

PROTECTION OF THE CHILD FROM DEGRADING TREATMENT IN TANZANIA: A CRITICAL ASSESSMENT OF THE LAW AND PRACTICE

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ABSTRACT

The child should be protected by his rights. Protection of child rights and welfare makes the child able to reach his physical, mental, emotional and social potentials. The child needs to be provided with necessary services for his growth from his parents, relatives and the State. The study by Legal and Human Centre reveals that: There has been an increase of violations of the rights of children in Tanzania. Tanzanian children are seriously vulnerable to cruelties of all forms, including sexual offences, physical and emotional neglect, physical abuse, child labour, and even murder. Rape incidences account for about 75% of the reported.’ Thus, the child needs to be protected against torture and degrading treatments, involving in different pornographic activities, sexual exploitation, drug abuse, and trafficking of drugs, child trafficking, child sale, abduction, degrading fosterage and adoption. The Public Enquiry on Violence and Abuse against Children conducted in eleven Districts in Tanzania to a total number of 307 cases revealed that the child highly suffers from degrading treatment. Thus, appropriate measures are required to be set on place with a view of protecting the child against degrading treatment.

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PROTECTION AGAINST TORTURE AND DEGRADING TREATMENT

The international legal instruments for child rights have prohibited the imposition of torture, cruel, inhuman, degrading treatment or punishment to the child. Child “torture” has been explained to mean; ‘...any act by which severe pain or suffering, whether physical or mental, is internationally inflicted on a person for such purposes as obtaining from him or a third person information or confession, punishing for such purposes as obtaining from him or third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.’

Therefore, this definition shows clearly that, torture can be in the form of mental or physical. These kinds of torture affect the health of the victim. In relation to mental state, torture affects the psychological position of the victim to which its healing is very difficult because requires medical treatment and psychological experts. However, this definition seems to cover the general aspects of torture, but the existence of article 1(2) of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, allowing the domestic law to make its own definition of torture seems to justify torturing. The State may use this law to justify torturing done in a view of getting some information or confession from the suspects. This may waive the intention of article 1(1) of the Convention against Torture. Unjustifiably suspects are normally bitter and exposed to torture in disregarding various rights of human being under the umbrella of making investigation on the matter alleged to have been committed. Child torture has different forms like beating, sexual torture, electric torture, burning, and any other form of torture. All these forms of torture violate child humanity.

Tanzania has enacted the law prohibiting any person to subject a child to torture, or other cruel, inhuman punishment or degrading treatment to any child. The law also prohibits torture originates from cultural practice which dehumanises or is injurious to the physical and mental well-being of a child. The effort of taking legislative enactment in Tanzania should be accompanied by administrative, social, and educational measures with a view to protect the child from all forms of torture, inhuman or degrading treatment especially physical, mental injury, abuse, neglect or maltreatment. These measures are expected to combat different kinds of child torture. However, these measures seem to be not enough adopted in Tanzania, as the child is not well protected from abuse. Tanzania needs to take active child protective measures providing an effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those persons who have the care of the child. The

monitoring should include various forms of prevention, identification, reporting referral investigation, treatment, and follow-up of instances of child abuse and neglect. These monitoring must be done by the competent experts with a view of protecting the child against any child abuse.

The principle of protecting the child against torture also applies in the administration of juvenile justice. It is paramount that, the child having infringed penal law has the right to special treatment in a manner consistent with the child's sense of dignity, worth and which reinforces the child's respect for fundamental human rights and freedom. The correction measures against the child ought to consider the age, physical and mental condition of the child. The rationale of imposition of correction measures should be understood by the convicted juvenile offender. In case the child does not understand, the nature of the correction measures to be imposed cannot be imposed against him. The child needs to be protected against all forms of child degrading. The person who torture, or practice cruelty, uses inhuman punishment or provides degrading treatment against the child contravenes the law. In Tanzania in some occasion children are beaten on arrest, while are in police custody or under the prisons. Generally torturing the child is an offence and on conviction will be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding six months or to both.

PROTECTION AGAINST CHILD PORNOGRAPHY AND SEXUAL EXPLOITATION

Both child pornographic materials and sexual exploitation are prohibited activities under the law. Child pornography and sexual exploitation spoiling the health, physical, mental, social and moral values of the child. The law prohibits the child to be engaged in any business that exposes the child to activities of sexual nature, whether paid for or not. To date child pornography materials are rampant due to the presence of computer technology which encourages pornography material storage, transmission and access. The child and adult persons watches porn materials through computers where the child is not protected by law against such abuse. This causes the child to be abused his rights for lack of specific laws protecting the child from computer misuse. For that reason, the State should respond appropriately in protecting the child against dealing in pornography materials.

