

Child Rights Organizations Submission to the Universal Periodic Review of Tanzania – February 2011

A. Consultation Process

This submission has been prepared by a coalition of child focused organizations operating in Tanzania (both mainland and Zanzibar), in the areas of child rights, child protection, education, health, HIV/AIDS and nutrition. A total of 16 organizations working in rural and urban settings throughout Tanzania participated in the submission process: Save the Children, Lindi Non-Governmental Organisation Network (Lingonet), Kilwa Non Governmental Organisation Network (Kingtonet), Patronage in Environmental Management and Health Care Warriors (PEMWA), The Institute of Cultural Affairs in Tanzania (ICA), Ruangwa Organisation for Poverty Alleviation (ROPA), Evangelical Lutheran Church in Tanzania (ELCT) Same, Zanzibar Legal Services Centre (ZLSC), Zanzibar Press Club (ZPC), Walio katika mapambano ya Ukimwi Tanzania (WAMATA), Zanzibar Association Support to Orphans (ZASO), Zanzibar Muslim Women Aids Support Organization (ZAMWASO), Zanzibar Female Lawyers Association (ZAFELA), Integral assistance to Vulnerable Children Limited (IAVC), SOS Children's Village Zanzibar, Zanzibar Association for Children Advancement (ZACA).

B. Country Context

The United Republic of Tanzania (hereafter referred to as Tanzania) is a republic consisting of mainland Tanzania and Zanzibar. It consists of two governments: the Union Government in mainland Tanzania and the Zanzibar Revolutionary Government in Zanzibar. The population of Tanzania is currently estimated to be 44.5 million (1.3 million living in Zanzibar)¹, of which more than 50% are children. 34%² of Tanzanians live below the national basic needs poverty line and 17% below the food poverty line. Roughly six million children aged 0-14 years are living below the basic needs poverty line, and approximately 2.8 million children fall below the food poverty line (HBS, 2008). Poverty remains overwhelmingly rural – 84% of the poor live in rural areas (HBS, 2008). The Human Development Report from 2010 ranks Tanzania among countries with low human development, placed at 148 out of 169 countries.

Tanzania (including Zanzibar) signed and ratified the Convention on the Rights of the Child (CRC) in 1991, to which it is now legally bound and has enacted into law through the national Law of the Child Act 2009 in the mainland. A separate process has been initiated to develop Children's Act in Zanzibar. Tanzania has also ratified the following international and regional human rights instruments relating to the protection of children: the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; ILO Convention No. 182 on the Elimination of the Worst Forms of Child Labour, the

¹ <http://www.tanzania.go.tz/populationf.html>

² 2007 Household Budget Survey (HBS)

Convention on Discrimination Against Women; The African Charter on Human and People's Rights; International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disability and the African Charter on the Rights and Welfare of the Child.

C. Priority Child Rights Issues

During the consultation process, six (6) priority child rights issues affecting children in Tanzania were identified:

1. High neonatal and infant mortality levels
2. Child hunger and malnutrition
3. Corporal punishment of children
4. Sexual abuse of children (in Zanzibar)
5. Quality of Education
6. Child Act 2009 not being implemented

1. High neonatal and infant mortality rates

The right to life (**Article 6 UNCRC**) and health (**Article 24 UNCRC**) are basic human rights for all children in Tanzania. Every year 179,000 children die in Tanzania from preventable and treatable illnesses before reaching their fifth birthday and 29% of these die within the first 28 days (neonatal period). It is estimated that 50% of these deaths occur within the first 24 hours and 75% in the first week of life of which about 80% of these deaths are due to infection (29%), premature birth (23%) and asphyxia (27%) all of which are preventable³. At national level, Tanzania has substantially reduced child mortality (preventable deaths under five years old) in the past ten years from 147/1000 live births per annum in 1999 to 81/1000 live births in 2009/10⁴ but has failed to significantly reduce neonatal deaths (before 28 days) (from 40/1000 live births in 1999 to 26/1000 live births in 2009/10)⁵.

