

Juvenile Delinquency and the Court System: A Critical Analysis of Tanzania's Law of the Child

Daniel Lubowa

Legal Scholar, St. Augustine University of Tanzania Law School

ABSTRACT: According to Juvenile justice law, juvenile children are to attain exceptional handling and to be cut off from adult prisoners when on remand. According to Tanzania's Law of the Child Act, No.21 of 2009, a Police officer who arrests a juvenile, has a duty of ensuring that he or she is not detained with criminal adults. But in practice problems for Juveniles start when they are in the Police's hands, where they are mistreated, considered criminals at first sight and mixed with adult criminals. This state of affairs makes these juveniles suffer from molestation, starvation and disease. All these problems also extend to Tanzania's court system whereby the magistrates presiding over criminal trials for adults are the same people presiding over the juvenile courts. These magistrates have no special training over juvenile criminal justice whereby they usually apply the law as it is meant for adults without considering the peculiar circumstances on the side of the juveniles. In enhancing development and prosperity of Tanzania's Juvenile system, as part of its recommendations, this Paper amongst others recommends that the Tanzanian Government should come up with a reform policy geared towards overhauling the country's entire Juvenile System, and initiating processes that call for more resources to be sunk into training and equipping legal personnel with special skills of handling Tanzania's juvenile children, in addition to having more juvenile homes built around the country in a bid to prevent juvenile children from being detained in the same detention facilities with adult criminals.

KEYWORDS: Juvenile Delinquency; Tanzania's Court System: Law of the Child

1. INTRODUCTION

1.1. Juvenile Delinquency and Juvenile Justice

Juvenile Delinquency crime which has been steadily rising all over the globe in recent years is a serious problem that has created many sets backs in development processes especially in many of the globe's third world countries such as Tanzania whose mechanisms in keeping this situation at bay appear weak.¹

Children and young Persons frequently get arrested by the Policing system and produced before courts of law where they are charged with criminal offences; subjected to short hearings of their cases where in many cases, are denied of their freedoms and committed for years to approved schools.²

Prior to the putting in place of Juvenile courts, children under the age of seven years were on no account held criminally liable for their actions. The legal system considered such children unable of forming the essential criminal intention. Initially, children from seventeen to fourteen years were by and large considered to be unable of committing criminal acts, though this conviction was later disapproved by demonstrating that in fact these children understood what they were doing after all when they engaged in criminal acts. Fourteen year old children were initially charged with crime and handled in the same manner as adults. At the moment, most global states have come up with age limits regarding criminal liability of juveniles and adults. In many global states, young people are considered juveniles until they turn eighteen years of age. However some countries set the criminal liability limit at sixteen and seventeen years of age respectively.³

¹Ivy Maloy, 'The Juvenile Justice System in Tanzania', Mtoto, available at: <https://www.mtotonews.com/The-Juvenile-Justice-System-in-Tanzania>, accessed on 11th March 2025.

²Issa G. Shivji, Hamudi I Majamba, Robert V. Makaramba, Chris M. Peter, 'Constitutional and Legal System of Tanzania', Mkuki Na Nyota Publishers, Dar es Salaam, Tanzania, p.188.

³Cynthia H. Roberts 'Juvenile Delinquency: Cause and Effect', available at : http://teacherinstitute.yale.edu/curriculum_units/2000/2/00.02.05.x.html, accessed on 4th June 2025.

