



# STATE PARTY EXAMINATION OF TANZANIA'S INITIAL PERIODIC REPORT ON THE OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

49TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

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*The United Republic of Tanzania ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) on the 24th of April 2003. On the 29th of September 2008, the Committee on the Rights of the Child (the Committee) examined the United Republic of Tanzania's initial report on the implementation of the OPSC.*

## Opening Comments

The head of delegation, Ms. Sitta, Minister for Community, Development, Gender and Children, noted their gratitude for the opportunity to present their report on the OPAC. She affirmed the importance of children's rights in her country, as reflected by the ratification of the relevant international instruments and the legal framework to protect children from all forms of exploitation. She asserted that the report was prepared following the Committee's guidelines and in consultation with non-state actors. She noted that 50.6% of Tanzania's 39 million habitants were children. She emphasised that two key goals were to reduce the rate of child labour and prevent violence against women and children. She specified that the budget for education was 18.3%, noting that secondary schools and vocational training was becoming more widespread.

MS Sitta explained that her Ministry together with the Ministry of Labour coordinated the work for children. In addition, they were establishing a new independent Commission on the Rights of the Child to monitor the situation of children and raise awareness about child rights in Tanzania (Zanzibar also had one). They were also amending laws to incorporate the OPSC in domestic legislation, namely the marriage act and the children and young person's act. She announced the establishment of a legal framework to protect children from exploitation; for example, the Employment and Labour Relations Act No 06 of 2004 and Zanzibar (2005), or the Anti-Trafficking Act of 2008. Tanzania mainland was setting up a Commission on the Rights of the Child that would follow-up the implementation of child rights. Zanzibar had established a National Child Rights Committee in 2004. Finally, she acknowledged the many challenges in Tanzania, including the high poverty rate (75% of the population under the poverty line), the poor infrastructure and the lack of financial and human resources.

The Country Rapporteur Ms. Aidoo welcomed the high level delegation. She acknowledged that the United Republic of Tanzania was a huge country, but that it could be mobilised for child rights. She underlined that Tanzania was a country of peace, despite having five neighbouring countries in conflict on its borders. She suggested that, as Tanzania hosted the International Criminal Tribunal for Rwanda, it could also be the homeland for the African Human Rights Court. She mentioned that three quarters of the population lived under the poverty line. She noted that the Gross Domestic Product (GDP) rose by 7% in 2007 and asked how these macro-economic successes would trickle down to children. She noted that many pieces of legislation relevant to children were under review, including the adoption act, the marriage act and the child trafficking act.

Ms. Aidoo noted that the report did not follow the structure of the guidelines and recommended that the next report follow the guidelines more closely. She highlighted the lack of data on OPSC offences, and deplored the lack of information about Zanzibar. She also emphasised the problem of the definitions of trafficking and sale in the legislation, as they appeared to be the same. She stressed that sexual exploitation, pornography and prostitution were not the same offences.

## **General Measures of Implementation**

### ***Legislation***

The Committee noted that there were problems with definitions of offences, as trafficking appeared to be equated with sale, sexual exploitation, pornography and prostitution. The penal code needed to have definitions that were in line with articles 2 and 3 of the OPSC. More specifically, the crime of sale of children was not criminalised (only trafficking), and child pornography was not defined in domestic legislation. The delegation responded that they had the political will to domesticate the legislation, but they did not have sufficient resources. It stated that measures had been taken to enact issues of pornography, prostitution and sale of children and that all the laws related to children were under review. The Humanitarian Committee would take the Committee's concerns on board during the review process.

There appeared to be 2 judicial systems dealing with the crimes under the OPSC, so the Committee wanted to know how they worked. The delegation explained the courts system from lowest courts to the court of appeal.

### ***Data Collection and the State Party Report***

The Committee deplored the lack of data about offences under the OPSC and on Zanzibar in general. It also noted that there was insufficient research on children and emphasised the importance of research to inform policies to protect children. The delegation admitted the shortfall of data in their report but assessed that they were currently developing a database, underlying that they needed more human and material resources. It apologized for not entirely following the guidelines and suggested that the Committee provided them with training on how to prepare the report.

### ***Implementation***

The Committee remarked that it had not received information on a plan of action with a timetable related to the OPSC. It wanted to know if there was such a plan and asked about the actions undertaken to launch a national plan and if there was a plan in Zanzibar. The delegation attested that the national plan of action to implement a world fit for children by 2015 would include the two Protocols. The timeframe for the plan of action would also be reviewed. It noted that due to a lack of resources, it could not have an action plan for every treaty or act. The Committee asked if the 2005 poverty reduction strategy targeted vulnerable children. The delegation did not address this question.

