



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-second session

SUMMARY RECORD OF THE 1134th MEETING (Chamber B)

Held at the Palais Wilson, Geneva,
on Friday, 19 May 2006, at 10 a.m.

Chairperson: Ms. KHATTAB

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Second periodic report of the United Republic of Tanzania (CRC/C/70/Add.26; CRC/C/TZA/Q/2 and Add.1)

1. At the invitation of the Chairperson, Mr. Chali, Mr. Charwe, Mr. Juma, Ms. Khamis, Mr. Luvanda, Mr. Makelele, Ms. Malecela, Ms. Mwaffisi, Mr. Mwinuka, Mr. Lumbanga, Ms. Rugumyamheto, Mr. Said and Ms. Simba (United Republic of Tanzania) took places at the Committee table.
2. Ms. SIMBA (United Republic of Tanzania), introducing the report (CRC/C/70/Add.26), said that the National Plan of Action had identified such priority areas as promoting healthy living, quality education, combating HIV/AIDS, protecting children from abuse, exploitation and violence, promoting children and youth participation, and protecting children with special needs.
3. As a least developed country, Tanzania was making serious efforts to eradicate poverty, which adversely affected the enjoyment of human rights. By addressing basic macroeconomic issues, the United Republic of Tanzania had created a conducive environment for economic growth and competitiveness. As a result, inflation had been reduced to 4.3 per cent and real gross domestic product (GDP) growth had risen to 6.7 per cent in 2004. Over the past 10 years, her Government had developed a vision 2025 programme for mainland Tanzania and a vision 2020 programme for Zanzibar and implemented a national strategy for economic growth and reduction of poverty. The strategies allocated resources to various priorities, including children's issues.
4. Considerable progress had been made towards providing quality education. As a result of the Primary Education Development Plan 2002-2006 on the mainland, more classrooms had been constructed and enrolment rates had increased. The aim of the Secondary Education Development Plan 2004-2009 was to ensure that children from poor families had access to secondary education. The Zanzibar Education Master Plan set out clear objectives for achieving quality education.
5. In 2001, HIV/AIDS had been declared a national disaster. The Tanzania Commission on AIDS and the Zanzibar AIDS Commission coordinated efforts to combat HIV/AIDS. The adverse effects of HIV on child development had been recognized and legislation was currently being drafted to protect the rights of orphans and widows affected by AIDS. Considerable efforts had been made to raise public awareness of the plight of children affected by HIV/AIDS and to identify the main causes of the spread of that disease.
6. Non-governmental and community-based organizations conducted education programmes and lobbied for children's development. The Department of Children Development within the Ministry of Community Development, Gender and Children, which had been established in 2003, was responsible for monitoring and implementing children's rights and development policies.

7. In order to strengthen the union between mainland Tanzania and Zanzibar, the Government had created a new ministry for union matters, which should improve coordination and implementation of children's policies. Moreover, in order to strengthen non-governmental organizations (NGOs) that dealt with children's issues, the Department of Non-Governmental Organizations had been transferred from the Office of the Vice-President to the Ministry of Community Development, Gender and Children.
8. A review of the 1996 Child Development Policy was under way with a view to addressing such issues as HIV/AIDS, the growing number of orphans, street children, child labourers and children with disabilities, and cases of child abuse and violence. The main obstacles to the promotion of children's rights and youth participation were social and cultural norms and the legal system, which did not recognize children's right to have a say in issues that affected them. Children were being denied their right to participate in the household and at the community and national levels. In order to address that problem, the Government had established child-friendly schools in six pilot areas, a children's parliament and child-friendly clinics and hospitals. Children had also been involved in the preparation of the National Strategy for Growth and Reduction of Poverty and the Government's Public Expenditure Review.
9. Noting the Committee's concerns with regard to the definition of a child, she said that the Government was currently reviewing all legislation relating to children. In July 2006, a white paper would be prepared with a view to laying the groundwork for a new children law. The new legislation would deal with such issues as the definition of a child; the minimum age for criminal responsibility, marriage and employment; childcare, maintenance and custody; the responsibility of parents and guardians; juvenile justice; and equal rights to inheritance. Other legislation concerning children's issues would be amended in the light of the new law.
10. Juvenile courts were being established in every region of the country. Under section 26 of the Penal Code, the death sentence could not be imposed on anyone who had been under 18 years of age at the time of the commission of the offence.
11. Her Government was fully committed to meeting its obligations under the Convention. Both mainland Tanzania and Zanzibar were adopting administrative, legislative and judicial measures to implement the Convention. Budget allocations in areas involving children's issues had been increased and legislation, including laws on succession, inheritance and marriage including customary marriage, was being reviewed in order to promote equal rights for children, women and men. Communities were being encouraged to support orphans and vulnerable children, and a national strategy to educate parents and improve the nutritional and health status of infants and young children was being implemented. International assistance was essential to ensure continued progress, and she called upon the international community to increase its support for sustainable measures to improve the lives of Tanzanian children.
12. Ms. SMITH (Country Rapporteur) commended the State party's progress in implementing the provisions of the Convention, as well as its ratification of both optional protocols to the Convention and International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. She noted that the Convention had been incorporated into domestic legislation