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The contemporary era has seen a rise in grave juvenile crime over the globe such as murder, often linked to drugs, gangs or both.⁴ For instance countries such as Japan, United States of America [USA] and United Kingdom [UK], have experienced a steady rise of juvenile offenders especially since the end of the cold war. On the other hand, due to continuous socio-economic changes on the lines of western civilization, countries, such as Tanzania, Malawi, Namibia, South Africa, Kenya and Uganda are witnessing an increasing trend of criminal behaviour, delinquencies and violence. Whatever the cause of the problem, the effects or the consequences of delinquent behaviour in the society are more or less the same. It is a universal concern and worry that many juvenile delinquents most of the time end up as criminal adults.⁵

Tanzania is no exception to other developing countries around the globe as the country is currently undergoing socio-economic, cultural and political changes; a state of affairs that has brought about a free market economy and a multiparty political system.⁶ This lessening fiscal pedestal for rural substance farming in Tanzania's country side has forced a number of rural residents to move to the country's key city centers where unrelenting fiscal stagnation has left many juveniles incapable of meeting their daily essential needs. In many instances, in a bid to bend to these latest conditions, it is usual for children to display deviant behaviour which leads to conflicts with the law as a consequence.

Under Tanzanian law, when fourteen year old children and above who contravene the law, they are to be committed to regular Prisons, though in practice this is reportedly uncommon. Prior to being committed to approved schools, children often spend prolonged periods in juvenile remand homes or remand Prisons, awaiting settlement of their cases.⁷

It is contended that today, juvenile justice has been recognized globally as a central element of the national expansion processes. In this case, social justice demands that a comprehensive framework for the protection and maintaining young people in a serene society be put in place in each country. There are remarkable developments in the Juvenile justice factor as society at large aims at finding suitable solutions in addressing the juvenile delinquent aspect. From a global perspective, such steps, usually adopted by global Governments, aim at establishing a framework of extra defense favorable to children's well being that complies to the apt recognition of the individual requirements and universality of children as human beings. This is seen when in 1990, the United Nations Convention on the Rights of the Child [UNCRC]⁸ came into force to address children rights and interests. Tanzania as a country ratified this global convention in 1991. It is however evident that despite the ratification of the UNCRC, Tanzania's Legal and Human Rights Centre [LHRC] has noted that to date, there is less political commitment by Tanzanian authorities expressed towards safeguarding the general welfare of Tanzania's children. As such the Rights of the Child Committee observed that the Tanzanian Government has failed to wholly conform to the obligations imposed upon it by this Committee which include apt running of the juvenile justice system.⁹ Policy reforms ought to be promoted by all stakeholders including Government in ensuring that a harmonious juvenile justice environment prevails in the country.

2. TRACES OF JUVENILE JUSTICE

2.1. General Undertones of America's Juvenile Justice System

The United States of America [USA] is the originating place of juvenile justice.¹⁰ The late eighteenth and early nineteenth centuries, saw courts of law penalizing and cramping children in jails and penitentiaries. Since not many other options were in existence at the time, children of both genders were cramped up together with hard-edged adult criminals and the mentally unstable in congested, decrepit penal structures. Many children were incarcerated for non criminal behavior simply because there were no other options. At the same time, American urban life grappled with elevated levels of child poverty and abandon placing pressure on the urban authorities to roll out remedies to this rising societal concern.¹¹ In retort to all these challenges, ground-breaking penal reformers such as Thomas Eddy and John Griscom, organized the communities for the Prevention of Pauperism, in a bid to contest the accommodation aspect of children in adult prisons and advocating for the putting into place of a fresh kind of establishment to tackle this situation. These reformers' work led to the putting in place of the first ever New York House of

⁴Daniel Mc Culloch 'The Rise and Rise of Child Crime, 2013, jjie.org/2013/10/the-rise-and-rise-of-child-Crime, accessed on 30th August 2017.

⁵Christina S. Maganga 'Administration of Juvenile Justice In Tanzania: A Study of Compatibility With International Norms and Standards,' 2005, [Published LLM Dissertation] Raoul Wallenberg Institute of Human Rights and Humanitarian Law, Lund University.

⁶Haidari K. R. Amani, Samuel M. Wanga 'Understanding Economic and Political Reforms in Tanzania,' Economic and Research Foundation, 2004.

⁷Issa G. Shivji, Hamudi I. Majamba, Robert V. Makaramba, Chris M. Peter, p.189. opcit, at note 3.

