



Child Rights Forum

Together for Our Generation

**The Tanzania's 2nd, 3rd and 4th State Report
on the Implementation of the
African Charter on the Rights and Welfare of the Child**

Civil Society Organization's Complementary Report

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1. FOREWORD

Tanzania Child Rights Forum is the national coalition of close to 200 Non- Governmental Organizations working in the area of children rights. Having been formally established in 2012, the coalition has brought together child rights activists to monitor and work with the government in ensuring there is progressive development in the child rights situation of Tanzania. It thus brings issues of public policy concerns that have impact on children to the national policy agenda. TCRF also works with its national members and partners to make follow up on the reporting obligations of the state party, which responsibility goes with providing, in every permitting circumstance, alternative view through submission of the Complementary report.

The present report must be considered against a set of changing context. First, is the coming into power of the new government, which is adopting many different radical approaches to governance. While CSOs acknowledge that there are steps already being undertaking to improve coordination mechanisms by aligning the structures of the ministry for example, it is still immature to predict that this is being done as a response towards longstanding calls to do so, and whether the implication for children rights of such streamlining has been thoroughly examined and understood by the government. Secondly, while it may sound speculative and apprehensive at this point, there are reasons to believe that the CSOs working environment is amenable to further stifling, in which case the mutual trust between Government and CSOs stand to suffer.

The report attempts to furnish additional information. Some of these information are a direct results of implementation of the various efforts between the periods when the state party had submitted her report, and now. We believe that the Committee will find this contribution useful and urge the state party to implement many suggested reforms for the betterment of children in the country.

CSO community, have met in more than four face to face sessions, with series of consultation online to arrive to this report. The actual input in identifying the issues involved more than 100 COS representatives from Mainland and Zanzibar. CSOs, within the TCRF membership and outside of the membership, remain committed to work with every stakeholder, including the state party's organs in ensuring the country is achieving the objectives of the African Charter on the Rights and Welfare of the Child, and those of the United Nations Convention on the Rights of the Child.

2. EXECUTIVE SUMMARY

In Tanzania, implementation through enactment of legislations and setting up structures at country level is an ongoing concern. However, coordination between Zanzibar and Tanzania mainland regarding the minimum human rights standards remains a challenge. Regardless the state is in the process of developing two National Action Plans on Violence against Women and Children (NPA-VAWC) for Tanzania Mainland and Zanzibar respectively, this process aiming at consolidating multiple frameworks and plan of actions related to children is challenged by heabove factor. Tanzania has been selected as a Pathfinder country, leading in Africa for the work of the Global Partnership on Violence against Women and Children around goal 5, and 16.2 of Sustainable Development Goals that has combined both women and children in a national action plan. CSOS sees this as an opportunity to address coordination of children's issues and creating more sustainable system that will enhance clear coordination.

Civil Society recognizes the many actions taken to further child rights, including the inclusion of child rights in the draft Constitution, the enactment of the Law of the Child Act 2009 and the Children's Act 2011 in Zanzibar which have gone a long way towards domesticating the CRC, ACRWC and other international child rights treaties as well as other acts and treaties which impact on children.

Despite, there is still the need for review of other conflicting laws such as the Law of Marriage Act of 1971, the currently revised Education Act 1978 and link their provisions with the Law of the Child Act 2009 particularly on the section concerning punishment of offenders who may be children.

CSOs raises concern on the time it takes to finalise the process initiated by the state party since 2012 to review the Child Development Policy which integrate early Childhood Development issues and Child Protection into the existing policy. In spite of improvements, budgeting for children and their rights is still given low priority.

CSOs recognize the positive steps undertaken by the state party to provide legal definition of the child according to the principles of the ACRWC and the CRC, which steps culminated into passing of the Law of the Child Act of 2009 and Children's Act 2011 for Tanzania Mainland and Zanzibar respectively.

The state party has adopted the New Education Policy (URT 2014) which focuses on equal access to education between girls and boys, it has been noted that impregnated girls are not given a second chance to return back to school. There is no Law neither regulation that prohibit girls from being returned, however the

traditional practices with the excuse of the non-existence provisions is extensive across the country. Country specific commitment to guarantee the rights of the pregnant children to education does not exist. e state party should allocate adequate resources, which will accommodate special needs of children with disabilities. The policy changes include also promotion of positive disciplining, the child protection guidelines for school has been developed as well as the teacher's code of conduct to create a safe school environment and address an issue of violence against children in school environment has been reviewed. However, caning is still legal and continues to be administered in schools.

It is well noted that the state party has introduced inclusive education, which intends to reduce discrimination and stigma for children with disabilities. Nevertheless it has not been able to provide appropriate infrastructures and learning facilities to the children with children with disabilities who continue to be stigmatized and others do not have access to education facilities. The state party must ensure there is an implementable guideline on reinstating/re-entry of pregnant schoolgirls.

CSOs observe progress made in the health sector in recent years, regardless 15% of its annual budget to the health sector, as agreed with the African Union. Underfunding of the health sector contributes to shortages of health services, with about only 15 percent of the MOHSW development vote is domestically financed. The government has to adhere to the recommendation of the African Union to allocate 15% of its annual budget to the health sector in order to address highlighted challenges.

Despite these provisions, it has been noted that roll out of national child participation initiatives are not well coordinated and monitored. In addition, the provisions in the guidelines are not adequately sufficient in providing minimum standards for the implementation of this principle. The existing children councils are mostly dependent on Non-Governmental Organizations' both financial and technical support, something which is not reliable and sustainable. The government should issue directives to Local Government Authorities directing them to engage children in the planning processes (from village to district level).

Birth registration continue to remain law in spite of many efforts to raise awareness and decentralizing the functions of the registration of births and deaths form the centralized systems to align it with local government functions. CSOs notes the ongoing initiative of linking civil registration system with the national vital statistics which looks at the constraints to registration much more comprehensively in order to help carve out the coherent strategy for birth registration which is integrated with the broader essential services for children. Tanzania has not ratified the

Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment and has no intention so to do.

The sexual and reproductive health rights of adolescents are not well developed. Largely because of the desire to protect them against sexual abuse and exploitation, all sex with an adolescent (even consensual adolescent-adolescent sex) is a crime (unless the girl is having sex with the person she married). Abortion is generally regarded as a crime also due to a lack of adequate interpretation of the existing law and policy and around 20% of maternal deaths are caused by unsafe abortions, particularly among adolescents. Information on HIV is reasonable but life skills are minimal in practice.

