Government of Zanzibar, *Comprehensive Multi-year Plan – Zanzibar, 2010-2014*. Op. cit.

¹² United Republic of Tanzania, *Tanzania Poverty and Human Development Report 2005*. Dar es Salaam, Research and Analysis Working Group/Mkuki na Nyota Publishers, 2005.

The Mainland is divided into 135 Districts which are subdivided into divisions, wards and villages. The lowest government administrative structure in Tanzania Mainland is the Village in rural areas and the *Mtaa* (hamlet) in urban areas. At the highest level of public governance is the Executive manned by the President of the United Republic of Tanzania functioning through the Cabinet. The President is the chairperson of the Cabinet. There is also the legislature, the Parliament of the United Republic of Tanzania (popularly, known as *Bunge*) and the Judiciary (Court of Tanzania down through the High Court of Tanzania to the Primary Court).

13. Zanzibar is divided into five administrative regions, three in Unguja and two in Pemba. Each region is subdivided into two districts, which make a total of ten districts for the islands. The lowest government administrative structure at the community level is the *Shehia*. At the apex level, there is the Zanzibar Revolutionary Council (Cabinet, which is popularly, known as *Baraza la Mapinduzi Zanzibar*), which constitutes the Executive (that is, the Zanzibar Revolutionary Government; or as is popularly known: *Serikali ya Mapinduzi Zanzibar*). The head of the government is the President of Zanzibar, who is also the chairman of the Revolutionary Council. Zanzibar has its own Legislature, the Zanzibar House of Representative (popularly, known as *Baraza la Wawakilishi Zanzibar*) and its Judiciary up until the High Court of Zanzibar. It shares the Court of Appeal with Tanzania Mainland.

14. Tanzania has 357 Members of Parliament (MPs) in the Parliament of the United Republic of Tanzania which holds its parliamentary sessions in Dodoma the capital city of the country. The Parliament of the URT is composed of Constituency Members; Women Special Seats' Members, Presidential Nominees, Representatives from the Zanzibar House of Representatives and the Attorney General of the United Republic of Tanzania as an Ex Official Member. Currently, the Ruling Party, *Chama cha Mapinduzi* (CCM) has the majority of MP's with a total of 259 seats is the *Bunge*. Opposition parties include *Chama cha Demokrasia na Maendeleo* (CHADEMA) with 48 parliamentary seats followed by Civic United Front (CUF) with 36 seats, NCCR-Mageuzi 4 seats, Tanzania Labour Party (TLP) and United Democratic Party (UDP) one seat each.

15. The *Baraza la Wawakilishi Zanzibar* currently has 79 members, including the Second Vice President, who is the head of government business in the House.¹³

16. Zanzibar underwent significant political reforms in 2010 through the 10th amendment to the Zanzibar Constitution, whereby, *inter alia*, the Government of National Unity (GNU) was established after a decade-long of political turbulence. This situation was a result of a referendum establishing a national unity government after the Tanzanian October 2010 elections, which was held in Zanzibar on 31 July 2010, whereby 66.4% of the voters voted for the GNU. The referendum approved, *inter alia*, that the losing party in the elections would now be allowed to nominate the first vice-president, whereas the winning party would produce the president and second vice president. Under this new political arrangement, the second vice president is the head of government business, replacing the Chief Minister (i.e. *Waziri Kiongozi*).

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Table 1: Zanzibar Referendum Results (2010)

Option	Number of votes	Percentage
Yes	188,705	66.37%
No	95,613	33.63%
Total	284,318	100.00%

Source: Zanzibar Electoral Commission (2010)

17. This referendum was conducted in a bid to end the decade-long tug of war between the ruling party, CCM and the main opposition in Zanzibar, CUF. It thus brought to an end such rivalry and allowed a government of national unity, whereby the ruling party, CCM, won the 2010 General Elections and now have provided the Zanzibar President and the Second Vice President, while CUF has produced the First Vice President. The GNU arrangement has reduced the political tensions that had engulfed the Isles since the first multi-party elections in 1995, giving a peaceful room for people's participation in socio-economic and political undertakings.

1.5 Religion

18. The State Party has no official religion but allows its citizens to believe in the religion of their choice. The major religious groups in the State Party are largely Christian and Muslim. Islam is a religion professed by about one-third of the Mainland population, whereby about one-third of the Mainland people are Christians. There are also Hindu, Sikh and Baha'i communities and followers of traditionalist beliefs.

19. More than 98 % of the population in Zanzibar are Muslims, a fact which reveals that Islam is the dominant religion of Zanzibar although there are also followers of Christianity and Hinduism. In this regard, the Zanzibaris are proud of in their religious beliefs so much so that women cover their heads and men usually appear in Islamic attires.

1.6 Language

20. The official language in the State Party is Kiswahili, which is widely spoken throughout the country. However, local vernaculars or ethnic languages are spoken by different tribes, which number more than 120. Kiswahili is used as a medium of instruction in primary schools; while English is used as a medium of instruction in secondary education and higher learning institutions. English and Kiswahili are both accepted as the languages of communication at workplace.

1.7 The Socio-economic Situation

21. The State Party's socio-economic development is premised around two different long-term development goals: the Tanzania Development Vision (popularly, known as Vision 2025) for Tanzania Mainland, which strives to eradicate poverty by 2025; and the Zanzibar Development Strategy (Vision 2020), which aspires to eradicate poverty in Zanzibar by 2020. The

State Party's economy is also framed in support of the implementation of the Millennium development Goals (MDGs), which aim, *inter alia*, at enabling developing countries to work in partnership towards the eradication of poverty throughout the world.¹⁴ Both Tanzania Mainland and Zanzibar implements respectively Vision 2025 and Vision 2020 together with the MDGs through a number of strategies, including the second National Strategy for Growth and Reduction of Poverty (NSGRP II or MKUKUTA¹⁵ II) for Tanzania Mainland and *Mkakati wa Kukuza Uchumi Zanzibar* (MKUZA).

(a) MKUKUTA

22. The second National Strategy for Growth and Reduction of Poverty (NSGRP II or MKUKUTA¹⁶ II) is a continuation of the government and national commitments to accelerate economic growth and fighting poverty. This is a results and MDG-based strategy adopted to sustain and scale up achievements as well as addressing the challenges to growth and poverty reduction agenda. It is, thus, an organizing framework to rally national efforts for next 5 years (2010/11 – 2014/15) in accelerating poverty-reducing growth by pursuing pro-poor intervention and addressing implementation bottlenecks. The strategy emphasizes on the following key outcomes:

- (i) focused and sharper prioritization of interventions – projects and programmes – in key priority growth and poverty reduction sectors;
- (ii) strengthening evidence-based planning and resource allocation in the same priority interventions;
- (iii) aligning strategic plans of MDAs and LGAs to this strategy;
- (iv) strengthening government's and national implementation capacity;
- (v) scaling up the role and participation of the private sector in priority areas of growth and poverty reduction;
- (vi) improving human resources capacity, in terms of skills, knowledge, and efficient deployment;
- (vii) fostering changes in mind-set toward hard work, patriotism, and self-reliance;
- (viii) mainstreaming cross cutting issues in MDAs and LGAs processes;
- (ix) strengthening the monitoring and reporting systems; and
- (x) better implementation of core reforms, including paying strong attention to further improvement of public financial management systems.

¹⁴ Legal and Human Rights Centre and Zanzibar Legal Services Centre, *Tanzania Human Rights Report 2010*. Op. cit. P. 29.

¹⁵ MKUKUTA is an abbreviation of Swahili words: *Mkakati wa Kukuza Uchumi na Kuunguza Umaskini Tanzania*.

¹⁶ MKUKUTA is an abbreviation of Swahili words: *Mkakati wa Kukuza Uchumi na Kuunguza Umaskini Tanzania*.

23. The economy in Tanzania Mainland depends heavily on agriculture that accounts for more than 50% of the GDP. It also contributes to 80% of exports and employs about 80% of the workforce.¹⁷ In 2009 the State Party introduced the agricultural improvement/revolutionary programme, popularly known in its Kiswahili version as *Kilimo Kwanza*. This programme strives to transform agriculture into modern one. Through the *Kilimo Kwanza* Programme, the State Party aims at achieving maximum productivity in agriculture through the following pillars:

- (i) political will to support and put on the political agenda the agricultural transformation;
- (ii) enhanced financing for agriculture;
- (iii) institutional reorganization and management of agriculture;
- (iv) paradigm shift to strategic agricultural production;
- (v) availability of land for agriculture;
- (vi) incentives to stimulate investments in agriculture;
- (vii) industrialization for agricultural transformation;
- (viii) science, technology and human resources to support agricultural transformation;
- (ix) infrastructure development to support agricultural transformation; and
- (x) mobilization of Tanzanians to support and participate in the implementation of the *Kilimo Kwanza* Programme.

24. Tanzania Mainland also depends to a lower extent on the industrial sector, which accounts for 10% of the national GDP. This is due to a number of challenges facing this sector, common amongst them being inadequacy electricity supply in the State Party. According to a speech made in Parliament by the Minister for Finance and Economic Planning in June 2010, rural electrification in Tanzania Mainland is only 20% and in urban areas it is only 14%.¹⁸ This situation is compounded by the fact that the State Party's electricity generation depends on hydropower; and with the rampant short supply of rainfall in the country, this has proved to be problematic.

25. The State Party, on the part of Mainland, recorded an increase in the real GDP growth rate to 6.5% in 2010 from 6.0% in 2009. This was the case even though the State Party was recovering its economy from the global economic meltdown that has adversely affected the

¹⁷ United Republic of Tanzania, *Participatory Agricultural Development and Empowerment Project (PADEP): Resettlement Policy Framework*. Dar es Salaam, Ministry of Agriculture and Food Security, 2003. P. 1.

¹⁸ See Speech of Parliament by the Minister for Finance and Economic Planning, Hon. Mustafa Haidi Mkulo (MP), presenting before Parliament "The State of National Economy Report for 2009 and Plans for 2010/2011 – 2012/2013" in Dodoma, June 2010. P. 6.

world economic order. An overall real GDP growth rate in the period under report has averaged 7% per year on strong gold production and tourism.¹⁹

(b) MKUZA

26. The Zanzibar Vision 2020 aims at, *inter alia*, eradicating absolute poverty and building a robust and internationally competitive economy for sustainable development of Zanzibaris. The main strategy that translates the Zanzibar Vision 2020 is the MKUZA, which was rolled out in 2007.²⁰ In between the period under report, the GDP has averaged between 5.4% and 6%; whereby the total National Income of Zanzibar has increased to TZS 878,403 million from 748,057 million in 2008 with the Zanzibari per capita income being pegged at TZS 728,361.²¹

27. All in all, the State Party's commitment to accelerate economic growth and fighting poverty has been consistently implemented through a series of strategies and plans ranging from sector-specific strategies to multi-sectoral strategies, all of which geared towards economic growth and improved livelihood of the State Party's citizens.

(c) External Economic Context

28. Recent development in the global economic conditions, such as increases in oil and food prices, and global financial and economic crisis, will continue to have ramifications on the State Party's economy. Such shocks impact Tanzania's economy through several channels, with trade (especially exports) and financial flows (especially foreign direct investment) being the main transmission channels. Slowdown of growth, reduction in financial and capital flows, were the results of the first round effects of the crisis. The second round effects take place with a lag, especially in the real sector. Effects of increase in food and oil prices are reflected in surge for large scale land acquisitions for bio-fuel and food production. Much as such shocks threaten Tanzania's economy, they also open several opportunities, e.g. in terms of increased demand for bio-fuel and food production.

29. Besides the shocks, policy developments at the global and regional levels have continued to shape the way Tanzania interact with other economies. There are opportunities, and sometimes, constraints associated with WTO, EPA, policies related to global climate change, etc. Development in regionalism, e.g. the East African Common Market, SADC, Indian Ocean Ream (IOM), Kagera Basin Organization, etc, are also among the forces that will continue to have significant impact Tanzania's economy. Opportunities associated with these developments include expanded trade, joint infrastructure development, and also non-economic benefits such as regional peace initiatives. Among the challenges relates to multi-belonging, which sometimes results in weak focus and conflicting objectives. In general,

¹⁹ Available at http://www.theodora.com/wfbcurent/tanzania/tanzania_economy.html (accessed 27 November 2011).

²⁰ See the Harmonisation of MKUZA and Sectoral Level Indicators, prepared by the Ministry of Finance and Economic Affairs (Zanzibar), February 2009.

²¹ Serikali ya Mapinduzi Zanzibar, *Mapitio ya Hali Ya Uchumi ya Utekelezaji wa Mpango wa Maendeleo Zanzibar 2009/2010*. Zanzibar, 2010. P. 9.

however, effects of these developments on trade, movement of labor and capital will be an important factor in the national development in the medium term to long term. These developments have provided lessons that informed the strategic positioning of MKUKUTA II.

(d) Poverty Profile

(i) Income Poverty and Challenges of Income Distribution

30. During the last ten years, Tanzania's GDP growth rate has been impressive. However, between 2000/01 and 2007 the incidence of income poverty did not change significantly. The incidence of income poverty shows, out of every 100 Tanzanians, 36 were poor in 2000/01 compared to 34 in 2007. Income poverty (basic needs and food poverty) was also variable across geographical areas, with the rural areas containing 83.4 percent of the poor in 2007 compared to 87 percent in 2000/01. Households engaged in farming, livestock keeping, fishing, and forestry, were the poorest. Rural growth per annum in the period, as proxy by growth of the agricultural sector was about 4.5 percent. When this growth is contrasted with the national population growth rate of 2.9 percent the change in rural per capita income becomes small, thus perpetuating poverty situation in rural areas.

Table 2: Incidence of Poverty in Tanzania (poverty headcount index)

Incidence of poverty					
	Year	Dar es Salaam	Other Urban Areas	Rural Areas	Mainland Tanzania
Food					
	2000/01	7.5	13.2	20.4	18.7
	2007	7.4	12.9	18.4	16.6
Basic Needs					
	2000/01	17.6	25.8	38.7	35.7
	2007	16.4	24.1	37.6	33.6

Source: National Bureau of Statistics, Household Budget Survey 2000/01 and 2007.

31. Employment is the main link between growth and reduction of income poverty. According to PHDR (2009), 630,000 new jobs were created annually between 2001 and 2006, mainly in the informal sector, which matches with labour force growth. However, the quality of jobs created is important in explaining the stagnation in poverty levels. The unemployment rate of person aged 15 and above declines slowly - from 12.9 percent 2006 (ILFS) to 11.7 percent in 2007 (HHBS). Unemployment among youth (age 18-34) stood at 13.4 percent in 2006 (ILFS 2006). It is highest among female youth – about 15.4 percent compared 14.3 percent for male youth (ILFS 2006). Moreover, women constituted 24.7 percent of paid employees, 42.3 percent of unpaid helpers, and 53.9 percent of agricultural labour force and only 20 percent of

self employed; moreover, the unemployment rate was higher for females than for males, except in the rural areas. In Dar es Salaam, the unemployment rate for females was 40.3% in 2006, as contrasted to 19.2 percent for males.

32. The majority of those in poverty lack social protection, including the unemployed given the absence of unemployment or other benefits for those who lose their jobs. Affordable measures to address the lack of protection among the unemployed, the self-employed and the vast majority of workers who are involved in informal sector activities remain one of the challenges in ensuring social security. The challenge is linked to the fact that 94 of the Tanzanian labour force works in the informal sector. This has implications for both the size of the revenue base and the type of policy interventions geared to extending social protection in Tanzania.

33. In terms of sources of livelihood, the share of household farm income declined from 51.4 percent in 2000/01 to 39.7 percent in 2007. Correspondingly, the share of non-farm incomes increased although not to the extent of leveraging people out of poverty. Poverty incidence among government or parastatal employees is around 10 percent, and it is 20 percent among other paid employees. A higher percentage in the latter indicates inadequate decent jobs in terms of adequate pay in those sectors, particularly in the private sector.

(ii) Overall GDP Growth and the GDP Structure

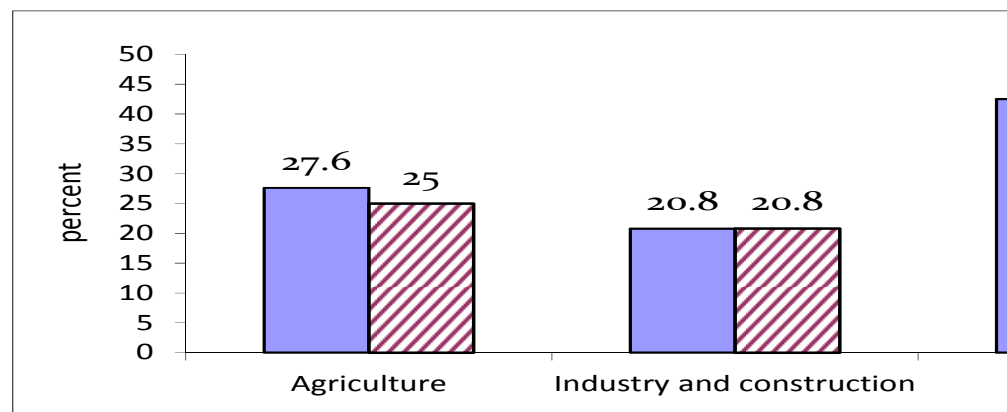
34. The GDP growth trend since the 1990s has been rising, except for such shocks coming from food crisis, power crisis and lately, the global economic and financial crisis. Since 2005, Tanzania's GDP annual growth rate averaged 7 percent, which is in line with MKUKUTA target of 6 – 8 percent per annum. In 2009 however, GDP growth was 6.0 percent, the decline being partly due to the global financial crisis. As a result of the crisis, volume and prices of exports went down, flows of capital and investment fluctuated, tourist and demand for tourism products were reduced. These effects worsened the balance of payments and exerted inflationary pressures on the economy. The severity of the impact of this slow down in GDP will, however, vary between sectors. Indeed, those sectors which are either export or import intensive will suffer most. Tourism and mining have already shown signs of slowdown.

35. The structure of the Tanzania's economy in terms of GDP composition has been changing gradually (which is also the case with sectoral employment proportions, as per the Integrated Labour Force Survey 2006). The share of agriculture in GDP and its proportion in total employment has been declining relative to the services sector, and manufacturing and construction (taken together). However, the majority of Tanzanians still depend on agriculture for their livelihoods. Services constitute the main sector of the economy, and its growth will continue to be critical for sustaining higher economic growth.

36. **Agriculture:** Agriculture is still dominated by small-scale farmers; about 70 percent of farming is dependent on the hand hoe, 20 percent on ox-ploughs, and 10 percent on tractors. Notwithstanding this, the sector has been identified as a growth driver. Due to its diverse climatic zones it has potential for many crops, livestock and forestry products, sufficient water for both irrigation and livestock, and large size of arable land. Thus, given its role in supporting

the rural poor and in reducing malnutrition, it has the potential for lifting many of them out of poverty. Moreover, food demand from the neighbouring countries indicates opportunities for increased food exports to these countries. The following figure shows shares of major sectors in GDP 2005 and 2009.

Figure 1: Shares of Major Sectors in GDP 2005 and 2009



Source: MOFEA (2010) Guidelines for the Preparation of Medium Term Plan and Budget Framework for 2010/11–2012/13.

37. Agriculture growth averaged about 4 percent between 2005 and 2008. The sector’s sluggish growth is a result of a combination of many challenges. These include poor infrastructure to support agriculture, inadequate extension services, poor technology of production, low value addition, lack of appropriate financing mechanisms for agriculture, unreliable market, unfair and uncompetitive farm gate prices, and environmental degradation.

38. **Fisheries Sector:** The fisheries sector has maintained modest growth since 2000, attaining a rate of 5 percent in 2008. It then declined to 2.7 percent in 2009. Tanzania has immense fishery resource potentials – both in fresh and marine waters, which if unleashed would contribute to improving the stakeholders’ livelihoods, including their nutrition. The main challenges include illegal fishing and trafficking of fish and fisheries products across borders, which reduce the sector’s contribution to growth and reduction of poverty and undermine its sustainable development. Specific constraints for small and medium scale fishing include credit facilitation, resource degradation, and poor fishing technologies.

39. **Manufacturing Sector:** Manufacturing development constitutes an integral part of industrial transformation to facilitate growth and generation of employment. The sector’s forward and backward linkages facilitate improvements of other sectors, for example, agriculture and mineral sectors; in turn, these linkages will spur more growth in the manufacturing sector itself. Hence, manufacturing has potentials for driving growth and employment. In 2009, it grew by 8.0 percent, compared to growth rate of 9.9 percent in 2008, mainly due to the global financial crisis. Despite this relatively good performance, the sector is constrained by high costs of doing business and bureaucratic and infrastructure impediments, the latter mainly due to unreliable supply of utilities (water, power, etc.), leading to capacity

underutilization; ineffective transport networks and other ICT&STI infrastructure; and small domestic markets, with intense import competition, and inadequate export drive.

40. **Mineral Sector:** Tanzania has deposits of gold, diamond, tanzanite, ruby, tin, copper, nickel, iron, phosphate, gypsum, coal, natural gas and potential for petroleum extraction. Mining involves large and small scales, both of which are important. Before 2007, the sector grew at about 15 percent annually, which dropped to 2.5 percent in 2008 and further to 1.2 percent in 2009 due to the decline in export of diamonds and gold production (as the largest gold mine faced serious infrastructural problems). Such wide fluctuations in growth are one of the challenges facing the sector. Other challenges include weak linkages between the sector and local supply chains, hence low domestic value addition; limited multiplier effects and employment creation; environmental-related conflicts; and technical and institutional capacities for effective management of the sector. Nevertheless, the vast mineral deposits in the country point to a high potential of the sector's contribution to growth and socio-economic transformation. Hence, the sector has been identified as a driver of growth.

41. **Tourism Sector:** Tanzania has some of the world's finest tourist attractions and game reserves. Equally famous are trekking expeditions (notably Mount Kilimanjaro) and coastal tourism. These attractions, among others, qualify tourism as a growth sector, as they offer immense opportunities for expansion of the sector.

42. Growth of tourism sector was 2.3 percent in 2009. This explains the risks of its reliance on foreign tourists (domestic tourism is rather small), which makes it susceptible to swings of the global economy. The sector also faces insufficient technical, managerial, and entrepreneurial skills for a modern tourism industry and infrastructural bottlenecks and poor tourist supporting services (health, finances, insurances, ICT, etc.), which have resulted in substantial under-exploitation of the nation's tourism potential. Addressing these constraints will lead to expansion of not only natural resource based tourism, but also cultural tourism, sports tourism, and conference/convention tourism. Institutional set-ups in dealing with tourism sector, e.g. hunting block rights, need to be reviewed and strengthened.

43. **Infrastructural Development:** There have been modest improvements in growth-related infrastructure such as roads, ports (sea and air), energy, but there has been little progress in railway sector. The percentage of roads in fair and good conditions has increased since 2005, but the time taken to discharge cargos at the ports has declined. Installed energy production capacity has increased but lagged behind the growth in demand; exploration of fossil fuel continues. However some challenges need to be addressed, including frequent power shortages, port congestion, and poor conditions of rural roads. Tanzania could act as a regional transport, trade and logistic hub if it were to exploit its advantageous geographical location and immense potential for power generation. Other challenges include congestion in cities, high construction costs, climate change (leading to destruction of infrastructure and life span of the infrastructure), as well as environmental issues in construction sites. At local level, small scale infrastructure development has been facilitated by community participation in the construction of small dams and bridges, etc.) through various programs such as TASAF, PADEP, etc. Among the challenges in MKUKUTA II is how to scale –up such community contribution.

2.0 GENERAL FRAMEWORK FOR THE PROTECTION AND PROMOTION OF HUMAN RIGHTS

2.1 Historical Context

44. The State Party protects and promotes human rights through the Constitutions of Zanzibar (1984) and that of the United Republic of Tanzania (1977). In both constitutions, the Bills of Rights were incorporated in 1984. For Tanzania mainland, it was through the amendment made to the Constitution and for Zanzibar it was through the enactment of the new Zanzibar Constitution in that year. Prior to this period, the National Executive Council of CCM decided to review the constitution along the following lines: (i) the powers of the President; (ii) consolidation of the authority of the Parliament; (iii) strengthening the representative character of the National Assembly; (iv) consolidation of the Union; and (v) consolidation of people's power.²²

45. At the time the proposals of the ruling party were made public, there were three forces pressurising for inclusion of a Bill of Rights in the Constitution. Firstly, many people aired their views through the media, pressing for the inclusion of the Bill of Rights in the Constitution.²³ Secondly, there were pressures from Zanzibar pressing for return of the Bill of Rights in the Zanzibar Constitution, which ceased to be in force together with the *Independence Constitution* during the Zanzibar Revolution on 12th January 1964. Thirdly, the Union Government agreed to include a Bill of Rights in the Constitution due to the developments that were taking place in the African continent in relation to human rights protection. The African Charter on Human and Peoples' Rights had just been adopted in 1981, with Tanzania having taken a leading role in its promulgation. Given its good record on campaigning for human rights and liberation of the African continent, it would be unbecoming for Tanzania to have no Bill of Rights in her Constitution.

46. Therefore, the above factors combined to propel the Government of the United Republic of Tanzania to incorporate the Bill of Rights in the Constitution in 1984 vide the Constitution (Fifth Amendment) Act (1984)²⁴ and came into force in March 1985. Nonetheless, the justiciability of the Bill of Rights was delayed until 1988 vide the Constitution (Consequential, Transitional and Temporary Provisions) Act (1984).²⁵ The suspension was made in order for the Government to "clear" out laws that were seen as in direct conflict with the Bill of Rights.

2.2 Protection and Promotion of Human Rights in the State Party

47. International human rights law requires that in order for human rights to be implemented effectively at the municipal level, there must be put in place an effective

²² Chama cha Mapinduzi, *1983 NEC Proposals for Changes in the Constitution of the United Republic and the Constitution of the Revolutionary Government of Zanzibar*, Dodoma: C.C.M. Department of Propaganda and Mass Mobilization, 1983.

²³ Ibid.

²⁴ Act No. 5 of 1984.

²⁵ Act No. 16 of 1984.

protection mechanism of the rights themselves. Therefore, it is traditional that in most contemporary jurisdictions, Bills of Rights in most constitutions contain provisions for enforcement of fundamental rights and freedoms guaranteed in the Bills of Rights. As such, the incorporation of the Bills of Rights in the Tanzanian Constitution and the Zanzibari Constitution in 1984 was in compliance with this rule of international law. On both the Mainland and Zanzibar, the Bills of Rights enlist basic rights and fundamental freedoms to which every person is entitled.

2.3 Human Rights Protection and Promotion Mechanism in Tanzania Mainland

48. In respect of Tanzania Mainland, the enabling law on the enforcement of the Bill of Rights was passed ten years after the Bill of Rights was incorporated in the Constitution of Tanzania; that is, the Basic Rights and Duties Enforcement Act (1994).²⁶ This was done in accordance with a constitutional provision in the Bill of Rights – that is, Article 30(4) of the Constitution – which required the ‘state authority’ to enact legislation for the purpose of:

- (a) regulating procedure for instituting proceedings pursuant to this Article;
- (b) specifying the powers of the High Court in relation to the hearing of proceedings instituted pursuant to this Article;
- (c) ensuring the effective exercise of the powers of the High Court, the preservation and enforcement of the rights, freedoms and duties in accordance with this Constitution.

Before the Basic Rights and Duties Enforcement Act was enacted section 17(2) of the Law Reform (Fatal Accidents and Miscellaneous Provisions) Ordinance,²⁷ was amended to the effect that, it made it mandatory in any proceedings involving the interpretation of the Constitution with regard to the basic freedoms, rights and duties specified in Part III of Chapter I of the Constitution, to enjoin the Attorney-General or his representative designated by him. This amendment, however, allowed the Court to direct that the hearing be commenced or continue, as the case may be *ex-parte* where the Attorney-General or his representative was not present at the hearing.²⁸

49. Therefore, when the Basic Rights and Duties Enforcement Act (1994) was enacted it made provision for procedures for the enforcement of the justiciable fundamental rights and freedoms in the Constitution of Tanzania. Under section 1(2), this Act covers all claims and causes of action founded on the provisions of Articles 12 to 29 of the Constitution in relation to the basic rights, duties and fundamental freedoms.²⁹ It also vests the High Court of Tanzania with original jurisdiction in cases relating to fundamental rights and freedoms.³⁰

²⁶ Cap. 3, R.E. 2002.

²⁷ Cap 360 of the Revised Laws of Tanzania. This amendment was effected vide Act No. 27 of 1991.

²⁸ Ibid. Section 17A (2).

²⁹ Section 3 of the *Basic Rights and Duties Enforcement Act* (1994).

³⁰ Ibid. Section 4.

50. Section 4 of the Basic Rights and Duties Enforcement Act provides that if “any person” alleges that any of the provisions of sections 12 to 29 of the Constitution has been, is being or is likely to be contravened in relation to him, he may, without prejudice to any other action with respect to the same matter that is lawfully available, apply to the High Court for redress. Reference to “any person” implies that every person, including a child, may bring a petition to the High Court for redress in the event that any of the basic rights and fundamental freedoms enshrined in the Bill of Rights is violated or is about to be violated. In this case, the High Court has power to make all such orders as shall be necessary and appropriate to secure the applicant the enjoyment of the basic rights, freedoms and duties conferred or imposed on him under the provisions of sections 12 to 29 of the Constitution.³¹ Appeals against decisions of the High Court are lodged in the Court of Appeal of Tanzania for further remedies.

2.4 Human Rights Protection and Promotion Mechanism in Zanzibar

51. In Zanzibar, cases of violations of the basic rights and fundamental freedoms enshrined in the Bill of Rights are lodged in the Zanzibar High Court, whereby any person, including a child, can petition the Court for redress. Unlike in Tanzania Mainland, in Zanzibar there is no procedural or enabling law for regulating the procedure of the High Court in determining cases of violation of human rights. However, the Constitution itself caters for this matter; whereby an appeal against the decision of the High Court is not referred to the Court of Appeal of Tanzania, but is preferred to a panel of three High Court Judges solely appointed by the Chief Justice of Zanzibar to entertain an appeal. The three judges exclude any judge who had previously heard the same petition at its first instance.

52. In Zanzibar the Kadhi’s Court, which is established under the Kadhi’s Court Act (1985)³², has the jurisdiction to determine issues relating to divorce, marriage, maintenance and personal status to those who subscribe themselves to Islam. The Kadhi’s Courts are set out in every locality and are manned by Muslim scholars applying Islamic Laws only. However, the operation of the Kadhi’s faces a number of challenges, including lack of rules of procedure, non-admission of advocates in proceedings before the Kadhi’s Courts and lack of clear qualification for a person to be officers of the Kadhi’s Court. Nonetheless, currently the State Party (through the Revolutionary Government of Zanzibar) is reviewing the existing Kadhi’s Court Act in order to address these challenges.

3.0 NON-DISCRIMINATION AND EQUALITY

53. The principle of non-discrimination and equality has been domesticated in the State Party, whereby discrimination is both constitutionally and statutorily prohibited.

³¹ Ibid. Section 13(1).

³² No 3 of 1985.

3.1 Constitutional Prohibition of Discrimination

54. The Constitution of the United Republic of Tanzania (1977) and the Constitution of Zanzibar (1984) prohibit discrimination of any kind in Articles 13(5) and (6) and Article 12(4) and (5), respectively. Both constitutions enlist the grounds of discrimination as follows: of the Constitution of the United Republic of Tanzania provides as follows: nationality, tribe, place of origin, political opinion, colour, religion, station of life that certain categories of people are regarded as weak or inferior and being subjected to restrictions or conditions whereas *persons of the other categories are treated differently or are accorded opportunity or advantage outside the specified conditions or prescribed necessary condition.*³³

3.2 Policy Prohibition of Discrimination

55. Discrimination of persons, including children, is also prohibited by various policies relating to children. In Tanzania Mainland, the Tanzania Child Development Policy (2nd edition, 2008) prohibits discrimination of children in two contexts: discrimination based on gender and discrimination basing on the child's station of life.³⁴ The National Education Policy and the National Policy on Disability (2004) prohibit discrimination, as well. In particular, the National Policy on Disability envisions that: 'Tanzania values human rights and equality of all citizens. Every citizen has the right under the law to participate freely in activities beneficial to himself/herself and the society as a whole. Every citizen, including people with disabilities, have an equal right to receive basic needs from the society' without discrimination based on any of the listed grounds, including disability.