Therefore, it is unlawful for any person to apply any inducement, encouragement of a child to engage in any sexual activity prostitution or other unlawful sexual practices. Also the child should not be exposed into pornographic performances or materials. This is totalling immoral to the child and hinders the wellbeing of the child. This is a rapid growing problem in the societies all over the world including Tanzania. Hence, strong measures ought to be taken by the government and other responsible authorities in protecting the rights of the child against such abuse.

In making sure the child is well protected from such calamities the law criminalises any person who exposes the child to pornographic and prostitution activities. In case there is any person found guilty of this offence by the court might be condemned to pay a fine of not less than one million shillings and not more than five hundred million shilling or to imprisonment for a term of not less than one year and not more than 20 years or both. This is in the efforts of prohibiting the use of child pornography material and involving the child into child pornographic production and prostitution activities.

Despite Tanzanian laws providing for penal sanctions but still the child is exposed into streets especially a girl child where is involved into commercialised prostitution and pornographic materials production activities. The reason claimed is poverty. But in real sense there are a number of reasons promoting the child abuse. Such reasons include, lack of proper care afforded to the child by the parents, guardians, or relatives. Also the moral decay of the members of the society motivates the adult person using the child in prostitution and production of pornographic materials. Low education on HIV or AIDS and the effects of prostitution and pornographic materials encourages the child abuse in Tanzania. It has been also said that, the other reason is ineffectiveness of the laws enforcement machinery in protecting the child against the prostitution and pornographic materials. These reasons make the child to involve in the prostitution and pornographic activities. The child is in streets, takes food in streets and sleeps in streets where is exposed into danger of engaging into pornographic and abusive prostitution. The law enforcement system knows the streets where the child involves in prostitution sometimes with adults but no action is taken with a view of protecting the rights of the child. This makes the continuation of prostitution and pornographic activities to continue against the interest and welfare development of the child.

Lack of appropriate measures to protect the rights of the child cause the child to be abused sexually. Thus the Penal Code expressly criminalises such acts. The law makes a criminal offence for any person permitting, or inducing the child for the purposes of causing a child to be sexually abused or to participate in any form of sexual activity, any obscene or indecent exhibition. It is also an offence for any person to encourage a person to be a client of a child for sexual intercourse, or indecent exhibition by means of print or media, oral advertisements or other similar means. Principally, no one is allowed under the law to take advantage of his influence over, or his relationship with the child. This include to threatens, use violence towards the child, give monetary consideration, goods or other benefits to the child or his parents with intention of procuring the child for sexual intercourse, any form of sexual abuse or indecent exhibition. In case any person is found to be guilty of an offence of sexual exploitation of the child should be sentenced to imprisonment for a term not less than five years and not exceeding twenty years. This is a great punishment and it has been set for protecting the

child from sexual exploitation. Also it is important that, the sexual organs of the child should be protected from any abuse by any person. But it has been noted that, this provision of law is toothless. The child is experiencing sexual exploitation daily but no one is taken to task through the law.

In case there is a person, for his sexual gratification, using his genital, any other part of the human body or any instrument, interferes with any sexual organ of the child which does not amount to rape, commits the offence of grave sexual abuse. Generally, the child should also be protected from sexual harassment. Sexual harassment arises when a person with intention, assaults the child by the use of words or actions, or causes sexual annoyance to the child. These actions also have been criminalised under the penal law. In the case of *Gaurav Jain v. Union of India* the court directed that: The government and all non- governmental organisations have duty to take necessary measures for the protection of the child from prostitution and provide rehabilitation measures; the child ought to be provided with proper services including accommodation with a view of protecting the child from sexual abuse; and the child involved into sexual abuse and pornographic materials should be provided with the rehabilitation methods so as to make the child be in a normal state of affair in relation to health, physical and mental, towards the acquisition of the child development.

