

The Government of the United Republic of Tanzania



**Initial Tanzania Report to the African Committee of Experts on
the African Charter on the Rights and Welfare of the Child**

Ministry of Community Development Gender and Children,
In collaboration with Ministry of Labour
Youth Women and Children Development
THE UNITED REPUBLIC OF TANZANIA
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ACRWC	African Charter on the Rights and Welfare of the Child
ARVs	Antiretroviral
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CHRRG	Commission for Human Rights and Good Governance
COBET	Complementary Basic Education in Tanzania
CRC	Convention on the Rights of the Child
ESDP	Education Sector Development Programme
FGM	Female Genital Mutilation
ICRC	International Committee of the Red Cross
ILO	International Labour Organisation
IMCI	Integrated Management of Childhood Illness
IPEC	International Programme for the Elimination of Child Labour
IHL	International Humanitarian Law
MCDGC	Ministry of Community Development Gender and Children (URT)
öMKUKUTAö	Mkakati wa Kukuza Uchumi na Kupunguza Umaskini Tanzania
MKUZU	Mkakati wa kupunguza Umaskini Zanzibar
MLEYD	Ministry of Labour, Employment and Youth Development (URT)
MoEVT	Ministry Of Education and Vocational Training (URT)
MOES	Ministry of Education, Culture and Sports (Zanzibar)
MoHSW	Ministry of Health and Social Welfare (URT & Zanzibar)
MYEWCD	Ministry of Youth, Employment, Women and Children Development (Zanzibar)
MVC	Most Vulnerable Children
NSGRP	National Strategy for Growth and Reduction of Poverty öMKUKUTAö
PER	Public Expenditure Review
PMS	Poverty Monitoring System
PRS	Poverty Reduction Strategy
STI	Sexual Transmitted Infections
TBP	Time-Bound Programme on the Elimination of the Worst Forms of Child Labour
TDHS	Tanzania Demographic Household Survey
TMC	Tanzania Movement for and with Children
TPDF	Tanzania Peoples Defence Force
TRCS	Tanzania Red Cross Society
Tshs.	Tanzania Shillings (currency)
UNDP	United Nations Development Programme
UNFPA	United Nations Fund for Population Activities
UNGASS	United Nations General Assembly Special Session on Children
URT	United Republic of Tanzania
VCCT	Voluntary Confidential Counsel and Testing for HIV
ZAC	Zanzibar AIDS Commission

Executive Summary

Tanzania ratified the African Charter on the Rights and Welfare of the Child (ACRWC) in March 2003. This is its initial report on the implementation of the charter submitted to the African Committee of Experts according to Article 43. The report outlines the measures that have been taken since 2003 to effect the provisions of the ACRWC. It also details the progress made in the enjoyment of child rights.

Much has been done to ensure implementation of the ACRWC since it was ratified in March 2003. In April 2003, the Government ratified the two Optional Protocols to the CRC on the Involvement of Children in Armed Conflict, and the Sale of Children, Child Prostitution and Child Pornography. Tanzania has been strengthening the legislative framework for children through ongoing consultative processes with the aim of developing a comprehensive Children's Act and progress has been made towards developing a White Paper. Mechanisms for coordinating the implementation of the Charter have begun through a process to establish a national coordinating body. Dissemination of the Charter has been carried out by the Ministry of Community Development, Gender and Children (MCDGC) in Tanzania Mainland and Ministry of Labour, Youth, Women and Children Development in Zanzibar (MLYWCD) and NGOs.

Other progress includes: the integration of children's concerns and vulnerabilities as central issues within the broader national development frameworks that guide national policy development and programmes; the development of a number of national policies, cross-sectoral strategies, and action plans in critical areas of concern for children (including around HIV/AIDS and orphans); policy level decisions that have had a significant impact on children's rights and well-being (such as the abolition of primary school fees, and the enactment of improved legislation such as the Employment and Labour Relations Act of 2004). Policies and strategies involving children's wellbeing have involved children through their Junior Council of the United Republic of Tanzania.

revised to broaden the range of offences, give longer sentences for serious crimes, and to allow children under 18 to be tried *in camera*. However, child abuse is not specifically defined under these laws; compulsory reporting is not provided for, and the institution or body responsible for appropriate interventions in child abuse cases is not clearly defined.

There have been legislative efforts to protect children from hazardous work and from the worst forms of child labour. The Time Bound Programme aims at combating the worst forms of child labour and has had some success in withdrawing children from prostitution (for example) and providing them with suitable alternatives. There are currently efforts in place to develop the Social Welfare Policy in order to streamline welfare service delivery in the country.

There is still much work to be done, however, before the rights of all children in Tanzania - particularly the poorest and most vulnerable - are guaranteed. Partial and anecdotal evidence suggest serious and widespread problems of neglect, violence, abuse and exploitation of children, and efforts to protect Tanzanian children fall far short of what is required by the ACWRC. Although measures have been put in place to address some of these issues, on the whole, appropriate mechanisms for containing or preventing abuse of children are insufficient and local level governance has largely failed to ensure that children are protected from abuse. Female Genital Mutilation (FGM) has been criminalized since 1998, but still takes place. Corporal punishment is institutionalized in both schools (where its application is regulated) and the criminal justice system as a legal punishment for children.

Legislative changes are also insufficient, for example the diverse legal definitions of the child need to be consolidated to provide a uniform definition as indicated in article 2 of the charter. Discriminatory laws such as the patrilineal laws of succession and inheritance need to be amended in compliance with the right of freedom to thoughts, conscience and religion.

ed to protect girl children. More needs to be done to
isonment with adult prisoners, and to build capacity
for effective probation services for juvenile offenders.

Although infant and child mortality has shown considerable improvement in the last five years, there is still a long way before child's right to survival and development can be guaranteed. 250,000 children die each year from preventable illnesses with 80 per cent of deaths occurring at home. The leading causes of under-five mortality are, in decreasing order of importance, malaria, anaemia, pneumonia, prenatal conditions, diarrhea and HIV/AIDS. Malnutrition is an underlying cause of most deaths. More needs to be done to promote birth registration, currently reaching only 19 per cent of children. Most health services are not user friendly to young people especially in the area of reproductive health.

Although primary education enrolment has surged to around 95 per cent since the abolition of school fees, retention and attendance figures are lower. In addition, Tanzania still has one of the lowest secondary school rates in Africa (around 10 per cent).

Social security schemes coverage is still limited to those in formal employment, though the Government is looking into adopting a National Social Protection framework with a wider coverage.

Tanzanian law ensures the protection of children refugees, and provides for reunion with their family and their right to primary education, health and other social services. With regards to children in armed conflict Tanzania does not provide for conscription into the armed forces and discourages such recruitment in its territory.



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1: Introduction

Introduction - The United Republic of Tanzania ratified the African Charter on the Rights and Welfare of the Child (ACRWC) in March 2003. This is its initial report on the implementation of the charter submitted to the African Committee of Experts according to Article 43. The report outlines the measures that have been taken since 2003 to effect the provisions of the ACRWC. It also details the progress made in the enjoyment of child rights.

In preparing this report Tanzania has followed the guidelines as laid out by the African Committee of Experts and the UN Convention on the Rights of the Child.

Key stakeholders have been consulted through workshops, seminars and meetings in Tanzania Mainland and Zanzibar and their views have been used to finalize this report. Contributing and participating stakeholders have included both the Government of URT and the Revolutionary Government of Zanzibar NGOs and children. The views of children ó expressed through their established forums ó can be found in annex 2 of this report.

Background - The United Republic of Tanzania (hereafter referred to as Tanzania) was formed in 1964 when the mainland of Tanganyika united with the islands of Zanzibar. The Constitution of the United Republic of Tanzania (URT) of 1977 is among the listed Union Matters; the application of the 1984 Constitution of Zanzibar concerns all non-union matters.

Details of the two constitutions, the role of Parliament and the House of Representatives, the Judiciary, the Commission for Human Rights and Good Governance and the administrative set up of the Union are detailed in annex 3. Further details of the socio economic situation and trends in poverty can also be found in annex 3. In the interest of



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cluded in the main report; pertinent details are however

In brief, Tanzania has an estimated population of 37 million, of whom approximately 19 million are under 18 years of age.¹

Improved economic management and progress with reform have improved the resilience of the Tanzanian economy and there has been an average annual growth in GDP of 6 per cent over the past five years. However, significant socio-economic disparities remain and more than one third of the population lives below the basic needs poverty line in Tanzania Mainland; while in Zanzibar 49 percentage of population live below the basic need poverty line (HBS, 2004/05). Social sector spending remains low and the country remains one of the poorest in the world, ranked 164th in the Human Development Index.

It is promising that six of the Millennium Development Goal (MDG) targets could be met: income poverty; under-five mortality; universal primary education; gender parity in primary education; malaria; and access to essential drugs.

¹ Based on 2005 projections from the 2002 Population and Housing Census.

Article 1

Over the years, Tanzania has shown its commitment to international humanitarian laws including those related to children's rights. Among others, Tanzania has:

- Ratified the Convention on the Rights of the Child (CRC) without reservation (1991)
- Ratified the ILO Convention on the Worst Forms of Child Labour (2001)
- Ratified the African Charter on the Rights and Welfare of the Child (2003)
- Acceded to the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict (2004)
- Acceded to the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (2003)
- Ratified the Convention Governing Specific aspects of Refugee Problems in Africa and the UN Convention on the Status of Refugee (2003)

Despite having acceded or ratified the above, Tanzania is a common law country, and international and regional treaties have to be specifically adopted into domestic legislation before they become binding within the State. This is usually done by enacting a piece of 'stand alone' legislation or, more commonly, amending existing legislation through 'consequential amendments'. To date, most of the treaties have not been domesticated.

Despite this, the Tanzanian Government considers the Charter to be a major human right instrument, as important as the CRC, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the African Charter on Human and People's Rights. Some of the provisions spelt out in the Charter are already embodied in Tanzanian legislation.

the Rights and Welfare of the Child underpins the work of the two ministries responsible for children's affairs - in the mainland, the Ministry of Community Development, Gender and Children (MCDGC) - and in Zanzibar, the Ministry of Labour Youth, Women and Children Development (MLYWCD).

The Government is currently looking into a proposal submitted by the MCDGC to establish a National Coordination body to be responsible for all matters related to child rights at all levels. The proposed body will be expected to establish a mechanism for the periodic evaluation of the implementation of this charter and will involve Government Ministries NGOs and civil society organisations for both Tanzania Mainland and Zanzibar. In Zanzibar a coordinating body, the National Child Rights Committee (NCRC) was been established in 2002 for monitoring, evaluating and reporting on the status of the implementation of international child rights instruments.

Despite this, the impact of the Charter on the social, economic, political and legal framework of the country and on the lives of children is far from adequate. For example, to date it does not appear that in criminal cases of juveniles the CRC or ACRWC principles have been referred to or applied.² To date, it does not appear that any cases specifically related to child rights have been brought to court. In general, human rights litigation and child rights in particular remain the domain of a few individuals and NGOs.

Development Context - Since Tanzania ratified the ACRWC in March 2003, the Government has been reviewing several key documents and pieces of legislation which relate to child rights including:

- The Law Reform Commission (LRC) reports submitted to the Ministry of Justice and Constitutional Affairs in 1994
- The Law of Marriage Act

² Survey undertaken by the Commission for Human Rights and Good Governance (CHRGG) in the Juvenile Court. Despite this, there is lack of information of criminal cases since law reports have not been published since 1997.

- Affiliation Ordinance Cap 278
- Adoption Ordinance Cap 375
- Employment Ordinance Cap 366 which has been replaced by The Employment and Labour Relations Act No 6 of 2004
- The Law of Succession/inheritance
- The customary Law (Declaration Order)

Meanwhile the government of Zanzibar has been reviewing and enacting several policies and legislations to protect children's rights: These policies and legislations includes;

- Education Policy.
- The Policy for People with Disability of 2003.
- Zanzibar Water Policy.
- Zanzibar Water Act.
- Spinsters and Single Parent Child Protection Act of 2004.
- Education Act No. 6 of 1986.
- Birth and Registration Act.
- Employment Act No. 11 of 2005.
- Youth Development Policy.
- Vocational Training Policy.
- Identification and translation of Islamic *sharia* with regard to women and children's rights.
- *Kadhis* Court Act No.1985

consideration of the Law Reform Commission's recommendations has taken too long.³ The Government, after deliberating on the recommendations, has now decided to conduct a wider consultation involving the general public. There will be a white paper process before the relevant Bills are tabled before Parliament.

Also, progress has been made in developing a national policy and legislative framework that prioritizes child survival and development concerns. A number of policies are now in place, including the National Strategy for Growth and Reduction of Poverty (NSGRP) also known as 'MKUKUTA' in Tanzania Mainland and the Zanzibar Strategy for Reduction of Poverty also known as MKUZA. The Strategies incorporate the MDGs, integrates concern for vulnerability into its strategic framework, and highlights the importance of developing a national social protection framework. MKUKUTA and MKUZA have been developed through broad stakeholder participation. In it, issues affecting children and young people (including HIV/AIDS, education, social protection and the rights of the most vulnerable) are recognized as cross-cutting. The Government has allocated more than 50 per cent of the 2005/6 national budget to implementing MKUKUTA and MKUZA.

The Government has outlined a Joint Assistance Strategy (JAS) linked to poverty reduction which incorporates principles of the 2005 *Paris Declaration on Aid Effectiveness*. The JAS aims to increase national ownership, control over predictable resources, and mutual and domestic accountability. It targets up to 70 per cent of ODA for General Budget Support (GBS), with technical assistance for capacity development de-linked from financial inputs.

In addition to the above, Tanzania has developed a development visions as initiatives to reduce poverty guide the overall development agenda and establish appropriate

³ The Government however, sees the recommendations as extremely complex, and have involved NGOs, Scholars and other stakeholders in the review through a consultative process in 2001. The report of this process, referred to as Technical Working Group Report, was also submitted to the Ministry of Justice and Constitutional Affairs for consideration and appropriate action.

term strategies articulated in the Vision 2025 for the
ibar.

The Child Development Policy of 1996 has been revised and is awaiting the approval of Cabinet. The new policy intends to address emerging issues such as child protection, child participation and the increasing number of vulnerable children (including orphaned and vulnerable children and those involved in exploitative and hazardous labour). Children provided inputs to the revised text through a meeting of the Junior Council in 2004. In Zanzibar, Child Survival, Development and Protection Policy has been revised for dissemination to many stakeholders from national downwards to district levels. Dissemination of the policy has also been done to children through their clubs and councils. The policy is in both Kiswahili and English versions.

Having recognized the plight of the Most Vulnerable Children (MVCs) the Government has taken several measures including policy making, regulations and guidelines that care for, support and protect MVCs in the Mainland. The Ministry of Education and Vocational Training financially supports MVC in secondary education, while the Ministry of Health and Social Welfare facilitates free health care and services for children under 5 years as well as cost exemption for the poor. The Ministry for Labour, Employment and Youth Development provides guidelines for the care, support and protection of MVCs. In Zanzibar programme for MVCs has been established under the Ministry of Regional Administration and Department of Social Welfare in collaboration with UNICEF whereby 3422 MVCs have been identified and registered across 10 districts of Zanzibar and they are provided with services.

Further details of the relevant policies and strategies taken to realize the rights and welfare of the child are to be found in annex 4. Details of the progress in strengthening the legislative framework are to be found throughout this report.

Coordinating child policies and monitoring the implementation of the ACRWC -
Children's issues are coordinated and implemented between several ministries through consultations. These are the MLYWCD in Zanzibar, the MCDGC, the Department of



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of Health. However, as detailed previously, the MLYWCD and Ministry of Finance and Economic

Affairs (MOFEA) in Zanzibar are the central coordinating ministries promoting child rights. In 2003 the MCDGC established an independent department for Child Development. This department is responsible for coordinating and monitoring child and family development issues including the implementation of the Child Development Policy, the CRC and the ACRWC.

The Government has noted the fragmentation of responsibility regarding child protection between the Ministries and proposes to establish a national coordination body. The proposed body will coordinate all efforts with regards to child rights and involve CSOs, FBOs and the media. It will also develop a mechanism for periodic evaluation of the implementation of the CRC and its Optional Protocols and the ACWRC. It will also be responsible for managing data collection, collation, recording and an analysis system for transmission of disaggregated data to the reporting authority.

In Zanzibar, National Children Rights committee) NCRC) has been formed with members from both Government and non-governmental institutions. The NCRC works in line with line Ministries and NGOs to coordinate monitor implement and evaluate Children's programmes to realise the set objectives across key stakeholders throughout the year.

Dissemination of the Charter and awareness of child rights

The MCDGC has translated the CRC and ACWRC into Kiswahili to facilitate widespread dissemination. UNICEF is involved in distributing a basic text on child rights. Several awareness programmes and workshops on the CRC and the ACRWC have been conducted.

One of the objectives of the 1996 Child Development Policy was to educate the community on child rights by training Community Development Officers. The training is now conducted in Community Development Training Institute (CDTIs) and process are



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Purpose Training Institutes (MTC) which are under

The annual commemoration of the Day of the African Child (on June 16th) has become a platform to raise awareness on both the CRC and the ACRWC. Children are directly involved in this event through song, drama, dance and other performances. In 1991, Parliament adopted a resolution that every village should hold a day for children, in which progress on the implementation of children's programmes are presented and discussed. Since 2000, this day has been integrated into the district development plans and is known as *June Village Child Day*.

The Government of Zanzibar has also created children's clubs both in and out of schools, to conduct peer education, especially during commemoration of national and international events.

Televisions and radio stations now air special programmes for children. There have been newspapers articles on children's rights and columns dedicated specifically to children's issues.

Human rights and child rights are currently not part of school curricula. However, the Ministry of Education and Vocational Training (MoEVT) has mainstreamed children's rights education into the Child Friendly Schools Programme currently initiated in over 50 schools. It has also produced a child-friendly booklet on children's rights which has been distributed to all Child Friendly Schools and Centres for Complementary Basic Education (COBET). NGOs have been key contributors in raising awareness on child rights and have conducted training carried out advocacy and distributed child friendly booklets.

The Government is also carrying out community sensitization on child and human rights aiming at providing legal protection for the most vulnerable children in the communities. The community sensitization is carried out by young people who are trained in children rights and human rights in general and other legal issues affecting children including

3: Definition of the Child

Article 2

Tanzania has diverse definitions of a child and is not yet in compliance with the definition of the child according to Article 2 of the African Charter. The Law Reform Commission of Tanzania in its report submitted to the Government in 1994 proposed that a consolidated ‘Children’s Law’ be developed with a single definition of a ‘child’ as ‘any person below the age of 18 years’ in conformity with the CRC and the ACRWC. This recommendation is supported and advocated by the Ministry of Justice and Constitutional Affairs, academicians and NGOs.

Key pieces of legislation such as the Citizenship Act define 18 as the end of childhood⁴, and under the constitutions only persons who have attained 18 years of age are entitled to vote and be elected. Under Customary, Islamic and Hindu Law, however, the age of majority is considered to be puberty. Various laws define a child within the contextual requirement of a specific legislation. For example:

- In criminal law, there are discrepancies between the *Criminal Procedure Act No. 9 of 1985* which defines an adult as a person ‘of or above the age of sixteen years’ and the *Minimum Sentence Act No. 1 of 1972* which defines a ‘juvenile’ as a person under the ‘apparent’ age of eighteen years.

⁴ On the mainland, Cap 43 the Age of Majority Act No. 55 of 1963, defines the end of childhood as ‘the beginning of the eighteenth anniversary at the day on which [the child] born.’ The age of majority under Cap 1 the Interpretation of Laws Act No. 4 of 1996 and the Chapter 53 the Age of Majority Decree from Zanzibar is also 18 years.

The *Sexual Offences (Special Provisions) Act No. 4 of 1998* uses the term "child" in order to provide more legal protection for persons under 18 years. In Zanzibar the *Sexual Offences Special Provision Act No. 7 of 1998* was reviewed to increase the age of protection from fifteen to eighteen years.

Other pieces of legislation (for example, the *Primary School (Compulsory Enrolment and Attendance Rules) of 1979*) define a "child" as one who has attained the age of 7 years but is not yet 13. The *Adoption of Children Act* uses the term "infant" to refer to a person under 21 years of age. Zanzibar Children's Policy on Survival, Protection and Development divides "childhood" into infancy (age 0-1); early childhood (1-6 years); adolescence 7-14, and puberty (12 for girls, 14 for boys).

Efforts are underway to consolidate laws relating to children and to provide a uniform definition of a child as recommended by the Law Reform Commission Report of 1994.

