



United Republic of TANZANIA

SEPTEMBER 2014

ANALYSIS OF THE SITUATION

A. General situation

The United Republic of Tanzania (Tanzania) achieved independence from British rule in 1960's and, in 1964, Tanganyika and Zanzibar merged to form the nation as it is known today.

The 2012 national Census showed that children between 0 and 17 years old represented nearly 50% of the Tanzanian population (around 22,500,000 children among a total population of 47,783,000). Several children rights' violations have been reported, such as high levels of sexual, physical and emotional violence (30% of girls under the age of 18 have been victim of sexual violence), child labour (thousands of children, a lot of them orphans, working in licensed and unlicensed small-scale gold mines in Tanzania) or attacks against children with albinism (151 cases with half of which were murders since 2000).

Moreover, regarding the situation of children in this country, there are only 8% of children under 5 years old with birth certificate (UNICEF statistics). This national rate has not improved in the last five years, and remains one of the lowest rates of birth certification in Africa.

During 2007-2011, 67.9% of the population lived below the international poverty line of US \$1.25 per day, with a higher proportion in rural areas. Other problems faced by the country include soil degradation, deforestation or droughts. UNICEF also reported that malaria is a common issue in the country and is the lead killer of children.

According to UNICEF, Tanzania hosts one of the largest refugee population in Africa, due to conflicts in neighbouring Rwanda, Burundi, and the Democratic Republic of Congo. As of January 2014, UNHCR estimated 102 thousand the number of refugees in Tanzania (a significant decrease compared to 2004 with an estimated 400 thousand refugees).

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Sources:

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- UNICEF country analysis, Tanzania: <http://www.unicef.org/infobycountry/tanzania.html>
- UNICEF statistics, Tanzania: http://www.unicef.org/infobycountry/tanzania_statistics.html
- CRIN, UN criticizes government for segregating children with albinism 25/08/2014 <https://www.crin.org/en/library/news-archive/tanzania-un-criticises-government-segregating-children-albinism>
- Violence against children in Tanzania: Findings from a National Survey 2009, August 2011, UNICEF Tanzania: http://www.unicef.org/tanzania/VAC_Tanzania_Report.pdf
- CIA World Factbook, Tanzania: <https://www.cia.gov/library/publications/the-world-factbook/geos/tz.html>
- The UN refugee agency, 2014 UNHCR country operations profile - United Republic of Tanzania: <http://www.unhcr.org/pages/49e45c736.html>
- Human Rights Watch Report, Toxic Toil Child Labor and Mercury Exposure in Tanzania's Small-Scale Gold Mines, August 2013 http://www.hrw.org/sites/default/files/reports/tanzania0813_ForUpload_0.pdf

B. Children deprived of their family and actual responses

While significant steps have been taken to improve the legal framework for the protection of the rights of children in Tanzania, notably through the implementation of **the Law of the Child Act of 2009** (in Tanzania Mainland) and the **Children Act of 2011** (in Zanzibar)¹, many children are still vulnerable to violence, exploitation, neglect and abuse. Commonly the very institutions and individuals that are supposed to protect children – teachers, police, and relatives – are cited as the perpetrators of the violence or abuse.

Tanzania also faces important issues with a very high number of orphaned children (3 million which represent 13% of all children), half of them being orphaned due to HIV/AIDS. Thus, based on the 2009 survey on Violence against children in Tanzania (Section 12 - Child Vulnerability: Orphan Status and Childhood Experiences of Violence), these children deprived of their family are more likely to suffer violence.

Alternative Care measures:

Several alternative care options are provided in the **Law of the Child Act 2009** including: Foster care, residential homes or institutions and adoption (see the Law Part III – Care and Protection, IV – Foster Care, VI – Fosterage and Adoption and XI – institutionalised care). The **Zanzibar Children's Act of 2011** also provides on Foster Parent Care (Part VII), Kafalah and Adoption (Part VIII) and Residential Establishments and Day Care Centres (Part XII).

The Tanzanian Government has also implemented a number of policies and practices for children in need of alternative care including the launch of a community-based care program for care, support and protection of orphans and vulnerable children (OVC), as well as the formation of the National Technical Committee to co-ordinate issues facing OVC. As stated by UNICEF in its 2012 report, a set of seven regulations on the Law of the Child Act 2009 has been developed in order to strengthen and implement a nation-wide child protection system. In 2012, 4 of them were published (child employment, apprenticeship, retention homes and foster care placement).

