



**Convention on the
Rights of the Child**

Distr.
GENERAL

CRC/C/OPSC/TZA/1
23 October 2007

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 12, PARAGRAPH 1, OF THE OPTIONAL PROTOCOL
TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE
OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

Initial report of States parties due in 2005

UNITED REPUBLIC OF TANZANIA

[7 July 2007]

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Abbreviations and acronyms		3
Summary		4
Introduction	1 - 3	7
I. MEASURES ADOPTED TO IMPLEMENT THE PROVISIONS OF THE OPTIONAL PROTOCOL	4 - 12	8
A. Sale of children	13 - 23	10
B. Child prostitution and child pornography	24 - 31	12
C. Penal and criminal procedure	32 - 38	14
D. Protection of the rights of child victims	39 - 48	16
E. Prevention measures and international cooperation	49 - 57	18

Annexes

1. Government departments for implementation - Roles of implementing partners	20
2. Sources of information	22

Abbreviation and acronyms

CDO	Community Development Officer
CJF	Community Justice Facilitator
ILO	International Labour Organization
IOM	International Organization for Migration
IPEC	International Programme on the Elimination of Child Labour
KIWOHEDE	Kiota Women's Health and Development
LGA	Local government authority
LRC	Law Reform Commission
MCDGC	Ministry of Community Development, Gender and Children
MKUKUTA	Awareness-raising and training programme
MVC	Most vulnerable children
SADC	Southern African Development Community
TBP	Time-Bound Programme on the Elimination of the Worst Forms of Child Labour
UNICEF	United Nations Children's Fund

Summary

Background

The United Republic of Tanzania¹ ratified the Convention on the Rights of the Child in 1991. It acceded to the Optional Protocol on the Involvement of Children in Armed Conflict in November 2004 and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography in April 2003. In August 2004, the United Republic of Tanzania submitted its second periodic report on the implementation of the Convention. This document is the United Republic of Tanzania's initial report to the Committee on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

Sources of information

There has been very little research into the extent of human trafficking and related abuses (including pornography and prostitution) in the United Republic of Tanzania. The information available suggests that the United Republic of 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.² Children are also being internally trafficked from rural to urban areas. The International Organization for Migration (IOM) is currently carrying out further research.

The Optional Protocol and the law

Most of the provisions spelt out in the Optional Protocol have already been incorporated into the legislation of mainland Tanzania and Zanzibar. Under the laws of the United Republic of Tanzania, the trafficking of all persons, including women and children, is prohibited, as are 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 in other international protocols.³ In addition, legal redress is lacking: despite the fact that trafficking of persons has been a criminal offence since 1998, no case of trafficking has been brought before the courts to date. The mainland of the United Republic 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.

¹ The United Republic of Tanzania consists of the mainland of Tanzania (formerly Tanganyika) and the semi-autonomous islands of Zanzibar.

² UNICEF *Innocenti Insight: Trafficking in Human Beings, Especially Women and Children, in Africa*, 2003, and the US State Department's 2006 *Trafficking in Persons Report*.

³ For example, the United Nations Convention against Transnational Organized Crime's supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

Partners

Partners implementing the Optional Protocol include the Ministries of Public Safety and Security; of Home Affairs; of Foreign Affairs and International Relations; the Commission for Human Rights and Good Governance; the Ministry of Community Development, Gender and Children; the Ministry of Youth, Employment, Gender and Children's Development (Zanzibar); the Ministry of Labour, Employment and Youth Development; the Ministry of Health and Social Welfare; the Ministry of Education and Vocational Training; the Ministry of Justice and Constitutional Affairs; the Ministry of Information, Culture and Sports; the Prime Minister's Office, regional administrative and local government; NGOs and civil society organizations.

Coordination of the Optional Protocol

The Ministry of Community Development, Gender and Children (MCDGC) has acknowledged that existing coordination mechanisms for child rights have been inadequate and that responsibilities relating to child protection have been fragmented between various ministries.⁴ The MCDGC has now proposed that a national body be established to coordinate all efforts with regards to child rights at all levels. One of its key tasks will be to develop a mechanism for the periodic evaluation of the implementation of the Convention and its Optional Protocols.

Dissemination of the Optional Protocol

The Optional Protocol has not been broadly disseminated, and training for interested professional bodies has been extremely limited.

Some of the offences spelt out in the Optional Protocol are already covered by domestic legislation and are therefore familiar to law enforcement officials and legal practitioners. The Government has been trying to raise awareness further and has been conducting periodic stakeholder meetings on anti-trafficking initiatives. It has also entered into a bilateral agreement with the United States of America to establish and support a project to combat trafficking. The project is designed to enhance institutional capacity in anticipation of the establishment of an anti-trafficking task force and training for relevant NGOs, law enforcement officials, prosecutors, judges and victim service providers.

Assistance in conducting investigations and obtaining evidence

The Mutual Assistance in Criminal Matters Act⁵ provides a mechanism for cooperation and assistance between States with a view to conducting investigations, obtaining evidence and conducting search and seizure in criminal matters.