⁸United Nations Convention on the Rights of the Child, 1989.

⁹Issa G. Shivji, Hamudi I. Majamba, Robert V. Makaramba, Chris M. Peter, p.189. opcit, at note 8.

¹⁰'The History of Juvenile Justice, Part I', American Bar Association' available at: <http://www.americanbar.org/content/dam/aba...DYJpart1.authocheckdam.pdf>, Accessed on 30th August 2017.

¹¹'Juvenile Justice History', available at: <http://www.cjcj.org/education1/juvenile-justice-history.html>, accessed on 16th November 2025.

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Refuge in 1825,¹² specifically designed to accommodate impoverished and vagabond children deemed by authorities to be on the path towards delinquency. After three years of the house's opening, similar establishments came up in Boston and Philadelphia. By the 1840's about twenty five additional establishments of this nature were put up all over the United States.¹³ Houses of refuge were huge fortress-like congregate style establishments positioned in urban neighbourhoods for children designed delinquent. The standard number of children in a house of refugee was two hundred, but some other houses such as New York's House of Refuge, housed over one thousand children.¹⁴

The first half of the nineteenth century saw Houses of refugee as America's major institutions confining the ever-increasing number of the country's poverty stricken and delinquent children. Sadly, these establishments soon grappled with similar challenges that besieged adult prisons-such as congestion, failing environments, and staff mistreatment. Additionally, with the rising communal school movement and obligatory education, communal reformers started advocating for a new-fangled type of establishment that placed improved accent on education. Through this movement, the reform school became an indelible part of America's juvenile justice structure. At the moment, reform schools are characteristically known as youth correctional institutions continuing to trail a typical assemble establishment replica-of putting many children in very strictly controlled penitentiary-like institutions.¹⁵

2.2. The Juvenile Court: It's Genesis and Development in the United States

Before the late Nineteenth Century, children and adults were tried together in courts of law. England's educational reform movement in the sixteenth century that considered children to be different from adults, with less wholly developed cognitive abilities, is responsible for fueling the movement for juvenile restructuring in America.¹⁶ By the mid nineteenth century, following the establishment of Houses of refuge, fresh ideas such as cottage, out-of-home residency as well as probation were introduced. These new-fangled approaches were characteristically as a consequence of innovative communal reformers who wanted new and enhanced ways of addressing errant child challenges. This set of institutions and Programs were at a final point put together with the establishment of the Juvenile court. First created in 1899 in Cook county, Illinois in the United States[US], the Juvenile court quickly spread across the country, becoming a unifying entity leading to the formation of the juvenile system. The key justification for the creation of the juvenile court was to offer treatment and protecting direction for children where they would receive personalized interest from a concerned judge. Court trials exhibited laid-back stature and judges exercised wide prudence on how each matter was addressed.¹⁷

The Juvenile law was imported to Tanzania in 1933 and was named the Children and Young Persons Ordinance,¹⁸ which put in place protection of individuals under the age of sixteen years provisions the procedures at trial of such individuals on criminal charges.

3. KEY DEFINITIONS:; LAW OF THE CHILD; JUVENILE DELINQUENCY; JUVENILE COURT

3.1. Aspect of Child under Tanzanian Law

Legally defining an individual child or young person forms the vital dilemma in the growth of an efficient system for the safeguard and advancement of children rights. At global and national levels, a child is defined differently according to perspective. Various Tanzanian laws delineate childhood depending on the situation within which that individual is being referred to.

Tanzania's 1977 Constitution refers to a child as an individual below eighteen years,¹⁹ whereby according to the Constitution, only an eighteen year individual and above is allowed to participate in voting processes and getting elected in the country's electoral processes.