4: General Principles

Non-Discrimination

Article 3, 12 and 26

Article 12 of the URT Constitution states that: "all human beings are born free, and are all equal" and that "every person is entitled to recognition and respect of his dignity". Article 13 states that "all persons are equal before the law and are entitled, without any discrimination to protection and equality before the law." The Constitution of Zanzibar also incorporates a Bill of Rights reaffirming the fundamental protection of rights and personal freedoms including the right to equality without discrimination.

Despite the above, there are a number of laws which hinder the realization of equality, including the laws of succession and inheritance.

perceived to be equal to adults within their own a particularly lowly status including girl children, children with disabilities, children born out of wedlock, children affected by HIV/AIDS, rural children, poor children, street children and refugee children. (please see Articles 21).

Best Interest of the Child

Article 4

The best interest of the child is at times referred to in Tanzanian law as the welfare principle and though not specifically reflected in the Constitution, it is a guiding principle of child related legislation.⁵

For example, the Law of Marriage Act states that, in all custody decisions, the primary consideration should be the welfare of the infant. The law will only separate a child from its parents if the court is satisfied that is the child's welfare. The principle is also stated in laws relating to children born out of wedlock and to adoption proceedings.

Apart from the above, several measures have been taken by both Governments to enact and amend laws so as to enforce the fundamental human Rights and implementing the right to equality. Some of such laws include Zanzibar Employment Act No. 11/2005; Education Act No.4/2005; Penal Act No 6/2004 to mention few. Enforcement of such laws however is still at minimal due to a number of factors such as lack of awareness and existing unwanted traditional values and norms

Some important legislation relating to the best interest principle include the case of *Ramesh Rajput v. Mrs, Sunanda Rajput* (1988 TLR 96) where the Court held that (i) the

⁵ In Zanzibar the best interest principle is articulated in the Penal Act Rules 7 and 25. These detail that courts should obtain background information to ensure that the child's best interests are taken into account. A Similar provision is also provided in the Mainland Children and Young Persons Act.

proceedings is the welfare of the child; and that (ii) an
with the mother unless there are very strong reasons to
the contrary. In the case of *Maria Tumbo v. Harold Tumbo* (1983 TLR 296) the court
held that in matters of custody the welfare of the infant is of paramount consideration,
but where the infant is of an age to express an independent opinion, the court is obliged to
have regard to his or her wishes.

The best interests of the child are also referred to in the Employment and Labour
Relations Act of 2004, and are the guiding principle for the provision of *in camera*
proceeding in cases involving children, especially in sexually offences (please see article
10). They also guide the national standards for protecting children in institutional care
(please see article 20.2). It is anticipated that in the recommended Children's Act the best
interest of the child will be the primary considerations in all matters pertaining to child
rights and welfare.

Despite the above, the law also allows the court to regard the wishes of the parents and
the *customs* to which they belong. Several NGOs have recommended that the
requirement for courts to have regard for the customs of the community is outdated and
may act against the best interests of the child.

The Right to Life, Survival and Development

Article 5

Article 14 of the URT Constitution states that: "every person has the right to live and to
protection of his life by the society in accordance with law".

The right to life is considered to start at conception since abortion is illegal in the URT.
Induced abortion (known in Tanzania as "child destruction") and attempts to procure
abortions are criminal offences except when carried out in good faith for the purpose of

⁶ In 2004 and 2005, a total of 144 cases of child under the age of 18 years were reported to the police.

Hospital data suggests a much higher rate of unsafe abortions are carried out than those reported, especially by young unmarried women. ⁷

Suicide or attempted suicide is illegal under the Tanzanian Penal Code. There is no reliable data on prevalence or patterns of suicide.

The right to life is not absolute in Tanzania and the death penalty is still retained for murder and treason if carried out by persons over the age of 18 at the time of committing the crime.⁸ A convicted person who was under 18 years at the time of the crime is detained at the President's pleasure under the Penal Code but for a period not longer than 10 years.⁹

The status of a child's right to survival and development is detailed in article 14, and through appropriate sections of this report.

Respect for the views of the child, provision of information and promotion of child participation

Article 4, 7 and 12

Both Constitutions guarantee freedom of opinion and expression to every person.¹⁰ The child has a right to be heard in all matters affecting him or her in any judicial or administrative proceedings regardless of whether the child is a victim, the accused or a witness. Children (even those of tender years) are considered as competent witnesses

⁶ Child destruction includes intent to destroy the life of a child capable of being born alive; and intent to cause a child to die before it has an existence independent of its mother. A child is considered capable of being born alive if there is *prima facie* proof that a woman was pregnant for a period of twenty-eight weeks or more.

⁷ Mpangile et al, 1992

⁸ Cap 16 the Penal Code as amended by Act No. 31 of 1997 and the Zanzibar Penal Decree as amended by Act No. 6 of 2004 .

⁹ After the 10 years have elapsed the Minister responsible for legal matters is empowered to discharge the child.

¹⁰ Constitution of the United Republic of Tanzania of 1977 Article 18(1); the Constitution of Zanzibar of 1984 Article 18(1).

to understand the duty of speaking the truth and of rational answers (please see article 17). As noted in Article 4 of this report, children's views are taken into consideration in family matters such as divorce, custody, maintenance and adoption cases. The application of this right is, however, only enforceable in court proceedings. In customary law and traditional practice children are seldom consulted and are not allowed to speak unless given permission to do so.

Child participation in Tanzania is mostly supported through civil society organizations, although the Government - in collaboration with the Tanzania Movement for and with Children (TMC), and the Junior Council of the United Republic of Tanzania (JCURT) - has been making some efforts to support processes of child participation in national development processes. For example, children took part in the preparation of the *Outcome Document: A World Fit for Children and Africa Fit for Children* and participated in the United Nations General Assembly Special Sessions for Children in New York in May 2002. Children and young people also participated in the Child and Youth Development policies, and the Poverty Reduction Strategy (PRS) review.¹¹ Children's participation in the review of the PRS and preparation of MKUKUTA and MKUZA, has ensured that the second generation is more reflective of children and young people's priorities. The TMC, in collaboration with the JCURT, also worked during the 2005 elections to collect the views of children and draw together their concerns about issues in Tanzania¹², presenting these to members of Parliament on the Mainland, and members of the House of Representatives in Zanzibar. Support to Children's *barazas* (councils) has also provided opportunities for children to voice issues which need to be urgently addressed at both a local and national level. Youth networks (bringing together 550 youth groups) in 19 districts are other channels for adolescents and young people to raise their concerns. Though coverage is still very limited, the Government plans to

¹¹ In 2004 over 6500 children (under 18) took part in the consultations, whether through direct participation in meetings (2740) or the *Tupe Maoni Yako* questionnaire (3780), compared to 2000, in which children were not mentioned as a constituency to be consulted. From *What Children and Young People are Saying about Poverty* and analysis of the *Tupe Maoni Yako* public opinion survey, Vice President's Office, August 2004.

¹² Document called *Sauti za Watoto*- Children's Voices.

ts.¹³ It is hoped that this can be achieved speedily

Despite such efforts, more systematic and formalized approaches are needed to adequately integrate the voices of children and young people into national debates. A key challenge is that structures for participation are not yet fully institutionalized. Participation is often ad hoc and limited to consultations, and/or expressed through the media, and opportunities to provide their input are clearly demarked. There are different interpretations of ‘meaningful’ or ‘effective participation’. ‘Consultation’, for example, is not in itself ‘participation’. Participation and access to information by children and young people is still largely dependent on ‘middlemen’, such as NGOs or the UN, who create opportunities for them, provide them with information, and make sure their voices are heard. Therefore, children and young people still need to gain their own ‘seat at the table’. Eliciting the voice of younger children is an even greater challenge, as they are often heard through caretakers who speak on their behalf.

In addition, as much of the media is privately owned and profit based, children’s views are not always priority areas of the media houses. This has been reflected recently with the closure of *Kipengele 12*, a radio programme run by children on a popular Tanzanian radio station. However, Government and private media run programmes for and with children and young people. For example, page space and air time have been given to children through radio, television and newspapers and there are weekly children’s shows which are often produced and presented by children. In these programmes children express their views directly on issues such as HIV/AIDS.

Greater efforts need to be made to ensure better access to information for children and young people, with special focus on materials produced by children and young people themselves. For example, issues of relevance to children in MKUKUTA and MKUZA

¹³ One of the central approaches of the national adolescent health and development strategy 2004-2008 is to encourage participation by children and young people so as to ensure that the programmes and activities are appropriate and relevant to their needs.

used by most children despite efforts by the Tanzania
introduction of a child friendly version of it in 2006 by
Save the Children in both English and Kiswahili.

Greater national coverage of the TMC is still needed (especially reaching children and young people at the village level), as is strengthened coordination and support from the Ministry for Community Development, Gender and Children Tanzania Mainland and Ministry of Labour, Youth, Women and Children Development in Zanzibar in advocating and informing the public on child rights. Most opportunities for child and youth participation take place at national or even international levels, yet Government at local level is the key service provider and hence has the greatest impact on the realisation of children's rights. Therefore, greater efforts are needed in supporting processes at local levels for the participation of children and young people. In addition, since the JCURT has yet to be formalized, there is no national uniformity of establishment of Junior Councils. Currently, registering as a formalised structure is a challenge for all youth organizations since people under 18 years old are unable to register themselves.

5. Civil Rights and Freedoms

Name and Nationality

Article 6

Birth Registration - There is growing awareness of the importance of prompt birth registration as an essential means of protecting a child's right to identity. Failure to register births implies the non-recognition of children as persons before the law, which in turn will affect the level of enjoyment of their fundamental rights and freedoms. The lack of a birth certificate may prevent a child from enjoying other rights such as health care, social assistance, inheritance, and schooling. Moreover, wide coverage of birth registration is a key element in strong national vital registration systems, helps to provide a vital source of demographic and statistical information as a basis for social monitoring and analysis.



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for all children born in Tanzania regardless of whether they are citizens, non-citizens or refugees. Despite this, only 19 per cent of births are registered according to the TDHS 2004/2005, with great disparity between urban and rural areas.¹⁵ Currently it is estimated that only 7 per cent of children have a birth certificate.

Key constraints on the mainland include lack of public awareness of the importance of birth registration and process by which births are registered, and the significant cost implications for a service that is ostensibly free. Costs include: fees for late registration (after 90 days and 30 days in mainland and Zanzibar respectively); purchase of the certificate itself (at USD 3.5); and travel-related costs. The Registrar General's office lacks the capacity, equipment, and materials necessary to make the system work, and there is a lack of policy and legislative mandate to ensure accountability and coordination (between, for example, health facilities, schools, and village executive officer). In addition, there is a lack of law enforcement to make birth registration compulsory.

Tanzania introduced the Civil Registration Programme at Local Government Authority level (and Shehia level in Zanzibar). Compulsory registration is also undertaken in dispensaries and health centres situated in villages. Taking into account that some villages are very far from registration offices, the Government has instituted a mechanism to supervise the compulsory registration at village level under the supervision of the Village/Shehia Executive Officers. In every district there is a Registrar responsible for registering birth, keeping safe custody of copies of birth certificates, and forwarding originals to the Administrator General or Birth and Death Registrar. Since 1998 the Department of the Administrator General, with the assistance of UNICEF, has been involved in continuous capacity building in terms of awareness and training to its personnel, including district, ward, and village staff including health practitioners. Similar capacity building has been undertaken in Zanzibar in all 10 districts. To

¹⁴ As regulated by Cap 108 the Births and Deaths Registrations Act in the Mainland and the Zanzibar Cap 90 Birth and Deaths Registration Decree.

¹⁵ 50 per cent for urban mainland and 11 per cent for rural mainland.

NGOs have been involved in raising public awareness

Nationality

Under the Citizenship Act, children born in Tanzania and registered within three months have a right to Tanzania citizenship regardless of their parents' nationality or marital status. The child may also have the citizenship of both parents until s/he attains the age of majority (18) when s/he will cease to be a citizen of Tanzania unless s/he has renounced citizenship of other countries and taken the oath of allegiance. Children born outside Tanzania are considered to be citizens if - at the date of their birth - either of their parents was a citizen of Tanzania.

Freedom of Expression

Article 7

Both constitutions guarantee freedom of opinion and expression, and freedom to seek, receive, impart or disseminate information and ideas. The previous restrictions or limitations in this Article were removed by the 14th Constitutional Amendment to the Constitution in 2005. Freedom of opinion and expression is also discussed under Article 4 and 12.

Freedom of Thought, Conscience and Religion

Article 9

Article 3 (1) of the Constitution describes the United Republic as a Socialist State, without national religion which adheres to multi-party democracy. Freedom to worship

¹⁶ The Tanzania Women Lawyers Association and Legal and Human Rights Centre have raised their concern about the registration of children born out of wedlock. In such cases, the mother cannot enter into the register the name of the father of the child without him acknowledging himself to do so and signing or affixing his mark to the register. This is to protect men from being falsely entered into registers as fathers unilaterally when paternity may be disputed. Despite good intentions, the requirement discriminates against children born out of wedlock by denying them the right to identity and inheritance rights.

is guaranteed and the affairs and management of
to be the business of state. Similar guarantees are
provided in Article 19 of the Constitution of Zanzibar.

Customarily children conform to the religion of their parents. Under the Local Customary Law Order of 1963 children belong to the father. When parents have different religions the child automatically adopts the father's religion. Both Constitutions provide for freedom to change one's religion or faith.

Despite this, in Zanzibar (where over 90 per cent of the population are Moslems) the Ministry of Education has introduced the teaching of Islamic studies in the syllabus of public learning institutions, though non-Moslems are not compelled to attend. In the mainland, religious studies in public schools are not mandatory, though they are in some private schools (such as seminaries). As discussed in Article 3, discrimination on the grounds of religion is prohibited.

Freedom of Association

Article 8

Both Constitutions guarantee freedom of association. The principle of respect for the views of the child is applicable in this right (please see article 7), as is the principle of participation (please see article 12). In relation to participation, children have organized themselves and established a Junior Council. Through the Council, children gathered together and express their opinion in matters that affect them.¹⁷ In Zanzibar similar councils have been established in 3 districts of Unguja and efforts are being made to enable children in other districts to do the same. Students are generally encouraged by schools to join and form associations, boy scouts, girl guides and other clubs or groups.

¹⁷ The Junior Council is a national wide initiative led by children for children. The Council comprises two representatives from different regions of the mainland and Zanzibar. The membership is limited to persons under 18 years of age representing a broad range of background, with special representation of vulnerable children. They are elected by the children through a democratic process and serve as a mechanism to ensure participation of children in making decisions concerning school activities and lives. The Junior Councils aim to become an institutionalized avenue at national level for children to contribute to the national development agenda and child development. The process of legal registration of the Junior Council of the United Republic of Tanzania so as to have legal entity is in progress.



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school clubs or other affiliations are allowed to hold meetings and to take part in peaceful demonstrations. Political parties are not allowed to establish any branches, units or organizations in any place of learning including schools.¹⁸

Protection of Privacy

Article 10

Protection of privacy is guaranteed under both Constitutions. In traditional systems, however, the privacy of children is rarely respected or protected, and parents, guardians and the extended family, often have absolute power over their children. This of course varies according to family structures, living and economic conditions.

According to the Sexual Offences Act, any person under 18 years of age who is a witness, victim or accused in a case involving sexual offences, shall be tried *in camera* and separately from an adult co-accused. The law also prohibits the publication of evidence or details of witnesses. Similar provisions are also in place in the Children and Young Persons Decree and the Criminal Procedure Act of Zanzibar.

Protection against Child Abuse and Torture

Article 16 and 27

(Please also see articles 15 and 17.)

No officially reported statistics exist on overall child protection issues in Tanzania. Partial and anecdotal evidence, however, suggest serious and widespread problems of neglect, violence, abuse and exploitation of children, including in the worst forms of child labour, with efforts to protect Tanzanian children falling way short of what is required by the ACWRC. Children engaged in the national *Participatory Poverty*

¹⁸ Section 12(1) of the Political Parties Act.

at they are often subjected to discrimination, bullying and sexual abuse in school. More intense forms of mistreatment such as physical abuse (rape, beatings) were also reported and were given as a reason that children take to the street. Girls are particularly vulnerable due to gender-based discrimination and are at higher risk of sexual abuse. Problems of forced marriage were also noted²⁰ and the practice of female genital mutilation/cutting (FGM/C) persists in a number of communities (see article 21).

Findings from the research and public hearings on child abuse carried out in 11 regions of the country in 2005 by the Commission for Human Rights and Good Governance (in response to the UN Secretary-General's study on violence against children) revealed 307 cases, of which 29 per cent were related to sexual abuse, 26 per cent to violence and physical abuse, 32 per cent to child neglect or negligent treatment of children and 13 per cent to emotional abuse.²¹ Community consultations on child abuse in 50 schools participating in the UNICEF-supported Child Friendly School Initiative also identified a number of problems, including harsh practices of corporal punishment in schools that go beyond Ministry of Education directives²² and traumatizing pupils to the point of dropping out; unpaid labour undertaken by children for teachers and at home; the use of abusive language, and neglect and sexual abuse in both schools and homes.

Some 815 cases of child abuse were reported in Zanzibar between 2001-2005 of which 166 were cases of rape and 99 of abandoned children (please see annex 5, table a).

¹⁹ Research and Analysis Working Group (R&AWG), 2004. Vulnerability and Resilience to Poverty in Tanzania: causes, Consequences and Policy Implications. 2002/03 Tanzania Participatory Poverty Assessment: Main Report.

²⁰ Ibid.

²¹ See Robert V. Makaramba, Commissioner, Commission for Human Rights and Good Governance. 2004 (April) *Child abuse and trauma situation: an overview paper* presented at the Child Abuse and Trauma Consultative Meeting, at UNICEF Conference Centre, Dar es Salaam, consultative meeting

²² Corporal punishment may only be administered for serious breaches of school discipline or grave offences. Permissible punishment is defined as 'striking a pupil on his hand or on his normally clothed buttocks with a light flexible stick but excluded striking a child with any other instruments or any other part of the body'. The Government has reduced the number of strokes from 6 to 4. Only Head Teachers or Head Masters are allowed to administer corporal punishment. Female pupils may only receive corporal punishment from female teachers.

child abuse cases - Mainland

in efforts to address these issues. A National Plan of Action for the Prevention and Eradication of Violence against Women has been developed, along with a community justice facilitation programme which functions as a community-based intervention strategy to address violence against children. A National Secretariat on the Elimination of Female Genital Mutilation exists, and the sexual offences (special provision) Act of 1998 was developed with the aim of protecting the dignity and integrity of women in matters pertaining to rape, defilement, sodomy, sexual harassment, incest, FGM, child abuse and trafficking - outlining offences against women in a clearer manner than before and introducing new offences such as sexual harassment, abuse and trafficking, with stiff punishments set. Tanzania is also implementing a Time Bound Programme for the Elimination of the Worst Forms of Child Labour (see article 15).²³ Meanwhile, civil society campaigns and NGO efforts help by providing children with a platform from which to speak against abuse.

Nevertheless, on the whole, appropriate mechanisms for containing or preventing abuse of children are grossly insufficient. Existing policies and strategies have not succeeded in eliminating abuses against children, and local level governance has largely failed to ensure that children are protected from abuse. Overall, there is much work left for legislative effort, policy development, and implementation of existing policies to protect children. The Commission for Human Rights and Good Governance, which is mandated to monitor and report on human rights implementation so that it can effectively recommend to the Government ways to improve such implementation and enhance adherence to human rights instruments, currently has a children's desk but lacks the skilled and knowledgeable staff required for work on children's human rights and justice issues which is particularly important in heretofore grey areas such as violence and abuse, that have been oriented towards victim-protection. Plans are underway to strengthen capacity in this regard.

²³ Ministry of Community Development, Gender and Children, 2005 (August). *Report of the Eastern and Southern Africa Regional Preparatory Consultation for the United Nations Secretary General's Study on Violence Against Children. Johannesburg, South Africa, 18-21 July 2005.* (Measures taken by the Government of Tanzania to combat the problem of violence and abuse against children, presented by Henri S.R. Chali, Assistant Director of Children Development, Tanzania.

Section 17, corporal punishment is institutionalized in both schools (where its application is regulated) and the criminal justice system as a legal punishment for children. The administration of justice is largely based on archaic law²⁴ and addresses delinquency by seeking to punish child offenders rather than promoting rehabilitation and life style alternatives to crime. Recent measures undertaken by the Government to reduce violence and abuse (for example restricting corporal punishment in schools to four strokes), do not adequately reflect what is envisaged in the ACRWC with respect to child protection.

One of the major objectives of the MCDGC Child Policy of 1996 was to ensure that there are laws which protect children against child abuse and exploitation. Legislative measures against child abuse and exploitation are provided in the Act No.6 of 2004 known as Penal Code Act. in Zanzibar which covers sexual offences. Child abuse however is not specifically defined under these laws. As a result, compulsory reporting is not provided for, and the institution or body that is responsible for the appropriate intervention in child abuse cases is not clearly defined.