There is no national statistics available on children deprived of their family who benefited from residential care, foster families or informal care measures.

Residential care:

Even if the law provides foster care, the institutionalization of children remains the most common answer for children deprived of their families. (See *Child Act of 2009*, the Law Part III – Care and Protection, IV – Foster Care, VI – Fosterage and Adoption and XI – institutionalized care). In 2012, based on the SOS Children's Villages assessment report, there were 11,565 children living in 294 residential homes (a decreasing number compared to 13,350 in 2003, 13,420 in 2004 and 13,500 in 2005).

¹ Constitutional provisions (two jurisdictions with own branches of government) require that Tanzania and Zanzibar (a semi-autonomous island region of the Republic of Tanzania) enact separate laws on children's issues. National Guidelines for the protection and Welfare of Children in Zanzibar were released in order to accommodate children's issues and to support the Children's Act provisions.

Foster care:

Recent reliable national data concerning children in foster care is not available. In 2003 there were 65 children placed in foster care, in 2004 80 children and in 2005 95 children. In addition foster families are also used for unaccompanied and separated children, where the Tanzania Red Cross Society helps with tracing.

Informal foster care by the extended family is very important in Tanzania. However, there is neither real support nor monitoring by the government. Also, financial and practical constraints (effects of HIV/AIDS and large number of orphans) prevent families and communities to adequately take responsibilities in caring for those children and to provide for their basic needs.

Sources:

- A *snap shot of alternative care arrangements in Tanzania*, Based on SOS Children's Villages' assessment of a state's implementation of the UN Guidelines for the Alternative Care of Children, SOS Children Villages Intl, 2013: <http://www.sos-childrensvillages.org/getmedia/1f28ddf2-9eff-49f7-8975-22e63e07dfc4/TANZANIA-FINAL-to-upload.pdf>
- Global Legal Monitor, Tanzania: Law on Child Rights Enacted in Zanzibar http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205402791_text
- Violence against children in Tanzania: Findings from a National Survey 2009, August 2011, UNICEF Tanzania: http://www.unicef.org/tanzania/VAC_Tanzania_Report.pdf
- UNICEF report for Tanzania, 2012: http://www.unicef.org/about/annualreport/files/Tanzania_COAR_2012.pdf
- African Child Policy Forum (Child law resources) http://www.africanchildforum.org/clr/Pages_EN/Tanzania.html
- The Canadian Bar Association <http://www.cba.org/sajcea/en/pdf/Harmonisation-of-Laws-on-Children.pdf>
- UNICEF report, *Children and Women in Tanzania*, Volume I, Mainland, 2010: http://www.unicef.org/tanzania/SITAN_Mainland_report.pdf

Comments of the ISS/IRC

In 2006, the UN Committee expressed its concerns about “the situation of children placed in alternative care and that many of them are placed in institutions due to the economic difficulties of their families”. Therefore, the UN Committee stated the need to provide more assistance to families to implement poverty reduction strategies to ensure that poverty does not lead to the separation of children from their families. It is striking that after 8 years, poverty still remains a major obstacle for children to be adequately taken care of. As presented in the SOS Children's Villages assessment report: “in the context of high levels of poverty and the effects of the HIV/AIDS epidemic in the country, (...) effective alternative care for children does not yet adequately address the needs of the most vulnerable”. Also, it is unclear what kind of support the Tanzanian government foresees to provide to those families.

ISS/IRC also would like to share its concern regarding the fact that most residential care institutions are managed by community-based organizations, NGOs or faith-based organizations whereas only 30% of them are registered. Inadequate control and monitoring of the residential homes increases the risks of children's rights violations. Furthermore, institutional care still remains the first formal care response in Tanzania. Government should consider promoting other formal alternative care options.

Another issue is that the well-established informal foster care system is not supervised nor supported by the state. Consequently, the children are not registered with social services and cannot benefit from any kind of assistance or support, and they are at higher risk of trafficking, exploitation and abuse. Nonetheless, according to a local contact working in the Bagamoyo District, a NGO called Mkombozi, there is a great willingness and potential in Tanzanian society to provide this kind of “informal foster care”, a fact that government should take into account and not undermine by exclusively promoting formalized care options. (More information on Mkombozi: <https://envaya.org/mkombozi/home>)

ISS/IRC also believes that it is important to collect more recent disaggregated statistics in order to develop more targeted initiatives as well as provide more training to professionals and develop an effective complaints mechanism.