Tanzania's Law of the Child Act[LCA], 2009 defines a child to be an individual below eighteen years, whereby the Best Interests of the child principle takes centre stage in all procedures concerning a child whether undertaken by public or private social

12 The New York House of Refugee was the first juvenile reformatory established in the United States. The reformatory was opened in 1824 on the Bowery in Manhattan, New York city, destroyed by fire in 1839, and relocated first to 23rd street and then in 1854 to Randall's Island. Through its 111 year history, the reformatory was privately funded receiving only guidance, supervision and additional funding from state agencies. The New York House of Refuge became the first movement in what was to later become the juvenile justice system.

13 'Juvenile Justice History' 2025, opcit at note 12.

14 Ibid.

15 Ibid.

16 Ibid.

17 Ibid

18 Children and Young Persons Ordinance [Cap 58].

19 Constitution of the United Republic of Tanzania, 1977, Art 5.

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welfare institutions, courts or managerial units.²⁰On the other hand, Tanzania's Penal Code defines a child to be an individual under twelve years.²¹The Code puts in place the criminal responsibility age, identifying specific actions that amount to criminal offences, but the Code's provision that defines a child to mean any individual under twelve years was amended by Section 174 of Tanzania's LCA,2009, which now says that any child who commits an unlawful act shall be dealt with by the law, in this case making Tanzania's law of the Child prevail.

3.2. Juvenile Delinquency under the Law

A general definition of a juvenile is that of a child who does not meet the criminal age of liability of which in Tanzania, this is a child with a lower age limit of ten years and an upper eighteen year age limit. Depending on the context within which the individual is referred to, the definition of a child varies.

Juvenile Delinquency happens when a child desecrates criminal law;²²also refers to children who display a unrelenting behavior of animosity or defiance, so as to be considered out of parental control, becoming subject to legal action by the court system and each global state has a distinct legal system in place to deal with juveniles who contravene the law. When a juvenile commits a crime, the court processes that are followed are different from the ones used when dealing with adult offenders.²³Most legal systems around the globe lay down explicit processes for addressing juveniles, such as juvenile detention centers and courts.

The nature of and most common crimes committed especially in Tanzania's urban centres as opposed to rural areas by Tanzania's juveniles comprise of pick/pocketing, assault, robbery, sexual offences, sodomy, burglary, house breaking, causing grievous bodily harm etc.²⁴

3.3. Tanzania's Juvenile Court

The Juvenile Court is a criminal court established under Tanzania's LCA,2009;²⁵an institution intended to deal with children who commit crimes. Much as this may be the court's main public function, the court's role is much more. Tanzania's Juvenile court system was established with such elevated goals, aimed at rehabilitating young offenders, intended to act as a custodian looking out for the top interests of Tanzania's children.²⁶ Tanzania's Juvenile court is just a dignified institution, charged with the most vital obligation imaginable, safeguarding and reforming Tanzania's children where else failed. The court is one of the few places in the country where Tanzania children needs are important and where a craze for assisting them defines this court's work. In Tanzania's juvenile court, children are the main concern.

6. LEGAL APPARATUS GOVERNING CHILD LAW: INTERNATIONAL AND REGIONAL PERSPECTIVES

Tanzania has undertaken a number of obligations at global and regional levels by ratifying rights instruments inclined towards children who contravene the law.²⁷This fragment of the Paper briefly highlights the applicable global and regional rights instruments relevant to the field of juvenile justice system. Here, global and regional rights instruments ratified by Tanzania such as the Convention on the Rights of the Child [CRC], 1989, and the African Charter on the Rights and Welfare of the Child [ACRWC],1990 are highlighted.

6.1. United Nations Convention on the Rights of the Child[UNCRC],1989

The UNCRC, 1989 is a legally binding accord that applies to every child on the globe outlining children rights. Being widely ratified in history, this human rights instrument was adopted in 1989.²⁸ The UNCRC sets out rights of children globally in the areas of health, education, culture and more. This global child convention calls upon Global Government's ensurance of children's basic needs;non discrimination of children; consideration of children best interests; right of children's development and survivorship; children voice/views platforms to be heard and taken seriously and many more other child related aspects.