The State Party has taken progressive legislative and administrative steps towards respecting and protecting rights of children that need special protection such as refugees, children in contact and conflict with the law, and those in exploitation and abuse. However, different challenges still prevent children from enjoyment of such protection and their rights. The following are critical issues that needs immediate State Party intervention:

The overall capacity of the justice system to handle cases involving children is still weak. The access to legal assistance and rehabilitation programs for children in contact and conflict with the law is limited, and in some rural areas non-existent. The State Party needs to undertake policy, legislative and administrative measures to reduce vulnerability and increase protection for all children. Specifically, the State Party should take the following measures:

The Law of the Child Act (2009) (applicable in the Mainland) as well as the Zanzibar Children Act (2011) have all incorporated specific provisions as regards to the general responsibilities of the child in the context of the Charter. The Government in collaboration with CSOS should create parenting skills programs and space for children to express themselves

3. GENERAL MEASURES OF IMPLEMENTATION:

(a) Coordination of minimum human rights standards for children as per the ACRWC

- (i) Tanzania has ratified and domesticated international and regional conventions on children's rights. Implementation through enactment of legislations and setting up structures at country level is an ongoing concern. However, coordination between Zanzibar and Tanzania mainland regarding the minimum human rights standards remains a challenge. Coordination between the two

sides of the Union is generally absent because the structure of governance makes matters concerning children a non-union matter. This affects the implementation of minimum standards for all children in Tanzania as specified in the African Charter on the Rights and Welfare of the Child (ACRWC). This leads to the lack of consistency in delivery of services for children as for example in education, school girls who fall pregnant are allowed to go back to school in Zanzibar, but in the Tanzania Mainland this right is unattainable. Lack of consistency is also noted with regard to monitoring of children rights in which both sides of the Union have separate mechanisms for monitoring implementation of the Charter, although reporting is done as a country. This overall, creates parallel structures of accountability for children rights within one state party to the Charter.

- (ii) Linked to the above, the state is in the process of developing two National Action Plans on Violence against Women and Children (NPA-VAWC) for Tanzania Mainland and Zanzibar respectively. However the issue of coordination of the two action plans for Tanzania Mainland and Zanzibar needs to be clarified particularly for issues that cut across the two countries.
- (iii) Further related to the above, now that Tanzania has been selected as a Pathfinder country to showcase the work of the Global Partnership on Violence against Women and Children around goal 5, and 16.2 of Sustainable Development Goals that has combined both women and children in a national action plan. CSOS are encouraging the government to use this opportunity to address coordination of children's issues by applying a forward looking approach that moves beyond the current national action plans and programmes/projects, and places emphasis for a more sustainable system that will enhance coherent coordination of children's rights (policies, laws, plans, strategies) implemented in Tanzania Mainland and in Zanzibar.
- (iv) With regard to internal coordination mechanisms at individual states, the new 5th Phase government, which came into power in Tanzania Mainland in 2015, has attempted to institute institutional alignment by merging two ministries (the MoHSW and the MCDGC). Although this is a positive development in terms of putting children's issues under one roof, there are still issues of unclear mandate, division of responsibilities and overall responsibilities of different functions within the same Ministry leading to the confusion of the different roles between the Department of Social Welfare, for example, and the Community Development portfolio. The State Party should state clearly where and how the monitoring and coordination of child rights are going to be carried out. The MDA identified should be given the power to hold accountable rather than just convene.

- (v) Further, in addressing coordination at the sector and ministerial levels for Tanzania Mainland especially, CSOs urges the state party to consider orientating the proposed coordination mechanism in the current NPA-VAWC to focus on vertical and horizontal relationships of government structures to ensure more effective sectoral linkages by providing better clarification of the technical and procedural functions of each of the ministries as institutions with independent mandates as well as thematic areas that may not be VAC/VAW related. This will help to mediate the complex relationships among the policy setting sector ministries such as the Ministry of Health, Community Development, Gender, Elderly and Children (MHCDGEC) and the ministries coordinating implementation at the local government system level, namely, the President's Office Regional Administration and Local Government (PO-RALG). This will address the general tendency of moving more co-ordination responsibility to the PORALG which has the mandate for oversight of local government systems responsible for implementation of policies whose lines of authority between line Ministries and PMO-RALG, have not yet been defined clearly. Again, the existing practice of coordinating through multi-sector coordinating committees has not proved most effective as these committees do not meet often, and where different stakeholders are expected to contribute to funding the plan of action, they usually do not do so. Convening Ministries may have the power to convene but not to hold accountable.

With regard to coordination at the sub-national level, Tanzania Mainland has under the Law of the Child Act 2009, mandated local government authorities to establish structures for child rights. Such establishment is an on-going concern, and the CSO community continues to support that work as part of contribution towards implementation of the LCA 2009. However, CSO notes of multiple structures relating to child protection and operating at the LGA and community levels but remains largely ad-hoc and uncoordinated. For example, the Child Protection Teams are established in a few local government authorities of Iringa, Temeke, Hai, Mbeya and Njombe out of over 180 LGAs, which work is propped by development partners support. Likewise, the Most Vulnerable Children Committees (MVCCs), as well as the Children's Councils, continue to operate outside of the statutory space and are largely considered mere add-ons to the statutory functions of the LGAs, thus not part and parcel of the official structures of the LGAs. In terms of accountability, there is a lack of an elaborate oversight structure that is responsible for their functioning at the LGA level. Due to lack of legal standing, they do not often get favourable consideration in the LGA budget processes and thus their functioning depends on the individual goodwill, leaving their manner of function to be ad-hoc and event based rather than anchored on

structural process. This has had impact on the extent of their sustainability beyond the timeframes of the project support frameworks supported by donors.

(b) Policy and Legal Framework:

- (i) Development of new policies and enactment of laws: Civil Society recognizes the many actions taken to further child rights, including the inclusion of child rights in the draft Constitution, the enactment of the Law of the Child Act 2009 and the Children's Act 2011 in Zanzibar which have gone a long way towards domesticating the CRC, ACRWC and other international child rights treaties as well as other acts and treaties which impact on children such as the Convention on the Rights of People with Disability (CRPD) and the Disability Act. Despite the existence of these laws, there is still the need for review of other conflicting laws such as the Law of Marriage Act of 1971. The currently revised Education Act 1978 conflicts with some provisions of the Law of the Child Act 2009 particularly on the section concerning punishment of offenders who may be children. Likewise, the law has a focus on perpetrator and less for a victim, which is exemplified by failure to redress for the rights of the girl children who have been made pregnant or who have been married off during school. In addition, the law does not provide for children of school going age who are not in school nor does it make reference to laws that protect children such as Sexual Offence Special Provisions Act (SOSPA) 1998, Penal Code Cap 16 and the Law of the Child Act 2009.
- (ii) The government has recently made amendment through the Written Laws Miscellaneous (Amendment) Act 2016 which amended the Education Act by adding section 60 A making unlawful for any person to marry a school girl or boy. The law provides that any person who contravenes this is liable to imprisonment of 30 years.
- (iii) Review of the Policies: The state party had sought to review the Child Development Policy by integrating early Childhood Development issues and Child Protection into the existing policy. The revision process which started early in 2012 has not been yet finalized to date. CSO notes the delay in completing the review process and urges the state party to expedite it.
- (iv) Harmonization of Plans and Strategies: CSOs acknowledge the steps of the government of Tanzania Mainland and the Revolutionary Government of Zanzibar to harmonize the plans into one comprehensive plan (eliminating the issue of multiplicity of plans) for each side. However, this should not undermine the multifaceted nature of violence against children and women, thus in a way

limiting their attention to comprehensively addressing the diverse issues of violence facing women and children. Likewise, the structures to address violence against women may not be relevant for children. Therefore, there are reservations with regards to the plan especially in terms of ensuring adequate allocation of resources for children, ensuring adequate accountability and monitoring systems (including data requirements) and ensuring that children's issues maintain visibility in the national policy agenda.

