

NGO REPORT TO THE COMMITTEE ON THE RIGHTS OF THE CHILD ON THE 3rd, 4th and 5th REPORT OF TANZANIA

Prepared and submitted by Childreach
International

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About us

Childreach International and Childreach Tanzania have years of experience in unlocking the potential of some of the world's most marginalised children. By breaking down barriers that stop them from living as children should, we provide thousands of children every year with a chance to transform their lives. Our vision is a world where all children have the opportunity to unlock their potential in life. In order to accomplish this vision, our mission is to improve children's access to healthcare, education and child protection; restore children's rights; empower children to create positive change; establish a global movement of child rights supporters; and to use our global voice to influence others to act.

Childreach International believes that the best decisions are made locally and that every community and nation has distinctive and unique approaches to finding solutions. In line with this organisational philosophy, each Childreach International office is registered as an independent NGO with their own boards of trustees, comprised of community stakeholders and child development experts. Each office develops its own strategy and is staffed by local people with valuable knowledge of the culture and context, enabling Childreach International to address development issues at a grassroots level. This also allows us to develop strong and effective relationships with our partner organisations. Our offices facilitate the work of these agents of change, empowering them whilst also providing any required support.

We are currently running four projects in Tanzania – Litre of Light which is providing 100 households with electricity-free light for 24 hours a day, a project at the Ghona Vocational Training Centre for the Deaf which provides vocational training and carpentry to young deaf children to give them more opportunities in life, a school farming project and My School My Voice which gives children the chance to have their voices heard, to speak out about issues affecting them and to let the world know that they have rights.

Additionally, in 2013, we carried out independent research into the child protection system in Ruvu, northern Tanzania, an area that is predominantly occupied by the Maasai and Pare tribes. The research revealed that FGM/C, early marriage, rape as well as emotional, physical and sexual abuse were reported as an issue affecting their community by the children, and that given the rural nature of Ruvu's location, government provided services were exceedingly weak, and the law poorly enforced.

Preface

1. Childreach International and Childreach Tanzania (“Childreach International”) appreciate this opportunity to contribute to the Committee on the Rights of the Child’s (“the Committee’s”) pre-sessional working group for its upcoming review of Tanzania and its conformity to the Convention on the Rights of the Child (CRC).

2. This civil society report responds to the third, fourth and fifth periodic reports of the United Republic of Tanzania (CRC/C/TZN/3-5) submitted to the Committee in January 2012. In this report, Childreach International and its affiliate office in Tanzania assess the extent to which the State party has or has not implemented the recommendations contained in the Concluding Observations from the CRC’s second periodic review of Tanzania in 2006 (CRC/C/TZA/CO/2) and provides more information to the Committee on the implementation of the Convention within the boundaries of said State.

3. This report covers the period from 2006 to 2013, and documents the State party’s implementation of the Convention in mainland Tanzania only, not including Zanzibar.

3. Under each heading, the Report commends progress made by the Government of Tanzania in the implementation of the Convention on the Rights of the Child, but also raises concerns and pursues recommendations.

4. A general comment is that Childreach International welcomes the 2009 Law of the Child Act. Existing provisions regarding children were outdated and did not adequately protect children from violence, abuse, neglect and exploitation. This landmark legislation attempts to domesticate the CRC and provides a legal framework through which the rights of the country’s children can be recognised, protected and realised. It addresses issues such as non-discrimination, the right to a name and nationality, the rights and duties of parents, the right to opinion and the right to protection from torture and degrading treatment. However, there are unfortunately definite shortcomings in the Act such as its failure to address discrimination regarding the legal age of marriage, and its failure to abolish corporal punishment.

5. The government of Tanzania has failed in a number of areas including the legal age of marriage, inclusivity of children with disabilities and corporal punishment to implement the recommendations made by the Committee in its 42nd Session, and children remain in a precarious position within Tanzanian society.

Definition of a child

Childreach International welcomes the provision in the Law of the Child Act 2009 which classifies all those under the age of 18 as children, in compliance with the CRC.