⁴ Including the MCDGC, the Ministry of Labour, Employment and Youth Development, the Ministry of Health and Social Welfare and the Ministry of Education and Vocational Training.

⁵ The Mutual Assistance in Criminal Matters Act, Cap 254 (R.E. 2002).

Protection of child victims

With regard to trials involving sexual offences (e.g. child pornography and prostitution), in camera proceedings are mandatory.⁶ The law also prohibits the publication of evidence or details of witnesses. Under the Evidence Act and Decree,⁷ all persons including children are considered competent witnesses.

Other protection measures for victims

The United Republic of Tanzania has committed itself⁸ to eliminate the worst forms of child labour by the year 2010. The Time-Bound Programme on the Elimination of the Worst Forms of Child Labour (TBP) is coordinated by the International Labour Organization (ILO) under the International Programme for the Elimination of Child Labour (IPEC),⁹ and focuses on the commercial sexual exploitation of children and on domestic service. Children withdrawn from commercial sexual exploitation require rehabilitation and are provided with counselling as well as formal education/life skills training for income-generating activities.

Monitoring mechanism

To ensure effective implementation of the TBP, the United Republic of Tanzania has established a National Intersectoral Coordination Committee charged with approving and coordinating partners' project activities. The Committee is supported by four sectoral subcommittees.¹⁰ The Government has formed a District Child Labour Committee to oversee programme implementation at district and community levels.

⁶ Provided under the Criminal Procedure Act and the Children and Young Persons Act, section 3 (5) of the Children and Young Persons Act, Cap 13 (R.E. 2002), as amended by Act No. 4 of 1998.

⁷ The Evidence Act, Cap 6 (R.E. 2002) - Mainland, and Chapter 5 of the Evidence Decree - Zanzibar.

⁸ Within the framework of the Worst Forms of Child Labour Convention, 1999 (No. 182).

⁹ Other partners involved in this programme include government ministries/departments, trade union organizations, employers' associations and non-governmental organizations (NGOs) and international NGOs such as the Education Development Centre (EDC).

¹⁰ On commercial agriculture and mining, domestic services and prostitution, and education, as well as a technical subcommittee.

Introduction

1. The United Republic of Tanzania¹¹ ratified the Convention on the Rights of the Child in 1991. It acceded to the Optional Protocol on the Involvement of Children in Armed Conflict in November 2004 and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography in April 2003. The United Republic of Tanzania also ratified the United Nations Convention against Transnational Organized Crime and its two supplementing Protocols¹² in May 2006. It ratified ILO Convention No. 182 (1999) on the worst forms of child labour in 2001, ILO Convention No. 138 (1973) on the minimum age Convention in 1983, and the African Charter on the Rights and Welfare of the Child (ACRWC) in March 2003.
2. In August 2004, the United Republic of Tanzania submitted its second periodic report on the Convention on the Rights of the Child. The report was considered by the United Nations Committee on the Rights of the Child in Geneva in May 2006. This current document is the United Republic of Tanzania's initial report to the Committee on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography submitted in accordance with article 12, paragraph 1, of the Optional Protocol. In preparing this report, the United Republic of Tanzania followed the guidelines adopted by the Committee.
3. Government departments, NGOs and other relevant international organizations such as the International Labour Organization, the International Committee of the Red Cross and the International Organization for Migration - were consulted in the preparation of this report. In July 2006, the report was disseminated to all relevant stakeholders, and a consultative meeting was held to discuss the report and agree on the sufficiency and correctness of the information contained therein. Provisions of the Protocol were also discussed during consultations with children on the ACRWC in July 2006.

¹¹ See footnote 1.

¹² These are (i) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and (ii) the Protocol Against the Smuggling of Migrants by Land, Sea and Air.

I. MEASURES ADOPTED TO IMPLEMENT THE PROVISIONS OF THE OPTIONAL PROTOCOL

Status of the Optional Protocol under domestic law

4. The United Republic of Tanzania acceded to the Optional Protocol without any reservations. As a common law country, international treaties must be specifically adopted into domestic legislation before they become binding upon the State (dualistic system). This is usually done by enacting a piece of “stand-alone” legislation or, more commonly, by amending existing legislation through “consequential amendments”.

5. Most of the provisions spelt out in the Optional Protocol have already been incorporated into the legislation of mainland Tanzania and Zanzibar. Under the laws of the United Republic of Tanzania, the trafficking of all persons, including women and children, is prohibited, as are child prostitution and pornography. However, current provisions lack precise definitions and do not cover all of the elements and forms of trafficking, prostitution and pornography detailed either in the Optional Protocol or in other international Protocols.¹³ In addition, legal redress is lacking: despite the fact that the trafficking of all persons has been a criminal offence since 1998, no case of trafficking has been brought before the courts to date.

6. The mainland of Tanzania has, however, drafted a new comprehensive Anti-Trafficking of Persons bill to be tabled in the National Assembly by the end of 2006.