56. In Zanzibar the Child Survival, Protection and Development Policy of 2001 prohibits discrimination of children on any of the listed grounds: status, origin, religion, economic status or disability. The Zanzibar Education Policy of 2006 recognizes and protects the rights of children with disabilities. For instance, in Chapter Four the Policy seeks to ensure that children with disabilities do access education on an equal footing with those without disabilities. In addition, the Policy states that:³⁵

- Inclusive education shall be promoted to ensure that children with special needs (which include children with disabilities) get equal opportunities; barriers to learn are addressed and diverse range of learning needs are accommodated.
- Slow learners and highly gifted children shall be identified and given opportunities to learn at their own pace
- Children with disabilities and others with special needs shall, to the greatest extent possible, be able to attend a local where they will receive quality education alongside their peer without disabilities/special needs.³⁶

³³ Article 13(5) of the Constitution of the United Republic of Tanzania (1977) and 12(5) of the Constitution of Zanzibar (1984)

³⁴ Paragraph 32 of the Tanzania Child Development Policy.

³⁵ Policy statement 4.6 of the Zanzibar Education Policy.

³⁶ Ibid. Policy statement 4.6.2.3.

This policy sets out strategies that facilitate the realization of the stated objectives which include, *inter alia*, identifying children with special needs at an early age and assessing their education and health needs.³⁷

57. The Zanzibar Health Policy of 2009 is one of the State Party's tools, which aim at addressing the issues pertaining to health. It envisages the notion of quality health services to all people of Zanzibar including the vulnerable and disadvantaged one and ensures that their rights to health as special needs are guaranteed. The strategies to realize this goal include: mapping out the profiles and special needs of various disadvantaged groups, including children with disabilities; and working with the health institutions to ensure those who are unable to pay for service fees in health canter such fees are waived so that they receive health services free of charge.³⁸

3.3 Statutory Prohibition of Discrimination

58. In order to domesticate the international law principle of discrimination, the State Party has enacted a number of legislation prohibiting discrimination with a view to guaranteeing equality of all persons, including children. The laws prohibit discrimination in the following categories:

3.3.1 Prohibition of Discrimination in the Workplace

59. Section 7(1) of the Employment and Labour Relations Act prohibits discrimination in matters related to work. The grounds for discrimination are set out in subsection (4) of section 7 of the ELRA, including: colour, nationality, tribe or place of origin, race, national extraction, social origin and political opinion or religion. Others are sex, gender, pregnancy, marital status or family responsibility, disability, HIV/AIDS, age, and station of life. This list of grounds of discrimination may, nonetheless, be expanded in terms of Rule 28(2) of the Employment and Labour Relations (Code of Good Practice) Rules (2007) (the Code of Good Practice).

60. Under rule 31 of the Code of Good Practice, discrimination may be direct or indirect. Direct discrimination 'occurs where an employee is treated prejudicially on the listed grounds referred to in Rule 30.'³⁹ Indirect discrimination occurs 'where a requirement or condition, which on the face of it, appears to be neutral, has the effect of discriminating against a person or category or persons on the grounds listed in Rule 30.'⁴⁰

3.3.2 Prohibition of Discrimination on the Basis of HIV/AIDS

(a) The Prevalence of Discrimination in the Workplace on Ground of HIV/AIDS

³⁷ Ibid. Policy statement 4.6.2.4.

³⁸ Ibid. Policy statement 3.3.

³⁹ Rule 31(2) of the Code of Conduct.

⁴⁰ Ibid, rule 31(3).

61. The advent of HIV/AIDS in Africa has been responsible for a number of human rights issues, common amongst which being the question of discrimination of persons affected by or infected with the viral disease. Largely, HIV/AIDS has been deemed as a disease befalling those individuals who are promiscuous. Basing on the fact that promiscuity is a taboo in most African customary norms, those affected by or infected with the viral disease have also been stigmatised as they are thought as too promiscuous to have contracted the disease.

62. This stigma has been facing persons of different walks of life affected by or infected with the viral disease, including those who are in employment. Over the time since HIV/AIDS was for the first time diagnosed in 1983 in Tanzania, persons who are affected by or infected with this viral disease have been constantly discriminated. Discrimination of persons affected by or infected with the viral disease has been taking several forms and at different stages of the socio-economic relations process. At the recruitment stage, for instance, employers have been discriminating against prospective employees through “involuntary” HIV testing; and, where a prospective employee tests positive, then the employer would not consider such prospective employee for employment. In some cases, ongoing employees’ contracts have been terminated because they have tested positive.⁴¹

63. However, this practice is contrary to the provisions certain international human rights instruments as well as against the provisions of Article 13(5) and (6) of the Constitution of Tanzania and provisions of the Employment and Labour Relations Act as well as sections 28 to 32 of the HIV/AIDS (Prevention and Control) Act (2008)⁴².

(b) Prohibition of Stigma and Discrimination against Persons with HIV/AIDS

64. Section 31 of the HIV/AIDS (Prevention and Control) Act (2008) prohibits any kind of stigma and discrimination against any person on actual, perceived or suspected HIV/AIDS status. In particular, section 28 prohibits a person (natural or juristic) to formulate a policy, enact any law or act in a manner that discriminates directly or by its implication persons with HIV/AIDS, orphans or their families. In addition, section 29 obliges any health practitioner, who deals with persons living with HIV/AIDS, to provide health services without any kind of stigma or discrimination.

65. Under this law, a person shall not deny any person admission, participation into services or expel that other person from any institution on ground that the person’s actual, perceived or suspected HIV/AIDS status. Denial is also prohibited in respect of restricting a person to travel within or outside Tanzania; employment opportunity; residing anywhere or right of residence on

⁴¹ For instance, in *Boniface Njohole v. Reli Assets Holdings Co. Ltd.*, High Court of Tanzania at Dar es Salaam, Misc. Civil Case No. 68 of 2009 (still pending before Rugaziya, Mbise and Juma, JJ), the petitioner’s employment with Tanzania Railways Corporation, which was under the care of the Respondent, was terminated in 2002 after he was diagnosed of HIV. The petitioner eventually challenged this move in the High Court basing on the discrimination clause contained in Article 13(1) of the Constitution of Tanzania.

⁴² Act No. 28 of 2008.

such grounds.⁴³ A person who contravenes the foregoing prohibition commits an offence and on conviction shall be liable to a fine of not less than two million Tanzanian shillings or to imprisonment for a term not exceeding one year or to both.⁴⁴

(c) Prohibition of Discrimination in the Workplace on Ground of HIV/AIDS in Tanzania

66. In recognition of the international commitment to eliminate discrimination in the workplace on the ground of HIV/AIDS, Tanzania has incorporated provisions prohibiting discrimination of employees infected with and/or affected by HIV/AIDS in the workplace. In this regard, section 7(1) of the Employment and Labour Relations Act prohibits discrimination in matters related to work on a number of grounds including HIV/AIDS.⁴⁵ Progressively, this law criminalises all acts of discrimination in subsection (7) section 7. In terms of section 28 of the HIV/AIDS (Prevention and Control) Act (2008)⁴⁶, discrimination of a person on ground of HIV/AIDS status is prohibited. In particular, section 30(c) prohibits discrimination of persons affected by or infected with HIV/AIDS at the workplace.

67. Under rule 31 of the Code of Good Practice, discrimination may be direct or indirect. Direct discrimination 'occurs where an employee is treated prejudicially on the listed grounds referred to in Rule 30.'⁴⁷ Indirect discrimination occurs 'where a requirement or condition, which on the face of it, appears to be neutral, has the effect of discriminating against a person or category or persons on the grounds listed in Rule 30.'⁴⁸

3.3.3 Prohibition of Discrimination under the Persons with Disabilities Act

68. The Persons with Disabilities Act (PDA) was enacted by Parliament in April 2010 in order to give legal effect that National Policy on Disability and the UN Disability Convention. It strives 'to make provisions for the health care, social support, accessibility, rehabilitation, education and vocational training, communication, employment or work, promotion of basic rights for the persons with disabilities and to provide for related matters.'⁴⁹ Prohibition of discrimination against persons with disabilities is one of the principles underlying the Persons with Disabilities Act⁵⁰. The PDA imposes an obligation on the Minister responsible for social welfare to 'take appropriate steps to ensure the realisation of all rights and freedoms of persons with disabilities without discrimination.'⁵¹

69. In particular, the PDA contains a very strongly-worded non-discrimination principle in section 6, which categorically provides that,

⁴³ Ibid. Section 30.

⁴⁴ Ibid. Section 32.

⁴⁵ See section 7(4) of the Employment and Labour Relations Act.

⁴⁶ Act No 28 of 2008.

⁴⁷ Rule 31(2) of the Code of Conduct.

⁴⁸ Ibid, rule 31(3).

⁴⁹ See the long citation of the PDA.

⁵⁰ Ibid. Section 4(a).

⁵¹ Ibid, section 5(1).

6. The Government shall –

- (a) ensure that all persons with disabilities are equal under this Act, and that all persons with disabilities are fully entitled without any discrimination to the equal protection and benefit of this Act;
- (b) Prohibit all forms of discrimination on the basis of disability and guarantee the persons with disabilities equal and effective legal protection against discrimination on all grounds; and
- (c) for purposes of promoting equality and elimination of all forms of discrimination, take all appropriate measures to ensure that reasonable changes is provided to persons with disabilities of all ages and genders.

3.3.4 Prohibition of Discrimination under the Law of the Child Act (2009) and the Zanzibar Children’s Act (2011)

70. Under section 5(1) of the Law of the Child Act and section 6(1) of the Zanzibar Children’s Act, a child ‘shall have a right to live free from any discrimination.’ In a similar construction, the two sections enlist the grounds of discrimination against the child as follows: gender, race, age, religion, language, political opinion, disability, health status, custom, ethnic origin, rural or urban background, birth, socio-economic status, being a refugee or of other status.⁵²

3.4 Judicial Protection of the Right to Non-discrimination

71. The principle of non-discrimination (equality) has been given due judicial consideration in many cases in the State Party, including *Julius Ishengoma Francis Ndyanabo v. A.G.*,⁵³ where the Court of Appeal of Tanzania held that discrimination as described in Article 13(5) may be committed not only by or against a natural but also juristic person. This judicial authority was cited with approval by the High Court in *Legal and Human Rights Centre, Lawyers Environmental Action Team & National organisation for Legal Assistance v. A.G.*,⁵⁴ where Kimaro, J. (as she then was) held that whereas Article 13(1) guarantees the right to equality before the law, Article 13(2) prohibits the enactment of law which is directly discriminatory or discriminatory in effect.

4.0 THE RIGHT TO AN EFFECTIVE REMEDY

72. The State Party, being a member to a number of international and regional human rights instruments, adheres to guaranteeing its citizens’ realisation of the right to an effective remedy as amplified in international law. At the procedural level, the State Party has committed itself to realizing its obligation of protecting and promoting the right to effective remedy under international law by establishing suitable and functioning institutions from which a person who believes that his or her rights are violated can get an effective remedy. Highly committed to the

⁵² See section 5(2) of the Law of the Child Act; and section 6(1) of the Zanzibar Children’s Act.

⁵³ Court of Appeal of Tanzania at Dar es Salaam, Civil Appeal No. 64 of 2001 (Unreported).

⁵⁴ High Court of Tanzania at Dar es Salaam, Miscellaneous Civil Cause No. 77 of 2005 (Unreported).

rule of law and the supremacy of human rights, the State Party has established judicial bodies (in the form of ordinary courts, national human rights institution and quasi-judicial tribunals), which decide on the complaints of victims of alleged human rights violations. Through these judicial bodies, the State Party ensures that both penal and civil courts grant effective remedy to victims of violations of human and legal rights.

4.1 Courts of Law

73. Adhering to the international law principle that legal remedy against human rights violations is primarily to be ensured at the national level, the State Party has a court system that functions from the grassroots to the national level in both Zanzibar and Tanzania Mainland.

74. In Zanzibar, there is a dual court system applying different laws and procedures: the common law system founded on the English legal system; and the Kadhi's Courts⁵⁵ administering Islamic laws relating to personal related matters: i.e., marriage, divorce, inheritance, maintenance and custody of children. The judicial hierarchy of Zanzibar is such that at the lowest level there are Primary Courts⁵⁶, followed up in the high level with the District Courts⁵⁷, Regional Magistrates' Courts⁵⁸ and at the apex is the High Court of Zanzibar⁵⁹. Zanzibar shares the State Party's Supreme Court – the Court of Appeal of Tanzania⁶⁰ – with its counterparty (Tanzania Mainland). The Court of Appeal hears all appeals from the High Courts of Zanzibar and the one for Tanzania Mainland.⁶¹ However, the Court of Appeal of Tanzania has no power to hear appeals emanating from the decision of the High court of Zanzibar in respect of enforcement of human rights and in matters originating from the Kadhi's Courts.⁶²

75. The Kadhi's Court hierarchy is such that at the lowest level is the District Kadhi's Court, followed up the ladder by the Chief Kadhi's Court and the High Court of Zanzibar, which is the apex appeal court for matters originating the District Kadhi's Court. When hearing matters relating to the Kadhi's Courts, the High Court of Zanzibar should be presided over by a High Court Judge sitting with a panel of *ulamaa*, who are assessors with sufficient knowledge on Islamic law and are there to assist the judge reach a fair and just decision in the context of Islamic law.⁶³

⁵⁵ See particularly the Kadhi's Court Act, Act No. 3 of 1985.

⁵⁶ See the Magistrates' Courts Act, Act No. 6 of 1985.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ The High Court of Zanzibar is established under Article 93 of the Zanzibar Constitution (1984). See also the High Court Act, Act No. 2 of 1985.

⁶⁰ The Court of Appeal of Tanzania is established under Article 117 of the Constitution of the United Republic of Tanzania (1977). See also the Appellate Jurisdiction Act (1979), Cap. 141 R.E. 2002.

⁶¹ See particularly sections 3 and 4(1) of the Appellate Jurisdiction Act.

⁶² See Article 99(b) of the Zanzibar Constitution (1984).

⁶³ See section 10 of the Kadhi's Court Act (1985).

76. Whereas subordinate courts (i.e. Primary Courts, the District Courts, Regional Magistrates' Courts) are presided over by magistrates appointed by the Judicial Services Commission⁶⁴, the High Court of Zanzibar is headed by the Chief Justice of Zanzibar appointed by the President of Zanzibar. The High Court of Zanzibar is presided over by judges appointed by the President of Zanzibar upon recommendation by the Judicial Services Commission⁶⁵.

77. In Tanzania Mainland, the Judiciary is a constitutional creature, mandated to interpret laws of the country. Under Article 107A of the Constitution of the United Republic of Tanzania it is provided that: 'The Authority with final decision in the dispensation of justice in the United Republic shall be Judiciary.' The court system in Tanzania Mainland is founded on the English common law system, with courts at different ladders of the judicial system being established by the Constitution or relevant laws. At the apex level of the judicial hierarchy is the Court of Appeal of Tanzania⁶⁶, followed down by the High Court of the United Republic of Tanzania⁶⁷ (usually called the High Court of Tanzania), under which are the Resident Magistrate Courts and District Courts, which have concurrent jurisdiction. At the lowest level are the Primary Courts⁶⁸.

78. Whereas the Primary Courts, District Courts and Resident Magistrates' Courts are presided over by magistrates appointed by the Judicial Services Commission of Tanzania⁶⁹, the Judges of the High Court and the Justices of (the Court of) Appeal are appointed by the President of the United Republic, in consultation with the Judicial Services Commission of Tanzania⁷⁰. Whereas the Court of Appeal is headed by the Chief Justice, the High Court of Tanzania is headed by the Principal Judge (known in Kiswahili as *Jaji Kiongozi*). Both the Chief Justice and the Principal Judge are appointed by the President of Tanzania.

79. Appeals from Primary Courts in Tanzania Mainland are processed through the District Courts, the High Court and then the Court of Appeal. Appeals from the Resident Magistrates' Courts and District Courts are processed through the High Court and then the Court of Appeal.

80. The State Party has ensured that the foregoing judicial system operates independent of any kind of interference which is the bedrock of an effective judicial system that effectively protects and promotes human rights in its jurisdiction. This independence is exhibited in the way judicial officials are appointed, whereby they take an oath to the effect that they would administer justice without fear or favour; conduct themselves in relation to the administration of justice and the procedure for termination of the judicial services. The State Party follows the common law system of terminating of services of judicial officers that prevents the Executive to

⁶⁴ See section 10(1) of the Magistrate Courts Act (1985).

⁶⁵ See Article 94 of the Zanzibar Constitution (1984).

⁶⁶ The Court of Appeal of Tanzania is established under Article 117 of the Constitution of the United Republic of Tanzania (1977). See also the Appellate Jurisdiction Act (1979), Cap. 141 R.E. 2002.

⁶⁷ See Article 108 of the Constitution of Tanzania.

⁶⁸ Primary Courts, District Courts and Resident Magistrates' Courts are established under the Magistrates' Court Act (1984), Cap. 11 R.E. 2002.

⁶⁹ See Article 113(1) of the Constitution of Tanzania.

⁷⁰ Ibid. Articles 109 and 118.

take a leading role; rather a panel of experts from the Commonwealth should be involved in the investigations and recommendations on whether or not to terminate such services.

4.2 Quasi-judicial Bodies or Tribunals

81. In addition to the court systems obtained in the State Party, there are also quasi-judicial bodies or tribunals, which are individual institutions or organizations with powers resembling those of a court of law or judge and is able to remedy a situation or impose legal penalties on a person or organization. These are essentially sector-specific: for instance, both in Zanzibar and Tanzania Mainland there labour or industrial dispute settlement bodies; and land dispute settlement bodies.

4.2.1 Labour Dispute Settlement Bodies

82. In Zanzibar, the Industrial Court is empowered to determine labour disputes referred to it under the Labour Relations Act (2005).⁷¹ The Zanzibar Industrial Court is presided over by a judge appointed by the President of Zanzibar from amongst the judges or persons qualified to be judges of the High Court after consultation with the Chief Justice of Zanzibar.⁷² When determining labour disputes, the judge sits with two assessors appointed by the Chief Justice from each of the panel of assessors submitted by employers' organisations and a federation of trade unions.⁷³

83. Below the Zanzibar Industrial Court there is the Dispute Handling Unit (DHU) established by the Labour Commission to deal with all labour disputes referred to the Commission under the Labour Relations Act.⁷⁴ The DHU determines labour disputes by first mediation⁷⁵; and where mediation fails, by arbitration.⁷⁶

84. In Tanzania Mainland, the State Party has also established labour dispute settlement bodies to determine all disputes arising from employment and labour relations. The mechanism for settling labour disputes is more or less formal compared to civil cases. Usually, labour disputes commences with mediation⁷⁷ conducted under the auspices of the Commission for Mediation and Arbitration (CMA)⁷⁸. Where mediation fails as was held by the Labour Court in

⁷¹ Act No. 1 of 2005.

⁷² Section 81(1)(a) of the Labour Relations Act (2005).

⁷³ Ibid. Section 81(1)(b).

⁷⁴ Ibid. Section 72(1).

⁷⁵ Ibid. Section 74(1).

⁷⁶ Ibid. Section 75(1).

⁷⁷ See Rule 20(1) of the Labour Institutions (Mediation and Arbitration Guidelines) Rules, GN. No. 67 of 2007. These Rules are made under section 15(1)(f) of the Labour Institutions Act, Act No. 7 of 2004.

⁷⁸ The Commission for Mediation and Arbitration (CMA) is established under section 12 of the Labour Institutions Act (2004).

*Salim Kitojo v. Vodacom (T) Ltd.*⁷⁹, the matter should be referred to arbitration⁸⁰ conducted under the CMA and later to the Labour Court.⁸¹

85. The power to appoint mediators and arbitrators is vested in the CMA under section 19(1) of the Labour Institutions Act (2004), in consultation with the Office of the Public Service Management.⁸² The CMA shall have regard to the need to constitute an independent and professional body in appointing mediators; and it shall prepare a code of conduct⁸³ for the said cadre, together with arbitrators serving on the CMA.⁸⁴ Between 2007 and 2011, the State Party managed to establish a CMA office in every region in Tanzania Mainland. This means that all persons or institutions with labour disputes can easily access the CMA to resolve their disputes.

86. The number of Judges to constitute the Labour Court may be determined by the Chief Justice where he considers necessary; but one of the judges shall be designated by Chief Justice as “Judge In-Charge”. The Judge In-Charge shall head the labour Court and shall designate any Judge to be in charge of any court zonal centre.⁸⁵ The Labour court shall also consist of two panels of assessors appointed in terms of section 53 of the LIA.⁸⁶ The Coram of the Labour Court shall be constituted by a Judge sitting with at least two assessors nominated by the presiding Judge from each of the panels appointed in terms of subsection (2)(b) of section 50 of the Labour Institutions Act.⁸⁷ However, it is not necessary for the Judge to sit with assessors in certain circumstances. This may happen where the Judge determines an application the Labour Court⁸⁸; where the parties to the dispute have agreed that the assessors are not necessary⁸⁹; or if it is necessary for the expeditious determination of proceedings.⁹⁰

88. The jurisdiction of the Labour Court is spelt out in section 94 of the ELRA and section 51 of the LIA. Under these provisions, the Labour Court has exclusive jurisdiction over any matter reserved for its decision by the labour laws and over any employment matter falling under common law, tortious liability, vicarious liability or breach of contract within the pecuniary jurisdiction of the High Court. In principle, ‘What this means is that if any party has any matter

⁷⁹ High Court of Tanzania (Labour Division) at Dar es Salaam, Labour Division No. 5 of 2010 (Unreported).

⁸⁰ Section 86(7)(b)(i) of the Employment and Labour Relations Act; and Rule 18(2) of the Labour Institutions (Mediation and Arbitration Guidelines) Rules. (2007)

⁸¹ Labour Division of the High Court of Tanzania (henceforth, “the Labour Court”) is established under section 50(1) of the Labour Institutions Act (2004) and became operations on the 5th day of January, 2007.

⁸² Section 19(2) of the Labour Institutions Act.

⁸³ See the Labour Institutions Act (Ethics and Code of Conduct for Mediators and Arbitrators) Rules (2007), GN. No. 66, dated 23rd March 2007.

⁸⁴ Section 19(3) and (4) of the Labour Institutions Act (2004).

⁸⁵ Ibid. Section 50(2)(a) .

⁸⁶ Ibid. Section 50(2)(b).

⁸⁷ Ibid. Section 50(3).

⁸⁸ Ibid. Section 50(3)(a).

⁸⁹ Ibid. Section 50(3)(b).

⁹⁰ Ibid. Section 50(3)(c).

relating to labour laws the proper court of resort is the Labour Court, but this does not take away the general powers and jurisdiction of the High Court under the Judicature and application of Laws Act.⁹¹ In particular, the Labour Court has power to determine appeals from the decisions of the Registrar made under Part IV of the ELRA; reviews and revisions of the CMA arbitrator's awards; and decisions of the Essential Services Committee. The Labour Court also has exclusive jurisdiction to determine reviews of decisions, codes, guidelines or regulations made by the Minister under this Act⁹²; and complaints, other than those that are to be decided by arbitration under the provisions of this Act.

89. When it started functioning in 2007 in Tanzania Mainland, the Labour Court had only one registry based in Dar es Salaam. It used to reach the upcountry regions of Tanzania through circuit sessions. However, in 2010 the Chief Justice, acting under the power given to him under rule 5 of the Labour Court Rules⁹³, made the High Court of the United Republic of Tanzania Labour Court (Labour Division) (Zonal Centres) (Establishment) Rules (2010).⁹⁴ These Rules established a High Court Division Zonal Centre of the Labour Court in each region.⁹⁵ In Dar es Salaam, there was established a Zonal centre together with the main registry of the Labour Court.⁹⁶

90. As in all cases, being civil or criminal, decided by any court of law in the State Party may be appealed against to the Court of Appeal of Tanzania. The right to appeal against decisions of the Labour Court to the Court of Appeal, in Tanzania Mainland, is created in section 57 of the Labour Institutions Act, which provides that: 'Any party to the proceedings in the Labour Court may appeal against the decision of that Court to the Court of Appeal of Tanzania on a point of law only.' This applies to Zanzibar, where the Labour Relations Act provides, in section 87(1), that any person aggrieved by any decision or order of the Industrial Court 'may appeal against such decision to the Court of Appeal in accordance with the Court of Appeal Rules.' The right of appeal in this regard guarantees an individual to seek further remedy if such individual is not satisfied with the decision of either the Labour Court (in Tanzania Mainland) or the Industrial Court (in Zanzibar).

⁹¹ *Tanzania Railway Ltd. v. The Minister for Labour, Employment and Youth Development & 2 Others*. High Court of Tanzania (Labour Division) at Dar es Salaam, Application No. 4 of 2008 (Unreported).

⁹² Ibid.

⁹³ GN. No. 106 of 2007.

⁹⁴ GN No. 209 of 11 June 2010.

⁹⁵ Rule 2(1) of the High Court of the United Republic of Tanzania Labour Court (Labour Division) (Zonal Centres) (Establishment) Rules (2010).

⁹⁶ Ibid. Rule 2(2).

4.2.2 Land Dispute Settlement Bodies

91. The State Party has established in Tanzania Mainland a separate system of dealing with land disputes from the ordinary civil courts. This separate land dispute settlement system is less formal compared to the complex civil procedures in the ordinary courts of law; and is intended to make it more accessible as well as comprehensible even to those citizens with less formal education. In accordance with section 62 of the Village Land Act (1999) and section 3 of the Courts (Land Dispute Settlement) Act (2002), land dispute settlement structure starts from the Village Land Council, the Ward Tribunal, The District Land and Housing Tribunal, the Land Division of the High Court and the Court of Appeal. Administratively, the Village Land Council and the Ward Tribunal fall under the Prime Minister's Office (Regional Administration and Local Government). Their lines of responsibility, is in accordance to the provisions of the Regional Administration and Local Government Act, 1997.

92. The District Land and Housing Tribunal handles land disputes at the district level. The Administrative structure which also forms the lines of responsibility falls under the Ministry of Lands and Human Settlement Development. The Land Division of the High Court and the Court of Appeal of Tanzania form part and parcel of the Judiciary which is headed by the Honourable Chief Justice of the United Republic of Tanzania. The judiciary is under the ministry of Justice and Constitutional Affairs. Although the judiciary is a department within the ministry of Justice, when it comes to the administration of justice, it stands independently forming the third pillar of government under the doctrine of separation of powers. It is within this scope that the judiciary is solely vested with powers to administer justice with its internal systems of hiring and firing judicial officers as per the Constitution and the Judicial Services Act.⁹⁷

4.3 The Commission for Human Rights and Good Governance

93. The State Party adheres to well-established principle of international law that national human rights institutions are very pivotal in the promotion and protection of human rights at the municipal level. In translating this principle into practice the State Party set up the Commission for Human Rights and Good Governance (CHRAGG), which is a national human rights institution established in 2000 vide the 13th Constitutional Amendment to the 1977 Constitution of Tanzania. It became operational in 2001 following the enactment and the coming into force of its founding statute, the Commission for Human Rights and Good Governance Act⁹⁸ (henceforth, the founding legislation). CHRAGG was officially inaugurated in mid-March 2002, following the appointment and swearing in of its Commissioners;⁹⁹ and it now has offices in both Zanzibar and Tanzania Mainland.

⁹⁷ See, for instance, section 19 of the Judicial Services Act, Cap 237 R.E. 2002

⁹⁸ Cap. 391 R.E. 2002. This Act was amended by Act No. 16 of 2001. The Act came into force on 9th May 2001 vide Government Notice No. 67 of 4th May 2001.

⁹⁹ Kisanga, R.H., "The State of Human Rights in Tanzania – The Commission for Human Rights and Good Governance: Role, Constraints and Prospects," a paper presented at the Half-Annual General Meeting of the Tanganyika Law Society, Bagamoyo, 8th August 2003, p. 3.

94. CHRAGG took over the functions of the defunct Permanent Commission of Enquiry (PCE). The PCE was established in 1965, making it the first ombudsman to be established in Sub-Saharan Africa, with its primary duty being concerning investigation of abuse of authority (mal-administration). Thus, CHRAGG, apart from its mandate to deal with human rights issues, it is also concerned with addressing abuse of public authority.

95. The functions of CHRAGG are stipulated in Article 130 (1) of the Union Constitution as well as in section 6(1) of its founding legislation. Accordingly, the main core function of CHRAGG is to promote, protect and preserve human rights and duties of the citizens to the society. In other words generally, CHRAGG has four main functions, namely, the protective,¹⁰⁰ promotive,¹⁰¹ advisory and mediatory/conciliatory functions. According to section 28(4) of the founding legislation, CHRAGG can resolve any complaint or rectify an act or omission emanating from a violation of any fundamental right or acts of mal-administration by *mediation, conciliation or negotiation*. According to the founding CHRAGG Chairman, Hon. Justice (retired.) Kisanga, when the Commission is involved in mediation or conciliation 'it is acting in a quasi-judicial capacity.'¹⁰² The quasi-adjudicatory function of the Commission is particularly in relation to carrying out public hearings or enquiries. Mediation is a means to an end. It seeks to reconcile people. That is why the Commission has a role to play in conflict resolution by way of mediation, conciliation and adjudication, apart from investigating complaints and conducting enquiries into violations of human rights and contravention of principles of good governance.¹⁰³

96. In discharging its quasi-adjudicatory function CHRAGG is governed by both rules of procedure, evidence and its own set of Regulations¹⁰⁴ that have been made under the founding legislation,¹⁰⁵ though, for the sake of *fairness* and *flexibility*, it is not bound by the former. The

¹⁰⁰ This function includes: receiving and investigating complaints and/or allegations on violation of human rights and contravention of principles of administrative justice, as well as conducting public hearings (enquiries) on the same, and giving remedies; initiating proceedings without being triggered off by anybody else; going to court to secure the enforcement of its recommendations and inspecting prisons and similar detention facilities.

¹⁰¹ This function embodies such duties as educating the public on human rights and good governance issues [section 6(1)(d) of the founding legislation]; carrying out research on human rights and good governance issues; and monitoring compliance with human rights standards and good governance principles [section 6(1)(i)].

¹⁰² According to Justice (retired) Kisanga, 'quasi-judicial' indicates something that 'resembles a judicial function, but is distinct from this insofar as it rests with an administrative body. In this context the term refers to those functions of a national human rights institution, where complaints of human rights violations are *received, examined according to procedures reflecting principles of fairness and flexibility and in a manner appropriate to the nature of the complaint, by a body other than a judicial instance.*' Kisanga, R.H., H., "The State of Human Rights in Tanzania – The Commission for Human Rights and Good Governance: Role, Constraints and Prospects," *op. cit.*, p. 16.

¹⁰³ *Ibid.*, pp. 5-6.

¹⁰⁴ The Commission for Human Rights and Good Governance (Complaints Procedure) Regulations, 2003, which are made under section 38 of the Commission for Human Rights and Good Governance Act, 2001, No. 7 of 2001.

¹⁰⁵ In terms of section 20(2) of the founding legislation, CHRAGG is obliged to 'observe the rules of natural justice but shall not be bound by any legal or technical rules of evidence applicable to proceedings before the courts; and all proceedings shall be conducted *informally* and expeditiously.'

decisions of the Commission have the status of recommendations. The Commission lacks the judicially binding power of the courts to enforce its recommendations. The Commission however, can go to court to enforce its recommendations if need be. CHRAGG may also delegate its function of commencing court proceedings to enforce its recommendations to another appropriate body.¹⁰⁶ So, CHRAGG has so far ensured that the promotion and protection of human rights in the State Party are effective.

4.4 Exhaustion of Local Remedy and References of Violations of Human Rights to International Human Rights Bodies

97. The foregoing elaboration of the efforts undertaken by the State Party to ensure that its citizens enjoy the right to an effective remedy underlies the principle that both the court and quasi-judicial bodies in the State Party have power to for, amongst other reliefs, reparation to victims of legal and human rights violations. The State Party has also put referral and appeal mechanisms for any aggrieved party to seek further remedy in an appellate forum. Where a person exhausts local remedy, the State Party allows such persons to refer complaints to any of the international human rights treaty monitoring bodies to which it is a party.

¹⁰⁶ Section 28(3) of the Commission for Human Rights and Good Governance Act. The Commission recommended an appropriate authority (Legal and Human Rights Centre, a Dar es Salaam-based human rights NGO) to bring an action in court to enforce its recommendations was in *Ibrahimu Korosso & 134 Others together with the Legal and Human Rights Centre v. District Commissioner and the Police Officer in Command of Serengeti District together with the Attorney General*, HBUB/S/1032/2002/2003/MARA.