It is sad to say that, the activities relating to pornographic materials, prostitutions, sexual harassment, defilement, unnatural offences and the like are still gaining momentum in Tanzania despite of presence of laws and various lamentation of child protection from such abuse. For instance, Benedict Kilembe, an adult person of Lyamile Nyeregele Village Mbarali Mbeya committed the offence of unnatural offence against the infant girl of aged three years. Benedict Kilembe was convicted and sentenced for life imprisonment for the offence committed. Similarly, Shabani Edward a boy estimated to be below 18 years by Mbeya High Court, as well was convicted for raping a girl aged 12 years at Nanyaki Village at Mbeya. Shabani Edward initially was convicted for life imprisonment but the High Court of Mbeya reduced to corporal punishment which later was set aside to the reason that, the offender already had served four years in prison. The child abuse incidences have been spread all over the country not only at Mbeya. Karim Abdallar @ Likowe an adult person, resident of Lindi was convicted for raping a girl child aged six to eight years. Likowe as the result was sentenced to life imprisonment which later the sentence was confirmed by the Court of Appeal of Tanzania. The Dodoma High Court also got an opportunity of convicting one Mohamed Yusuf, an adult person, resident of Uzunguni Kikulo Village, Kondo Dodoma for raping a child girl aged seven years. Mohamed Yusuf as the result was sentenced to life imprisonment. Not only the offences of rape and unnatural offences committed against the child. Octavian Makota, an adult person was convicted for an offence of defilement against a girl aged 12 years, as the result the accused was sentenced to 12 years imprisonment and ordered to

pay compensation of 20,000 to the victim. All these incidences of sexual offences show clearly that, still there is sexual abuse to the child in Tanzania. Such abuses are committed by the adult persons and sometimes committed by a child himself against his fellow child. All these kinds of abuse should be stopped with a view of protecting and promoting the rights of the child in Tanzania.

Despite having the law in place for protecting the child from prostitution and engage into pornographic activities, but still the rights of the child remains abused. The child always is abused in streets and in various parts in the country. That is in rural and urban places where the child is used by his fellow child and adults in prostitution and production of pornographic materials. The existences of rampant and uncontrolled internet cafes have accelerated the child to watch pornographic materials and indulge into the prostitution activities. The availabilities of television and sexual movies has open the black door to the child to watch and learn various styles of sexual intercourse and the way of taking pornographic photographs and movies. This causes the child being spoiled to an extent that, the health, physical, mental capabilities, social disorder, and the social welfare development of the child is affected.

The protection of the child from prostitution and pornographic activities should be extended and afforded to the child when is in conflict with law. From arrest, prosecution, sentencing, and serving the sentence, the juvenile offender should not be exposed into the environment which is possible to practice sexual exploitative behaviour including the use of pornographic materials. But the Commission of Human Rights and Good Governance has pointed that, children are abused sexually by adult prisoners, fellow children, and custody officials in the system of administration of justice especially in those places where children are not separated from adults. However, the child when is in custody whether at the police station, prison or approved school should not be sexually exploited. This is possible when the child is not mixed up with adults and other habitual or exploitative offenders. The principle of the best interest of the child also extended into the way of protecting the child when is in conflict with law by placing the child into the environment that motivates the child welfare development.

PROTECTION AGAINST HARMFUL LABOUR AND DEGRADING ENVIRONMENT

The child should be protected from harmful labour and degrading environment. The Employment and Labour Relations Act, 2004 prohibits any person to employ a child under the age of 14 years. But the child of 14 years of age have been permitted to be employed to do only light works which are not harmful to the health of the child and his development. Such works should not affect the child's attendance to school, participation in vocational orientation or training programmes approved by the competent authority. In other words, "light work" constitute work which is not likely to be harmful to the health or development of the child. The

light work must be the work which does not prevent and affect the child's attendance at school, participation in vocational orientation or training programmes and the capacity of the child to benefit from school work. It is significant to provide out that, the child should not be employed to work in big plantation like Mufindi tea plantations, working in fish industries, mines like Mererani, Kahama, and Geita mines. The child is working in these harsh environments without protective measures such as clothes and social security services including medical services. This makes the child into the dangerous environment which deteriorates the child welfare development.

The child should be provided with light works which is beneficial to the child himself. It is also provided that, a child under 18 years of age should not be employed in hazardous works like: Going to fishing; mining and quarrying; portering of heavy loads; manufacturing industries where chemicals are produced or used; work in places where machines are used; and work in place such as bars, hotels and places of entertainment. Prohibition of such works is done with a view of protecting the welfare of the child. These works are counted to be harmful to the welfare of the child as affect the health, education, mental, physical, or moral development of the child. The child should not perform even the normal activities like agriculture, where a work condition is hazardous. The child should not be working in tea, coffee, sugar, and cotton plantations. These works challenges the welfare development of the child.

