Q. Issues

1. Progress made in incorporating the Optional Protocol into the domestic legislation.

According to paragraph 12 of the State party’s report, in exceptional circumstances, the Law allows for the recruitment of persons under the age of 18 years. In practice there has been no such recruitment and no members of the Tanzania People Defence Forces (TPDF) are under 18. Please elaborate further.

Action taken

Enabling domestic legislation is not yet in place.

The Ministry of Defence is in the process of advising the Government on consequential amendments of various legislations so that they are in line with the Optional Protocol, for example Section 29(6) of the National Defence Act Cap 192 (R.E. 2002) that provides for the age of recruitment of persons into the armed forces.

The Ministry of Defence and National Service presented a bill to the National Assembly on the amendment of Section 29 (6) of the National Defence Act, in order to raise the age of recruitment in defence forces from 15 to 18 years.

Lack of having a National Committee on International Humanitarian Law is an impediment because it would act as an advisory body in spearheading the implementation of these legislations.

Section 67 of the Defence Force Regulations prohibit the recruitment of persons apparently under 18 years of age into the armed forces, “except that where a person is not of the apparent age of 18 years he/she may be enrolled in the Defence Forces with the consent in writing of one of his parents or guardian, or, when the parents or guardian are dead or unknown, with the consent of the District Commissioner of the district in which that person resides”. The regulations provided that no child under the age of 18 would be used directly in armed conflict.

The Government reported that although the recruitment of under 18 years appeared to be a possibility in exceptional circumstances, in practice there was no such recruitment of under 18 years in the Tanzania People Defence Forces (TPDF).

When acceding to the Optional Protocol on the involvement of children in armed conflict in November 2004, Tanzania stated in
3. Provide further information on the criteria of recruitment into the armed forces and in particular on the “apparent” age of 18 years. How does lack of birth registration impact on the recruitment process?

4. Provide information on the mandate of the Tanzanian Commission for Human Rights and Good Governance and the role it plays in monitoring the implementation of the Optional Protocol.

5. Indicate whether there is any legal provision on the State Party's legislation which criminalizes the recruitment of Tanzanian persons under 18 by armed groups.

6. Provide information as to whether the State Party assumes extraterritorial jurisdiction over the war crime of conscripting or enlisting children under the age of 15 into the armed forces or using them to participate actively in hostilities. Also in relation to extraterritorial jurisdiction, please indicate whether Tanzania courts have jurisdiction in case of compulsory recruitment or involvement in hostilities of a person under 18 if committed outside the United Republic of Tanzania, by or against Tanzanian citizens.
Provide disaggregated data, including by sex, age and country of origin covering the years 2005, 2006 and 2007 on the member of unaccompanied asylum-seeking, refugee and migrant children coming to the United Republic of Tanzania from areas affected by armed conflict. In this respect, please provide information on physical and psychological recovery and social reintegration programmes for asylum-seeking, refugee and migrant children in the United Republic of Tanzania who may have been involved in or affected by conflicts abroad.

No data available in the Refugees Department of the Ministry of Home Affairs.

Indicate whether the State Party’s legislation prohibits the trade and export of small arms and light weapons as well as military assistance to countries where children are involved in armed conflict if not. Has the State Party given consideration to adopting such legislation?

There is law on small arms that prohibits the trade and export of small arms and light weapons. However the legislation does not specifically prohibit the trade and export of small arms and light weapons as well as military assistance where children are involved in armed conflict.

Any military assistance is given to a State and through agreements.

Since we are a State party to the Optional Protocol, implicitly we would prohibit this for children.

There is a National Policy on Small Arms and Light Weapons that has an objective of reviewing various laws on small arms and light weapons such as Arms and Ammunitions Act 2001, Explosive Act 1953, Armament Control Act No. 1 of 1991, etc. so that they go in line with international instruments on small arms and light weapons.

The draft bill on incorporating these changes is awaiting to be tabled before the Inter-Ministerial Technical Committee (IMTC) for discussion.

There is a National Committee on Small Arms and Light Weapons that is comprised of various stakeholders including the Ministry of Home Affairs, the Ministry of Constitutional Affairs and Justice, the Commission for Human Rights and Good Governance, the Ministry of Defence and National Services and Tanzania Intelligence Security Services and others. It has an advisory role on these issues.

Sections 8 and 9 of the Arms and Ammunitions Act Cap 223 are simply too general, they do not distinguish children and adults. Therefore as such this cannot be helpful to children.

Section 5 of the Arms and Ammunition Act Cap 223 provides granting licence to carry or possess arms or ammunition but are limit to provide for granting of licence.

Arms and Ammunition Act Cap 246 is also silent on these matters.