C. Adoption

The legal system of Tanzania is based on the English Common law system. Important sources of law are also customary law and Islamic law (i.e. *kafalah*), a fact that can cause complexities in practice. (For more information see <http://www.unesco.org/shs/ethics/geo/user/?action=Geo4Country&db=GEO4&id=30>)

The Child Act of 2009 (Tanzania Mainland, Part VI – Sections 52-76) and **the Children’s Act of 2011** (Zanzibar, Part VII – Sections 76-96) both rule domestic adoption.

Intercountry adoption on the contrary is only permitted in Tanzania Mainland.

Article 94 of the Children’s Act states that “no foreigner shall adopt a child in Zanzibar”. In its 2013 report, the Tanzanian government clarifies that the Children’s Act of 2011 does not apply to adoption candidates of Muslim faith. Muslims shall follow the provisions prescribed for by the *kafalah*, (section 75 and 76 (1) of the Zanzibar Children’s Act). Major characteristic of the *kafalah* is that the legal bond between the child and his family of origin does not cease (art. 75 (2) (a)). The competent court for *kafalah* applications is the Kadhi’s Court (art. 75(1)).

Following the recommendations of the Concluding Observations of the CRC in 2006, Tanzania is currently undertaking consultations in order to ratify THC-93.

GENERAL OBSERVATIONS: According to available statistics, there are very few intercountry adoptions in Tanzania. This can be explained by the strict requirements for foreign adoption candidates (residency requirement).

THEMES

INFORMATION

CENTRAL/ COMPETENT AUTHORITY

Competent Authority

Permanent Secretary of the Ministry of Health and Social Welfare
Social Welfare Division
6 Samora Machel Avenue
11478 Dar es Salaam (Tanzania)
Phone: +255-22-2120261
E-mail: ps@moh.go.tz

Source:
www.moh.go.tz.

FULL/ SIMPLE ADOPTION

Domestic and intercountry adoption in Tanzania Mainland: full adoption
Domestic adoption in Zanzibar: full adoption
Intercountry adoption in Zanzibar: not allowed

ISS/IRC understands that adoption is considered full as:

- (a) the rights, duties, obligations and liabilities including those under customary law of the parents of the child or of any other person connected with the child of any nature whatsoever shall cease; and
- (b) the adoptive parent of the child shall assume the parental rights, duties, obligations and liabilities of the child with respect of custody, maintenance and education as if the child was born to the adoptive parent in a lawful wedlock and was not the child of any other person.

Moreover adoptions are full because before granting the adoption order, the parent or



guardian's consent must be obtained with an understanding the effect of the adoption order shall mean permanent deprivation of parental rights. In addition, where an adoptive parent dies intestate, his property shall devolve in all respects as if the adopted child is the natural child of the adoptive parent.

Sources:

Articles 59, 64-65 Law of the Child Act, 2009.

Articles 77 (4)(e),78,79,85,86 (1), 94 of the Children's Act, 2011.

SUBSIDIARITY PRINCIPLE

A person resident outside Tanzania may apply to adopt a child only if the child may not be placed in a foster or adoptive family or be cared for in a manner suitable for the child's best interest while the child is in Tanzania.

Source:

Article 74 Law of the Child Act, 2009.

In Zanzibar, a non-resident can only apply for the adoption of a child when having the nationality of Zanzibar or the Tanzanian nationality. Requirements for domestic adoption are listed in article 77 of the Zanzibar Children's Act.

Foreign prospective adoptive parents must be residents of Tanzania for at least three consecutive years. This shall not apply if the applicant is a Tanzanian citizen resident abroad. According to article 74 Section 2 of the Law of the Child Act 2009, the residency requirement may be waived in cases where the High Court of Tanzania determines an adoption by non-Tanzanians to be "in the best interests of the child".

An adoption application may be made by:

- husband and wife jointly (with the consent of both) or
- mother or father of the child alone or jointly with his spouse or
- relative (referred to as an 'open' adoption)

In addition, an application can be made having due regard to the best interests of the child when:

PROSPECTIVE ADOPTIVE PARENTS

- at least one applicant is at least twenty-five years of age and at least twenty-one years older than the child
- if the applicant is a single woman, she must be citizen of Tanzania
- if the applicant is male, the application must be in respect of his son or the court is satisfied that special circumstances warrant the order

An application cannot be made more than one person unless the applicants are husband and wife or mother and father of the child.