Tanzania is one of the ten countries contributing to 66% of the global neonatal deaths. The causes of neonatal deaths can be categorized into health and non-health system causes, which if there was political will to tackle would reduce or eliminate neonatal and child mortality. The Tanzanian health system is weak in terms of infrastructure, inadequate equipment and supplies, limited access to quality health services, lack of human and financial resources, shortage of skilled health providers, weak referral system and unmet needs for family planning. High maternal mortality rates (454/100,000 live births⁶) and lack of knowledge among communities on Kangaroo Mother Care as a natural method for caring for low birth weight infants also contribute to neonatal deaths. Non medical factors such as socio-cultural beliefs and practices, gender inequality in

³ The National Road Map Strategic Plan to accelerate Reduction of Maternal, Newborn and Child deaths in Tanzania 2008 – 2015, 2008

⁴ TDHS 1999, 2009/10

⁵ TDHS 1999, 2009/10

⁶ TDHS 1999, 2009/10

family decision making processes, poor uptake of health services, inadequate community involvement in planning, implementation, monitoring and evaluation of health services also contribute to poor newborn health outcome.

Attempts have been made by the government to improve access, quality and efficiency of health service delivery. In recent years, there has been some increase in health care budget: the Ministry of Health and Social Welfare budget for 2010/2011 financial year was 12% of the national budget, which is an increase by 25.2% of the previous year's budget (2009/10)⁷ and it's governments intention to allocate 15% of the its total budget for health services by 2015. In Zanzibar, the health budget is at 7% of the overall budget (2010/2011)⁸.

Recommendations

1. The Ministry of Finance and Ministry of Health and Social Welfare of Tanzania should increase the health budget from 12% to 14% by 2012 to ensure the maximum extent of available resources are allocated to realizing the child's right to survival and health, including sufficient funds for maternal, newborn and child health services, human resources, training, medicines and equipment, infrastructure, as well as monitoring and evaluation systems. The Ministry of Finance and Economic Affairs and Ministry of Health of Zanzibar should increase health budget to 10% by 2013.
2. The Ministry of Health and Social Welfare, Prime Minister's Office Regional Administration and Local Government (PMO-RALG), District authorities as well as respective Zanzibar authorities should launch a nation-wide child survival and health awareness campaign by 2012, focusing on rural communities⁹ to promote key interventions package (exclusive breastfeeding, immunization, vitamin A supplementation, ITNs, de-worming, iodated salt, PMTCT and, IMNCI, kangaroo mother care) to increase uptake of free neonatal and child health services.

1. *Child Hunger and Malnutrition*

Tanzania has made little progress towards reducing extreme hunger and malnutrition. 2009/2010 Tanzania Demographic Health Survey states that "*there has essentially been no change in the nutritional status of children since 2004/05*". Chronic malnutrition in Tanzania remains endemic, with 35% of children under five stunted (38% in 2004/05)

⁷ 2010/2011 National Budget speech by the Minister of Finance and Economics

⁸ 2010/2011 Budget Speech: The Draft Estimates of Recurrent and Capital Revenue and Expenditure for the year 2010/2011, Zanzibar

⁹ The campaign should use appropriate technology for targeting rural communities (radio, posters, billboards, fliers, brochures).

and 21% underweight (22% in 2004/05)¹⁰. 44.5% children in rural areas are stunted, compared to 31.5% in urban areas.

Malnutrition is caused by multiple factors: inadequate dietary intake and infectious diseases; inadequate access to food, inadequate caring practices and inadequate access to health services. Underlying causes include poverty, food insecurity, weak livelihoods, gender inequality and lack of education, social norms and behaviours.

The consequences of malnutrition for children are devastating: Malnutrition is a contributory factor to about 50% of all children's deaths (URT 2008 (f)). Stunting begins early in childhood and peaks by 2 years of age. Malnutrition prevents cognitive development and lowers school performance. The effects of malnutrition on society are huge: malnutrition diminishes the ability of children to grow, learn and earn income as adults and thus contribute to the economy. Resources spent on education, health and the treatment of HIV and AIDS will have less impact unless malnutrition is prevented and treated.

Despite these impacts, nutrition still does not feature high on the Government's political agenda and as a result is not prioritized in national policies and strategies. In the mainland, drafting of the National Nutrition Strategy started in 2006, but it has not been endorsed to date. This prevents rolling out of nutrition interventions at the level of local government authorities, who are responsible for implementation of nutrition services. Coordination mechanisms between various sectors (health, food and agriculture, social welfare, industry, water supply and sanitation, education and others) and at various levels (national, regional, district) are currently weak and fall within the area of responsibility of Tanzanian Food and Nutrition Centre within the Ministry of Health. However, nutrition remains diluted across ministries and resembles more an add-on than a fully integrated and mainstreamed sector.