**PART B:
TREATY-SPECIFIC REPORT
(STATE PARTY REPORT ON THE TREATY-SPECIFIC PROVISIONS)**

1.0 GENERAL MEASURES OF IMPLEMENTATION

(Articles 4, 42 and 44(6) of the Convention)

1.1 Legal framework and harmonization of legislation with the convention

1. The Government of the United Republic of Tanzania signed and ratified the Convention on the Rights of the Child (CRC) and the Optional Protocols without any specific reservation and declaration relating to any article in the convention and its two optional protocols. However, the Government has deposited in 2004 its declaration to the Secretary General of the United Nations as a precondition for the ratification of the Optional Protocol to the CRC on the Involvement of Child in Armed Conflict as regarding the minimum age for voluntary recruitment into the national forces.

1.2 Legislation

2. In its previous Concluding Observations, the Committee urged the State party as a matter of priority to engage all efforts and resources necessary for the enactment of the Children's Act in Tanzania Mainland and a similar Act in Zanzibar.

3. In the period under report, the State Party complied with the Committee's recommendation and enacted two comprehensive child laws: that is, the Law of the Child Act (2009)¹⁰⁷ applicable in Tanzania Mainland and the Children's Act (2011)¹⁰⁸ applicable in Zanzibar. The two child laws have domesticated the principles enshrined in the CRC; and, as such, they repeal, replace and/or amend the laws which were repugnant to the Convention in order to make them compliant to the CRC principles and standards. In Zanzibar the Children's Act has repealed and replaced the following laws:

Table 3: Schedule of Repealed Laws in Zanzibar

<i>Column 1</i>	<i>Column 2</i>
TITLE OF LAW	EXTENT OF REPEAL
The Adoption of Children Decree, Cap. 55	The whole
The Children and Young Persons Decree, Cap 58	The whole

¹⁰⁷ Act No. 21 of 2009. This law was passed by Parliament on 4th November 2011.

¹⁰⁸ Act No. 6 of 2011. This law was passed by the Zanzibar House of Representatives on 30 March 2011.

The Approved Schools Decree, Cap 59	The whole
The Spinsters and Single Parent Children's Protection Act 4 of 2005	Sections 5, 7, 9, 12 and 14

Source: 3rd Schedule to the Zanzibar Children's Act, made under section 139.

4. In Tanzania Mainland, the Law of the Child Act (LCA) has repealed and replaced the following laws: the Affiliation Act; the Adoption Act; the Day Care Centres Act; the Children and Young Persons Act; and the Children Home (Regulation) Act.¹⁰⁹ The LCA has also amended a number of laws touching on child issues as indicated in Table 2 below:

Table 4: Schedule of Amended Laws in Tanzania Mainland

Description of Law	Chapter	Amended Provision and Extent of Amendment
Law of Marriage Act (1971)	Cap. 29 R.E. 2002	<p>A. Section 2, by</p> <p>(a) deleting the definitions of the term "child" and substituting for it the following term: "child" means a person under the age of eighteen;</p> <p>(b) deleting:</p> <p>(i) all references relating to the definition of the terms "infant" and "infant child";</p> <p>(ii) the words "infant children" and "infant" wherever they appear in the Act and substituting for them the words "children" and "child", as the case may be.</p> <p>B. Section 17, by:</p> <p>(a) inserting a full-stop in place of a comma that appears after the word "guardian"; and</p> <p>(b) deleting the phrase "but in any other case, or if those persons are dead, shall not require consent."</p> <p>C. Section 39(c), by deleting the words "wife had" and substituting for them the words "the person had".</p> <p>D. Section 64(1), by deleting the word "infant" appearing between the words "the" and "children".</p> <p>E. Section 67, by deleting the word "infant".</p>
Education Act (1978)	Cap. 353 R.E. 2002	<p>A. Section 35, by inserting immediately after subsection (1), the following provision: "1A. Without prejudice to subsection (1), no child of the age of seven or above shall be refused enrolment in a school."</p> <p>B. Section 59, by adding a new section 59A as follows:</p> <p>"Obligation 59A.-(1) Every teacher, a craftsman and a to report trainer shall be under the general obligation to report evidence or concerns of abuse perpetrated on the child by any person to the appropriate social welfare officer.</p> <p>(2) Every teacher, a craftsman and a trainer shall have a duty to ensure that best interest of a pupil is of a paramount consideration. "</p> <p>C. Section 60, by:</p>

¹⁰⁹ Section 160(1) of the Law of the Child Act (2009).

		<p>(a) adding a new paragraph (k) as follows: "(k) impregnates a pupil of primary or secondary school.";</p> <p>(b) substituting for the words "ten thousand shillings" and the words "six months" with the words "five hundred thousand shillings" and "three years" respectively.</p>
Employment and Labour Relations Act	Cap. 366 R.E. 2002	<p>Section 5, by:</p> <p>(a) in subsection 6(a) inserting the words "and training" between the words "employment" and "of".</p> <p>(b) adding the follows paragraph:</p> <p>"(9) Without prejudice to the provisions of this section, every employer shall ensure that every child lawfully employed under this Act is protected against discrimination or acts which may have negative effect on the child taking into consideration age and evolving capacities."</p>
Penal Code	Cap. 16 R.E. 2002	<p>A. Section 15, by adding a following new subsection (4) as follows-</p> <p>"(4) Any person under the age of twelve years who commits an act or omission which is unlawful shall be dealt with under the Law of the Child Act, 2009."</p> <p>B. Section 17, by adding the following phrase immediately after the word "offence" appearing at the end of the section as follows "unless the offender is a child".</p> <p>C. Section 130(3)(c), by inserting the following words "schools, day care centre, children's home or any other institution, organization or agency where there is a duty of care" between the words "hospital," and "takes".</p> <p>D. Section 131, by-</p> <p>(a) in subsection (2)(c), deleting the phrase "life imprisonment pursuant to subsection (1)" and substituting for it the phrase "five years with corporal punishment".</p> <p>(b) in subsection (3), deleting the word "whoever" and substituting for it the following "a person other than a person referred to under subsection (2)."</p> <p>E. Section 138, by:</p> <p>(a) deleting the word "fifteen" and substituting for it the word "eighteen", wherever it appears in that section;</p> <p>(b) repealing subsection (6).</p> <p>F. Section 138B, by-</p> <p>(a) designating section "138B" as 138B(I);</p> <p>(b) deleting the words "five" and "twenty years" and substituting for them the words "fifteen" and "thirty years without option of fine";</p> <p>(c) adding a new subsection (2) as follows:</p> <p>"(2) The court may, in addition, order for compensation of such amount of money to be paid to the victim."</p> <p>G. Section 138C (2)(b), by deleting the word "fifteen" and substituting for it the word "eighteen".</p> <p>H. Section 141, by-</p> <p>(a) deleting the words "under the age of fifteen years"; and</p>

		<p>(b) deleting the proviso.</p> <p>I. Section 142, by deleting the word "sixteen" wherever it appears in that section and substituting for it the word "eighteen".</p> <p>J. Section 144(3)(a) and (b), by deleting the word "sixteen" and substituting for it the word "eighteen".</p> <p>K. Section 147, by deleting the word "female".</p> <p>L. Section 154, by deleting the word "ten" and substituting for it the word "eighteen".</p> <p>M. Section 156(1), by deleting the word "fourteen" and substituting for it the word "eighteen".</p> <p>N. Section 160, by deleting the word "ten" and substituting for it the word "eighteen".</p> <p>O. Section 166, by deleting the word "fourteen" and substituting for it the word "eighteen".</p> <p>P. Section 167, by deleting the word "fourteen" and substituting for it the word "eighteen".</p> <p>Q. Section 169, by deleting the word "fourteen" and substituting for it the word "eighteen".</p> <p>R. Section 245, by deleting the phrase "fourteen years of age if a male, or under sixteen years of age if a female" and substituting for it the word "eighteen years of age".</p> <p>S. Section 252, by deleting the word "fourteen" and substituting for it the word "eighteen".</p>
Criminal Procedure Act	Cap. 20 R.E. 2002	<p>Section 188, by:</p> <p>(a) designating it as subsection (1);</p> <p>(b) adding new subsection (2) as follows:</p> <p>"(2) Notwithstanding subsection (1), children under the age of eighteen shall have their names and identities protected."</p>

Source: Part XIII of the Law of the Child Act (2009).

5. In its previous Concluding Observations, the Committee also urged the State party to ensure that all of its domestic and customary legislation conforms fully to the principles and provisions of the Convention, thus making possible its effective implementation.

6. Apart from passing pieces of legislation specifically for children between 2004 and 2011, in Zanzibar, the State Party also enacted a number of laws that address the issues of children, including the Person with Disabilities (Rights and Privileges) Act (2006), which has been enacted to give legal effects the efforts of the State Party in combating promoting and protecting rights and welfare of persons with disabilities, particularly children. The State Party also enacted the Water Act in 2006 (applicable in Zanzibar), which commits the State Party to provide clean and safe water to its people, including children. It also addresses the issue of preserving and protecting source of water for sustainable use. In relation to Zanzibar, the State Party also enacted the Employment Act in 2005¹¹⁰, which protects children from child labour, worst forms of child labour, and sets conditions for the employment of the child, which, together with the

¹¹⁰ Act No.11 of 2005.

Children's act, requires that a child's right to work should be subject to the need to promote and safeguard his best interests.

7. In Tanzania Mainland, the State Party also enacted several laws that protect and promote the rights and welfare of the child, applying on complementarity with the Law of the Child Act. These laws include the Persons with Disabilities Act (2010)¹¹¹, which strives to make provisions for the health care, social support, accessibility, rehabilitation, education and vocational training, communication, employment or work protection and promotion of basic rights for the persons with disabilities and to provide for related matters. The Anti-Trafficking in Persons Act (2008)¹¹², applying to both Zanzibar and Tanzania Mainland,¹¹³ amongst other things, prohibits any form of traffic in persons, including children, within or outside the State Party.¹¹⁴ In Tanzania Mainland, further, the State Party enacted the HIV and AIDS (Prevention and Control) in 2008¹¹⁵ to provide for prevention, treatment, care, support and control of HIV and AIDS, for promotion of public health in relation to HIV and AIDS; to provide for appropriate treatment, care and support using available resources to people living with or at risk of HIV and AIDS, including children.

1.3 Coordination

8. In its previous Concluding Observations, the Committee urged the State party to strengthen the ability of the Department of Children Development to effectively coordinate with other ministries and departments, and local government authorities, dealing with children.

9. Children's issues in the State Party are not a Union matter. However, the coordination and implementation of CRC is two-fold: the Ministry of Community Development Gender and Children (MCDGC) coordinates in Tanzania Mainland; and in Zanzibar, the Ministry of Social Welfare, Youth, Women and Children Development (MSWYWCD) is the coordination body for the implementation and supervising of all affairs concerning children. The MSWYWCD was established following 2010 general elections which led to the formation of the Government of National Unity (GNU) in Zanzibar. The Department of Social Welfare, which formerly was under the Ministry of Health (MoH) in Zanzibar, is now merged into the MSWYWCD in order to have a sound coordinated system in the promotion and protection of the rights and welfare of the child. The Ministries in both Zanzibar and Tanzania Mainland conduct regular consultations on all matters pertaining to children as demonstrated in the preparation of the country periodic reports on the implementation of the Convention and its Optional Protocols.

10. In particular, in the preparation of these consolidated reports, these Ministries in Zanzibar and Tanzania coordinated their respective parts of the Union and formed a joint

¹¹¹ Act No. 9 of 2010.

¹¹² Act No. 6 of 2008.

¹¹³ Ibid. Section 2(1).

¹¹⁴ Incidents of traffic in persons prohibited by the Anti-Trafficking in Persons Act are enlisted in section 4 of this law.

¹¹⁵ Act No. 28 of 2008.

national coordination team that managed put together all the information and data required for these reports. The national coordination team was also responsible for the convening of the stakeholders' consultative sessions at the national level in both Zanzibar and Tanzania Mainland and also the finalization of the consolidated reports.

11. In compliance with the Committee recommendation in this regard, the State Party also has ensured that there are regular meetings between the officials from Ministries responsible for children affairs in both Zanzibar and Tanzania Mainland in order to harmonize the mechanism of coordinating children issues where such coordination did not exist in past. From these meetings, the Ministries have managed to work out on strategies to implement the recommendations of the Committee at both the country level and grassroots level.

1.4 Resource Allocation for Children

12. The Committee urged the State Party to have in place adequate human and financial resources for an effective performance of its tasks and responsibilities with a view to decreasing and eliminating disparity or discrimination between the Tanzania Mainland and Zanzibar in the implementation of policies for the promotion and protection of the rights of the child.

13. In compliance with this recommendation, the State Party has improved its budget allocations for children in the period under report. Whereas the allocation of budget for the implementation of the Convention in Tanzania Mainland is vested onto the MCDGC, in Zanzibar this task is bestowed on the MSWYWCD. However, both on Tanzania Mainland and Zanzibar, other cross-cutting ministries such as those responsible for education, health, sports, home affairs and local government authorities do allocate budget for issues relating to children's welfare, a fact that resulted in ranking the State Party the first country amongst the African Governments to allocate budgets for children in 2010.¹¹⁶

1.5 National Plan of Action

14. The Committee recommended, in its previous Concluding Observations, that the State party finalize the process of adoption of the revised Child Development Policy, which would provide a clear framework linked to broader inter-sectoral policies and strategies for children. It further recommended that the State party expedite its efforts in adopting a comprehensive national plan of action for the full implementation of the rights enshrined in the Convention, taking into account the objectives and goals of the outcome document entitled "A world fit for children" of the General Assembly Special Session for Children.

15. Conforming to this recommendation, the State Party finalised reviewing the Child Development Policy and adopted it in 2008. The Policy formed the basis for the enactment of the Law of the Child Act in 2009. National Costed Plan of Action 2007-2011 for Most Vulnerable Children has been adopted and is being implemented in Tanzania Mainland. In Tanzania

¹¹⁶ See, particularly, African Child Policy Forum on Wellbeing of African Children Report, Budgeting for Children, 2010.

Mainland also the State Party adopted, in July 2011, the Costed Operational Plan for the Implementation of the U5NBRS¹¹⁷, which aims at elaborating interventions or actions that will be implemented in order to realize the envisaged strategic outputs for the registration of under 5 births.¹¹⁸

16. In Zanzibar, the State Party has adopted the National Guidelines in 2011, which cater for promoting and enhancing the welfare of the children. It sets out procedures and coordinating mechanism on how to deal with children victims of abuse as well as those who need care and support. There is also the National Plan of Action for the Elimination of Child Labour (2009 – 2015), which supplements the efforts of the State Party in its endeavour to eliminate child labour. In Zanzibar, the State Party has further adopted the Most Vulnerable Children Costed Action Plan (2010-2015), which sets out costed actionable strategies and a mechanism on how to assist identified most vulnerable children in Zanzibar.

1.6 Independent Monitoring

17. The Committee recommended that the State party, taking into account its general comment No. 2 of 2002 (see CRC/GC/2002/2) on the role of independent national human rights institutions, undertake all effective measures to ensure that the Commission for Human Rights and Good Governance be easily accessible to, and user-friendly for, all children. In particular, the Committee recommends that the State party conduct awareness-raising campaigns about the work of the Commission, including the work of the Special Desk for Children's Affairs and its procedures, in order to facilitate children's access to its complaints mechanisms. Adequate financial and human resources should be allocated for its effective functioning.

18. In complying with the recommendation made by the Committee the State Party has established special desk for children in the Commission for Human Rights and Good Governance, which is now operating in both parts of the United Republic of Tanzania. At the time of preparing these consolidated reports, the Commission was working on rules of procedure through which children can lodge and process their complaints before it.

19. To complement this effort by the State Party in realization of children's rights, the Police Force has established Women and Children Desks in every police station in the country. The aim of this initiative is to bring closer legal assistance in respect of, *inter alia*, legal problems facing children; including abuse, neglect and helping children who come into conflicts with law.

20. In Zanzibar, in particular, the State Party has established the National Gender Based Violence Committee (GBV Committee), which was set up in order to foster the responses of the State Party in cases of domestic abuses based on gender violence that faces children and

¹¹⁷ This is an abbreviation of the words: "Under 5 National Birth Registration System." See, United Republic of Tanzania, "The Costed Operational Plan for the Implementation of the U5NBRS." Dar es Salaam: Ministry of Constitutional Affairs and Justice/Registration Insolvency and Trusteeship Agency (RITA), July 2011.

¹¹⁸ Ibid. P. 3.

women in the Isles. The GBV Committee comprises various professionals based in every locality in Zanzibar, which include police officers, teachers, medical officers, prosecutors and members from civil rights organizations.

1.7 Data Collection

21. In its previous Concluding Observations, the Committee recommended that the State Party should strengthen its system of collecting disaggregated data as a basis to assess progress achieved in the realization of children's rights and to help design policies to implement the Convention. In order to realize this goal, the Committee also recommended that the State Party should seek technical assistance from, *inter alia*, the United Nations Children's Fund. In relation to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC), the Committee recommended that a comprehensive data collection system should be established in order to ensure that data, disaggregated, *inter alia*, by age, sex, socio-economic background and geographical area, including asylum-seeking and migrant children, are systematically collected and analyzed as they provide essential tools for measuring policy implementation. The Committee also urged the State party to seek the assistance of United Nations agencies and programmes, including the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Children's Fund (UNICEF), in this regard.

22. In compliance with the Committee recommendation, the State Party has carried out a number of initiatives towards creating a central management information system (CMIS) where data will be handled at one centralised point. In addition, during the period under report, the State Party, through the National Bureau of Statistics (NBS) in Mainland and Chief of Government Statistician in Zanzibar, conducted a number of national surveys which provide information and statistics on, among others, the state of children's welfare in the State Party. These include surveys include the Household Budget Survey 2009/10 (HBS); the Demographic Healthy Survey 2010 (DHS); the Tanzania Demographic and Human Survey 2010 (THDS); and Integrated Labour Force Survey 2006.

23. In addition, the State Party sought technical and financial assistance from inter-governmental and international as well as national non-governmental organisations that helped it to conduct sector-specific surveys relating to children's issues in those sectors during the period under report. For instance, in collaboration with Penal Reform International, the Commission for Human Rights and Good Governance (CHRAGG) conducted a survey on the rights and welfare of prisoners, with a particular focus on children. This survey, whose report was released in July 2011, was both financially and technically supported by UNICEF. In collaboration with the Coram Children's Legal Centre (based at the Essex University, UK) and the National Organisation for Legal Assistance (**nola**), a local legal aid and human rights organisation, the Ministry of Constitutional and Legal Affairs conducted two surveys in 2011: on the state of juvenile justice and the situation of access to justice for under 18's. These surveys were also both technically and financially supported by UNICEF.

24. The State Party also sought further assistance from UNHCR and its implementing partners to ensure that the surveys conducted in the State Party concerning children of refugee,

asylum-seeking or migrant background have disaggregated data by age, sex, socio-economic background and geographical area of origin.

1.8 Dissemination, Training and Awareness-raising

25. The Committee recommended that the State Party should strengthen its efforts to ensure that the provisions of the Convention and its Optional Protocols are widely known and understood by adults and children. It also recommended that the State party should develop and disseminate child-friendly versions of key documents, plans and policies that affect children. It further recommended that there should be the reinforcement of adequate and systematic training for all professional groups working for and with children, in particular law-enforcement officials; teachers, including teachers in rural and remote areas; health-service personnel; social workers; and personnel in childcare institutions.

26. In translating these recommendations into action, the State Party has undertaken various efforts to make sure the Convention and its Protocols are known to its citizens, particularly children. As such, in Tanzania Mainland, a number of training, awareness-raising and dissemination activities have been carried out to selected journalists (i.e. radio broadcasters and news editors, TV broadcasters and editors). In addition, 400 training of trainers have been trained on children's rights as well as on Convention and its Protocols in the period under report.

27. In Zanzibar the State Party, through the Ministry of Social Welfare and Youth, Women and Children Development, has developed a popular version of a manual on children's rights based on the Convention and its Optional Protocols. This manual has been disseminated to various stakeholders who work for the best interest of the children, including CSO working with children such as Zanzibar Association for Children Advancement (ZACA), Zanzibar Female Lawyers Association (ZAFELA), Zanzibar Association of People with HIV/Aids+ (ZAPHA+) and Zanzibar Network for Children Rights (ZANECRI). In addition, training on the Convention and its Protocols has been conducted to children councils in Zanzibar whereby about 100 children were reached in Unguja and Pemba Islands. A parallel training was also conducted to children advisory board (CAB) and to women and children officers at the district levels in Zanzibar.

1.9 Cooperation with Civil Society

28. In its previous Concluding Observations, the Committee encouraged the State Party to strengthen its cooperation with NGOs and other sectors of civil society working for and with children, in a more systematic and consistent fashion throughout all stages of implementation of the Convention and its Protocols.

29. In compliance with the foregoing recommendation, the State Party has strengthened its cooperation with NGOs CBOs in many programmes relating to children as well as to national development as a whole. One of the indicators for this rekindled cooperation between the State Party and the CSOs is the relaxation of restrictions on registration of NGOs, whereby at the end of 2010 there were 3,923 NGOs out of which 3,198 were registered under the available

NGO registration mechanisms in the State Party. During the period under report, the State Party did not deregister any NGO. It also worked closely with the media in its bid to increase awareness on the CRC and its Optional Protocols, including establishing a cadre of child/young journalists who specifically report on issues relating to children.

30. In addition, the NGOs and CBOs in the State Party have been effectively involved in the preparation of country periodic reports, including the present ones; and they played a very constructive and critical role during the drafting and enactment process of the Law of the Child Act in 2009 as well as the Zanzibar Children's Act in 2011 as their views were reflected in the laws following broad consultations.

31. Furthermore, NGOs, FBOs and CBOs¹¹⁹ have been openly advising the two Governments in the State Party on how effectively to implement the CRC and its Optional Protocols. They have been advising the governments, for example, on challenges of constructing laboratories in every secondary school as a government strategy for improving the quality of education. The State Party continued to address this challenge in each financial year, so as to be able to provide quality education to all children. ZACA, in particular, has been working closely with Revolutionary Government of Zanzibar in collecting children's views during the preparation of the Zanzibar Children's Act and it has been advising the said government on the establishment and running of children's councils in Zanzibar.

2.0 DEFINITION OF THE CHILD

(Article 1 of the Convention)

32. The Committee recommended, in its previous Concluding Observations, that the State party should set a clear definition of a child in the draft Children's Act that is in line with the Convention on the Rights of the Child. It further recommended that the State party should establish one legal minimum age for marriage, at an internationally acceptable level, for both boys and girls.

33. In its bid to comply with this recommendation, the State Party has enacted in the Law of the Child Act (2009), which applies in Tanzanian Mainland, and in the Children's Act (2011), which applies in Zanzibar, provisions that now define a child as any person below the age of 18 years.¹²⁰ These laws have also amended several other laws that used to define a child differently; and now there is a common definition of a child, which is any person below 18 years.

34. The State Party still retains the minimum age of marriage as it was reported in the 2nd periodic report. The reason for this retention is that the question of minimum age of marriage touches on certain religious beliefs, which needs the public to be consulted and agree on a common minimum age. In recognition of this religious reality, the State Party has initiated a

¹¹⁹ Such NGOs are Mkombozi Centre for Street Children, Legal and Human Rights Centre, nola, and Dogodogo Centre for Street Children, on the Mainland; ZAYEDES, ZAFELA, ZLSC, ZACA, ZAPHA+ and Zanzibar Youth Forum, in Zanzibar.

¹²⁰ See section 2 of the Zanzibar Children's Act (2011); and section 4(1) of the Law of the Child Act (2009).

consultative process through which members of the public are being consulted to provide their inputs so as to enable the State Party to establish one legal minimum age for marriage, at an internationally acceptable level, for both boys and girls, as was recommended by the Committee.

3.0 GENERAL PRINCIPLES

(Articles 2, 3, 6 and 12)

3.1 Non Discrimination (Art. 2)

35. The Committee urged, in its previous Concluding Observations, that the State Party should continue revising all its legislation in order to bring it in full compliance with article 2 of the Convention, and to ensure full implementation in practice of all legal provisions. The Committee also recommended that the State Party should carry out comprehensive public education campaigns to prevent and combat all forms of discrimination.

36. The Committee requested that specific information should be included in the State Party's next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow-up on the Declaration and Programme of Action adopted at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, also taking into account the Committee's General Comment No. 1 on the aims of education of 2001 (CRC/GC/2001/1).

37. In compliance with the Committee's recommendation requiring the State Party to continue revising all its legislation in order to bring it in full compliance with article 2 of the Convention, the State Party has completed the said review, which culminated in the enactment of the Law of the Child Act in 2009 for Tanzania Mainland and the Children's Act in 2011 for Zanzibar. As stated in Part A (Common Core Document) of these consolidated reports, both pieces of legislation has complied with the provisions of Article 2 of the Convention that prohibits discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.¹²¹

38. In addition, both constitutions – i.e. the Constitution of the United Republic of Tanzania (1977) and the Constitution of Zanzibar (1984) – have specific provisions that comply with Article 2 of the Convention.¹²² This constitutional framework makes it mandatory for all laws enacted in the State Party to comply with the no-discrimination principle contained in Article 2 of the Convention. Where any law is contrary to this principle, the High Courts of Tanzania and Zanzibar has power to declare the said law to be unconstitutional for being repugnant to the said constitutional provisions.

¹²¹ See particularly section 5 of the Law of the Child Act (2009) and section 6 of the Zanzibar Children's Act (2011).

¹²² See particularly Article 12 of the Constitution of Zanzibar (1984); and Article 13 of the Constitution of the United Republic of Tanzania (1977).

39. In translating the foregoing constitutional and statutory provisions protecting the principle of non-discrimination as set out in Article 2 of the Convention into practice, the State Party to play a leading role in eradicating discrimination against children based on any of the enlisted grounds in all spheres of life. For instance, the State Party has ensured that there is no discrimination in school enrolment at all levels of schooling for children; and, as such, no case has been reported to that effect during the period under report. Also, for refugee children, the State Party facilitated the established and supply of social services such as health and education to children in refugee camps in collaboration with the United Nations Human Commission for Refugees (UNHCR). In this regard, the State Party has ensured that the provision of social amenities to is carried out on equal footing to all children, including refugee children living in camps.

40. In addition, the State Party has increased the number of inclusive education schools, which give children with disabilities opportunity to interact with other children; hence they help in decreasing the level of stigma and discrimination of children with disabilities. However, this goes together with recruiting teacher with qualification for this purpose. In Zanzibar, all children who have special education needs (which include children with disabilities) access education on the basis of inclusive education. In the Zanzibar Ministry of Education and Vocational Training the State Party, through the Special Education Unit, has increased the number of inclusive education schools up to 86. In addition, the number of students has increased from 450 in 2005 to 3,883 in 2011 and the number of teachers, who have been trained on sign language and “Braille”, has increased from up to 2,390 in 2011. In order to further institutionalize this undertaking in Zanzibar, the State Party is currently developing an Inclusive Education Policy in collaboration with different stakeholders (both state and non-state partners).

41. Furthermore, in Zanzibar the Spinsters, Widows and Female Divorcee Protection Act (1985) was repealed and replaced by Spinsters and Single Parent Children Protection Act of 2005, which allows pregnant girls to return to school after giving birth. In realising this end without harming the girl both socially and psychologically, the girl is given an opportunity to choose a school of her choice to which she can resume her studies to the very end. Previously, the Spinsters, Widows and Female Divorcee Protection Act (1985) made it an offence for a girl to be impregnated while in school; and such girl found pregnant whilst at school was consequently expelled from school.

42. The State Party has taken various measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow-up on the Declaration and Programme of Action adopted at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, also taking into account the Committee’s general comment No. 1 on the aims of education of 2001 (CRC/GC/2001/1). These measures include incorporating in the Law of the Child Act, the Persons with Disabilities Act and the Zanzibar Children’s Act provisions that prohibit discrimination of children in all aspects concerning them.

3.2 Best Interests of the Child (Art. 3).

43. Although the Committee did not make any recommendation in respect of the State Party's implementation of the principle of the best interests of the child, the State Party has adopted and undertaken several measures to address and implement this principle in line with paragraphs 23-25 of the Treaty-specific Guidelines regarding the Form and Content of Periodic Reports submitted to the Committee under Article 44(1)(b) of the Convention. These measures have also been addressed and invoked in legislative, administrative and judicial decisions.

44. Legislatively, the State Party has enacted specific provisions recognizing and protecting the best interests of the child in the Law of the Child Act and the Zanzibar Children's Act. In particular, section 4(2) of the Law of the Child Act (2009) requires the best interest of the child to be a primary consideration in all actions concerning a child whether undertaken by public or private social welfare institutions, courts or administrative bodies. In a more elaborative manner, section 4 of the Zanzibar's Children Act (2011) sets out factors to be taken into account in determining the best interests of the child, including the nature of the personal relationship between the child and the parents, or any specific parent; and the child and any other care-giver or person relevant in those circumstances. Another factor is the attitude of the parents, or any specific parent, towards the child; and the exercise of parental responsibilities and rights in respect of the child; and the capacity of the parents, or any specific parent, or of any other care-giver or person, to provide for the needs of the child, including emotional and intellectual needs. It also insists on taking into account the likely effect on the child of any change in the child's circumstances, including the likely effect on the child of any separation from both or either of the parents; or any relative, or any other care-giver or person, with whom the child has been living. In addition, consideration should be put on the practical difficulty and expense of a child having contact with the parents, or any specific parent, and whether that difficulty or expense will substantially affect the child's right to maintain personal relations and direct contact with the parents, or any specific parent, on a regular basis. The section also enlists, as a paramount consideration in the best interests of the child, the need for the child to remain in the care of his parent, family and extended family; to maintain a connection with his family, extended family, culture or tradition; and not to be removed from his place of residence.

Other factors are the child's age, maturity and stage of development, sex, background and any other relevant characteristics of the child; the child's physical and emotional security and his intellectual, emotional, social and cultural development; any disability that a child may have; any chronic illness from which a child may suffer; the need for a child to be brought up within a stable family environment and, where this is not possible, in an environment resembling as closely as possible a caring family environment; and the need to protect the child from any physical or psychological harm that may be caused by subjecting the child to maltreatment, abuse, neglect, exploitation or degradation or exposing the child to violence or exploitation or other harmful behaviour.

45. Apart from being entrenched in the child-specific laws as set out above, the State Party has also embedded the principle of the best interests of the child in other laws that touch on children's welfare. For instance, in Zanzibar the State Party has also enshrined the principle in

the Spinsters and Single Parent Children Protection Act (2005), which allows pregnant girls to return to school after giving birth. The repealed law relating to impregnated school children formerly made it was an offence for a girl to be pregnant; but this legal position was omitted and replaced by the principle that in order to protect the impregnated girl's best interests, it is not important that she is allowed to return to school after giving birth and after lactation of the child as medically acceptable.

46. In Tanzania Mainland, section 125(2) of the Law of Marriage Act (1971)¹²³ states that the paramount consideration in granting custody of a child should be the *welfare of the child*. The phrase "the welfare of the child" has been defined within the confines of the best interests of the child principle enshrined in Article 3 of the Convention. The leading judicial decision to elaborate on this principle is *Ramesh Rajput v. Mrs S. Rajput*,¹²⁴ whereby the Court of Appeal of Tanzania held that the most important factor in custody proceedings is the *welfare of the child*; and that an infant child of two years should be with the mother; unless there are very strong reasons to the contrary. This decision has been authoritatively applied by courts in the State Party, including in *Halima Kahema v. Jayantilal G. Karia*,¹²⁵ and in *Pulcheria Pundugu v. Samuel Huma Pundugu*¹²⁶ where the High Court of Tanzania held that: 'In deciding in whose custody an infant should be placed the Court is required (under section 125(2) of the Law of Marriage Act) to take into account the paramount consideration regarding the welfare of the infants.'

47. The welfare principle in determining custody of children of marriage was given weight in *Gertrude B. Mwombera v. Elias John Anyandwile*.¹²⁷ In this case, the trial magistrate had refused to give custody of the issues of marriage to the appellant (mother) solely on ground that she was economically incapacitated. On this finding, Kimaro, J. (as she then was) was of the view that: 'Regarding the question of custody of children it was wrong for the trial magistrate to put into consideration the economic ability of the parties as a primary factor in determining the issue of custody.' The Court was of the further view that: 'According to section 125 of the Law of Marriage Act, 1971, *what becomes a paramount consideration is the welfare of the children: under whose custody will the child progress well in terms of care, love and affection, needs, etc.* The mere fact that a spouse has no formal employment is not conclusive that she/he is unsuitable to have custody of the children. *The totality of all matters which go with the welfare principle should be taken into consideration before a magistrate makes a determination on who should be given custody of the issues of the marriage.* [Emphasis supplied]'

3.3. The Right to Life, Survival and Development (Art. 6)

48. Although the Committee, in its previous Concluding Observations, did not make any specific recommendation on the right to life, survival and development, the State Party has undertaken legislative, judicial and administrative measures to ensure that this rights is

¹²³ Cap. 29 R.E. 2002.