It is generally prohibited to employ a child to work in places which is considered to be inappropriate for a child taking into account of his age. These places are considered to be risk to the child's well-being, education, physical, mental health, spiritual, moral or social development. Generally employing the child in contravention of law is an offence under the law itself. The child should be permitted to work on the board of a training ship, and in a factory or a mine if that work is part of the child's training. The child is also allowed to work in any other worksites on condition that the health, safety, and moral values of the child are fully protected by the trainers. To this regard, the child should be provided and receives an adequate specific instruction or vocational training relevant to the work concern. It is imperative to point that, the employer or trainer, ought to know the exact age before deciding exposing the child to any work. This is due to the fact that, in any proceedings where the age of the child is in issue, the burden of proving that the child was not under age lies on the person employing or that procures the child for employment or training. This creates necessity for the child to be known his exact age before employing or committing the child to any training. This is normally possible to be done when the employer in any industrial place keeps a register of children employed at the working station. The register should contain information relating to the dates of birth.

The law further prohibits any forced labour to the child. The child should not be forced to do any work whether harmful or not to the child. It is also prohibited to employ or engage a child in any kind of exploitative

labour. The exploitative labour has the following characteristics: It deprives the child of his health and his general development; is the work which requires a child to work over six hours a day; it is inappropriate to the child, taking into account his age; and the child is paid inadequate remuneration for the work he does. The law requires a child to be paid remuneration equal to the value of the work done. Non-payment of the child as required by law is the contravention of the rights of the child. In case there is a person exercising an exploitative labour to the child commits an offence under the law. In case such person is arrested and convicted by the court may be subjected to a fine of not less than one hundred thousand shillings or to imprisonment for a term of three months or both. This penalty has been provided under the law with a view of protecting the welfare of the child and promoting the child toward development. In case the child has been lawfully employed should be protected against any discrimination or acts which have negative effect to the child. The duty of protecting such child is placed to the shoulders of the employer.

As stipulated above, the law prohibits employing the child who is below 14 years of age. However, in Tanzania there are still employers employing the child to work in various works. There are many reasons causing the employers and the child himself to be ready employed into various works although the law prohibits. Such reasons include: low education qualifications, this motivates the child to engage himself into low paying employments; marriage breakdown, this sometimes causes the child to live without enough control from the parents and other relatives. This also contributes the child engaging himself into employment prohibited under the law. Low family income makes the child to fail getting the necessary services like food and clothes, something which encourages the child to be employed even into the hazardous environment with a view of getting income which will supplement the important services at the family level. Again, the existing migration of children from rural to urban areas creates the child remains in streets where encourages the child into the exploitative employment. Likewise, the employers always search for high profit, this encourages employing the child because normally is paid low remuneration. All these contribute the child to be employed into the works which are harmful and hazardous to the child. This motivates the child to be employed and be working into mining, manufacturing industries, working in machines, bars, hotels, big plantations and working in portorage heavy loads where sometimes ended to be sexually abused.

The parents, guardian, relatives, and the society in general, do not take strong steps to protect the child against harmful employments. This causes the child to be employed in such employments where his rights are abused. Discussing the spread of the child labour in Tanzania, Shivji states that: 'A recent ILO-IPEC study has noted that in the rural areas, more than 25,000 out-of school children are estimated to be working under hazardous conditions either in commercial agriculture or on mining and quarry sites.

The study states that 40% of primary school age children interviewed at Mtibwa in Morogoro region indicated that they were working on the part-time basis at the Mtibwa sugar-cane plantation under hazardous conditions and with little pay, in order to buy school uniform and other requirements.'

Therefore, despite poverty among the parents and the greedy of the employers to look for cheap labour but also it has been noted that, the society do not have enough educational awareness of various laws prohibiting the child to be employed especially into the harmfully environment. The State and the community at large should play their role in protecting the child. Also the efforts should be taken to provide awareness to the community on the need of protecting the child from hazardous employments.