Partners responsible for implementing the Optional Protocol

7. Partners responsible for the implementation of the Optional Protocol include the Ministries of Public Safety and Security; of Home Affairs; of Foreign Affairs and International Relations; the Commission for Human Rights and Good Governance; the Ministry of Community Development Gender and Children; the Ministry of Youth, Employment, Gender and Children’s Development (Zanzibar); the Ministry of Labour, Employment and Youth Development; the Ministry of Health and Social Welfare; the Ministry of Education and Vocational Training; the Ministry of Justice and Constitutional Affairs; the Ministry of Information, Culture and Sports; the Prime Minister’s Office, regional administrative and local government; NGOs and civil society organizations (for further details of implementing responsibilities please see annex 1).

Coordination of the Optional Protocol

8. The Ministry of Community Development, Gender and Children (MCDGC) has acknowledged that existing coordination mechanisms for child rights have been inadequate, with responsibilities relating to child protection fragmented between various ministries.¹⁴

¹³ For example, the United Nations Convention against Transnational Organized Crime’s supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

¹⁴ Including the MCDGC, the Ministry of Labour, Employment and Youth Development, the Ministry of Health and Social Welfare and the Ministry of Education and Vocational Training.

The MCDGC has now proposed that a national body be established to coordinate all efforts with regard to child rights at all levels. The proposed body will involve community-based organizations, faith-based organizations and the media amongst others. One of its key tasks will be to develop a mechanism for the periodic evaluation of the implementation of the Convention on the Rights of the Child and its Optional Protocols. The proposal by the MCDGC is currently being reviewed by the Cabinet and is expected to be approved.

Dissemination of the Optional Protocol

9. The Optional Protocol has not been broadly disseminated and training for interested professional bodies has been extremely limited. Some of the offences spelt out in the Optional Protocol are already covered by domestic legislation and are therefore familiar to law enforcement officials and legal practitioners. They form part of the curricula in university law degrees, in law enforcement training institutions and in the National Social Welfare Training Institute.

10. In May 2006, the MCDGC disseminated the Optional Protocol to its personnel through a training programme on child rights.¹⁵ An action plan was adopted for implementing children's rights, including at community level, so as to ensure that such rights are promoted and safeguarded. The MCDGC intends to continue this training beyond the current 12 regions and to extend it upwards from the village to the regional level.

11. Awareness of the Optional Protocol was raised during individual consultations in the preparation of this report and through deliberations on the draft report at the Consultative Stakeholders' meeting, where participants included representatives of relevant government ministries/departments, the United Nations, other international organizations and NGOs. A three-day child forum meeting was also conducted and children from eight districts in mainland Tanzania participated in the deliberations on key provisions of children's rights, including the African Charter on the Rights and Welfare of the Child and the two Optional Protocols. The Convention on the Rights of the Child, its Optional Protocols and the African Charter have all been translated into Kiswahili for wider dissemination.

12. NGOs¹⁶ have also been involved in raising awareness of issues and implementing activities relating to the Optional Protocol. For example, they have made efforts to combat child trafficking and prostitution through outreach programmes, in addition to mobilizing and

¹⁵ Training focused on the Convention on the Rights of the Child, its Optional Protocols and the African Charter on the Rights and Welfare of the Child. Participants included community development officers (CDOs) at regional and district levels and principals of the Folk Development Colleges (FDCs). A total of 86 CDOs and 15 principals from 12 regions of the United Republic of Tanzania were provided with child rights knowledge and skills.

¹⁶ Such as KIWOHEDE, the African Medical Relief Foundation, Kuleana, the Tanzania Media Women's Association, the Conservation Hotels Domestic and Allied Workers Union, and the African Network for the Prevention and Protection of Child Abuse and Neglect.

sensitizing communities and children as to the effects of child prostitution. The NGO called Kiota Women's Health and Development (KIWOHEDE) has developed practical guidelines for NGOs and CBOs for interventions related to the commercial sexual exploitation of children.

A. Sale of children

Sources of information on the sale of children

13. There has been very little research into the extent of human trafficking and related abuses (including pornography and prostitution) in Tanzania. The information available suggests that the United Republic of 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.¹⁷

14. There is also visible mobility of children around and within the country, with children being internally trafficked from rural to urban areas to work as domestic servants and in nightclubs and bars.¹⁸ An ILO report found trafficked children to be subject to harsh living and working conditions, and to be at risk of engaging in prostitution in order to survive.

The law

15. The United Republic of Tanzania prohibits the sale of children, child prostitution and child pornography under the Mainland Penal Code, as amended by the Sexual Offences Special Provisions Act,¹⁹ the Zanzibar Penal Act²⁰ and the Zanzibar Sexual Offences Special Provisions Act.²¹ Legal protection is guaranteed to all children under 18 without any discrimination whatsoever, in line with articles 2 and 3 of the Convention.

¹⁷ UNICEF *Innocenti Insight: Trafficking in Human Beings, Especially Women and Children, in Africa*, 2003, and the US State Department's 2006 *Trafficking in Persons Report*.