¹²⁴ [1988] TLR 96.

¹²⁵ [1987] TLR 147.

¹²⁶ [1985] TLR 7.

¹²⁷ High Court of Tanzania at Dar es Salaam, Civil Appeal No. 6 of 2001 (unreported).

effectively implemented in its jurisdiction. The State Party believes that the right to life, survival and development is vital to all human beings in the enjoyment of other human rights. It is in this context that the State Party has enacted the right to life in its two Constitutions: i.e. Article 13 of the Constitution of Zanzibar (1984) and Article 12 of the Constitution of the United Republic of Tanzania (1977). Based on this constitutional foundation, both the Zanzibar Penal Act (2004) and the Tanzania Mainland's Penal Code prohibit death penalty to be imposed on children. This means legally that under the State Party's penal system even if a child is found guilty of capital offence, which would require capital sentence to be imposed such as death penalty had the offender been an adult, such child will not be subject to such sentence.

49. Administratively, the State Party has devised and implemented a number projects, programmes and services, which have an impact to children's right to life, survival and development. These include, in Zanzibar, Young Child Survival Protection and Development (YCSPD); Integrated Management of Child Illness (IMCI); Expanded Programme on Immunization (EPI); Community Based Rehabilitation (CBR); Prevention of Mother to Child Transmission Programme (PMTCT); Nutrition Programme, Reproductive Child Health (RCH); and the Zanzibar Basic Education Improvement Programme (ZABEIP).

3.4 Respect for the Views of the Child (Art. 12)

50. In its previous Concluding Observations, the Committee recommended that the State Party should strengthen its efforts to ensure that children's views are given due consideration in the family, schools, courts, and other relevant administrative and non-administrative settings, in accordance with article 12 of the Convention. It also recommended that the State Party should formalize structures of participation for children and young people; and, in particular, that it provides support to the Junior Council, so that the Council can function effectively as the nationally representative body for children. It further recommended that the State Party develop strategies to reach the most marginalized groups of children with necessary information, and that it involve them in public debates, by working with all stakeholders particularly at local level.

51. In compliance with the foregoing recommendations, the State Party has retained its constitutional guarantee of the right to freedom of expression in its two Constitutions: that is, Article 18 of the Constitution of the United Republic of Tanzania and in the Zanzibar Constitution. The foregoing constitutional guarantee of the principle to respect the views of the child has also been translated into statutory obligation by the State Party. In this context, the Zanzibar Children's Act (2011), in section 5, requires the State Party to ensure that 'views expressed by the child may be given due consideration.' In terms of section 11 of the Law of the Child Act (2009), a child has the 'right of opinion and no person shall deprive a child capable of forming views the right to express an opinion, to be listened to and to participate in decisions which affect his well-being.'

52. The State Party has thus established children councils in every municipal, which are represented in the National Children Council. Representation in these councils comes from different groups of children in the State Party, including children with albinism; children from marginalized sections of society; children with disabilities; children attending and those not attending schools, etc. The State Party has also ensured that every primary school and secondary school has a children's clubs.

53. In addition, the State Party has ensured that children rights committee or clubs are formed and functioning in Tanzania Mainland so as to bring together children at various places in the State Party to discuss different issues pertaining to their life and deliberation from their meetings to be submitted to school committee for adoption. The State Party has also developed community-based family manuals for training parents to give their children chances to express their views on their rights. Further, the State Party has set up steering and technical committee purposely to spearhead the functions of children councils and tools have been developed for training parents, service providers and training the children themselves to understand their rights and how to claim them.

54. The state party has created opportunities for the children to use the public media, especially Radio and Television, to air out their views to the public. For example, the State Party, through the Tanzania Broadcasting Corporation (TBC) in collaboration with Plan International, runs a children's program known as "*Jukwaa la Watoto*" (Children's Platform). This program has been engaging children in communities and schools to identify and express their concerns on such issues as child neglect, sexual abuse, child labour, birth registration, early pregnancies, domestic violence, HIV/AIDS, protection of children with disabilities, killing of children with albinism, female genital mutilation/cut (FGM) and other harmful cultural practices. Children also use this platform to call upon duty bearers at homes, communities, district and national levels to play their due roles in fulfilling the rights of all children. The program is broadcasted six times a month on television and radio, and its coverage reaches the whole country.

55. In respect of Zanzibar, the State Party has established about 130 Children Councils in all districts in Unguja and Pemba where children above the age of 15 years have an opportunity to participate in the councils. In the councils children and youths are free to discuss issues affecting their life. These councils retain a formal structure for children and young persons to come together to discuss issues of common interests to them and the nation. Through these councils, children have participated in preparation of the National Child Status Reports in 2010 and 2011. These reports are annually submitted to the House of Representatives for consideration on the 16th June, which is the Day of the African Child (DAC). In order to give children's views a high priority, these reports normally contain a second party setting out the children's own report, which merged into National Child Status Report.

56. In the drafting processes of the Law of the Child Act in Tanzania mainland and the Children's Act in Zanzibar, the State Party also ensured that children were adequately consulted and fully participated in giving their views concerning the the proposed laws.¹²⁸

4.0 CIVIL RIGHTS AND FREEDOMS

(Articles 7; 8; 13-17; and 37 (a) of the Convention)

¹²⁸ See particularly Revolutionary Government of Zanzibar, *Capturing Children's Views on the Children's Bill 2010*. Zanzibar: Ministry of Social Welfare, Youth, Women and Children/Save the Children, 2011. This report was prepared in the context of the National Child Consultation Programme in Zanzibar).

4.1 Birth Registration, Name, Nationality (Art. 7) and Preservation of the Child's Identity (Art. 8)

57. In its previous Concluding Observations, the Committee recommended, in the light of article 7 of the Convention, that the State party should implement an efficient birth registration system that covers its territory fully, including through: (a) ensuring birth registration free of charge; (b) introducing mobile birth registration units in order to reach the remote areas; (c) taking appropriate measures to register those who have not been registered at birth; and (d) formalizing links between various service delivery structures and promoting awareness and appreciation of the importance of birth registration through mass campaigns that provide information on the procedure of birth registration, including the rights and entitlements derived from the registration, through, *inter alia*, television, radio and printed materials.

58. In compliance with the foregoing Committee recommendation, the State Party has undertaken a number of legislative, judicial and administrative measures to ensure that it complies with Article 7 of the Convention. In this context, the State party, through the Zanzibar House of Representatives, has enacted the Birth and Death Registration Act in 2006 that, *inter alia*, requires a child to be registered within 42 days after birth. The Zanzibar Children's Act (2011) also has provisions which require a child to be registered immediately after birth and compel health authority or any other relevant agency for birth registration to assist in child registration. This is, in particular, provided in section 8 (1) of the Children's Act, which states that: 'Subject to the provisions of the Birth and Death Registration Act, No. 10 of 2006 every child shall be registered upon birth.' Subsection (2) of this section provides that: 'The health authorities and any other relevant person or agency shall co-operate with the Registrar of birth in measures to secure the registration of all births.'

59. In Zanzibar, the State Party has established birth registration offices at districts levels to implement the foregoing statutory provisions. In this regard, *Shehia* offices have been provided with birth registration forms to help in the birth registration process for children who are normally born out of health facilities. For those children born in hospitals they receive notification cards for registration from the health facilities in which they are born, which are then submitted to the Registrar of Birth and Death for issuance of birth certificates.

60. In Mainland Tanzania, the State Party has continued to implement the Births and Deaths Registration Act,¹²⁹ which provides, in section 11, that: 'it shall be the duty of the father and mother, and, in default of the father and mother, of the occupier of the house in which to his knowledge such child is born, and of each person present at the birth, and of the person having charge of such child, to register the birth within three months of the birth.' With the enactment of the Law of the Child Act in 2009, the State Party has widened the scope of the application of this provision to include the child's right to a name, nationality and to know his biological parents and extended family.¹³⁰ It has also extended this principle to include prohibition on a person to deprive a child of the right to a name, nationality and to know his

¹²⁹ Cap. 108 R.E. 2002.

¹³⁰ Section 6(1) of the Law of the Child Act (2009).

biological parents and members of extended family subject to the provisions of any other written laws.¹³¹ The Law of the Child has also reaffirmed the principle that: ‘Each parent or guardian shall be responsible for the registration of the birth of his child to the Registrar-General.’¹³²

61. In translating the foregoing statutory provisions into action, the State Party has, in respect of Tanzania Mainland, designated the Registration, Insolvency and Trusteeship Agency (RITA) to deal with registration and issuance of birth certificates in Tanzania Mainland. Through RITA, the State Party has made birth registration free of charge in health facilities where children are born. However, the provision of free certificate is still a challenge to the State Party due to high-rocketing costs of production of the certificates and the distribution costs, particularly in rural areas. Nonetheless, RITA has been grappling with this challenge through a number of initiatives, all of which aiming at providing free birth certification to children. One of the strategic outcomes of the U5BRI¹³³ is reviewing the policy and framework governing civil registration in Tanzania including issues of births and deaths. The purpose of which is to allow for free certification for first issuance for all under five year olds for the period of the Initiative. Through this initiative certificates are proposed to be hand-written and issued instantly at the time of registration unlike the current situation whereby a notification is issued and then one has to go to the district office for a certificate.

62. The State Party has also designed catch-up campaigns model to serve also as mobile registration in Tanzania Mainland, which should go in tandem with addressing some of the institutional and systemic challenges that inhibit progress and coverage of birth registration. The Local Government Officers at the ward level do not have mandate to register children though this would have been easier for them if they were mandated. Therefore, RITA has developed a high level strategic framework which has laid the foundation for completely reforming the birth registration system with a view to establishing a new birth registration system; and, parallel to this, provide a reliable and efficient system that is capable of turning off the tap by enabling registrations to take place as close to those concerned as possible in time and at places where they occur. This is the Under Five National Birth Registration Strategy (U5NBRS) also referred to as Under Five Birth Registration Initiative (U5BRI).¹³⁴

63. Apart from the U5BRI, RITA has also come up with another strategy to address the issue of those who have not been registered and increase registration access; and, therefore, the implementation of what is called “6-18 Birth Registration Initiative”. This initiative aims at catching school-aged children to ensure that they are registered while at school at different stages where they can be caught, be it at enrolment stage or when they are already attending primary and/or secondary education; but hopefully before reaching higher learning stage. With this, again, RITA is working very closely with Local Government Authorities (LGA’s) under whose

¹³¹ Ibid. Section 6(2); and section 7 of the Zanzibar Children’s Act (2011).

¹³² Ibid. Section 6(3).

¹³³ U5BRI means: Under 5 Birth Registration Initiative.

¹³⁴ See United Republic of Tanzania, “The Costed Operational Plan for the Implementation of the U5NBRS.” Dar es Salaam: Ministry of Constitutional Affairs and Justice/RITA, July 2011.

administration all public schools are placed. In this arrangement RITA is assisted by heads of schools, teachers and education officers who are designated as assistant registrars in trying to bridge the human resources gap that currently faces RITA.

64. The State Party has also carried out awareness-raising campaigns and mobile registration service in 40 districts in Tanzania Mainland; whereby the campaigns have been successful as 361,667 people were registered. Currently, the DHS data of 2010 shows it is only 14% of the under-five who have been registered and 6.2% out of that have birth certificates. Therefore, RITA is vigorously working on its U5BRI which aims rising the percentage of registered under five children to reach 80% during the first five years of the initiative.

65. RITA has taken into consideration the issue of most vulnerable children (MVC) and given its due attention by registering and providing them with birth certificates as part of its plan to help them. As part of improving the registration system, RITA is scanning all its registers; and, so far, about 10 million copies have been scanned. It has also undertaken computerization the registration system in 5 pilot districts in Tanzania Mainland where the certificates are being issued through computers

66. The scaling up to the rest of the districts in Tanzania Mainland, however, has been a challenge to the State Party; until the review of the Birth Registration system is finalised. In order to mitigate this challenge, nonetheless, the State Party has regularly been formalizing links between various service delivery structures and promoting awareness and appreciation of the importance of birth registration through mass campaigns that provide information on the procedure of birth registration, including the rights and entitlements derived from the registration, through, *inter alia*, television, radio and printed materials. So far, RITA has established a National Sub-committee for Vital Registration to strengthen and institutionalize a functioning Vital Registration System in Tanzania through which birth registration services can be easily accessed and sustained.

4.2 Freedom of Expression and the Right to Seek, Receive and Impart Information (Art. 13)

67. In compliance with Article 13 of the Convention, which requires children to enjoy the right to freedom of expression, the State Party has retained express constitutional and statutory guarantees of this right. In case of Tanzania Mainland, the State Party amended Article 18 of the Constitution of the United Republic of Tanzania in 2005 and removed the claw-back clause that used to subject the right to freedom of expression to any law enacted by Parliament. Now the right to freedom of expression is absolute, and it requires that “every person” has:

- (a) the freedom of expressing one’s opinion and views;
- (b) the right to seek, to receive and impart information irrespective of national frontiers;
- (c) the freedom to communicate with others without being interfered in such communication; and
- (d) the right to be informed, at any time, of various events important to his or her life and other members of the community and about any other events important to the society around him or her.

Under the State Party's interpretation of laws, a person means any word or expression descriptive of a person and includes a public body, company, or association or body of persons, corporate or unincorporated,¹³⁵ and includes an adult, child or man and woman. So, the expression "every person" in Article 18 of the Constitution of the United Republic of Tanzania extends to children as well.

68. In Zanzibar, the Constitution of Zanzibar guarantees the right of expression, which entails respect for the view of the child. Statutorily, the State Party has enacted in section 11 of the Law of the Child Act the child's 'right opinion and no person shall deprive a child capable of forming views the right to express an opinion, to be listened to and to participate in decisions which affect his well-being.' A similar legal effect is also provided for in section 8 of the Zanzibar Children's Act (2011).

69. As to the administrative measures to ensure that the child's right of expression is guaranteed, the State Party has established in both Tanzania Mainland and Zanzibar ministries responsible for communication and transport, which have respective committees. These committees are responsible for issuing licences to private bodies that desire to provide communication services to the public including running of internet café. The committees have the duty to inspect and cancel licence to any private institution if such institution is found to have abused the licence, which include corrupting public morals through allowing access to restricted sites particularly so in respect of allowing children to access pornographic sites.

70. In addition, in both Mainland and Zanzibar there are ministries responsible for education and vocational training, which are responsible for providing and imparting vital information for the well-being of children through education syllabuses and other curricula aimed at making such children both responsible and productive adults. The State Party has, thus, carried out media programs throughout the country whereby media outlets – such as television, radios and newspapers public and private – air special programs that aim at imparting children with relevant information for their wellbeing. There are also children councils and clubs used by children to express their views. In addition, in detention facilities where children who have been deprived of their liberty are placed there are television sets and newspapers provided to children.

4.3 Freedom of Thought, Conscience and Religion (Art. 14)

71. The State Party is a secular state whereby its citizens are free to choose religion of their own choice without state intervention or coercion. Therefore, children residing in the State Party do normally belong to their parents' or guardians' religion; although they may change their childhood religion on their own volition upon attaining adulthood. In order to enable its citizens to enjoy their religious beliefs, the State has a constitutional duty to guarantee the right

¹³⁵ Section 4 of the Interpretation of Laws Act, Cap. 1 R.E. 2002. Under section 2(1), this law applies to Mainland Tanzania as well as to Tanzania Zanzibar in relation to all laws which apply throughout the United Republic of Tanzania.

of every citizen to profess religion of their choice.¹³⁶ This guarantee entails prohibition of insulting other people's religion as provided for in section 129 of the Penal Code¹³⁷, which provides that: 'Any person who, with the deliberate intention of wounding the religious feelings of any person, utters any word, or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, is guilty of a misdemeanour, and is liable to imprisonment for one year.'

This statutory provision was given due judicial consideration in the famous case of *Hamis Rajabu Dibagula v. R.*¹³⁸ In this case, the appellant was convicted by the District Court of Morogoro for uttering words with the intent to wound religious feelings of others. The District Court sentenced him to 18 months' imprisonment. While exercising revisional jurisdiction, the High Court set aside that sentence and substituted therefor such shorter sentence as was to result in the immediate release of the appellant from custody. The appeal in the Court of Appeal raised questions of considerable public importance concerning the limits of the right to freedom of religion, guaranteed under Article 19 of the Constitution of the United Republic of Tanzania (1977). The Court of Appeal held that the Constitution of the United Republic of Tanzania and other relevant laws oblige the people of this country to live together with mutual respect and tolerance of other's religious beliefs, which is one of the principal obligations of good citizenship.

72. Based on this constitutional foundation, the State Party has ensured that there is no religious segregation or discrimination to children in its territory. As such, children in the State Party enjoy the right to freedom of thought, conscience and religion of their parents or guardians, provided that such right does not injure the right of others to enjoy the same right.

4.4 Freedom of Association and Peaceful Assembly (Art. 15)

73. The State Party recognizes the fact that children have the right to freedom of association and peaceful assembly. In order to effectively guarantee this freedom, the State Party has constitutionalised it and it forms part of the enforceable parts of both the Zanzibar Constitution and the Constitution of the United Republic of Tanzania.¹³⁹ Through these constitutional provisions, "every person", including a child, has the freedom to associate with others and to peacefully assemble together with others with a view to publicly expressing their opinion or views. The only restriction in the two Constitutions is in relation to formation of political parties, whereby persons who decide to form a political party, should not have a cause that seeks to advance religious, ethnic or tribal or certain regional interests; or which seeks to disintegrate the United Republic of Tanzania; or that seeks to operate on only one part of the Union; or which does not allow periodic elections of its leadership.

¹³⁶ Article 19 of the Constitution of the United Republic of Tanzania (1977) and Article 19(1) of the Constitution of Zanzibar (1984).

¹³⁷ Cap. 16 R.E. 2002.

¹³⁸ (Criminal Appeal No. 53 of 2001) [2003] TZCA 1 (14 March 2003).

¹³⁹ Article 20 of the Constitution of the United Republic of Tanzania (1977).

74. In order to give these constitutional provisions a practical application, the State Party has also entrenched the child's freedom of association and peaceful assembly in that it has allowed the formation of junior and youth councils and children's and youth committees and clubs in schools and various social life circles, whereby children do associate and assemble to discuss matters concerning their well-being. [This matter is elaborated in item 3.4 (Respect for the Views of the Child (Art. 12)) above].

4.5 Protection of Privacy and Protection of Image (Art. 16)

75. The State Party recognizes the need for protecting the child's privacy and image as stipulated in Article 16 of the Convention. In compliance with this pre-requisite, both the Constitution of Zanzibar and the Constitution of the United Republic of Tanzania contain provisions that expressly protect the right to privacy and prohibits unlawful or arbitrary interference with a person's privacy, unless in furtherance of express legal requirement or in compliance with a lawful court order.¹⁴⁰

76. The constitutional provisions require the State Party to enact laws to provide effective procedure for interference with a personal's privacy, which should aim at safeguarding the privacy of an individual. In compliance with this constitutional requisite, the newly passed laws of the children contains the provisions that prohibit exposing the identity of the children who either is victim of abuse or who has come into conflict with the law; in that the State Party recognizes that any disposal of those children may lead to trauma which can affect their wellbeing in the future hence may not be confident and low self-esteem.

77. In particular, sections 33 and 48 of the Zanzibar Children's Act (2011) and Section 33 of the Law of the Child Act (2009) all prohibit publication of any information relating to children who has been accused or victim of any act. In a similar wording, subsections (2) of sections 33 of the two laws make it an offence to publish the prohibited information. Subsection (2) of section 33 of the Zanzibar Children's Act (2011) provides that: 'Any person who publishes information or a photograph contrary to this section commits an offence and upon conviction shall be liable to a fine not less than five hundred thousand shillings and not exceeding three million shillings or to imprisonment for a term not less six months and not exceeding two years or to both such a fine and imprisonment.' In addition, subsection (2) of section 33 of the Law of the Child Act (2009) provides that: 'Any person who publishes any information or photograph contrary to this section commits an offence and upon conviction shall be liable to a fine of not less than two million shillings and not more than fifteen million shillings or to imprisonment for a term not exceeding three years or to both.'

4.6 Access to information from diversity of sources and protection from material harmful to his or her well-being (Art. 17)

78. The State Party recognises the importance of mass media in assisting children to access information and materials from a diversity of national and international sources, particularly

¹⁴⁰ See particularly Constitution of Zanzibar and Article 16 of the Constitution of the United Republic of Tanzania.

those which help the promotion of the child's social, moral and spiritual well-being and physical and mental health as provided for under Article 17 of the Convention. In translating this principle into reality, the State Party has institutionalized the mechanism of enabling children to obtain information through different ways, one of which being the development of a project which allows teachers and children in schools to read newspapers and discuss the topics of interest. The government has also initiated a project which provides services in relation to enhancing children's access to information to primary school students in 15 out of 135 districts by opening libraries and supplying various books which enable students to widen their mental horizon and enrich knowledge. In collaboration with stakeholders, such as Plan and SNV, the State Party has undertaken initiatives in some districts, such as in Mwanza Region in Nyamagana and Ilemela Districts, to enable school children to have access to read newspapers and discuss issues arising in the same newspapers.

79. In compliance with the requirement of Article 17(e) of the Convention, the State Party, through the provisions of section 110(2) of the Zanzibar Children's Act (2011), *inter alia*, has protected the children from accessing pornographic information and materials that are injurious or harmful to the child's well-being. This law makes it an offence (a) to possess, for any purpose, or to access through the internet or any other communications technology, child pornography; or (b) to produce, distribute, disseminate, including through the internet, import, export, offer, advertise or sell child pornography. In terms of subsection (5) of section 110 of the Zanzibar Children's Act, any person who contravenes the provisions of this section 'commits an offence and shall on conviction be liable to a fine not less than five million and not exceeding fifteen million shillings or to imprisonment for a term not less than five years and not exceeding ten years or to both such a fine and imprisonment.'

80. In order to ensure that the provisions of Article 17 of the Convention applies effectively, the State Party has ensured that, through the ministries responsible for communication (both in Zanzibar and Tanzania Mainland), all service providers of internet services, including internet café, must comply with requirements and guidelines issued by committees dealing with communication. Among other things, the guidelines do not allow children to have access to pornographic materials. Also the Ministry of Information, Youth and Sports in Mainland and the Ministry of Information, Culture, Tourism and Sport in Zanzibar have established aimed at protecting children from cultures and information which is harmful to them. Furthermore, the State Party has established a Censorship Board in Zanzibar, which is mandated to edit and give remarks to films imported into the country. The Board also has power to evaluate any artwork either poem or music before released to the public with a view to prohibiting the distribution of injurious art materials to the public, particularly children.

5.8 Corporal Punishment

81. Taking into account its General Comment No. 1 on the aims of education (CRC/GC/2001/1) and General Comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/GC/2006/8), the Committee urged the State party:

- (a) To explicitly prohibit all forms of corporal punishment in the family, schools, the penal system and other institutional settings and alternative-care systems, as a matter of priority;
- (b) To sensitize and educate parents, guardians and professionals working with and for children, by carrying out public educational campaigns about the harmful impact of corporal punishment; and
- (c) To promote positive, non-violent forms of discipline as an alternative to corporal punishment.

82. The State Party recognises and has constitutionalised a person's right to dignity.¹⁴¹ On the basis of this constitutional guarantee, the State Party has enacted, in section 13(1) of the Law of the Child Act and in section 14(1) of the Zanzibar Children's Act, provisions prohibiting subjecting a child 'to torture, or other cruel, inhuman punishment or degrading treatment'¹⁴² including any cultural practice which dehumanizes or is injurious to the physical and mental well-being of a child.' Based on the justified cultural practices in the State Party, subsection (2) of section 14 of the Zanzibar Children's Act allows parents to discipline their children 'in such a manner which shall not amount to injury to the child's physical and mental well-being.' In terms of subsection (2) of section 13 of the Law of the Child Act: 'No correction of a child is justifiable which is unreasonable in kind or in degree according to the age, physical and mental condition of the child and no correction is justifiable if the child is by reason of tender age or otherwise incapable of understanding the purpose of the correction.'

83. Basing on the foregoing provisions, the State Party deems justifiable the application of caning of unruly students in schools as falling outside the scope of corporal punishment; and it has regulated the application of the punishment in schools in order for it not to amount to degrading or inhuman treatment of misbehaving pupils in schools. Corporal punishment remains lawful in schools in Tanzania Mainland by virtue of provisions of the Education (Corporal Punishment) Regulations (1979)¹⁴³ made pursuant to section 60 of the Education Act (1978)¹⁴⁴, which authorises the minister to make regulations "to provide for and control the administration of corporal punishment in schools". Under these Regulations, "corporal punishment" means 'punishment by striking a pupil on his hand or on his normally clothed buttocks with a light, flexible stick but excludes striking a child with any other instrument or on any other part of the body.'

84. According to Regulation 3(1) of the Education (Corporal Punishment) Regulations, corporal punishment 'may be administered for serious breaches of school discipline or for grave offences committed whether inside or outside the school which are deemed by the school

¹⁴¹ See particularly Article 12 of the Constitution of the United Republic.

¹⁴² According to subsection (3) of section 13 of the Law of the Child Act, the term "degrading treatment" as used in this section 'means an act done to a child with the intention of humiliating or lowering his dignity.'

¹⁴³ G.N. No. 294 of 2002.

¹⁴⁴ Cap. 353 R.E. 2002.

authority to have brought or are capable of bringing the school into disrepute.’ In this context, paragraph (2) of Regulation 3 requires corporal punishment to ‘be reasonable having regard to the gravity of the offence, age, sex and health of the pupils and shall not exceed four strokes on any occasion.’ In order to check any possible abuse of corporal punishment, as a disciplinary against truant pupils in schools, the State Party has ensured, through Regulation 4(1) of these Regulations, that the head of school should have the discretion to administer corporal punishment. Where the head of school wishes to delegate this duty to another teacher, such delegation must be ‘in writing to a carefully selected member of his teaching staff provided that the authorised member of staff may act only with the approval of the head of the school on each occasion when corporal punishment is administered.’

85. Another safeguard the State Party has enacted in paragraph (2) of Regulation of Education (Corporal Punishment) Regulations is the mandatory requirement that a female pupil may only receive corporal punishment from a female teacher; except where there is no female teacher at the school in which case the head of school may himself administer corporal punishment or authorise in writing a male teacher to administer corporal punishment. A further safeguard is enacted in Regulation 5(1), which provides that: ‘On every occasion when corporal punishment is administered it shall be recorded in writing in a book kept for this purpose and such record shall state in each instance the name of the pupil, the offence or breach of discipline, the number of strokes and the name of the teacher who administered the punishment.’ Under subsection (2) of this Regulation: ‘Every entry in the book shall be made and signed by the head of the school.’

Where the administration of corporal punishment is violated, the State Party has made mandatory for taking disciplinary action against a head of school or school authority under the Teachers Service Commission Act (1989).¹⁴⁵

86. In Zanzibar, the Ministry of Education has adopted a policy against corporal punishment in schools, but it remains lawful under the 1982 Education Act. The Ministry of Education and Vocational Training in collaboration with Save the Children established programme named “Promoting Alternative forms of Discipline in Schools in Zanzibar”. The project established in 2010 working with 10 pilot schools in Unguja and Pemba (1 school per district). Its main aim is to ensure that corporal punishment is banned in schools by sensitizing teachers as well as parents to use alternative forms of discipline instead of corporal punishment. All public primary schools in Zanzibar have now at least one teacher who has been trained on the use of alternative forms of discipline.

5.0 FAMILY ENVIRONMENT AND ALTERNATIVE CARE

(Articles 5; 18 (paras. 1-2); 9-11; 19-21; 25; 27(para. 4); and 39 of the Convention)

¹⁴⁵ Regulation 7 of the Education (Corporal Punishment) Regulations.

5.1 Family Environment and Parental Guidance (Art. 5)

87. In its previous Concluding Observations, the Committee recommended that the State Party should undertake the necessary measures to fully implement the National Guidelines for the Care and Protection of Orphans and Vulnerable Children. The Committee reiterated its recommendation (see CRC/C/15/Add.156, para. 41) that the State Party should continue and strengthen its efforts to allocate appropriate human and financial resources to ensure the provision of adequate care and protection to children deprived of a family.

88. During the period of reporting, the State Party implemented the provisions of Article 5 of the Convention relating to family environment and parental guidance; which was also in compliance with the foregoing Committee recommendation. During this period the State Party enacted specific provisions in the Law of the Child Act for Mainland and the Children's Act for Zanzibar, which both require that a child should basically be raised within the family environment. Both laws provide that every parent should be responsible to care and protect the children. In case the biological parents of a child are deceased, parental responsibility may be passed to a relative of either parent or a custodian by way of court order or any traditional arrangement¹⁴⁶.

89. Likewise, the Child Development Policy (2008) for Mainland and Child Survival, Protection and Development Policy (2001) for Zanzibar clearly set out responsibilities of parents in caring, guiding and protecting the child. In addition, In MKUZA II, Cluster II (Social Wellbeing and Quality Social Services), under 2.6, strives to improve safety nets and social protection for the poor and vulnerable groups, which include children. The cluster outlines strategies and intervention packages which address the issue of family environment and parental guidance or responsibilities in the upbringing of children, which includes provision of support to poor families and households to provide care and protection to the children under their care, target safety nets and transfers for vulnerable pregnant women and children.¹⁴⁷

90. In addition, the State Party initiated an intervention for Most Vulnerable Children (MVC) in light of concerns about the growing number of children orphaned as a result of HIV/AIDS. In this perspective, there are programmes now that provide support for all children who are considered to be most venerable, in order to avoid stigma as associated with the identification MVC with HIV/AIDS and because a large proportion of MVC are not Orphans but rather children in destitute conditions. These programmes are being undertaken as an alternative to family environment to MVC in the context of the Law of the Child Act and the Zanzibar Children's Act.

5.2 Parents' Common Responsibilities, Assistance to Parents and Provision of Childcare Services (Art. 18)

91. During the reporting period, State Party has complied with the Article 18 of the Convention regarding to parents' common responsibilities for the upbringing and development of the child. This is stipulated in Section 8 and 16 of the Law of the Child Act (2009) for Mainland and Section 10 of the Zanzibar Children's Act (2011) where the State Party ensures that parents

¹⁴⁶ Section 9(1)–(4) of the Law of the Child Act (2009) and Section 12(1)–(3) of the Zanzibar Children's Act (2011).

¹⁴⁷ Revolutionary Government of Zanzibar, *Mkakati wa Kukuza Uchumi Zanzibar (MKUZA II)*, Goal 2.6.

have a common responsibility for taking care and protection of a child through provision of food, shelter, clothing, education, medical care, liberty and right to play and leisure. Both laws provide that every parent or person legally responsible for a child shall have the duty to ensure that the best interests of the child are his basic concern at all times¹⁴⁸. In case of need to provide material assistance and support programmes, the State Party has a duty to safeguard and promote the welfare of the child within its area of jurisdiction¹⁴⁹.

92. The Child Development Policy (2008) for Mainland and Child Survival Protection and Development Policy (2001) for Zanzibar set out the responsibility of the State Party in preparing, managing and implementing laws, regulations and guidelines related to welfare, development and the rights of the child and coordinating its implementation at family, community and district levels.

93. The State Party has prepared the Integrated Early Childhood Development (IECD) Policy. This final draft policy has been circulated to various stakeholders and now it has been submitted to Government authority for approval. Besides, the IECD Operational Guideline and Minimum Standards, the IECD Facilitator's Guideline, the IECD In-Service Training Modules and Guidelines for Care Givers and Pre-Primary Education Teachers, the IECD Playing/Teaching Materials Guide and the IECD advocacy materials have been developed and approved ready for printing and dissemination. Radio and Television Programmes are already being used to promote this aspect. The IECD Child Rights Curriculum is already in use whereas the IECD Regulations for Management of Day Care Centres and the IECD Assessment, Monitoring and Evaluation Framework are in the final stages of development and approval.

94. According to the MVC database, the National Costed Plan of Action (NCPA) has now extended to at least one ward in 62 districts of the Mainland, 410,000. MVC have been identified through the standard identification process, and, of these children, 160,000 are receiving some form of support. Nonetheless, these numbers represent a small proportion of the estimated one million MVC in Mainland¹⁵⁰.

5.3 Separation from Parents (Art. 9)

95. During the period of reporting, the State Party continued to implement Article 9 of the Convention, which requires that States Parties should ensure that a child is not separated from his or parents against their will, except where competent authorities subject to judicial review so determine, in accordance with applicable law and procedure, that such separation is necessary for the best interests of the child. In case there is a circumstance that may cause separation from their parents, best interests of the child will be considered. This will be done by competent authorities subject to judicial review that will determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Both Law of the Child Act, 2009 for Mainland and the Children's Act for Zanzibar, 2011 for Zanzibar provide that,

¹⁴⁸ Section 9 (3) of the Law of the Child Act (2009) and Section 12 (2) of the Zanzibar Children's Act (2011).