The child also should be protected when is in conflict with law. During the entire process of the administration of juvenile justice the child should not be exposed to the hazardous labour. The child ought to be treated in a manner that takes into consideration the child health, age, physical and mental potentials. The sentences which might be imposed to the child offender should not attract in exposing the child into hazardous environments. The child should be handled in the manner that takes into board the need of the child welfare development. This can be met by emphasising educational and vocational trainings be provided to the child in conflict with law with a view of promoting the rehabilitation mechanism and psychosocial measures to the juvenile offender rather than emphasising the hard labour. These programmes will assist making the child into proper reintegration with the family and members of the society when goes out of the systems of justice.

PROTECTION OF THE CHILD AGAINST DRUG ABUSE AND DRUG TRAFFICKING

The child is vulnerable and is easily subjected to drug abuse and drug trafficking. According to N.V. Paranjape, drug abuse; '...may be conceptualised as crime without victim, i.e addict himself is the victim who becomes a prey of its misuse. This devastating melody is eroding the roots of social, economic and cultural fibre...It gives rise to criminality and criminal behaviour which eventually leads to social disorganisation.'

The child drug abuse has been rampant in various streets in urban places. The child uses drugs as part of leisure and relaxing and relieving physical and mental tensions. Sometimes the child takes drugs as part of his daily life. The expansion of drug manufacturing industries, growth of town and cities had promoted the use and trafficking of drugs. In the process of doing such harmful business the child becomes part of trafficking, selling and using of drugs. A child normally after using drugs continue committing other criminal acts like petty crime, prostitution, robbery, house lifting and other related crimes. Drug abuse generally

destroys the child health, physical, mental and social development. This makes the child a victim of his misdeed.

The child puts himself in the drug abuse due to the number of causes, which include: The development in industries and urbanisation has accelerated the easy availability of drugs and the interaction of person of various characters hence contributed the child to adopt such harmful behaviour in his detriment; the interaction of cultures has created the child at early stages taking and using drugs as a fashion and enjoyment but at the same time remains addicted hence becomes the victim of drugs user; lack of parental care and control is the other reason for child drug abuse, the child lacks supervision and direction and falls into the hands of drug users where the child puts himself in the group of drugs users; lack of awareness of the effects of using drugs among the children also promotes using drugs prevalence of drugs in the society; most of the parents and the members of the society lacks child psychology, which contributes in creation of gap between the child and the parent where by the parent fails to identify at the early stages the life and character of his child thus the child ends up to be affected by drugs.

The child may normally be affected by using various types of drugs including narcotic drugs which contain the following ingredients: Opium and its derivatives such as heroin and codeine; cocaine and cocaine; and methadone, pethidine, heroin. The other group of drugs is psychotropic substance which includes valium, diazepam, and morphine. All these drugs affect the welfare of the child. In the process of protecting the child against drugs abuse in Tanzania various laws has been enacted. Section 17 of the Law of the Child, prohibits any person who runs a discotheque, bar or night club, to allow a child to enter into such premises. The law does not allow the child in such premises or to be employed or provided with any services in such premises. The law also prohibits any person to sell cigarettes, alcohol, any spirit, drugs or any intoxicating substance to a child. Where there is a person who contravenes these prohibitions commits an offence and upon conviction he should be liable to pay a fine not less than one million shillings but not exceeding five million shillings or to imprisonment for a term not exceeding 12 months or to both. Commenting on the efficiency of the laws controlling drug abusers N.V. Paranjape, remarks, 'experience has shown that various preventive and punitive measures such as fine, imprisonment, or detention for...disorderly behaviours have failed in eliminating this menace.' Therefore, since, the law seems to fail to combat against child drug abuse then, the child who is found to have been committed the offence should be reformed and not to be punished. Likewise, people should be educated on the effect of exposing the child to drugs. Such education might be the cure against the child drug abuse as the child will not be exposed to drugs.

The law in Tanzania puts prohibition of possession and trafficking of narcotic drugs and psychotropic substances and cultivation of certain plants which has relation to drugs. Principally, the child should not be

involved into cultivation of any of the following: Cannabis, coca plant, or gathers any portion of coca plant; and cultivation of Papaver Somniferous (opium poppy) or papaver setigerum. Likewise, the child should not be involved in any manner in production, possession, transportation, and importation of drugs in Tanzania. To involve the child in dealing with drugs in whatever capacity is spoiling the welfare of the child. The child also should not be involved in the entire process of selling, purchasing, and using drugs. All these acts are criminalised under the law. The involvement of the child in any manner to drugs such as poppy straw, coca plants, coca leaves, prepared opium, opium poppy, cannabis, manufacturing of drugs or any preparation containing any manufactured drug, psychotropic substance, narcotic drug all such acts amounting to contravention of the provisions of law. In case the child dealer of drugs is found guilty of drugs offence, may be penalised to pay a fine of one million shillings or three times the market value of the prohibited plant, whichever is the greater, or to imprisonment for a term not exceeding 20 years or both the fine and imprisonment.

