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WRITTEN REPLIES BY THE GOVERNMENT OF THE UNITED REPUBLIC OF TANZANIA TO THE LIST OF ISSUES (CRC/C/OPSC/TZA/Q/1) TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF THE INITIAL REPORT OF THE UNITED REPUBLIC OF TANZANIA SUBMITTED UNDER ARTICLE 12, PARAGRAPH 1, OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY (CRC/C/OPSC/TZA/1)*

[Replies received on 22 August 2008]

THE GOVERNMENT OF THE UNITED REPUBLIC OF TANZANIA

CONSIDERATION OF TANZANIA'S INITIAL REPORTS TO THE OPTIONAL PROTOCOL TO THE CRC I GENEVA SWITZERLAND, 29 SEPTEMBER 2007

Optional Protocol on the sale of children, child prostitution and pornography

Q. Issues

Please provide (if available) statistical data (disaggregated by sex, age group, urban/rural area, ethnic, national origin) and analysis of trends for the year 2005, 2006 and 2007 on:

- (a) The number of children affected by the offences covered by the Optional Protocol (Sale of children, child prostitution and child pornography), with additional information on type of follow-up provided on reported cases, including prosecutions, withdrawals and sanctions for perpetrators;
- (b) Number of reported cases of sale of children for the purpose of (a) sexual exploitation; (b) forced labour; and (c) adoption;

Action taken

The Ministry of Labour, Employment and Youth Development (MOLEYD) in collaboration with Kiota Women and Health Development (KIWOHEDE) withdrew a total number of 6,083 children from child prostitution for the year 2005, 2006 and 2007 respectively.

The withdrawn children are provided with a suitable alternative in order for the victims not to return into the scourge. Thus the Government together with implementing agencies provide counselling, skills training, informal and formal education.

There are no reported cases of sexual exploitation and forced labour. This is normally accelerated by the court procedures of hearing and determining the cases which involves children matter. Thus, children cases in Tanzania are heard in camera so that no information is provided to the public.

Section 102 of the Employment and Labour Relations Act (ELRA) No. 6 of 2004 sanctions for any person who is convicted to employ a child under the age of 18 years whether as a child of forced labour as may be sentenced to a fine not exceeding 5 million Tanzanian shillings (US\$ 4,200) imprisonment for a term of one year, or both to such fine and imprisonment.

Therefore, since the ELRA No. 6 of 2004 is a new legislation, there is no progress made in terms of prosecutions and sanctions for perpetrators; however the Ministry of Labour, Employment and Youth Development, through the Department of Labour Administration and Inspectional Services, is in the process to equip officers on the implementation of the new labour legislations. The labour officers are the ones who are expected to execute as well as preserve the right of the child in terms of interims of withdrawal and prevent them from entering children in making inspection whether the child is employed or not.

Amending section 127 of the Evidence Act aims at reducing technicalities in sexual offences especially to child victims.

Adoption:

Number of cases of adoption are as follows:

YearNumber

2002 32003 22004 42005 22006 11

Eligibility for adoption: parents must be at least a person aged 25 years and of at least 21 years older than the child. A single male cannot adopt a female child except under the court order which is a planned rule under exceptional circumstances. In order to adopt a child in Tanzania an applicant must be a resident of Tanzania. The Social Welfare Department considers a person to be a resident of their if he or she holds a Pass, a Residents permit (class A, B or C), a Dependents certificate or an exemption who resides in Tanzania. This requirement is never waived.

(c)The number of reported cases of child victims of sex tourism with additional information on type of followup provided on the cases, including prosecution, withdrawals and sanctions for perpetrators.

There are no reported cases of sex tourism hence no information regarding prosecutions or withdrawals. This is also accelerated by the number of existing legislation that will not allow cases of this type to be publicized.

2. It is noted that international treaties cannot be directly involved in the State party. Please clarify whether the Optional Protocol takes precedence over domestic legislation in case of conflict, and provide information on case law whereby the Optional Protocol has been applied in the courts, if any.