Childreach International however expresses serious concern at the fact that the minimum age for marriage continues to be 15 years for girls and 18 for boys under the Law of Marriage Act 1971, a concern that has arisen previously but which Tanzania has failed to rectify. Not only does this put girls at serious risk of violence within a forced marriage, it also reinforces the subordination of girls within Tanzanian culture. CEDAW emphasises that marriage before the age of 18 should not be allowed because children lack the full maturity and capacity to enter into a marriage, and bear the subsequent responsibilities, with informed consent. There is also a strong correlation between child marriage, school dropout rates, early pregnancy and the contraction of HIV/AIDS. Additionally, the Penal Code allows for marriage under the age of 15 years, provided the marriage is not consummated before the age of 15 (s.138). A boy and a girl of age 14 are also allowed to marry under certain circumstances such as with parental consent or by court decision.

General principles

Non-discrimination

In 2006, the Committee noted that discrimination against certain groups still exists in legislation as well as in practice, particularly with regard to teenage pregnant girls, children with disabilities, children with HIV/AIDS and street children. The Law of the Child Act 2009 includes provisions under Article 5 to ensure that a child shall have the right to live without any discrimination; however it is well-established that children continue to be discriminated against for a range of reasons. Teenage pregnant girls are still being prevented from continuing their education, and a 2013 report by the Center for Reproductive Rights revealed that girls in schools were being forced to undergo mandatory pregnancy tests; a violation of their right to privacy. Girls, especially within traditional communities, are still prevented from going to school because of household responsibilities, and parents are often more willing to send their son to school rather than their daughter.

Albino children are at an increased risk of violence. There have been multiple reports of children being snatched or abducted from their parents, with their killers and accomplices using hair, arms, legs, skin, eyes, genitals and blood in rituals or for witch potions. Over 100 albinos have been violently attacked in Tanzania since 2006. The police have been advised to generate lists of albinos and offer special protection for them. There has reportedly been only one conviction for the killing of an albino in 2009, at the High Court in Kahama. In terms of protection, the Government has established special shelter centres for children with albinism. However, in the long-term, this measure results in the children's isolation from society and separation from family. Therefore, the Government should explore alternative ways of protecting people with albinism, including options that promote social inclusion and tolerance.

Civil rights and freedoms

Birth registration

Birth registration is a fundamental right to establish a child's legal identity and claim the protection of the law. Childreach International welcomes the new birth registration system which was launched in 2013, as influenced by the Committee's previous recommendations. When the programme was launched in June 2012 in Temeke District, Dar es Salaam, it had encouraging results. Within a period of only six weeks more than 15,500 under-five children were registered and issued with birth certificate. Overall, there was an increase by 29% of children under-five registered in the 14 pilot wards, jumping from only 15% with birth certificates to 44%. It is hoped that this will have similar effects on registration rates across the country.

While the registration of children under five has doubled between 1999 and 2010, Tanzania is currently classified as one of ten countries with the lowest levels of birth registration. Approximately 16% of children under the age of five have their births registered in Tanzania. Additionally, only half of those children registered will have a birth certificate. Reportedly, for most families, travel costs as well as the fee for a birth certificate have made registration prohibitively expensive. Rural registration is still far lower than that of children living in urban areas, which suggests that the notion of mobile registration units has not been introduced. Our work with the Maasai and Pare communities in northern Ruvu supports this notion. More therefore more needs to be done to encourage rural and traditional communities to register their children's births, as without registration these communities are further isolated and prevented from accessing vital resources.

Corporal punishment

Article 19 of the Convention requires States to protect children from all forms of physical or mental violence while in the care of parents or others. The Committee has previously interpreted this as requiring States to protect children from all forms of corporal punishment. Corporal punishment in schools, in the home and in juvenile detention facilities is still legal in Tanzania, despite both the Committee and the UN Human Rights Committee under the Universal Periodic Review calling upon Tanzania to curb the use of corporal punishment.

The domestic Law of the Child Act (2009) permits "justifiable" correction under Article 13. There is no explanation as to the boundaries of this correction and it will undoubtedly result in physical and emotional violence amounting to child abuse. The Law of the Child Act 2009 prohibits "torture, or other cruel, inhuman punishment or degrading treatment" but does not explicitly prohibit corporal punishment.