Despite of the existence of law, the child is still exposed to the drug abuse calamity. As the result of drugs sometimes the child is addicted. This is a stage where the child is demonstrating impaired control in relation to the use of that drug, or drug-seeking behaviour suggesting such impaired control. In another way the child cessation of the administration of the drug is likely to result in experiencing symptoms of mental or physical distress or disorder. In this occasion the child becomes a victim of drugs and the court as well should treat such kind of child like a victim and not like an offender.

The law establishes clearly that where any addicted child is found guilty of an offence relating to drugs and the court is on opinion that, taking into consideration of the age, character, antecedents, physical or mental condition of the offender that, it is expedient so to do, then the court should instead of sentencing the offender at once to any imprisonment, with the consent of the offender, the court has power to direct that, the offender be released for undergoing medical treatment for detoxification or de-addiction. The treatment must be taken from the hospital or an institution recognised by the Government. But the order of releasing the offender to the treatment requires the offender entering into a bond in the form prescribed by the Commission. Such bond may be with or without sureties and the court should direct the offender to appear and furnish before the court within a period not exceeding three months, a report regarding the result of offender medical treatment. The court also has power to direct that, while the juvenile is undertaking the medical treatment should abstain from commission of any offence relating to drug abuse. In case the offender has been released for hospital treatment fails to comply with the condition for abstaining from commission of an offence then the court can order the offender to appear before the court where other sentences should be imposed. Normally, the sentences which

should be imposed to such child ought to have rehabilitative effect and which encourages the child welfare development.

Taking into consideration the age, character, antecedents, physical or mental condition of the offender it is obvious that the child should be protected from any form of mistreatment. Where the child is addicted then the welfare development of such child is affected. In such occasion the administration of juvenile justice system should take and consider the child as a victim who requires the rehabilitative measures and not handling the child as an accused person. It is advised that, the rehabilitation should not be conducted away from the child family.

Despite, Tanzania taking the action of enacting the law to combat drug abuse, this is not the only measure. The State should take other active measures which include: Developing and implementing a national plan of action for drug control; implementing the provisions of International Conventions on Narcotic Drugs and Psychotropic Substances; and updating drug control laws, regulations and establishing the proper system of its enforcement. Also the State should establish the mechanism of promoting the prevention of drug abuse and public information for youngsters, families, educators, the public, by supporting other initiatives in the field of information and prevention. Likewise, the efficiency of law and the enforcement machinery should be well established to prevent prevalence of drugs and drug dealers. Again, the strategies of establishing a viable data collection and analysis system at the national level on drug abuse, drug trafficking and developing treatment, rehabilitation programmes for drug addicts and undertaking research on drug addiction. These measures assist to protect the child from drug abuse. However, these measures are not exhaustive. Other measures include establishing trainings to personnel in-charge of strategies for dealing with drug abuse, drug trafficking, money laundering precursors, promoting and ensuring international co-operation, and ensuring co-ordination and support of activities of non-government organisations and associations participating in drug abuse control. Therefore, various people should be provided with the educational programmes of the effects of the drugs and the object of protecting the child from drug abuse. However, efforts should be done with a view of early detecting the drug dealings to the child with a view of protecting the child from being addicted. When these efforts taken on board will lead the child being protected to the best interest of the child and relieve the child from drug abuse and other nature of criminality motivated by the state of drug addiction.

PROTECTION OF THE CHILD AGAINST CHILD TRAFFICKING

Trafficking of the child is the global problem. The child is highly suffering from this kind of abuse. Gallinetti J., & Kassar D., commenting on child trafficking provides: 'In particular, child trafficking is a deadly evil on account of the fact that children are the most vulnerable to this 'hidden crime'. Victims of trafficking rarely have the opportunity to report their

ordeals to the authorities and children in this regard are the most disempowered. It is therefore incumbent on states to provide practical as well as legal assistance to children. However it has been noted that the magnitude of child trafficking globally makes it clear that many states have been quite ineffectual in protecting children from this particular phenomenon.'