¹⁸ ILO, Rapid Assessments. These focused primarily on child prostitution and trends in internal trafficking in Tanzania. The 2001 *Tanzania, Children in Prostitution: A Rapid Assessment - IPEC* (No. 12) and the 2003 *HIV/AIDS and Child Labour in the United Republic of Tanzania: A Rapid Assessment - IPEC* (No. 3).

¹⁹ The Sexual Offences (Special Provision) Act, Cap 101 (R.E. 2002) - Mainland.

²⁰ The Penal Act No. 7 of 2004 - Zanzibar.

²¹ The Sexual Offences Special Provision Act No. 7 of 1998 - Zanzibar.

16. Trafficking under the relevant penal laws²² is defined as follows:

(a) Any person who engages in the act of buying, selling or bartering of any person for money or for any consideration;

(b) Any person who promotes, facilitates or induces the buying or selling or bartering or the placement in adoption of any person for money or any other consideration;

(c) Any person who engages in procuring children from hospitals, shelters for women, clinics, nurseries, day-care centres or other childcare institutions or welfare centres, for money or other any consideration, or procures a child for adoption from any such institutions or centre, by intimidation of the mother or any other person.

17. A person who commits the offence of trafficking is liable to imprisonment for a term not exceeding 30 years but not less than 20.

Raising awareness of trafficking

18. In order to address the knowledge gaps related to trafficking, the International Organization for Migration (IOM) is currently carrying out research into the profiles of victims and traffickers, recruitment, routes, modes of transport, types of exploitation and existing local and national rehabilitation schemes.

19. Working through the Ministry of Foreign Affairs and International Cooperation, the Government has been trying to raise awareness of the problem and has been conducting periodic stakeholder meetings on anti-trafficking initiatives.²³ Stakeholders have now agreed to establish a body to coordinate and monitor the trafficking situation in the country and to commission comprehensive research on trafficking in the United Republic of Tanzania.

20. IOM is also conducting workshops and training on human trafficking²⁴ and provided technical legal input for the Anti-Trafficking of Persons draft bill.

21. The Government of the United Republic of Tanzania has entered into a bilateral agreement with the United States of America to establish and support a project to combat trafficking. The project is designed to enhance the institutional capacities of the Government to carry out

²² Section 139A (1) of the Penal Code, Cap 16 (R.E. 2002) - Mainland. Section 172 (1) Act No. 6 of 2004, op. cit. - Zanzibar.

²³ The meetings bring together representatives of government departments, law enforcement agencies and civil society stakeholders.

²⁴ Some 230 immigration personnel from the Immigration Department received training on migration management. The training has a victim-centred approach. Further training was aimed at NGOs, government officials, media and the private sector.

effective measures against trafficking in persons. The agreement anticipates the establishment of an Anti-Trafficking Task Force and training for relevant NGOs, law enforcement officials, prosecutors, judges and victim service providers.

Adoption safeguards

22. Domestic law does not yet allow intercountry adoption, and the United Republic of Tanzania is not a party to the Hague Convention on Protection of Children and Co-operation in Respect of InterCountry Adoption (The Hague Adoption Convention). Intercountry adoption is currently discouraged since there are no mechanisms for screening and legally monitoring the adoption process. Without these in place, children may be at risk of trafficking, sexual exploitation and pornography.

23. There are other safeguards in place to ensure that children are not sold in country. For example, children may only be adopted by a resident of the United Republic of Tanzania and must have been in his or her care for a period of no less than three continuous months. 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.²⁵ In its 1994 report to the Government, the Law Reform Commission (LRC) recommended that the pre-adoption period of residence for non-citizens be raised from three months to a minimum of two 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).

B. Child prostitution and child pornography

Sources of information

24. There is very limited data on the nature and extent of commercial sexual exploitation of children in the United Republic of Tanzania. Of the limited information sources available, ILO's Rapid Assessments of 2001 and 2003 revealed that most of the children involved in prostitution in the country were girls aged between 9 and 17 years. Prostitution is evident throughout the country, especially in major towns and at truck stops along highways. Most children in prostitution come from poor families and from the least developed areas. Many of the girls had dropped out or never attended school. Many lived with former prostitutes or came from broken families or had parents who were alcoholics or who did not send them to school. Over half of the children (five or 55.6 per cent) engaged in prostitution were orphans, and two (22.2 per cent) were living in female-headed households.

Child prostitution

25. Child prostitution is prohibited in the United Republic of Tanzania and is an offence under the Penal Code.²⁶ It is a criminal offence:

²⁵ Rule 13 of the Rules of the Court GN. No. 321 of 1942.

²⁶ Section 139 of the Sexual Offences (Special Provision) Act, Cap 101. A similar provision is provided in the Zanzibar Sexual Offences Special Provision Act No. 7 of 1998.

