

COMMITTEE ON THE RIGHTS OF THE CHILD

42nd session (Geneva, 15 May to 2 June 2006)

Reports of States

United Republic of Tanzania (second periodic report)

Information submitted to the Committee

Tanzania submitted its second periodic report¹ due in 2004, as well as written replies² to the Committee on the Rights of Child's list of issues³. The second periodic report provides an overview of the socio-economic situation in Tanzania and the measures and policies undertaken since the last report was submitted in 1998, such as the ratification of the International Labour Organisation (ILO) *Convention No. 182 on the Elimination of the Worst Forms of Child Labour*, the revision of the 1996 Child Development Policy and the implementation of the UN General Assembly Special Session (UNGASS) Outcome Document: A World Fit for Children of 2002. The report generally contains a fairly wide range of statistics on a number of issues including education, public expenditure, institutional care and disability. With regard to legal provisions, notably the definition of the child or the supremacy of the best interests of the child, the report mainly refers to the planned harmonised Child's Act and the Government's commitment to design it in conformity with the *Convention on the Rights of the Child* (the Convention), rather than describing the system currently in place. Generally however, the State party has striven to provide detailed answers, particularly with regard to programs adopted by the Government, for all the provisions of the Convention. The report is particularly detailed with regard to basic health and welfare and the measures adopted in this regard, and presents a general approach to the rights of the child that focuses strongly on health and welfare. One of the main weaknesses of the report was the failure to properly explain the general governmental and institutional framework governing Tanzania mainland and Zanzibar, which would have allowed the reader to understand which laws applied to which part of the United Republic of Tanzania. Instead, occasional distinctions were made throughout the report between programs adopted by the Government of mainland Tanzania and the Government of Zanzibar but there did not appear to be any coherent approach to the presentation of the report in this regard.

The Committee's list of issues concentrated primarily on the need for further statistics and the State party's written replies appeared as a genuine effort to provide the maximum amount of statistics available in that regard. The written replies therefore provided an extensive and comprehensive range of statistics, with the exception of a few areas specifically addressed by the Committee, where no information was available, usually because no such survey had yet been undertaken in the United Republic of Tanzania. In contrast to this broad range of information, written replies to questions concerning general measures of implementation remained quite superficial and tended to confirm the Committee's concern that no change had been undertaken since the submission of Tanzania's initial periodic report.

Non-governmental organisations (NGOs) present at the session included Franciscans International, Geneva for Human Rights, the International Society for the Prevention of Child Abuse and Neglect, Lutheran World and representatives of a national network of organisations working with children.

Themes and Issues

The Committee began by seeking clarification on the governing structure of United Republic of Tanzania and the jurisdiction of different laws in Mainland Tanzania and Zanzibar. The delegation provided a brief overview in this regard, explaining that the United Republic was a union of two countries, and that as a result the Constitution made a distinction between union and non-union issues. The Governments of Tanzania and Zanzibar cooperate on the latter issues, which include education and health. The protection of children, as a multi-sectoral issue, falls in this category, and the delegation acknowledged that as a result of this there are differing standards for children.

Legal issues

The main legal issue addressed by the Committee was the Government of Tanzania's declared intention to draft a single piece of legislation with regard to children, a Child's Act. This initiative was undertaken in recognition of the need to harmonise the definition and protection of children under Tanzanian law, which are

¹ [http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/6170d4756cd4deb3c12570bc004fc2ff/\\$FILE/G0543723.pdf](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/6170d4756cd4deb3c12570bc004fc2ff/$FILE/G0543723.pdf).

² http://www.ohchr.org/english/bodies/crc/docs/AdvanceVersions/tanzania_reply.doc.

³ <http://daccessdds.un.org/doc/UNDOC/GEN/G06/404/95/PDF/G0640495.pdf?OpenElement>.

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currently ruled by customary, Islamic and Hindu law. In view of the process of drafting the Child's Act having started a long time ago, Committee members inquired into the reasons for the delay in its finalisation and its precise contents. The delegation explained the delay in finalising this Child's Act by emphasising the importance of the consultation process in the Tanzanian context, where religions and traditions have traditionally had an important role to play in society and as a result have had a monopoly with regard to family issues. The Government has therefore refused to rush the consultation process to ensure that religious and traditional cultural sensitivities have been taken into account. The consultation period still being open, the delegation was unable to provide any details about the content of the Child's act but estimated that it would be finalised by mid-July 2007. The delegation did however confirm, in response to the Committee's urging, the Government's willingness to modify the current legal definition of the child (up to 16 years old) to conform to the provisions of the Convention. The Child's Act would not be applicable to Zanzibar, but the delegation pointed out that the Government of Zanzibar was also undergoing a thorough review of their laws on children and would learn from the process underway on the mainland.

Other legal issues addressed by the Committee included the status of corporal punishment and trafficking in law. The Committee expressed concern over the continued legality of corporal punishment in schools, at home and in the judicial system, in contravention of the Committee's past recommendations. The delegation claimed that while the Government recognised the need for this to change, public opinion was still very much in favour of these practices, thereby preventing the Government from abruptly changing the law in this respect. Instead, the delegation explained that the Government was relying on awareness-raising issues, notably the initiative of Child Friendly Schools, to change public opinion. Committee members rejected this attitude, emphasising that the protection of the rights of the child is the State's obligation and responsibility and that public opinion should not prevent it from taking a pro-active stance in this regard, particularly in schools and in the judicial system, which are in the State's direct purview.