Corporal punishment is lawful in schools under the National Corporal Punishment Regulations 1979 pursuant to Article 60 of the National Education Act 1978. The law allows head teachers to cane students and corporal punishment remains a problem in schools. The level of physical abuse by teachers is reported to be high with 52.6% of girls and 50.8% of boys reporting to have punched, kicked, whipped, or threatened with a weapon, before they turned 18.

In mainland Tanzania corporal punishment is authorised as a sentence under a number of laws. The Minimum Sentences Act amends the Corporal Punishment Ordinance (art. 12) to allow for administering corporal punishment in instalments. Under article 8 of the Ordinance, juveniles may be given up to 12 and the punishment may be inflicted in the open courtroom. The Minimum Sentences Act does not apply to females or to juveniles under the age of 16 years (arts. 2 and 3) however in 2008, a girl of 14 was

reported to have been forced to undergo six strokes of the cane for stealing. Juveniles under 18 may also be sentenced to caning, often on its own, without imprisonment.

Family environment and alternative care

Child abuse and neglect

Childreach International commends the 2009 Violence against Children Survey carried out by the Multi-Sector Task Force on Violence against Children which revealed shocking statistics about the prevalence of emotional, physical and sexual violence against children, both male and female, within the country. The report revealed that nearly one in three females aged 13 to 24 reported experiencing at least one incident of sexual violence before the age of 18, among males in the same age group more than one in ten experienced sexual violence before they turned 18. Additionally, one out of twenty females reported experiencing physically forced sex during childhood. Almost three-quarters of both females and males reported experiencing physical violence by a relative, authority figure or intimate partner. Approximately one-quarter of females and nearly a third of every ten males aged 13 to 24 reported experiencing emotional violence by an adult during childhood. Identifying national estimates of violence is an essential first step towards preventing violence in communities and further work needs to be carried out to further understand the prevalence of child violence.

Additionally, despite the Sexual Offences Special Provisions Act 1998 criminalising all sexual activity with girls below the age of 18, Article 130 of the Tanzanian Penal Code allows for marital rape if the girl is older than 15. Under the law, a woman has a duty to submit to sex with her husband under any circumstance. 46% of married adolescent girls between 15 and 19 reported experiencing emotional, physical and or sexual violence by their partner. Children are often discouraged from reporting acts of violence. Conviction rates for those cases that are reported are exceedingly low, with children often encouraged to settle informally, meaning that justice is often not achieved and perpetrators fail to receive a punishment that matches the crime.

Childreach International welcomes the establishment of Gender and Children's Desks within the police force, in the hope that this will encourage children to come forward to report acts of violence. It also welcomes the establishment of the National Plan of Action to Prevent and Respond to Violence against Children and hopes that this will be effectively enforced to reduce the incidence of child violence. The Government of Tanzania did launch the Child Helpline, as recommended by the Committee, in May 2013. The pilot project covers eight districts and municipalities including Temeke, Ilala, Kinondoni, Magu, Bukoba Rural, Musoma Urban, Kasulu and Hai. So far, the helpline has been a success, receiving over a thousand calls in its first two months.

Basic health and welfare

Adolescent health

The proportion of married girls between 15 and 19 fell between 2004 and 2010 by more than 23%. Additionally, the number of girls in the same age bracket giving birth dropped by more than 12%. Contraceptive use increased from 8 to 15% between 2004 and 2010. These gains have been achieved as a result of important investment in, and commitments, to adolescent empowerment that have helped more young people make better-informed choices. Such progress over such a short period shows that

these investments can and do deliver results – yet much more remains to be done. Despite the progress that has been achieved, child marriage, early pregnancy, poor education quality and vulnerability to violence, abuse and exploitation continue to undermine their opportunities. Levels of child marriage and adolescent pregnancy remain high, with one in every six girls and young women aged 15 to 19 married, and the country still has one of the highest adolescent pregnancy and birth rates in the world. By the age of 16, one in ten girls have begun child-bearing; this rises to one in five by 17 years and to more than one in three by 18. Worldwide, pregnancy is a leading cause of death for young women aged 15 to 19 years. Data on the prevalence of HIV and AIDS among adolescents aged 10 to 19 years is not available however data suggests that while most (98%) adolescents aged 15 to 19 years have heard about HIV and AIDS, fewer than half have comprehensive knowledge about how to prevent HIV infection. Girls and young women aged 15 to 24 years are also far more vulnerable to HIV infection if they are married or widowed or divorced than if they were never married, even if they are also sexually active.