Aspects of child abuse which are an offence include: actual bodily harm, sexual harassment, ill treatment, neglect or abandonment of a child in one's care; failure to provide necessities of life to a child under 14 years in one's care whereby the life of that child is likely to be endangered; carrying out Female Genital Mutilation (FGM/C) on girls under 18 years of age; sexual exploitation;²⁵ rape, unnatural offences, incest, indecent assault, and abduction; procurement for purposes of prostitution, grave sexual abuse and trafficking of persons including children; having sex with a girl under 15, or with a girl under 18 if she is not one's wife. Article 13 of the URT Constitution also states that "no person shall be subjected to torture, inhuman or degrading punishment or treatment". Similar protection is also guaranteed in Zanzibar's Constitution

²⁴ For example, Cap 13 the Children and Young Persons Act.

²⁵ Sexual exploitation is defined as: Knowingly permits any child to remain in any premises, for the purposes of causing such child to be sexually abused or to participate in any form of sexual activity or in any obscene or indecent exhibition or show; Acts as a procurer of a child for the purposes of sexual intercourse or for any form of sexual abuse or indecent exhibition or show; gives monetary consideration, goods or other benefits to a child or his parents with intent to procure the child for sexual intercourse or any form of sexual abuse or indecent exhibition or show.

Protection of the Family

Article 18

Both Constitutions recognizes the right to protect one's family. The traditional African family has a broad interpretation which includes members of the extended family and the community at large.

Key policy and legislation relating to the family include the Family Development Policy of 1996 which has just been reviewed and is awaiting Cabinet approval. This recognizes the responsibility of the family in the upbringing of the child, in issues of distribution of tasks, and resources. It also emphasizes the involvement of children in decision making especially towards their developmental issues. Other policies, including the Youth Policy and the Policy on Women and Gender, provide strategies to eliminate differences and discrimination within the family. The 1996 policy on community development also emphasizes the importance of the family as the source of development.

Government interventions include the Population and Family Life Education Programme introduced in 2001 to address five areas of concern: gender inequality, sexual and reproductive health, family problems and poverty. The programme is an awareness tool and facilitates changes of attitude with regards to the five areas mentioned.

To impart family life education to respective communities, the MCDGC provides training to Community Development Officers to enable them to assist communities in family and population issues. 58 Folk Development Colleges provide life skills training at grass root levels. Other support programmes include provision for seed money to establish Income Generating Activities for 2,000 families, and marital counselling.²⁶ MLYWCD in Zanzibar deals with counselling and marital issues and protection of children's rights. Zanzibar Government is in the process of finalising the Family Development Policy . Life skills is provided through UNICEF support.

²⁶ 180,000 cases were attended in 2003, 288,200 in 2004 and 35,000 in 2005.

Children - In case of dissolution of marriage, the responsibility for maintenance of the child is vested in the father regardless of whether the child is in his custody. Other cases only occur if the father is dead or missing. However, the Law Reform Commission proposed in its amendments to the Law of Marriage Act that the maintenance of children should be shared in cases where both parents are able and or have the means to do so. In Zanzibar, in cases of separation or divorce, the custody of children under the age of 7 years is given to the mother; the father is required to provide maintenance and in case of default is liable to be prosecuted. However, there is no law on marriage but it is taken care of by Islamic laws under Khadhifs/Muftifs Officers under the Ministry of Good Governance and Constitutional Affairs. In case of Christians churches are responsible and they are attend the matters fairly.

Children born out of wedlock - Children born out of wedlock traditionally belong to the mother's family and clan who have primary responsibility for the child. However there are procedures through which a father can legitimise his child. The child is then entitled to the father's name and other rights as his legitimate child. This customary law presents difficulties for marriages contracted under religious rites and does not recognize illegitimate children. In Zanzibar care of the legitimate child should be provided by the father, and Zanzibar has no customary law.

The Affiliation Act of 1949 was enacted to assist unwed mothers who could not afford to take care of their children. This law gives the woman the right to make a court application for maintenance against the putative father. The maintenance amount provided by the legislation is 100 Tanzania Shillings a month which is extremely low. Various institutions including the LRC, have urged the Government to amend and increase the amount to a suggested one eighth of the putative father's gross salary. For the past few years, the courts have also taken note of the father's income and been guided by it in maintenance. In Zanzibar, the father of a child born out of wedlock is also responsible for its maintenance.

Article 19

Parents have the responsibility to care for and protect their children as discussed in Article 16 and 18 of this report. Under Tanzanian law, children are seldom separated from their parents, though they may if their parents divorce or separate, or in cases when the parent is a criminal or of drunken habits, or persistently ill-treats or neglects his or her child, and/or is residing in a house used by prostitutes. When the court is satisfied that it is in the best interest of the child to be removed, the child is committed to the care of a relative or some other fit person or institution named by the court until s/he is 18. This provision is, however, rarely invoked due to a number of factors.²⁷ In divorce or judicial separation the child has a right to visit the parent who has not been granted custody. Children of imprisoned mothers are discussed in Article 30 of this report. In Zanzibar, those who can not care for their children, they are taken care by the Social Welfare Department at Forodhani Home, Save Our Souls (SOS) Villages and Muslim agencies, These children are due to parents' death, mental illness, poor and those born out of wedlock.

Parental Responsibility

Article 20

Under the Law Marriage Act of 1971, the upbringing and development of the child is the responsibility of parents (please see article 18).

²⁷ Those who are empowered to report these incidences rarely enforce the said provision due to ignorance and at times unwillingness to interfere with family affairs. There is also a lack of clarity on the concept of fit persons and institutions. In the proposed Children's law it was recommended to omit the police as persons who are also responsible in bringing the child or young person before the court for protection and to include instead the Social Welfare Officer. This proposal intends to remove the confusing overlaps that may exist between the treatment of children in need of protection and care and children charged with criminal offences.

Article 25

A child may be separated from his or her family either temporarily or permanently, and for a variety of reasons including abandonment or death. The law provides for arrangements for such children through institutional placement, foster care and adoption.

Tanzania is a party to several International Humanitarian Laws and recognizes the importance of reuniting displaced children with their parents or relatives. Currently, Tanzania is not experiencing internal displacement as a result of armed conflict although it has been host to many externally displaced children (please see articles 22, 23, and 25).

Adoption

Article 24

The laws governing adoption are laid out in the Adoption of Children Act, the Adoption of Children Decree, and the Adoption Rules and Regulations. According to Tanzanian law,²⁸ the best interest of the child^ø is the guiding consideration in the application for adoption. Only a person who is resident in Tanzania²⁹ is allowed to make an application for adoption to the High Court. The child must have been in the continuous care and custody of the applicant for at least three consecutive months prior to the application. During this period the court appoints a curator *ad litem* (normally the Commissioner of Social Welfare) who is charged with recommending whether the applicant is suitable to adopt.³⁰

²⁸ Adoption of Children Act Cap 335 (R.E. 2002) 6 Mainland

²⁹ Ibid: Section 4(5)

³⁰ Rule 13 Rules of the Court GN. No. 321 of 1942. The minimum age for the applicant is 25 years of age or at least 21 years older than the child to be adopted. The applicant can also be another relative of the child in which case the minimum age required is 21 years. The Court will not make an adoption order unless and until the parents and/or guardians of such an infant give their consent. The Court however, may dispense with any consent requirement if it is satisfied that the child is abandoned, neglected or persistently ill-treated; or that the person whose consent is required cannot be found or is incapable of giving his consent or other factors spelt out in the law. In the absence of consent the court will take into account other considerations including the welfare of the infant and wishes of the child, having

... report to the Government in 1994 recommended that the pre-adoption period of residence for non-citizens be raised from three months to a minimum of 2 years, with the extended period used to investigate the integrity and background of the prospective adopting parent (both in the country of residence and home country).

Tanzanian laws do not yet allow inter-country adoption and Tanzania is not a party to the Convention on Protection of Children and Co-operation in Respect of Inter-Country Adoption (The Hague Convention). Inter-country adoption is discouraged since there are no mechanisms for screening and legally supervising the adoption process. Without these in place, children may be at risk of trafficking, sexual exploitation and pornography.

The Social Welfare Department has adopted the 2003/2004 Foster care and Adoption guidelines for enforcing their task of conducting investigations and making appropriate recommendations on foster care placement and adoption. In Zanzibar, the foster Care and adoption guidelines are not in place, even though adoption procedures are in place, including making application to the Director of Social Welfare for consideration.

Local Customary Law (Declaration) Order 1963 provides for guardianship to be appointed by a Clan Council or Primary Court (if required) to oversee children whose fathers are dead, missing, or of unsound mind.

regard to the age and understanding of the child. In such cases the Court will exercise its powers judiciously and invariably will make an interim order giving the custody of the child to the applicant for a period not exceeding two years by way of a probationary period upon such terms as regards provision for the maintenance, education and supervision of the welfare of the child and other terms the Court may think fit.

7: Health and Welfare

Children with Disabilities

Article 13

Children with disabilities constitute an especially vulnerable group, for whom extreme poverty is frequently compounded by exclusion and discrimination. It is estimated that a small percentage of the 19 million children in the country are disabled. Types of handicaps can be found in Annex 5, table (b).

The care and maintenance of disabled persons are regulated by the Disabled Persons Act. The primary obligation for care of the disabled rests with parents and guardians. In the case of parental abandonment or neglect, the Commissioner of Social Welfare can make an application in court for maintenance orders. The Government requires that every disabled person name be entered in the Disabled Persons Register. Every local authority is required by law to provide facilities for the care and maintenance of disabled person; this can be done either alone or in collaboration with any person or institution.

The Department of Social Welfare in both Tanzania Mainland and Zanzibar provide services for people living with disabilities: social and financial support; provision of assisting devices (such as hearing aids, crutches, wheel chairs, tri-cycles, white canes, etc.); vocational trainings for children with disabilities; games and sports programmes; help to establish small businesses. Other targets relating to disabled children are to identify them early; increase their access to school including secondary; reach with effective social protection; avoid institutional care; and provide special programmes for different disabilities (e.g. for the blind and deaf). The MVC programme discussed elsewhere in this report also includes measures to target children with disabilities.

the Comprehensive Community Based Rehabilitation since 1994 to provide specific services to prevent disability and restore ability. It operates a disability hospital with an eye department, orthopaedic department, physiotherapy unit and orthopaedic workshop.

There are 16 special schools in Tanzania, and 159 special units integrated into regular schools. Currently there is only one Special Teacher Training College in Arusha, which trains teachers for children with disabilities. According to the Ministry of Education and Vocational Training 1333 teachers had received training to certificate or diploma levels by 2004.

In the mainland there is an Association of Disabled which advocates and sensitizes the society on the rights of people with handicaps including children. Advocacy and sensitization are also supported by NGOs or Civil Society Organizations. The United Republic of Tanzania also reserves one special seat for the disabled in Parliament.

In Zanzibar, the Zanzibar Association of the Disabled (ZAD) is running a pilot community-based rehabilitation programme in two districts to support people with disabilities (especially children) to be independent. Presently, 1,548 children are in this programme, most of whom are physically disabled. The Government of Zanzibar, in collaboration with ZAD, has established 3 vocational training centres and has trained 27 persons with disabilities to date. ZAD has trained 150 volunteers in four districts. as community resource persons who will work to detect common childhood disabilities. The Ministry of Education, Culture and Sports has introduced an integrated school programmes. The Mnazi Mmoja Government Referral Hospital has established congenital malformation services through which a total of 41 disabled people have been supported for medical and surgical interventions.

Article 14

In Tanzania the right to health is not provided by either Constitution. Under the Union the State will provide for the sick, disabled and incapacitated within the limits of its economic capacity and development. The duty to preserve the life and health of the vulnerable (including children and the mentally ill) is imposed on parents, guardians or care takers,

Despite this, the Government is committed to the attainment of the MDGs, the MKUKUTA and MKUZA goals and the Health Sector Reform Programme and has defined the following as priority areas: malaria, TB, leprosy and HIV/AIDS; human resources, particularly in remote areas; promotion of reproductive child health; rehabilitation of all public health facilities, including hospital equipment; and the rationalization of allocation of drugs and medical supplies. Children under five currently receive free primary health care and medical treatment in Government clinics and dispensaries.

Access to quality health care - Proximity to primary health care facilities has improved for instance almost 100 per cent of the urban population and close to three-quarters of the rural population live within five kilometres of a health centre or a dispensary.³¹ One of the Government priorities includes to establish, expand and strengthen community based reproductive and child health services. Others are immunisation, Malaria Control Programme, nutritional and child mortality interventions and provision of safe water and sanitation practices.

The quality of health services remains a problem due to a number of factors, including human resource problems, and inadequate medical equipments. Health care charges (user fees/cost sharing) and other unofficial costs also pose challenges for issues of

³¹ Poverty and Human Development Report 2005.

1 for waiver schemes meant for the most vulnerable

Childhood mortality and Right to Survival - There are indications that child mortality rates which had remained stubbornly high throughout the 1990s, are now being reduced as improvements in areas such as malaria prevention, treatment and immunization begin to take effect. Preliminary results from the Tanzania Demographic and Health Survey (2004). indicate that the Infant Mortality Rate (IMR) has fallen by almost a third in the last five years (68 deaths per 1,000 live births, down from 99 per 1,000 in 1999)³². The under-five mortality rate (U5MR) has also dropped by nearly a quarter over the same period (from 147 per 1,000 live births to 112).

Despite this, around 250,000 children die each year from preventable illnesses with 80 per cent of deaths occurring at home. Approximately half of all infant deaths occur in the week after birth, and neo-natal deaths account for 29 per cent of the U5MR. The leading causes of under-five mortality are, in decreasing order of importance, malaria, anaemia, pneumonia, prenatal conditions, diarrhea and HIV/AIDS. Malnutrition is an underlying cause of most deaths.

Data from three Demographic Health surveys suggest an increase in Zanzibar infant and child mortality rates from 1996 to 1999, and a decrease thereafter. Indirect mortality estimates from the 1988 and 2002 censuses data indicate a reduction of Zanzibar's infant mortality, from 120 to 89 infant deaths per 1,000 live births under five mortality dropped from 202 to 141 deaths per 1,000 live births during the same time period. The following table shows infant and child mortality rates in the five regions of Zanzibar:-

³² Tanzania Demographic and Health Survey (TDHS). All data from this section is from the TDHS unless otherwise indicated.

Estimates of Infant and Child mortality rates

Zanzibar	89	141
Zanzibar North	103	170
Zanzibar South	87	141
Zanzibar West	70	109
Pemba North	101	166
Pemba South	95	154

Source: 2002 National Population and Housing Census

Malnutrition - The number of children under five who are underweight decreased from 29 per cent in 1999 to 22 per cent in 2004, though stunting remains widespread (38 per cent). Mineral and vitamin deficiencies continue to significantly affect children, with 24 per cent having low retinol serum levels, and 7 per cent of school children having goiter. Over 70 per cent of Tanzanian children have some degree of anaemia. In Tanzania over 95 per cent of children are breastfed, though only 2 per cent are exclusively breastfed for 6 months, as per the WHO recommendation. The medium duration of breastfeeding is 21 months.

Advocacy, policies and legislation on infant and young child nutrition have been in place since the 1980s. Various approaches have been used including production and distribution of information, education and communication materials; use of mass media; commemoration of World Breastfeeding Week; and interaction with policy makers during parliamentary sessions.

Tanzania participated in the adoption of the resolution endorsing the International Code of Marketing of Breast Milk Substitutes in 1998 and enacted The National Regulation on Marketing of Breast Milk Substitutes and Designated Products in (1994). Furthermore it has adopted the Global Strategy on Infant and Young Child Feeding, thus developing the

law of 2005.³³

Zanzibar has shown good progress in reduction of less than five malnutrition. Levels of stunting decreased substantially. From 1991/92 to 1999, and continued to do so in 1999 and 2004. Stunting rate dropped by more than half, from 49% in 1991/92 to 23% in 2004. Extrapolating the current trend up to 2010 suggests that for Zanzibar, the MDG for chronic malnutrition will be met. This in fact holds true for both Unguja, with even lower stunting levels of 18% in 2004, and Pemba, with 32% of under fives stunted. The following table shows the nutritional status in Zanzibar:-

Table No. 2: Nutrition Status: Moderately to severely Malnourished Rates 2004/2005 in Zanzibar.

Height/age (stunting)		Weight/HWIGHT (Wasting)	Height (Age under Weight)
Zanzibar	23,1	6.1	19.0
Unguja	18,0	6.7	17.0
Pemba	32.1	4.9	22.5
Zanzibar North	27.5	6.7	22.7
Zanzibar South	16.6	10.3	20.8
Zanzibar West	14.5	5.9	13.9
Pemba North	36.6	5.3	24.8
Pemba South	27.4	4.5	20.2

Source: Macro International TDHS. 2006 (TDHS – Tanzania Demographic (Health survey)).

³³ Zanzibar has also established a special Nutrition Unit in order to overcome problems of micronutrients malnutrition for under five children. It also provides nutritional support to mother giving birth to twins for duration of 2 years. In Zanzibar in 2003-2006 a total of 49 children were provided with nutritional support.

data for the percent of under fives moderately to 2005. Stunting data suggest substantial regional variations ranging from 15% in town West to 37% in Pemba North. Essentially, stunting levels for Town West and Zanzibar South fall below the overall average of 23% for Zanzibar and those for Zanzibar North and Pemba North and South exceed this figure. The figures for Zanzibar as whole correspond quite well with results from a Vitamini study among children (aged 6 to 10) commissioned by UNICEF and the Zanzibar Ministry of Health and social Welfare (2005).

Immunizations - Tanzania continues to have high levels of child immunization compared to other sub-Saharan countries though significant disparities exist. The data in the table shows disaggregated immunization figures. Details of the percentage of children vaccinated according to vaccine type can be found in annex 5, table (c).

Table No. 3: Maternal health and rates of immunization

	Total	Mainland Urban	Mainland Rural	Zanzibar
Children 12-23 fully vaccinated (%)	71	81	69	75

Source: Tanzania DHS 2004 – 2005 Key Findings

In Zanzibar, Childhood immunisation levels especially DT P.3 and measles immunisation levels in 2004/05 have almost reached the high levels even through special attention on this matter is still needed in Pemba

Immunisation in Zanzibar (2002 – 2005)

	2002	2003	2004	2005
TB	104%	121%	128.0%	126%
Polio	39.1%	42.3%	51%	53%
DT P3	73.6%	82.2%	89.0%	86.0%
Measles	77.9%	92.0%	90.0%	93.0%
Polio 3	75.4%	75.6%	88.0%	85.0%
TTZ+	73.3%	70.4%	73.0%	67.0%

Source: EP I (ZMoS), 2006

Malaria - The Government strongly endorses insecticide-treated nets (ITNs) and has introduced the Tanzania National Vouchers Scheme to provide discount vouchers to all pregnant women attending antenatal clinics and so accelerate the use of treated nets by pregnant women and young children. The proportion of households owning bed nets has increased from around 25 per cent in 1999, to 46 per cent in 2004. Approximately 31 per cent of children under five sleep under a mosquito net, though only about 16 per cent of those are insecticide-treated. Some of the poor and the most vulnerable children cannot afford ITNs despite the discount vouchers.

Zanzibar is considered a high malaria transmission area. Around 50% of the children will have had the first malaria episode before reaching their first birthday (Based on expert opinion and Interpretation of combative frequency of severe malaria in Africa, Lancet volume 367, 2006).

The prevalence of malaria in children under the age of five modestly declined from 41% in 1991/92 to 23% in 2004/05. Children in Pemba seem to be at higher risk of getting fever (38%), Compared to these located in Unguja (29%).

Prevalence of fever among under fives ranges between 32% in children from the richest

in the poorest households.

ated bed Nets (ITN) is one of the primary health care interventions toward reducing the Transmission of malaria. About 62 percent of the under fives in Unguja slept under a Mosquito net, compared to 44% in Pemba Overall, for Zanzibar, 55% of children under five years of age slept under a net.

Table No 5: % of children under five years of Age sleeping Under a Mosquito Net 2004/05

Children who slept under Amy type of mosquito net	Children who slept under a ever treated mosquito net
Zanzibar 54.7	28.4
Unguja 61.6	34.2
Pemba 43.6	19.0
Zanzibar North 35.7	15.8
Zanzibar South 51.8	32.4
Zanzibar West 74.0	41.7
Pemba North 36.9	16.2
Pemba South 50.6	22.0

Source: NBS, Macro International TDHS, 2006

Maternal mortality and morbidity - High maternal mortality ratios (MMR) have persisted over the past decade with the current estimate at 580/100,000. High MMR is related to the prevalence of early childbearing (52 per cent of young women are pregnant or have a child by the age of 19)³⁴, low levels of institutional deliveries (47 per cent) and low attendance at birth by skilled attendants (46 per cent). Adolescent girls are disproportionately affected by pregnancy and delivery complications and are also at higher risk of death, as are their children.