and was applicable in the courts, and she urged the State party to do the same for the optional protocols. She wished to know whether international instruments took precedence over domestic legislation.

13. Since the second part of the written replies was devoted to Zanzibar, she wondered if that meant that the information contained in the first part of the replies referred only to the situation on the mainland. In that regard, the delegation should explain how the United Republic of Tanzania was governed. The Zanzibar House of Representatives appeared to adopt legislation pertaining to Zanzibar whereas the Parliament, or National Assembly of the United Republic of Tanzania, appeared to adopt laws applicable to the mainland only and also to the entire country. She asked whether specific types of legislation, such as the proposed children's law, applied to both the mainland and Zanzibar and whether there was a single judiciary, including a Supreme Court, for both the mainland and Zanzibar.

14. She wished to know why the process of adopting a children's law was taking so long and whether that indicated a lack of political will or resources. The delegation should indicate whether the proposed children's law would apply to both the mainland and Zanzibar.

15. She requested information on progress made to address the problems of corruption, tax evasion and excessive bureaucracy, which had been identified as obstacles to good governance by the former President upon taking office in 1995. The elimination of those problems should make it possible to release additional resources for children's health and education.

16. She expressed regret that the Education Act and the Corporal Punishment Ordinance still allowed for corporal punishment of a juvenile. The State party had indicated that corporal punishment under the Corporal Punishment Ordinance was used only in rare situations where other punishments were deemed inadequate or ineffective, and she requested the delegation to give examples of such situations. She enquired whether the State party intended to abolish corporal punishment of children and whether any efforts were being made to raise public awareness of that issue.

17. She wondered whether the new Children's Act would incorporate the best interests of the child as a universal principle applicable to all matters relating to children and whether that principle underlay current legislation affecting children. She commended the State party's efforts to include children in initiatives that affected their well-being. She requested additional information on the Junior Council, including its membership, mandate and authority. The delegation should provide more information on a child's right to be heard, including in the courts, in custody decisions, in the criminal justice system, in schools, in the home and in local government, and on efforts to raise awareness of those issues. She also asked whether children's right to information was being respected and whether children had access to libraries and child-friendly television and radio programmes and other media.

18. The CHAIRPERSON (Alternate Country Rapporteur) commended the establishment of the child development department within the Ministry of Community Development, Gender and Children in 2003. She wished to know whether the Ministry had sufficient resources to ensure the effective implementation of children's rights.

19. The delegation should explain the status of the Child Development Policy of 1996, and its relationship to the completed National Plan of Action. She asked what assistance would be required to set up a centralized data collection system, and what resources the State party needed to ensure that its civil society partners were involved in the policymaking, from planning to implementation.

20. Mr. ZERMATTEN said that, since the State party's juvenile courts dealt with children from the age of 12 - and exceptionally with children from the age of 10 - until the age of 16, the age of criminal responsibility was two years below that established by the Convention. He asked what measures the State party was taking to bring the definition of the child and its legislation into line with the Convention.

21. Mr. PARFITT asked to which branch of government the Commission for Human Rights and Good Governance was accountable, and how its members were appointed. He wished to know whether the jurisdiction of the Commission extended to both mainland Tanzania and Zanzibar. The delegation should provide information about the Commission's size and budget. He asked whether the Commission reported its findings to the public. He requested information on the number and type of complaints that had been brought before the Commission's child's desks.

22. Mr. LIWSKI enquired whether budgetary allocations were being made in compliance with international instruments, according to which GDP growth should benefit the population at large. The State party's external debt had decreased sharply, and he wondered whether children had benefited proportionately. He enquired whether there was a mechanism to ensure that budgetary allocations were linked to different levels of local development.