(c) Lack of adequate funding for children

- (i) In spite of improvements, budgeting for children and their rights is still given low priority. In its report to the Committee on the Rights of the Child in Geneva (what year), the government stated that there is an improvement in budget allocation for children in the period under report. However, the government accepted that the budgets related to children are highly donor dependent¹.
- (ii) Despite the fact many of the ministries have issues that impact on children, there are no budget lines that are earmarked specifically for children's issues (most MDA's budget lack a sub vote for children) thus becomes hard to determine the amount of resources available for children, for example, in the MCDGC budget for 2014/15, while the budget for salaries was likely to be provided 100%, only 22.8% of the development budget had been disbursed by April 2015 (2-3 months before the end of the financial year).
- (iii) In terms of human resources, the 2015 budget stated that 61% of the Community Development posts at ward level had not been filled², Social welfare officers are lacking, currently there are 733 while the needed are 1,295 showing the gap of 562 SWO nationally³; designation of district and resident magistrates courts for Juvenile Cases and construction of new Juvenile Courts as dictated by the Law of the Child Act for Tanzania Mainland is still facing a lukewarm attention due to funding constraints in the Judiciary. Of those present, the majority of officers who directly engage with children have not been trained in children's rights, child protection or child friendly processes.
- (iv) As pointed out earlier, the national plans and strategies have been operating outside budget guidelines issued by the Ministry of Finance (more like project based implementation). It is only with the current NPA-VAWC where the on-going costing exercise is being aligned with the budgetary process and tools; the structures that have been established to address issues affecting children such as

¹ As expressed by the State Party itself in its response to the UNCRC

²According to the Budget speech of the Minister, overall in 2015 there were a total of 2774 community development officers working in the LGAs, 1464 at district level and 1310 at ward level.

³ Department of Social Welfare, Ministry of Health, Community Development, Gender, Elderly and Children

the Children's Desk under the CHRAGG and the Police and Gender Desks are lowly funded, operating on meagre budgets that would otherwise hinder their proper function.

- (v) The Budget Guidelines issued by the Ministry of Finance should direct including sub votes for children for each and every MDA with child related responsibilities. Allocations to children's departments and desks should be provided in sub votes and ring-fenced to ensure that the budget for children is not allocated to other priorities. The State Party should consider setting up a National Commission for Children and Youth to facilitate close follow up of plans, strategies and policies developed to improve the status of children's rights. At LGA level, PO-RALG should issue a directive mandating LGAs to incorporate children's structures such as Child Protection Committees and the District Children's Council into LGA funding and the calendar of activities. LGA budgets should also reflect the new Budget Guidelines which include budgeting for children
- (vi) There has yet an attempts by the State party to determine the cost of providing comprehensive child protection services to guide their budgeting for childrens services.

4. DEFINITION OF A CHILD

- (i) CSOs recognize the positive steps undertaken by the state party to provide legal definition of the child according to the principles of the ACRWC and the CRC, which steps culminated into passing of the Law of the Child Act of 2009 and Children's Act 2011 for Tanzania Mainland and Zanzibar respectively. The Draft Constitution of the United Republic of Tanzania, which is awaiting the referendum and promulgation, has for the first time provided the definition of a child in the section on the Bill of Rights. However, the defining provision of the laws have not sufficiently provided a definitive harmonizing effect and thus allowing grey areas in the way children, especially girls, are treated under other legislation.
- (ii) Although the Penal Code sets the age of sexual consent at 18, section 13 of the Law of Marriage 1971 for example, continues to recognize marriages of girls of age as low as 14 years by the leave of court, and 15 years by parental consent. The section also distinguishes marriageable age along the gender lines where for boys, it maintains 18 as an age of marriage without exception. While sexual consent at 18 is considered a general rule under the Penal Code Cap 16 and the law creates an offence of statutory rape, the exception is when the girl under the age of 18 has been married to a purported perpetrator. This exonerates the perpetrator from criminal responsibility.

- (iii) Similarly, although the Children Act, 2011 in Zanzibar defines a child along the lines of the ACRWC, the same issues around marriages and sexual consent emerge with regards to a girl child.
- (iv) The net effect of these Laws with regard to the minimum age of marriage and the age of sexual consent applying different age thresholds for girls and boys not only breaches the principles of non-discrimination and the best interest of the child, but have also presented particular difficulties in their application once the rights of children are being adjudicated. This is illustrated by the case of the *Elizabeth Michael Kimemeta Vs Republic*, Miscleaneous Criminal Application of 46, of 2012 (original from Kisutu Rms Court PI 1 of 2012. where the standards of age determination have been interpreted differently by the High Court and the Court of Appeal of Tanzania respectively.
- (v) The gaps in applying different standards in the definition of a child affects other areas such as the administration of juvenile justice, child labour, domestic child work and commercial sexual exploitation. However, it is much more pronounced on the relations of sexual nature, where increasingly, issues of child marriages are gaining prominence. The need to review the Law of Marriage Act 1971 is long overdue and cannot be overstated. This is irrespective of the recent declaration of the unconstitutionality of the provision of the age of marriage in the Law of Marriage in the case of *Rebecca Gyumi Vs Attorney General*, HC of Dar es Salaam, Miscellaneous Civil Cause no 5 of 2016), which decision the State Party through the Attorney General Office has already instituted an appeal process against.
- (vi) CSOs notes the fact that successive governments have failed to deliver on promises to implement the recommendations of the government own bodies such as the Tanzania Law Reform Commission (LRC) and others which have invariably shown the need to reform the Law of Marriage Act 1971.
- (vii) CSOs therefore recommend that the state party, through the Ministry of Health, Community Development, Gender, Elderly and Children (MHCDGEC) be urged to :
 - (a) Implement reform of the regulatory framework(s) on marriages for both Tanzania Mainland and Zanzibar to bring them in line with the protection envisaged by the ACRWC, and the CRC, as a matter of priority.
 - (b) Ensure preservation of the provision relating to the definition of the child in the impending draft constitution, and immediately post promulgation, undertake harmonization of all laws relating to children to bring them in line with the protection envisaged by the Constitution for both Tanzania Mainland and Zanzibar.
 - (c) As a recommendation for interim measures pending the constitution promulgation and/or the legal reform of children laws, the state party be

encouraged to conduct a thorough and comprehensive assessment of the extent of conflict in the laws, policies and regulations in order to identify areas needing changes, and as appropriate, implement changes through amending the laws.