6.2.The African Charter on the Rights and Welfare of the Child[ACRWC],1990

The ACRWC,1990 was adopted by the Organization of African Unity[OAU],on 11th July 1990,coming into force on 29th November 1999. This African instrument is a regional human rights convention that addresses issues of particular interest and importance of Africa's children, specifically setting out their rights and defining universal principles and norms especially regarding their status and well being on the African continent.

²⁰Law of the Child Act, No.21 2009,Sec 4[1].

²¹Penal Code Act[Cap 16 RE 2002]

²²'Juvenile Delinquency' Legal Dictionary, <http://legaldictionary.net/juvenile-delinquency>, accessed on 1st July 2025.

²³Ibid.

²⁴See Reports of Legal and Human Rights Centre in 2003 and Enviro Care in 2000.

²⁵ Law of the Child Act, No.21,2009, Sec 97[1].

²⁶ Cynthia H. Roberts,2025 opcit, at note 4.

²⁷ Such as International Covenant On Civil and Political Rights,1966,[acceded on 11th June 1976];Convention on the Rights of the Child[acceded in 1990]African Charter on Rights and Welfare of the Child signed in1998 and ratified in 2003, see www.achpr.org.

²⁸ See: Leblanc L.J,' 1991 *The Convention on the Rights of the Child*', Leiden Journal of International Law, Vol.4 No.2, p.283.

7. TANZANIA'S LEGAL REGIME ON THE ASPECT OF CHILD

7.1. The Law of the Child Act[LCA]No.21 of 2009

Tanzania's LCA²⁹ is a law in place which puts in place reforms as well as bundling together of all laws relating to Tanzania's children; especially children rights, advancing, defending as well as maintaining child welfare with a sight of lending credence to global and regional conventions on child rights; specifically in regard to children in contravention with the law. This law overall establishes standards for juvenile justice and acts as a safeguard to child abuse, violence as well as neglect in Tanzania.

8. TANZANIA'S JUVENILE JUSTICE SYSTEM

Much of the apparatus of Tanzania's juvenile justice system fall under different ministerial mandates. Children's welfare and protection in Tanzania is generally dealt with by the Ministry of Labour and Youths Development and the Ministry of Community Development, Gender and Children Affairs, while the Justice system itself falls under the Ministry of Justice and Constitutional Affairs. On the other hand, Tanzania's courts are independent and the Chief Justice's office pedals the appointments of court officials and magistrates in the juvenile court.

8.1. The Operation of Tanzania's Juvenile Justice System

8.1.1. Establishment of Tanzania's Juvenile Court

Tanzania's LCA,2009 establishes the Juvenile court as a separate court from existing ones,³⁰ presided over by the Resident Magistrate.³¹ The LCA permits the Chief Justice [CJ]to assign any premises used by the Primary court to be a Juvenile court.³²Currently, Tanzania has only one building operating as a Juvenile court [namely,Kisutu Resident Magistrate court located in Dar es Salaam.

8.1.2. Subject Matter Jurisdiction of Tanzania's Juvenile Court

Tanzania's LCA,2009 puts in place the Juvenile court objectives; that is; hearing and determining children matters.³³The LCA requires the juvenile court hearings and determining criminal charges against children as well as child care applications, maintenance and defense by the juvenile court. Besides these aspects, the juvenile court also has jurisdiction in exercising authority conferred upon it by any other written law.

8.1.3. Procedures in Tanzania's Juvenile Court

Tanzania's court system is three-tiered comprising of a court of appeal, a high court and subordinate courts known as Magistrates' courts and ward tribunals. The LCA,2009 puts in place juvenile courts at district and primary magistrate court levels, for the purposes conducting hearings against individuals under twelve and sixteen years except in cases where children are jointly charged with adults. In such scenarios, delinquent children will also have their cases heard in adult courts. Such a trial shall not consider a delinquent's age, and the trial will also not be held in camera. The delinquent will go through the same trial process as the adult co-defendant, though, the judge is to take into consideration the delinquent child's age when passing a verdict.