UMATI (Family Planning Association) and Marie Stopes are two key NGO partners of the Ministry of Health and Social Welfare on sexual and reproductive health issues. One

³⁴ TDHS, 2004/5

abortion-related morbidity and mortality by increasing youth friendly health services currently reach only a fraction of the target population (an estimated 1 per cent). Efforts are being made by the Government to promote youth friendly health services by adopting the 2005 Standards.³⁵

In Zanzibar the Demographic and Health Surveys do not provide separate estimates on maternal mortality for Zanzibar, but data reported by Zanzibar Poverty Reduction Strategy Paper for 2004/05, MMR for Zanzibar was 349 per 100,000 live births. This shows a slight reduction coverage to year 1999 which was 377 per 100,000 live births.

Water and Sanitation - In 2004, only 49 per cent of the population in rural communities and 85 per cent in urban areas had access to safe drinking water (62 per cent overall). There is a small variations of water supply coverage between Tanzania Mainland and Zanzibar, whereby the coverage of Zanzibar is 92 percent in Urban areas 59 percent in Rural areasö (This is according to the Zanzibar Household Budget Survey (HBS). This makes 71 percent overall in Zanzibar.

Coverage of sanitation facilities was estimated to be 47 per cent. Cholera outbreaks are reported annually in both the mainland and Zanzibar.

Measure taken so far in water and sanitation include:

- Review of the Draft of Zanzibar National Water Policy (2002) and Establishment of Zanzibar National Water Policy (2004). In April 2006 the Zanzibar Water Act was enacted and in 14th August 2006 the Director General was appointed to establish Zanzibar Water Authority (ZAWA).
- Expansion of existing water schemes in rural areas - Out of 794 water schemes which required rehabilitation and expansion, 122 were rehabilitated between 1998 and 2003;

³⁵ Information and counselling on reproductive health, sexuality and safe sex ; Testing services VCT,STI and Pregnancy; Management of STIs, VCT+,PMTCT+HIV/AIDS; Focused ante-natal care; Post natal care; Post abortion care; Contraception including emergency contraception; Condom promotion and provision; Other related health issues substance abuse, violence, injuries, mental health chronic disease etc.

is under a major Urban Water Supply Project is about project will cover all Urban areas of Zanzibarö.

- The client service charter for water sector service providers in the Mainland has been in place since 2002. The main purpose is to increase customer awareness of the availability and quality of services provided by the water and sanitation.
- The Ministry of Water and Ministry of Health and Social Welfare in collaboration with UNICEF, supported the development of Participatory Hygiene and Sanitation Transformation (PHAST) as a key methodology for community-based hygiene, water and sanitation. PHAST has succeeded in promoting hand-washing habits after use of latrines, at the household level and in school especially at the village level.

UNICEF also has supported the Participatory Hygiene and Sanitary Transformation (PHAST) programme in Zanzibar, under the Rural Water Supply and Health Project. The project also includes the digging and construction of hand dug wells installed with hand pumps for Pemba Island Rural communities.

HIV/AIDS - The national prevalence of HIV is estimated at 7 per cent.³⁶ According to the 2004/5 TDHS survey there are important differences in HIV prevalence between regions, with the islands of Zanzibar, for example, having a much lower prevalence than elsewhere. Disaggregated data reveals that prevalence is relatively low among 15-19 year olds (2 per cent) but rises sharply in 20-24 year olds (5 per cent) and further still in 25-29 year olds (8 per cent).³⁷ These figures highlight the importance of preventive interventions for young people, especially young women who are particularly affected. At present only 33 per cent of young men and 41 per cent of young women have comprehensive knowledge of HIV/AIDS; very few young men or women receive life skills training for prevention of HIV; and access to condoms is inadequate.

³⁶ THIS, 2003/4

³⁷ THIS, 2003/4

ing awareness into behavioural change remains a serious challenge particularly among the vulnerable groups such as young people. In spite of the efforts of Governmental and non-Governmental organizations to educate young people on matters related to sexual and reproductive health, teenage pregnancies still remains high, as do untreated sexually transmitted infections. Life skills training needs to be hugely increased, especially for girls and parents. Teachers and health workers receive insufficient training in reproductive health promotion.

The Ministry of Education implements an HIV/AIDS programme for schools. Instruction materials have been produced and guidelines for providing HIV/AIDS education have been disseminated to all district and regional education authorities. Other initiatives to support young people against HIV and AIDS include the establishment of the Out-of-School Youth-to-Youth HIV and AIDS Communication Initiative.

Orphans - HIV/AIDS has resulted in large numbers of orphaned children: according to the 2003/4 Tanzania HIV/AIDS Indicator Survey (THIS), around 11 per cent of children below the age of 18 had lost one or both parents (please see article 26), this number is expected to increase to 4.0 million in the year 2010³⁸ The government implements the Most Vulnerable Children Support programme in 50 districts in Tanzania. This programme strengthens the community based care support for orphans and vulnerable children enshrined in the policy guidelines. To date more than 200,000 children have been identified and are being provided with support in the districts where the programme is being implemented. A coasted National Plan of Action for the Most Vulnerable Children is also in place, and it enshrines MVC support programme as the key strategy in facilitating access to basic services for orphans and vulnerable children.

PMTCT - Although ante-natal clinic attendance is high, only 31 per cent of pregnant women receive services to prevent mother-to-child transmission (PMTCT), and each year about 3 per cent of babies are born HIV positive. PMTCT programmes began in

³⁸ Children on the Brink 2003

They are now offered in over 4,000 health facilities, proportion of the required population.

In Zanzibar, almost all the women (91%) and men 90% were aware of the fact that, the HIV can be transmitted from the mother to her reborn infant through breastfeeding.

However, only a third of the women and a quarter of the men Interviewed knew that, by taking ARV medication during pregnancy, an infected mother can substantially lower the risk of transmitting the Virus to her newborn. Once again figures for Pemba and Unguja depict a similar scenario- women are more aware then men in general, though most men and women from Pemba were not well informed on the subject of mother to child transmission.

Table No. 6: Knowledge on Mother-to-Child Transmission of HIV/AIDS among women and men aged 15 -49, 2004 -2005.

	HIV can be transmitted by Breastfeeding		Risk of MTCT can be reduced by mother taking HIV special Drug during pregnancy	
	% Women	% Men	% Women	% Men
Zanzibar	90.8%	90.3%	33.4%	25.0%
Pemba	87.7%	83.9%	13.0%	11.2%
Unguja	92.2%	93.4%	42.6%	31.7%

Source: NBS, TDHS (2006)

It appears that there is political will to address HIV/AIDS at the highest levels of Government, but commitment is less strong at the critical levels of the regions and districts (where implementation takes place). The National AIDS Commission, TACAIDS, was created in 2001 to coordinate the national response to HIV/AIDS. The National AIDS Control Programme (NACP), which preceded TACAIDS as the coordinating body, continues to function under the Ministry of Health, and to administer

the health sector. In 2001, the Government of Tanzania adopted the National Policy (the National Multi-Sector Framework on HIV and AIDS), which addresses among other things, routine HIV testing of antenatal mothers. Donors are providing greater funding to the national response to HIV/AIDS, in particular through the Global Fund to Fight AIDS, Tuberculosis and Malaria, the World Bank, bilateral donors and the UN system. However, despite increased funding the overall response remains relatively slow and small scale due to a significant lack of capacity to absorb and utilize the extra funds.

In Zanzibar, the Zanzibar AIDS Commission (ZAC) has prepared a Situation and Response Analysis Report in 2003 as first step towards a preparation of a Strategic Plan. To date, the national response has been weak.

Other initiatives taken by the Government include the development of:

- National Policy Guidelines for Reproductive and Child Health Services;
- Standards for Adolescent Friendly Reproductive Health Services;
- Reproductive and Child Health Strategy 2005-2010;
- An overview of the Tanzania Reproductive and Child Health Communication Strategy 2001-2005;
- National Adolescent Health and Development Strategy 2004-2008;
- National curriculum for service providers on reproductive health;
- Integration of youth friendly services in the nurses' pre-service training.

The Revolutionary Government of Zanzibar adopted the Zanzibar National HIV Strategic Plan (2004/05 to 2008/09) in 2005 (ZNSP). The ZNSP not only recognises the importance of responding to HIV, but also the importance of tracking the progress with implementing the national HIV response, ZAC is mandated to coordinate the implementation of the national response to HIV in Zanzibar National HIV Strategic Plan. ZAC and its partners developed a National Multi sectoral HIV monitoring and evaluation system. The monitoring and evaluation system was launched in 2006 and consists of a number of components: a two-way strategic information flow from sub-national to

management system; supervision and data handling; and monitoring and evaluation.

Prevalence

The sentinel surveillance data for 1998 showed HIV/AIDS prevalence of 0,7% for pregnant women.³⁹ Low acceptance of condom use among men and women adds to the fear that HIV infection rate may very well increase in Zanzibar. A 2002 community-based HIV/AIDS survey conducted among 2,400 men and 3,500 women found 38 respondents to be HIV infected. The prevalence rate in the total population aged between 12 and 65 years was 0.6%, 0.2% for men and 0.9% for women, the difference being statistically significant.

Urban prevalence rates were significantly higher than rural prevalence rates (0.9% and 0.5%, respectively) with comparable patterns of sexual behaviour and use of condoms during sexual relations.

Table No. 7 % of women and men aged 15-49 years engaged in higher risk sexual intercourse and condom use, 2004/05

	% who had higher risk sexual intercourse		% reported having used condoms at last sexual intercourse	
	% Women	% Men	% Women	% Men
Zanzibar	8.4%	13.0%	34.5%	33.8%
Pemba	1.6%	13.0%	*	*
Unguja	11.4%	17.5%	36.1%	34.7%

Source: NBS, TDHS (2006)

³⁹ Ministry of Health, 2003

men interviewed had reportedly engaged in a higher-
 2 months. Compared to Pemba, the practice appears to
 be more common in Unguja, especially amongst women.

In relation to people infected with HIV/AIDS, the ZACP data (2001-04) showed that 15,577 had HIV/AIDS test and 634 people were found to have been infected with HIV.

Table No. 8 Number. of People Infected with HIV in Zanzibar. 2005.

Year	HIV tested	HIV Positive	%
2001	5174	284	5.5%
2002	6833	497	7.3%
2003	9871	598	6.0%
2004	13,577	634	4.7%

Source: ZACP (Ministry of Health and Social Welfare), 2005

The specific objectives of the islands are spelt out in the Zanzibar Health Sector Reform Strategic Plan 2006-11 and include:

- Developing, managing and sustaining a multidisciplinary health work force, which is well trained, motivated and equitably distributed;
- Providing health service delivery within five kilometres or less.

In 2004, there were 6 hospitals, 3 special hospitals, 2 referral hospital, 123 primary health care units, 4 primary health care centres, and 81 dispensaries in Zanzibar. Due to poverty and other reasons there are still disadvantaged groups and individuals who are unable to access health care including the disabled persons and street children. The Department of Social Welfare is responsible for facilitating services to orphans and other vulnerable children..

Social Security and Child Care Services

Article 20.2(a-c)

The Government of Tanzania has over the years introduced a series of measures geared towards providing social security to certain groups. Measures worth highlighting include the policy of access to free primary education and healthcare for pregnant women and under five children; provision of social welfare services to the most vulnerable groups; and the establishment of statutory social security schemes. A National Social Security Policy was adopted by the Government in 2003 to address challenges arising from a number of socio-economic and political changes taking place in Tanzania. The aim of the policy is to realize the goals and objectives set out in the vision 2025.

Currently there are five major formal institutions that provide social security protection in Tanzania,⁴⁰ and numerous informal social security arrangements, though the latter are generally acknowledged to be weakening. The coverage for Social Security is limited to the formal sector; efforts are currently being made for wider coverage to vulnerable groups. A parallel social support system has emerged through the mutuality or local credit schemes that attempts to offer solutions to limited formal social security. At the same time through the implementation of the Most Vulnerable Children Support Programme, communities are establishing village Trust Funds which enhance access to

⁴⁰ These include: National Social Security Fund (NSSF) offering social security coverage to employees of the private sector and non-pensionable parastatal and Government employees; the Public Service Pension Fund (PSPF) providing social security protection to employees of the central Government under pensionable term; the Parastatal Pension Fund (PPF) offering social security coverage to employees of the both private and parastatal organizations; the Local Authorities Provident Fund (LAPF) offering social security coverage to employees of the local Government and; the National Insurance Fund (NHIF) offering health insurance coverage to pensionable employees of central Government. Under the National Insurance Health program, all Tanzania Government employees are entitled with free health service together with a maximum of four children per household.

children and their carers.

The Government is looking to establish a mechanism for a National Social Protection framework. It is aiming to conduct a baseline study in order to establish appropriate targets which will be used to test pilot by 2010 a Social Protection Scheme. The Government is also intending to put in place a regulatory framework that will be responsible for supervising and monitoring the scheme.

Day Care Centres - In Tanzania Mainland and Zanzibar child care services are provided through two structures - Day Care Centres and Children's Homes. The former prepare children aged 2-6 for primary education, and are registered and monitored by the Commissioner of Social Welfare who is responsible for examining whether they are suitable. In April 2006 there were 476 registered Day Care Centres (most of which are private), 11 Government training institutions and one private training institution. Most of these day care centres are privately established. There are also Day Care Centres in Government institutions (such as in prisons and in the army and police.)

Children's Homes - Children's Homes⁴¹ are established by law through the Children Homes (Regulations) Act. In April 2006 there were 2,367 children (1043 girls and 1324 boys) in 64 Children Homes. Most homes are operated by the private sector (NGOs, faith-based organisations etc.), though one is operated by the Government. The Social Welfare Department is responsible for registering, coordinating and developing guidelines⁴² to monitor and supervise the standard of care in the homes and provide professional advice.

According to guidelines a child should enter a Home only as a last resort and after investigation by the Social Welfare Officer. Once in a home, the whereabouts of the

⁴¹ Under the law Section 2 "Children home" means any premises other than an approved school, where five or more children being orphans or children whose relatives or guardians are unable or unwilling to care for them are received to be cared for and maintained, either gratuitously or for payment, for a period of longer than seven days by a person who is not a relative or guardian of the children.

⁴² The National Guideline for Community Based Care, Support and Protection of Orphans and Vulnerable Children awaiting Cabinet approval. The Establishment of Management Child Homes Guidelines 2003/2004.

purposes of possible reunification. If parents are unable to do so, foster arrangements will be considered. Placing a child in foster care is the responsibility of the Commissioner of Social Welfare. The foster care period is only for duration of three months and under the supervision of Social Welfare.

In 2000, a community-based initiative programme for the Most Vulnerable Children (MVC) was adopted. This initiative was in response to the increasing number of orphans, vulnerable children and the visible increase of children living and working in the streets. The programme focuses on protection, access to education and vocational life skills, food, shelter, clothing and psychological support. It aims to protect and care for the escalating number of orphans and vulnerable children within their communities rather than place them in institutions. The MVC programme is supported by UNICEF, Axiom Foundation, the Global Fund and other development partners. Access to justice is also addressed through the programme, by Community Justice Facilitators (CJF) who ensure that children are not denied their rights through for example, dispossession of inheritance. To date, over 190,000 children have been supported through this programme in 32 districts. The coordination framework includes the National Steering Committee, the National Technical Committee, and District and Village MVC Committees.

Child Care Services in Zanzibar - A number of measures have been taken by the Government of Zanzibar, NGOs and the community to provide care and maintenance for the most vulnerable children. A number of Government institutions including Children Villages (SOS), African Muslim and several NGOs provide care and maintenance to children. The MVC programme is also established in Zanzibar through the Social Welfare Department in collaboration with UNICEF. The training of identification of MVC was conducted to Social Welfare officers and child-related NGOs in all 10 Districts of Zanzibar. A total of 9105 MVC (of whom 4471 are boys and 4,634 are girls) have been reached in Zanzibar to date.

Article 26

HIV/AIDS has resulted in a large numbers of orphaned children: according to the 2003/4 Tanzania HIV/AIDS Indicator Survey (THIS), around 11 per cent of children below the age of 18 had lost one or both parents (please see article 14). This implies that over 2 million children are orphaned in the country, with the number expected to rise to 4 million by 2010. Many more are social orphans and have been abandoned by their parents. As a result, more and more children are taking on responsibilities beyond their age, including running households, taking care of ailing parents, and working long hours to secure a livelihood. These are among the poorest and most vulnerable children whose needs and rights are not currently being met or protected. Orphan children are more likely to suffer economic deprivation, exploitation and discrimination.

The strategy adopted by Tanzanian Government to support orphaned and vulnerable children is called the Most Vulnerable Children (MVC) Support Programme. This aims to facilitate community dialogue about vulnerable children, and to help communities to develop and review their own criteria for assessing and defining vulnerability. This project aimed to capacitate community members in order that they can identify MVC, collect data and information on MVC, and develop mechanisms and strategies for caring and supporting MVC within the community context.

The strategy also involves putting in place community front liners (called **Community Justice Facilitators**) who have been trained to advice, guide, and refer on issues related to law and justice and human rights abuses. For example, they may support children who have been abused, or had their assets stripped following the death of their parents. The strategy provides a vehicle for data collection systems in order to better assess the impact of the HIV/AIDS epidemic on the most vulnerable children. It also provides a framework for increasing coordination between actors in order to respond and to facilitate provision of services to the identified children.

ough informal foster arrangement. The Commissioner for formal foster arrangements which are usually temporary and not exceeding three months. During this time the Social Welfare officer is duty bound to conduct social investigations to trace the surviving parent/s or relatives of the orphan for purposes of reunification. If reunification is not possible, the other alternative is adoption by the foster parents if there are willing and capable. Children's Homes (discussed earlier in this report) are a last resort.

Orphans are taken care of under the Local Customary Law (Declaration) Order of 1963 (please see article 24). This law provides for a mechanism and procedure under which orphans can be taken care of by other family members of the clan. These rules are only applicable only when the husband dies and there is no corresponding provision on the death of the wife. Other relevant rules under customary law include the inheritance law which is discriminatory towards women and the girl child and leaves them without means of support. Relatives often take orphans' inheritance even where laws provide for property transfer to widows and children (please see article 25)

In Zanzibar, there is only one orphanage run by the Government which had 47 occupants in 2005. There are, however, several orphanages managed by NGOs (discussed in Article 20.2 of this report). About 140 female orphans and 180 male orphans have been registered in Zanzibar as being cared for under the custodianship of their respective family relatives.

8: Education, leisure and cultural activities

Article 11

The right to Education is provided as a general directive in the Constitution of the United Republic of Tanzania of 1977 and the 1984 Constitution of Zanzibar.

Pre-primary and Primary Education - The Government's strategy is to develop quality

with existing early childhood provisions (including three per cent of children on the mainland and 15.9 per cent (2005) on Zanzibar are in pre-school

Tanzania has made significant progress towards universal primary education, particularly since the abolition of school fees in 2002 and the implementation of the Primary Education Development Plan (PEDP). After several years of hovering around 50 per cent, net primary school enrolments among children aged 7-13 have risen to 95 per cent, with very little gender disparity (96 girls enrolled for every 100 boys in 2005) - please see table below. Nevertheless, net attendance is lower (71 per cent for boys, 75 per cent for girls) indicating a need to improve quality and ensure retention.

Table No. 9: Net and gross enrolment rates in STD 1 and STD 1-VII 2000 – 2005

YEARS	2000	2001	2002	2003	2004	2005
Std 1	897,569	1,140,554	1,682,141	1,487,354	1,563,315	1,348,437
Std 1-VII	4,382,410	4,845,185	5,972,077	6,562,772	7,083,063	7,541,208
Pop 7-13 years	5,646,293	5,743,225	6,054,257	6,229,630	6,665,347	6,859,282
NER for std I-VII	58.6	66.0	80.7	88.5	90.5	94.8
GER for Std I-VII	77.6	84.4	98.6	105.3	106.3	109.9

Source Basic Education Statistics in Tanzania (BEST)-Ministry of Education and Culture 2005

The proportion of Standard 7 learners passing the primary school education examination increased from 22 per cent in 2000 to 62 per cent in 2005. Transition to secondary education increased to 36 per cent in 2005, but net enrolment remains extremely low (10 per cent). Gender parity drops at this level, reaching 42 per cent by Form 4 (basic education level). A significant portion of the 14-18 age group are left without access to the vital education, skills and training they need to assume their place in society. Drop-out rates thereafter are due to pregnancy, early marriage, poverty, and prevailing norms

r education.⁴³

The implementation of PEDP since 2002 has brought positive changes including the construction of 45,000 classrooms, 8,527 teacher houses, 98,827 latrine pits and 285,898 desks. It has also increased the number of teachers, text books and teaching and learning materials which have in turn affected enrolment. Increased enrolment has led to increases in the number of pupils each teacher has to deal with, resulting in overcrowded classrooms. Despite the enrolment successes, the need for more classrooms, more teachers, and more textbooks is still high. Over 43,000 pupils dropped out in 2005 (please see annex 5, table g).