(a) To procure or attempt to procure any person, whether male or female of whatever age, whether with or without the consent of that person, to become a prostitute within or outside the United Republic of Tanzania;

(b) To procure or attempt to procure any person under 18 years of age to leave the United Republic of Tanzania whether with or without the consent of that person or female with the view to facilitation of prohibited sexual intercourse with any person outside the United Republic;

(c) To bring or attempt to bring into the United Republic of Tanzania any person under 18 years of age with a view to prohibited sexual intercourse with any person inside or outside the United Republic;

(d) To give monetary consideration, goods or other benefits to a child or his or her parents with intent to procure the child for sexual intercourse or any form of sexual abuse or indecent exhibition or show, a practice which is assimilated with the offence of sexual exploitation.

26. The punishment for perpetrators of child prostitution is imprisonment for a term not exceeding 20 years and not less than 10 years.

Child pornography

27. Access to information is restricted if deemed necessary to protect public order, public health or morals. The Broadcasting Services Act²⁷ established the Tanzania Broadcasting Commission as the legal watchdog for broadcasting ethics in the country. It issues licences and regulates radio and television programmes. It is responsible for regulating and supervising programmes that violate public order or corrupt public morals.

28. Child pornography in the United Republic of Tanzania is prohibited.²⁸ It is defined as constituting the following acts:

(a) Knowingly permitting any child to remain in any premises for 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;

(b) Inducing a person to be a client of a child for sexual intercourse or for any form of sexual abuse or indecent exhibition or show, by means of print or other media, oral advertisement or other similar means.

29. Offenders are liable to a term of imprisonment not exceeding 20 years and not less than 5 years.

²⁷ The Broadcasting Services Act, Cap 306 (R.E. 2002).

²⁸ Section 138B of the Sexual Offences (Special Provision) Act, Cap 101 - Mainland and section 134 of Penal Act No. 6 of 2004 - Zanzibar.

30. It is also an offence under section 175 of the Penal Code for any person to traffic in obscene publications. This section covers several elements of the offence, including the conduct of business, advertising, or public exhibition of any indecent show or performance which may corrupt morals. The offence carries a punishment of two years' imprisonment.

31. The general principles of common law regarding participation in criminal offences also apply. Conspirators are charged with or without the principal offender. In addition, "parties to the offence" include persons who enable, aid, abet, counsel or procure others in the commission of the offence and are deemed to have taken part in committing the offence and are charged with committing it. Accessories after the fact are also liable when they assist an offender to escape punishment. In instituting criminal proceedings, there is no statutory limitation under the laws of Tanzania.

C. Penal and criminal procedure

Jurisdiction (art. 4)

32. The laws of the United Republic of Tanzania provide for both extraterritorial and territorial jurisdiction.²⁹ This means that the courts have jurisdiction if:

(a) Offences are committed in the United Republic of Tanzania or on board a ship or aircraft registered in the country by any person with the exception of persons with diplomatic immunity unless waived;

(b) Offences are committed by a citizen of the United Republic of Tanzania in any place outside the country;

(c) Offences are committed partly within and partly beyond the court jurisdiction.

33. The Penal Code and the Penal Act do not provide universal jurisdiction for these offences. When the victim is a national of the United Republic of Tanzania but the offence was committed outside the country, the only available recourse is to expect that the State where the offence was committed will prosecute the offender as a matter of law and good relations.

34. If the offender who has committed the offences referred to in article 3 of the Optional Protocol is present in the United Republic of Tanzania, the State where the offence was committed is at liberty to request the extradition of such offender.

Extradition (arts. 5-7)

35. Child prostitution and child pornography are extraditable offences under the Extradition Act.³⁰ The Act is now outdated and the United Republic of Tanzania is in the process of reviewing it with the intention of incorporating new developments on extradition matters.³¹

²⁹ Section 6 of the Penal Code - Mainland and sections 5 and 6 of the Penal Act - Zanzibar.

36. Disaggregated data on extradition requests is not currently available, so there is no way of ascertaining the number of offences relating to trafficking, child pornography and child prostitution.

Assistance in conducting investigations and obtaining evidence

37. The Mutual Assistance in Criminal Matters Act³² provides a mechanism for cooperation and assistance between States in order to conduct investigations, obtain evidence and conduct search and seizure in criminal matters.

Seizure and confiscation of goods and proceeds

38. Domestic criminal procedure legislation³³ provides for the seizure and confiscation of goods and instruments used to commit or facilitate an offence as defined by article 7 of the Optional Protocol. The law also provides for a mechanism of closing - on a temporary or permanent basis - premises used to commit such offences. In 1991, the United Republic of Tanzania enacted the Proceeds of Crime Act³⁴ under which any property³⁵ derived or realized - directly or indirectly - by any person from a crime can be seized or confiscated.

³⁰ The Extradition Act, Cap 368 (R.E. 2002). In the United Republic of Tanzania extradition is conditional on the existence of treaty or reciprocal backing of warrants for contiguous countries with reciprocal provisions/arrangements.

³¹ Such as United Nations model treaties on mutual assistance in criminal matters and extradition. The United Republic of Tanzania is also a party to the SADC Protocol on Extradition, with an obligation to incorporate this instrument into its domestic legislation. There are new offences that need to be included in the list of extraditable offences, such as trafficking of persons or smuggling of migrants and others. States are, however, not precluded from negotiating other extraditable offences in extradition treaties.