Tanzania has a number of Social Security Schemes, (both formal and informal) but there are no Social Protection schemes in place². These social security schemes have limited coverage which serves only a portion of the population due to insufficient funds, legal restriction, administrative challenges and limited access caused by limited geographical coverage. So far the Government has not been able to come up with a formal Social Protection System in a form of giving cash transfer, grants, or even handouts to the poor.

Recommendations

1. The Tanzania Food and Nutrition Centre and Ministry of Health and Social Welfare should update, finalise, endorse and adequately resource implementation of the National Nutrition Strategy in the mainland by the end of 2012.
2. The Ministry of Health in Zanzibar should lead development of a comprehensive Nutrition Strategy by 2012, followed by the comprehensive nutrition plans and

¹⁰ Tanzania Demographic and Health Survey 2010; Preliminary Report; National Bureau of Statistics , DSM and ICF Macro, Calverton, Maryland, USA, page 33

² Speech from Tanzania Minister of State in the Office of the President responsible for Public Governance during a UNDP sponsored on Social Protection south Africa, 2008.

recruit nutritionists in every district by 2013, with the overall responsibilities for the delivery of nutrition of services for children and women.

3. The Prime Minister's Office should establish a high level national multisectoral coordination body that will bring together all relevant ministries to harmonize integration of nutrition actions across strategies, policies, plans and budgets in all relevant sectors and at all levels (national, regional, district) by the end of 2012, with clear roles and responsibilities in achievement of targets for reduction of child malnutrition in Tanzania, including Zanzibar.
4. The Ministry of Health and Social Welfare and the Prime Minister's Office Regional Administration and Local Governments in Tanzania and Zanzibar should establish social protection mechanisms such as safety nets in emergency situations and regular cash transfers targeting children under the age of two in the poorest families, by 2013.

2. Corporal punishment of children

In Tanzania, corporal punishment of children is legal in their homes, schools, other places where children live and in prisons, or as a punishment for crime. Corporal punishment is widely accepted by Tanzanian public as a disciplinary measure in childrearing and it is not generally perceived as harmful or abusive.

However, the Tanzanian government has an obligation under the UNCRC to fulfill children's right to human dignity and physical integrity and therefore an obligation to ban all forms of violence against children.

The reality is that most of Tanzania's children experience corporal punishment in schools, families and institutions, such as beating, caning, burning and other forms of physical abuse. UNICEF in a preliminary results of the Violence Against Children study found that almost three quarters of children, both male and female, experienced physical violence prior to the age of 18, almost three out of five experienced physical violence prior to age of 18 from relatives and one out of two experienced physical violence from teachers.

Corporal punishment is lawful in schools in mainland Tanzania under the National Corporal Punishment Regulations (1979) pursuant to article 60 of the Education Act (1978). Government guidelines in 2000 reduced the number of strokes from six to four and stated that only the heads of schools are allowed to administer the punishment, with penalties for teachers who flout these regulations. In pilot studies on best practice, carried out by United Nations Children's Fund in schools, the committee reiterates its concern that corporal punishment is still available as part of judicial sentences and is permitted within the education system, and that it continues to be applied in practice (arts.7 and 24). In Zanzibar, the Ministry of Education and Vocational Training has adopted a policy against corporal punishment in schools, and prohibition would hopefully be confirmed in the Draft Children's Act. Zanzibar has also established a pilot project to promote Alternative Forms of Discipline in 10 selected schools in Unguja and Pemba.

Corporal punishment is lawful as a sentence for crime in mainland Tanzania under a number of laws, including the Corporal Punishment Ordinance (1930), the Minimum Sentences Act (1963), the Sexual Offences (Special Provisions) Act (1998), the Penal Code and the Criminal Procedure Code (1985). The Minimum Sentences Act amends the Corporal Punishment Ordinance (article 12) to allow for administering corporal punishment in instalments. Under article 8 of the Ordinance, juveniles may be given up to 12 strokes (up to 20 for adults) and the punishment may be inflicted in the open courtroom. The Minimum Sentences Act does not apply to females or to juveniles under the age of 16 years (articles 2 and 3). According to Amnesty International, Zanzibar abolished judicial corporal punishment in 2004, but the Penal Code (2004) provides for corporal punishment as a punishment for a number of crimes. The Children and Young Person Act establishes a special procedure for dealing with offenders under the age of 16 and states that the treatment of children in conflict with the law must be consistent with the promotion of the child's sense of dignity and worth.

