



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD**Forty-ninth session**
CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES 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
Concluding observations: United Republic of Tanzania

The Committee considered the initial report of United Republic of Tanzania (CRC/C/OPSC/TZA/1) at its 1363rd and 1364th meetings (see CRC/C/SR.1363 and CRC/C/SR.1364), held on 29 September 2008, and adopted at its 1369th (CRC/C/SR.1369) meeting, held on 3 October 2008, the following concluding observations.

Introduction

The Committee welcomes the submission of the State party's initial report and the replies to its list of issues (CRC/C/OPSC/TZA/Q/1/Add.1). The Committee expresses appreciation for the frank dialogue held with the high-level and multi-sectoral delegation.

The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations (CRC/C/TZA/CO/2) adopted following the consideration of the State party's second periodic report in June 2006 and with its concluding observations adopted on the initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/OPAC/TZA/CO/1) on 3 October 2008.

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I. General Observations**Positive aspects**

The Committee welcomes the various measures taken by the State party in areas of relevance for the Optional Protocol, including the adoption of:

The Employment and Labour Relations Act, 2004;

The Employment Act, 2005 of Zanzibar;

The Anti Trafficking in Persons Act, 2008;

The Plan of Action for the Prevention of Violence against Women and Children (2001-2015);

The National Strategy for the Elimination of Child Labour (2005- 2010); and

The establishment of the Tanzania Police Female Network on violence against women and children.

The Committee also commends the State party's accession to or ratification of:

The Optional Protocol on the involvement of children in armed conflict in 2003;

The International Labour Organization (ILO) Convention No.° 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2001;

The African Charter on the Rights and Welfare of the Child in 2003;

The Convention Against Transnational Organized Crime in 2006;

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United

Nations Convention against Transnational Organized Crime in 2006; and

The Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime in 2006.

II. Data

Data collection

The Committee is seriously concerned about the lack of statistical data on the nature and extent of sale of children, child prostitution and child pornography disaggregated by age, sex, minority group, socio-economic background and geographic location.

The Committee recommends that a comprehensive data collection system and a central database be established to record violations of child rights including those related to the offences covered by the Protocol. The State party should ensure that data, disaggregated, inter alia, by age, sex, socio-economic background and geographic area are systematically collected and analysed as they provide essential tools for measuring policy implementation. The State party should seek the assistance of United Nations agencies and programmes, including the United Nations Children's Fund (UNICEF), in this regard.

III. General measures of implementation

Legislation

The Committee takes note of the information that some provisions of the Optional Protocol are contained in the legislation of Tanzania Mainland and Zanzibar. It also notes the plan to adopt a Children's Act. However, it expresses concern at the lack of precise definitions and that all offences as defined in articles 2 and 3 of the Optional Protocol are not fully covered in the existing legislation.

The Committee recommends that the State party 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.

National Plan of Action

The Committee is concerned at the lack of specific plans of action with timetables for the implementation of the Optional Protocol in view of the reported high incidence of sale of children, child prostitution and child pornography in the State party.

The Committee recommends that the State party elaborate, as a matter of priority, and implement plans of action to combat violations of the provisions of the Optional Protocol in all parts of its territory.

Coordination and evaluation

The Committee notes the proposal to establish a commission on the rights of the child in Tanzania Mainland for the coordination of children's rights and policies at all levels. It further notes that a National Child Rights Committee has been established in Zanzibar in 2004. However, the Committee regrets that the existing coordination mechanisms are inadequate, under-resourced and have weak linkages with local authorities.

The Committee recommends that the State party 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.

Dissemination and training

The Committee appreciates the efforts undertaken so far by the State party in promoting the Optional Protocol, including the translation of the Convention and its Optional Protocols into Kiswahili and through training programmes at district and community levels. However, the Committee is concerned that the Optional Protocol is not yet included in the school curricula and the training of professionals working with children affected by the offences of the Protocol is limited and not systematized throughout the State party. The Committee is also concerned that the Kiswahili used to translate the Optional Protocol is too technical and not user-friendly.

The Committee recommends that the State party:

Strengthen systematic education and training on the provisions of the Optional Protocol 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;

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;

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

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 .

Allocation of resources

The Committee welcomes the information that efforts are being made to increase investment in education as a matter of priority. The Committee is, however, concerned at the lack of information on allocation of resources for the implementation of the provisions of the Optional Protocol, in particular for research and data collection, criminal investigations, legal assistance and physical and psychosocial recovery measures for victims.

The Committee recommends that the State party, taking due account of the Committee's recommendations following its 2007 Day of General Discussion on article 4 of the Convention:

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

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).

Independent monitoring

The Committee reiterates its concern expressed upon consideration of the second periodic report of Tanzania under the Convention (CRC/C/TZA/CO/2) about the lack of accessibility and availability of the Commission for Human Rights and Good Governance to all children in the country.

The Committee recommends that the State party 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.

IV. Prevention of the sale of children, child prostitution and child pornography

The Committee notes the positive initiatives for preventive action such as the establishment of the Tanzania Police Female Network and the Task Force on Violence against Women and Children. However, the Committee is concerned that preventive measures are inadequate and weakened by the lack of research and data collection on the root causes, nature and extent of sale of children, child prostitution, child pornography and child sex tourism. Furthermore, the Committee is deeply concerned about reports of sale of children for ritual purposes, including ritual killings of albino children.

The Committee recommends that the State party 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 urges 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.

The Committee notes with concern the information that orphans and children from single parent families are particularly vulnerable to becoming victims of child prostitution.