Harmful traditional practices (FGM/C)

Childreach International notes that Tanzania has still not ratified the UN Convention against Torture, as recommended by the Committee in the 42nd Session. FGM/C has been classified as form of torture by the former Special Rapporteur on Torture. Childreach International is concerned that, in spite of the criminalisation of FGM/C under the Sexual Offences Special Provisions Act 199, it remains prevalent in Tanzania, especially in rural areas, and that knowledge among women and girls of the related risks is very low. Gender and Children's Desks have been established that will be staffed by officers who have had specific training on how to effectively and compassionately deal with such cases. Additionally, the Government has adopted a National Plan of Action on the Eradication of FGM/C (2011-2015).

There is a lack of definition of FGM in the Act and it does not explicitly cover all persons who may be involved in perpetrating FGM, such as medical practitioners. Tanzania's efforts over the past few years to combat the practice through awareness campaigns and arrests have resulted in a decline in the practice, with women aged between 45 and 49 three times more likely to have been cut than girls between 15 and 19; however the practice is still almost universal in traditional communities. These communities are now carrying out the procedure in hiding in mass circumcisions, on girls that are too young to be able to act out (over 40% of girls that are cut are now cut before they turn four), in order to avoid detection by the law. Some villagers have reportedly bribed local leaders not to enforce the law in order to carry out FGM/C on their daughters. Prosecutions of offenders have been rare due to insufficient action by front-line forces and a distinct lack of reporting by individuals. There is currently no record indicating the number of suspects convicted of FGM according to the LHRC however it has been reported that prosecutions have taken place. Reports have revealed that many police officers and communities are unaware of the law, and that victims are unwilling and reluctant to testify as they fear reprisals from FGM/C supporters.

Focussing on the illegality of FGM/C will only be effective when combined with efforts to address gender discrimination and the subordination of girls which is undoubtedly the root cause of FGM/C. Further work needs to be carried out in rural communities where FGM/C is predominantly practiced and further studies need to be completed recording the ethnicity and religion of citizens, understanding ethnic identity and religion and the impact these have on the practice of FGM/C is crucial in order to better target policies and campaigns.

Education, leisure and cultural activities

Education

Childreach International welcomes the provision in the draft constitution which would make education a guaranteed right for every Tanzanian. Tanzanian primary education is compulsory and free, nevertheless parents or caregivers are expected to buy school uniform, exercise books, pens and pay for occasional contributions such as for sports, school graduation or mock examinations. This increases the burden on caregivers and subsequently encourages absenteeism and drop outs.

Between 2004 and 2010 the proportion of children attending secondary school increased three-fold among girls and four-fold among boys, although the completion rates for boys in secondary school (33%) remained higher than that of girls (20%). The rapid expansion of primary and secondary education has taken a toll on quality of education. Less than 50% of students passed the Primary School Leaving Examination (PSLE) in 2010, boys outperformed girls in almost every region and in at least ten regions there were significant gaps between male and female performance. In several regions the gap was wider than 20 percentage points. It is likely that girls' underperformance is linked to insensitive gender expectations, including those that force girls to contribute to household labour and child care, preventing them from regularly attending school. Secondary performance also exhibited a sharp decline in 2010. Attending school reduces the likelihood of girls becoming pregnant. Girls with no education are clearly the most vulnerable. The pupil-teacher ratio in Tanzania has additionally declined from 50.76 in January 2010 to 45.57 in January 2012. There is currently no information regarding pupil-teacher ratio in secondary schools, however it can be assumed that this will be as low, if not lower, than in primary schools.