In response to the Committee's observation that legislation on trafficking was not comprehensive enough to cover all forms of trafficking, the delegation indicated that the Government had ratified the *Optional Protocol on the sale of children, child prostitution and child pornography* and the UN *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* and was moving forward with their implementation. Following a study by the UN Children's Fund (UNICEF), revealing that trafficking is mostly internal in Tanzania, the Government is also studying the laws in place to identify protection gaps.

Budgetary allocation

Noting that Tanzania is one of the UN's Least Developed Countries, the Committee asked numerous questions about the Government's budget and the effect of the level of resources available to the Government on the protection of children. Committee members notably inquired about the effect of the reduction in foreign debt following Tanzania being granted debt relief under the Heavily Indebted Poor Countries initiative on income distribution and Government expenditure. While the delegation did not provide a single comprehensive answer on this issue, it regularly referred to lack of resources as a major impediment to the full implementation of human rights programs in general, including those concerning children. The delegation's comment on the Commission for Human Rights and Good Governance was representative in this regard. The delegation explained that its failures and inadequacies should not be understood as a lack of political commitment from the Government but as a reflection of a lack of capacity to implement this commitment as a result of limited resources.

Education

One of the main substantive topics taken up at length by the Committee was education. Committee members asked questions about a wide range of issues in this regard, including expulsion of pregnant girls from schools, regional disparities in education, retention rate and gender parity in secondary education, pre-primary school attendance and education for refugee children. The delegation generally provided short superficial answers to these questions: with regard to gender parity for example, the delegation simply stated that girls were given priority in selection processes for secondary education without providing further analysis of this problem. The Government's Secondary Education Development Plan, which appeared as the most relevant program in this respect, was barely discussed. The delegation was more forthcoming on the issue of pre-primary education, referring to a decision to have all schools establish pre-primary centres supported by budget allocations, as well as plans to develop a strategy to increase enrolment. The delegation also described what appeared to be a successful strategy with regard to education for refugee children, reflected notably in a relatively high graduation rate. While the State party's report appeared to indicate that new legislation on education would allow for the expulsion of pregnant girls from schools, the delegation assured the Committee that this legislation was actually being reviewed to prohibit this practice.

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Other issues

The Committee considered a great number of other issues, including data collection, coordination between different programs and institutions concerned with the promotion and protection of the rights of the child, the Commission for Human Rights and Good Governance, respect for the views of the child, non-discrimination, violence against children and harmful traditional practices. On most of these questions, especially important substantive questions on non-discrimination and violence against children, the Committee received only minimal superficial answers, even after numerous follow-up questions. The delegation only provided more comprehensive answers to questions regarding structures in place, such as the Commission for Human Rights and Good Governance and the numerous initiatives promoting respect for the views of the child. Even in these cases, the delegation remained descriptive instead of providing a more thorough analysis of the impact of these initiatives on the situation of children in Tanzania.

Conclusions and next steps

The key positive steps announced by the State party include the drafting of a single piece of legislation related to children, which would notably provide a uniform definition of the term "child"; preparation of national plans of action based on the UNGASS document "A World Fit for Children" and to combat violence against children and women; the establishment of the Department of Children Development; the creation of a Special Desk for Children Affairs within the Commission for Human Rights and Good Governance; and the establishment of a Junior Council.

The Committee attempted to address a very broad range of issues relating to the rights of the child in Tanzania, but was hindered in this effort by the delegation's inability to answer more substantive questions. The delegation also avoided answering a number of crucial questions, notably with regard to the content of the future Child's Act, by claiming that public opinion and respect for the views of all stakeholders prevented the Government from taking substantive action on certain issues. Committee members attempted to circumvent this attitude by repeatedly following-up on their questions, sometimes even interrupting the delegation to re-state their questions in simpler terms. This strategy proved relatively ineffective, as most of the delegation's answers remained insufficient and often irrelevant. As a result, the Committee emphatically reminded the delegation that the State needs to recognise that it has the primary responsibility for implementing policies and changing negative attitudes through awareness-raising measures.

The main inadequacy pointed out by the Committee was the general lack of information on the actual situation of children in the United Republic of Tanzania provided by the delegation. The Committee recognised the delegation's efforts to describe the structures and legislation in place to protect the rights of children, but reminded them that the presence of legislation does not necessarily entail that these provisions are translated in practice. The Country Rapporteur especially stressed the need for an evaluation of what is occurring now in Tanzania, to ensure that when the new legislation is in place, there can be an assessment of its impact and implementation.

The Committee noted that its previous recommendations with regard to coordination, corporal punishment, child labour and juvenile justice have not been given sufficient follow-up, but focused its concluding observations⁴ mainly on encouraging the Government to continue and follow-through in the processes it had already engaged itself in, notably with regard to legislation and national plans of action. In its concluding observations, the Committee expressed concern at the minimum age for marriage for girls, the extent of discrimination and requested specific further information on this issue in the following periodic report, the continued legality of corporal punishment, the high infant and under-five mortality rates, the high number of children engaged in economic activities, and the growth in child prostitution.

The Committee echoed the Committee on the Elimination of Racial Discrimination's (CERD) concerns that despite efforts undertaken by the State party in terms of legislation on Female Genital Mutilation, this is still widely practiced. During the session, the Committee also expressed the concern already voiced by CERD that refugees were forcibly returned to countries where they might suffer from human rights violations. The Committee generally did not refer or repeat observations of other Treaty Bodies, probably because the only other report submitted by the United Republic of Tanzania in recent years has been to CERD in 2005 and that report was 17 years late.

⁴ <http://www.ohchr.org/english/bodies/crc/docs/co/CRC.C.TZA.CO.2.pdf>.