³² The Mutual Assistance in Criminal Matters Act, Cap 254 (R.E. 2002).

³³ The Criminal Procedure Act, Cap 20 (R.E. 2002) - Mainland and the Criminal Procedure Act No. 7 of 2004 - Zanzibar.

³⁴ The Proceeds of Crime Act, Cap 256 (R.E. 2002) - Mainland.

³⁵ "Property" in this circumstance is defined as real or personal property of every description, whether situated in the United Republic or elsewhere, and whether tangible or intangible.

D. Protection of the rights of child victims (art. 8)

Protection of child victims

39. Domestic law recognizes the fundamental right of an accused person to a fair and public hearing. At the same time, the criminal justice system recognizes the vulnerability of child victims and has adopted legislative measures intended to protect child victims. If the court considers it necessary - for example in circumstances where publicity would be prejudicial to the welfare of persons under the age of 18 years - the court may conduct criminal cases in camera.

40. With regard to trials involving sexual offences (e.g. child pornography and prostitution), in camera proceedings are mandatory.³⁶ The law also prohibits the publication of evidence or details of witnesses.

41. Any child of any age can report a crime, though in practice it is usually parents or guardians who report offences. If the child is a victim, legal representation is not required by law and the State institutes criminal proceedings on behalf of the victim.

42. If the offender is a child, the same guarantees available to the victim are available. Offenders have the right to defend themselves either in person or through legal representation. Free legal representation is not provided except through legal aid schemes,³⁷ which are however extremely limited in urban areas and non-existent in rural areas.

43. Under the Evidence Act and Decree,³⁸ all persons including children are considered competent witnesses unless the court decides that they are unable to understand the questions put to them. In sexual offence cases, the court receives the evidence of a child of "tender years" (defined as a person under the age of 14) without corroboration.

³⁶ Provided under the Criminal Procedure Act and the Children and Young Persons Act, specifically, sect. 3 (5) of the Children and Young Persons Act, Cap 13 (R.E. 2002), as amended by Act No. 4 of 1998.

³⁷ Available through the Tanganyika Law Society (the Mainland Bar Association) or NGOs providing legal aid including the University of Dar es-Salaam Legal Aid Committee of the Faculty of Law.

³⁸ The Evidence Act, Cap 6 (R.E. 2002) - Mainland, and Chapter 5 of the Evidence Decree - Zanzibar.

Other protection measures for victims

44. The United Republic of Tanzania has committed itself³⁹ to eliminate the worst forms of child labour by the year 2010. Its Time-Bound Programme is coordinated by the ILO's International Programme on the Elimination of Child Labour (IPEC)⁴⁰ and focuses on the commercial sexual exploitation of children and on domestic service (please see next section).

45. Children withdrawn from commercial sexual exploitation require rehabilitation and are provided with counselling as well as formal education/life skills training for income-generating activities. Children wishing to be united with their families and communities are also supported and monitored closely.

46. The role of NGOs in this area has been commended and encouraged by the Government. NGOs are involved in various activities to combat and prevent child prostitution. These efforts range from surveys, outreach programmes, counselling and alternative skills to the mobilization and sensitization of victims of child prostitutions and communities at large as to the effects of prostitution.

47. KIWOHEDE has, in addition, been raising awareness by assisting victims with sharing their experience through various radio programmes. KIWOHEDE, as one of the key NGO partners in this programme, has established three drop-in centres for girls to provide medical, psychological and other support. The association works together with medical personnel, social workers, religious groups and other members of the community to ensure effective withdrawal and rehabilitation. The International Organization for Migration (IOM) has also supported KIWOHEDE's efforts to establish a shelter in Dar es-Salaam for victims of trafficking. From June 2005 to May 2006, the IOM counter-trafficking initiative in Tanzania provided assistance to 46 girls who were victims of internal trafficking, sexual exploitation and domestic service.

48. The Social Welfare Department's 2000 Community-based Initiative Programme is responsible for providing care, support and protection to the most vulnerable children (MVC). This programme focuses on protection, access to education, food, clothing, shelter and psychological support. It also ensures access to justice through the Community Justice Facilitators (CFJ) for children in need of protection from abuse and violence. The identification of MVC is done by the communities themselves, which state the criteria of vulnerability within their own context. By June 2006, the programme had identified 190,291 MVC in 32 districts who have been supported.

³⁹ Within the framework of the Worst Forms of Child Labour Convention 1999 (No. 182).

⁴⁰ Other partners involved in this programme include government ministries/departments, trade union organizations, employers' associations and non-governmental organizations and international NGOs such as the Education Development Centre (EDC).