The Center for Reproductive Rights published *Forced Out: Mandatory Pregnancy Testing and the Expulsion of Pregnant Students in Tanzanian Schools* in 2013, documenting the practice of forced pregnancy testing and expulsion of pregnant school girls in mainland Tanzania. A 2002 regulation allows for the expulsion of pregnant girls from school. Existing protection and special programs for girls are inadequate and result in many girls being unable to fulfil the compulsory education program in place in the country.

Special protection measures

Child labour

Despite provisions in the Employment and Labour Relations Act 2004 and the Law of the Child Act 2009 child labour is widespread with 21% of children between five and 14 involved in child labour between 2010 and 2011. Laws against child labour have been poorly enforced and are inconsistent. Children work as domestic workers, street vendors and shopkeepers as well as in small-scale agriculture, fishing, construction and, possibly most concerning, artisanal mining of gold and tanzanite. Many children are engaged in the worst forms of child labour that are considered to be hazardous and dangerous. For example, in 2013, Human Rights Watch (HRW) reported that children as young as eight were working in small-scale gold mines in Tanzania. HRW also found that girls on and around mining sites face sexual harassment, including pressure to engage in sex work. Those children employed in child labour are often not attending school and are therefore not reaching their full potential.

Trafficking

Childreach International welcomes the 2008 Anti-Trafficking in Persons Act, which seeks to combat the trafficking of men, women and children in Tanzania and effectively mirrors a number of provisions contained in the UN Trafficking Protocol, especially with regards to children. However, key victim protection provisions of the 2008 act, such as the establishment of a fund to support trafficking victims, remain unimplemented. The Government additionally launched the National Anti-Trafficking Action Plan 2011 – 2015 however the plan has been insufficiently implemented. In Tanzania, the incidence of internal trafficking is higher than that of transnational trafficking, largely from rural to urban areas, affecting primarily children for their exploitation in domestic servitude, petty trade and prostitution. The use of young girls for forced domestic labour continues to be the country's largest human trafficking problem. Girls are exploited in sex trafficking in tourist areas within the country as well as in domestic servitude, while boys are subjected to forced labour, primarily on farms, but also in mines, in the informal commercial sector, in the sex trade and possibly on small fishing boats.

Tanzania fails to comply with the minimum standards for the elimination of trafficking. Due to the lack of establishment of an Anti-Trafficking Committee, the government agencies tasked with prevention and protection are unable to implement the 2008 Anti-Trafficking in Persons Act as there are no regulations for them to follow. Thus, most government officials remain unfamiliar with the Act's provisions and no budgetary resources allocated to combating the crime and assisting the victims has been secured. In 2013, the government convicted four international labour traffickers and continued to refer identified child trafficking victims to relevant NGOs to receive care and assistance. Unfortunately however, the Tanzanian government failed to adequately punish offenders with sentences commensurate to the seriousness of the crimes committed. Provision allowing offenders to pay a fine in lieu of serving prison time allows for a penalty that is not proportionate to the crime and does not act as a sufficient deterrent to potential perpetrators. Law enforcement officials often fail to see human trafficking as a crime but rather a moral issue that can be remedied by financial compensation. In some cases victims were punished because front-line officials have been inadequately trained so were unable to tell the difference between trafficking and smuggling. The government continues to rely on NGOs to provide care for victims and NGO-run facilities are limited to urban areas. The sole government-run children's shelter is often filled to capacity. For the fourth year running the Tanzanian government failed to allocate funding to the victims' assistance fund established by the anti-trafficking act in 2008. These funds are crucial to ensuring the basic material needs of trafficking victims, tracing the families, and for rehabilitation and re-integration.

General Recommendations

Childreach International subsequently recommends that the Committee advise the Government of Tanzania to:

1. Ensure that the new Tanzanian Constitution, which supersedes all other laws, contains the following provisions:
 - a. The Constitution must address the precarious position of the girl child in Tanzania
 - b. Enshrine equality and democracy for all men, women, boys and girls
 - c. Include a provision criminalising all marriage for children, both male and female, under the age of 18.
 - d. Maintain that education is free for primary school children but also include provisions which specify secondary education.