Recommendations

1. The Government of Tanzania should establish a coordination mechanisms for the necessary legal reform by end of 2012 and explicitly prohibit all forms of corporal punishment in the family, schools, the penal system and other institutional settings and alternative-care systems as a matter of priority, by 2013 and repeal relevant legislation.
2. The Government of Tanzania with the Ministry for Community Development, Gender and Children as a lead, should sensitize and educate parents, guardians and professionals working with and for children by carrying out public educational campaigns about the harmful impact of corporal punishment and promote positive, non-violent forms of discipline as an alternative to corporal punishment by the end of 2013.

3. *Sexual abuse of children*

In Zanzibar, sexual abuse is a big challenge to children. It is a violation of their right to protection and affect children physically, psychologically and emotionally. Sexual abuse incidences are happening in both rural and urban areas, in the home and streets, especially by people known to children. Both boys and girls are raped and sodomized. Most of the perpetrators take advantage of abusing disabled children. Most of the cases of sexual abuse of children with disabilities that reach court level are subsequently dismissed due to failure of judges/lawyers to understand the testimonies presented by the child with a disability and evidences provided by the survivor. The majority of cases are reported after the recommended 72 hours since it happened, when the evidence required (such as bruises) are no longer visible. Zanzibar legislation fails to take into consideration the difficulty persons with disability may incur in attending court and providing evidence in such cases. According to Zanzibar law, the burden of proof is on the prosecutors.¹¹

¹¹ The Internal and External Vulnerability of Children with Disabilities Against sexual Violence in Zanzibar, Save the Children , 2010

The community does not have awareness on effects of sexual abuse on children and consider it as a family shame. Therefore, children victims are stigmatized and adults usually prefer to solve the problem informally instead of officially reporting sexual abuses. The establishment of Child Protection Units in the Department of Social Welfare increased the reporting of child abuse cases, although low awareness among the parents on the importance of evidence in such cases is a major obstacle in ensuring that the sexually abused children get their rights. Data from the Child Protection Unit in the Department of Social Welfare in the Ministry of Social Welfare, Youth, Women and Children Development indicates that in 2010 out of 315 reported cases of child abuse, 72 cases were dropped at police station and not sent to court due to lack of evidence. Most of those dropped are the sexual abuse cases.

The rate of cases is increasing due to poor accountability of the government (judges and magistrates) in punishing the culprits due to established laws which make it nearly impossible to prove cases of sexual abuse. Statistics on Gender Based violence in Zanzibar shows that in 2008, only 4 perpetrators were convicted out of 64 rape cases sent to court. Similarly out of 63 cases sent to court in 2009, only 2 were convicted¹². Mnazimmoja hospital reported 318 sexual abuse cases of children in 2009, and 426 in 2010, an increase of 34% in one year¹³. This rate is alarming, especially considering that the data is for Unguja only and cases from Pemba were not included in the report.

Recommendations

1. The Ministry of Social Welfare, Youth, Women and Children Development, the Second Vice Presidents office and District authorities in Zanzibar should support campaigns aimed at raising awareness of the community and all children on the effects of sexual abuse, specific needs and protection of disabled children to minimize sexual abuse cases by 2012.
2. The Ministry of Constitution and Laws of Zanzibar should develop a comprehensive child protection system by 2013 that ensures access to justice for child victims and ensure adequate training of all professionals, including judges, prosecutors, magistrates and lawyers on children's rights and their obligations to protect children who are sexual abused.
3. The Revolutionary Government of Zanzibar should employ counselors in Court by 2013 to help children, and disabled children in particular, who are sexually abused to ensure access to justice and protection for child victims of crimes.

¹² Source: Zanzibar Police Headquarters

¹³ Source: RCH Mnazimmoja Hospital

4. Quality of Education

All children have the right to education. In Tanzania that right is enshrined in the Education Act¹⁴ within the constitution as well as in numerous other acts¹⁵, however: there is no reference to quality¹⁶.

In Tanzania, great strides have been made to increase access; net enrolment has increased from 59% in 2000 to 97% in 2008¹⁷ but although access has increased, there are still many elements missing in Tanzania to truly realise a quality education: a lack of teaching and learning materials; teaching that is characterized by traditional, authoritarian and hierarchical methods; overcrowded classes: the teacher pupil ratio is 1:54 and inadequate facilities in the majority of schools: 4 out of 5 schools are without functioning hand-washing facilities and 3 in 5 schools are without an on-site water supply.¹⁸

Ensuring schools are safe, is another area that needs attention. Schools in Tanzania are often not safe places for children. In our assessments, corporal punishment; supported by official government policy; has emerged as a key contributing factor to children dropping out of school; 68% of children reported being physically punished at school. Moreover, of the 60% of young people (aged 13 to 24) in Tanzania who reported experiencing physical violence from an adult or authority figure, the majority identified a teacher as the perpetrator.