Tanzania's law provides for juvenile courts sitting in different buildings and different days or at different times from regular courts for adults and are to be closed to the general public. Once the accused delinquent is discovered to be a child of tender years aged below sixteen years, the court has to immediately sit as a juvenile court and proceed to hear the case, unless it's not practical for the trial to be conducted in a room which is a different room from the one ordinarily used as a court room. If in a juvenile court, it is established that the charged individual is aged sixteen years and above, the court will go on with the hearing and determination of the case in accordance with the provisions of the Criminal Procedure Act, 1985.

9. CHALLENGES IN THE MANAGEMENT OF JUVENILE JUSTICE IN TANZANIA

9.1. Problematic Arrest Processes of Tanzania's Juveniles By Police

In Tanzania or elsewhere on the globe, when a juvenile commits crime, the first contact he or she makes with the authority is the Police. The Police's initial role in dealing with the young offender is that of arrest,³⁴and detention.³⁵Questioning and arresting juveniles presents special challenges to Police officers. In making an arrest, a Police officer must have probable cause to believe that an offence took place and that the suspect is the guilty party.

Practice shows that Tanzania's children and young persons are mostly arrested by Police officers who don't know exactly what do when dealing with juveniles. During arrest processes, juveniles are manhandled, roughed up and beaten up by the Police

²⁹Act No.21 of 2009

³⁰The Law of the Child Act, No. 21,2009, Sec 97[1].

³¹ Ibid,Sec 97[3].

³² Ibid,Sec 97[2].

³³ Ibid,Sec 97[1].

³⁴Criminal Procedure Act[Cap 20, Revised Edition of 2002],Sec11.

³⁵ Ibid, Sec 32.

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Officers. These officers are not very engaging while arresting juvenile children who are found to have violated the law. In most cases, rights of the juveniles are infringed upon in the process and yet Tanzania's child law is very clear that child rights should be safeguarded.

9.2. Bail Challenges in Tanzania's Juvenile Courts

Generally bail is a right of an accused individual; it being the amount of money defendants must pay to a court of law in attainment of freedom till the completion of their trial. Bail is not a fine; its sole purpose is to ensure a defendant's appearance for trial and all pre trial hearings for which they must be in attendance.³⁶ Just like adults, children who commit crime are arrested and brought before the courts of law for trial. Children must be accorded all rights of any person sued of any offence; they must enjoy the rights of fair treatment as guaranteed by the Tanzanian Constitution, including clearly being informed of the charges against them; the right not to be forced to make confessions or giving incriminating evidence during court sessions.³⁷ In this scenario, there are challenges on part of the Police Officers concerning children and young persons' rights on bail. Most of the Police Officers lack adequate knowledge on the law governing children rights, and for that matter usually treat or handle juvenile offenders like adults when they are in Police custody.

Tanzania's LCA, 2009 makes provision for child bail.³⁸ According to this law, when a child is apprehended by the Police Officer with or without a warrant for the charge which is not homicide or treason or other grave crime, the Officer in charge of the Police station in whose district such an individual has been apprehended, has a duty of releasing such an individual on a bail bond, with or without securities and for such amount which will ensure the attendance of such child before a court of law upon the hearing of the charge when the trial commences. This bail bond may be entered into by the juvenile offender himself or by his parent or guardian or other accountable individual. While wealthy persons including dangerous gangsters, have no problem in providing bail, the large armies of small-time juvenile offenders who come before the courts of law, are too poor to provide the required financial guarantee required by the courts of law and are accordingly obliged to remain under detention. Most of the juveniles are denied bail by the courts of law while others are released after being kept in custody for two or more days.