5. GENERAL PRINCIPLES

Tanzania as a state party has domesticated all the four principles of child rights into the legal framework whereas in Tanzania Mainland the state party has a Child Development Policy, which is under review, and has enacted the Law of the Child Act 2009 and the Zanzibar Children Act of 2010, both constitution of the United Republic of Tanzania of 1977 and the Constitution of Zanzibar of 1984 impliedly consistent in their respective Bills of Rights to the four child rights principles as stated in the Charter. However, the government has not adequately translated the policies and laws into actions

(a) Non-discrimination:

- (i) School girls pregnancy: The state party has adopted the New Education Policy (URT 2014) which focuses on equal access to education between girls and boys, it has been noted that impregnated girls are not given a second chance to return back to school. There is no guideline issued to the responsible authorities to implement what is stated in the new policy regarding reinstating impregnated girls back to school after delivery.
- (ii) Children with Disability: On disability and inclusion it is well noted that the state party has introduced inclusive education, which intends to reduce discrimination and stigma for children with disabilities. Nevertheless it has not been able to provide appropriate infrastructures and learning facilities to the children with children with disabilities who continue to be stigmatized and others do not have access to education facilities. For instance, in those schools meant for inclusive education there is still lack of adoptive learning materials, inadequate sign language teachers for children with hearing impairment, buildings without ramps, lack of wheel chairs for children with physical disabilities and limited access to facilities for protecting children with albinism. This challenge is not only in education sector but also in the health sector.
- (iii) Discriminatory marriageable age: Reference is further made to section 1 A and 2 above in relation to the operation of conflicting laws that creates loopholes for girl children to be married at the age as young as 14 unlike

boys whose age of marriage is recognized by the law at 18. This raises the question of unequal treatment by the law between boys and girls and reinforces the need to have these contradictory laws reviewed (i.e Law of Marriage Act 1971, the Penal Code- Chapter 16 etc) .

Recommendations:

- 1) The state party must ensure there is an implementable guideline on reinstating/re-entry of pregnant schoolgirls.
- 2) The state party should allocate adequate resources, which will accommodate special needs of children with disabilities.
- 3) The Law of the Marriage act of 1971 should be reformed to align with Law of the Child Act 2009.

(b) The Best interest of the child:

It is well noted that the state party has enacted some policies, laws and regulations which require all actions concerning the child undertaken by any person or authority to take into consideration the best interest of the child. Nevertheless, the best interest of the child should go hand in hand with the opinions of the child. There is no clear guidance/guideline to direct decision making process at administrative , judicial, quasi-judicial and governance bodies on the key considerations determining the best interest for children. Most policies of the government , both political and economic for example, still pass without conducting child impact assessments. Public awareness is also critical in ensuring family level decisions are guided by the considered views of and for children.

Recommendations to the government:

- The state party must develop and adapt mechanism to conducting child impact assessment for each and every policy formulation undertaking in order to promote putting children's best interest at the heart of public policy.
- The state party should institute mechanisms of working closely with CSOs to initiate parents skills program with a view of creating awareness at family and community level.
- The state party should review its existing policies, plans, strategies and laws and regulations to bring them in line with the best interest of the child principle.
- The state party should implement the provisions to ensure the protection of children in conflict with the law, children who are victims or at risk of harm by ensuring that their case management is undertaken by social welfare officers to protects their best interests.

(c) Life, survival and development

Tanzania is one of 189 nations that endorsed the Sustainable Development (MDGs) in September 2000 within the UN General Assembly. Tanzania has developed different health policies and participated in many other global initiatives to promote maternal and child health.

The National Health Policy (2007) created a new requirement of higher level care in villages and wards, i.e., each village should have a dispensary, and every ward should have a health center. However, currently the country has 10,342 villages and only 6,099 dispensaries. Across the country, patients often have to travel long distances to access a dispensary in neighboring village or a health center at the ward level. District hospitals and regional or national referral hospitals are even more difficult to access. All these happen because of the inadequate budget allocation to support the above initiatives.

Regardless, CSOs observe progressive efforts made by the Government in the health sector in recent years, though it is not on course to allocate 15% of its annual budget to the health sector, as agreed with the African Union. The MOHSW reports that it only received 11% of the national budget in 2010-11, 10% in 2011-12, and 10% again in 2012-13 (Mugarula 2013). Government health care provision is yet to be satisfactory, particularly in rural areas. Underfunding of the health sector contributes to shortages of health workers, insufficient infrastructure, and very limited resources, including equipment, supplies, transportation, communications, and medicines. (Legal and Human Rights Center Report 2015)

For the financial year 2014/2015, the budget further dropped to Tshs. 45.8 billion, although the initial amount set was Tshs. 70.5 billion. For the financial year 2014/2015, the budget allocated only covers 7.7% of the demand, which is Tshs. 250 billion. The budget has also been donor-dependent and statistics show that donor contribution has been decreasing; and while this is happening the Government has not been filling the funding gaps. There have also been delays in disbursement of funds, which further contribute to programs not being implemented according to schedules, and shortage of essential medicines and medical supplies. The Table below illustrates the fluctuating trend of share of budget for essential medicines and medical supplies in MoHSW budget Year MoHSW total budget (Tsh. Bn). This shows the degree of predictability of the health sector financing and how the same is likely to affect the implementation of survival rights of children.

Table: Allocation for essential medicines & medical supplies (Tshs. Bn) % change in budget allocation for essential medicines and medical supplies

YEAR	MoHSW total budget (Tsh. Bn)	Allocation for essential medicines & medical supplies (Tshs. Bn)	% change in budget allocation for essential medicines and medical supplies
2010/2011	676.3	61.4	23.8%
2011/2012	584.2	78.7	28.2
2012/2013	576.1	80.5	2.3
2013/2014	753.9	64	-20.5
2014/2015	622.9	45.8	-28.4

Source: LHRC's Tanzania Human Rights Report 2015

Recommendations to the government:

- The government has to adhere to the recommendation of the African Union to allocate 15% of its annual budget to the health sector in order to address highlighted challenges.
- Local government authorities have to mobilize resources and use its own sources to construct health centers in villages and wards.
- The state party must recognize the CSOs' contribution in helping to track budget allocation and expenditures related to health sector, and utilize information gathered through such expenditure tracking to inform policy priorities and resources allocation.

(d) Right to View/ Child participation

Section 11 of the Law of the Child Act 2009 set a ground rule that 'no any person shall deprive a child capable of forming views and the right to express an opinion, to be listened and to participate in decisions affecting their wellbeing'.

Despite these provisions, it has been noted that roll out of national child participation initiatives are not well coordinated and monitored. In addition, the provisions in the guidelines are not adequately sufficient in providing minimum standards for the implementation of this principle. The government has failed to establish child platform that aims at promoting the principle. Although there is an on-going effort, the government has not established children councils in all regions, districts, wards and villages. The existing children councils are mostly dependent on

Non-Governmental Organizations' both financial and technical support, something which is not reliable and sustainable⁴. In addition, a well defined mechanism of obtaining the children's views and valuing them is missing rendering whatever efforts at obtaining children views in different process mere tokenistic without any coherent mechanisms of evidencing how such views have contributed to resultant products or policies. In this connection, there emerges need to urge the state part to evaluate the role or the work of the children's council and how their existence have contributed into the processes that concern children.