It has been noted that, despite there are laws at various levels but the child trafficking has not been stopped. It is obvious that, the law criminalises any act relating to trafficking of the child. Thus no person is allowed to engage in the act of buying, selling, and bartering of any child for money or for any other consideration. Likewise, the law makes it an offence for any person to arrange or assist, a child to travel within or outside Tanzania without the consent of the child's parent or lawful guardian. It is an offence to engage in procuring the child from hospitals, shelters for women, clinics, nurseries, day care centres, or any other child care institutions or welfare centres, for money or other consideration or procures a child for adoption from any institution or centre, by intimidation of the mother or any other person. Any person who does such acts commits the offence of trafficking. Section 4(1)(a) of the Anti-Trafficking in Persons Act, 2008 provides that: 'A person commits an offence of trafficking in person if that person- recruit, transports, transfers, harbours, provides or receives a person by any means, including those done under the pretext of domestic or overseas employment, training or apprenticeship, for the purpose of prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude or debt bondage.'

These acts are trafficking in person. In case there is any person convicted for the offence of trafficking of the child should be liable for imprisonment for a term of not less than twenty years and not exceeding thirty years. Other than imprisonment, the court can order to pay a fine of not less than one hundred thousand shillings and not exceeding three hundred thousand shillings or to both the fine and imprisonment. Also in addition the court power to impose compensation order as the court deems fit to be paid to the victim of trafficking.

Under the process of handling the investigation and judicial proceedings, the victim of drug trafficking in person has rights, which should be confidentially handled. The private life and identify of victims of trafficking in persons should be secured and protected. The law enforcement organs, court personnel and medical practitioners, as well as parties to the case at the stages of investigation and trial of trafficking offence must recognise the right to privacy of the trafficked person and the accused. But at any stage the child is involved then the matter should be handled in camera. To this regard, the name and personal particulars of the trafficked child or any other information regarding the trafficked child should not be disclosed to the public. In the process of protecting the information of the child the following person are not allowed during the proceedings, such as: Editor, publisher, reporter, or columnist; presenter

or producer; producer or director of a film; any person utilising tri-media facilities or information technology, to cause publicity of that prosecution. All these are done with a view of limiting the information of the child to the public. Also obstruct the existence of child records which will motivate the child to involve into tracking in person when attains the age of adults.

In the process of protecting the child from being trafficked, the law gives responsibility to the State to rescue, rehabilitate, protect, and provide a useful assistance to the child victims of trafficking in persons. The public officers in the security services should be responsible for the rescue mission of a trafficked person. Their responsibilities also cover the provision of temporary basic material which support for the care and protection of a rescued victim of trafficking in persons. It is essential to note that, social rehabilitation of rescued victims should be carried out by social welfare officers for reinstating the victim back into normal way of life. This include the provision of legal assistance and material support in terms of psychological, medical and professional rehabilitation. But where is necessary the child victim should be given light employment and a dwelling place for the betterment of his life. However, a number of children are not provided with legal assistance hence remains without proper defence. Also such child victim should be provided with the counseling services by the office of the Commissioner for Social Welfare Officer with a view of assisting in the rehabilitation and re-integration of the respective child. During the entire process of dealing with the child victimised by trafficking in persons the principle of the best interest of the child should be paramount in any assistance given to the child. Such assistance can include undertaking the rescue, rehabilitation, counseling or re-integration of a child toward assuming the normal and the enjoyable life.

However, the law protecting the child rights in Tanzania seems to be not efficient in combating the business of trafficking in persons especial the child. This causes the internal and external traffickers remaining un-arrested, unpunished, and unstopped from criminality. The business of trafficking of the child causes the child to continue being used into the industries, mining, plantations, fishing, prostitution, and other hazardous activities and places. Therefore, efforts should be taken in reviewing the law, law enforcers system, and providing appropriate educational programmes with a view of acquiring better knowledge of child rights and protection in Tanzania.

CONCLUSION

The child needs to be protected from any circumstances of degrading treatment. Tanzania has different laws protecting the rights of the child which have been enacted in alliance with the international legal instruments for child rights. However, the child experiences torture, involved in pornography and sexual practices, involves in harmful labour, drug abuse and trafficking. In protecting the child from such degrading

treatment, Tanzania needs deliberate efforts in curbing the mistreatment of the rights of the child in Tanzania including introducing awareness to the public on the rights and welfare of the child.

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