Unlike Zanzibar, the mainland has yet to develop a policy or enact a law to ensure that pregnant school girls are allowed to continue their education. It has, however, been looking at ways of allowing girls to remain in school after giving birth. The Government is also keen to expand adolescent friendly reproductive health services (see Article 14) as a way of reducing adolescent pregnancy and its related complications including school drop out.

COBET - The Complementary Basic Education in Tanzania (COBET) programme aims to ensure that child who are unable to access formal schooling are able to enjoy their rights to basic education. COBET aims to give out-of-school children aged between 8 and 18 an opportunity to acquire basic education by following a specialized three years course of study.⁴⁴ It targets in particular girls and vulnerable children. The COBET programme started in 5 pilot districts 1999 and by 2000 had enrolled 1530 learners. In 2003 an evaluation of the programme showed such positive results that the Government decided to mainstream the programme.

⁴³ Poverty brief, other info.

⁴⁴ It enrolls children for a study period of three years and then mainstreams them into the formal school system or into vocational training institutions after taking and passing the standard 4 and standard 7 final examination of the primary education formal system. COBET admits out of school children in two groups. The first group referred to as Cohort 1 concerns children aged 8-13 years. The second group, Cohort 2 concerns children aged 14-18 years. Cohort 1 is integrated into the formal education system at standard V or VI after sitting and passing the standard 4 annual national examination, while the Cohort 2 is integrated into Form 1 (the first grade of secondary school) or into vocational training after sitting and passing the standard 7 annual national examination.

Tanzania's Primary Education Development Programme.

Today COBET centres exist in the 21 regions of Tanzania Mainland in 113 districts. A distinction is now made between the COBET pilot project (supported by UNICEF and other stakeholders), and the Government programme, MEMKWA, which is funded by PEDP resources. Today stakeholders such as UNICEF still support COBET pilot districts and provide physical and technical support to MEMKWA programme implementation.⁴⁵

CFS – The Child Friendly Schools (CFS) learning approach is a pilot strategy aiming to ensure that all children enjoy learning so that they can develop their individual potential. In child-friendly schools there is no corporal punishment and the schools are gender sensitive. They aim to involve parents and school communities in both the teaching and learning process. The child friendly concept is broadly taken up in the PEDP. Schools have been established in 6 pilot districts with a total of 62 schools. The objective of the pilot is to generate good practices and advocate for their inclusion in mainstream schools. Some of the achievements of CFS include: increased community participation and support to school education and other initiatives; improved relations among teachers, parents and learners; teachers' skills improvement; abolition of corporal punishment abolished; increased attendance and improved enrolment and retention.

Secondary education - In response to the very low enrolment secondary enrolment rate (around 10 per cent) the Government has initiated a Secondary Education Development Plan (SEDP, 2004-2009) which aims to increase secondary school enrolment to 50 per cent by 2010 and includes special measures to facilitate girls' enrolment. The Government has been supporting girls from poor families to continue with secondary school education through a special programme known as Girls Secondary Education

⁴⁵ Constraints and Challenges of COBET include; Difficulty to ensure quality of COBET through PEDP implementation process in all districts of Tanzania Mainland given inadequate financial, physical and human resources; Absence of community participation in the national COBET scaling-up process; Absence of direct focus on girls and other vulnerable children educational needs in the national COBET scaling-up process; Absence of a clear understanding of what makes certain children vulnerable and how it manifests in their behaviour.

The SEDP outlines the framework for achieving greater access to secondary education while simultaneously addressing aspects of equity, retention, and quality and management issues. The overall goal of SEDP is to increase the proportion of Tanzania youths completing secondary education with acceptable learning outcomes. School data from the 2004/05 TDHS indicate that children from poorest households have less secondary school attendance ratio compared to children from well-off households shown below (a shown in annex 5, table e). For details of pupil/teacher ration (under 1:30) see annex 5, table f. Table g, annex 5 shows the budget allocated across the education sector, with 63 per cent of that allocated for primary and non-formal primary schooling, 18 per cent for secondary, 1.2 per cent for teacher education and 17 per cent for tertiary and higher education.

Zanzibar – On the islands, pre-primary education is left to the private sector though the Government has established a few pre-school in every district has model schools and is responsible for developing guidelines. According to the revised Education Policy of 2004, pre-primary education is now compulsory. In 2005 there were 205 schools in Zanzibar that provide pre-primary education, 26 of which are Government owned and 180 privately owned schools. The Ministry of Education and Vocational Training is looking into the possibility of developing a policy for early childhood education and development.

In 2005 the total enrolment rate in primary education was 101.3 per cent. Education is mostly provided by public schools. Zanzibar has enacted a new law (the Protection of Spinsters and Single Parent Act No. 4 of 2005) which allows young mothers to return and continue with school after delivery. 56 girls were expelled from school in 2005.⁴⁶

The revised education policy in Zanzibar intends by 2015 to:

⁴⁶ Teenage pregnancies and early marriage are some of the problems that affect girls' education in Zanzibar school. To reduce the problem the Ministry of Education and Vocational Training in collaboration with UNICEF, UNFPA, Save the Children and AYA provide life skills to in-school and out-school youth through clubs and peer learning programmes however the problem still exists in many schools both in Urban and rural areas.

overcrowding issues

system to ensure children with special needs receive equal opportunities (this programme has been introduced in 46 schools to date)

A good number of school aged children do not attend school either through dropout or being never enrolled. There are a number of reasons attribute to this situation which include early marriages, teenage pregnancies, lack of parents awareness on importance of education poverty and many others. In 2005 it is estimated that over 20 percent of primary school children are dropouts before completing the basic educations cycle.

To intervene this situation the Government has introduced an alternative education programme and GENPROM, through which dropouts were supported to rejoin schools and given learning materials to facilitate their studies: However, participation of girls in this programme is not satisfactory as indicated in Table below.

Table No. 10: Enrolment in alternative education in Zanzibar by sex 2002 – 2005.

Year	No. of Centres	Enrolment		
		M	F	T
2002	4	247 (79.7%)	63 20.%	310
2003	8	240(70.1%)	93 (27.9%)	333
2004	11	279(72.8%)	104(27.2%)	383
2005	12	328(80.%)	79(19.4%)	407

Source : Ministry of Education and Vocational Training 2005

Secondary education is categorized into compulsory education (i.e. Orientation secondary class to form 2) and privilege one from (form 3 to form6). Up to March 2005, the enrolment in secondary (OSC ó Form2) has reached 52,332 which higher compare to 49,949 of the year 2004, which is an increase of 2,383 equivalent to 4.8 percent. Privilege education (form 3 ó form 6) reached 12,750 for the year 2005 which is increase of 2,513 compared to 10,237 for the year 2004.

...oving vocational training through strengthening and
...establishing new ones. Two training centres for out-
of-school youth have been established with a capacity of 600.

Measures taken to abolish corporal punishment - The Nyalali Commission Report of 1992 identified corporal punishment as among the set of forty oppressive laws in the country and recommended that it be repealed. The Law Reform Commission in its 1996 report to the Ministry of Justice and Constitutional affairs recommended, however, that corporal punishment should continue to exist though with necessary safeguards to its administration.

NGOs and other civil society organizations have been advocating and lobbying for the abolishment of corporal punishment in schools. In 1996 and 1997, the NGO *Kuleana* and five partner institutions undertook studies on corporal punishment in six regions of Tanzania. The study found that corporal punishment was the most commonly used method of discipline. In 2000 a campaign against corporal punishment by *Kuleana* was launched by the Minister of Community Development Gender and Children Affairs. The campaign⁴⁷ aimed to stimulate debate on the appropriate ways for adults and children to interact.

For Corporal punishment as a sentence in criminal justice in Tanzania Mainland please see article 17

Leisure, recreation and cultural activities - Tanzania developed a Cultural Policy in 1997. This states that children must be availed of every opportunity for cultural development.⁴⁸ The Ministry of Information, Culture and Sports is the responsible ministry. Children's recreational or cultural activities utilize about one per cent of the total budget for culture.

Special priorities to date include:

⁴⁷ Several NGOs and CBOs took part in the campaign which included dissemination of materials; publication of newspaper articles and press releases, radio and television programmes and dialogue in various part of the country.

⁴⁸ This stipulates that cultural education be an integral part of the entire education process - from pre-primary, primary to secondary levels, and is examined also at these levels.

(CTP) - currently operating in 70 primary schools in 3

regions;

- The Children's Theatre Festival - an annual event now involving primary school pupils.
- An on-going arts training programme for teachers of pre-primary schools;
- Children's visits to historical sites, game reserves and national parks;
- Children's participation in games and sports and cultural events.

On Zanzibar, several measures have been taken by the Ministry to improve sports, recreation and cultural activities including: allocation of special time for sports in school time tables; training of sports teachers; diversifying of annual sports activities in schools which include football, netball, basketball, volleyball, tennis, athletics, hockey etc; annual sports and cultural competition from pre-school to university; youth participation in international sports; provision of sports opportunities to disabled children. Playgrounds are also available in all Zanzibar schools. There are three official stadium in Zanzibar and two official children playgrounds, though the grounds needs substantial improvement.

9. Special Protection Measures

Refugee and Displaced Children

Article 23 and 25

Tanzania is a party to the 1951 UN Convention on the Status of Refugees as well as the 1969 African Regional Convention. In 1998 a new law called the Refugee Act was

⁴⁹ The recreation grounds are governed by the Public Recreation Grounds Act. Under this law, Local Authorities are empowered to control and manage public recreation grounds. Such grounds are only to be used for sports and recreation and not for any other purpose. The Ministry of Land Settlement Development can declare a public land as a recreation ground upon request and consultation with the local authorities. However in major cities/towns in Tanzania recreation grounds are becoming scarce due to a number of factors including invasions by small and big businesses.

refugee children.⁵⁰ In 2003 the Government adopted a
ers various aspects of the management of refugee
matters and their protection in Tanzania.

Tanzania is a peaceful country in a troubled region and has been host to the largest refugee population in Africa. Refugee numbers peaked in the-mid nineties following the Rwandan genocide. Today, Tanzania has around 350,000 refugees mainly from the Democratic Republic of Congo and Burundi. Tanzania is not expecting to see mass repatriation in the next years despite improved democracy in the region. The issue of security poses a tremendous challenge to the host State.

In order to ensure the protection of asylum seekers and unaccompanied children (especially girls) the Government of Tanzania has instituted a number of measures. All refugees and asylum seekers, including unaccompanied children, are properly registered and documented upon arrival at entry points before being sent to their designated areas. In addition:

- Unaccompanied refugee children are attached to foster families
- A family-tracing programme is conducted by the Tanzania Red Cross Society

A number of policies and programmes protect children's access to health, education and social services, and indeed many of the key child welfare indicators are higher in the camps than in the country at large. Refugee children, like any other refugees, enjoy access to the existing asylum procedures in the country. During emergency situations whereby refugees enter *en-masse*, refugee children undergo the same process as adults (screening process at entry points, registration, medical examination, access to food and non-food items). During the process of seeking asylum it is the head of the family who

⁵⁰ The Act deals with reunion of the family, where the child can be reunited with his/her mother or father or his/her relative. The Refugee Act is silent on the issue of unaccompanied children, it however provides for compulsory primary education. . As noted in Article of 6 this report all children born in Tanzania have a right to registration at birth and have a right to Tanzania citizenship.

automatically assume the granted asylum status. In
as the 1993 Burundi civil war and the 1994 Rwanda
genocide, there is a *prima facie* status for all refugees including unaccompanied children.
Refugees married to Tanzanians irrespective of gender, obtain residential status and/or
naturalization; this guarantees and safeguards the rights of children of such unions.

Children in Armed Conflict

Article 22

Tanzania does not have armed groups operating on or from its territory. It has been involved in a situation of armed conflict only once since independence when in 1979 Ugandan troops - under the rule of former President Idi Amin - briefly invaded north west Tanzania. Children were not recruited or involved in the conflict.

Although in exceptional circumstances, the law allows for the recruitment of persons under the age of eighteen years, in practice there has been no such recruitment, and no members of the Tanzania People Defence Force (TPDF) are under eighteen. The TPDF is manned solely by volunteers and there is no conscription; no schools are under its control.

Although Tanzania does not have a long history of armed conflict, it has nevertheless shown commitment to international humanitarian laws related to conflict and has acceded to - or ratified - a number of critical conventions including (i) the Four Geneva Conventions plus their two additional protocols; (ii) the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines and on their Destruction;⁵¹ (iii) the Rome Statute of the International Criminal Court; and (iv) the Optional Protocol to the CRC on the Involvement of Children in Armed Conflicts.

⁵¹ Tanzania had retained 23,987 stockpiled landmines for military purposes only by May 1st 2005 and afterwards they destroyed 22,885 and retained only 1,102 for same purpose.

to or ratified the above, for international treaties to become binding they have to be specifically adopted into domestic legislation which has not yet been done. The Government is looking at ways of incorporating International Humanitarian Laws into its domestic legislation. The Government is also in the process of establishing an International Humanitarian Committee that will be responsible for ensuring compliance with the requirements of international humanitarian laws, including the CRC Protocol. Some training on IHL is taking place in the country.⁵²

Administration of Juvenile Justice

Article 17

Tanzanian law provides for a separate criminal justice system for juveniles that is persons under 16 years of age. Charges against such people are heard in a juvenile court except in the case of homicide.

The Juvenile Court also deals with non-criminal offences such as cases where children have been abandoned or abused. In the Tanzanian mainland, criminal responsibility starts at the age of ten and in Zanzibar from the age of twelve. The presumption of innocence is guaranteed in the Constitution of the URT of 1977 and the Zanzibar Constitution of 1984.

When a person under 16 years of age is arrested, the police officer in charge of investigations is required to inform their parents or guardian. Charges must be explained in language that the child can understand. Parents or guardians can attend hearings only at the discretion of the courts. Legal representation is mandatory only for persons charged with homicide under the Legal Aid (Criminal Proceedings) Act. It has been recommended that this law be extended to ensure legal aid assistance to children under 18

⁵² Ministry of Justice in collaboration with the International Committee of the Red Cross (ICRC) has conducted several training courses on IHL for parties responsible for the implementation of humanitarian laws. The ICRC also provides technical assistance through their Regional Legal Adviser on domestication and other implementation processes. The only institution that has integrated IHL training is the Tanzania People's Defence Forces. The University of Dar-es-Salaam Faculty of Law has introduced as an optional subject Humanitarian Law. The Faculty cooperates with other Universities in Southern African Development Community (SADC) and East Africa, sharing information and updating curricula on IHL.



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with the law. Press and public are not allowed to attend Article 10.

Under the Children and Young Persons Act, bail is considered preferable to remand, and the accused may be released into the care of responsible persons. In cases where bail is not permitted by law, the accused is detained in a Remand Home.

On the mainland of Tanzania there are only five remand homes which have a capacity of 215. There are no remand homes at all on Zanzibar. Because of low capacity, children often end up in police lock-up or in remand with adults despite legal requirements that they should be separate premises. No rules or regulations enable the Juvenile Court to enforce this requirement. Between 2004 and 2005 a total of 2,692 children under 16 years passed through the five remand homes, of whom 11 escaped (please see annex 5, table h). Rehabilitation programmes are available in the remand homes.⁵³ Remand homes face a great number of problems including run-down facilities, inadequate water and sanitation facilities, and congestion.

Some 844 children under the age of 18 were kept in pre-trial detention in mainland prisons between 2003 and 2005, most of whom were accused of theft, stealing or robbery, and 111 of whom were accused of murder (please see annex 5, table i).

Corporal punishment - Corporal punishment is still permissible under the Corporal Punishment Act of 1930 and is the most common type of punishment imposed by the courts in the mainland to persons under 18 years of age for almost all kinds of offences except homicide. It is preferred by the courts, and considered an uncomplicated non-

⁵³ Including: Primary education life skills, vocational training, counselling and guidance, family reunification and reintegration, sports, art activity and recreation indoor play, spiritual education.

Law sets out different procedures for administering juveniles. A juvenile (for purposes of this Act a person under 16 years of age) may receive up to 12 strokes of the cane, whereas adults may be whipped for 24 strokes. Females are excluded from corporal punishment. The Penal Act of 2004 of Zanzibar has abolished corporal punishment as a court sentence.⁵⁴

Imprisonment -In the mainland, a child under 12 years of age cannot be sentenced to imprisonment and on Zanzibar no child under the age of 14 years can be imprisoned. In both, imprisonment is considered as a last resort. Probation is considered the appropriate sentence for young offenders, though because of inadequate number of probation officers in Tanzania, custodial sentences and corporal punishment are imposed much more frequently. Children under 16 convicted of serious offences are committed to an Approved school. Young offenders aged 16 -21 years are imprisoned in the youth correction centre in Wami which has a capacity of 300. Tanzania discourages lengthy imprisonment for young offenders and prohibits the court (under its Minimum Sentence Act No. 1 of 1972) to impose minimum sentences on juveniles under the age of 18.

Both the approved schools and the correction centre provide reformatory and reintegration programmes to prepare for reintegration into society when discharged. They provide counselling, life skills and vocational training. There is a primary school in the facilities.⁵⁵ There are, however, a number of problems with the approved schools and the correction centre including difficulties transporting young people to the facilities, and lack of capacity in them leading to overcrowding (the capacity of the two institutions is for only 300 persons each).

The Social Welfare Department through their Board of Visitors is responsible for monitoring children under 16 who have been found guilty and detained in Approved Schools. Their mandate includes investigating complaints, inspecting and testing the quality of food and ascertaining whether facilities are provided for the education,

⁵⁴ Although the Children and Young Persons Decree of Zanzibar provides that no young person shall be sentenced to imprisonment if he can be suitably dealt with in any other way whether by probation, fine, corporal punishment, or otherwise.

⁵⁵ Between 1985- 2003 a total of 162 offenders completed their primary education in Wami centre and 28 joined secondary education and other vocational training institutions.

ne pupils.

Punishment in institutions - No cases of abuse or maltreatment of persons below the age of eighteen detained in approved schools or the correction centre have been reported since 2003. Heavy penalties are instituted for any staff member of any institution who takes advantage of his position and abuses or maltreats inmates. Failure to provide the necessities of life to persons detained is also a crime under the Penal Code.

Reformation, family reintegration and social rehabilitation – The Government, to ensure its citizens (including children) are not kept in custody for unnecessary length of time, has adopted the parole system. There is also an existing one third remissions of custodial sentences. Tanzania does not have specific uniform social reintegration programmes for persons below 18 years who have completed their sentences.

In 2002 the Government introduced Cap 291 in the Community Service Act as another alternative to custodial sentencing. This focuses on correction and preventive community strategies. The Law Reform Commission in its recommendation on the Children Act recommended that the diversion system be incorporated into the criminal justice system. To ensure that the probation orders are enforced the LRC recommended provision of voluntary probation services.

Some 427 persons under 18 years were sentenced to imprisonment in mainland prisons between 2003 and 2005, most of whom were charged with theft and stealing (please see annex 5, table j).

Children of Imprisoned Mothers

Article 30

The criminal law provides several non-custodial options to prevent the imprisonment of mothers with dependant children. These include: absolute or conditional discharge,

service orders, probation order or fine. If, however, the sentence due to the seriousness of the offence, young infants will be accommodated with their mothers in prison. There is no specific provision that guarantees the rights of interned children. The women's prison in Kingolwira has a day care centre for the children of imprisoned women.

Women prisoners with child - The Prisons Standing Order states that an imprisoned woman may bring her child into prison even without the Magistrate's authority provided that the Medical Officer certifies the normal period of lactation has not yet expired and the child is dependent on the mother for nourishment. The child will be supplied with clothing, food and health facilities at the prison expense.

Pregnant Prisoners - Once a prisoner is certified to be pregnant by a Medical Officer, the Principal Commissioner is informed. Under legal provision, pregnant prisoners will work during the day if able. She will be removed to the nearest Government hospital well before delivery and will attend the nearest Government antenatal clinics at the direction of the Medical Officer.

In Tanzania there is only one specific prison facility for female prisoners, in Kingolwira. This prison was built in 1937 to accommodate pregnant prisoners and women prisoners with small children. In other prison facilities, women prisoners who are pregnant or with children are kept in women wings.

In 2001-2003 there were some 66 children of imprisoned mothers in prison facilities in the country. 54 of these children came to prison with their mother, 19 of the children were in Kingolwira. A total of 14 children were born in prison facilities during the same period.