The government's report indicates that there are 122 children's councils out of 185 district councils, but it is unclear whether they are all functioning and the lack of clear directives for Local Government to engage children in planning makes child participation questionable. The National Junior Council of the United Republic of Tanzania does not have all representatives from all regions of Tanzania as per National Guideline which requires the National Children Councils to be represented by two children from each region of Tanzania. It has been noted that there is inadequate budget and resources within the respective Ministry and Local Government Authorities (Source: MDGC 2014) has paralyzed the realization of child participation principle.

Special regard must be paid to hard to reach groups of children who may not be easily visible in the view of public policy making processes. These groups include children with disability, the MVCs and orphans, out of school children and youths, children heading households, children infected and affected by HIV/AIDS, street connected children, children with albinism, and children engaged in child labour and domestic work. State party has not created an enabling environment for these groups of children to participate in matters affecting their rights such as in the processes of planning, budgeting, monitoring and evaluation.

Recommendation to the government

- The government should issue directives to Local Government Authorities directing them to engage children constructively in the planning processes (from village to district level).
- The government has to set proper coordination strategies to ensure children's councils remain active and sustainable.
- The government has to allocate adequate budget to support child participation structures' activities (councils, forums and clubs).

⁴ Child Rights Situation Analysis for Tanzania 2014 conducted by Plan International and Save the Children Tanzania

- The Government should continue to support and partner with CSOs in promoting child participation.
- The government should engage CSOS in developing minimum standards for child participation.

6. SPECIFIC CLUSTERS

(a) Civil Rights and Freedom

- (i) Rights to name and Nationality: Birth registration continue to remain law in spite of many efforts to raise awareness and decentralizing the functions of the registration of births and deaths from the centralized systems to align it with local government functions. CSOs notes the ongoing initiative of linking civil registration system with the national vital statistics which looks at the constraints to registration much more comprehensively in order to help carve out the coherent strategy for birth registration which is integrated with the broader essential services for children.
- (ii) Part of the reform efforts is to address the insufficiency of the existing legal framework. CSOs understand that there had been steps undertaken to introduce the new Bill seeking to overhaul the existing Birth and Death Registration Act, Chapter 108 R.E 2002. However, CSOs remains concerned that the attempts at changing the law have remained dormant and it is taking too long before finalization. In the event, the rate of coverage and access to registration by children remains despairingly low, with no visible evidence of improvement despite of massive investment in its reform. This runs inconsistent with article 6 of the Charter.
- (iii) Birth and Death Registration in Zanzibar continue to be guided by the Birth and Death Registration Act No.6/2006 that provides for the right to name, nationality and identity. The situation of birth and death registration in Zanzibar is far better than the Tanzania Mainland one, thus reinforcing the need to applying uniform standards across the two parts of the Union to align with the need for consistency and same standards of accountability.

Recommendations

- (i) The Government should put in place measures to address all the challenges raised in the State Party Report, which measures must address the need to align the existing legal framework to be consistent with article 6 of the Charter.

(b) Right to Protection Against Abuse and Torture

Corporal Punishment

- (i) The state has revised the Education and Training policy to promote positive disciplining, has developed the child protection guidelines for school as well as reviewed the teacher's code of conduct to create a safe school environment and address an issue of violence against children in school environment. However, the revision of the Education and Training Act which is important in ensuring enforcement of policy provisions has not started because, the state party maintains, that the revision of the Education Act is awaiting the revision of the Constitution which up to now is uncertain⁵.
- (ii) According to the government, canning is still legal and continues to be administered in schools⁶. Policies, institutions and guidelines which state that corporal punishment should not be used have less deterrent force. Currently, corporal punishment is allowed under the National Corporal Punishment Regulations of 1979 and the Education (Corporal Punishment) Regulations GN 294 of 2002 pursuant to article 60 under the National Education Act of 1978 which authorizes the minister to make regulations to provide for the administration of corporal punishment in schools. The LCA does not specifically and expressly prohibit corporal punishment although it does prohibit torture, or other cruel, inhuman punishment or degrading treatment⁷ There are no regulations for this particular section. In 2000 the government issued guidelines to reduce the number of strokes from six to four and stated that only heads of schools are allowed to administer the punishment, the guidelines are still in operation⁸ although there is no evidence whether it is being enforced. Canning remains widely a punishment of choice for many teachers, most of whom view it as an easy to use and less time consuming means of enforcing discipline.
- (iii) Another obvious gap is the prohibition of corporal punishment in other institutions mandated with the care of children such as children's homes, retention homes and approved schools. Corporal punishment at home is also not prohibited. In penal institutions, corporal punishment is still practiced. The Law of the Child (Retention Homes) Rules 2012 provides for the child's right to protection from all forms of violence but they authorize the use of

⁵ URT, *Responses by the Government of the United Republic of Tanzania to the List of Issues in Relation to the Combined 3rd to 5th Periodic Reports to the Committee on the Rights of the Child, 2014*

⁶ Reported in the Government 2nd, 3rd and 4th report on the implementation of the ACRWC

⁷ Section 13 of the National Education Act 1978

⁸ See *Global Initiative to End All Corporal Punishment of Children, 2015, Towards Non Violent Schools: Prohibiting All Corporal Punishment Global Report of 2015, Nottingham UK.*

corporal punishment as a last resort (Reg.4(1) and 52). The LCA (Approved School Rules) 2011 provide for corporal punishment in article 46 (7).

- (iv) As a form of punishment for penal offences, corporal punishment is mandatory for certain offences for males 16 years and above as provided in the Written Law (Miscellaneous Amendments) Act no. 10 of 1989; the Penal Code Chapter 16; the Sexual Offences Special Provisions Act of 1988 and the Criminal Procedure Code of 1985 all provide for corporal punishment.
- (v) Tanzania has not ratified the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment and has no intention so to do. This is evidenced by Tanzania's outright rejection of the recommendation to do so by the Human Rights Council in the recently concluded Universal Periodic Review for Tanzania.

(c) Child Marriage and Domestic Violence

- (i) The Law of Marriage Act of 1971 is still a stumbling block to the freedom from sexual abuse to children. The LCA 2009 did not out-rightly provide a provision against child marriage although it did provide for the amendment of other Acts for purposes of alignment. The fact that the Law of Marriage Act 1971 has a specific provision allowing for underage marriage will make the implementation of the National Action Plan on Violence against Children difficult. It is further a total contradiction to implement action plans which have no legal backing or legal pillars, early marriage cannot be eliminated completely without amending the LMA.
- (ii) As regards domestic violence, the LMA has a provision that prohibits domestic violence; however, actual service delivery to victims of domestic violence is still limited by lack of reporting mechanisms on gender related domestic violence, and negative attitudes of law enforcement institutions especially where such violence is partner perpetrated. If 37% of women are married before the age of 18 years, then a majority of these children are not getting the services they need. Reports reveal that when victims of domestic violence seek justice they are often faced with individuals who demand bribe for services, or they have limited access to the justice system because customary law and practices promote settlement out of court. In any case, even if women decide to pursue their cases, there is no shelter or a safe place for them to stay during the prosecution of a case⁹. Promoting the enactment

⁹ Human Rights Watch, 2015, Tanzania UPR Submission

of the Domestic Violence Act will contribute to the reduction of violence against women and children at household level.