Although the accompanying hardware is necessary, teachers are the key to improving quality. In order to realise a quality education teachers need to be trained in participatory, child centred teaching and learning, and have access to in-service opportunities to upgrade their qualifications. Working with teachers to influence and change teaching and learning in schools is critical and to support this change, teachers must also have an understanding of children's rights and their right to participation as well as non violent methods of discipline. Particular attention needs to be given to the skills needed to effectively teach languages especially with the transition from Swahili (taught throughout Primary) to English taught at secondary level¹⁹.

The status of teachers also needs to be raised with appropriate recognition, salaries and conditions to match; as well as access to appropriate facilities and teaching and learning materials to enable teachers to deliver a quality education.

¹⁴ Constitution United Republic of Tanzania (1977)

¹⁵ Day Care's Centre Act (1981); the Education Fund Act (2002); High Institutions Loan Board Act (2004) and the Law of the Child Act (2009)

¹⁶ Save the Children definition of quality education define quality education as one that is relevant, appropriate, participatory, flexible, inclusive and protective

¹⁷ Tanzania Education Strategy for Improving the Quality of education, USAID, FY 2009-2013

¹⁸ Ajenda ya Watoto, Key facts about Tanzania's children

¹⁹ Citizens Perspectives and Children's Basic Skills, Hakielimu, May 2008 state this as a major problem for children when transitioning between primary and secondary school

Recommendations

1. The Ministry of Education (both in mainland and Zanzibar) should ensure that teacher training is child-centred and participatory and includes child protection, child rights, positive discipline and has a special focus on the effective teaching of the language of instruction and the second language by 2013.
2. The Ministry of Education (both in mainland and Zanzibar) should ensure that as from 2013 teacher's are regularly supported, inspected and have access to in-service training opportunities.
3. The Ministry of Education (both in mainland and Zanzibar) should raise school subsidies from 2013 and provide schools with adequate teaching and learning materials.

5. Child Act 2009 for Tanzania mainland has not been implemented

The Government of United Republic of Tanzania is a signatory to the Universal Declaration of Human Rights of 1948, Convention on the Rights of a Child of 1989 and African Charter on Rights and Welfare of the Child 1991. It is also bound by Law of the Child Act of 2009 which aims at providing for reform and consolidation and harmonization of all applicable laws related to children.

The above context provides a conducive and enabling environment for responding to the needs and rights of children in the country. Yet the Law of the Child Act 2009 has not been implemented due to lack of rules and regulations that allocate roles and responsibilities of each actor; and does not either prohibit early marriage for children or mention the institutional frameworks for monitoring the implementation of the law and financing mechanisms that are critical for fulfillment and realization of children's entitlements.

Review and harmonization of Marriage Act, 1971 with the above mentioned international rights instruments in order to protect children from early marriage is another area that needs attention. The African Charter on Rights and Welfare of the Child obliges states to specify minimum age of marriage to be eighteen years. The Marriage Act defines a child marriage as a marital union that involves anyone below the age of 18 and in most cases consent in these marriages is given by a parent/guardian or court²⁰. Child marriage is however, a gross human rights violation that hinders children's right to protection, equality, well being, survival, education and in some cases even the right to life. These rights are guaranteed in the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.

²⁰ Section 13 of the Law of Marriage Act (1971)

Majority of girls under the age of 18 in Tanzania are married, many to men twice their age or older. Early marriage thwarts girls under 18 years chances at education, endangers their health and cuts short their personal growth and development. Maternal health risks are particularly troubling, as risk of death in pregnancy and delivery for girls under the age of 15 is five times higher than for women in their 20s. Taken together, the costs of this practice are too high to be ignored.

Recommendations

1. The Minister of Health and Social Welfare, Minister for Community Development Gender and Children and Chief Justice should develop and disseminate by December 2012 the rules and regulations that will guide and effect the implementations of Law of the Child Act 2009.
2. The Minister for Justice and Constitutional Affairs should submit to the Parliament a bill for amendment of Marriage Act of 1971 to prohibit marriage before age of 18 by December 2012.
3. The Minister for Community Development Gender and Children should review and disseminate by September 2013, National Plan of Action for Children that will be the basis for establishments of institutional framework for monitoring implementation of the law and financing mechanisms.