Child Labour

Article 15

with the ILO's *Minimum Age Convention* of 1973. The
Conventions Act states that:

- No person shall employ a child under the age of fourteen years
- A child of fourteen years may only be employed to do light work which is not likely to be harmful to the child's health and development.
- No person shall employ a person under the age of 18 years in hazardous form of work for example in a mine, factory or a crew on a ship
- It is prohibited to employ children under the age of 18 years to night work.

In Zanzibar, labour laws are slightly different. They state that no child under 12 shall be employed except for light work; no person under the age of 18 years shall be employed in any employment that is injurious to his health, dangerous or immoral; a child under the age of 16 years shall not be employed in a mine. The Zanzibar Constitution has set the age for paid employment at 18 years. The law governing Child labour is the Employment of Children, Young Persons and Adolescent (Restriction) Decree and a Labour Act of 1997. Zanzibar has reviewing its labour laws under the auspices of the SLAREA Project being implemented in collaboration with ILO.

The Government in collaboration with partners has been implementing the Time Bound Programme (TBP) pilot project against the worst forms of child labour since 2002. To implement this Government has established a National Inter-Sectoral Coordination Committee to oversee and coordinate intervention activities against child labour in general, and the worst forms of child labour in particular. The Committee is assisted by four other sub-Committees which focus on commercial agriculture and mining; domestic service and prostitution; education and technical matters; and monitoring and coordination. At a local level, the Government has formed District Child Labour Sub-Committees and appointed District Child Labour Coordinators to monitor and coordinate activities at this level.

The objectives of the TBP are to combat the worst forms of child labour through: preventing children entering the worst forms of child labour; withdrawing children from

providing them with suitable alternatives (education, etc.). The project has been implemented in 14 districts targeting children between the ages between 7 and 18 years. Partners include Government Ministries/Departments, Trade Union Organisations, Employers Association, Non-Governmental Organisation and International NGOs such as the Education Development Centre.

Through the joint efforts of development partners children have been prevented from entering or withdrawn from labour and linked to appropriate service providers (EDC, VETA, COBET, and Primary school). As shown in annex 5, table 1, a total of 27,549 children have been reached by this programme.⁵⁶ A recent Child Labour Survey in Zanzibar showed that 173 children have been withdrawn from child labour and returned to school.

Other impacts of the programme include: an increased level of awareness among the public of the hazards of child labour; the mainstreaming of measures to address child labour in MKUKUTA with setting of budget allocation for identified areas for interventions; development of a policy and legal framework for combating child labour and its worst forms; enactment of the Employment and Labour Relations Act No. 6 of 2004; Child Labour Elimination Strategy; inclusion of child labour in the next National Labour Force Survey to be carried out in the near future. The Government has also produced a list of hazardous tasks for children as mandated by the Convention No. 182, which the Time Bound Programme has translated into Kiswahili to promote community awareness

Phase II of the Time Bound Programme on the worst forms of child labour in Tanzania runs from 2005 to 2009.

⁵⁶ Children withdrawn are normally counselled and thereafter provided with rehabilitation services, which end up with gradual re-integration to their families. Followed by complementary basic education and vocational skills training. Thereafter there are provided with small grants to initiate viable income generating activities in their respective communities.

Government has taken specific measures to prevent children from entering into prostitution. The programme for the withdrawal, rehabilitation and reintegration of child commercial sex workers has been operating since 1999 in three regions of Tanzania and has been supported by ILO/IPEC. By May 2003, a total of 1200 children in commercial sexual exploitation had been withdrawn, and resituated appropriately.⁵⁷ NGOs have played a key role in implementing the programme.⁵⁸

Drug Abuse

Article 28

In August 2003, a household Survey involving 300 young people from Dar es Salaam and Zanzibar showed that a significant percentage of youths (10-21 years) are addicted to alcohol, tobacco, hypnosedatives, cannabis and heroine (please see table 15 below). Problems of drug and substance abuse are more prevalent among boys than girls, and are thought to be on the increase in Tanzania and Zanzibar.

Table No.11 : Rates of addicted cases in the last 30 days. (Addicted Cases)

Area	Alcohol	Tobacco	Hypno-sedatives	Cannabis	Heroin
Stone Town Zanzibar	15%	15%	9%	9%	3%
Kinondoni Dar es salaam	16%	15%	10%	11%	2%

Source: Ministry of Health and Social Welfare 2006

⁵⁷ 850 were placed in rehabilitation centres and 350 were reintegrated into primary schools, 16 children in Secondary Schools and an additional 850 were reintegrated in vocational training.

⁵⁸ Several NGOs have been involved in the implementation of TBP including KIWOHEDE, CHODAWU, Good Hope, World Vision-TZ. Strategies include: prevention through awareness campaigns; child protection, focusing on the promotion of family's responsibility; withdrawal and rehabilitation; community reintegration and provision of educational and economic alternatives; crisis response through the three established drop-in centres that provides medical, psychological and other support to children.

abuse, the Government has established an Inter-ministerial Anti-Drugs Commission with a wide range of functions.⁵⁹ The Commission has been carrying out extensive awareness programmes to reduce the problem of drug abuse. These are normally conducted during national events such as the Day Against Drug Abuse and Illicit Trafficking. The Commission also conducts training workshops for teachers, mass media personnel, artists and community leaders. Tanzania has received assistance from various UN and bilateral organisations to assist with reducing demand for drugs, national law enforcement and control.

In 1995, the Government enacted the *Drugs and Prevention of Illicit Traffic in Drugs Act* which provides for treatment including detoxification for drug abusers.⁶⁰ In Zanzibar the Department of Drug and Substance Abuse provides counselling and refers the cases for admission to relevant institutions. A number of private organizations have also been established to deal with the use of illicit drugs by children and the youth including the Zanzibar Youth Forum, the Zanzibar Youth Advancement for Development, Education and Sanitation and ZAIADA. In Zanzibar pilot schools receive information, education and communication materials on drugs and substance abuse. There is also a proposal to establish rehabilitation centres for persons addicted to substance abuse.

Sale, Trafficking and

⁵⁹ The functions of the Commission are to define, promote and coordinate the policy of the Government for the control of drug abuse and trafficking, especially in developing and implementing a national plan of action for drug control; implementing the provisions of International Conventions on Narcotic Drugs and Psychotropic Substances; promoting the prevention of drug abuse and public information for youngsters, families, professors, educators and the general public; supporting other initiatives in the field of information and prevention; establishing a viable data collection and analysis system at the national level on drug abuse and drug trafficking; developing treatment and rehabilitation programmes for drug addicts; undertaking research on drug addiction; promoting and ensuring international co-operation; ensuring co-ordination and support of activities of NGOs and associations participating in drug abuse control.

⁶⁰ When a person has been found guilty of being in possession or using drugs the court will take into consideration his age, mental conditions and other factors instead of sentencing him. With the offender consent direct that he be released to undergo medical treatment of detoxification from a hospital or institution recognized by the Government. with the following conditions: (i) To enter into a bond with or without sureties; (ii) to report to the court within a period not exceeding three months based on the results of his medical reports; (iii) Not to commit another offence related to drugs

Trafficking - There has been very little research into the extent of human trafficking and related abuses (including pornography and prostitution) in Tanzania. The information available suggest that Tanzania is a source and - possibly - a transit country for children trafficked for forced labour and sexual exploitation to South Africa Europe and the Middle East.⁶¹ Children are also being internally trafficked from rural to urban areas. The International Organisation for Migration (IOM) is currently carrying out further research. The Government also intends to commission a study on human trafficking in the URT so as to discern the magnitude of the problem and take appropriate action or interventions.

Most of the provisions spelt out in the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (ratified in April 2003) have already been incorporated in the legislation of Tanzania Mainland and Zanzibar. Under the laws of Tanzania, trafficking of all persons, including women and children, is criminalized, as is child prostitution and pornography. However, current provisions lack precise definitions and do not cover all the elements and forms of trafficking, prostitution and pornography detailed either in this or other international Protocols.⁶² In addition, legal redress is lacking, for despite being a criminal offence since 1998, to date no case of trafficking that has been brought to the Courts. The mainland of Tanzania has, however, drafted a new comprehensive Anti-Trafficking of Persons Bill to be tabled before the National Assembly by the end of 2006. Trafficking is punishable by up to thirty years of imprisonment.⁶³

Abduction - Under the Penal Code and Penal Act of the Mainland and Zanzibar

⁶¹ UNICEF, *Insight on Trafficking in Human Beings Especially Women and Children in Africa*, 2003. The US State Department, *2006 Trafficking in Persons*.

⁶² For example, the UN Convention Against Transnational Organized Crime supplementary Protocol to Prevent and Suppress and Punish Trafficking in Person Especially Women and Children.

⁶³ This is applied if any person engages in the acts of buying, selling or bartering of any person for money or for any other consideration promotes, facilitates or induces the buying or selling or bartering or the placement in adoption of any person for money or for any other consideration.

charges can be filed against any person who unlawfully marry (or cause her to be married) or to have sexual intercourse (or cause her to have sexual intercourse with another person) and detains her against her will. A person who takes an unmarried girl under sixteen against her will out of the protection of her parents or a guardian may also be accused of abduction

Protection against Harmful Social and Cultural Practices

Article 21

There are a number of harmful traditional practices still prevailing in Tanzania. These include arranged, early and forced marriages; the paying of a 'bride price', female genital cutting, and cultural initiations such as *Ngoma Ndogo* and *Jando na Unyago* which encourage early sexual activity.⁶⁴

The Government has attempted to promote positive cultural values and tradition through appropriate policy and legislation. NGOs have also contributed significantly in this area through research, awareness campaigns and lobbying to sensitize not only the general public but also policy makers on harmful traditional practices.

One of MKUKUTA's strategies is to identify, review and advocate against cultural practices and laws for example, those which deny women and young people access to productive and financial assets including inheritance and personal property.

FGM/C - In 1998 the Government criminalized FGM/C for girls under eighteen years of age. Despite this, the practice continues and is widespread in some areas. According to the Tanzanian Demographic and Health Survey (2004/05), female genital mutilation and cutting dropped only slightly between 1999 and 2004/5, from 18 to 15 per cent with the

⁶⁴ The latter are ceremonies attended by young boys and girls (aged between 8-12 years) which encourage sexual activities including group sex. Ceremonies such as these put children at risk of sexually transmitted infections and result in girls dropping out of school due to pregnancy or early marriage.

circumcised in northern and central Tanzania. FGM/C is from infancy onwards with 28 per cent of women circumcised by the age of one, though very few cases are reported or have been successfully prosecuted. The Ministry of Health and Social Welfare includes its Reproductive Health strategies a national plan of action for the prevention of female genital mutilation and other harmful traditional practices (2001-2015). Other measures include collaborating with NGOs and FBOs to raise community awareness of the harmful affects of FGM. Opposition to female circumcision is positively related to level of education and wealth quintile and is generally high.⁶⁵

In 2001 the Government launched the Tanzania Chapter of the East Africa Network on the Elimination of Female Genital Mutilation which aims to facilitate the sharing of information, materials and experiences among members on the elimination of FGM in their respective areas. The Government, NGOs and private practitioners are involved in community mobilization, advocacy and training of service providers on how to manage circumcised women during pregnancy, labour and postpartum period. They are also involved in community awareness programmes and behaviour changes.

Minimum age of marriage - Customs and practices that are discriminatory have been identified though various commissions and pieces of research⁶⁶. Legislation enacted includes the Law of Marriage Act of 1971 currently under review which attempted to unify and harmonize different laws relating to marriage. Several changes have taken place in the last decade including the adoption of international human rights instruments which have necessitated the need for review and amendment of this law. One of the

⁶⁵ The TDHS 2004/5 looked into attitudes towards female circumcision. The view that female circumcision should be discontinued is almost universal in Zanzibar (98 percent) and very high in the Mainland (90 percent). The view that it should continue is highest (10 per cent) in the Northern Zone, and in Manyara and Arusha regions (17 and 15 per cent respectively).

⁶⁶ For example, the Nyalali Report of February 1992 detailed 40 oppressive laws in Tanzania and the Law Reform Commission Reports on the Laws of Marriage, succession/inheritance and laws relating to children submitted to the Government in 1994 and 1995. Research/ studies conducted by NGOs such as TAWLA, WLAC, LHRC, NOLA, TAMWA, and Envirocare etc. have also identified customs and practices that are discriminatory. Discriminatory laws identified by NGOs include the Local Customary Law (Declaration) Order 1963, the Townships (Removal of Undesirable Persons) Act. WLAC has filed a case in the High Court to declare the Local Customary Law (Declaration) Order 1963 as unconstitutional.

at eighteen years as the minimum age for marriage for women can get married at 15).

Despite the law above, it is not an offence for a person of African or Asiatic descent it is not an offence to marry or permit the marriage of a girl under twelve years if it takes place according to the customs of the tribe and it is not intended that the marriage is consummated before the girl attains the age of twelve. In Zanzibar there two laws governing marriages and their registration. In the first the Cap 91 Marriage and Divorce (Muslim) Registration Decree) there is no minimum age for marriage provided. In the second the Cap 92 Marriage (Solemnisation and Registration) Decree the minimum age is twenty one years for both parties.

Law of inheritance and succession - Over the years, the Government has been urged by NGOs and scholars to repeal the law relating to inheritance and succession⁶⁷ which upholds universal patrilineal principles of inheritance through male descendants. The law denies women and girl children their inheritance. Currently the Women's Legal Aid Centre (WLAC) has instituted a petition (No. 82 of 2005) to the High Court of Tanzania challenging the constitutionality of the law.

Bride price - Bride price is not a prerequisite for a valid marriage in Tanzania. However, for some families, this practice is a means of economic gain and results in forcing daughters into early marriages. There are no studies on the extent of this practice in relation to early or child marriages in Tanzania.

Children who need special protection

Article 26

Children living in the streets - Children living in the streets require special protection. They are among the most vulnerable children, as discussed in Article 20.2 of this report. While limited research has been conducted to discern the magnitude of the problem,

⁶⁷ Local Customary Law (Declaration) Order 1963 the Second Schedule G.N. No. 436

The number of children living on the streets is increasing. Orphaned and abandoned children and children born into broken families form the bulk of children living and begging on the streets. Other factors such as violence in the home, poverty, disintegration of family values and alcoholism contribute to this phenomenon. The Department of Social Welfare is responsible for looking into the welfare of children living in the street. MKUKUTA strives to provide adequate social protection and rights to vulnerable and needy groups.

Tanzania has and continues to rely on institutional care for street children and orphans although there is now a policy shift from the Social Welfare Department towards informal foster care, with residential care centres considered a last resort. Informal foster care is not new in the traditional/customary set up and has already been discussed with regards to orphans. Some argue that the extended family is still intact and that what is needed is support from the Government in terms of adoption of a national social protection strategy

NGOs have been taking the lead in advocating and lobbying for children living in the street including providing them with drop-in centres.⁶⁸ NGOs and other legal organizations have expressed their concern over the treatment of children living in the streets through the application of the Township (Removal of Undesirable Persons) Act. This law is viewed as discriminatory and oppressive as it is used to round up and arrest street children for loitering and vagrancy. It is their concern that children are not in the streets by choice but rather due to difficult circumstance in their homes that have forced them to migrate and live in towns.

10. Responsibilities of the Child

Article 31

The 1996 Child Development Policy states that children have the responsibility to

⁶⁸ These NGOs include the Dogodogo Centre, Kwetu Counselling, and Children in the Sun, and Mkombozi centre for street children, Amani Children Home and Action for Children.

, community as well as the nation.

This policy complements the customary/traditional practices that are responsible for the shaping and upbringing of a child. A child is expected to grow up and behave in accordance with certain recognized traditional values that are geared towards the cohesion of the family, clan and community. Respect of parents, superiors and elders, and assisting those in need, are two of the core traditional African values. These values, however, are gradually disappearing as families are dividing into smaller unit with less involvement of the extended family members.

One of the main aim as defined in the Education and Training Policy of 1995 is to enable every child to understand the fundamentals of the National Constitution including the enshrined human and civic rights, and the obligations and responsibilities of every citizen. The same policy states that secondary education should enhance further the appreciation of national unity, identity and ethics, personal integrity, respect for and readiness to work, human rights, cultural and moral values, customs, traditions and civic responsibilities and obligations.

Tanzania has yet to legislate specifically on issues related to the responsibilities of the child towards his family and society, the State and other legally recognised communities and the international community. The challenge is how to balance children's rights with their concomitant responsibilities on a range of levels, all but one of which (the family) are at some distance from the child's direct experience.

In most instances, there is little likelihood of children's responsibilities as defined by the Charter being enshrined in legislation, either civil or criminal. Despite this, children's criminal responsibility at the age of 10 (mainland) and 12 (Zanzibar) under the Penal legislation is defined, as already discussed in this report.

For purposes of developing other policies and enacting legislation that recognise the responsibilities of the child, Tanzania must decide on which family, civic and community



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1. Sources of Information

A. CONSULTATIONS:

In order to obtain the information contained in this report, there was wide consultation with individuals and a range of public and private sector institutions/organisations. The following Government departments and non-Governmental organisations were consulted:

Government Departments and Statutory Bodies

Ministry of labour, Youth, Employment, Women and Children Development Zanzibar, Ministry of Health and Social Welfare; Ministry of Education and Vocational training, Ministry of Labour, Employment and Youth Development, Ministry of Justice and Constitutional Affairs, Prison Department, Refugees Department, Administrator Generals Office, Ministry of Public Safety and Security, the Judiciary, Ministry of Defence and National Service, Ministry of Foreign and International Cooperation, The Law Reform Commission, the Human Rights and Good Governance Commission, Tanzania Food and Nutrition Centre, Tanzania Commission for Aids (TACAIDS), Inter-ministerial Anti-Drugs Commission

Non-Governmental Organisations

Legal and Human Rights Centre (LHRC), National Organisation for Legal Assistance (NOLA), Tanzania Women Lawyers Association(TAWLA), Tanzania Media Women Association (TAMWA), Amani ECD, Kuleana, Haki Elimu, UMATI, Marie Stopes, Red Cross of Tanzania, African Network for the Prevention and Protection of Child Abuse and Neglect (ANPPCAN), Tanzania Early Childhood Development Network, Africare, National Network of Organizations Working with Children (NNOC), Plan Tanzania, Save the Children (UK), KIWOHEDE

UNICEF, ILO, UNHCR, UNESCO, WHO, IOM and UNFPA

B. DOCUMENTARY REFERENCES

The URT country second periodic report on the implementation of the UN Convention on the Rights of the Child (CRC) submitted to UN CRC Committee August 2004.

The URT Initial report on the implementation of the UN Convention on the Rights of the Child (CRC) submitted in 1998.