¹⁴⁹ Section 94 of the Law of the Child Act (2009) and Section 10 (3) of the Zanzibar Children's Act (2011).

¹⁵⁰ United Republic of Tanzania, *A Joint Report on Childhood Poverty in Tanzania: Deprivations and Disparities in Child Well-Being*. Dar es Salaam: REPOA, NBS and UNICEF, 2009.

where the parents of a child are separated or divorced, a child shall have a right to maintenance and education of the quality he or she enjoyed immediately before his parents were separated or divorced; live with the parent who, in the opinion of the court, is most capable of securing the child's best interests; and access to the other parent, in which case both parents have mutual responsibility to secure such access, unless the court specifies to the contrary.¹⁵¹

96. According to section 9(3) of the Zanzibar Children's Act, where a Children's Court determines that it is in the best interests of a child to separate him from his parents, the best substitute care available shall be provided for the child. As such, it the law in Zanzibar that a child who is separated from his parents shall have the right to maintain personal relations and direct contact with both parents on a regular basis, except when this is not in the best interests of the child.¹⁵² There is a rebuttable presumption under the State Party's legal system that a child under seven years has to stay with the mother until s/he attains the age of seven years,¹⁵³ although the Court must have regard to the undesirability of disturbing the life of the child by changes of custody.¹⁵⁴ Under the Law of the Child Act, one of the paramount considerations for granting the order of custody of the child when parents are separated is '*the best interest of the child* and the importance of the child being with his mother.'¹⁵⁵ In addition to this paramount consideration, the court must also consider the following factors: (a) the rights of the child under section 26 [of the LCA]; (b) the age and sex of the child; (c) that it is preferable for a child to be with his parents except if his rights are persistently being abused by his parents; (d) the views of the child, if the views have been independently given; (e) that it is desirable to keep siblings together; (f) the need for continuity in the care and control of the child; and (g) any other matter that the court may consider relevant.¹⁵⁶

97. On its part, the Law of Marriage Act (the Act) states that the paramount consideration in granting custody of a child should be *the welfare of the child*. Besides, the court shall have regard to: (a) the wishes of the parents of the child; (b) the wishes of the child, where he or she is of an age to express an independent opinion; and (c) the customs of the community to which the parties belong.¹⁵⁷

98. In compliance with the provisions of paragraph (2) of Article 9 of the Convention, both the Law of the Child Act and the Zanzibar Children's Act give an opportunity to all interested parties to participate in proceedings relating to separation of a child from his or her parents. The

¹⁵¹ Section 9 of the Zanzibar Children's Act and section 26 of the Law of the Child Act.

¹⁵² Section 9(4) of the Zanzibar Children's Act.

¹⁵³ Section 125(2) of the Act and Section 26 of the Law of the Child Act (2009). See also *Lugembe John v. Milembe Nyanda*, High Court of Tanzania at Tabora, Matrimonial Civil Appeal No. 2 of 1998 (unreported).

¹⁵⁴ Section 26(2) of the Law of the Child Act.

¹⁵⁵ See section 39(1) of the Law of the Child Act.

¹⁵⁶ *Ibid*, section 39(2).

¹⁵⁷ See section 125 (2) of the Law of Marriage Act.

interested parties are also allowed to make their views known and are considered by the court in making the order for separation.¹⁵⁸

5.4 Family Reunification (Art. 10)

99. The State Party continued to implement Article 10 of the Convention concerning reunification of children living a different country from that of their parents. The State Party continued to implement the National Refugee Policy (2003), which covers various aspects of the management of refugee matters in Tanzania; and the Refugees Act (1998)¹⁵⁹. This law protects the interest of the child through various provisions. In particular, section 35 of the Refugees Act sets out the right of family reunion and the procedure to be followed to achieve this end. The procedure for reunion is provided in subsection (1) of this section as follows:

- (1) A recognised refugee resident in Tanzania who wishes to join or to be joined by any member of his family outside or within Tanzania respectively shall make application for a family re-union to the Minister through the UNHCR or the Director who shall submit the application to the Committee which shall recommend to the Minister whether to allow the family re-union or not, provided that such family re-union shall not take place before permission is granted under this section. Failure to abide to this provision shall be an offence under this Act.

Under subsection (2) there is an appeal mechanism for a person affected or aggrieved person by the decision of the Minister refusing or granting family re-union, who may file a petition for review to the Minister.

100. In addition, subsection (3) of section 35 of the Refugee Act requires that where there is disunity in the family of a refugee as a result of divorce, separation, death, etc., any member of that family 'may remain in Tanzania and shall have to apply within a maximum period of 2 years from the time of disunity of the family for the acquisition of the refugee status on his own right or for a legalization of the residence in Tanzania under the Immigration Act ¹⁶⁰, failure of which shall be an offence under this Act.'

5.5 Recovery of Maintenance for the Child (Art. 27, para. 4)

101. During the period of reporting the State Party has taken appropriate measures with regard to the implementation of the Article 27 (para. 4) of the Convention, which requires States Parties 'to take appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad.' The State Party has complied with this provision by enacting specific provisions on this subject in the Law of the Child Act and the Zanzibar Children's Act. Section 42(2) of the Law of the Child Act and section 64(2) of the Zanzibar Children's Act provide,

¹⁵⁸ See particularly sections 28, 29, 34, 37 of the Law of the Child Act and sections 23, 24 and 25 of the Zanzibar Children's Act.

¹⁵⁹ Cap. 37 R.E. 2002.

¹⁶⁰ Cap. 54 R.E. 2002.

mutatis mutandis, that an application for maintenance ‘may be made against any person who is eligible to maintain the child or contribute towards the welfare and maintenance of the child.’

5.6 Children Deprived of a Family Environment (Art. 20)

102. In its efforts to implement Article 20 of the Convention, the State Party has established special protection and assistance to a child temporarily or permanently deprived of his or her family environment or who, in his or her best interests, cannot be allowed to remain in that environment. This has been done through the enactment of specific provisions to facilitate this aspect. For instance, according to section 37(3) of the Law of the Child Act, the court may, at any time, revoke the grant of custody to one person and grant the custody to another, approved residential home or an institution, as it may deem necessary. According to section 9(3) of the Zanzibar Children’s Act, where a Children’s Court ‘determines that it is in the best interests of a child to separate him from his parents, the best substitute care available shall be provided for the child.’

103. In compliance with paragraph (3) of Article 20 of the Convention, the State Party has set out in the two child laws such alternative or substitute care as foster placement¹⁶¹; *kafalah* in the context of Islamic law applicable in Zanzibar¹⁶², adoption¹⁶³ and placement in suitable institutions¹⁶⁴ for the care of children who have been deprived of a family environment.

104. In addition, the Children Survival Protection and Development Policy (2001) is being reviewed to accommodate children issues that are in the current Zanzibar Children’s Act. The State Party is also developing an implementation plan of the Children’s Act in Zanzibar; and where there is also the National Guidelines for the Protection and Welfare of Children in Zanzibar of 2011. These National Guidelines are among the efforts towards building a national system for the protection of children. They offer procedure on how to deal with children deprived of their family environment. Through these guidelines members of the community are required to understand that the Social Welfare Department in Zanzibar, through its Child Protection Unit (CPU), has the role of conducting an assessment with regard to those children who really need full support (to be raised in Orphanage Centres). The guidelines support the provisions of the Zanzibar Children’s Act.

5.7 Periodic Review of Placement (Art. 25)

105. In its implementation of Article 25 of the Convention, the State Party recognizes the right of a child who has been placed by the competent authorities for the purpose of care, protection or treatment of his/her physical or mental health to periodic review of the treatment provided and all other circumstances relevant to his/her placement. In this regard, section 124(1) of the Zanzibar Children’s Act imposes onto the minister responsible for children’s affairs

¹⁶¹ Part IV (Sections 27-33) of the Law of the Child Act; and Part 7 (Sections 72-74) of the Zanzibar Children’s Act.

¹⁶² Section 75 of the Zanzibar Children’s Act.

¹⁶³ Sections 76-96 of the Zanzibar Children’s Act; and Part VI (Sections 52-76) of the Law of the Child Act.

¹⁶⁴ Sections 133-146 of the Law of the Child Act; and Part 12 (Sections 123-134) of the Zanzibar Children’s Act.

the duty, which can be delegated to any person within the public service¹⁶⁵, to: (a) secure the effective administration of any residential establishment for children that has been established by the Government under section 123(2), and (b) monitor the administration of any residential establishment approved under section 123(3). This duty aims at promoting the children's well-being, integration with their peers and the community and their full development, particularly as regards their education and health.

106. In Zanzibar, the promotion of the well-being and development of children in residential establishments, particularly as regards their education and health, every residential establishment approved under section 123 (3) is monitored at the lower level by a committee established under section 125(1) of the Zanzibar Children's Act. The committee, which comprises of not less than four fit persons, has a duty to oversee the management of the respective residential establishment. In achieving its oversight role, the committee shall:

- (a) visit the establishment from time to time, including unannounced;
- (b) call for all books, papers and records relating to the management and discipline of the establishment;
- (c) interview members of the staff and children, including offering them an interview in private;
- (d) inspect and test –
 - (i) the quality and quantity of the food;
 - (ii) the children's living conditions; and
 - (iii) arrangements to respect the children's privacy;
- (e) inquire into the maintenance of discipline and behaviour-management, having regard to the prohibition on corporal punishment and other humiliating forms of punishment;
- (f) ascertain provision for the education, training, welfare, recreation and health of the children;
- (g) investigate any complaint made by any child or member of the staff; and
- (h) exercise such other powers as may be prescribed.¹⁶⁶

The Zanzibar Children's Act allows any member of the committee, who has any concern about the running of the establishment, where reasonable, to first inform the Officer Responsible or appropriate member of staff of this concern¹⁶⁷; and, if this does not resolve the matter, inform the minister responsible for children.¹⁶⁸ In terms of section 126 of the Zanzibar Children's Act, the Minister 'shall direct inspection of an approved residential establishment to be carried out by a welfare officer at any time to ensure that such establishment is being maintained at the required standards.'

107. In Tanzania Mainland, the State Party, has complied with Article 25 of the Convention by putting in a place a periodic review and monitoring mechanism of the treatment provided to

¹⁶⁵ Section 124(2) of the Zanzibar Children's Act.

¹⁶⁶ Section 125(2) of the Zanzibar Children's Act.

¹⁶⁷ Ibid. Section 125(3)(a).

¹⁶⁸ Ibid. Section 125(3)(b).

children who have been deprived of a family environment. The Commissioner for Social Welfare has the duty¹⁶⁹, under section 134(1) of the Law of the Child Act, to monitor and supervise approved residential homes or institutions. At the approved residential home or institutional level, the approved residential home and institution is obliged, under subsection (2) of section 134, to establish a committee¹⁷⁰ of not less than four fit persons for overseeing the running and general administration of the children's welfare and development. In addition, under section 135 of the Law of the Child Act, the Commissioner for Social Welfare may give such orders and directions to an approved residential home or institution as may be necessary for promotion of the development of a child.

108. In particular, under section 136 of the Law of the Child Act, the Commissioner may direct inspection of an approved residential home or institution to be carried out by the social welfare officer at any time to ensure that the approved residential home or institution is being maintained at the required standards. Through this kind of inspection, the Commission is mandated by section 140(1) of this law to cancel the licence where he or she has reasonable grounds for believing that:

- (a) the premises of the children's home are no longer fit to be used as a children's home;
- (b) a children's home is being kept in an unclean or in an unsanitary condition;
- (c) the provisions made for the health or welfare of children who have been received into the children's home are inadequate; or
- (d) the licensee has failed to comply with any regulations governing the establishment and management of the approved residential home.

This law, in subsection (2) of section 140, provides a safeguard to children staying in a facility whose operating licence has been cancelled by the Commissioner, who is obliged to, upon cancellation of licence under subsection (1), to make alternative arrangement for the children living in the home. In Zanzibar, the Minister responsible for children have similar powers to cancel or suspend the license, if he or she has reasonable grounds for believing that the licensee of an approved residential establishment for children has failed to comply with any regulations, rules or directives governing the establishment or with any requirements for its approval, and such failure has adversely affected, or risks adversely affecting, the welfare of any child in the establishment.¹⁷¹ As is the case for Tanzania Mainland, in Zanzibar minister is obliged to make alternative arrangements for the children in the establishment, upon cancellation of its licence.¹⁷²

5.8 Adoption, National and Intercountry (Art. 21)

¹⁶⁹ This duty may be delegated under section 134(2) of the Law of the Child Act.

¹⁷⁰ Under subsection (4) of section 134 of the Law of the Child Act, the minister responsible for social welfare may make regulations prescribing the composition, qualification and any other matters relating to the committee established under subsection (2).

¹⁷¹ Section 128(1) of the Zanzibar Children's Act.

¹⁷² Ibid. Section 128(2).

109. In the period under report, the State Party repealed and replaced the old provisions relating to adoption with new provisions currently embodied in the Law of the Child Act and the Zanzibar Children's Act. In respect of Tanzania Mainland, the procedure for applying for an adoption order is set out under section 54 of the Law of the Child Act. This law requires, in section 54(1)(a), that an application for adoption order of a child be made to the High Court. Also in terms of section 54(1)(b), an application for "open" adoption¹⁷³ must be made to the Resident Magistrate's Court or District Court. The emphasis is primarily on domestic adoption. In order to adopt a child, an applicant must be bona fide resident of Tanzania.¹⁷⁴ Non Tanzanian citizens must have a resident permit, which is normally for a minimum of two years. The Law of the Child Act allows international adoptions where adopting parents are residents.¹⁷⁵

110. The State Party has provided in section 76(1) of the Zanzibar Children's Act that in Zanzibar adoption does not apply to persons subscribing to Muslim faith; rather persons of Muslim faith shall follow "*kafalah*" as prescribed in section 75 of this law. According to section 2 of this law, "*Kafalah*" 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. So, under the Zanzibar Children's Act adoption applies to non-Muslims only, whereby an application for an adoption order shall be made to the High Court and heard by such court in terms of section 76. An application for adoption of a child may also be made by an applicant who is a citizen of the United Republic of Tanzania but does not reside within Zanzibar under section 83.

111. In its previous Concluding Observations, the Committee encouraged the State party to further the steps undertaken to ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

112. The State Party is currently at the consultation stages with a view to ratifying the Hague Convention on Intercountry Adoption.

5.9 Illicit Transfer and Non-Return (Art. 11)

113. The State Party has complied with the Article 11 of the Convention relating to the illicit transfer and non-return of children. This is in accordance with the sections 40 and 62 of the Law of the Child Act (2009) and the Zanzibar Children's Act (2011), both of which prohibit unlawful child removal from the lawful custody of another person, an approved residential home or institution. However, Zanzibar is currently reviewing the Kadhi's Court of 1985 so as to accommodate social, economic and cultural aspects.

¹⁷³ The term "open adoption" as used in the Law of the Child Act, means adoption of the child by a relative. See section 54(3) of the Law of the Child Act.

¹⁷⁴ Ibid. Section 56(3).

¹⁷⁵ Ibid. Section 62.

114. In addition, the State Party enacted the Anti-trafficking in Persons Act in 2008, which by virtue of section 2(1) thereof applies to both Tanzania Mainland and Zanzibar. This law criminalizes, inter alia, illicit transfer or traffic in persons (including children) within and outside the jurisdiction of the State Party.¹⁷⁶

5.10 Abuse and Neglect (Art. 19), Including Physical and Psychological Recovery and Social Reintegration (Art. 39)

115. In its previous Concluding Observations the Committee recommended that the State party should:

- (a) Strengthen its existing measures to prevent child abuse and neglect;
- (b) Strengthen the capacity of the Children's Desk within the Commission for Human Rights and Good Governance to investigate, review and respond to child rights complaints;
- (c) Follow-up on recommendations of the Commission for Human Rights and Good Governance, which resulted from its public inquiry into violence against children;
- (d) Consider establishing a toll-free, nationwide telephone helpline for children, resourced with well-trained professionals and volunteers; and
- (e) Stimulate the creation of networks and partnerships aimed at eliminating violence against children.

116. The Committee also recommended that the State Party should use the outcome of the UN Secretary-General's in-depth study on the question of violence against children (*see* General Assembly resolution 56/138) to take action, in partnership with civil society, to ensure the protection of every child from all forms of physical or mental violence, and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.

117. In its efforts to implement Article 19 of the Convention and in compliance with the Committee's foregoing recommendations, the State Party has conducted a Study on Violence Against Children (VAC) and the report¹⁷⁷ of the above mentioned study was launched, in respect of Tanzania Mainland, by Honourable Dr. Asha-Rose Migiro (UN Deputy Secretary-General) in August 2011. This is the first national survey of violence against children to be conducted in the State Party and it nationally represents a survey of 3,739 females and males of the ages between 13 and 24 years, based on a three-stage cluster household survey design. It was designed to yield separate estimates of experiences of sexual, physical, and emotional violence prior to turning age 18 for females and males in both parts of the State Party.

¹⁷⁶ See particularly Part II (Sections 4-8) of the Anti-Trafficking in Persons Act (2008), Act No. 6 of 2008.

¹⁷⁷ United Republic of Tanzania, *Violence Against Children in Tanzania: Findings from a National Survey 2009*. Dar es Salaam: UNICEF/US Centre for Disease Control and Prevention/Muhimbili University of Health and Allied Sciences, August 2011.

118. The VAC study report identified all forms of violence against children (Sexual, Physical and Emotional) and their underlying causes is a critical step towards developing Multi-sectoral National Prevention and Response Strategies and Policies to the better protection of the children within Tanzania. The study findings have enabled the State Party to commit itself towards developing a five years National Plan Action to prevent and respond to violence against children 2011-2016 by creating enabling policy and legislative environment to establish sustainable intervention to prevent and respond to any violence against children. There is also strong commitment by all stakeholders geared to:

- a) Reducing violence against children,
- b) Improving the quantity and quality of services for those who have been affected by violence against children,
- c) Mitigating the serious health consequences that result from such violence, and
- d) Re-affirming rights and dignity to Tanzanian children.

119. Towards this end, the result of Tanzania survey provide sound and validated evidence to inform the development of guidelines and regulations associated with implementation of the Law of the Child Act. In addition, the campaign on violence against women, children and people with albinism was conducted throughout the country with the support of Mobile Cinema, TV and Radio Programmes and community sensitization. Similarly, those who were involved in the killings were sued and some were accordingly sentenced. As a result, at a short period of time the act of killing albino was minimized to a large extent. Furthermore, a boarding school specific for albino children has been established in Misungwi District to provide safer and friendly environment for children with albinism to study.

120. In addition, the Commission of Human Rights and Good Governance (CHRAGG) on establishing Children's Desk conducted a study on abuse of children and made several recommendations upon which the State Party undertook the following actions:

- a) Children's Desk at SHRGG concerning violation and abuse against their rights has been established. Awareness raising is continued to be conducted to in relation to the existence of children's desks and high number of complaints have been registered;
- b) Complaints are investigated and recommendations submitted to authorities for remedies;
- c) Children's/Gender Desks have been established at Police Stations/Posts to perform consultation with children and communities to verify various mental and physical violence/abuse against children. The consultancies are conducted at private offices within Police Regional Offices. Children are given special treatment where their evidences are taken camera (confidentiality). Furthermore, advocacy campaigns through meetings, Radios, TVs, leaflets, brochures and placards play a big role in minimizing violence against children such as Female Genital Mutilation;
- d) The Tanzania Child Helpline is in the process of being established. Children will be able to report any violation acts against them.

121. In respect of Zanzibar, the Study on Violence Against Children (VAC) was launched by Honourable Ambassador Seif Ali Iddi (the Second Vice President of Zanzibar) in September 2011, which was also attended by Ms Marta Santos Pais (Special Representative of the UN

Secretary-General on Violence Against Children). To address the issue of child abuse and neglect Zanzibar has established the Child Protection Unit. It has developed and established the following:

- a) Multisectoral Implementation Plan on Violence Against Children;
- b) Shehia District and Regional Committees dealing with Gender Based Violence and Children;
- c) Counseling Units under Department of Women and Children Development and Social Welfare;
- d) One Stop Centre under the Ministry of Health at Mnazimmoja Hospital dealing with child victims of violence whereby Officers from Police, Lawyer, Counsellor and Medics; and
- e) National Guidelines for the Protection and Welfare of Children.

6.0 DISABILITY, BASIC HEALTH AND WELFARE

(Article 6, 18 (para 3), 23, 24, 26, 27, (para 1-3) and 33)

6.1 Survival and Development (Art. 6 para. 2)

122. Tanzania has complied with and implemented Article 6 paragraph 2 of the Convention, which obliges States Parties to ensure that the right to life is protected. This well entrenched in Article 14 of the Constitution of the United Republic of Tanzania and the Constitution of Zanzibar. This constitutional guarantee underlies all basic rights and fundamental freedoms in the two constitutions and has been entrenched in the Child Development Policy (2008) applicable in Tanzania Mainland and the Child Survival and Protection Development Policy (2001) applicable in Zanzibar. These policies recognize, *inter alia*, the rights to life, rights to development, the right to protection, the right to child participation, and the right to non-discrimination.

123. At the legislative level, the Law of the Child Act and Zanzibar Child Act enlist basic rights and fundamental freedoms of the child, which include the definition of a child, non discrimination, the right to a name and nationality, the right to grow up with parents, the duty to maintain a child, parental duty and responsibility, the right to parental property, prohibition of harmful employment, and the right to protection from torture and degrading treatment. Further, in section 94 of the Law of the Child it is the duty of local government authorities to safe-guard children in their jurisdiction and to promote reconciliation between parents and a child.

124. Furthermore, MKUKUTA and MKUZA, strategize matters relating to children survival and development, which aims at improving quality of life and their social wellbeing. Likewise, the two strategies strive to ensure food and nutrition security and promoting issues relating to human rights, national and personal security. There is a notable progress in child survival in relation to access to health services, nutrition and HIV that has been achieved over the last decade; the targets for reductions in infants and under-fives mortality in MKUKUTA and MKUZA

as well as MDGs. Preventive measures such as measures vaccination, vitamin supplementation campaigns and malaria control have contributed to such progress.¹⁷⁸

6.2 Health and Health Services (Art. 24)

125. In its previous Concluding Observations, the Committee urged the State Party to undertake all necessary measures to reduce infant and under-five mortality rates, including by improving prenatal care and preventing communicable diseases.

126. In compliance with this recommendations, the State Party has undertaken a number of measures to reduce infant and under-five mortality rates. Recent statistics from the *Tanzania Demographic and Health Survey* (TDHS 2010) indicates that Tanzania has made significant strides in reducing child mortality as evidenced by the reduction of Infant Mortality from 71 to 51 deaths per 1,000 live births during the 2001-2010 period as well as the lessening of post neonatal mortality rate from 36 to 25 deaths per 1,000 live births during the 2004 - 2010 period. Further evidence shows that the under-5 mortality rate declined by 41 percent from 137 deaths per 1,000 live births in 1992-1996 to 81 deaths in 2006-2010. Over the same period, the infant mortality rate declined by 42 percent, from 88 to 51 deaths per 1,000 live births. The decline in childhood mortality can be attributed to continued improvement in the health sector, especially in the areas of maternal and child health, with specific reference to immunization and malaria prevention initiatives. While the trends and levels of under five children, infant and neonatal mortality rates from 1990 to 2010 indicates a positive gains that has been made towards achieving the Millennium Development Goals (MDGs) in infant and under-5 mortality rates, most experts argue that if the pace of decline is sustained at this rate, Tanzania will be able to reach the MDG goals in infant and under-5 mortality rate indicators.

127. Trend shows that there is a rapid decline in child mortality. Infant mortality estimates decline from 71 in the 5- to 9-year period preceding the survey (approximately 2001-2005) to 51 per 1,000 live births during the 2006-2010 period. The 2010 TDHS estimate for the 5- to 9-year period preceding the survey is almost identical to the 2004-05 TDHS rate of 68 deaths per 1,000 births for the same period (i.e., 0 to 4 years preceding the 2004-05 survey). Thus, results of the two surveys indicate a significant decrease in infant and child mortality rates in recent years. The largest decline is shown by the post neonatal mortality rate, which dropped from 36 deaths per 1,000 live births in the 2004-05 TDHS to 25 deaths per 1,000 live births in the 2010 TDHS. The decline in childhood mortality can be attributed to continued improvement in the health sector, especially in the areas of maternal and child health, with specific reference to immunization and malaria prevention initiatives

128. The Committee also urged the State Party to allocate more financial resources to health services, in particular with a view to improving access to safe drinking water and sanitation facilities.

129. In the period under report, the State Party increased its budgetary allocation to all sectors dealing with children's issues to the extent that in 2010 it was the leading country in

¹⁷⁸ REPOA, et al, *Childhood Poverty in Tanzania: Deprivation and Disparities in Child Wellbeing*. DJPA Partnership (Africa) ltd, 2009. P. 23-27.

Africa to budget for children according to a report released by the African Child Policy Forum (ACPF) in 2011.¹⁷⁹

130. The Committee further urged the State Party to develop appropriate national strategies to address the critical nutritional needs of children' particularly among the most vulnerable groups, through a holistic and intersectoral approach that recognizes the importance of feeding practices.

131. The State Party has complied with this recommendation through a number of initiatives. The National Nutrition Strategy (July 2011/12 – June 2015/16) has developed and launched by Honourable Prime Minister of Tanzania, Mizengo Pinda at 20th September 2010. Eight strategies have been identified to achieve the goal and objectives of the Strategy:

Accessing quality nutrition services: Nutrition interventions must be delivered at scale and with high coverage if they are to have impact on prevalence of malnutrition at the population level. The focus will be on delivering a package of high-impact nutrition services. District nutrition services will be well managed, of high quality and accessible to all, particularly women and children and other vulnerable groups.

Advocacy and behaviour change communication: Advocacy will to be intensified to raise the visibility and profile of malnutrition at all levels, and increase the commitment and resources for its alleviation. At the household and community level, improved knowledge on caring practices for infants, young children and women of child-bearing age is a necessary component of sustainable efforts to reduce malnutrition.

Legislation for a supportive environment: Legislation, policies and standards are needed to create a supportive environment conducive to good nutrition. They include measures to prevent unethical marketing of breast-milk substitutes, to protect the breastfeeding rights of employed women, to ensure adequate labelling and quality of products intended for consumption by infants and young children, and for the fortification of food.

Mainstreaming nutrition into national and sectoral policies, plans and programs: The multi-sectoral nature of nutrition requires advocacy for its inclusion in national and sector policies and plans. Nutritional indicators have been included in the MKUKUTA but further efforts are needed so that nutrition is firmly part of policies and strategies in the health, agriculture, education, community development and industry sectors.

Institutional and technical capacity for nutrition: Nutrition needs to attain the required institutional and technical capacity that is necessary in the decentralization framework. As LGAs are now responsible for implementation of nutrition services, it is essential that there be district level nutrition focal points who are accountable for the delivery of quality nutrition services, and supportive structures at the regional and national level to provide technical backstopping, guidance and supportive supervision. Increasing the numbers and quality of human resources for nutrition at all levels and in all relevant sectors is critical for improving the quality of nutrition services. For health service providers, pre-service and in-service training courses need to keep pace with latest policies, strategies, guidelines and scientific thinking.

¹⁷⁹ African Child policy Forum, *The African Report on Child Wellbeing 2011: Budgeting for Children*. Addis Ababa: African Child Policy Forum, 2010.

Resource mobilization: The budget gap in nutrition needs to be reduced by mobilizing adequate and sustainable financial resources and improving the efficiency in the use of financial resources for nutrition. Despite hard budget constraints, additional budget for nutrition exists, including larger aid from development partners, increased budget allocation from MOHSW, increased efficiency in delivering nutrition interventions and collaboration with other sectors and programs.

Research, monitoring and evaluation: Research, monitoring and evaluation are essential for evidence-based decision making and enhancing public accountability. Monitoring is continuous and aims to provide the management and other stakeholders with early indications of progress in the achievement of goals, objectives and results. Evaluation is a periodic exercise that attempts to systematically and objectively assess progress towards and the achievement of a program's objectives or goals. Research tests specific interventions and approaches for the betterment of nutritional status, and provides further evidence for policy and programming.

Coordination and partnerships: Because there are multiple causes of malnutrition, action is needed across a range of sectors including health, food and agriculture, water supply and sanitation, education and others. A coordinated response maximizes the use of available technical and financial resources and can create greater synergy of efforts. Public-private partnerships and collaboration with NGOs can increase the opportunities for delivering and scaling up nutrition services.

132. The Committee further recommended that the State Party should ensure that regional and other free-trade agreements do not have a negative impact on the enjoyment of the right to health by children, in particular with regard to access to genetic medicine (GMO). The Committee also urged the State Party to create an environment to reduce distances to child health clinics for mothers and pregnant mothers.

133. In its endeavours to comply with the foregoing recommendations and in implementing Article 24 of the Convention, which requires state parties to recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health, the State Party has carried out a number of measures (policy, legislative and administrative) aimed at ensuring that no child is deprived of his or her right of access to health care services and facilities.

(a) The Health Policy

134. The State Party has a National Health Policy which was formulated in 1990. The National Health policy was firstly reviewed in 1990 and recently in 2007 so as to incorporate ongoing socio-economic changes, new government directives, emerging and re-emerging diseases and changes in science and technology among others. Overall the policy is geared towards improving the health and wellbeing of citizens, with special focus on those at risk and encouraging the health system to be more responsive to the needs of the people. The mission is to provide basic health services in accordance to geographical conditions, which are of acceptable standards, affordable and sustainable. Specifically the policy aims to:

- Reduce morbidity and mortality in order to increase the lifespan of all Tanzanians by providing quality health care;
- Ensure that basic health services are available and accessible;

- Prevent and control communicable and non-communicable diseases;
- Sensitize the citizens about the preventable diseases
- Create awareness to individual citizen on his/her responsibility on his/her health and health of the family;
- Improve partnership between public sector, private sector, religious institutions, civil society and community in provision of health services
- Plan, train, and increase the number of competent health staff;
- Identify and maintain the infrastructures and medical equipment; and
- Review and evaluate health policy, guidelines, laws and standards for provision of health services

135. In addition to the Health Policy, the State Party adopted various complementary policies and strategies in support to the quest for realization of improved health and wellbeing of her citizens including children. These includes the National Policy on HIV/AIDS which was adopted in 2001, the Health Sector Strategic Plan III (HSSP III) for the period July 2009 – June 2015, the Vision 2025, and the National Programme for Economic Growth and Poverty Reduction (MKUKUTA in Kiswahili) among others.

(b) The National Policy on HIV/AIDS

136. In response to the HIV/AIDS pandemic, the government of Tanzania has progressed in nearly all areas of HIV/AIDS prevention, care, and treatment. Progress has also been made in impact mitigation through communication and advocacy and in community participation through multi-sectoral response. HIV/AIDS is included in the development agenda of the National Strategy for Poverty Eradication, commonly referred to by its Kiswahili acronym, MKUKUTA, and the National Development Vision of 2025. The policy emphasizes mainstreaming HIV/AIDS patients in all sectors. The development of the national guideline on prevention and control of HIV/AIDS in the public sector is an effort by the government to translate into action its commitment to fight the epidemic and improve the well-being of the people.

137. In November 2001, the National Policy on HIV/AIDS was adopted with the goal of providing a framework for leadership and coordination of the national multi-sectoral response to the HIV/AIDS epidemic (Prime Minister's Office, 2001). It also provides a framework for strengthening the capacity of institutions, communities, and individuals in all sectors to stop the spread of the epidemic. This includes formulation by all sectors of appropriate interventions to prevent the transmission of HIV/AIDS and other sexual transmitted infections, to protect and support vulnerable groups, and to mitigate the social and economic impact of HIV/AIDS.

138. The National Policy on HIV/AIDS and the National Multisectoral Strategic Framework are tools that guide the implementation of national multisectoral responses. The Tanzania Commission for AIDS (TACAIDS) provides strategic leadership and coordination of multisectoral responses, including monitoring and evaluation, research, resource mobilization, and advocacy.

(c) Health Legislation

139. In implementing the foregoing governmental health policies, the State Party has enacted legislation to enforce adherence to the foregoing policy commitments. The existing health sector legislation is mainly divided into:

- Public Health legislation which is for the control of epidemics, infectious diseases and environmental health protection,
- Health professional legislation which governs the practice and conduct of health professionals such as doctors, dental practitioners, pharmacists, nurses etc.,
- Legislation, which establishes autonomous health institutions for a particular need, such as institutions for medical research, national and special hospitals etc.
- Health financing legislation, which is aiming at providing alternative health financing mechanism with the aim of complementing government efforts to finance health services in the country.