- e. Enact provisions which will allow pregnant girls to continue with their schooling, and give them special assistance to ensure that they remain at a level similar to their counterparts.
 - f. Our research indicates that teacher attendance is a problem affecting schools in Tanzania so provisions for improved teacher capacity such as incentives for attendance e.g. on time and higher salaries, and access to initial and ongoing training on participatory and active learning.
 - g. Making it the responsibility of School Management Committees to develop and implement child safeguarding policies and procedures within their schools with adequate functional reporting processes.
 - h. Place the burden of responsibility for ensuring every child has access to quality and free primary education onto District Education Offices, providing legal mechanisms for Tanzanians to seek redress if this right to education is not met.
 - i. Criminalise all forms of corporal punishment and ensure that there is justice for those children that are punished
2. Child rights must be mainstreamed within school curricula to ensure that children are aware of the rights they are entitled to and how to claim them and the dangers of FGM/C, child marriage and early pregnancy. Additionally, integrate the consultation of children into all policy and procedure development.
 3. Conduct further studies on the situation of children in Tanzania and ensure that data is uniformly disaggregated by gender and disability in order that inequality is highlighted and policy decisions can take discrimination into account.
 4. A uniform definition of a child must be formulated and included within all relevant domestic laws. The definition should comply with the definition outlined in the CRC and ACRWC, which specify that all those under the age of 18 are classified as children.
 5. The Law of Marriage Act 1971 must also be amended to reflect the criminality of sexual intercourse with a child irrespective of marriage status. Tanzania's Law of Marriage Act 1971 must be amended to ensure that the State party establishes one legal minimum age for marriage, at an internationally acceptable level, for both boys and girls without discrimination based on gender or ethnicity.
 6. Repeal the provision in the Law of the Child Act 2009 which allows for "justifiable" correction as there is no distinguishable difference between corporal punishment and child abuse and repeal all additional provisions regarding the legality of corporal punishment in schools and in juvenile prison facilities. Carry out further campaigns to educate parents, guardians and professionals about the harmful impact of corporal punishment, and continue to promote positive non-violent forms of discipline as alternatives to corporal punishment.
 7. Expand national programmes that combat FGM/C. A national survey needs to be conducted to gain further information about the prevalence of the practice, and focus can subsequently be prioritised on those regions with the highest prevalence. Awareness-raising of the dangers associated with the practice and its illegality have led to a decline, however further work needs to be carried out on the underlying cause of FGM/C – gender discrimination – such as through increasing awareness of equality. There needs to be increased sensitisation of law enforcement officials and judicial authorities on FGM/C and the importance of strictly enforcing the law (LHRC Report, 2008). Given the prevalence of FGM/C within traditional communities awareness raising and education with the elders of these communities is essential. Alternative rites of passage ceremonies should be encouraged.

8. The 2008 Anti-Trafficking Act needs to be better enforced, and further efforts need to be directed towards strengthening the Anti-Trafficking Committee and Secretariat. The Fund is critical to ensuring the remuneration and rehabilitation victims. There is an evident need to increase efforts to enforce the anti-trafficking act by prosecuting and convicting trafficking offenses, and applying stringent penalties including jail time for convicted offenders, implementation of the act's victim protection and preventing provisions including by allocating resources to the victim assistance fund, establish policies and procedures for government officials to identify and interview potential victims and transfer them to organising providing care, begin compiling trafficking specific law enforcement and victim protection data at the national level, provide training to front-line officials such as judges and the police to clarify the difference between trafficking and alien smuggling, implement national action plan by providing funding to the anti-trafficking committee and secretariat, additional training to law enforcement authorities on how to detect and investigate human trafficking crimes.
9. Reinforce early and mandatory reporting of child sexual abuse; garner support for victims during investigation process; involve local leadership. Further develop the national helpline which is currently proving to be a success. Further raise awareness of this valuable tool through media and schools.
10. The barriers to girls' education must be systematically identified and addressed in every school. In addition to the inclusion of pregnant girls and teenage mothers in school, the three issues of a) separate, sufficient and clean toilets with sanitation facilities must be provided in every school b) the problem of teasing of girls and gender-based violence within schools must be addressed within the curriculum and c) a module on gender-responsive pedagogy must be added into the teacher training curriculum, must be addressed within policies and guidance.