23. Mr. FILALI asked whether the State party had a unified secular legal system, or whether issues such as personal status were governed by community law, particularly sharia law. He wondered whether the coexistence of different sets of laws was the reason for the slow implementation of the Convention in the State party. He enquired whether legislation concerning alimony was applicable both in mainland Tanzania and in Zanzibar, and whether such legislation protected the best interests of children, particularly illegitimate children.

24. Mr. POLLAR asked whether appropriate legislation had been adopted to ensure the effective implementation of the 1996 Child Development Policy and the 2003 National Refugee Policy. He wished to know whether the Land Act protected the interests of children in the event of their father's death. He enquired whether a pregnant girl expelled from school under the 1982 Education Act of Zanzibar or similar national legislation was allowed to complete her education after giving birth, and whether the purpose of the Act was preventive or punitive. He asked whether it was true that the Bill of Rights did not contain any provisions on the protection of children's rights. He wondered whether the fine of 25,000 Tanzania shillings for failure to register a child's birth immediately might not act as a deterrent to registration.

25. Mr. ZERMATTEN asked whether the State party was taking measures to improve the social integration of all children and to abolish all discrimination.

The meeting was suspended at 11.20 a.m. and resumed at 11.45 a.m.

26. Ms. MALECELA (United Republic of Tanzania) said that the introduction of a comprehensive children's law was a Government priority. A review process had already been carried out by the Law Reform Commission, and a technical assessment of the law reform report had been made. Attention had been given to other relevant laws, such as the Sexual Offences (Special Provisions) Act and the Employment and Labour Relations Act. Moreover, stakeholders had been widely consulted in the review process.

27. The CHAIRPERSON asked when the consultation process would be concluded and who the stakeholders were. He wished to know how long it would take to adopt the proposed children's law.

28. Mr. MAKELELE (United Republic of Tanzania) said that a White Paper had been drafted and would be circulated among stakeholders beginning in July 2006. It was important to obtain replies from all stakeholders, including NGOs, children and communities. The initial consultation had not been very successful; the current consultation was expected to continue until the end of the year. It was possible that the final version of the proposed legislation would be available by the middle of 2007.

29. Ms. SIMBA (United Republic of Tanzania) said that progress towards the drafting of the proposed children's law had been slow, since its provisions concerned several areas that had previously been covered by religious or customary law.

30. Ms. SMITH asked whether the new legislation would be applicable throughout the United Republic of Tanzania.

31. Ms. SIMBA (United Republic of Tanzania) said that Zanzibar was currently adopting its own legislation on children's rights, which was modelled after the mainland draft.

32. The CHAIRPERSON asked what status the optional protocols had in domestic legislation.

33. Ms. SIMBA (United Republic of Tanzania) said that legislation was currently being prepared to incorporate the optional protocols into domestic law. The children's law was being drafted in the light of the provisions of the optional protocols. Children participated actively in decision-making in schools through school committees. In the course of the ongoing legal reforms, the age of criminal responsibility would be brought into line with the provisions of the Convention.

34. Ms. SMITH asked whether the prohibition of corporal punishment would be covered by the new children's law.

35. Ms. SIMBA (United Republic of Tanzania) said that the issue was being addressed in the Corporal Punishment Ordinance. However, the population continued to support the application of corporal punishment and awareness campaigns were being conducted to bring about a change in attitude. The experience of child-friendly schools would be crucial in that regard. It would be difficult to enforce the prohibition of corporal punishment, unless the population was made aware of its harmful nature.