E. Prevention measures and international cooperation (arts. 9 and 10)

Prevention

49. Measures taken so far to prevent child prostitution, child pornography and the sale of children include prohibition of these offences as discussed above in this report and the adoption of labour laws⁴¹ that restrict child labour. The fundamental rights and protection under the labour laws include the following provisions:

- (a) No person shall employ a child under the age of 14 years;
- (b) A child of 14 years may only be employed to do light work which is not likely to be harmful to the child's health and development and does not prejudice the child's attendance at school or participation in vocational training;
- (c) No person shall employ a person under the age of 18 years in hazardous forms of work, for example in mines, factories or ships;
- (d) It is prohibited to employ children under the age of 18 years to do night work.

50. The United Republic of Tanzania, having ratified ILO Convention No. 182 (1999) on the worst forms of child labour, has taken steps to implement the Convention by integrating it in its MKUKUTA awareness-raising and training programme. Under the Convention, the worst forms of child labour include slavery, trafficking of children, sexual exploitation, domestic exploitation, prostitution, and pornographic performances.

51. The Government has been taking steps to create an enabling environment conducive to the elimination of the worst forms of child labour through relevant policies, appropriate laws and the establishment of links with other national development initiatives. In 2001, a national meeting was held in preparation for the Time-Bound Programme. The first phase of the programme was implemented in 14 districts, targeting children between the ages of 7 and 18 years. In May 2006, the Government launched Phase II of the Time-Bound Programme.⁴² Detailed information on the prevention programmes is reported in the second periodic report of the Committee on the Rights of the Child (pages 93-95 and 100-103).

52. The role of NGOs in this area has been commended and encouraged by the Government (please see previous section).

⁴¹ The Employment and Labour Relations Act No. 6 of 2004 - Mainland and The Employment Act No. 11 of 2005 - Zanzibar.

⁴² In implementing the Child Development Policy of 1996, for example, the Ministry of Labour, Employment and Youth Development prepared strategies for eliminating child labour in the United Republic of Tanzania. It called for stakeholders at all levels to take responsibilities within their mandates to address child labour in its worst forms.

53. The International Organization for Migration (IOM) is implementing a project entitled “Direct Assistance to Victims of Trafficking in Tanzania: Phase 2 of the Counter-Trafficking Initiative in Tanzania Through Preventive Measures, Protection and Victim Assistance”, funded by presidential initiative under the US State Department’s Bureau of Population, Refugees, and Migration. IOM is working with KIWOHEDE to provide assistance to identified victims of trafficking.

54. Working through the Ministry of Information, Culture and Sports, the Government is looking into ways of regulating Internet providers so as to restrict or block access to pornographic Internet sites.

Monitoring mechanism

55. To ensure effective implementation of the TBP, the United Republic of Tanzania has established a National Intersectoral Coordination Committee charged with approving and coordinating partners’ project activities. The Committee is supported by four sectoral subcommittees.⁴³ The Government has formed a District Child Labour Committee to oversee programme implementation at district and community levels.

International assistance and cooperation

56. The United Republic of Tanzania has adopted the Yokohama Global Commitment 2001 against the commercial sexual exploitation of children. The Government is also cooperating with the United States Department of Labor and the ILO in implementing the TBP against the worst forms of child labour, targeting the following sectors:

- (a) Commercial agriculture;
- (b) Domestic service;
- (c) Mining;
- (d) Commercial sexual exploitation.

57. The community-based Initiative Programme for MVC is supported by UNICEF, the Axios Foundation, the Global Fund and other development partners.

⁴³ Commercial agriculture and mining, domestic services and prostitution, education, and a technical subcommittee.

Annex I

GOVERNMENT DEPARTMENTS FOR IMPLEMENTATION - ROLES OF IMPLEMENTING PARTNERS

1. Partners on the mainland include:

(a) The Ministry of Public Safety and Security - the police are responsible for all criminal investigations in the United Republic of Tanzania, including offences punishable under the Optional Protocol. They recently created the position of Liaison Officer on Human Trafficking;

(b) The Ministry of Home Affairs - this government body has several departments, including its Immigration Department which revokes passport or travel documents if the holder engages in migrant trafficking.⁴⁴ Migrant trafficking in this respect means illegal trafficking of human beings across borders for purposes of prostitution, employment, business or any other illegal activities;

(c) The Ministry of Foreign Affairs and International Cooperation - this body is responsible for foreign policy. It is the depositary and custodian of international treaties, conventions and agreements;

(d) The Commission for Human Rights and Good Governance - the Commission receives and investigates complaints relating to violation of human rights and the principles of good governance. It also promotes ratification of or accession to treaties or conventions on human rights as well as the harmonization of national legislation. In addition, it monitors and assesses compliance within the United Republic of Tanzania. In 2005, the Commission conducted a public hearing on violence and child abuse in 11 regions of the mainland. A total of 307 cases were reported in the public hearing, of which 29 per cent involved sexual offences, 29 per cent physical violence, 32 per cent child neglect or abandonment, and 13 per cent emotional abuse.