Furthermore, the applicants need to continuously have the prospective adoptive child in their care for at least three consecutive months immediately preceding the date of the submission of application.

The US Central Authority website also states that 'prospective adoptive parents also should not have a criminal record in their country of origin or any other country and should have a recommendation concerning his or her suitability to adopt a child from his country's social welfare officer and other competent authority of his or her permanent country of residence.

Sources:

Articles 77, 83 of the Children's Act, 2011.

Article 55-56, art. 74 Law of the Child Act 2009

US Central Authority: <http://travel.state.gov/content/adoptionabroad/en/country-information/learn-about-a-country/tanzania.html>.

CHILD

A child may be adopted if s/he is under a care order or supervision order and if his/her parent,



ADOPTABILITY

guardian or relative does not show an interest in his/her welfare within a period stipulated by the court.

Source:
Article 24(1) Law of the Child Act, 2009.

Before an adoption order can be made, the following consents are required:

- parents
- guardian
- other person that has any rights or obligations in respect of the child under an agreement or court order
- child if over 14

CONSENTS

Where a married person is the sole applicant for an adoption, the court will also require the consent of the other spouse.

Consent may be dispensed if:

- the parent, guardian or relative has neglected or persistently ill treated the child
- a person cannot be found or is incapable of giving consent
- it is unreasonably withheld

Sources:
Articles 77, 78 of the Children's Act, 2011.
Articles 57-59, Law of the Child Act, 2009.

Following procedure steps only concern intercountry adoptions from the Tanzanian Mainland. It is important to mention that the procedure in Tanzania is quite unique as it requires a preliminary foster care period (min. of 6 months) by the PAP before they might be able to apply for adopting the child.

Foster Care

Before filing for adoption and in order **to be found eligible to adopt**, candidates must first of all **apply for fostering of a child (*Guardian at litem*)**

Therefore they have to:

- a) establish first contact with the District Social Welfare Officer (or the Regional Social Welfare Officer if not possible) of their place of residence in Tanzania in order to obtain the application form
- b) provide contact details of at least three possibly local references that will be interviewed on your behalf
- c) pass through a home study process (interviews and family home visits)
- d) get the approval of the Commissioner for Social Welfare in Dar es Salaam who reviews the foster application

PROCEDURE

Matching process

The Law of the Child Act, 2009 is silent on the matching process. However, in practice there is apparently a sort of matching process described as followed by the US Central Authority: "When the foster application is approved, the prospective adoptive parents and the District Social Welfare Officer work together to identify a child who is eligible for adoption and suitable to be matched with the prospective adoptive parents."

The District Social Welfare Officer then contacts the Police Department who will investigate if the child has living relatives. If it is the case, police is responsible for obtaining the necessary consents and otherwise it will produce a certificate of abandonment.

Legal adoption order

- a) Pre-adoption/notification process (PAP has/ve to be *guardian ad litem* of the child)

An adoption order cannot be made unless the child has been continuously in the care of the



applicant for at least six consecutive months immediately preceding the date of the submission of application. During this period, the applicant is under the supervision of a Social Welfare Officer (regular visits and recommendations).

The applicant has to notify the Commissioner for Social Welfare of his intention to apply for an adoption order for the child at least three months before the date of the order. There would be approximately 3 months of waiting period between the custody and the adoptions hearing at Court.

b) Eligibility of prospective adoptive parents

The US Central Authority website states that 'prospective adoptive parents must provide proof of citizenship and identity, civil status, Tanzanian residency, financial means, home study, and an application for adoption'. Further documents are not excluded.

After review of the adoption application by the Commissioner for Social Welfare, the Social Welfare Officer then evaluates the prospective parents and determines their suitability and eligibility to adopt under Tanzanian law (social investigation report).

c) File to the Court

The relevant court for all adoptions is the High Court. An exception is made for 'open adoptions': the relevant court is Resident Magistrate Court or the District Court.

d) Court order

According to the Tanzanian Child Act of 2009, there shall be no court order without a social investigation report undertaken by the Social Welfare Officer supporting the specific adoption. However the Court preserves the possibility to require other reports from other entities or local government authorities.