GENERAL BACKGROUND

Government:

- The National Population of Housing Census 2002
- Tanzania National Projections Volume VIII 2006
- Poverty and Human Development Reports 2001, 2002, 2005
- Household Budget Survey (HBS)
- <http://www.tanzania.go.tz>

ARTICLE 1 (GENERAL MEASURES OF IMPLEMENTATION)

Government:

- The National Strategy for Growth and Reduction of Poverty 2005-2010
- Master Plan of Operationsö Country Programme öfor 2002-2006 by the URT and UNICEF
- Child Development Policy 1996-Mainland
- Child Survival Protection and Development Policy of Zanzibar
- 2005 Report on Training in Administration of Juvenile Justice to Court Staff,

NGOs:

- Katapa, Rosalia 1994. ÷Arranged Marriagesö, Mary Ntukula 1994 ÷The initiation rite in Zubeida Tumbo-Masabo & Rita Liljestrom(eds) *Chelewa, Chelewa , The Dilemma of Teenage Girls.*

ARTICLE 2 (DEFINITION)

Government:

- The 1994 Law Reform Commission Report on the Law relating to Children
- 2001 Technical Working Group Report- reviewing the LRC report on the law relating to children and findings of the Ministry of Justice experts
- The Child Survival Protection and Development Policy of Zanzibar

NGO:

- Tanzania Women Lawyers Association position submitted to the Ministry of Justice on the 1994 and 1995 LRC Reports

ARTICLES 3-5, 7 AND 12 (GENERAL PRINCIPLES)

Government:

- Tanzania Demographic and Household Survey (TDHS) 2004-2005
- TDHS 1999& 2003-2004
- Data from the Ministry of Health and Social Welfare 2005 óZanzibar
- 1999 Tanzania Reproductive and Child Health Survey (TRCHS)
- National Aids Control Programme Report 2004 and 2006
- Tanzania HIV/AIDS Indicator Survey 2003-2004
- Law Reform Commission of Tanzania, Report on the law of tract size succession/inheritance 1995

- Our MKUKUTA Village 2006, booklet by the Save the Children and Policy Forum Initiatives
- The Constitution of the Junior Council of Tanzania

Court Decisions:

- Ramesh Rajput v. Mrs Sunanda Rajput 1988 TLR 96 (CA)
- Mario Tumbo v. Harold Tumbo 1983 TLR 29 (HC)

ARTICLES 6-10 AND 16&27 (CIVIL RIGHTS AND FREEDOMS)

Government:

- 1992 Nyalali Commission Report on Mono-Party or Multi-Party Democracy- Identifying 40 Oppressive Laws
- 1996 Law Reform Commission Report on Designated Legislation in the Nyalali Commission Report

NGOs:

- 2004 Tanzania Women Lawyers Report Association report on Review of Gender Discriminative Laws in Tanzania
- Tanzania Human Rights Report 2004 by Legal and Human Rights Centre
- 1996/1997 Kuleana study on corporal punishment in six regions

Academicians:

- Children Rights in Tanzania by Robert V. Makaramba

Government:

- 1994 Law Reform Commission Report on the Law of Marriage Act
- 2003/2004 Study on Anti Female Genital Mutilation
- 2003 Ministry of Community Development Gender and Children National Plan of Action
- 1996 Child Policy
- 1996 Community Development Policy
- 2003/2004 Foster Care and Adoption Guidelines

ARTICLES 14 & 20.2(A-C) 26 HEALTH AND HEALTH SERVICES, SOCIAL SECURITY AND CHILD CARE SERVICES AND ORPHANS

Government:

- Tanzania Reproductive and Child Health Survey of 1999
- Reproductive and Child Health Strategy 2005-2010 óMinistry of Health
- National Adolescent Health and Development Strategy 2004-2008
- An Overview of the Tanzania Reproductive and Child Health Communication Strategy 2001-2005
- Law Reform Commission of Tanzania, Report on the law of succession/inheritance 1995
- Tanzania Demographic and Health Survey 2004-05

UN Agencies:

- Vulnerable Children in Tanzania and where there are 2006- Report to UNICEF Tanzania by REPOA-Dar-es-Salaam
- HIV/AIDS and Child labour in the URT. A Rapid Assessment no.3 IPEC-ILO

Academician:

- Kanywani, J.L., 1997: Informal social security practice and their underlying

and new, a paper presented at a panel discussion on
al Social Welfare Training Institute (Dar-es-Salaam)

- Mhoja, M.E.M., 2006 Child Widows Silenced and Unheard: Human Right Sufferers in Tanzania

NGOs:

- Poor People's Experiences of Health Services in Tanzania-A Literature Review Women's Dignity Project 2004 by Masuma Mamdani & Maggie Bangser
- The Adolescent Reproductive Right Advocacy (ARRA) Project: Lessons Learnt by UMATI
- Innovative Approaches to Maternity and Child Health (MCH) Services in HIV/AIDS Climate in Tanzania 2001- 2005 UMATI
- Magdalena Rwebangira Maintenance and Care in Law and Practice
- Magdalena Rwebangira 1994 "What has the law got to do with it" in *Zubeida Tumbo-Masabo & Rita Liljestrom(eds) Chelewa, Chelewa , The Dilemma of Teenage Girls.*

ARTICLES 11 AND 12 EDUCATION, LEISURE AND CULTURAL ACTIVITIES

Government:

- Basic Education Statistics in Tanzania (BEST) 1995-2005 National Data Ministry of Education and culture Dar-es- Salaam June 2005
- URT (2004b) Joint Review of the PEDP, MOEC and PO-RALG October 2004
- PEDP Implementation Stocktaking Report of May 2002;
- PEDP National Monitoring Report (PO-RALG) of 2002;
- Joint Review of PEDP of 2003;
- PEDP National Monitoring Report (PO-RALG) of 2004;
- Joint Review of PEDP of 2004; and
- Public Expenditure Tracking Study (PETS) of 2004

Implementation: Key Findings from Government Reviews

- July 2005 óHakielimu
- Mkombozi Centre- Position Paper- Demonstrating the potential of MEMKWA to respond to the learning needs of street children
 - Grace Khwaya Puja and Tuli Kassimoto 1994 Girls in education and pregnancy at school in *Zubeida Tumbo-Masabo & Rita Liljestrom(eds) Chelewa, Chelewa , The Dilemma of Teenage Girls.*

ARTICLE 17 ADMINISTRATION OF JUVENILE JUSTICE

Government:

- Quick Start Project/Legal Sector Reform Programme; Medium Term Strategy and Action Plan 2002-2005
- September 2004 Consultancy Report on Training in Administration of Juvenile Justice to Court Staff, Police, Prison and Probation officers
- Law Reform Commission of Tanzania Report on the law relating to children 1996
- 2005/2006 Budget Speech of the Ministry of Labour, Youth Development and Sports

Academicians:

- Children Rights in Tanzania By Robert V. Makaramba

NGOs:

- The State of Juvenile Justice in Tanzania- Legal and Human Rights Centre, 2003
- Using the Law to Protect Children's Rights in Tanzania: An Unfinished Business by NOLA

UN Agencies:

- The end of child labour: Within reach. 2006 Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights to Work
- HIV/AIDS and child labour in the United Republic of Tanzania: A rapid assessment Paper no.3-IPEC
- Tanzania Children in Prostitution: A Rapid Assessment Paper no. 12- IPEC

ARTICLE 28 DRUG ABUSE

Government:

- 2000 Report -Reproductive and Child Health Section

ARTICLE 31 RESPONSIBILITY OF THE CHILD

Government:

- Education and training policy-1995

PRINCIPAL LEGISLATION AND REGULATIONS/ORDERS

- The Constitution of the United Republic of Tanzania of 1977 as amended
- The Constitution of Zanzibar of 1984
- The Political Parties Act Cap. 258
- The Interpretation of Laws Act Cap.1
- Interpretation of Laws and General Provisions Act No. 7 of 1984-Zanzibar
- The Age of Majority Act Cap 43
- Age of Majority Decree Chapter 53 -Zanzibar
- The Law of Marriage Act Cap 29
- Marriage (Solemnisation and Registration) Chapter 92-Zanzibar
- Marriage and Divorce (Muslim) Registration Chapter 91-Zanzibar
- The Evidence Act Cap 6

Zanzibar

Cap 90

- The Children and Young Persons Act Cap 13
- Children and Young Persons Decree Chapter 58-Zanzibar
- Employment of Children, Young Persons and Adolescents (Restriction) Decree Chapter 56-Zanzibar
- Employment and Labour Relations Act No. 6 of 2004
- The Employment Act No. 11 of 2005-Zanzibar
- Adoption of Children Act Cap 335
- Adoption of Children Decree Chapter 55-Zanzibar
- Primary School (Compulsory Enrolment and Attendance) Rule
- The Criminal Procedure Act Cap 20
- Criminal Procedure Act Chapter 14 as Amended by Act No. 7 of 2004 -Zanzibar
- The Penal Code Act Cap 16 as amended
- Penal Act No. 6 of 2004-Zanzibar
- The Defence Forces Regulations and Orders for the Defence Forces GN 52 of 1968 as amended
- The Sexual Offences (Special Provisions) Act Cap 101
- The Sexual Offences Special Provision Act No. 7 of 1998-Zanzibar
- Education Act No. 6 of 1982-Zanzibar
- Local Customary Law (Declaration) Order 1963
- The Affiliation Act Cap 278
- The Corporal Punishment Act Cap 17
- The Education (Corporal Punishment) Regulations GN. 294 of 2002
- The Tanzania Citizenship Act Cap 357
- The Births and Deaths Registration Act Cap 108
- Births and Deaths Registration Decree Chapter 90-Zanzibar
- The Spinster and Single Parent Children Protection Act No. 4 of 2005
- The Education (Expulsion and Exclusion of Pupils from Schools) Regulations GN 295 of 2002

- The Day Care Centres Act Cap 180
- The Disabled Persons (Care and Maintenance) Cap 183
- The National Security Fund Act Cap 50
- The Parastatal Pension Fund Act Cap 51
- The National Health Insurance Act Cap 395
- The Local Authorities Provident Fund Act Cap 407
- The Prisons Act Cap 58
- The Commission for Human Rights and Good Governance Cap 391
- The Public Recreation Grounds Act Cap 320
- The Refugees Act Cap 37
- The Drugs and Prevention of Illicit Traffic in Drugs Act Cap 95
- The Community Service Act Cap 291

CHILDREN'S VIEWS ON THE IMPLEMENTATION OF THE AFRICA CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD

INTRODUCTION

In order to ensure the inclusion of children's views on their rights and welfare in this report, the Government convened a three-day Child Forum in Morogoro. A total of 34 children in the age range of 10-17 years participated in the Forum, with equal gender representation. Children were drawn from eight districts and were from diverse socio-economic backgrounds, including the most vulnerable children. The objectives of the Child Forum were to raise children's awareness of the rights, duties and obligations contained in the African Charter on the Rights and Welfare of the Child and to obtain their views on what measures and efforts have been and should be taken by the state in implementing the Charter. The majority of the children who participated in the Forum had sufficient knowledge of the concept of the rights of the child. They were also aware that it is the state that has the obligation to take measures to promote and protect the rights and welfare of the child.

1. CULTURAL VALUES AND TRADITIONS

The Child Forum identified both positive cultural values and traditions and those that were considered inconsistent with children's rights. It was the majority view that positive customs and tradition promote moral well-being. Values and traditions also play a significant role in controlling modern youth culture, dress code, appearance and negative behaviour minimizing incidences of sexual abuse or exploitation and delinquency. Positive cultural values have also an impact on proper upbringing of children such as respect of parents and other members of the community.

at are considered inconsistent with children rights

identified are:

- Female genital mutilation which is harmful to women, particularly during child delivery.
- Traditional dances during initiation ceremonies that encourage girls and boys to early sexual encounters.
- Early and forced marriages.
- Eating taboos that discourage pregnant women from eating nutritional food.
- Customs that discourage education to children.
- Child abuse and in particular harsh corporal punishment.

Recommendations:

- To prohibit and punish these practices
- Wide dissemination to all members of the community of the harmful effects of these social and traditional practices.

2. MEASURES TAKEN BY THE GOVERNMENT TO IMPROVE CHILD WELFARE AT NATIONAL TO THE VILLAGE LEVEL.

The Child Forum identified the following as measures taken by the Government.

- Tanzania has ratified the United Nations Convention on the Rights of the Child and its two optional protocols
- Tanzania has ratified the Africa Charter of the Rights and Welfare of the Child
- The establishment of homes for the most vulnerable children
- Abolition of school fees for primary education
- The increase of primary and secondary schools in the country
- The provision for free primary health care for pregnant women and children under the age of five years
- Prohibiting female genital mutilation

as to reduce the burden of children fetching water
tion in various issues that have bearing on their rights
and welfare.

3. DISSEMINATION OF THE CHARTER

In addition to implementing this convention, it is also the duty of the Government to make the principles of the Charter widely known to the public at large and children in particular. Very few children had any knowledge of the Charter. The few who had some knowledge of the Charter's principles and provisions said it was taught as part of civic education, others during Day of the African Child and in seminars conducted in children centres and Junior Councils.

Recommendations:

- Introduce the Charter as a subject at schools by introducing a child rights textbook
- Conduct seminars on the rights of the child to children and the community at large
- Conduct training of trainers among children

4. DEFINITION OF THE CHILD

It was the Forum consensus that a child is a person under the age of eighteen years. The forum noted that there are numerous inconsistencies in the way a child or young person is defined. It was their view that the age ten years for criminal responsibility was very low. The age limits for treatment of children or young offenders are inconsistent and need to be harmonized. The minimum age of marriage of 15 years for female was also considered to be too low. It was recommended that the appropriate age for marriage should be set to 18 years. Girls under 18 years considered immature mentally and physically for marital relationship and responsibilities.

Forum consensus was that that all children have equal rights without discrimination based on ethnicity, colour, sex, language, religion, politics or any other status. They however identified stereotyping and discrimination within their communities based on gender. The girl child has less educational opportunities due to early and forced marriages. She is given more chores at home than boys and therefore less leisure or time to play. The Forum was also of the view that handicapped children in their communities were discriminated against and stigmatized.

Right to life, survival and development. Majority of the children were of the view that children have a right to life, which the family, communities and the Government should ensure for their survival, protection and well-being against all harmful acts and situations. They identified the following as harmful to children life, survival and development:

- Poor and inaccessible health services
- Pregnant mothers delivering at home without any aid from professional birth attendant
- Harmful child labour e.g. sex workers, working in mines and house-workers
- Child abuse (by parents and others)
- Poverty (lack of adequate shelter or poor hygiene)
- Mother to child transmission of HIV & AIDS
- Separation of parents endanger children's lives
- Environmental pollution e.g. poor drainage
- Lack of water and poor sanitation
- Drug abuse
- Child labour (working in mines and heavy work load at home)

Respecting the views of the child and promotion of their participation

The Forum was aware that it is the duty of the Government and the community to ensure children views are respected and they participate on issues affecting children them. There was consensus that children are now involved in some decisions affecting them in various levels.

1. They participated in the development of the National Strategy for Growth and Reduction of Poverty commonly known by its Kiswahili acronym MKUKUTA.
2. In preparation of the Outcome Document: A World Fit for Children and Africa Fit for Children
3. Participated in the United Nations General Assembly Special Sessions for Children (UNGASS) on children in May 2002
4. In preparation of a book on participatory approach/involving children in decision making.
5. In a forum for children on Child Rights and Duties
6. In a forum to formulate 2006 Children's Motto
7. Developed a simplified child friendly booklet referred to as "Our MKUKUTA village" on the National Strategy for Growth and Reduction of Poverty in both English and Kiswahili.

At regional level children participate in the Junior Council, the Day of the African Child, in the preparation of The Voice of the Child ó 2005 general elections, and other children's forums.

At district level they participate in HIV&AIDS seminars and World Day, self-reliance seminar for children and youths and seminar with Most Vulnerable Children.

Ward and village levels

At this level children have participated in children's days on entrepreneurship, children involvement in prostitution, the plight of orphans and other vulnerable children. Children also participate in children's clubs. Few said that they participate in family decisions.

conduct seminars for the public on children's rights at all

- levels
- Children as key stakeholders should be involved in all issues that affect them
 - The Junior Councils should be established from the village to the national level.

8. CIVIL RIGHTS AND FREEDOMS

Name and Nationality

Some older children were of the view that birth registration is a crucial right. It determines when a citizen has attained the age of his right to vote. Those birth certificates are reliable evidence of nationality and age.

Freedom of Thought, Conscience and Religion

Children in the Forum noted that they have no choice in matters of thought, conscience and religion. Children follow the religion of their parents or guardians and are guided by them in related matters.

Freedom of Association

Children under the age of 18 years are members of the Junior Council of the United Republic of Tanzania. The forum agreed that they are now less restrictions to the right of freedom of association.

Protection of Privacy

It was the Forum view that their privacy is constantly intruded upon by parents/guardians. Girls are not allowed to interact with boys even for academic matters such school discussion groups. Adults express and exhibit unreasonable mistrust to children.

CHILD ABUSE AND TORTURE

The majority of children, who participated in the forum, were of the view that protection against child abuse and torture is inadequate. Parents or guardians are considered the main offenders. They agreed that parents have the paramount duty and responsibility to protect them from abuse and torture. However, it was children view that parents and guardians administer severe punishment to children than teachers. Punishment by parents varied from offensive verbal abuse, punished from eating food, burning hands with fire for stealing and being chased away from home. At school the teachers do not adhere to the legally provided corporal punishment which is capping for serious breach or grave offences only. Pupils are regularly caned for minor offences such as being late for school. Some of the punishments mentioned are, digging, kneeling on concrete stones, walking on knees, doing push-ups in the sun and carrying several buckets of sand. It was recommended by the forum that teachers should adhere to the laid down corporal punishment regulations. They also emphasized that punishment should be proportionate to breach or offence committed.

10. EDUCATION

Most children are aware of the Government policy of compulsory and free primary school education. Despite the increasing number of schools in the country, the child forum expressed the following shortcomings:

- Schools are far away from children's homes
- Inadequate teaching material
- Under-qualified teachers
- School monetary contributions are still a major obstacle

Recreation, leisure and cultural activities

In school, children generally participate in various recreation and cultural activities and are allowed leisure time at school. However, the children complained of lack of or poor conditions of the playgrounds. They also lack sports facilities and equipment. In some

le allocated for sports or recreation. At home children
se chores with very little time to play or rest.

Recommendations:

- Government should ensure that playing grounds are set aside from the sub-village.
- To encourage and ensure proper nutrition to children
- Parents should trust their children and allow them time to play and engage in recreational activities with other children
- Create sport clubs for competition from village to national level
- Sports should be a compulsory activity at school

11. SPECIAL PROTECTION MEASURES

Children in situations of exploitation and abuse

The Child Forum was of the view that children in situations of economic exploitation are mainly due to economic hardship, death of parents or abusive and violent parents or guardians. They recommend that, the Government to continue sensitizing and educating the communities on negative effects of economic exploitation and other forms of child abuse. The Government should prohibit and impose severe punishment to those commit these acts. The forum emphasized punishment to drug traffickers and those who sell drugs to children.

Children in conflict with the law

As discussed above, children in conflict with the law are a special category that requires special treatment by the criminal justice system. The Child Forum recommended that the age at which offenders have the right to special treatment by the criminal justice system should be increased from 15 to 18 years. Child offenders who appear in court should be treated differently from adult offenders. They should not stand in the accused dock and the punishment imposed should be lenient. The Forum also recommended special courts for children, with specialized magistrates. The cases should be conducted in camera, and Government to provide free legal aid for all offenders under the age of 18 years.

orphans

These are children who need special protection on account of being in risky or vulnerable conditions and situations. The majority of the children in the forum agreed that in their communities they have children living in the streets and orphans. The contributing factor for their conditions is mainly due to;

- poverty of parents or parents separation
- child neglect and abandonment by parents
- alcoholic parents
- parents who died of HIV/AIDS
- child abuse/parents' violence

Early and forced marriage

It is the forum view that a girl under the age of 18 years is physically immature for marital responsibility and they suffer from pregnancy and delivery complications. They are prevented from educational opportunities. The minimum age of 15 years for females to marry regardless of parents consent is very low.

Recommendations:

- To strengthen the family unit by encouraging and assisting poor families to engage in income generating activities
- To punish abusive parents and those who abandon their children
- Parents consent should be abolished and to enact a law that punishes parents who force their daughters into early marriage
- Minimum age for marriage to be set at 18 years

12. RESPONSIBILITIES OF THE CHILD

Lastly, the forum enumerated the following as the children's duty within their respective communities and the society in general:

- Helping in house chores
- To study hard at school

members in their communities

- To participate in community development activities
- To have self respect and to make wise decisions
- To cooperate with and not to oppress others

Annex 3: Situation Analysis

Population - Based on the 2002 Population and Housing Census, Tanzania had a total population of 37,267,530 people in 2005 of whom just over one million live on Zanzibar. Around 77 per cent of the population lives in rural areas and 23 per cent live in urban areas. The table below shows the population projection for children in Tanzania

Table No. 12: Population by age and sex for the group (0-18) in Tanzania

Age	2003			2004			2005		
	Males	Females	Total	Males	Females	Total	Males	Females	Total
0-4	2,765,536	2,730,562	5,496,098	3,062,959	3,020,130	6,083,089	3,389,911	3,337,551	6,727,462
5-9	2,567,713	2,539,776	5,107,489	2,456,377	2,434,365	4,890,742	2,321,974	2,305,557	4,627,531
10-14	2,262,713	2,236,452	4,499,165	2,368,950	2,339,143	4,708,093	2,475,397	2,444,180	4,919,577
15-18	1,161,679	1,170,011	2,331,690	1,198,946	1,199,802	2,398,748	1,238,728	1,232,967	2,471,695
Total	8,757,641	8,676,801	17,434,442	9,087,232	8,993,440	18,080,672	9,426,010	9,320,255	18,746,265

Source: Population projections based on 2002 National Population and Housing Census

Official Languages

The official language of Tanzania is Kiswahili which is widely spoken throughout the Union. However, ethnic languages are spoken by the 120 different tribes. Kiswahili is the language of primary schools, while English is used in Secondary schools and all other institutions of higher learning.

Constitutional Background

The United Republic of Tanzania was formed in April 26 1964 when Tanganyika united

the United Republic of Tanzania is a unitary republic
nt and the Zanzibar Revolutionary Government. The

United Republic of Tanzania is a democratic and socialist state which adheres to a multi
ó party democracy. The Constitution of the United Republic of Tanzania of 1977 is one
of the listed Union Matters under its Article 4 (3) First Schedule. Applicable for Tanzania
Zanzibar for non union matters is the Constitution of Zanzibar of 1984.

