

50% campaign to protect children

Children's rights. Tanzania's future. Your responsibility.



PRESS RELEASE: November 7, 2007

Child rights group challenges colonial laws

By Philip Connelly (Arusha Caucus)

The Arusha Caucus for Children's Rights is requesting the repeal of colonial era laws used by the authorities to round up and detain children without charge. The Caucus will seek a court order that the Township (Removal of Undesirable Persons) Ordinance of 1944, amended in 1958, is unconstitutional and also contravenes many international conventions signed by the Tanzanian Government over the years. The court will also be asked to make an order for the repeal of some sections of the Criminal Procedure Act and the Penal Code for similar reasons. The petition was lodged before the High Court in Arusha on 7th November 2007. The outcome of this case, a landmark in Tanzanian legal history, will be decided late next year. If successful, it will signify a fundamental change in the law, which will remove local District Commissioners' powers to "round up" street children.

Many urban authorities conduct periodic round ups of children from their streets. In most cases the children are taken into detention for a short period and then released. In some cases the children have been held in remand homes and adult prisons awaiting trial and have suffered abuse. According to the Caucus, the round up operations rarely have any effect on the situation as the vast majority of the children reappear on the streets after their release.

Round ups are possible because the police use outdated legislation allowing them to arbitrarily arrest anybody they think has no regular employment, or is loitering, or is idle or disorderly, or a person they consider might be thinking about breaking a law. In effect this allows the police to pick up whomever they choose and hold them. In addition the law provides for detention without charge for a month to allow time for the local DC to "make such enquiries as may be necessary" about the person detained.

A Caucus spokesperson said the current law, in theory, allows police officers to arrest children walking quickly home from school in their uniforms, for the simple reason that they have no regular employment. If they pause to rest on the way they can also be arrested for the more serious offence of loitering.

"These laws are unconstitutional because they discriminate against children," said the spokesperson. "The Constitution forbids discrimination against someone because of their station in life. A child who has been orphaned or is suffering abuse in the home may have nowhere to go but the streets. Rather than making life even worse for these children the authorities should be providing resources to care for them and to address the reasons that the children appear on the streets in the first place."

The Caucus is also challenging the laws on the grounds that they contravene many international conventions, including the United Nations Declaration on Human Rights and the United Nations Convention on the Rights of the Child.