- *Domestic adoption:*

The court shall make an adoption order if it is satisfied that:

- (a) consents required for the adoption order have been obtained (i.e.: parent or guardian of the child understands that the effect of the adoption order shall mean permanent deprivation of parental rights)
- (b) it is in the best interest of the child and that the wishes of the child have been considered if the child is capable of forming an opinion;
- (c) if the child is at least fourteen years of age, his consent to the adoption has been obtained, unless it is impossible for the child to express an opinion; and
- (d) the applicant has not received or agreed to receive any payment and that no person has made or agreed to make any payment or given or agreed to give any reward to the applicant for the adoption except as the court may order.
- (e) In addition, a social investigation report prepared by the social welfare officer supporting the application for adoption must be available. The probationary and notice periods (see above) must also have been served.

- *Intercountry adoption:*

A person who is not a citizen of Tanzania may adopt a Tanzanian child, if it is in the best interests of the child and:

- (a) the child may not be placed in a foster or adoptive family or be cared for in a manner suitable for the child's best interest while the child is in Tanzania;
- (b) the person has stayed in Tanzania for at least three consecutive years;
- (c) has fostered the child for at least three months under the supervision of a social welfare officer;
- (d) does not have any criminal record in his country of origin or any other country;



(e) has a recommendation concerning his suitability to adopt a child from his country's social welfare officer and other competent authority of his permanent country of residence; and
(f) has satisfied the court that his country of origin respects and recognizes the adoption order.

Sources:

Articles 54 to 74 Law of the Child Act 2009.

US Central Authority <http://travel.state.gov/content/adoptionabroad/en/country-information/learn-about-a-country/tanzania.html> .

As Tanzanian law does not contain the obligation for prospective adoptive parents to adopt through an accredited adoption body, this choice remains to the adoption candidates.

An official list of adoption accredited bodies in Tanzania is not available. There seems to be local and foreign registered NGOs that work in Tanzanian adoptions.

According to Children's Homes regulation Act of 1968, the Commissioner of Social Welfare is responsible to deliver those authorizations, to inspect them "at all reasonable times", to renew or cancel those licenses. Article 5 of this Act states that the non-registration of Children's Homes constitutes an offence and incurs liability on the conviction to a fine exceeding two thousand shillings.

In order to file the adoption case with the High Court, prospective adoptive parents need to hire a local attorney. A list of accredited lawyers can be found at Tanganyika Law Society Website (<http://www.tls.or.tz/>) or at the Homepage of the US Embassy in Tanzania http://tanzania.usembassy.gov/list_of_lawyers2.html.

Sources:

Tanzania Adoption Society <http://adoptiontanzania.wordpress.com/adoption-in-tanzania/>.

Children's Home Regulations of 1968 http://www.saflii.org/tz/legis/num_act/chra1968289.pdf .

US Central Authority <http://travel.state.gov/content/adoptionabroad/en/country-information/learn-about-a-country/tanzania.html> .

ADOPTION ACCREDITED BODIES (AAB)

An adopted child shall be subject to customary law as **if he were the natural child** of the adoptive parent only if the adoptive parent is the subject of customary law.

Effects of adoption order on parental rights:

- a) the rights, duties, obligations and liabilities including those under customary tradition of the parents of the child or of any other person connected with the child shall cease; and
- b) the adoptive parent of the child shall assume the parental rights, duties, obligations and liabilities in respect of the child with regard to custody, maintenance and education as if the child was born to the adoptive parent in a lawful wedlock and had not been the child of any other person.
- c) Where an adoption order is made jointly to a husband and wife, they shall assume the parental responsibilities jointly (...)

Sources:

Articles 64, 68 Law of the Child Act, 2009.

Articles 85, 89 of the Children's Act, 2011.

ADOPTION EFFECTS

POST ADOPTION REPORTS

There is no information concerning post-adoption reports available.

SEARCH OF ORIGINS

Tanzanian Mainland

The Tanzanian law provides that:

- a) An adoptive parent shall inform the adopted child of the fact that the child is adopted and his parentage, but, this disclosure shall only be made if –
- it is in the best interest of the child; and



- the child is at least fourteen years of age.
- b) No person other than the adoptive parent shall disclose adoption to the adopted child.
- c) Any person who contravenes this provision commits an offence and upon conviction shall be liable to a fine of not less than one hundred thousand shillings but not more than two million shillings or to imprisonment for a term not exceeding twelve months or to both.

There are no provisions in the Tanzanian Child Act law of 2009 concerning possible procedures or instruments for the search of the adoptee's origins.

However, the Swiss Federal Department of Foreign Affairs states that for the registration of an adoption of a Tanzanian child both birth certificates, before and after the adoption, are required. This would enable the adoptee to get to know the identity of his biological parents.