Tanzania follows a dualistic system in which terms of international treaties do not apply directly, i.e. upon ratification where a treaty has to be domesticated. Municipal/domestic laws take precedence over the Optional Protocol since it has not been domesticated.

Consequently the Optional Protocol has never been applied in courts.

The Government is in the process of reviewing all laws related to the protection of children to harmonize the Optional Protocols. These laws include:

The Law of Marriage Act No. 5 of 1971

3. It is also noted that the definitions of sale of children, child prostitution and child pornography in the Penal Code are not fully in accordance with the definitions given in articles 2 and 3 (1) of the Optional Protocol. Please indicate what steps are being taken to harmonize domestic legislation with the provisions of the Optional Protocol.

Sexual Offences Special Provisions Act 1998

Affiliation Act, Cap 278 (R.E. 2002)

Children and Young Persons Act, Cap 139 (R.E. 2002)

Adoption Act, Cap 335 (R.E. 2002)

The Government has enacted new laws to protect children. These include:

Employment and Labour Relations Act No. 6 of 2004

The Anti-Trafficking in Persons Act, 2008

4. Please also indicate whether the State party has a specific national plan of action (NPA) with a timetable for implementation in relation to the sale of children, child prostitution and child pornography applicable throughout the State party. If so, please provide information on the competent authorities responsible for its implementation and monitoring. If not, please indicate what steps are being taken to develop such NPA to cover all areas of the Optional Protocol.

The Commission for Human Rights and Good Governance (CHRAGG) collaborate with Ministry of Community Development, Gender and Children (MCDGC) so as to develop a national plan of action.

5. Please provide more information on the number of children and the types of measures taken by the State party to provide protection and assistance to child victims of sale, child prostitution and child pornography as indicated in article 9, paragraphs 3 and 4, of the Optional Protocol.

No data available. However, measures are being taken by NGOs to provide protection and assistance to child victims.

The Commission for Human Rights and Good Governance conducted training for law enforcers, social workers, community development workers and ward executive officers to raise awareness on children rights and juvenile justice.

The Commission has established children's desks at its headquarters and branch offices which monitor complaints about violations of children's rights and advice is provided on children protection.

The Commission conducted public enquiries on child abuse in 11 districts

- Please inform the Committee on measures taken to protect the rights of the child victims of acts prohibited under the Optional Protocol at all stages of the criminal justice process to ensure that they are not criminalized, and in particular on the rules and practice concerning the protection of child victims who have to testify in criminal cases.
- of Tanzania Mainland and in 6 districts in Zanzibar. Reports with recommendations including of juvenile justice were submitted to relevant authorities and made available to the public.
- The Commission continues to implement prison and police cell inspections. Issues of children in detention are highlighted with recommendations on actions to be taken such as active role of probation officers and social workers who are dealing with children's cases, alternative sentencing, legal aid, etc.
- Support was sought through dialogue from stakeholders including parliamentarians concerning consolidating child rights in a single legislation.
- There is an enactment of Sexual Offences and Special Provisions Acts of 1998 and its amendments. Through these amendments more offenders were accused under section 138B which deals with sexual exploitation of children.
- Procuring Defilement Section No. 140 criminalizes the procurement of defilement of children; if a person is found guilty, a heavy sentence is meted out.
- Enacted section 169A which deals with cruelty to children.
- Tanzania's anti-trafficking enforcement efforts improved as a result of having new training and increase of government funding for the Police's Anti-Human Trafficking Unit. This increased awareness of trafficking among Tanzania law enforcers.
- The National AIDS Control Programme (NACP) under the Ministry of Health and Social Welfare conducted a training of trainers on human trafficking for 41 health coordinators in 21 out of 26 regions. The trainers provided training to healthcare workers in their regions.
- Please indicate whether special training on the Optional Protocol is given to all professionals working with children, including social workers medical professionals, judges and prosecutors, and whether social and psychological trainings is provided particularly to persons working in the area of recovery and social reintegration of child victims of the offences covered by the Optional Protocol.
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