36. Mr. POLLAR asked whether the provision contained in section 20 (4) of the 1982 Education Act of Zanzibar according to which pregnant girls would be expelled from school was still in force.
37. Ms. MALECELA (United Republic of Tanzania) said that the Zanzibar Spinsters, Widows and Female Divorcees Protection Act, which prohibited the expulsion of pregnant girls from school, took precedence over the aforementioned provision of the Education Act.
38. Mr. POLLAR said that it was his understanding that the Spinsters, Widows and Female Divorcees Protection Act prescribed even harsher punishment for pregnant pupils, namely a two-year prison sentence.
39. Mr. SAID (United Republic of Tanzania) said that the relevant provision had been repealed in 2005. Under the new Spinsters, Widows and Female Divorcees Protection Act, pregnant pupils could not be expelled from school and had to resume their education once they had given birth.
40. The CHAIRPERSON said that reports of the persistence of that practice in Zanzibar suggested that the relevant legislation was not always implemented.
41. Mr. SAID (United Republic of Tanzania) said that the Government was unaware of such reports. The expulsion of pregnant girls from school was also prohibited under new education legislation.
42. Mr. LUMBANGA (United Republic of Tanzania) said that the Government had taken measures to curb corruption. Access to land had been increased in order to prevent corruption in the area of land distribution. Procurement and finance legislation had been reviewed to ensure conformity with international standards, and offices had been set up in all provinces to handle complaints of corrupt conduct by public officials. The Government also conducted awareness campaigns with a view to involving all sectors of society in anti-corruption efforts. A coordinating unit to promote good governance had been established in the Office of the President; the unit submitted quarterly reports. Moreover, the President had appointed a Minister of State responsible for good governance. The Tax Revenue Authority had been established to combat tax evasion.
43. Over the past decade, Tanzania had been engaged in public sector reform to expedite and enhance the efficiency of public services. Steps had been taken to analyse government structures and functions and to identify deficiencies in service delivery. In May 2005, a commission had been established to examine salary structures and readjust salaries for civil servants.
44. Ms. SIMBA (United Republic of Tanzania) said that 50 per cent of the Tanzanian population was Muslim; the remaining 50 per cent was Christian or followers of traditional religions. While both common law and sharia law applied, the sharia was invoked in marriage and family-related matters that concerned Muslims only. The coexistence of the two legal systems made it difficult to set standards applicable to all children.
45. The draft children's law covered issues relating to child maintenance.

46. Mr. LUMBANGA (United Republic of Tanzania) said that the Commission for Human Rights and Good Governance, whose members were appointed by the President, came under the Ministry of Justice and Constitutional Affairs and was competent to investigate complaints of human rights violations. The Commission prepared annual reports, which were submitted directly to the competent minister and the President. Unfortunately, owing to budgetary constraints, the Government was not always able to provide the requisite funding.
47. Mr. CHARWE (United Republic of Tanzania) said that, in 2005, the Commission for Human Rights and Good Governance, in cooperation with the Department of Social Welfare, had conducted a public inquiry into child abuse. Measures were currently being taken to follow up on the findings. The Department of Social Welfare provided assistance to child victims of abuse. The children could also address the Commission directly.
48. Mr. PARFITT requested additional information on the Commission's child desks.
49. Mr. LUMBANGA (United Republic of Tanzania) said that he was unable to provide details on working methods and responsibilities of the child desks.
50. The CHAIRPERSON asked what was being done to raise public awareness of the Commission and its role as a complaints mechanism.
51. Mr. CHARWE (United Republic of Tanzania) said that awareness campaigns were being conducted in the media. In June 2006, a programme would be launched to promote media reporting on child abuse, children's rights and children's view of issues that concerned them directly.
52. Ms. SMITH asked what action was being taken to deal with complaints of child abuse that had been lodged with the Commission for Human Rights and Good Governance.
53. Mr. CHARWE (United Republic of Tanzania) said that the Commission was responsible for initiating legal action and cooperated with social workers in the area of victim protection. Social workers also reported cases to the competent authorities with a view to bringing the perpetrators to justice.
54. Mr. PARFITT asked whether the Commission actively promoted the Convention.
55. Mr. CHARWE (United Republic of Tanzania) said that the Commission participated in the legislative process and ensured that existing and future legislation was brought into line with the Convention. It also conducted awareness campaigns.
56. Mr. FILALI asked whether the Commission could intervene directly in cases of abuse affecting groups of children and whether it had access to case files concerning violations of children's rights. He would welcome information on the relationship between the Commission and the Ministry of Home Affairs and the Ministry of Justice. He enquired whether the Commission cooperated with NGOs and whether its annual report was made available to the public. He wished to know whether the report contained a chapter on children's rights.
57. Mr. CHARWE (United Republic of Tanzania) said that the Commission and the justice system operated independently. The Commission could not intervene in cases handled by the

courts. Court-ordered measures to protect child victims of abuse were implemented with the assistance of probation officers and social workers. Some of the care institutions for children deprived of a family environment were operated by NGOs.

58. The CHAIRPERSON asked whether the State party intended to set up a 24-hour toll-free helpline for child victims of abuse. If so, she suggested that the State party should seek assistance from the NGO Child Helpline International.