2. Partners for non-Union matters include:

(a) The Ministry of Community Development, Gender and Children (MCDGC) on the Mainland and the Ministry of Youth, Employment, Gender and Children Development (MYEGCD) on Zanzibar are responsible for developing child policy and strategies and monitoring implementation. They coordinate and implement programmes focusing on children's rights and welfare. MCDGC is responsible for submitting countrywide reports on the implementation of the Convention on the Rights of the Child and its two Optional Protocols;

(b) The Ministry of Labour, Employment and Youth Development - the Child Labour Unit is responsible for coordinating the Time-Bound Programme against the Worst Forms of Child Labour targeting for example commercial sexual exploitation and domestic service

⁴⁴ The Tanzania Passports and Travel Documents Act No. 20 of 2002.

exploitation. The Ministry, through its Social Security Unit, is responsible for implementing social security policy. The latter Unit is a key stakeholder as regards the development of social protection schemes within the framework of MKUKUTA, the national development strategy;

(c) The Ministry of Health and Social Welfare - the Directorate of Preventive Services is responsible for developing policies, strategies and implementing community-based reproductive and child health services. The Department of Social Welfare is also responsible for developing policies, for meeting children's social needs, for safeguarding the rights of the most vulnerable children (MVC) and for introducing the community-based MVC programme;

(d) The Ministry of Education and Vocational Training - this body is responsible for ensuring that compulsory basic education is available and accessible to all children in the United Republic of Tanzania. Children who are either prevented or withdrawn from commercial sexual exploitation under the TBP are reintegrated into formal or non-formal education (primary or vocational education and training);

(e) The Ministry of Justice and Constitutional Affairs - the judiciary is responsible for ensuring that proceedings in courts which involve children (as witnesses or victims) comply with legal safeguards. The Directorate of Public Prosecution institutes and undertakes criminal proceedings against any person before any court (other than a court-martial). The Directorate of Public Prosecution, working together with the Parliamentary Draftsmen Department, has drafted the Anti-Trafficking of Persons Bill. The Law Reform Commission (LRC) keeps under review all the laws of the United Republic of Tanzania with a view to systematic development and reform. At present, the Government has developed issues for a white paper consultation process on the basis of the LRC recommendations in the 1994 report on the law relating to children. One of the recommendations underscores the need for a uniform definition for a child as a person under the age of 18 years;

(f) The Ministry of Information, Culture and Sports - the two Directorates of Information Service and Culture are responsible for regulating and supervising the mass media so as to ensure that it disseminates information and material of social and cultural benefit to children;

(g) The Prime Minister's Office, Regional Administration and Local Government - Local government authorities (LGAs) are increasingly taking over responsibility for children's services and social safety nets from the Department of Social Welfare. National Time-Bound Programmes are implemented at the national, regional and village government level. The Chairperson for the National Intersectoral Coordination Committee is the Prime Minister's Office. Local government administration is the central development actor at community level. The Child Labour Committee is formed at the ward or village level and monitors children at risk of commercial sexual exploitation in the community. The community-based MVC programme is implemented by the communities themselves in collaboration with LGAs;

(h) NGOS and Civil Society Organizations - NGOs and civil society are key partners of government in implementing the Time-Bound Programme and the Community-Based Initiation Programme for MVC. Their role in these programmes includes community mobilization, awareness-raising, withdrawal, counselling, rehabilitation/reintegration and suitable alternatives.

Annex II

SOURCES OF INFORMATION

A. Consultations

1. In order to obtain the information contained in this report, broad consultations were held with individuals and a range of public and private sector institutions/organizations. The following government departments and non-governmental organizations were consulted:

(a) Government departments and statutory bodies: the Ministry of Youth, Employment, Women and Children's Development - Zanzibar, the Ministry of Health and Social Welfare, the Ministry of Labour, Employment and Youth Development, the Ministry of Justice and Constitutional Affairs, the Ministry of Public Safety and Security, the judiciary, the Ministry of Foreign and International Cooperation, the Ministry of Information, Culture and Sports, the Commission for Human Rights and Good Governance;

(b) Non-governmental organizations: the National Organization for Legal Assistance (NOLA), the Tanzania Media Women's Association (TAMWA), Kuleana, AMREF, the African Network for the Prevention and Protection of Child Abuse and Neglect (ANPPCAN), the National Network of Organizations Working with Children (NNOC) and KIWOHEDE;

(c) United Nations bodies: IOM, UNICEF;

(d) Specialized agencies and related organizations: ILO (IPEC).

B. References

2. The following consists of a list of references used in the report:

(a) United Republic of Tanzania's second periodic country report on the implementation of the Convention on the Rights of the Child, submitted to the Committee on the Rights of the Child in August 2004;

(b) United Republic of Tanzania's initial report on the implementation of the Convention on the Rights of the Child, submitted in 1998;

(c) *The 2001 Tanzania, Children in Prostitution: A Rapid Assessment* - IPEC;

(d) The 2003 ILO *HIV/AIDS and Child Labour in the United Republic of Tanzania: A Rapid Assessment* - IPEC;

(e) The 2003 *Innocenti Insight: Trafficking in Human Beings, Especially Women and Children in Africa*, by UNICEF's Innocenti Research Centre;

(f) The 1994 *Tanzania Law Reform Commission Report on the Law Relating to Children*.