Noting the lack of information on resource allocation in relation to the OPSC, the Committee asked about the resources available and whether they were earmarked for the protection of children in the national budget. The delegation answered that implementation was a long process as many actors were included. It underlined that if there was any delay in accession or ratification, it was because of the lack of resources but that Tanzania was entitled to honour its international obligations. It added that a working group was reviewing the budget allocation for children's issues in all sectors in order to improve public expenditures.

### ***Dissemination and Training***

The Committee was concerned by the lack of awareness of the OPSC and even the CRC in Tanzania, which meant that these treaties were not influencing policies. In addition, sex tourism, sale of children for domestic service, barmaids and sexual exploitation of children were on the rise, so the general public needed to be aware of the OPSC. The Committee asked if there were awareness campaigns. While the OPs were translated into Kiswahili, professionals working with children received limited training on the protocols. The Committee therefore asked about their plans to disseminate the OPSC, including to children. The delegation reported that the Minister for Community, Development, Gender and Children had started disseminating the OPSC amongst medical staffs, magistrates and other professionals working with children and the media in 11 regions out of 26. However, it needed more resources to disseminate the OPSC. The Committee also asked if the military was aware of the OPSC. The delegation responded that the peacekeeping centre provided information on the OPs to the soldiers going on peacekeeping missions. However, it was not part of the usual military training.

The Committee acknowledged the translation of the OPSC into Kiswahili, but was concerned that it appeared to be in an academic version of Kiswahili. The delegation announced that they were collaborating with UNICEF on a user-friendly version of the Protocol. However, due to a lack of resources, it would be difficult to disseminate it throughout the country.

The Committee asked if there were trained professionals in each district. The delegation asserted that there were trained social workers and NGOs at local level and in rural areas as well. The Committee wondered how the Commission on Human Rights and Good Governance worked at local level. The delegation reported that the Commission on Human Rights and Good Governance had offices in Tanzania and in Zanzibar, but that they should soon be expanded to all the regions.

### **Prevention**

The Committee remarked that the State party report only mentioned prevention in relation to labour issue (minimum age and worst forms of labour) and asked if there was prevention in relation to the other aspects of the OPSC. The Committee asked whether there was provision for an appeal (as it is an important part of prevention).

Noting the high percentage of children who were either orphans or only had one parent, the Committee asked about prevention programme against prostitution targeting these vulnerable children. The delegation admitted that they had a big problem with regard to orphans who had AIDS. It said that the Health and Social Welfare Department in collaboration with NGOs and various religious groups were working to address the issue. The Committee asked whether prosecutions would be against the children or the people prostituting them. In addition, it enquired about the preventive measures to deal with sex tourism in Zanzibar, especially through travel agencies. The delegation stated that they were not aware of it, as tourism was presently exploding in Zanzibar and it was difficult to verify, but they would look into it upon their return.

The Committee commented on the media being an ally in the prevention of the exploitation of children. It also asked how the government prevented children from accessing pornography on the Internet. The delegation did not address this question.

The Committee asked about early marriage, as it could increase the risks of exploitation for children. The delegation responded that parents or other perpetrators were prosecuted for forcing children to get married early. The Committee enquired if they taught the parents about the importance of school attendance rather than punish them. The delegation responded that awareness-raising went hand-in-hand with prosecution.

## **Jurisdiction and Extradition**

The Committee enquired how the government ensured that all the dispositions of the OPSC were implemented in the same way in Tanzania and in Zanzibar. The delegation explained that there were union and non-union matters. Tanzania and Zanzibar each had their own legislation, judiciary, chief justice, high courts and court proceedings, and they were both revising their laws on children. It specified that in Tanzania the organ responsible for making laws was the Parliament and in Zanzibar it was the House of Representatives. The judiciary was an independent arm in both Tanzania and Zanzibar. The Committee asked whether there was a coordination mechanism in place to ensure that a perpetrator of a crime would be criminalized regardless of where the crime was committed. The delegation explained that the activities were coordinated by the Ministry of Community Development, Gender and Children (Tanzania) and the Ministry of Labour, Youth Development, Women and Children (Tanzania). There was a coordination committee that coordinated their work to review implementation and address any gaps.

The Committee requested information about cases of violence or torture by the police, for instance during police raids in Dar es Salaam. It had heard of cases of impunity and stressed that the police should also be prosecuted when applicable. The delegation informed the Committee that in this eventuality, an investigation would be conducted and they would be charged accordingly. There was therefore no impunity. In addition, female police officers dealt with gender violence for women and children.