59. Mr. CHARWE (United Republic of Tanzania) said that Tanzania had a number of child abuse complaints mechanisms. Pilot projects on community justice were being conducted in 24 districts. The projects involved community facilitators who received children's complaints of abuse and brought the cases to the attention of the competent authorities. International donors had provided funding to extend the project to an additional 20 districts. NGOs and community-based organizations were supporting those efforts.

60. Ms. SIMBA (United Republic of Tanzania) said that her Government would consider introducing a children's helpline to complement the existing complaints mechanisms.

61. Ms. SMITH requested additional information on current and draft legislation on adoption, including intercountry adoption. She enquired about the Government's policy on providing care for orphans or children who could not live with their families, particularly since placement in small institutions was reportedly favoured over foster homes. The delegation should indicate whether current legislation included any specific provisions on foster care. She wished to know what leisure and sports facilities were available to children in schools and in the community.

62. The CHAIRPERSON asked whether the small amount of child maintenance payable by fathers of children born out of wedlock led some children to live or work on the streets. She wished to know what resources were available to implement the action plan on violence against children, and whether the plan was in line with the recommendations of the regional consultation in South Africa in which the State party had participated as part of the Secretary-General's study on violence against children. She asked whether the reporting State planned to criminalize female genital mutilation. She wished to know what steps were being taken to protect street children and to ensure that they were not arrested and treated as juvenile delinquents. She requested additional information on child labour. She asked why all forms of trafficking in persons into, out of and within the State party were not prohibited. The delegation should indicate whether measures had been taken to raise public awareness of the dangers of trafficking, particularly for vulnerable groups. She wished to know whether the Government cooperated with NGOs in measures to prevent trafficking.

63. Mr. ZERMATTEN requested additional information on the juvenile justice system. In particular, he wished to know whether members of the judiciary who were active in that system received special training and whether they worked exclusively in juvenile justice. He asked whether juveniles were guaranteed confidentiality when appearing in court, whether they were protected when they testified as witnesses, and whether they were always provided with defence lawyers before court proceedings began.

64. He wished to know the maximum prison sentence that a minor could receive, and what alternatives to deprivation of liberty were used to punish minors. He enquired whether the State party planned to prohibit the corporal punishment of minors, and whether minors were systematically separated from adults in prisons. He asked whether children were heard in judicial and administrative proceedings and, if so, from what age and by whom.

65. The delegation should explain what status children had in disciplinary cases in schools, and whether children could be expelled from school. He wished to know what measures were being taken to reduce children's use of illicit drugs, and whether children were punished for drug abuse or given treatment. He requested information on measures to raise awareness of the dangers of drug abuse, especially among vulnerable groups.

66. Mr. POLLAR requested additional information on the subscription system to support children's homes. He asked about the results of the increased budget allocation to alternative care. He enquired whether the community-based guidelines for the care of orphans were currently operational. He wished to know why intercountry adoptions of children from the State party were permitted in East Africa only, and whether the Government monitored those adoptions in order to ascertain whether children were subsequently taken out of the region by their adoptive parents. The delegation should indicate whether the fact that children were the last members of the family to speak and to be heard was not a violation of their rights under the Convention.

67. Mr. LIWSKI asked whether the Government had assessed the impact of the Integrated Management of Childhood Illnesses programme. He enquired whether sufficient resources were available to extend the programme throughout the national territory, and whether the authorities planned to modify the programme in any way. He wished to know whether the Government had been able to distribute insecticide-treated mosquito nets to all rural areas and, if not, whether that had had any impact on child mortality. He enquired whether the State party had overcome its difficulties in coordinating efforts to reduce the spread of HIV infection, and whether it received sufficient international assistance in that area. The delegation should indicate whether the Government had been able to ensure distribution of antiretroviral drugs free of charge to all persons requiring them. He asked whether international trade and patent laws had impeded the manufacture and marketing of such drugs. He wished to know why many mothers stopped breastfeeding their babies after three months.

68. Mr. PARFITT requested additional information on the Secondary Education Development Plan. In particular, the reporting State should indicate how it intended to ensure that girls attended the higher grades of secondary school. He asked what measures the State party planned to take to ensure the full integration of all disabled children and orphans in the school system. He requested further information on the initiatives being taken to promote preschool education. He asked why the Government could not prohibit corporal punishment in the school system. He wished to know what measures had been taken to educate children living in refugee camps and what efforts had been made to secure international assistance for that purpose.

69. The CHAIRPERSON requested additional information on the measures being taken to reduce the number of children engaged in prostitution and in hazardous forms of labour.

The meeting rose at 1.05 p.m.