The Executive

The Government of the United Republic has authority over all Union Matters in the
United Republic and over all other matters concerning Mainland Tanzania. The
Revolutionary Government of Zanzibar has authority over all non-union matters
concerning Zanzibar. Only Members of Parliament may be appointed as Ministers in
Mainland and Zanzibar. Ministers sit in Cabinet which is the governing body of the
Union Government and Zanzibar. All executive functions of the two Governments are
discharged by officers of the two Governments on behalf of the President Cabinet acts as
final decision maker on all important matters of policy decides the contents of
Government Bills to be introduced to Parliament and makes decision on Government
spending. The Executive also makes regulations and controls the state services.

Parliament

The Parliament of the United Republic of Tanzania (URT) consists of two parts: The
President and National Assembly. The Legislative power in relation to all Union Matters
and also in relation to all other matters concerning Mainland Tanzania is vested in
Parliament. Whereas The Legislative power in Tanzania Zanzibar over matters which are
not Union Matters are vested in the House of Representatives. A law enacted by
Parliament shall not apply to Zanzibar unless it is expressly stated that it shall apply to
Mainland Tanzania as well as Tanzania Zanzibar and followed by ratification by the
House of Representatives or a law relating to Union Matters.

on of Zanzibar concerns all matters pertaining to
Union matters. The Constitution of the United Republic
of Tanzania of 1977 shall have the force of law in the whole of the United Republic.

Judiciary

Judiciary is the third branch of the Government. The organs vested with judicial powers are the Judiciary of the United Republic and the Judiciary of Tanzania Zanzibar. The judiciary interprets Acts passed by Parliament and the House of Representative and also reviews actions of the executive to ensure that there are acting within the law. However the Court Appeal of Tanzania which is the final appellate court and the Special Constitutional Court which interprets the Constitution of the URT of 1977 are Union Matters.

The Basic Rights and Duties were entrenched in the Constitution of the United Republic of Tanzania in 1984 and it applies to actions of the legislative, executive and judicial branches of Government and to activities of the public service. Similar basic rights referred in the Constitution of Zanzibar as basic fundamental rights and personal freedoms are also incorporated in Constitution of Zanzibar of 1984

Political Parties

The multi-party democracy was introduced in the URT in 1992 the Political Parties Act during the first multi-party elections in 1995. During this reporting period, the Chama cha Mapinduzi won overwhelmingly for the third term in December 2005 the presidential and parliamentary elections. Since the introduction of multi- party system the number of seats won by the opposition parties have been considerably small.

Administration

The United Republic of Tanzania is divided into 26 administrative regions, 21 in the Mainland Tanzania and 5 in Tanzania Zanzibar. The mainland is divided into 114 districts which are subdivided into divisions, wards and villages. Each of the 5 regions in Zanzibar has 2 districts with a total of 10 between the two main islands of Zanzibar

are subdivided into constituency, wards and shehias. Decentralized in 1972 to promote people's participation in development planning and to facilitate local decision making.

Public Service

This Government sector is responsible for implementing the policies of the two Governments. It comprises of several ministries, departments and other agencies and a number of statutory organizations. The public service obligations and functions are provided in the Public Service Act as well as other specific statutes from both the Tanzania Mainland and Tanzania Zanzibar. Children affairs not being among the listed union matters, the Ministry of Community Development Gender and Children (MCDGC) from Mainland and the Ministry of Youth Women and Children Development (MYWCD) from Zanzibar are responsible for implementing children policies of their respective Governments. This includes the relevant departments and agencies.

Commission for Human Rights and Good Governance

The Commission for Human Rights and Good Governance (CHRGG) is established by article 129 of the Constitution of the URT of 1977 as amended from time to time. It is however regulated by an Act of Parliament, and it is applicable in both Mainland Tanzania and Tanzania Zanzibar. The Revolutionary Government of Zanzibar has prepared a Bill to provide for extension of jurisdiction, powers and functions of the Commission for Human Rights and Good Governance by the House of Representatives of Zanzibar.

The functions of the Commission are provided in Section 6 the Commission of Human Rights and Good Governance Act. Some of the major functions of the Commission include;

- To promote within the country the protection and the preservation of human rights and of duties to the society in accordance with the Constitution and the laws of the land.

enquire into the complaints on violation of human and governance. The public is allowed and encouraged to submit their complaints without discrimination.

- To promote ratification of or accession to treaties or conventions on human rights, harmonization of national legislation and monitor and assess compliance within the United Republic, by the Government and other persons.

The Commission has the power to investigate any human rights abuse or mal-administration on its own initiative or on receipt of complaint or allegation under the Act. The Commission receives complaints through various sources:

- From general public, children inclusive.
- Through visit and inspections of prisons and other detention facilities.
- Through media whereby incidences of child rights violation are reported.

The Government of Tanzania funds most of the financial resources required by the Commission. In addition, several development partners have assisted in the establishment and of the Commission under the Legal Sector Reform Programme. The Commission has not yet established branch offices in region/zones, making the Commission inaccessible to all citizens. This is mainly attributed to shortage of human resources, although efforts are underway of recruiting new staff.

Social Economic Situation

The United Republic of Tanzania in past few years has attained a high economic growth with Gross Domestic Product (GDP) which has increased from the average of 4.0 percent between 1995-1999 to 5.8 percent between 2000-2004. In 2004 the growth rate was 6.7 percent which exceeded the targeted level of annual increase of 6 percent (Poverty and Human Development Report 2005). The economy is predominantly agriculture, mostly coming from production of food crops supplemented by livestock, forestry, hunting and fishing. Agriculture also dominates income generating activities as it is the source of livelihood for about 80 percent of Tanzanians.

economic growth, there has been no corresponding reduction in poverty. The average income per capita in US \$ grew by about 10 percent from 240.2 in 1997 to 264.1 in 2001. In 2002 income per capita was 268 US \$, 2003 was 276 US \$ and in 2004 was 303 US \$ (Bank of Tanzania 2006 Selected Economic and Financial Indicators). The Poverty and Human Development Reports of 2002 and 2003 assesses the trends of poverty in the 1990s based on the Household Budget Surveys (HBS) of 1991 and 2000/01. These surveys indicate that about 36 percent of Tanzanians were living below the poverty line in 2000/01; only 3 per cent less than the 39 percent estimated in 1991/92. The incidences of poverty in rural areas decrease was from 41 to 39 percent; in Dar-es-Salaam the decrease was from 28 to 18 percent. Other urban areas recorded a small decrease in poverty in 1990s from 20 to 26 percent of households. With this trend it is only in Dar-es-Salaam that the target to halve incidences of poverty by year 2010 is likely to be reached. Poverty levels are highest in rural areas followed by urban areas except Dar-es-Salaam as shown in the table below.

Table No. 13 Poverty head count ratios for food and basic needs 2000/01

	Food (%)	Basic Needs (%)
Dar es Salaam	7.5	17.6
Other Urban	13.2	25.8
Rural	20.4	38.7
Total	18.7	35.7

Source: Household Budget Survey 2000/01

The first Poverty Reduction Strategy (PRS) (2000/2001 ó 2002/2003) was prepared with focus on pro ó poor sector, which were education, health, agriculture, rural roads and water by allocating more funds to these priority sectors. The PRS also focused on children as a crosscutting concern, with capacity built for the Ministry of Community Development, Gender and Children to coordinate with other ministries on children rights and welfare. Despite the implementation of the strategy, income poverty has remained

ional Strategy for Growth and Reduction of Poverty
Kiswahili acronym MKUKUTA. NSGRP is based on three clusters: growth and reduction of income of poverty; improved quality of life and social well being; and food governance and accountability.

Table No. 14: Income poverty indicators, baseline and targets

INDICATOR	BASELINE		TREND				TARGETS	
	Estimate	Year	2001	2002	2003	2004	PRS 2003	MKUKUTA 2010
% of the population below the basic needs poverty line	36	2000-01					30	19
% of the population below the food poverty line	19	2000-01					15	10
GDP growth rate (%)	4.9	2000	5.7	6.2	5.7	6.7	6	6-8
Agricultural growth rate (%)	3.4	2000	5.5	5.0	4.0	6.0	5	10
Inflation rate (%)	5.9	2000	5.2	4.5	3.5	4.1	4	4
% of working age population not currently employed	13	2000-01						7

Source- Poverty Human Development Report, 2005

1 : Policies and Strategies

National Policy on HIV/AIDS of 2001 and in February, 2003 the National Multi-sectoral Strategic framework on HIV/AIDS was developed in order to coordinate HIV/AIDS pandemic for the period (2003-2007) implementing the National Policy on HIV/AIDS. The MCDGC adopted a Strategic Framework of Community Based Protection of Women and Children against HIV/AIDS and STIs (2000 ó 2007) which provides the guidelines for women and children protection against HIV/AIDS and STIs.

- The revised Health Policy of 2002 encourages health centres to be more responsive to HIV/AIDS, Antenatal and under five children's health services with no fee.
- The Health Sector Reform Programme aimed at decentralization by increasing access and use of preventive and clinical health services with emphasis on women, children and other vulnerable groups, and improvement of quality health services at district level.
- A National Refugee Policy was inaugurated in September, 2003. The Policy provides among other things good conditions for refugee children.
- A National Food Security Policy is being formulated to take care of vulnerable groups affected by food insecurity particularly children under five years of age.
- The Gender and Women Development Policy of 2000 accommodated gender concerns and promote responsibilities of both parents in the care and development of children.
- The National Water Policy of 1991 was revised in July 2002 to provide reforms in the water sector aiming at promoting community ownership of water schemes.
- National Strategy for elimination of Child Labour (2005) aims to protect children from worst forms of child labour.
- Tanzania strategy for Infant and Young Child Nutrition (2005) insisting the quality health and nutrition status for children.
- The Legal Sector Reform Programme: Medium Term Strategy and Action Plan 2002-2005 is implementing a component of strengthening juvenile justice in Tanzania.

Training Policy that aims at promoting access to basic education and to promote and ensure equitable distribution of educational institutions for girls and disadvantaged children so that there are given appropriate education and training.

- In 2003 National Plan of Action (NPA) by the MCDGC aiming at combating violence against women and children.
- The Costed National Plan of Action for the Most Vulnerable Children which provides a framework for care, support and protection of the most vulnerable children in Tanzania for a period of 5 years 2006-2010

The Government of Zanzibar has adopted or is in the process of adopting the following measures;

- It inaugurated a Policy for Child Survival, Protection and Development (CSPD) in October 2001. The policy provides a broad framework for the protection of Children's Rights including child participation in matters of concern to children.
- Adopted a Women Development Policy in 2001, which was drawn with particular emphasis on gender strategies. The Policy is linked with CSPD Policy.
- The Health Policy revised in 2005/2006 adopting the policy of cost sharing.
- It is in the process of developing other child related policies such as HIV/AIDS Policy, Youth Policy, Early Childhood and Policy for Vocational Training.
- Has formulated Zanzibar National Strategic Plan on HIV and AIDS for the period 2003-2007.
- It adopted a Water Policy in 2003 which encourages cost sharing so as to make the services sustainable and efficient to future generations.
- The Zanzibar Education Policy revised in 2004. Adopting compulsory pre-primary schools and reduced the schooling period for basic education and low secondary.

2 years -pre-primary

6 years - primary

2 years ó low secondary

2 years ó A Level

h Disability has been approved by the House of Representatives in Zanzibar in 2003.

- National guidelines on elimination of child labour which is community based developed and operational.
- A special Ministry for Union matters established by the Government of Zanzibar to eliminate disparities between various parts of the United Republic of Tanzania in particular between Mainland Tanzania and Tanzania Zanzibar

The main challenge for these policies and strategies is how to mainstream child rights and welfare issues within specific sectoral policies and strategies. Another challenge is strengthening the sector specific focus and coordinating capacities of the social ministries dealing directly with children.

Annex 5: Additional Tables.

Table No.15. Number of Children by Age Sex in Zanzibar

	2003		2004		2004		2005	
	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>
1yr to 8 yrs age	110	91	181	137	181	137	380	148
9 yr to 17 yrs age	311	213	333	258	333	258	518	318
TOTAL	421	304	514	395	514	395	898	466

Source: Ministry of Home Affairs 2005

abuse cases reported to MYWCD (2000-2005)

PROBLEM	2001		2002		2003		2004		2005		TOTAL	
	M	F	M	F	M	F	M	F	M	F	M	F
Rape	9	18	2	8	9	56	9	56	5	28	34	166
Drug abuse	1	0	3	1	8	2	8	2	-	-	20	5
Early Pregnancy	0	11	0	7	0	29	0	29	-	11	0	76
Abandoned Children	1	4	11	10	77	76	66	57	36	72	194	199
Physical attack	2	0	0	0	8	0	3	-	7	-	13	7
Family conflicts.	-	-	-	-	-	-	7	20	20	16	27	36
Total reported cases per year	50		42		266		262		195		815	

Source: MYEWCD, 2005.

Table No.17: Distribution of Children with disabilities

Type of handicap	Percentage (%)
Physically disabled/leprosy	39.3
Visually impaired	3.6
Dumb	7.1
Hearing/speech impaired	13.1
Albino	2.1
Mentally disabled	19.4
Multiple disabled	15.5

Source: NBS census, 2002

of children 12-23 months who are immunised

Type of vaccine	1999			2003/04		
	Urban	Rural	Total	Urban	Rural	Total
BCG	100.0	91.0	92.7	96.0	90.3	91.4
DPT-HB	89.9	78.9	81.0	94.3	84.0	85.9
Polio3	84.8	78.8	79.9	88.4	82.5	83.6
Measles	90.3	75.3	78.1	89.7	77.7	79.9
All	80.5	65.5	68.3	81.5	68.8	71.1

Source: TDHS 1999 & 2003/04

enrollment in Secondary Schools, 2003 - 2005

	2004			2005					
	Male	Female	Total	Male	Female	Total			
Form 1	51,638	48,106	99,744	74,475	73,015	147,490	91,680	88,559	180,239
Form 2	51,678	47,471	99,149	58,936	54,525	113,461	78,905	76,814	155,719
Form 3	35,458	27,833	63,291	44,570	35,216	79,786	45,089	33,162	78,251
Form 4	31,794	25,509	57,303	34,419	26,442	60,861	42,460	33,273	75,733
Form 5	9,196	5,014	14,210	11,109	6,091	17,200	11,746	7,147	18,893
Form 6	7,814	3,930	11,744	9,127	4,674	13,801	9,874	5,616	15,490
TOTAL	375,156	315,726	690,882	465,272	1,057,062	865,198	559,508	489,142	1,048,650

Source: Basic Education Statistics in Tanzania (BEST), June 2005

Table No 20: Secondary School net attendance ratio

Quintile	Male	Female	Total	Gender parity index
Lowest	0.5	0.3	0.4	0.53
Second	1.2	0.9	1.1	0.80
Middle	2.0	2.6	2.3	0.76
Fourth	5.9	7.6	6.7	0.98
Highest	25.1	20.9	22.7	0.79
Total	6.8	7.5	7.1	0.98

Source: 2004/05 TDHS

Teacher Ratio in Secondary Education

	2003	2004	2005
Pupil/Teacher Rates	1:21	1:23	1:22
Government	1:20	1:23	1:26
Non Government	1:22	1:23	1:16

Source: BEST June 2005

Table No.22: Tanzania - Budgetary allocations by Education levels 2003 -2005

Financial year	Total Education Sector (Tshs.)	Education Sector							
		Primary & Non Formal Education		Secondary Education		Teacher Education		Tertiary & Higher Education	
		Total (Tshs.)	% share	Total (Tshs.)	% share	Total (Tshs.)	Share %	Total (Tshs.)	Share %
2002/2003	396,780	289,618	73.1	29,876	75	6,646	1.7	70,540	17.8
2003/2004	487,729	361,425	74.1	32,469	6.7	7,700	1.6	86,140	17.7
2004/2005	504,745	322,196	63.8	92,045	18.2	6,189	1.2	84,315	16.7

Source: Public Expenditure Review (PER) 1998 -2005

Dropout in Primary School, 2003 – 2005

Reason for dropout	2003	2004	2005
Truancy	33,135	35,237	32,287
Pregnancy	2,227	2,550	2,590
Death	2,764	2,938	3,071
Others	3,428	5,086	3,331
TOTAL	43,557	47,815	43,284

Source: BEST, June 2005

Table No.24: Number of children under 16 years in Remand Homes 2004/2005

Regions	Beginning of the year	New Remandees	Total	Released on bail	Escapees	Convicted	End of the year
Arusha	34	463	497	130	2	128	39
Dar-es-Salaam	47	654	701	192	4	188	44
Mbeya	32	425	457	119	1	131	37
Moshi	42	627	669	203	3	203	43
Tanga	30	338	368	94	1	119	31
TOTAL	185	2507	2692	738	11	769	194

Source: Department of Social Welfare

**Prisons below 18 years kept in pre-trial detention in
prisons from 2003 – 2005**

S/n`	Offences/Crime	2003		2004		2005		Total
		M	F	M	F	M	F	
1.	Murder	13	1	35	3	54	5	111
2.	Manslaughter	7		5		5	2	19
3.	Attempted Murder			2		26		28
4.	Robbery	10		20		63		93
5.	Theft	33		39		95	6	173
6.	House breaking and stealing	41		32		70	1	144
7.	Possession of Dangerous Drugs	4		1		16	3	24
8.	Possession of Government Trophies	2				7		9
9.	Sexual offences	10	1	9		36		56
10.	Possession of Arms and Ammunition	6				6		12
11.	Wounding	10		7		19		36
12.	Arson	3				7		10
13.	Corruption							0
14.	Possession of illicit liquor	3						3
15.	Loitering	7		3		10		20
16.	Others	8	8	34	7	46	3	106
TOTAL		157	10	187	10	460	20	844

Source: Ministry of Home Affairs 2006 (Prisons)

years and sentenced to imprisonment (mainland
prisons)

Source: Ministry of Public safety and Security, 2006 (Police)

	Offences/Crime	2003		2004		2005		Total
		M	F	M	F	M	F	
1.	Murder			2		4	1	7
2.	Manslaughter	1	2	3				6
3.	Attempted Murder			2				2
4.	Robbery	19		14		17		50
5.	Theft	22		29		60	4	115
6.	House breaking and stealing	25	1	26	1	47	S/n	103
7.	Possession of Dangerous Drugs	3		5		8	1	17
8.	Possession of Government Trophies	2				2		4
9.	Sexual offences	5		9		21	1	36
10.	Possession of Arms and Ammunition	3				4		7
11.	Wounding	2		5		5		12
12.	Arson							
13.	Corruption							
14.	Possession of illicit liquor					1		1
15.	Loitering							
16.	Others	14		19		48		81
	TOTAL	96	3	114	1	217	10	427

abuse cases reported to MYWCD (2000-2005)

PROBLEM	2001		2002		2003		2004		2005		TOTAL	
	M	F	M	F	M	F	M	F	M	F	M	F
Rape	9	18	2	8	9	56	9	56	5	28	34	166
Drug abuse	1	0	3	1	8	2	8	2	-	-	20	5
Early Pregnancy	0	11	0	7	0	29	0	29	-	11	0	76
Abandoned Children	1	4	11	10	77	76	66	57	36	72	194	199
Physical attack	2	0	0	0	8	0	3	-	7	-	13	7
Family conflicts.	-	-	-	-	-	-	7	20	20	16	27	36
Total reported cases per year	50		42		266		262		195		815	

Source: MYEWCD,2005.

of programme implementation by institutions/organizations By April 2006

Institution	Children Prevented			Children withdrawn worst forms of labour			Integrated to COBET			CLC (EDC)			VETA			Primary School			Total number of children reached		
	Gir ls	Bo ys	Tot al	Gir ls	Bo ys	Tot al	Gir ls	Bo ys	Tot al	Gir ls	Bo ys	Tot al	Gir ls	Bo ys	Tot al	Gir ls	Bo ys	Tot al	Gir ls	Bo ys	Tot al
KIWOHE DE	3503	270	3773	4801	242	5043	55	14	69	50	139	189	789	78	867				8304	512	8816
CHODAW U	2242	2238	4480	2250	1504	3754	382	361	743				511	348	859				4492	3742	8234
ATE & TPAWU (TBP)																			3372	3109	5481
GOOD HOPE&WORLD VISIO 6 TZ	1375	752	2127	1061	456	1517	234	342	576				230	470	700	1035	1333	2368	2436	1208	3644

								30	52				18	51	69	172	352	524	212	43	645
(COMAG RI)																				3	
SWAAT (COMAG RI)				101	58	159							27	12	39	74	46	120	101	58	159
Combating - hazardous child labour in tobacco farming				319	251	570	45	118					72	90	162	80	210	290	319	25	570
GRAND TOTAL	712	326	103	874	294	1168	766	792	155	50	139	189	164	104	269	136	194	330	192	83	27549
	0	0	80	4	4	8			8				7	9	6	1	1	2	36	13	



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