Zanzibar

The adopted child shall also receive information about his adoption from his adoptive parent. The law provides additionally a right to information about his biological parents, "unless this is contrary to his best interests, as determined by such child's adoptive parents.

Sources:

Swiss Federal Department of Foreign Affairs
<http://www.eda.admin.ch/eda/en/home/rep/afri/vtza/livtza/civgha/adopti.html>.
 Article 61 Law of the Child Act, 2009.
 Article 82 Children's Act, 2011.

- a) A person shall not give any payment or reward in respect of an adoption order except with the approval of the court.
- b) A person shall not receive any payment or reward in respect of any arrangement that may or may not lead to an adoption order.
- c) Any person who contravenes this section commits an offence and shall be liable on conviction to a fine not exceeding five million shillings or imprisonment for a term not exceeding two years or to both.

Furthermore, the Tanzanian law foresees that:

SANCTIONS IN CASE OF IRREGULARITIES

- a) It shall be unlawful to publish any advertisement which contains information indicating that:
 - The parent or guardian of a child desires to cause the child to be adopted;
 - A person desires to adopt a child; or
 - A person is willing to make arrangements for the adoption of a child.
- b) Any person who causes to be published or knowingly published an advertisement in contravention of the provisions of this section commits an offence under this Act and shall be liable upon conviction to a fine of not less than one million shillings and not more than ten million shillings or to imprisonment for a term of not less than six months and not more than two years or to both.

Sources:

Articles 77 (4) (e)(iv), 92, 96 of the Children's Act, 2011.
 Articles 72, 76 Law of the Child Act, 2009.

ADOPTION COSTS

The Government of Tanzania does not charge a fee for adoption. Attorney fees may range from U.S. \$500 – \$2,000. Civil documents, such as birth certificate and passport, can range from U.S. \$10 – \$30 for each document.

Sources:

US Central Authority <http://travel.state.gov/content/adoptionsabroad/en/country-information/learn-about-a-country/tanzania.html>.



An adoption shall be considered as a judicial proceeding under the jurisdiction of the High Court.

The adoption order shall include:

- date and place of birth of the child;
- name, gender and surname of the child before and after adoption;
- name, surname, address, place of birth, original residence, citizenship and occupation of the adoptive parent; and
- date of the adoption order.

The court may impose conditions when granting an adoption order and may require the applicant to enter a bond to make such provision in respect of the child as the court considers necessary.

ADOPTION DECISION

Interim Order

- a) Instead of immediately making an adoption order, the court may also decide to make an interim order and postpone its decision for a period not exceeding two years.
- b) In this case, the court may attach such terms including provision for the maintenance, education and supervision of the child as it thinks fit.
- c) In an interim order is made, the court shall impose conditions that the child shall-
 - be under the supervision of a social welfare officer; and
 - not be taken out of Tanzania without the permission of the court

In the Zanzibar Children's Act of 2011, this temporary custody order is called adoption placement order. Otherwise, provisions are the same as concerning the interim order in Tanzania. The Children's Act of 2011 does not contain detailed information concerning the requirements for the adoption order.

Sources:

Articles 59-70 Law of the Child Act 2009.

Article 81 of the Children's Act, 2011.

REGISTRATION

- a) The Registrar-General shall keep and maintain at his office a Register of Adopted Children where all adoption orders or interim orders issued by the court are recorded.
- b) All adoption orders or interim orders shall be sent to the Register-General within 30 days of the order
- c) In cases where the information is deficient/different such as –
 - the precise date of the child's birth is not proved to the satisfaction of the court, the court shall determine the probable date of his birth, which will be specified in the order;
 - change in name – new name shall be in the order; and
 - the country of birth of the child is not proved to the satisfaction of the court, the particulars of that country may, notwithstanding anything in that subsection, be omitted from the order and from the entry in the Register of Adopted Children.

Sources

Article 90 of the Children's Act, 2011
Articles 69-70, Law of the Child Act 2009.



Statistics for domestic and intercountry adoptions given by UNICEF

	Domestic adoption	Intercountry adoption	TOTAL
2006	21	6	27
2007	19	7	26
2008	22	1	23

Statistics for intercountry adoptions 2009-2013 shown by AICAN

STATISTICS

Receiving Country	2013	2012	2011	2010	2009
Canada	7	2	7		
Italy				1	1
Sweden					1
USA	9	1	2	2	4
Total	16	3	9	3	6

Sources:

Children and Women in Tanzania, UNICEF Tanzania, 2010:
http://www.unicef.org/tanzania/SITAN_Mainland_report.pdf;

Australian Intercountry Adoption Network: <http://www.aican.org/statistics.php?region=0&type=birth>.