140. These laws need to be effectively implemented in order to accomplish the intended objectives of their enactment. Furthermore, due to a number of socio economic changes, policy changes, and political changes, enactment and review of the existing health legislation is apparent

(d) Health Sector Strategic Plan III (HSSP III)

141. Likewise, the State Party has adopted the Health Sector Strategic Plan III (HSSP III), which is the crosscutting strategic plan for the health sector of Tanzania for the period July 2009 – June 2015. It provides an overview of the priority strategic directions across the sector which is guided by the National Health Policy, Vision 2025, the National Programme for Economic Growth and Poverty Reduction (MKUKUTA in Kiswahili) and the Millennium Development Goals. Detailed policies, strategies and work plans are in place for health related issues and for disease control. HSSP III does not reiterate those, but summarizes their strategic directions. It serves as the guiding document for development of Council and hospital strategic plans and for annual work plan. MOHSW has identified eleven strategies, which the health sector should achieve during the period of implementation as follows:

- District Health Services;
- Referral Hospital Services;
- Central Support;
- Human Resources for Health;
- Health Care Financing;
- Public Private Partnerships;
- Maternal, New-born and Child Health;
- Disease Prevention and Control;
- Emergency Preparedness and Response;
- Social Welfare and Social Protection; and
- Monitoring & Evaluation and Research.

(e) Primary Health Care Service Development Programme (PHCSDP)

142. In 2007 the MOHSW developed the Primary Health Care Service Development Programme (PHCSDP). This programme is better known by its Kiswahili name: *Mpango wa Maendeleo ya Afya ya Msingi* 2007-2017 (MMAM). The objective of the MMAM programme is to accelerate the provision of primary health care services for all by 2012, while the remaining five years of the programme will focus on consolidation of achievements. The main areas will be strengthening the health systems, rehabilitation, human resource development, the referral system, increase health sector financing and improve the provision of medicines, equipment and supplies. This programme will be implemented by the Ministry of

Health and Social Welfare in collaboration with other sectors by the existing Government administrative set-up including PMO-RALG, RSs, LGAs and Village Committees. The first element is increasing the workforce in health by increasing the throughput in the existing training institutions by 100%, upgrading 4 schools for enrolled nurses, production of health tutors and upgrading the skills of existing staff by provision IT skills and acquiring new medical technology.

143. The rehabilitation of existing health facilities and construction of new ones, as to have a dispensary in each village and a health centre in each ward, is planned as well as improving the outreach services. This includes 8,107 primary health facilities, 62 district hospitals, and 128 training institutions by year 2012. The Referral System will be strengthened by improving information communication system and transport. The Programme will address the revised Health Policy and the health related Millennium Development Goals in the areas of maternal health, child health and priority diseases. The programme costs are estimated to be around 11.8 trillion TSH, which is beyond the presently available budget range. Innovative modalities of financing are therefore required

(f) Programmes and Support Services

(i) Prevention of Malaria

144. Malaria is a major public health concern for all people in the State Party, especially for pregnant women and children under age 5. The disease is a leading cause of morbidity and mortality among outpatient and inpatient admissions. It accounts for up to 40 percent of all outpatient attendance (MOHSW, 2006). The Ministry of Health and Social Welfare (MOHSW) in collaboration with other stakeholders distributed insecticide treated bed nets to communities nationwide as a measure to prevent malaria. The TDHS 2010 shows that 75 percent of households in Mainland Tanzania and 89 percent in Zanzibar own at least one mosquito net. In the 2010 TDHS, rural households are less likely than urban households to own a mosquito net (72 and 84 percent, respectively). Compared with the 2004-05 TDHS finding, the gap between urban and rural households in ownership of at least one ITN has narrowed significantly. In 2004-05, the figures were 14 percent for rural and 47 percent for urban areas. Table 12.1 also shows that ownership of any type of mosquito nets increases with wealth quintile, ranging from 65 percent to 88 percent.

(ii) Ownership and use of mosquito nets

145. The TDHS 2010 shows that 75 percent of households in Mainland Tanzania and 89 percent in Zanzibar own at least one mosquito net. These figures are much higher than in the 2004-05 TDHS (46 and 65 percent, respectively). In this survey, an insecticide-treated net (ITN) is a factory-treated net that does not require any further treatment, or a net that has been soaked with insecticide within the past 12 months. Between the 004-05 TDHS and the 2010 TDHS, ownership of ITNs increased from 23 percent to 63 percent in Tanzania Mainland and from 28 percent to 76 percent in Zanzibar. This significant increase in ownership of mosquitoes can be attributed to the government health programmes mentioned above. These programmes started in Zanzibar in September 2005 and in Mainland in 2009. Coverage of mosquito nets in Tanzania has greatly improved in all regions since 2004. In Shinyanga, Mwanza, and Mara, 90 percent or more of households have at least one mosquito net, while the proportion in Singida is less than 50 percent (47 percent). In the Mainland, ownership of ITNs is 50 percent or more in all regions except Kilimanjaro (49 percent), Morogoro (37 percent), and Singida (34 percent).

Ownership of ITNs is low in Singida (34 percent). The increase in ITN ownership between 2004/05 and 2010 surveys is most notable in Iringa (from 7 percent to 53 percent) and Manyara (from 8 percent to 73 percent).

146. In the 2010 TDHS, rural households are less likely than urban households to own a mosquito net (72 and 84 percent, respectively). However, they are as likely to own at least one ITN (65 and 63 percent, respectively). Compared with the 2004-05 TDHS finding, the gap between urban and rural households in ownership of at least one ITN has narrowed significantly. In 2004-05, the figures were 14 percent for rural and 47 percent for urban areas. Surprisingly, rural households are more likely to own more than one ITN than urban households (38 and 35 percent, respectively). Table 12.1 also shows that ownership of any type of mosquito nets increases with wealth quintile, ranging from 65 percent to 88 percent.

147. A majority of the ITNs are long-lasting insecticidal nets (54 of 64 percent). The variations in ownership of LLINs across subgroups of households are the same as for ITNs. The low levels of ownership and use of mosquito nets in Kilimanjaro, Singida, Arusha, and Morogoro regions are due to the fact that these regions had not started the LLIN distribution. Dar es Salaam, which had the highest proportion of households with ITNs in Mainland in the 2004-05 TDHS and 2007-08 THMIS, shows a low ownership of LLINs in 2010 because the LLIN distribution program had not started in the region by the time of the 2010 TDHS data collection.

(iii) Proportion of all pregnant women who slept under a mosquito net

148. Overall, 68 percent of pregnant women in Tanzania slept under any net the night before the survey, 57 percent slept under an ITN, and 25 percent slept under an LLIN. Pregnant women in Mainland Tanzania (57 percent) are more likely than in Zanzibar (50 percent) to sleep under an ITN. They are also more likely to sleep under an LLIN (25 percent compared with 12 percent). These figures show a substantial increase compared with previous survey findings. For instance, the proportion of pregnant women who slept under an ITN in the 2007-08 THMIS is 26 percent. The greater use of ITNs in Tanzania may be attributed to programmes of providing subsidized mosquito nets to pregnant women and children under age 5.

(iv) Use of anti-malarial drugs during pregnancy

149. Malaria during pregnancy is extremely common among women who live in countries that are malaria-endemic. Pregnant women in these areas are semi-immune to malaria and often have a low prevalence of peripheral parasitaemia but have a high prevalence of placental infection.¹⁸⁰ Malaria placental infection is a major contributor to low birth weight, infant mortality, maternal anaemia, spontaneous abortion, and stillbirth. Studies have shown that intermittent preventive treatment (IPT) with two doses of Sulphadoxine Pyrimethamine (SP) protects pregnant women from maternal anaemia and malaria placental infection and reduces the incidence of low birth weight.¹⁸¹ As a protective measure, it is recommended that all pregnant women in Tanzania receive at least two doses of IPT with SP during the second and third trimesters of pregnancy. Women in the 2010 TDHS were asked if they took any ant malarial medications during the pregnancy leading to their last live birth, and if so, what drugs

¹⁸⁰ Jones, G., et al, "How many child deaths can we prevent this year?" *Lancet*, 362: 2003, pp. 65-71.

¹⁸¹ *Ibid.*

were taken. Women were also asked whether the drugs they received were part of an antenatal care visit. It should be noted that obtaining information about drugs can be difficult because some respondents may not know or remember the name or the type of drug that they received. The percentage of women who had a live birth in the two years preceding the survey who took any antimalarial drug and the percentage who took IPT during pregnancy.

150. Overall, 66 percent of pregnant women took an antimalarial drug during pregnancy (66 percent in Mainland and 85 percent in Zanzibar). The data suggest that IPT use of SP is integrated into routine antenatal care; 60 percent of pregnant women in Mainland Tanzania and 84 percent in Zanzibar reported having taken at least one dose of SP (IPT-1) during an ANC visit. However, only 27 percent of pregnant women in Mainland and 47 percent in Zanzibar received the recommended two or more doses of SP (IPT-2). These figures show an increase in these rates since the 2004-05 TDHS, when 22 percent of pregnant women in Mainland and 14 percent in Zanzibar received two or more doses of SP.

151. There are significant differences among women who received complete IPT (IPT-2), as determined by background characteristics. Women in urban areas are more likely than their rural counterparts to receive IPT-2 (31 percent and 25 percent, respectively). The same pattern is observed in the 2004-05 TDHS (29 and 20 percent, respectively).

152. In Shinyanga Region it is 20 percent or lower. Women in Zanzibar are much more likely than those in Mainland to receive IPT-2. The rates range from 34 percent in Pemba North to 68 percent in Unguja South. Coverage of IPT-2 increases with the woman's education and wealth. Women in wealthier households and better educated women are more likely than other women to receive IPT-2.

(v) Integrated Management of Childhood Illness (IMCI)

153. IMCI develops the capacity of child caregivers in first-level health facilities and communities to improve quality of care and address the major causes of under-five mortality and morbidity. IMCI commenced in 1997 in two pilot districts (Morogoro Rural and Rufiji) with support from the Canadian-funded Tanzania Essential Health Interventions Project (TEHIP). By the end of 2005, the strategy had been rolled out to 107 districts (94% average of districts).

154. Evidence from IMCI and TEHIP suggests that with training and health systems support, productivity of health workers is improved and the greater burden of disease in under-fives can be addressed cost-effectively. Findings from IMCI evaluations demonstrated that:

- After two years, mortality levels were 13% lower in the two TEHIP/IMCI districts compared with control Districts, and there was also a significant reduction in stunting.
- IMCI costs less than conventional care. The cost of under-five care per child was estimated at US\$11.19 in IMCI districts compared with US\$16.09 in non-IMCI districts.
- Children in IMCI districts received more thorough assessments, and were more likely to be correctly diagnosed and to receive appropriate treatment.
- Supportive supervision of health workers was much more common in IMCI districts. Case management of sick children is improved by IMCI training – those caring for sick children were routinely informed of how to look after the children and how to administer medicines.
- Improved quality of care provided to children in health facilities with IMCI-trained health workers resulted in greater utilisation of health facilities; in Morogoro Rural and Rufiji districts, the utilization increased from 30% in 1997 to 70% in 2001.

- Introduction of a series of practical management, priority-setting tools for 19 District Health Management

(vi) Immunization

155. The Expanded Programme of Immunization (EPI) has performed well from the last reporting period with the immunization coverage of 75 percent of children age 12-23 months were fully immunized (TDHS 2010), a modest increase relative to the proportion reported in the 2004-05 TDHS (71 percent) and the 1999 TRCHS (68 percent) (NBS and Macro International Inc., 2000; NBS and ORC Macro, 2005). At least nine of ten children received BCG, DPT/DPT-HB 1 and 2 (or DPT-HB-Hib 1 and 2), and Polio 1 and However, the proportion of children receiving the third dose of DPT/DPT-HB (or DPT-HB-Hib) and polio vaccine is lower (88 and 85 percent, respectively), as is the proportion receiving measles vaccine (85 percent). The decrease in vaccination coverage between the first and third doses of DPT/DPT-HB/DPT-HB-Hib and polio are 8 and 12 percentage points, respectively. Only 3 percent of children have not received any vaccinations at all. With the exception of measles, more than 80 percent of the vaccinations were received by 12 months of age, as recommended. Overall, 66 percent of children were fully vaccinated at 12 months, a small increase from that reported in the 2004-05 TDHS (62 percent).

156. Vaccination status among children age 12-23 months does not differ significantly by the child's sex. The proportion fully vaccinated is lower for children of birth order 6 or higher than for children at lower parities. There is significant variation by residence: 86 percent of urban children are fully immunised compared with 73 percent of rural children. In contrast, vaccination coverage in Zanzibar is slightly higher than that in the Mainland (77 and 75 percent, respectively). Coverage in the Western zone (58 percent) is substantially lower than in other zones, at least in part because of the low coverage of measles vaccination (68 percent)

(vii) Nutrition

157. Malnutrition particularly Severe Acute Malnutrition (SAM), Iron Deficiency Anemia (IDA), Iodine Deficiency Disorders (IDD) and Vitamin A Deficiency (VAD) are among the major nutrition problems affecting infants and young children in Tanzania. Other nutritional disorders also exist, including diseases such as pellagra, beriberi, scurvy, rickets, and deficiencies of some minerals like zinc and excess intake of fluorine, which leads to fluorosis. SAM reduce survival and productivity while in school children it is a major cause of lower cognitive test scores, delayed enrollment in school, increased absenteeism and more repetition of classes. IDA affects both physical capacity and intelligence of pregnant women resulting into intellectual impairment of the unborn baby. IDD leads into several disorders including mild mental retardation, cretinism, severe brain damage, deafness and dwarfism. VAD lowers body immunity, increases incidence and severity of diseases and thus increases child mortality.

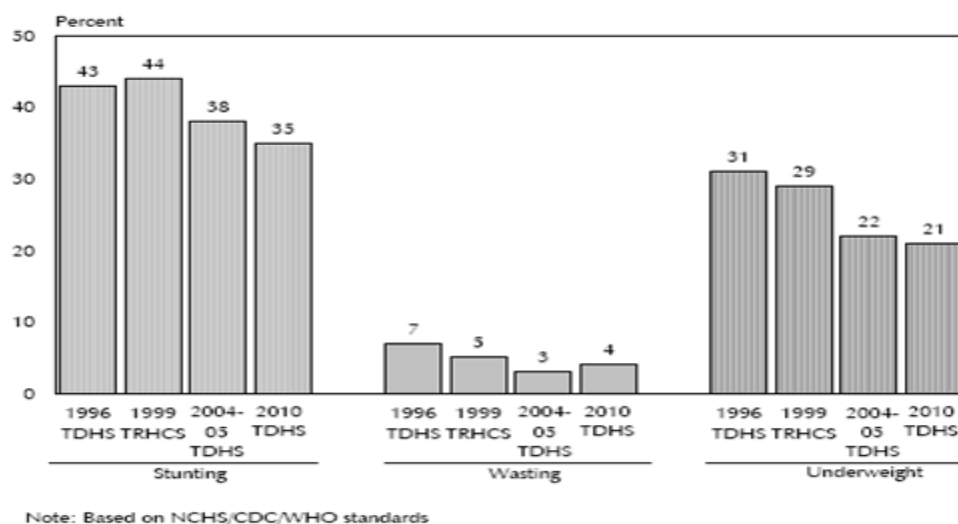
(viii) Severe Acute Malnutrition (SAM)

158. SAM is caused by inadequate energy and protein intake and is often accompanied by deficiencies of other essential nutrients namely minerals and vitamins. SAM affects all age groups but is most common among under five years old children. SAM manifests itself in the form of low levels of mental and physical growth, underweight or clinical marasmus, kwashiorkor, or marasmic kwashiorkor. The Tanzania Demographic and Health Survey (TDHS) of

2010 shows that 5 percent of children under five years old were wasted, 42 percent stunted and 16 percent were underweight. Stunting represents the long-term effects of malnutrition in a population and is not sensitive to recent, short term changes in dietary intake. According to the 2010 TDHS stunting appeared as the major nutrition deficiency. Furthermore, nutritional status of children for the period 2005 to 2010 shows a downward trend¹⁸² in stunting and underweight. Stunting declined only slightly (3 percentage points) between 2004-2005 and 2010 surveys. A similar pattern is observed for underweight, which dropped by 1 percentage point while the prevalence of wasting has increased slightly by 1 percentage point. Stunting reflects failure to receive adequate nutrition over a long period of time and is affected by recurrent and chronic illness.

In Zanzibar, Town West has the lowest proportions of stunting, 20 percent. Wasting levels in Tanzania Zanzibar is 12 percent while underweight is 20 percent.

Figure 2: Trends in Nutritional Status of Children under Age 5



159. Inadequate maternal nutrition poses a detrimental effect on the nutritional status of the child. This can be identified through measurement of individual body mass index (BMI). BMI is defined as weight in kilograms divided by height squared in meters (kg/m^2) is used to measure thinness or obesity. A BMI below 18.5 indicates thinness or acute under nutrition and a BMI of 25.0 or above indicates overweight or obesity. A BMI that is below 16 kg/m^2 indicates severe under nutrition and is associated with increased mortality. Low pre-pregnancy BMI is associated with poor birth outcomes and obstetric complications. According to TDHS 2010, 11

¹⁸² It should be noted that the 2010 TDHS used new WHO growth standards which are not comparable with the old NCHS/CDC/WHO standards (that has been used in previous TDHS including that of the year 2004-2005). For the purpose of comparison to assess trends, the data for 2010 were recalculated using the NCHS/CDC/WHO reference population; due to this, these data as they are seen in figure 1 below thus will not be comparable to data in paragraph 157 above (particularly prevalence of stunting, underweight and wasting for the 2010TDHS).

percent of women aged 15-49 years are thin (Body Mass Index –BMI- < 18.5 kg/m²) in the year 2010 as compared to 10 percent in the year 2004. In addition, the data show that the adolescents (age group 15-19 years) are most likely to be thin and rural women are more likely to be thin (13 percent) than urban women (8 percent).

160. Maternal height is a good indicator of women at nutritional risk. Short stature reflects inadequate nutrition during childhood and adolescence. In a woman, short stature is a risk factor for poor birth outcomes and obstetric complications. For example, short stature is associated with small pelvic size, which increases the likelihood of difficulty during delivery and the risk of bearing low birth weight babies. A woman is considered to be at risk if her height is below 145 cm. According to TDHS 2010 the percentage of women below the height of 145 centimetres remain the same (3 percent) as in the year 2004.

161. Nutrition in pregnant women is also reflected in the proportion of children born with low birth weight (below 2.5kg). LBW is a result of multiple conditions pregnant women are exposed during pregnancy. These include pre-pregnancy undernutrition, some infections, adolescent motherhood, maternal anemia and use of drugs and alcohol. Babies born with low birth weight have an increased risk of prenatal and neonatal morbidity and mortality as well as other implications as regards to growth and development. The current data available (TDHS 2010) show that the prevalence of Low Birth Weight (LBW) in Tanzania stands at 7 percent.

(ix) Iron Deficiency Anaemia (IDA)

162. IDA is a common form of nutritional anaemia which results from inadequate dietary intake of nutrients necessary for synthesis of haemoglobin. Anaemia also results from sickle cell disease, malaria, or parasitic infections. Anaemia results not only into reduced physical and mental capacity but also contributes to maternal mortality, spontaneous abortions, premature births, and low birth weight. IDA is a major health problem among young children and pregnant women in Tanzania. According to the TDHS 2010 about 40 percent of women aged 15-49 years are anaemic with one percent of them being severely affected as compared to 57 percent in the year 2004-2005. Pregnant women are more likely to be anaemic compared to 39 percent of women who are neither pregnant nor breastfeeding.

163. Year 2010 TDHS shows that six in ten children in Tanzania are anaemic. The prevalence of mild anaemia among children is 27 percent whereas, 29 percent have moderate, and 2 percent have severe anaemia. In comparison to the 2004-05 TDHS, the prevalence of anaemia has dropped by 18 percent in the past five years, from 72 to 59 percent. The most noticeable drop has been in the prevalence of moderate anaemia by about 14 points (29 percent in 2010 compared with 43 percent in 2004-2005). Children age 9-11 months are the most affected by anaemia (81 percent) compared with the other children. Severe anaemia, which has a serious impact on the health of an individual, is also highest among children age 9-11 months (6 percent). [Children in Mainland Tanzania are less likely to be anaemic than children in Zanzibar \(58 and 69 percent, respectively\).](#)

(x) Iodine Deficiency Disorders (IDD)

163 Iodine deficiencies has serious effects on body growth and mental development including mental and physical congenital defects in new-borns, low learning capacity, impaired growth,

and poor health and low productivity among the general population. The principal cause of iodine deficiency is inadequate iodine in foods. The fortification of salt with iodine is the most common method of preventing iodine deficiency. The Tanzania's salt iodisation program is on a good track poised to attain the goal of eliminating iodine deficiency when 90 percent of the households are using iodised salt. TDHS 2010 shows that 55 percent of children live in households that use adequately iodised salt. The prevalence of IDD basing on goitre prevalence shows that 7% of school children were found to have goitre (TFNC, 2004).¹⁸³

(xi) Vitamin A Deficiency (VAD)

164. VAD is manifested by low levels of serum retinal and / or exophthalmia. Vitamin A is an essential for strengthening the immune system that plays an important role in maintaining the epithelial tissue in the body. Severe VAD is a major cause of eye damage and preventable blindness, increased severity of infections such as measles and diarrhoeal diseases in children, and slow recovery from illness. Vitamin A is found in breast milk, other milks, liver, eggs, fish, butter, red palm oil, mangoes, papayas, carrots, pumpkins, and dark green leafy vegetables. The liver can store an adequate amount of the vitamin for four to six months. Periodic dosing (usually every six months) of vitamin A supplements is one method of ensuring that children at risk do not develop VAD. The 2010 TDHS shows that 62 percent of children age 6-35 months, consumed foods rich in vitamin A the day or night preceding the survey. The proportion of children consuming vitamin A-rich foods increases with age, from 53 percent at 6-8 months to 87 percent at 18-23 months, but consumption declines to 22 percent at 24-35 months.

165. Night blindness is a symptom of severe VAD, which pregnant women are especially prone to suffer. According to the 2010 TDHS, 4 percent of women with a recent birth reported experiencing night blindness. After adjusting for women who also reported vision problems during the day, an estimated 1 percent of women suffered from night blindness. Furthermore, it is likely that the prevalence of VAD in children has been reduced considerably during the last decade due to the high coverage of twice yearly vitamin A supplementation (VAS). An indication of VAD in the wider population is considered only when prevalence of night blindness among pregnant women is 5 percent or more (IVACG, 2001).

166. The policy of the Ministry of Health and Social Welfare regarding maternal vitamin A supplementation (VAS) is to provide a high-dose vitamin A capsule (200,000 IU) within the first four weeks after delivery (MOHSW, 1997). This is aimed to increase the mother's vitamin A status and the content of the vitamin in the breast milk for the benefit of the child. However, the policy is currently under review to be in line with new WHO guidelines that VAS should be provided to all postpartum mothers within six weeks after delivery or within eight weeks to those who are breastfeeding (WHO 2003). TDHS 2010 indicates that only one out of four women who gave birth in the five years preceding the survey received vitamin A supplementation within two months after childbirth. TDHS further shows that the coverage of Vitamin A

¹⁸³ To legally address this issue, the State Party has enacted the following laws: the Mining Act 1979 (No. 17 of 1979). Regulations made under section 104(2): The Mining (Salt Production and Iodations) Regulations (1994); the Food (Control of quality) Act 1978 (No. 10 of 1978). Regulations made under section 16(1) and (2). The Food (control of quality) (Iodated salt) Regulation, 1992.

Supplementation among children age 6-59 months years of age is 61 percent. [While Pemba North and Unguja South have the highest proportion of vitamin A supplementation \(87 and 90 percent, respectively\).](#)

167. Nonetheless, the State Party faces the following challenges with regard to implementation of the nutrition activities

- There is poor coverage of many essential nutrition interventions, including the prevention and control of anaemia and management of severe acute malnutrition in children and women. This is particularly disadvantageous for addressing nutritional problems that are multifaceted in nature and require multiple different interventions, such as the prevention and control of anaemia.
- There are inadequate linkages with programs and projects in other sectors that could provide synergistic services to address the underlying causes of malnutrition. Under these circumstances, actions do not create synergy and therefore do not cumulate to produce substantial and durable impact on nutrition. Further efforts are needed to ensure that nutrition is firmly mainstreamed in sector policies, strategies and programmes.
- There is low coverage of health services in remote areas and among other hard-to-reach populations. The use of special strategies to reach these groups is rare.
- Key decisions about priorities and resource allocations are made at the local government level, where the understanding of the importance of malnutrition and how to deal with nutrition problems is limited. Very few nutritional professionals exist to provide high quality technical support to Local Government Authorities (LGA) efforts to address malnutrition. In particular, there are no district staff that are accountable for nutrition and who are responsible for coordinating the design, planning and implementation of nutrition interventions. Consequently, there is a lack of prioritization of nutrition in council plans, including the Comprehensive Council Health Plans, and nutrition is not allocated adequate financial and human resources to provide quality nutrition services. In light of the decentralization process in the country, the institutional arrangements for nutrition need to be reviewed so that the LGAs have the organizational structure necessary to implement nutrition services and are supported by appropriate structures at the regional and national level.
- There is an acute shortage of health service providers who are adequately trained to deliver nutrition interventions at facility and community levels. Pre-service and in-service curricula and training materials need to be updated, based on latest policies, guidelines and scientific knowledge. There is little follow-up to ensure that health workers use the acquired knowledge and skills from in-service training thus the need to strength monitoring and supportive supervision.
- Legislation that is needed to create a supportive environment for nutrition is not yet fully developed, updated, enacted and enforced. This includes the National Regulation for Marketing of Breast Milk Substitutes and Designated Products (1994); Code of Hygienic Practice for Foods for Infants and Children, Maternity Leave Legislation and legislation for the fortification of food, including salt iodation. The legalisation is not

fully understood by all who have responsibilities for its implementation and enforcement.

- Nutrition needs to be better integrated into existing national surveys in all relevant sectors and management information systems. The Nutrition Surveillance System is not fully functional and needs further revitalization so that it can provide timely and accurate data that is used to monitor nutrition and guide decisions. The use of data for decision-making at all levels, including the district level, needs to be strengthened so that resources are directed where they are needed most.

168. Taking into account of the emerging challenges in nutrition, the State Party has undertaken the following measures to address them:

- Establishment of a High Level National Nutrition Steering Committee led by the Government with representatives from ministries, Development Partners and Civil Society Organizations.
- Effective in the financial year 2012/13, establishment of a designated line in the national budget for nutrition.
- Establishment of nutrition cadres in regional secretariat and Local Government Authorities
- Development, dissemination and implementation of the multisectoral National Nutrition Strategy and production and dissemination of Essential Nutrition Interventions Packages for Councils.
- Devising innovative approaches for controlling PEM and micronutrient deficiency including early case identification and management and micronutrient supplementation.
- Stronger integration of nutrition into agricultural activities as outlined in Tanzania Agriculture and Food Security Investment Plan (TAFSIP).
- Gazetting and finalization of the national standards for oil, wheat and maize flour.
- Awareness creation and counselling on optimal child feeding and nutrition practices and protecting maternity benefits of women including those who are employed in the informal and private sectors through the RCH Services, mass media and community contact meetings.
- Capacity building of health care providers at all levels so as to equip them with the needed child and maternal nutrition skills and knowledge for provision of counselling, education and mentorship to mothers, child care takers, families and communities.
- Conducting regular monitoring and evaluation of policies, guidelines and regulations aimed at improving nutrition status especially of women and children.

6.3 HIV/AIDS

169. The Committee recommended, in its previous Concluding Observations, that taking into account its General Comment No. 3 on HIV/AIDS and the rights of children (CRC/GC/2003/3) and the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37), the State Party should continue:

(a) To strengthen its efforts in combating the spread and effects of HIV/AIDS, in particular by effectively implementing the programme for preventing mother-to-child transmission of HIV/AIDS (PMTCT), by providing all pregnant women with adequate health and social services free of charge, and by ensuring the provision of antiretroviral drugs and formula-feeding for infants;

(b) To systematically include comprehensive information about HIV/AIDS and sex education, including condom promotion, and provide training to teachers and other education personnel on teaching about HIV/AIDS and sex education;

(c) To integrate respect for the rights of the child into, and involve children, in the development and implementation of its HIV/AIDS policies and strategies; and

(d) To expand assistance to children orphaned and made vulnerable by HIV/AIDS.

170. The State Party complied with the foregoing Committee Observations by undertaking a number of policy, legislative and administrative measures. One of milestones recorded by the State Party during the period under report is the enactment of the HIV and AIDS (Prevention and Control) Act in 2008,¹⁸⁴ which applies in Tanzania Mainland only. This law provides for the care and treatment of persons affected by or victims of HIV/AIDS; to provide support and promote public health in relation to HIV/AIDS; and to provide for prevention and control of HIV/AIDS.

171. In Zanzibar, the State Party has also, through the Revolutionary Government of Zanzibar, adopted the National HIV/AIDS Policy (2004), which strives to curb the pandemic in Zanzibar. It also sets out prevention and intervention strategies in respect of HIV/AIDS through the Zanzibar Aids Commission (ZAC). In order to give this policy force of law, the State Party has finished developing a Bill on HIV/AIDS which has already been consultatively discussed by stakeholders, respective parliamentary steering committees and the Principal Secretaries' Committee; and it is due to be tabled before the Zanzibar House of Representatives in the next session.

(a) Awareness of HIV/AIDS

172. In Tanzania, HIV/AIDS prevention programs focus messages and efforts on three important aspects of behaviour: using condoms, limiting the number of sexual partners (or staying faithful to one partner), and delaying sexual debut (abstinence) of the young and the never married. To ascertain whether programmes have effectively communicated at least two of these messages, respondents were prompted with specific questions about whether it is possible to reduce the chance of getting the AIDS virus by having just one faithful sexual partner and using a condom at every sexual encounter.

173. There is widespread knowledge of HIV/AIDS prevention methods. Nearly nine in ten respondents (87 percent of women and 90 percent of men) know that the chance of becoming infected with the AIDS virus is reduced by limiting sexual intercourse to one uninfected partner who has no other partners. Three-quarters of respondents (76 percent each of women and men) know that the chance of contracting HIV/AIDS is reduced by using condoms.

¹⁸⁴ Act no. 28 of 2008.

174. There are notable differences in knowledge of HIV/AIDS prevention. Although age differentials are inconsistent, youth age 15-19 appear to have lower levels of knowledge than those in older age groups. Knowledge of HIV prevention methods is lowest among those who have never had sex. Levels of knowledge of preventive methods are higher in urban than in rural areas. In general, respondents in the Mainland are more likely than those in Zanzibar to be aware of various HIV prevention methods. For instance, 71 percent of men on the Mainland and 44 percent in Zanzibar are aware that both condom use and limiting sex to one partner reduces the risk of contracting HIV/AIDS.

175. Variation by region is particularly striking. In Mainland, for example, 88 percent of women in Dodoma are aware of both methods of HIV/AIDS prevention compared with 50 percent of women in Mwanza. For men, knowledge of both methods ranges from 88 percent in Dodoma to 47 percent in Arusha.

(b) Knowledge on prevention of mother-to-child transmission of HIV (PMTCT)

176. Increasing the level of general knowledge of HIV transmission from mother to child and reducing the risk of transmission using antiretroviral drugs (ARTs) is critical to reducing mother-to-child transmission (MTCT) of HIV during pregnancy, delivery, and breastfeeding. To assess MTCT knowledge, respondents were asked if the virus that causes AIDS can be transmitted from a mother to a child through breastfeeding and whether a mother with HIV can reduce the risk of transmission to the baby by taking certain drugs during pregnancy.

177. Data shows that, 89 percent of women and 81 percent of men know that HIV can be transmitted through breastfeeding. Somewhat fewer (75 percent of women and 67 percent of men) know that the risk of MTCT can be reduced through the use of ARTs during pregnancy. Seventy-two percent of women and 61 percent of men are aware that HIV can be transmitted through breastfeeding and that the risk of MTCT transmission can be reduced by taking ARTs. This is a significant increase from the data reported in the 2004-05 TDHS (29 percent of women and 30 percent of men) and the 2007-08 THMIS (49 percent of women and 38 percent of men).