The Committee recommends that the State party adopt targeted preventive measures to protect the rights of vulnerable children, such as orphans and children from single parent families, and safeguard them from becoming victims of all the offences under the Optional Protocol.

Birth registration

The Committee appreciates the information that the Registration, Insolvency and Trusteeship Agency (RITA) in charge of restructuring the birth registration system is now active and that its campaign to raise awareness on the importance of birth registration is effective and large numbers of newborns and children are being registered. However, the Committee remains concerned at the very low level of birth registration in the country, in particular in remote and rural areas, which poses important difficulties in providing appropriate protection and assistance for child victims whose rights are violated under the Optional Protocol.

The Committee reiterates its recommendation made upon its consideration of the 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.

Awareness raising

The Committee notes that awareness is increasing in the State party, especially with regard to trafficking, child domestic service and commercial sexual exploitation of children mainly due to the active collaboration among the Government, the International Organization for Migration (IOM) and ILO/IPEC. The Committee is however concerned at the lack of specific awareness about the offences under the Optional Protocol and their harmful effects.

The Committee recommends that the State party:

Promote awareness in the public at large, including children, through information by all appropriate means and education about the preventive measures and harmful effects of the offences referred to in the Optional Protocol;

Ensure participation of the community and, in particular, children and child victims, in such awareness-raising, information and education programmes;

Strengthen cooperation with civil society organizations and the media in order to support awareness-raising and education activities on issues related to the Optional Protocol.

V. Prohibition and related matters

Existing criminal or penal laws and regulations

The Committee takes note of the information that all laws pertaining to children are being reviewed to bring them in line with the Convention and its Optional Protocols, including the Marriage Act, 1971, Sexual Offences Acts of Tanzania Mainland, 2002 and of Zanzibar, 1998 and the Adoption Act, 2002. Nevertheless, the Committee is concerned that the current Penal Code (Tanzania Mainland) and Penal Act (Zanzibar) do not contain comprehensive definitions of sale of children, child prostitution and child pornography in accordance with articles 2 and 3 of the Optional Protocol, to prosecute offenders. Moreover, the Committee expresses its concern that the perpetrators of offences under the Optional Protocol, particularly child prostitution, may not be adequately penalized under existing laws.

The Committee recommends that the State party 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.

Adoption

The Committee is concerned about the information that the protection of children in the adoption process may not be adequate.

The Committee recommends that the State party expedite the review of the Adoption Act in accordance with the provisions of the Optional Protocol. It further encourages the State party to ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

Jurisdiction

The Committee, while welcoming that the State party may exercise its jurisdiction in accordance with article 4 of the Optional Protocol, remains concerned at the fact that the exercise of this jurisdiction may be limited to only some of the offences covered by the Optional Protocol.

The Committee recommends that the State party take all necessary measures to establish its jurisdiction over all the offences referred to in the Optional Protocol in conformity with article 4 .

Extradition

The Committee notes that child prostitution and child pornography are extraditable offences under the Extradition Act. It also notes that the Act is in the process of being reviewed with the view to incorporating new developments on extradition matters. However, the Committee is concerned that extradition is not foreseen when the victim is Tanzanian and the offence is committed abroad.

The Committee recommends that the State party complete its revision of the Extradition Act and ensure that it complies with article 4, paragraph 2 (b) of the Optional Protocol.

VI. Protection of the rights of child victims

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Protocol

The Committee takes note of the legal measures and procedures taken by the State party to protect the rights and interests of child victims and witnesses in the criminal justice process, including holding proceedings in camera. However, the Committee is concerned that legislation is not comprehensive and does not ensure all the rights of child victims, in particular their rights to privacy and to compensation.

The Committee recommends that the State party:

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);

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

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

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.

Recovery and reintegration of victims

The Committee welcomes the Time-Bound Programme adopted in collaboration with ILO/OPEC which aims at eliminating the worst forms of child labour in the State party, especially commercial sexual exploitation of children and domestic service. It further notes the efforts made by the Social Welfare Department's 2000 Community-based Initiative Programme to provide care, support and protection for the most vulnerable children, including victims of offences under the Optional Protocol. However, the Committee notes with concern the scarce availability of social reintegration and physical and psychosocial recovery measures for child victims. The Committee is also concerned at the lack of systematic and coordinated mechanisms at district and community level which could address the rights and needs of child victims in a more comprehensive and coordinated manner.

The Committee recommends that the State party:

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

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.

Helpline

The Committee welcomes the information provided by the State party delegation that there is a plan to establish a child helpline. The Committee recommends that such helpline be accorded a 3-digit, 24-hour and toll-free number to assist child victims.

VII. International assistance and cooperation

International Cooperation

The Committee recommends that the State party, in accordance with article 10, paragraph 1 of the Optional Protocol, take all necessary steps to strengthen international cooperation through multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism.

The Committee encourages the State party to continue its cooperation with United Nations specialized agencies and programmes and civil society organizations and also through bilateral arrangements to strengthen institutions working with children and to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.

The Committee also recommends that the State party seek international support for cooperation projects relating to the implementation of the provisions of the Protocol, in particular in order to provide assistance for child victims. The State party is encouraged to seek technical assistance from relevant international bodies, including UNICEF.

VIII. Follow-up and dissemination

Follow-up

The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to relevant Ministries, the House of Representatives of Zanzibar and the Union Parliament and to district and community authorities, for appropriate consideration and further action.

Dissemination

The Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including through the Internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups, and children in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

IX. Next report

In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 9 January 2012.