Comments of the ISS/IRC

Adoptions under customary law and more formally under the Law of Child Act (2009) or the Zanzibar Children’s Act (2011) co-exist. Unfortunately there is little information about the extent of adoptions under customary law and what protections are offered to children, which requires further research.

As for formal adoptions that pass by a court (as described above), the Law of Child Act (2009) as well as the Zanzibar Children’s Act (2011) contain many new provisions and improvements from old laws. The principle of subsidiarity is well explained (in the Child Act of 2009), as well as other issues such as the prohibition of payments, the basis of an adoption decision and requirements for consent, especially that it must be fully informed. It is nevertheless regrettable that the new laws omit some key stages of the adoption procedure such as matching, revocation of adoption and role of accredited adoption bodies. Moreover, the laws do not or not adequately address the issue of the adoptability of the child. ISS/IRC hopes that these issues will be included in any rules for adoption that may be developed as provided for in article 95 of the Children’s Act and in article 75 of the Child Act, which states *“that the Minister for social welfare may, in consultation with the Minister responsible for children’s affairs, make rules prescribing procedures for adoption proceedings.”*

In terms of formal adoption practices, there is sparse disaggregated information available about the number of domestic and intercountry adoptions and the conditions under which they are undertaken. With regards to intercountry adoption, the Tanzanian Government informed the UN Committee on the Rights of the Child in 2008 that ‘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.’ In response the Committee has stated that it is concerned about the lack of information about the protection of children in the adoption process as well as it recommended the ratification of THC-93, which is of course supported by ISS/IRC.

To this date, Tanzania does not seem to have the safeguards to comply with international standards regarding intercountry adoptions and THC-93, such as ensuring free and informed consent, definition of the adoptability of children, matching process, control of fees etc. This makes the country vulnerable to risks involved in private adoptions.



ISS/IRC believes that it is beneficial that Tanzania and Zanzibar have laws against trafficking with hefty punishments of at least 20 years addressing the placement in adoption of any person for money or any other consideration. More specifically, liability is incurred of “any person who engages in procuring children from hospitals, shelters for women, clinics, nurseries, day care centers or other childcare institutions or welfare centers, for money or any other consideration, or procures a child for adoption from any such institutions or centre, by intimidation of the mother or any other person.”

References: Children and Women in Tanzania, UNICEF Tanzania, 2010: http://www.unicef.org/tanzania/SITAN_Mainland_report.pdf; State report to the CRC in 2013 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fTZA%2f3-5&Lang=en; U.S. Central Authority for Intercountry Adoption <http://travel.state.gov/content/adoptionsabroad/en/country-information/learn-about-a-country/tanzania.html>; Section 139A (1) of the Penal Code, Cap 16 (R.E. 2002) Mainland and section 172 (1) Act No. 6 of 2004, op. cit. Zanzibar); Committee examines reports of Tanzania on Optional Protocols to Convention on Rights of Child, 29/09/08 <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9419&LangID=E>; Forever Angels Website <http://www.foreverangels.org/index.php?source=adoptionInfo/adoptionInfo.html&transform=stylesheet.xsl&pageName=adoptionInfo>.

LEGISLATION

A. International Instruments

INTERNATIONAL INSTRUMENTS	Signature (S) / Ratification (R) / Accession(A) / In Force (F)	Web Site
United Nations Convention on the Rights of the Child (1989)	1 June 1990 (s) 10 June 1991 (r)	http://www2.ohchr.org/english/
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)	24 April 2003 (a)	http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&lang=en
Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption (1993)	-	http://www.hcch.net/index_es.php?act=conventions.status&cid=69
Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996)	-	http://www.hcch.net/index_es.php?act=conventions.status&cid=70



B. Régional instruments

REGIONAL INSTRUMENTS	Signature (F) / Ratification (R) / Accession(A) / In Force (F)	Web Site
African Charter on the Rights and Welfare of the Child of 1990	23 October 1998 (s) 16 March 2003 (r)	http://www.africa-union.org/root/au/Documents/Treaties/List/African%20Charter%20on%20the%20Rights%20and%20Welfare%20of%20the%20Child.pdf