(d) Expulsion of School Girls When Found Pregnant

- (i) Evidence from the current 5015 HRW report reveals that school girls are expelled from school when found pregnant. The National Education Act 1978 which provides for the continuation of this practice has not been amended despite recognition by the government that pregnancy is one of the cause of girls dropping out of school. According the 2015 EFA review by the Government of Tanzania, pregnancy is one of the obstacles to completion of primary and secondary education, in 2014 alone, 20% of girls, which is around 3,342 children aged 7 to 13 dropped out of school because of pregnancy¹⁰. Two issues are related to this form of abuse for young girls, the first is their denial to accessing education as there are no measures in place to support their continued education. Discussions regarding re-entry have been ongoing but implementation has not started and the current policy has a statement with regards to re-entry, however the Education Act of 1978 needs to be amended in order for that right to be realized.
- (ii) Secondly, and connected to the above, is the whole issue relating to introducing comprehensive sexual and reproductive health education in school curriculums. Children are already engaging in sex at a very early age and the current approach of promoting abstinence seems to be lacking effectiveness, not only in Tanzania, but worldwide. The government also needs to finalize the re-entry plan on pregnant girls as well as out of school education programmes for out of school children.

(e) Functioning of Institutions and Structures Responsible for Violence

- (i) As rightly reported in the government Report¹¹, structures to coordinate and monitor violence against women and children have been established from national to local levels. However, the CSOs question the functioning of these structures and in particular how the referral system works in upholding the best interest of the child as there is no evidence to reflect this. Likewise, there has not been an evaluation to determine the extent to which the planned strategies under the completed VAC plan were implemented and whether sufficient resources were allocated to facilitate the implementation of the plan. This includes supporting the functioning of institutions and structures, rolling out of the GBV guidelines, establishment of Police Children

¹⁰ LHRC, *Tanzania Human Rights Report 2015, Dar es Salaam*

¹¹ URT, *Consolidated 2nd, 3rd and 4th Reports on the Implementation of the African Charter on the Rights and Welfare of the Child by the Government of Tanzania, 2015*

- and Gender Desks in all police stations, Establishment of Child Protection Teams at District, Ward and Village Levels in all the districts and operating of the Child Helpline. It is also necessary to ensure that the piloted One Stop Centers, which have been established to increase efficiency of services, are actually effectively functioning before they are rolled out.
- (ii) CSOs note also with concern that there are no facilities for providing safe placement to children who have experienced violence in their homes.

(f) Street connected Children

- (i) Street connected children remain a hidden and vulnerable group that is likely to be facing abuse by government institutions. According to a report¹², street children are at higher risk when in contact with the police as the police use force and inflict violence and torture during interrogation in police stations, sometimes children are forced to make confessions where there is a situation of suspicion and accusation. They also spend days in police stations before they are released and sometimes end up in prison. The report also highlights that police are sometimes bribed before they release the detained children. When these children are arrested, they have limited access to legal assistance, legal representations, and have no trusted adults who can protect their interests. The acts of arrest and detention of street children sometimes are not recorded in the police case file. There is an issue relating to lack of data on street children and the state party is urged to undertake a thorough situation analysis on the status of street children.
- (ii) There has been a lot of research carried out by CSOs on the situation of children living on the streets and this should be a starting point to addressing the underlying issues leading children to take refuge on the streets

(g) Children living in residential care facilities

- (i) Information regarding the number of children receiving long term care in residential facilities is limited. There are large numbers of unregulated care facilities purporting to care for vulnerable and orphaned children but often the real situation and the quality of care facility and reasons for the children being in care remains doubtful. The state partner ought to carry out extensive research on this issue in an effort to ensure that children are only in residential facilities as a last resort.

¹² Sanga, E., 2014, *Challenges of Access to Justice in Tanzania to obtain legal Assistance for Children Facing Physical Violence by the Police*, Institute of Social Studies, The Hague, Netherlands

Recommendation:

- (iii) Review and amendment legislations that inhibit the realization of rights of children including the following legislations- Education Act, 1978 (regarding corporal punishment; re-entry of girls expelled because of pregnancy; Comprehensive Sex Education), Law of Marriage Act 1971 (age of Marriage); Law of the Child Act, 2009; Written Law (Miscellaneous Amendments) Act no. 10 of 1989; The Penal Code 1945; The Sexual Offences Special Provisions Act of 1988; The Criminal Procedure Code of 1985
- (iv) Develop measures to prevent violence in institutions (mainstream in existing policies and guidelines or policies to ensure children safeguarding), homes and community and rather the government needs to make this the focus with sufficient resources geared at changing behaviors, attitudes and practices of community, institutions and households. Likewise, improve service delivery for victims of violence in general and most specifically domestic violence, violence in the hands of law enforcers and violence in homes. Follow this up with supporting the LGAs to promote legislating By-laws that address violence and are easier to enforce at the local level.
- (v) Evaluate the functioning of referral systems to determine if they work for the best interest of the child. Although it has been reported that reporting of violence is generally low, it is also presumed that the reduction in reporting is because of impunity, corruption and moral and ethical decay among government institutions responsible for handling children's issues (the entire machinery of justice recourse ranging from teachers to health specialists to police and judiciary).
- (vi) Undertake an indepth study on the situation of children in care facilities and develop programs that provide alternatives to residential care
- (vii) Initiate programs to strengthen families as the core unit of care for children

(h) Health and Welfare

Given the nature of the rights highlighted in this Cluster, it is apparent that the State Party faces a myriad of challenges fulfilling children rights connected to health services. According to State Party report the following challenges need to be effectively and immediately addressed. Shortage of qualified staff and enough primary health facilities especially in the rural areas where most of the vulnerable children are found.

- (i) Despite the fact that the State Party has number of strategies and guidelines i.e. National Guideline on Essential Reproductive and Child Health Intervention in Tanzania, 2003; Reproductive and Child Health Strategy (2005- 2010), National Population Policy and the Health Sector Strategic

- Plan IV (2016- 2020), National Nutrition Strategy (July 2011/12- June 2015/16), yet the issues of allocation of adequate budget to cover the above strategies is remains a concern. The budget allocation has continued to decrease in every budget year. The 2016/2017 Ministry of Health budget has even gone down compared to 2015/2016 budget.
- (ii) State party reported that it has made efforts to improve the right to life and survival. According to report the state party report in 2014 the country was able to reduce Infant Mortality Rate (IMR) to 38 per 1,000 live births, surpassing the target of 46 death/ 1000 lives by 2015.
 - (iii) On HIV and AIDs the state party report in this particular area has failed to address properly on how to save children who are affected by HIV/ AIDs pandemic.
 - (iv) In rural areas, the health insurance scheme is built to serve poor families, only 10,000/= per household, this is affordable to many families. However, the coverage is limited/low because not many families are enrolled.