(c) Attitudes towards people living with aids

178. Widespread stigma and discrimination towards people infected with HIV or living with AIDS can adversely affect both people's willingness to be tested for HIV and also their adherence to antiretroviral therapy. Thus, reduction of stigma and discrimination is an important indicator of the success of programs targeting HIV/AIDS prevention and control.

179. Most women and men would be willing to care at home for a relative with AIDS (nine in ten respondents), seven in ten would buy fresh vegetables from a market vendor with the AIDS virus, and eight in ten believe that an HIV-positive female teacher should be allowed to continue teaching. While there are small gender differences on these three indicators, less than half of female respondents (44 percent) and just over half of male respondents (57 percent) would not want to keep secret the fact that a family member is infected with the AIDS virus. Only 30 percent of women and 41 percent of men expressed acceptance on all four indicators: they would care for an HIV-positive family member in their own home, buy fresh food from a shopkeeper with AIDS, allow an HIV positive teacher to continue teaching, and not keep the HIV-positive status of a family member a secret.

180. Women and men in Zanzibar show a higher acceptance of all four indicators of tolerance, (40 Percent of women and 53 percent of men) compared with those in Mainland (30 percent of women and 41 percent of men). Among women, the highest rate of acceptance is in the Eastern zone (39 percent), and the lowest is in the Lake and Southern zones (22 percent). Among men, the highest rate of acceptance is in the Central zone (54 percent), and the lowest is in the Lake zone (30 percent).

181. Respondents in urban areas are one and a half times as likely as those in rural areas to show acceptance on all four indicators. Education and wealth are correlated with positive attitudes towards those who are HIV positive. Women and men with higher educational attainment and in wealthier households are more likely than other respondents to accept all four indicators.

(d) Coverage of HIV testing

182. Knowledge of HIV status helps HIV-negative individuals make specific decisions to reduce risk and increase safer sex practices so they can remain disease free. For those who are HIV infected, knowledge of their status allows them to take action to protect their sexual partners, to access treatment, and to plan for the future. To assess the awareness and coverage of HIV testing services, 2010 TDHS respondents were asked whether they had ever been tested for HIV. If they said that they had been, they were asked whether they had received the results of their last test and where they had been tested. If they had never been tested, they were asked if they knew a place where they could go to be tested.

183. Data shows that nine in ten women and men know where to get an HIV test. The tables also show that 59 percent of women and 43 percent of men have ever been tested for HIV, and 55 percent of women and 40 percent of men have been tested at some time and received the results of their HIV test. Three in ten women and 25 percent of men were tested for HIV in the year preceding the survey and received the results of their test. These figures are much higher than those recorded in the 2004-05 TDHS (6 percent of women and 7 percent of men) and in the 2007-08 THMIS (19 percent of women and 19 percent of men). These figures suggest that Tanzanians are increasingly aware of opportunities for testing and learning their HIV status. Women age 20-39 and men age 25 and older are the most likely to have been tested for HIV. Respondents in urban areas are more likely than those in rural areas to have an HIV test. Women and men who have never had sex are the least likely to have taken the test. Similar patterns are observed in testing and receiving results for women and men.

184. Regional variations exist and differ among women and men. Tanzanians living in Mainland are more likely than those living in Zanzibar to have been tested and received the results. For example, 56 percent of women in Mainland and 48 percent in Zanzibar have been tested and received results. There is only a small difference for male respondents (40 percent in Mainland and 39 percent in Zanzibar). The proportion of women who took the test and received the results ranges from 33 percent in Rukwa to 69 percent in Kilimanjaro. Among men, rates vary from 24 percent in Lindi to 64 percent in Ruvuma. HIV testing is more common among better educated and wealthier respondents.

6.4 Water and Sanitation

(a) Drinking Water

185. Increasing access to improved drinking water is one of the Millennium Development Goals that the State Party, along with other nations worldwide, has adopted (United Nations General Assembly, 2002). The source of drinking water is important because waterborne diseases, including diarrhoea and dysentery, are prevalent in Tanzania. Sources of water expected to be relatively free of these diseases are piped water, protected wells, and protected springs. Other sources such as unprotected wells, rivers or streams, and ponds, lakes, or dams are more likely to carry disease-causing agents.

186. Majority of Tanzanian households have access to clean water sources (33 percent from piped water, 13 percent from a protected well and 8 percent from a spring). Households in Zanzibar are more likely than those on the Mainland to have access to clean water. For example, 74 percent of households in Zanzibar use piped water compared with 32 percent in the Mainland.

187. The results show that two in ten households say that the water is provided by the water authority. Households in Zanzibar are more likely than those in Mainland Tanzania to obtain after from an authority (63 percent compared with 18 percent). Urban households are more likely than rural households to say that their drinking water is provided by the authority. For 9 percent of households in Mainland and 28 percent in Zanzibar, the source of water is on their premises. Overall, 46 percent of Tanzanian households are less than 30 minutes from a water source and 45 percent take 30 minutes or longer to obtain drinking water.

(b) Household Sanitation Facilities

188. Ensuring adequate sanitation facilities is another Millennium Development Goal that Tanzania shares with other countries. Data shows that 13 percent of households in Tanzania use improved toilet facilities that are not shared with other households. In Mainland urban areas, 22 percent of households have improved toilet facilities compared with 9 percent in rural areas. The most common type of non-improved toilet facility is an open pit latrine or one without slabs, used by 71 percent of households in rural areas and 50 percent of households in urban areas. Overall, 14 percent of households have no toilet facility. Most of these households are in rural areas (18 percent).

189. Further, seven in ten households in the State Party do not share their toilet facility, 13 percent share with another household, 12 percent share with two to four households, and 5 percent share the facility with five or more households. Although the likelihood of sharing a sanitation facility with one other household in urban and rural households of Mainland Tanzania is the same, urban households are much more likely than rural households to share the facility with two or more households. For example, 28 percent of urban households share the toilet facility with two to four households compared with 6 percent of rural households.

6.5 Adolescence Health

190. The Committee recommended that the State Party should:

- (a) Undertake a comprehensive study to assess the nature and the extent of adolescent health problems and, with the full participation of adolescents, use this as a basis to formulate adolescent health policies and programmes with particular focus on the prevention of HIV/AIDS and other sexually transmitted diseases, taking into account the Committee's general comment No. 4 (2003) on adolescent health and development;
- (b) Strengthen developmental and mental health counselling services, as well as reproductive counselling, and make them known and accessible to adolescents;
- (c) Ensure the inclusion of reproductive health education in the school curriculum and fully inform adolescents of reproductive health rights, including the prevention of teenage pregnancies and sexually transmitted diseases, including HIV/AIDS; and
- (d) Continue to provide support to pregnant teenagers and ensure the continuation of their education.

191. The State Party continues to comply with the foregoing Committee's recommendations and ensures that problems facing adolescents deserve greater visibility and attention from policy makers. Tanzanian youths face a number of threats to their health, including HIV infections. Millions more suffer from sexually transmitted diseases, which can leave young women infertile and stigmatized by their families and communities. Teenage mothers are at a much higher risk of dying of pregnancy-related causes. Increasing young people's knowledge of sexual and reproductive health (SRH) is critically important in its own right. Given the burden of morbidity and mortality among youth and the greater likelihood of risky behaviours in this population, every effort should be made to facilitate their access to SRH services. At the same time, knowledge alone does not reduce exposure to infection.

192. Evidence points to the importance of structural as well as behavioural interventions. Gender and social mores, poverty and vulnerability that disproportionately impact young women must also be addressed. The youth population in Tanzania is reaching unprecedented levels, and formal educational systems are unable to accommodate the growing demand. As a result, many young people fail to complete primary education, and access to secondary and higher education is even more limited. Young people, therefore, face an uphill battle to gain the skills and experience they need to compete in the job market or make a living through self-employment. The majority of youth end up working in the informal sector with limited opportunities to earn sufficient income to break out of the poverty cycle. Further investment in education, vocational training and life skills, and in creating meaningful employment opportunities for young people is essential to enable them to thrive as tomorrow's earthy, informed, and active citizens.

6.6 Measures to Prohibit and Eliminate Harmful Traditional Practices (Art. 24, para. 3)

193. The Committee recommended that the State Party should strengthen its legislative measures regarding FGM and conduct awareness-raising campaigns to combat and eradicate this and other traditional practices harmful to the health, survival and development of children, especially girls. The Committee also recommended that the State party introduce sensitization programmes for practitioners and the general public to encourage change in traditional attitudes, and to prohibit harmful practices, engaging with the extended family and the

traditional and religious leaders. The Committee further recommended that the State party ratify the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

194. In implementing Article 24, para. 3 and in the context of the Committee's recommendations, the State Party has strengthened its legislative measures regarding Female Genital Mutilation (FGM), which includes the Sexual Offences Special Provisions Act (1998) that prohibits FGM of girls under the age of 18 years, the Law of the Child Act and the Zanzibar Children's Act that both prohibit harmful traditional practices to children¹⁸⁵. Also the State Party has conducted awareness raising campaigns to combat and eradicate FGM and other traditional practices harmful to the health, survival and development of children, especially girls. This is being implemented through dialogues aiming at encouraging community-wide renouncement of the practice.

195. In addition, the State Party has introduced Zero Tolerance to FGM day that is marked on 6th February every year. In addition to that the State Party has introduced the National Plan of Action to combat Female Genital Mutilation (2001-2015) that supports the elimination of FGM. This plan requires all stakeholders to take action by creating awareness to community and advocacy for elimination of FGM through media – Radio, TV, cinema. In addition to this, trainings are conducted to law enforcers and FGM practitioners in the areas where FGM is commonly practiced.

196. The State Party brings more coordinated approaches to addressing FGM issues by forming a National Secretariat on elimination of FGM which is comprised of government institutions, NGOs, FBOs and Media. The Secretariat is coordinated by the Ministry of Community Development, Gender and Children.

197. Anti-FGM Coalition was also formed by Civil Societies to accelerate the elimination of FGM where programmes have been implemented in raising awareness by engaging community members, girls at risk and other children, women and men, clan elders, leaders of women groups, practitioners (*Ngariba's*), teachers, social workers, nurses, religious leaders, politicians (Members of Parliament and Councillors).

198. Furthermore, the study report through Tanzania Demographic and Health Survey (TDHS) 2010 shows that the prevalence of FGM in the country appears to have dropped slightly, from 18 percent in the 1996 TDHS to 15 percent in the 2010 TDHS. This is because widespread of infrastructures including communication and information infrastructures such as TV and Radio broadcasting which give room for rural population to access information. At the same time, success in works of campaigners and activists too easy to cross into remote areas, thus making rural women and community in general knowledgeable enough regarding the impact of FGM.

6.7 Measures to Protect Children from Substance Abuse (Art. 33)

199. In the implementation of the Article 33 of the Convention, the State Party has enacted the Law of the Child Act and Zanzibar Children's Act, which among other things; prohibit a

¹⁸⁵ Section 13 (1) of the Law of the Child Act; and Section 14 (1) of the Zanzibar Children's Act.

person to sell cigarettes, alcohol, any spirit, prohibited drugs or any intoxicating substance to a child¹⁸⁶. Also there is the Drugs and Prevention of Illicit Traffic in Drugs Act¹⁸⁷, which generally prohibits any person to make use of narcotic drugs and psychotropic substances.

200. In Zanzibar, the State Party has initiated a programme called “*Pamoja Tuwalee*” that aims at helping Most Vulnerable Children (MVC) and HIV Home Based Care. There is a Strategy called “*Utii wa Sheria Bila Shurut*” (i.e. voluntary law obedience) adopted by the Police in Tanzania Mainland (2011). This Strategy emphasizes and requires people to build a culture of being obedient to laws and regulations of the country without being forced by the security officers.

6.8 Measures to ensure the protection of children with incarcerated parents and children living in prison with their mothers

201. The State Party has enacted the Law of the Child Act (2009) and Zanzibar Children’s Act (2011). The Law of the Child Act requires the prison authorities to take all necessary measures for a mother who is in prison with her child to ensure that the child receives the required child care in the form of adequate diet, nutrition and child health care including immunization¹⁸⁸. The Zanzibar Children’s Act provides that, a child whose parent has been imprisoned and who lacks a suitable care-giver is in need of care and protection and must be referred for an assessment by welfare officer¹⁸⁹.

6.9 Children with disabilities

202. In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and its recommendations adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310-339), the Committee recommended that the State Party should:

- (a) Further encourage the integration of children with disabilities into the regular educational system and their inclusion into society;
- (b) Pay more attention to special training for teachers and making the physical environment, including schools, sports and leisure facilities and all other public areas, accessible for children with disabilities; and
- (c) Improve and strengthen early detection and treatment services through the health and education sector.

203. During the period under report, the State Party has undertaken several measures aimed at implementing the foregoing recommendations. On the policy level, the State Party enacted the National Policy on Disability. The State Party also enacted the Persons with Disabilities Act in 2010, which sets out the basic rights and fundamental freedoms of persons

¹⁸⁶ Section 17 (2) of the Law of the Child Act, 2009 and Section 108 (2) of the Zanzibar Children’s Act, 2011

¹⁸⁷ Cap. 95 R.E. 2002.

¹⁸⁸ Section 144(1) of the Law of the Child Act.

¹⁸⁹ Section 19(2)(d) of the Zanzibar Children’s Act.

(including children) with disabilities. It also sets out obligations of the state to ensure that persons (including children) with disabilities enjoy their rights without any discrimination. In respect of integration and inclusion of persons (including children) with disabilities into community, section 15 of this law provides that every person with disability is assisted by his local government authority, relatives, disability organisations, civil society or any other person to live as independently as possible and be integrated in the community. It also provides that a person with disability is not forced to live in an institution or in a particular living arrangement including settlement for persons in need of special protection. This has to include:

- (i) Provision of equal opportunity for every person with a disability to choose his place of residence and living arrangements, in accordance with any relevant laws;
- (ii) Community services for the general public are available without discrimination to persons with disabilities and are responsive to their basic needs; and
- (iii) Accessibility to a wide range of community based rehabilitation and inclusion services such as in-house, residential and other community support services, including personal assistance, sign language interpretation, necessary to support living and integration in community access to information about available support services, and to prevent community from disability based discriminations.

204. Under section 27, the Persons with Disability Act provides that persons (including children) with disabilities in all ages and gender have equal rights to education, training in inclusive settings and the benefits of research as other citizens. It also stipulates that every child with a disability has equal rights to be admitted to public or private schools, except where a need for special communication arises. In addition, this section provides that every child with disability shall be provided with appropriate disability-related support services or other necessary learning services from a qualified teacher or a teacher assigned for that purpose. Under section 29(3) of this law more emphasis is placed on inclusive education as a way of ensuring that more persons with disabilities have access to education. Under this provision, the Persons with Disabilities Act stipulates that special schools shall be for transitional period towards inclusive schools. In Zanzibar all children who have special education needs get their right of education in inclusive education.(children with disabilities) In the Ministry there is Special Education Unit from 2003 where there were 20 pilot schools practicing inclusive education(two schools per districts). Currently, the number of schools which has inclusive education increased up to 86. In addition the number of students increased from 450 to 3,883 and 2,390 teachers have been trained on sign language and “Braille”. Also Inclusive Education Policy is in process of developing in collaboration with Different Stakeholders (Government and Private).

205. In Zanzibar there is specific law on disability of 2006, which aims at addressing the issues such as education, family and employment. It also emphasizes on mechanism involving employment of persons with disabilities. (Refer to the common core document). In order to realize the rights of children with disabilities Ministry of Education and Vocational Training (MOEVT) 2009/2010 has trained 2,390 among them women 1,582 on Braille language also at the same year 51 teachers join colleges to study the same and other 8 got certificate and diploma.

7.0 EDUCATION, LEISURE AND CULTURAL ACTIVITIES

(Articles 28, 29, 30 and 31)

7.1 Improvement of the Overall Quality of Education

(a) Policy and Legislative Measures to Improve the Quality of Education

206. In its previous Concluding Observations, the Committee urged the State party to improve the overall quality of education. In compliance with this recommendation, the State Party has undertaken a number of policy, legislative and administrative measures to ensure that it effectively implements the provisions of Article 28 of the Convention, which obliges States Parties to ensure that children in their jurisdictions have the right to education, including vocational training and guidance. The State Party has made primary school enrolment and attendance compulsory for children aged between 7 and 13.¹⁹⁰ Therefore, during the period under report the State party continued to make primary education compulsory¹⁹¹ and available free to all children. Under Rule 6 of the Primary School (Compulsory Enrolment and Attendance) Rules (1979) the Ward Executive Officer or the Village Executive Officer is obliged to ensure that every child in his or her area of jurisdiction is enrolled and attends school regularly.¹⁹² In addition, this rule obliges the Ward Executive Officer or the Village Executive Officer initiate legal action against any parent, any person other than the parent, or any child who contravenes the requirement to enrol or ensure that a child regularly attends school.¹⁹³

207. In Zanzibar, the Constitution, in Article 28 (1), recognizes the right of the child to education, with a view to achieving this right progressively and on the basis of equal opportunity. According to clause 4.2.2. of the Zanzibar Education Policy (2006), "Primary school is part of universal free basic education offered to all children within the age group of 7-13 years". However, parents contribute a little amount of money for their children education. According to a Government Directive (i.e. *Sera na Uratibu wa Uchangiaji wa Gharama za Elimu katika Skuli za Serikali*),¹⁹⁴ issued by the Ministry of Education, parents contribute only 3,000/- per year at primary level in all Government schools. The amount is for purposes related to school physical environment, including cleanliness and for the extra curricula concerns that include study visits and sports. However, when it appears a child's parent is unable to pay such contribution the child of such parent is not subject to suspension, he or she will continue with

¹⁹⁰ Section 35 of the Education Act, Cap. 353 R.E. 2002. According to the Zanzibar Education Act of 1982, free and compulsory education comprises 7 years in primary school and 3 years in secondary school.

¹⁹¹ In particular, Rule 3 of the Primary School (Compulsory Enrolment and Attendance) Rules (1979) [G.N. No. 280 of 2002] provides that: 'The enrolment and regular attendance of every child in primary school shall be compulsory as from the effective date and every child enrolled at any primary school shall, attend school until the completion of primary education.'

¹⁹² Ibid. Rule 6(1).

¹⁹³ Ibid. Rule 6(2).

¹⁹⁴ Revolutionary Government of Zanzibar, *Sera na Uratibu wa Uchangiaji wa Gharama za Elimu katika Skuli za Serikali*. Mwongozo wa Kazi Na. 10, Toleo la 1999. Zanzibar: Ministry of Education, 1999. Section 102.1 (ii).

the studies and the school committee will determine the means of assisting them. This is different from Private schools whereas costs differ from one school to another, the minimum costs is 13,000/ annually at primary level.

208. The Zanzibar Education Policy (2006) aims at providing quality education at all levels from Pre-Primary to adult Education. The Vision of this Policy is: 'A democratic and peaceful Society enjoying a high quality Education and livelihood and committed to lifelong learning to effectively respond to development challenges.' Its Mission is to strive for equitable access, quality education for all and promotion of lifelong learning. Among its goals are:

- a) To promote the acquisition and appropriate use of all forms of knowledge and skills for the full development of the human personality and quality life improvement of the society.
- b) To include principles and practice of tolerance, peace, love, justice, understanding, human rights and fundamental freedoms, national Unity, International cooperation enshrined in the International basic charters.

The Policy emphasis the following considerations so as to achieve the goals:

- a) Expand access and equity at all education levels.
- b) Improve the quality and effectiveness of education system.
- c) Ensure access to ICT (Information Communication Technology) for teachers, students and education staff.
- d) Develop scientific and technological competence.
- e) Expand Tertiary Education.
- f) Promote Good Governance of Education.
- g) Provide a safe and healthy environment for teaching and learning.
- h) Make the best and efficient use of resources.

The education system is among the important issues mentioned in the Education Policy, 2006. According to this Policy, the system starts from two years for Pre - Primary Education, six years for primary school, four years for lower secondary school, two years for Upper Secondary and three years for University Education. The system is 2 – 6 – 4 – 2 – 3+. The issue of Primary education is emphasized in MKUZA II (2010). Among the core cluster strategies in Goal 2.1 of this document states that: 'Ensure equitable access to quality primary school education for all children at the age six to eleven.'

209. Legislatively, the Law of the Child Act and the Zanzibar Children's Act has made it clear that the primary responsibility to maintain a child by providing him or her with, *inter alia*, education and guidance rests on a parent, guardian or any other person having custody of a child.¹⁹⁵

(b) Increase enrolment rates in secondary education and Vocational Training Centres.

210. The Committee, in its preceding Concluding Observations, urged the State Party to increase enrolment rates in secondary education as well as attempts to bring dropouts back to schools and to other vocational training centres.

¹⁹⁵ Section 8(1)(e) of the Law of the Child Act (2009); and section 12(1) of the Zanzibar Children's Act.

211. In its endeavours to implement Article 28 of the Convention and in compliance with the foregoing Committee's recommendation, the State Party has been involved in the implementation of various strategies and plans for making sure that pre-primary is free and primary education is compulsory and free to all. Regarding the quality of education as far as the Committee's recommendation is concerned, the State Party has developed the following to improve the quality of pre-primary education in the following regards:

- a) The Integrated Early Childhood Development (IECD) Operational guidelines and minimum standards for children 0 – 8.
- b) The IECD In-Services Training Programme for day care centres givers and pre-primary education teachers.
- c) The IECD playing/teaching/learning guide.¹⁹⁶
- d) Primary education teachers have been employed yearly which leads to improvement of the National average of teacher pupil ration from 2007 – 2012.

In improving quality of education in primary school the State Party has done the following:

- a) Developed the service teacher training programme for primary school teachers
- b) Employed more teachers hence improvement of the national average of teachers.

In respect of secondary education the following milestones have been achieved in Tanzania Mainland :

- (i) Regarding improvement the State Party has increased the number of Universities which are offering teacher education courses.
- (ii) The employment of secondary education teachers has been increasing from 2007 – 2011.
- (iii) An In-Services Training Programme for science subjects Teachers has been developed and lunched
- (iv) The State Party is in the process of building laboratories to all community secondary's schools.

212. In compliance with the foregoing Committee's recommendation in relation to the increase of the enrollment rates, in Zanzibar the enrollment for this level is growing higher, and the percentage of girls' enrollment somehow is bigger than that of boys. Awareness of the parents concerning the rights of education for their children and their support in the construction of the classrooms facilitates to this situation. Classrooms increased to 240 in 2010 under the support of the Ministry, Community and Donors. The table 12 below shows the enrollment Rate by gender from 2007/2008 – 2009/2010.

213. Pre-Primary Education in Zanzibar is provided to children from the age of 4 and is a part of basic education. From 2006 to 2010 the Number of Government pre- Schools increased from 25 to 27 and 160 to 211 for Private pre-schools. The total Number of schools which provide Pre- Primary Education increased from 185 in 2006 to 238 in 2010. Again, the percentage of

¹⁹⁶ Despite the above mentioned guidelines, the State Party is in the process of identifying 8 zonal teacher training colleges which will train pre-primary education teachers. Also there are three Universities which are offering degrees in early child development. In addition the number of training teachers has been increasing from 2006 – 2011 as shown in the Annexures to this report.

enrollment in this level of Education increased from 13.9 in 2006 to 33.9 in 2010 for government schools and from 76.0 to 80.0 for Private schools.

214. In Zanzibar, the State Party encourages the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need. Secondary Education in Zanzibar is divided into Lower secondary (Form I – Form II), Upper secondary (Form III and Form IV) and advanced /higher (F V and F. VI). According to the New Education Policy, 2006, Basic and compulsory education is from standard I up to Form IV. In secondary education the enrolment has increased from 82,796 students (girls 43,157, and boys 39,639) in the year 2009/2010, up to 84,099 (44,209 girls, 39,890 boys) in 2010/2011.

215. The availability of qualified teachers and teaching and learning materials in Zanzibar has been contributed to this improvement through Zanzibar Basic Education Improvement Project (ZBEIP). This is five years Project from 2008 to 2013 which has two components;- (a) to increase enrollment and (b) to improve quality of secondary education through provision of infrastructure and improve quality of education through teacher training ,curriculum reform and provision of learning materials.

216. In the 2011/2012 fiscal year there are 227 secondary schools in Zanzibar, while in 2009/2010 there were only 219 secondary schools. The Ministry of Education and Vocational training has established vocational centres in 2009 for the aim of improving vocational education for youths so as to employ themselves. For the time being there are 3 vocational centres which enrolled 449 students (boys 279, girls 170).

217. State Party has increased the number of children enrolled in secondary education since 2007–2011. This increased number of children in secondary education has been due to the establishment of community secondary at ward level. Section 107 of the Zanzibar Children’s Act provides that where it is in the best interest of the child, a child of 16 years may be a trainee for the vocational training in accordance with provisions of the Vocational Training Act (2006).¹⁹⁷ In Tanzania Mainland, the child’s right to vocational training is also provided in under the Vocational Education and Training Act¹⁹⁸ and in terms of section 88 of the Law of the Child Act, which specifies a minimum age for apprenticeship, which is pegged at the child’s attaining the age of fourteen years or after completion of primary school education. State Party also has established a department within the Ministry of education and vocational training for the purpose of overseeing the vocation training. In addition there are folk development colleges which are being strengthened by the Ministry of Community Development of Gender and Children for the above, mentioned purpose.

¹⁹⁷ Act No. 8 of 2006.

¹⁹⁸ Cap. 82 R.E. 2002.

(c) Review of the Education Act on Tanzania Mainland to prohibit the expulsion of pregnant teenagers from schools

218. The State Party was urged by the Committee to review the Education Act of Tanzania Mainland to prohibit expulsion of pregnant teenagers from schools. The reviewed law is not yet in place, but the State Party has been continued to undertake various interventions including allowing students to go to school through another program called Complementary Basic Education (COBET) for primary school children and also complementary secondary education. These programs enable children to complete primary and secondary education. However, the State Party is still on debate on how to review the above mentioned policy and how to enact a law which will enable the pregnant teenagers to go back to school after the delivery.

219. Meanwhile in the implementation of the protection of the above mentioned group the state has developed national guidelines to allow pregnant girls to continue with their education after giving births. These guidelines will be used when the education and training policy which is under review is approved. Administratively, since 2009 the State Party allowed primary school pupils who were pregnant to sit for their last examination in Standard Seven. This is a temporary measure while waiting for the guidelines to be approved.

(d) Develop Programmes that link Learning with livelihood skills

220. The State Party currently has been started to prepare a life skills framework for primary, secondary school and teachers training college.

(e) Ensure that teachers are adequately trained and paid.

221. State Party has been increasing salaries for teachers every year from 2006 – 2011 but this depends on economic situation of the country. The State Party undertakes additional efforts regarding facilities education to vulnerable groups. Including street, children, orphan children with disabilities and child workers through the strategy of adult education and nonformal education (AE/NFE) which has overall objective of ensuring that disadvantaged groups have access to quality learning the opportunities with view of improving literacy by 20%. This strategy is mainstreamed and implemented at the local council level.

(f) Include Human Rights education as part of the curriculum.

222. The State Party has made efforts to make sure that human rights education is being included in curriculum for pre-primary, primary, secondary education and Teachers colleges in civics, and general/development studies subjects. In addition, child rights curriculum for practitioners has been developed and launched in 2010 leisure, recreation and cultural activities. Furthermore, the State Party has incorporated human rights education in its folk and community development colleges located throughout the country.

(g) Leisure, Recreational and Cultural Activities

223 The State Party has been undertaking some measures on recovering sports ground to enable children to have an access to leisure, recreational and cultural activities. Also the State Party has developed the curriculum that has included personal development and sports as one of subject to be taught in schools.

(h) Alternative learning and adult education

224. In 2006, the State Party, through the Ministry of Education and Vocational Training, established Department of Alternative learning and Adult Education in Zanzibar. The aim of establishing Alternative education is to give an opportunity for those children who in one way or another dropped from schools before the completion of basic education. Also to give an education opportunity for those children who did not enrol to schools during the school age. Alternative learning classes are increasing as days go by; up to 2010 there were 49 classes with 1,789 students of whom 277 were girls and 1512 were boys. In addition, the Ministry built Alternative Education Centre in Unguja which provide different training to children. The similar centre is in processing of construction in Wingwi Pemba.

(i) Life skills education

225. The State Party has undertaken several measures, through the Ministry of Education and vocational training in Zanzibar, to ensure that children get their right to Education. There are Guidance and Counseling Unit, Education Registrar Unit, Gender Section and HIV Section. All these work cooperatively to ensure that children have a conducive environment in their learning process. Life skills education is given to children so as to be enable them to fight against all challenges facing them in their life which hinder their learning process. These include; early marriage and early pregnancy, sexual abuse and sexual harassment, rape and diseases including HIV/AIDS and worst forms of child labour. Number of cases for early marriages and pregnancies in Zanzibar dropped for the period of five years.

226. In addition, the Ministry of Education and Vocational Training in Zanzibar has already started to implement the Spinsters and Single Parent Children Protection Act of 2005 in considering girls under section 4(2) that where a girl found to be pregnant while at school she may be reinstated to the school, and in the next academic year following her delivery or at any time deemed most appropriate by the education authority. For the period of five years from 2006 to 2010, 97 cases of early pregnancy were reported and handled and 73 which is equivalent to 75.3% agreed to continue with their studies, the remained 24 refused for feeling shy.

8.0 SPECIAL PROTECTION MEASURES

(Articles 22, 30, 32-36, 37(b)-(d), 38, 39 and 40)

8.1 Children outside their country of origin seeking refugee protection (Art. 23)

227. The Committee recommended, in its previous Concluding Observations, that the State Party should strengthen its efforts to address the current delays in the processing of newly arrived Burundian and Congolese asylum-seekers by establishing *ad hoc* committees. It also recommended that the State party should improve the protection response and follow-up for cases of sexual and gender-based violence, particularly those involving children, and that it expedite the revision of its legislation on refugees' related matters. It further recommended that the State party should continue seeking international assistance and cooperation with the United Nations High Commissioner for Refugees.

228. The State Party would like the Committee to note that it has been on the frontline among African countries in hosting refugees or persons seeking such assistance in the country.

International/national laws and agreements which safeguard refugees' rights including refugee children entering the country have been observed and practiced to guarantee their security without discrimination. Services such as health, vaccination, education, food, shelter and legal aid have been equally provided within the camps in collaboration with organizations such as UNHCR, WFP and UNICEF each of which play vital roles aimed at promoting the rights and well-being of the refugee child. The state party also recognises the contribution of other implementing (both local and international) partners such as CARE international, National Organisation for Legal Assistance (**nola**), World Vision, International Red Cross and Red Crescent, Women's Legal Aid Centre and Radio *Kwizera*. These partners have been instrumental in providing services such as health, legal assistance, social protection and public awareness to refugee children located in several refugee camps in its jurisdiction.

229. During the period under report the State Party addressed the delays in the processing of newly-arrived Burundian and Congolese asylum-seekers by establishing *ad hoc* committees, which have been processing applications for asylum and refugee status in the State Party.

230. To ensure family reunification for unaccompanied children, efforts were made to make sure that such children are unified with their families or foster parents. The State Party upholds the principle of voluntary repatriation of refugees whereby its refugee law requires the country to adhere to the due process of law prior to repatriation of refugees back to their countries of origin. Therefore, the State Party has been encouraging refugees to return to their countries of origin out of their own free will. The improvement on political stability going on in neighbouring states has made the State Party to encourage refugees and their children to return to their countries of origin, despite the fact some of them hesitate due to fear of recurrence of political instability.

231. In compliance with the Committee's recommendation that the State party should improve the protection response and follow-up for cases of sexual and gender-based violence, particularly those involving children, the State Party, in collaboration with the UNHCR together with its implementing partners (IP's), has been operating sexual and gender-based violence (SGBV) programmes in all refugee camps in its jurisdiction.

232. In addition, the State Party continues to get maximum international assistance and cooperation with the United Nations High Commissioner for Refugees and its IP's, both local and international. In this context, the State Party initiated new interventions in its service delivery to refugees in relation to provision of legal assistance to refugees and members of the refugee hosting communities. Two local NGOs have been involving in this activity since it was initiated in 2006: National Organisation for Legal Assistance (**nola**) and Women's Legal Aid Centre (WLAC).

233. In respect of internally displaced children, the State Party has established the Disaster Management Departments in both the Prime Minister's Office at the Mainland and in Second Vice President's Office in the Isles that coordinates the management of disasters. The departments have been responding to disasters; for instance, when the explosions occurred at military installations in Gongo la Mbotto and Mbagala, in the outskirts of the Dar es Salaam city, floods in Morogoro and Ferry accident on the 10th of September in the Indian ocean in

Zanzibar's side where the departments deployed its staff to assist the military and the social welfare department in dealing with casualties, particularly children and the elderly.