C. Country législation

LAW/REGULATION	Web Site
Constitution of the United Republic of Tanzania, 1997	http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Tanzania/tanzania_constituion_1998_en.pdf
Children Homes Regulation Act, 1968	http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Tanzania/tanzania_childrenshomes_1968_en.pdf
Law of the Child Act, 2009	http://www.parliament.go.tz/Polis/PAMS/Docs/21-2009.pdf
Zanzibar Children Act, 2011	Available at ISS/IRC in English
The Law of the Child Act (Apprenticeship) Regulations, 2012	http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Tanzania/tanzania_apprenticeship_2012_en.pdf
The Law of the Child (Retention Homes) Rules, 2012	http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Tanzania/tanzania_retentionhome_2012_en.pdf
The Law of the Child Act (Foster Care Placement) Regulation, 2012	http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Tanzania/tanzania_fostercare_2012_en.pdf
The Persons with Disabilities Act, 2010	http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Tanzania/tanzania_disability_2010_en.pdf

PROTAGONISTS

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APPENDICES

A. Documents of the Committee on the Rights of the Child

Convention on the Rights of the Child

- Third to fifth Periodic Report: Tanzania, CRC/C/TZA/3-5, 04/11/2013
- Concluding Observations of the Committee on the Rights of the Child: Tanzania, reference (CRC/C/TZA/CO/2), 21/06/2006
- Second Periodic Report: Tanzania, CRC/C/70/Add.26, 24/08/2005
- Concluding Observations of the Committee on the Rights of the Child: Tanzania, reference (CRC/C/15/Add.156), 09/07/2001
- First Periodic Report: Tanzania, CRC/C/8/Add.14/Rev.1, 25/09/2000

Optional Protocol on the sale of children

- Concluding Observations of the Committee on the Rights of the Child: Tanzania (CRC/C/OPSC/TZA/CO/1), 10/10/2008
- First Periodic Report: Tanzania, CRC/C/OPSC/TZA/1, 23/10/2007

Sources:

Documents available on: Committee on the Rights of the Child, 68th Session (12 January – 30 January 2015): http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=825&Lang=en

Documents of the previous sessions available on: Committee on the Rights of the Child, 27th (21 May – 08 June 2001) and 42th Session (15 May – 02 June 2006): http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CRC

B. Alternative Reports to the Committee on the Rights of the Child and other

The alternative reports in the framework of the Committee on the Rights of the Child are available on Child Rights International Network (CRIN): <https://www.crin.org/en/library/un-regional-documentation>

Sources: Child Rights International Network, <https://www.crin.org/en/NGOGroupforCRC/search.asp>

C. Other sources of information

❖ ISS/IRC Monthly reviews

“New children’s law in Africa and intercountry adoption: an update on some recent legislative developments”, ISS/IRC Review March/April 2011

“Adoption of landmark Law of the Child Act 2009”, ISS/IRC Review November/December 2009

❖ UNICEF

<http://www.unicef.org/infobycountry/tanzania.html>

General information on children in Tanzania and statistics



- ❖ **CRIN**
https://www.crin.org/en/custom-search?search_api_views_fulltext=Tanzania
 General information about children in Tanzania

- ❖ **US Central Authority**
<http://travel.state.gov/content/adoptionsabroad/en/country-information/learn-about-a-country/tanzania.html>
 Information on intercountry adoption in the country

- ❖ **SOS Children's Village**
<http://www.sos-childrensvillagestanzania.org/>
 Information on Tanzanian children deprived of their family

- ❖ **African Child Policy Forum (Child law resources)**
http://www.africanchildforum.org/clar/Pages_EN/Tanzania.html
 Information on relevant laws in Tanzania

- ❖ **National Bureau of Statistics, Tanzania**
<http://www.nbs.go.tz/>

- ❖ **Global Legal Monitor, Tanzania**
http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205402791_text
 Information on relevant laws in Zanzibar

- ❖ **CIA World Factbook**
<https://www.cia.gov/library/publications/the-world-factbook/geos/tz.html>
 General information on the country

- ❖ **UNHCR, The UN Refugee Agency**
<http://www.unhcr.org/pages/49e45c736.html>
 General information on the country

- ❖ **Human Rights Watch**
http://www.hrw.org/sites/default/files/reports/tanzania0813_ForUpload_0.pdf
 General Information on children in Tanzania