Recommendations

The State Party is urged to address the foregoing challenges:

- a. The government needs to budget health plans and strategies ..
- b. The government has to ensure that the community health fund reaches the most vulnerable and most marginalized groups.

(i) Education, leisure and cultural activities

Education

- (i) Education is one of the sectors where significant improvements have been made. In addition to enhancing access to primary and secondary education, Early Childhood Development (ECD) is being incorporated into the revision of the National Child Development Policy, after much discussion among several Ministries. The draft policy outlines opportunities for cross-sector coordination, including parenting, and some sectors are paying increasing attention to young children within their sectoral area. For example, in the new Education and Training Policy, compulsory pre-primary education is now officially a part of basic education. Up until 2015, only 33.4% of children were attending pre-primary school.
- (ii) With regard to primary education, net enrolment stood at 89.7% in 2015, up from 85.5% in 2003¹³. This will probably rise further with the removal of school fees and

¹³Country Report on the Millennium Development Goals 2014 URT 2014

other contributions. The gross completion rate for primary education stands at 87.2% with 83.4% for boys and 90.9% for girls. Only 32.9% of secondary-school aged children are enrolled in secondary school Form 1-4 and even fewer, 2%, are enrolled in Forms 5 and 6. However, one key concern is an extremely low quality of education overall. Both primary and secondary education facilities are mostly characterized by inadequate physical infrastructure; a lack of teaching and learning materials; authoritarian and hierarchical teaching methods; and overcrowded classrooms compounded by inadequate provision of the desks, though CSOs acknowledge the latest government's high powered drive to eliminate desks problem.¹⁴

- (iii) Not surprisingly, even where children are enrolled in school, many are not learning. As early as Standard II, only 8% of pupils can read with comprehension at grade level, only 8% can add or subtract, and less than 0.1% showed high levels of life skills (academic grit, self-confidence, problem solving).¹⁵The results of Primary School Leaving Examinations (PSLE) on the Mainland show low pass rates of 50.1% in 2013 and 57% in 2014, and according to the research carried out by Uwezo across East Africa:

One out of five or 20% of children in Grade 7 are not able to pass both the literacy and numeracy tests. Evidently, therefore, the number of years of completed schooling does not effectively translate into genuine learning for a substantial share of pupils¹⁶. Indeed, there are many children leaving primary school who do not know how to read and write.

- (iv) A further complication at secondary school has been the change of language of instruction from Swahili to English which runs counter to the a body of scientific evidence that children learn better and quickly through their first language. The UWEZO findings also showed that only 35% were able to pass an English literacy test (which is based on a passage from Primary 2)¹⁷. CSOs are of the considered opinion that keeping English as a medium of instructions has continually kept quality of the learning outcomes low. This is of particular concern given that secondary schooling in Tanzania is still taught in English although the new Education policy has finally opened the door for Swahili to become the language of instruction.
- (v) One other particular weakness is the lack of comprehensive and in-depth ASRH education together with life skills in schools. That combined with the problems in secondary schools and a generally unfavorable environment in

¹⁴ CRSA

¹⁵ National Baseline Assessment for the 3Rs (Reading, Writing and Arithmetic), 2014

¹⁶<http://www.uwezo.net/wp-content/uploads/2012/08/2013-Annual-Report-Final-Web-version.pdf>

¹⁷<http://www.uwezo.net/wp-content/uploads/2012/08/2013-Annual-Report-Final-Web-version.pdf>

the newer secondary schools and a lack of protection for girls both in school and on the way to and from school has been a major contributory factor to the continued increase in schoolgirl pregnancy. The inclusion of such education, together with vigorous monitoring of its implementation was strongly recommended by the United Nations Country Team¹⁸.

- (vi) Water and sanitation in schools remains a major constraint. A 2009 survey found that 20% of schools had more than 100 pupils per drop hole; 6% had no latrines at all; 96% did not have facilities suitable for children with disabilities; 52% of girls' latrines did not have doors providing privacy; 92% of latrines did not have a functional hand-washing facility with water; and 99% did not have soap. Given these conditions, many girls stay home from school when they are menstruating.¹⁹
- (vii) Issues of Menstrual Hygiene Management for young girls at primary and secondary was not addressed in the State Party report. Most of the vulnerable girls in the rural areas are suffering from hygiene diseases like fungus and UTI, which is the result of lack of proper towels and toilets for girls on their menstruation days. Some facts from Milola and Naitolia in Lindi Rural and Monduli Arusha reveals that girls are missing classes on their menstruation days as they are afraid of being shamed by their fellows' pupils.²⁰
- (viii) Related to girls right to education, is an overall issue of mandatory pregnancy test which has been conducted in the least of humanely manner. CSOs urges the state party to stop this practice, and address policy issues that will guarantee consistent access to education opportunities for girls even after they have given birth.

Leisure:

- (i) There are no concrete measures undertaken by the State Party so far to redeem whatever leisure, recreational and cultural activities spaces that are unlawfully occupied by private persons. Similarly, there is lack of coordination between planners and educationalists in respect of construction, establishment and development of school facilities; and lack of coordinated and sustainable training on cultural and sports subjects in teachers' training colleges.

¹⁸ UNCT 2015

¹⁹ Child Rights Situation Analysis

²⁰ Tanzania Partnership Program (TPP), project- Michigan State University, DUCE, UDSM, SUA & Aghakan Foundation

(j) Sexual and reproductive health

The sexual and reproductive health rights of adolescents are not well developed. Largely because of the desire to protect them against sexual abuse and exploitation, all sex with an adolescent (even consensual adolescent-adolescent sex) is a crime (unless the girl is having sex with the person she married). Abortion is generally regarded as a crime also due to a lack of adequate interpretation of the existing law and policy and around 20% of maternal deaths are caused by unsafe abortions²¹, particularly among adolescents. Information on HIV is reasonable but life skills are minimal in practice.

(k) Special Protection Measures

The State Party has taken progressive legislative and administrative steps towards respecting and protecting rights of children that need special protection such as refugees, children in contact and conflict with the law, and those in exploitation and abuse. However, different challenges still prevent children from enjoyment of such protection and their rights. The following are critical issues that needs immediate State Party intervention:

- i. At present, children refugees form 57% of the refugee population²² with 6.7% being un accompanied minors in Tanzania with 3,882 babies in the camps by in 2015. Despite the ongoing efforts to provide care and protection for refugee families, still cases of sexual violence and abuse continue to be common with over 306 cases reported in 2013 alone. Security from violence, welfare and development for children and their families are among major present concerns. Due to ongoing political developments of neighboring countries, it is likely that the existing refugee situation is going to remain for sometimes in the near future. This situation demands the State Party to address current priority issues of security and welfare for children refugee's, including access to basic education.
- ii. Elimination of economic exploitation to children particularly on child labour still poses major challenge to the State Party. Recent efforts to develop the National Plan of Action to address Violence against Women and Children is noted as a positive step towards coordinated efforts. One of key challenge for the State Party in child labour is lack of data on current status of children exploited economically, and thus making it practically difficult to follow up the trends. The last survey on child labour dates back to 2006. Further, the