8.2 Children in Armed Conflicts (Art. 38 & 39)

(a) Minimum Age for Military Conscription

234. In its previous Concluding Observations on the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC), the Committee recommended that the State party consider reviewing its legislation in order to absolutely ensure that no person under 18 years can be recruited.

235. The current law relating to minimum age of military conscription is enacted in section 29(6) of the National Defence Act¹⁹⁹, which provides that: 'No person under the apparent age of eighteen years shall be enrolled without the consent in writing of one of his parents or guardian or, where the parents are dead or unknown, by the District Commissioner of the District in which that person resides.' This law has to be applied together with the provisions of the Law of the Child Act and the Zanzibar Children's Act relating to employment of a child. The two child laws prohibit forced labour for children²⁰⁰ as well as employing a child in exploitative labour.²⁰¹ So, the conscription of children in the military in the State Party may not be in line to these laws. Besides, the State party has not recruited a child into its defence forces during the period under review using the provisions of section 29(6) of the National Defence Act.

(b) Birth Registration

236. The Committee encouraged that the State party enhance its birth registration in the context of its Concluding Observations on second periodic report of Tanzania under the Convention (CRC/C/TZA/CO/2, para. 32). In particular, the State party should ensure free birth registration and introduce mobile birth registration units in order to reach the remote and rural areas throughout the country.

237. The State Party has complied with this concluding observation as stated in Cluster 4 of these consolidated reports.

(c) Major Legal and Policy Measures for the Implementation of the Optional Protocol

238. The Committee recommended that the State Party should continue and complete the process of adopting a Children's Act and urged it to complete the review of the national legislation in accordance with the provisions of the OPAC.

239. During the period under report the State complied with this recommendation by enacting the Law of the Child Act in 2009, which applies in Tanzania Mainland, and the Children's Act in 2011, which applies to Zanzibar. The two laws have considered the provisions enshrined in the OPAC.

¹⁹⁹ Cap. 192 R.E. 2002.

²⁰⁰ Section 80 of the Law of the Child Act; and section 102 of the Zanzibar Children's Act.

²⁰¹ Section 78 of the Law of the Child Act; and Section 99 of the Zanzibar Children's Act.

(d) Assistance for physical and psychological recovery

240. The Committee, in its previous Concluding Observations on the OPAC, urged the State party to assess the situation of children entering into Tanzania who may have been recruited or used in hostilities abroad, and provide them with culturally sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration in accordance with article 6, paragraph 3 of the Optional Protocol.

241. As stated in item 8.1 above, the State Party has been providing a number of services to refugee children who are staying in camps in its jurisdiction in collaboration with UNHCR and its IP's. Such services include provision to children entering into Tanzania who may have been recruited or used in hostilities abroad, culturally sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration.

(e) International assistance and cooperation

242. In its previous Concluding Observations on the OPAC, the Committee recommended that the State party should strengthen its normative framework by considering introducing a specific prohibition with respect to the sale of arms to countries where children have been known to be or may potentially be recruited or used in hostilities. The Committee urged the State party, in accordance with article 7 of the Optional Protocol, to strengthen its cooperation in the implementation of the present Optional Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary to the provisions of the Optional Protocol, including through technical cooperation and financial assistance.

243. In the period under review, the State Party continued to implement the Arms and Ammunition Act²⁰², which prohibits the trade and export of small arms and weapons without licence. During the period under report, the State has been working with other countries in the Great Lakes to eradicate transportation of small arms through its jurisdiction to its neighbours, where children may be recruited or used in hostilities.

8.3 Street Children

244. The Committee, in its previous Concluding Observations, urged the State Party:

- (a) to develop a comprehensive strategy to address the high number of street children, with the aims of reducing and preventing this situation;
- (b) to ensure that street children are provided with adequate nutrition and shelter, as well as with health care and educational opportunities, in order to support their full development;
- (c) to rise awareness of the issue of street children in order to change negative public attitudes about them, particularly among law-enforcement officers; and

²⁰² Cap. 223 R.E. 2002.

(d) to ensure that these children are provided with recovery and reintegration services, including psychosocial assistance for physical, sexual and substance abuse, and where possible and when in the best interests of the child, services for reconciliation with a view to reintegration with their families.

245. In compliance with the foregoing recommendations, the State Party, in collaboration with international and local partners, conducted a number of surveys to establish the number of street children in its jurisdiction in to enable it to, *inter alia*, get a clear number of these children for purposes of planning and assistance. In this regard, in August 2009, the Ministry of Community Development, Gender and Children (MCDGC), in collaboration with the Consortium for Street Children based in England, conducted a survey in seven major towns and cities in Tanzania Mainland – i.e. Dar es Salaam, Dodoma, Iringa, Kilimanjaro, Mbeya, Morogoro, and Singida. This survey revealed that there were 2,288 street children, 538 out of this number were females and 1,750 were males.²⁰³ In collaboration with the MCDGC, Railway Children Africa and *Adilisha*, a local NGO based in Mwanza City, conducted a survey on street children in Mwanza City in 2008, which revealed that there were 443 full time street children in the city, whereby there were 411 boys and 32 girls. The latter survey indicated that 88.7% were full time street children while 11.3% were part-timers, appearing in the streets during day time only and returning home during the night. Another survey was conducted by Mkombozi Street Children's Centre in Arusha Town in 2005 under the auspices of the MCDGC, which indicated that there were 522 street children in the Arusha Town. In 2006 Mkombozi did another survey in the same town, which showed that there were 457 street children. In 2005 there were 354 full time street children in Arusha and in 2006 they were 173.

246. In 2011, the State Party also developed a Community Based Strategic Plan to control the problem of the children living in streets which is due to be submitted to the Inter Ministerial Technical Committee for approval. In addition, the Law of the Child Act and the Zanzibar Children's Act have provisions regulating the establishment and running of approved children's home to carter for shelter, education and health facilities.

247. The State Party also used the 2011 Day of the African Child's theme: "All Together for Urgent Action for Street Children" to raise public awareness on the problems facing street children. In this regard, there was wide use of the media like radio, televisions, and newspapers to create awareness with intention of changing public negative attitude towards street children. In addition, trainings were conducted to police officers, lawyers and prisoner officers on changing negative attitude towards street children.

248. In Zanzibar, where the issue of street children in Zanzibar is not much pronounced, the State Party has outlined strategies on how to handle children beggars mainly during the Friday prayers.

²⁰³ United Republic of Tanzania, *Survey on the Street Involved Children and Youth in Tanzania 2009*. Dar es Salaam: Ministry of Community Development, Gender and Children/Consortium for Street Children, 31st December 2009.

8.4 Children in situation of exploitation, including physical and psychological recovery and social integration

(a) Economic exploitation including Child Labour (art 32) with specific reference to applicable minimum ages

249. The Committee urged the State Party to strengthen the capacity of the institutions responsible for the control and protection of child labour. It further recommended that the State party, with the support of the ILO, UNICEF, and national and international NGOs, develop a comprehensive programme to prevent and combat child labour, in full compliance with ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and ILO Convention No. 138 (1973) concerning Minimum Age for Admission to Employment.

250. The State Party has complied with the foregoing recommendations by first repealed all laws relating to child labour, particularly the two child laws: the Law of the Child Act in 2009 and the Zanzibar Children's Act in 2011. The employment laws also have been repealed and replaced by more effective laws: the Employment and Labour Relations Act²⁰⁴ and the Labour Institutions Act²⁰⁵ in 2004, which apply in Tanzania Mainland; and the Labour Relations Act²⁰⁶ and the Employment Act²⁰⁷ in 2005, which apply in Zanzibar. In Tanzania Mainland, Law of the Child Act and labour laws peg the minimum age of employment at 14 year. In Zanzibar the minimum age of employment under the Children's Act is set at the age of 15 years.

251. The Intergraded Labour Force Survey of 2006 found that child labour involves 2,468,488 children, and out of that 591,846 were involved in hazardous condition. In response to this and to the UNCRC concluded observation recommendation URT adapted a National Strategy for Elimination of Waste Form of Child labour in 2005 among other things the strategy stipulate measure to curb child labour issues in Tanzania. More over URT have developed a National Employment Policy which prohibits child labour.

252. Through the support of ILO the State Party implemented the International Program on Elimination of Child Labour (IPEC). The Time Bound Program was implemented in collaboration with ILO. Through this and other initiatives the number of children in hazardous work including, commercial sexual exploitation, domestic labour, mining, commercial and agriculture has been reduced. On the other hand, the government in collaboration with KIOTA Women and Health Development also withdrew a total number of 6,083 children from child prostitution for the years 2005,2006 and 2007 (women and children report 2010).

253. In Zanzibar, the State Party through the Ministry of Labour, Economic Empowerment and Cooperatives, set up in 2010 a special child labour unit to coordinate the efforts to eliminate child labour. The National Plan of Action on Elimination of Child Labour 2009-2015 is in place to tackle the problem of child labour, also in collaboration with ILO the government has identified

²⁰⁴ Act No. 6 of 2004.

²⁰⁵ Act No. 7 of 2004.

²⁰⁶ Act No. 1 of 2005.

²⁰⁷ Act No. 2 of 2005.

more than 200 children and return them to school by providing them with necessities of uniforms and books.

(b) Sexual exploitation and sexual abuse (art 34)

254. In its previous Concluding Observations on the State Party's second periodic report, the Committee urged the State Party:

(a) to strengthen its legislative measures and develop an effective and comprehensive policy that addresses the sexual exploitation of children, including the factors that place children at risk of such exploitation;

(b) to avoid criminalizing child victims of sexual exploitation; and

(c) to implement appropriate policies and programmes for the prevention, recovery and reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congress Against Commercial Sexual Exploitation of Children.

255. In its efforts to implement Article 34 of the Convention and in compliance with the above recommendations, the State Party has taken several measures to address the same. Measures include the enactment of provisions protecting children who are in need of special protection by recognising children living at risk of being sexually exploited and abused under the Law of the Child Act²⁰⁸ and the Zanzibar Children's Act²⁰⁹. The Law of the child Act prevents a child from being involved in activities of sexual nature and make it an offence for anyone attempting or putting a child into such an act.

256. In addition, the State Party, with technical and financial support of UNICEF, conducted a national study on violence against children (VAC) in 2009 that covered both Tanzania Mainland and Zanzibar. Tanzania is the first country in Africa to undertake A National Study on Violence against Children – for the first time measuring all forms of violence (sexual, physical and emotional) amongst girls and boys and giving national estimates of the prevalence of violence. During the launches of the surveys, Ministries and civil society through Tanzania Child Rights Forum (TCRF) a coordinating platform for CSOs working with and for children in the country made public commitments to tackle violence against children. These commitments are being translated into national plans of action – Zanzibar published its National Plan to Respond to Violence against Children (2011-2015) and mainland is currently developing its own plan. Briefly, the findings indicated that:

- In regard to sexual violence nearly three out of any ten female the survey indicate that near 3 out of every 10 female and one out of every 7 male reported at least one experience of sexual violence prior to the of 18;
- Nearly 6% of female have been physically forced to have sexual intercourse before the age

²⁰⁸ Section 16 and 83 of the Law of the Child Act.

²⁰⁹ Section 19 Zanzibar Children's Act.

of 18;

- Almost three quarter of the children both male and female experienced physical violence prior to age 18; and
- Approximately one quarter of children both male and female experienced emotional violence prior to age 18.

A similar report was launched in Zanzibar a month later covering similar trends specific for Zanzibar. Main findings includes:

- More than 1 in 20 females and about 1 in 10 males aged 13 to 24 from Zanzibar reported experiencing at least one incident of sexual violence before the age of 18.
- About 6 in 10 females and 7 in 10 males reported experiencing physical violence prior to the age of 18. Almost 1 out of 2 females and more than 4 in 10 males 13 to 17 years old reported that they experienced physical violence in the past 12 months by either a relative, authority figure (such as teachers) or an intimate partner.
- about 1 in 7 females 13 to 24 years of age and 1 in 5 males reported experiences of emotional violence prior to turning age 18.

257. A One Stop Centre, based at a hospital with a police officer on duty, has been established at the National Hospital in Zanzibar in order to provide a holistic services for children, including counseling, legal help and medical care to victims of abuse including sexual abuse. Three One Stop Centres are being piloted in Magu, Temeke and one in Hai with the intention of scaling up the efforts to other districts. Furthermore, the Tanzania Police Force has established Gender and Children's Desks in the mainland and Zanzibar in order to improve the way in which the police handle cases to encourage reporting of gender based violence and child abuse incidences. Dedicated officers staff the desks. Police have been trained in 193 out of 366 police stations on the mainland. The roll out of the desks nationwide to all districts is in the police's strategic plan for both the mainland and Zanzibar, to be completed by 2013. The plan includes the assignment and renovation of rooms for the desks and interviewing of child victims, in conflict with the law and witnesses.

8.5 Drug abuse

258. The Committee recommended that the State Party should strengthen its measures to prevent and end drug abuse among children and to support recovery programmes for child victims of drug abuse. The Committee urged the State Party to seek technical cooperation from, *inter alia*, the World Health Organization and UNICEF.

259. In compliance with this recommendation, the State Party has carried out a number of measures, including strengthening its measures to prevent and end drug abuse among children and to support recovery programmes for child victims of drug abuse, in collaboration with, *inter alia*, the World Health Organization and UNICEF on the issue of drug abuse. In Zanzibar, for the year 2010, the government under the first vice president, has established a specific centre for victims of drug abuse where victims are provided with testing and treatment, care and rehabilitation which includes sober houses and positively reintegration into community for those who have recovered from drugs.

8.6 Sale, Trafficking and Abduction

(a) Legislation

260. In its Concluding Observations on the State Party's initial report on the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC), the Committee urged the State Party to expedite the process of harmonization of its national legislation in line with the definition of the offences contained in articles 2 and 3 of the Optional Protocol in order to make effective and adequately implement the provisions contained therein. The Committee further recommends that the State party continue and complete the process of adopting the Children's Act.

261. In combating and addressing the issue of sale, trafficking and abduction of children in 2008 the State Party enacted Anti-Trafficking in Persons Act in 2008, which criminalizes acts of traffic in persons, including children²¹⁰ as well as acts of promotion of traffic in persons, both within or outside the jurisdiction of the State Party²¹¹. In addition, the Ministry of Home Affairs has established an anti-trafficking committee comprising members from both parts of the country aimed at addressing the issue of trafficking in the country. This committee was inaugurated by the Minister of Home Affairs, Hon. Shamsi Vuai Nahodha, on 23rd December 2011.

(b) Independent Monitoring

262. The Committee, in its Concluding Observations on the State Party's initial report on the OPSC, urged the State party to provide necessary human and financial resources to ensure that the Commission for Human Rights and Good Governance can be easily accessible to all children to complain of any violation of their rights, including those covered by the Optional Protocol.

263. During the period under review, the State Party strengthened the Commission for Human Rights and Good Governance in order to enable to be more easily accessible and capable of processing children's complaints about any violation of their rights, including those enshrined in the OPSC. In collaboration with UNICEF and other stakeholders, the Commission has been able to expand its services throughout the country by establishing children desk with children information centre in four zones namely Dar es Salaam, Zanzibar, Lindi and Mwanza. Zanzibar University has established a diploma course on Child Rights starting this year targeting police officers and legal officers.

(c) National Plan of Action

264. The Committee recommended, in its Concluding Observations on the State Party's initial report on the OPSC, that the State party should elaborate, as a matter of priority, and implement specific plans of action with timetable to combat incidence of sale of children, child prostitution and child pornography in all parts of its territory.

265. In compliance with this recommendation, the State Party has formed a National Coordination Committee, establishment of child law, establishment of social Centre for child

²¹⁰ Section 4 of the Anti-trafficking in Persons Act (2008).

²¹¹ Ibid. Section 5.

trafficking to tackle this problem. A total of 246 children have been removed from trafficking and have been integrated back into their families for the period of 2005-2009. In 2008 reintegration of children was undertaken at different levels in Tanzania Mainland whereby those who had been trafficked away from their families managed to rejoin their families.

(d) Coordination and evaluation

266. The Committee recommended that the State Party should take all necessary measures to ensure that a high level national body is appointed with a clear mandate to coordinate and evaluate the State party's implementation of the provisions of the Optional Protocol and that it is provided with adequate human and financial resources.

267. In compliance with this recommendation, the State Party is now in the process of forming a high level national body which will have a clear mandate to coordinate and evaluate the State party's implementation of the provisions of OPSC and that it is provided with adequate human and financial resources. However there is within the Ministry of Home Affairs established an anti-trafficking committee comprising members from both parts of the country aimed at addressing the issue of trafficking in the country.

(e) Dissemination and training

268. The Committee recommended that the State party should:

- (a) Strengthen systematic education and training on the provisions of the OPSC for all relevant professional groups, including teachers, social workers, lawyers and judges, the media and police throughout the State party by providing, inter alia, a more user-friendly version of the Optional Protocol;
- (b) Enhance measures to disseminate the provisions of the Optional Protocol among its population, especially children and parents, by using school curricula and appropriate material specifically designed for children, including a child-friendly Kiswahili version of the Protocol;
- (c) Strengthen systematic gender-sensitive education and training on the provisions of the Optional Protocol for all professional groups working with child victims of the crimes covered by the Optional Protocol; and
- (d) In cooperation with civil society, promote - in line with article 9, paragraph 2 of the Optional Protocol - awareness in the public at large, including children, through information by all appropriate means, education and training, of the preventive measures and harmful effects of all the offences referred to in the Optional Protocol, including by encouraging the participation of the community and, in particular, children and child victims of both sexes, in such information and education and training programmes.

269. The State Party has implemented this recommendation; including undertaking measures to disseminate the provisions of the Optional Protocol among its population, especially children and parents. School curricula and appropriate material specifically designed for children, including a child-friendly Kiswahili version of the Protocol were developed. The State Party has also strengthened systematic gender-sensitive education and training on the provisions of the Optional Protocol for all professional groups working with child victims of the crimes covered by the Optional Protocol, under the MCDGC on Tanzania Mainland and the MSWYCD in Zanzibar. In addition, the State Party strengthened its cooperation with civil society

in promoting - in line with article 9, paragraph 2 of the Optional Protocol. This was through - awareness in the public at large, including children, through information by all appropriate means, education and training. The awareness also covered preventive measures required and harmful effects of all the offences referred to in the Optional Protocol, including by encouraging the participation of the community and, in particular, children and child victims of both sexes, in such information and education and training programmes.

(f) Allocation of resources

270. The Committee recommended that the State Party should, taking due account of the Committee's recommendations following its 2007 Day of General Discussion on article 4 of the Convention:

(a) Provide the necessary human and financial resources for the development and implementation of projects and plans, especially at the local level, aimed at the prevention, protection, physical and psychological recovery and social reintegration of victims and prosecution of the offences covered by the Optional Protocol; and

(b) Ensure a human rights approach to its budgeting with particular focus on children, including in the implementation of the National Strategy for Economic Growth and Reduction of Poverty (MKUKUTA in Tanzania Mainland and MKUZA in Zanzibar).

271. The State Party has implemented this recommendation, including undertaking to provide the necessary human and financial resources for the development and implementation of projects and plans, especially at the local level, aimed at the prevention, protection, physical and psychological recovery and social reintegration of victims and prosecution of the offences covered by the Optional Protocol. It has also ensured a human rights approach to its budgeting with particular focus on children, including in the implementation of the National Strategy for Economic Growth and Reduction of Poverty (MKUKUTA in Tanzania Mainland and MKUZA in Zanzibar), making it the leading African Government to budget for children in 2010.²¹²

(g) Prevention of the sale of children, child prostitution and child pornography

272. The Committee recommended that the State party should strengthen its preventive measures, including allocation of human and financial resources for research at regional and local levels aimed at addressing the root causes, such as poverty and some cultural practices, that contribute to the vulnerability of children to sale, prostitution, pornography and sex tourism. The Committee also urged the State party to undertake investigations into the reports indicating the sale of children for ritual purposes and bring the perpetrators of the crime to justice.

273. The State Party has implemented this recommendation by first of all strengthening the legal protection of children who are compelled into prostitution and child pornography. The Zanzibar Penal Decree, the Penal Code, through the Sexual Offences (Special Provisions) Act of 1998 (applicable in Tanzania Mainland), the Anti-trafficking in Persons Act, the Zanzibar Children's Act and the Law of the Child Act have all criminalised acts relating to the sale of children, child prostitution and child pornography in the same context as in the Optional Protocol. In addition, budgetary allocations to line ministries dealing with these issues have

²¹² African Child Policy Forum, *The African Report on Children Wellbeing 2011*. Op. cit.

been improved, with an increase in the number of training personnel specifically being trained on how to enforce these laws.

(h) Prohibition and related matters

274. The Committee urged the State party to expedite its law review processes in order to effectively prohibit the offences against children under the Optional Protocol and to ensure that perpetrators of the offences, including brothel owners, in the case of child prostitution, are duly prosecuted.

275. In complying with this recommendation, in 2008 the State Party enacted the Anti-trafficking in Persons Act, which incorporates all the offences enshrined in the OPSC.

(i) Protection of the rights of child victims

276. The Committee recommended that the State Party should:

(a) ensure the protection of child victims at all stages of the criminal justice process in accordance with article 8 of Optional Protocol and that the best interests of the child shall be a primary consideration. In this regard, the State party should be guided by the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (ECOSOC res. 2005/20);

(b) take all necessary measures to ensure that, adequate human and financial resources are allocated in order to improve the legal representation for child victims;

(c) ensure that all child victims of the offences described in the Optional Protocol have access to adequate procedures and seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4 of the Optional Protocol; and

(d) Use child-friendly procedures to protect children from hardship during the justice process, including by the use of special interview rooms designed for children, child-sensitive methods of questioning and reducing the number of interviews, statements and hearings.

277. The State Party has addressed these recommendations by enacting in the Anti-trafficking in Persons Act 2008 provisions that ensure that victims of trafficking in persons are compensated²¹³; are cared and rehabilitated by appropriate state organs²¹⁴; and if such a victim is a child or a person with disability, he or she given special protection, assistance and care in accordance with the tenderness or the nature of the disability.²¹⁵

(j) Recovery and reintegration of victims

278. In its Concluding Observations on the State Party's initial report on the OPSC, the Committee urged the State party:

²¹³ Section 15 of the Anti-trafficking in Persons Act.

²¹⁴ Ibid. Section 17.

²¹⁵ Ibid. Section 19.

(a) to ensure that adequate resources are earmarked for services to assist all child victims, boys and girls, including for their full social reintegration and their full physical and psychosocial recovery, in accordance with article 9, paragraph 3 (of the Optional Protocol); and

(b) to take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the Optional Protocol, in accordance with article 8, paragraph 4 of the Optional Protocol.

279. In order to make sure that the foregoing recommendations are fully complied with, the State Party has enacted in the Anti-trafficking in Persons Act provisions that give force of law the requirement to repatriate the victims of trafficking in persons and re-integrate them back to their society²¹⁶; or where the victim is a foreigner, back to his or her country of residence.²¹⁷ In particular, this law has special provisions relating to the repatriation of children back to their communities under section 22. State party has been providing training to officers working with the Human Trafficking Desk as well as the department of Social Welfare as a preparatory measure for formation of national mechanism for response to victims of trafficking.

(k) Helpline

280. The Committee welcomed the information provided by the State Party delegation that there was a plan to establish a child helpline; and recommended that such helpline be accorded a 3-digit, 24-hour and toll-free number to assist child victims.

281. The State Party has finalised the establishment of the child helpline with the number being already allocated by the Tanzania Communication Regulatory Authority, which is mandated to regulate and oversee service providers in the area of communications. The helpline has been accorded a 3-digit (116) operational for 24 hours and toll-free to callers. The child help line is due for operation from 2012.

8.7 Other Forms of Exploitation (Art. 36)

282. In both Tanzania Mainland and Zanzibar there are other forms of child exploitation like sexual, and worst form of child labour as already elaborated above. The Zanzibar Employment Act (2005) and the Employment and Labour Relations Act in Tanzania Mainland have enshrined provisions that protect children from exploitation the employment and labour relations, which include, child labour and worst form of child and it sets standards of employing children as well as recognize the rights of remuneration to children. Newly passed Law of the Child Act and the Zanzibar Children's Act have also recognized the legal protection of children from these types of exploitation (see comments on the left) exploitative.

²¹⁶ Ibid. Section 21.

²¹⁷ Ibid. Section 23.

8.8 Children in conflict with law, victims and witness

283. The State Party has undertaken special measures to deal with children in conflict with law: that is, from the arrest through prosecution to sentencing. These measures are enshrined in the Law of the Child Act²¹⁸ and the Zanzibar Children's Act.²¹⁹ The two laws set out alternative sentences to imprisonment of children convicted of offences.. Alternative sentences include, the discharge and release of a child to the care of a parent, guardian or fit person, payment of a fine, damages or compensation and community service.

284. The Zanzibar Children's Act has introduced provisions regulating diversion of children in conflict with law away from the formal criminal justice system. In this context, diversion may be applied at any stage of the criminal justice process. For instance, when a child comes in conflict with the law, a police officer may, instead of initiating a prosecution against the child, record the particulars of the offence and caution the child not to reoffend. Furthermore the Children's Act prohibits retention of criminal records for diversions, convictions and sentences in respect of a child who has been processed through a criminal justice system. The MSWYWCD has been working with key Ministries to develop an implementation plan for the recently adopted Children's Act. A specific plan for the reform of the juvenile justice system is planned to be developed in 2012.

Child witness

285. The Zanzibar Children's Act stipulates in section 49(2) that: 'Any child may be admitted to give evidence in criminal proceedings without taking the oath or making an affirmation; provided that such child is able to understand questions put to him and to respond to such questions in a manner which is intelligible; and provided further that such child shall, in lieu of the oath or affirmation, be admonished by the presiding officer to speak the truth, the whole truth and nothing but the truth.'

286. Every child shall be presumed to be competent to testify in criminal proceedings and no such child shall be precluded from giving evidence unless he or she is found, at any stage of the proceedings, not to have the ability or the mental capacity, verbal or otherwise, to respond to questions in a way that is understandable to the court. The evidence given by a child referred to in subsection (2) shall be admissible in criminal proceedings, and the court shall attach such weight to such evidence as it deems fit.

287. Notwithstanding any rule of law or practice to the contrary, where evidence received by virtue of subsection (2) is given on behalf of the prosecution and is not corroborated by any other material evidence in support of it implicating the accused, the court may, after warning itself, act on that evidence to convict the accused if it is fully satisfied that the child is telling the truth.

²¹⁸ Part IX (Sections 97-120) of the Law of the Child Act.

²¹⁹ Part 5 (Sections 35-54) of the Zanzibar Children's Act.

8.9 Administration of Juvenile Justice

288. The Children's Act repeals the Children and Young Persons Decree²²⁰, and introduces a separate system for under-18s in Zanzibar. The Act establishes a Children's Court in every region to adjudicate on cases involving children in conflict with the law, child protection and welfare cases. The establishment of the Children's Court does not affect the jurisdiction of a Kadhi's Court to determine questions of Muslim law relating to personal status, marriage, divorce and maintenance or inheritance. On the other hand, Tanzania mainland has established a Juvenile Court for hearing and determining child-related matters. However in ensuring the rights of children are realized, and cases are disposed without undue delay, the Chief Justice may designate primary court premises to be a juvenile court.

289. In Tanzania Mainland the establishment of Juvenile Justice Service Section within the Ministry of Health and Social Welfare aims at preparing and reviewing policies, Laws and regulations for Juvenile Justice. The Section develops sustainable plans, coordinates the custody and care of accused children in retention homes and the Approved Schools. The Section also coordinates provision of guidance, rehabilitations and counselling of alcohol addicts and drug abusers. It also conducts behavioural rehabilitation of children and carries out impact studies and researches on various interventions on Juvenile Justice.

290. In mainland, the State Party has established 6 children retention homes across the country and one approved school. Efforts are underway to construct retention homes in each of seven zones. The Law of the Child Act 2009 prohibits capital punishment and life imprisonment of children. Non custodial sentence is only applied in exception circumstances for the best interest of the child. Where a child is convicted of an offence punishable by a custodial sentence, the LCA provides that such child shall be committed to the custody at an approved school. A child committed to an approved school shall be detained for a term not exceeding three years.

291. On physical and psychological recovery and social reintegration the State Party is working to ensure that children committed to custodial sentences receive physical and psychological support. Before release from the approved school, children are linked with social welfare officers at their homes and a release plan is prepared jointly with the child. At the retention home and approved school, there are fulltime social welfare officers who offer psycho-social counselling and guidance to children and prepare them for reintegration in the community.

292. In 2011 the State Party, through the Commission for Human Rights and Good Governance (CHRAGG), conducted inspection for children in detention facilities in Tanzania which revealed that there were 1400 children in adult prisons and detention facilities.²²¹

²²⁰ Cap. 58.

²²¹ United Republic of Tanzania, "Inspection Report for Children in Detention Facilities in Tanzania". Dar es Salaam, Commission for Human Rights and Good Governance, June 2011.

Furthermore, through the Ministry of Constitution and Legal Affairs, the State Party conducted an assessment of juvenile justice and access to justice by children, which found that the State Party was facing a number of challenges, including lack of reliable legal aid services to children, insufficient number of social welfare officers, and insufficient number of personnel with specialized training on juvenile justice. It also found out that there was lack of equipment and facilities for the administration of juvenile justice. Strategies for intervention on gaps identified in this study have been prepared through the newly found Child Justice Forum (CJF). The State Party has also established and piloted gender and children desk at the police stations. The plan is to scale up the desks in all police stations across the country and prepare standard operating procedures. The Department for Social Welfare is working with UNICEF to establish a community rehabilitation scheme for young offenders and children at risk of offending.

293. Before the enactment of the Law of the Child Act in 2009, uncoordinated trainings were conducted to juvenile justice administration professionals. After the enactment of the Law of the Child in 2009, efforts are underway to have coordinated training programmes in the justice sector including the magistrate, prosecutors, social welfare officers, labour officers, prison officers and lawyers. The Child Justice Forum, which was established in 2011 under the coordination of Ministry of Constitution and Legal Affairs to identify gaps in the administration of Juvenile justice, has developed a strategy for reform of the child justice system. The Law of the Child Act has clearly prohibited any form of discrimination including children belonging to a minority or an individual in group.

8.10 Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment (art 37(a) and 28 para 2)

294. There is a commitment by the State Party to eliminate corporal punishment in all schools. In achieving this, for instance, the State Party has introduced the concept of child friendly schools in Zanzibar, which emphasizes schools to have alternative ways of reprimanding children instead of corporal punishment. The State Party as its response to stop violence against children is reviewing the use of corporal punishment by teachers and developed and operationalizes guidelines on alternative forms of discipline for teachers on non – violent learning methods. The government is introducing a desk for guidance and counselling in all schools as one of the alternative.

295. Nevertheless, the government has prepared guideline for training parents on parental care and education to enable them acquire parenting skills and be able to guide and counsel their children right from earliest stage.

296. The State Party, through the Revolutionary Government of Zanzibar and in complying with the provisions of Convention on corporal punishment, has taken tremendous step in stopping corporal punishment, the government has introduce the program known as ‘promoting Alternative forms of Discipline’ in schools in Zanzibar as pilot program, the program started August 2010 and it covers 10 schools both in Unguja and Pemba. The main objective of this program is to end the corporal punishment in all schools in Zanzibar. All government primary schools in Zanzibar have now at least one teacher who has been trained on the use of positive forms of discipline. Also the Children Act of Zanzibar prohibits a child to be subjected to any

inhuman treatment: 'No child shall be subjected to violence, torture, or other cruel, inhuman or degrading punishment or treatment or any cultural or traditional practice which dehumanizes or is injurious to his physical and mental well-being.'

297. Equally, section 13(1) of the Law of the Child Act in Tanzania Mainland also prohibits a child to be subjected to the same treatment: 'A person shall not subject a child to torture, or other cruel, inhuman punishment or degrading treatment including any cultural practice which dehumanizes or is injurious to the physical and mental well-being of a child.'

8.11 Measures to promote physical and psychological recovery and social reintegration of child victims (art.39)

298. The State Party, through the Revolutionary Government of Zanzibar has established Child Protection Unit in 2010 aimed at providing psychological support to child victims of abuse and their parents. The Unit provides counselling to victims of abuse and provide referral accordingly. Such referrals include medical attention at the established One Stop Centre at Mnazi Mmoja National Hospital as mentioned earlier.

299. In Mainland the state party in collaboration with UNHCR has established a mechanism of dealing with children victims of armed conflict, recruited or used in hostilities in countries of origin. Within refugee camps child victims are provided with psychosocial counselling and guidance by mental health practitioners and social welfare officers. The state party provides trained personnel whose role is to identify children from armed conflict countries for the purpose of reintegrating and reunifying them with their families.

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