## ***Juvenile Justice***

The Committee enquired about the assistance provided to children during penal procedure. The delegation noted that in accordance with the Evidence Act, evidence was recorded in order to protect the victims. The Committee asked about the status of the victim during penal procedures, if he/she received protection, if he/she could claim for reparation, and if there was a limit to the number of auditions. The delegation explained that the Mainland Penal Code and the Zanzibar Sexual Offences Special Provisions Offences Act legislated cases of child prostitution and that the perpetrators were prosecuted, not the victims.

## ***Sale of Children***

The Committee heard that children were sold for domestic services, as bartenders, for sexual services, for adoption and required information about this situation. The delegation asserted that they were not aware of this situation and that they would look into it. The Committee asked if there had been cases of middlemen being paid to sell children for adoption. The delegation stated that such a case was not possible. In response to a question on the consequences for a foreigner buying a child, the delegation stated that foreigners could legally adopt a child, but not buy one. It added that this case would fall under the Anti-Trafficking Act. However, the delegation was not aware of cases of sale, but would work closely with those who reported such cases in the country.

The Committee enquired about legal adoption and if Tanzania had ratified the Hague Convention. The delegation responded that adoptions were handled by the Ministry of Health and Social Affairs and the High Court of Tanzania. Many requirements had to be fulfilled to be able to adopt a child and ensure that a child was not being sold for prostitution. The Committee noted that it was not worried about children being adopted for exploitation, but that children were being sold for adoption. The delegation specified that foreigners needed to be residents of Tanzania when applying for adoption, and that they then checked information about him/her with his/her country of origin. Tanzania observed the Hague Convention in dealing with adoption cases, even though it was not party to it. They were also in the process of reviewing the Adoption Act.

The Committee recalled that the OPSC demanded the establishment of criminal responsibility of moral persons and wondered if it was the case in Tanzania. The delegation did not address this question.

The Committee requested information on the extraterritoriality of the Protocol. The delegation responded that if the perpetrator was a foreigner, the courts were not competent and they would have to use other legal instruments such as bilateral agreements or extradition agreements. The Committee suggested that they changed their legislation. The delegation answered that they would consider it.

## **Protection of the Rights of Victims**

The Committee noted that NGOs provided social assistance and wanted to know if the state also provided assistance. It also asked if there was a helpline for children if they were in distress or victims of crimes. The delegation announced that they had just received funding and that the helpline would soon be operational.

The Committee was concerned that pregnant girls stopped going to school and could end up being more at risk of exploitation. The delegation answered that indeed a lot of girls dropped out of schools because of their pregnancy, and that they usually tried to reintegrate them if it was possible.

### ***Ritual Killings***

The Committee was concerned by reports of ritual killing, especially of albino children who appeared to be treated like witches. The delegation attested that the government requested the Legal and Human Rights Centre to study the terrifying trend of albino killings, the media to report on it and formed a task force to protect these children.

### ***Rehabilitation***

The Committee asked if there was psychosocial assistance for victims of sexual abuses. The delegation reported that when children were taken out of sexual exploitation, trained professionals provided psychosocial support.

The Committee recalled that in the 2006 concluding observations it had concerns about street children and asked what the government had done regarding this issue. The delegation reported that they were working to address the problem of street children and that they were carrying out studies to see the magnitude of the phenomenon. The Committee asked how they coordinated the social workers that assisted the victims of prostitution or pornography. The delegation did not address this question.

## **Concluding Remarks**

The Country Rapporteur thanked the delegation for the frank dialogue. She highlighted that research needed improving and recalled that the absence of evidence did not mean the absence of the problem. She welcomed the process of law revision. She hoped that the concluding observations would help accelerate the process of implementation as she considered that the children could not wait too long to enjoy their rights.

Ms. Sitta thanked the Committee for the constructive dialogue. She reaffirmed Tanzania's commitment to implement all the disposition of the Protocols, to improve data collection and research. She was looking forward to work on the Committee's concluding observations and thanked it for its concerns. She hoped that progress would be seen in their next responses.

The chairperson stated that he had no doubt about Tanzania's commitment to children's rights. He welcomed the promises made by the delegation and looked forward to see them in 2011 to follow up their achievements. He assured the delegation that the Committee's questions were only the reflection of its interest for the children of the United Republic of Tanzania and emphasised that the Committee was willing to assist them if they needed it.