²¹ UNCT 2015

²² UNICEF, (June 2016), Tanzania Burundi Response Situation Report , Dar es Salaam

- minimum age discrepancies between Tanzania Mainland and Zanzibar for allowing children into employment remains a concern.
- iii. Child trafficking continues to be a huge challenge for the State Party. Children are still vulnerable to internal and international traffickers according to International Organization on Migration (IOM). Key set back in the fight against child trafficking to the State Party is the weak enforcement of the operational Anti-Trafficking in Persons Act of 2008. Limited litigation knowledge among law enforcement officials, inadequate number of investigative Social Welfare Officers (SWO), and incapacitated National Coordination Committee on Trafficking, both in human and financial, are among major barriers in protecting and rehabilitating children from being victims of trafficking. Compounding these constraints is the fact of failure to operationalize the Anti Trafficking Fund established under the Anti Trafficking in Persons Act 2008 which makes implementation of activities relating to trafficking difficult.
 - iv. The overall capacity of the justice system to handle cases involving children is still weak. The access to legal assistance and rehabilitation programs for children in contact and conflict with the law is limited, and in some rural areas non-existent. The presence of the Kisutu and the not yet operational Mbeya Juvenile Courts are not sufficient to serve current needs. Designation of existing ordinary Resident and District Courts to serve as Juvenile Courts has not been fast-tracked. Despite the provisions on juvenile justice in the Law of the Child Act, 2009 in Tanzania Mainland and the Zanzibar Children's Act, 2011, issues such as limited number of necessary skilled personnel in the Juvenile Justice System, unavailability of sufficient number of alternatives programmes to detention, and lack of legal assistance limit the realization of rights and entitlements of children who come in contact and in conflict with the law.
 - v. Inadequate financial and human resources are major cross-cutting obstacles. The shortage and unequal distribution of Social Welfare Officers (SWO) is a huge obstacle in facilitation coordination and case management for children in need of care, support and representation. The existing gaps for the Social Welfare workforce has been noted in preceding sections.
- (ii) Regarding health hazards to which children engaged in child labour are exposed to, one is their exposure to mercury. Some child laborers work with mercury, a toxic metal that is particularly harmful to children. It attacks the central nervous system and can cause irreversible developmental and neurological problems. Laws and regulations on mercury are poorly

implemented; mining inspectors often give priority to collecting revenue. The Tanzanian healthcare system is ill-equipped to prevent, treat, and diagnose mercury intoxication.

Recommendations

In addressing challenges of special protection of children in its jurisdiction, the State Party needs to undertake policy, legislative and administrative measures to reduce vulnerability and increase protection for all children. Specifically, the State Party should take the following measures:

Refugees Children

- (i) Ensure that children refugees and their families are protected from all forms of violence, and that existing reported cases of violence are prosecuted.
- (ii) To safeguard sustainable welfare of refugee's children and their families, the State Party should make arrangement to ensure that refugee children have access to basic education and life skills.
- (iii) As continuous efforts towards guaranteeing non-discrimination of refugee's children and their families; the State party should ensure that children who are in its jurisdiction seeking asylum or refugee protection are adequately protected by undertaking steps to amend the Refugees Policy, Refugees Act and the Immigration Act.

Administration of children in contact and conflict with the law

- (i) To reach and protect rights of more children who come into contact and in conflict with the law, the State Party should make significant efforts towards scaling up designation of District and Resident courts that are friendly to children throughout the country.
- (ii) To reduce number of children in detention facilities, the State party should promote sustainable alternative measures to detention that promote rehabilitation and reintegration of children into community.
- (iii) The function of Police Gender and Children's Desk to make divertive referrals act as key filter of flow of children into ordinary criminal justice system. The State Party should ensure that adequate funds are allocated to scale up the construction and the renovation of the existing Police Gender and Children Desks.

- (iv) Strengthen a national database on juveniles/children in conflict with the law.
- (v) To facilitate appropriate case management for children in need of care and support, the State Party should take special measure to increase and fast-track recruitment of Social Welfare Officers (SWOs) and ensure their equal distribution throughout the country and at all levels.

Child Trafficking and Child exploitation and abuse

- (i) To ensure progress towards eliminating economic exploitation of children, the State Party should take measures to strengthen the Labour Inspection Unit that is responsible for the control and protection of children in exploitation. This should include making available sufficient funding for their operations, building their capacity in inspection and identification and initiating measures for successful prosecution of child labour cases.
- (ii) In respect to child trafficking, the State Party should ensure that human, financial and institutional capacity necessary for enforcing the law on anti-trafficking in persons is addressed. The developed National Plan of Action to Address Violence against Women and Children in Tanzania offers new hope and coordinated opportunities to reaffirm the fight against child trafficking. Speed up the operationalization of the anti trafficking fund.
- (iii) The State Party should ensure the sustainability of the child-help-line . This should go along with strengthening referral mechanisms to Social Welfare Officers for further management of victims and those at risk.
- (iv) The State Party should take strong measures to ensure that sufficient number of police and prosecutors have the necessary skills to successful investigate and prosecute reported cases of child trafficking.
- (v) Implement and budget strategies on child labour, particularly the labour of children in mining areas who are exposed to mercury.

(I) Responsibility of the child

The Law of the Child Act (2009) (applicable in the Mainland) as well as the Zanzibar Children Act (2011) have all incorporated specific provisions as regards to the general responsibilities of the child in the context of the Charter. According to these laws, a child among other things shall have a duty to:

- (i) work for the cohesion of the family
- (ii) respect his parents, guardians, superiors and elders at all times and assist them in case of need.
- (iii) Serve his community and nation by placing his physical and intellectual abilities at its service in accordance with his age and ability.
- (iv) Preserve and strengthen social and national cohesion

- (v) Preserve and strength the positive social cultural values of his community and the nation in general in relation to other members of the community or the nation.

Similarly, para 63 of the Child Development Policy (2008) (applicable in Tanzania Mainland) has provided a policy statement “Children have to adhere directives, advise and trainings from the parents, guardians and the community.

However, there are concerns that the interpretation of these standards may leave room for misapplication thus rendering children at the risk of being exposed to exploitation and abuse in the name of the responsibility to preserve family or national cohesions. CSOs sees the need for the state party to draw directives that would guide the judicial, quasi-judicial and parents application of the provisions.

Recommendations :

- (i) The Government in collaboration with CSOS should create parenting skills programs that are easily accessed by caregivers at all levels and space for children to express themselves and discuss issues that concern them as equal citizen and strengthen families.
- (ii) CSOS should design programs/projects geared towards promotion of intergenerational dialogue such as dialogue sessions between parents and children
- (iii) CSOS and government should train children on leadership as they are not passive recipients of services they may have answers to their problems. Social and emotional skills are important for good mental health and wellbeing, learning, motivation to achieve and cooperate, and the development of values.



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