Practice shows that the age of the accused individuals is not taken into consideration by Tanzania's courts of law or the nature of crime in granting bail. Most of the Juvenile offenders are denied bail at their first appearance before the courts of law and the major reasons used by the courts of law in denying the juveniles bail is lack of sureties on the side of juveniles or lack of funds on the side of the offender.

In all juvenile cases, the Tanzania Government is represented by a Public Prosecutor whose submissions of objecting to juvenile bail evolve around the same grounds as used in adult cases such as the accused's skipping of bail, or accused's interference with the prosecution evidence. Most of the time this is done without taking into account the accused's age. It should be noted that generally in most cases, children do skip bail by reason of their age and not being abreast of the dire consequences of skipping bail.

9.3. Custody Challenges in Tanzania's Juvenile Justice System

Tanzanian law gives two options to the court of law when a child appears before it and denied bail. Such a juvenile can be committed to a remand Prison or he/she can be confined to a place of detention. If the court incarcerates a juvenile offender in place of detention, the offender has to be confined for the period for which he is remanded until he/she is brought before a court of law in due course of law, but if the young offender is unruly in character, the court can commit him to custody in Prison under the condition that while the juvenile is in Prison custody, he/she has to be confined in a separate building in a bid to prevent him/her from associating with adult prisoners.³⁹

The law is to be complied with in ensuring that children are not mixed with adult criminal suspects or convicts in the same jail holding cells because their association with adult convicts can expose them to social vices such as sexual abuse which can lead to trauma exhibited by experiences of homosexual relations with adults. Currently in Tanzania, there is no such place as place of detention of juveniles under the law, an aspect which renders this provision inoperative, and for that matter, juveniles are kept in Police custody or remand Prisons.

9.5. Challenges Encountered By Tanzania's Juvenile Court System in Trying Offenders

The trial of children in Tanzania is governed by the LCA, 2009. The Juvenile court faces some challenges during the trial of juvenile offenders one of these being magistrates presiding over adult criminal trials being the same people presiding over juvenile

36 Quentin Hunt 'Obtaining Bail In Criminal Proceedings,' 2015, available at: www.bestcriminaldefencebarristar.co.uk/criminal-defence-barrister-blog/2015/april/17/obtaining-bail-in-criminal-proceedings, accessed on 1st June 2025.

³⁷ See Part III, Basic Rights and Duties, Arts 12-30, Constitution of the United Republic of Tanzania, 1977.

³⁸ The Law of the Child Act, No. 21, 2009, Sec 101.

³⁹ The Law of the Child Act, No. 21, 2009, Sec 102.

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courts. In most cases these magistrates have no special training over juvenile criminal justice in the sense that they apply the law meant for adults without considering the peculiar circumstances on the side of the Juvenile offenders.

During the trial processes, Tanzanian courts of law are also faced with other challenges such as the determination of juvenile age and the incapability of the juvenile offenders making their own defense. In situations where the accused juvenile does not know his age or where the age is purposely obscured, the court sometimes does guess work. The age determination of the accused is a serious problem at the juvenile court; sometimes; children may look young physically when they are not of tender years and don't qualify to appear before a juvenile to be tried before a juvenile court. In other cases, the juvenile may look of tender age when they are actually adults. Before the determination of juvenile age can be settled by a court of law, a trial cannot begin, for the age factor takes centre stage on criminal responsibility of juveniles in Tanzania.

9.6. Failure of Tanzania's Juveniles in Fulfilling Probation Order Requirements

Probation has emerged as perhaps the most important non-institutional treatment measure in most global justice systems. Marshall Clinard defines it as 'a deferral of sentence following conviction in which the offender is permitted, with some limitations, to stay in free society rather than being behind bars.'⁴⁰ According to the law, in situations where a delinquent child is charged of an offence, other than homicide, the Juvenile court may make an order discharging the offence provisionally on his entering into recognizance, with or without sureties, to be of good character in such at such a time. In Tanzania, the Probation's primary goal is to provide services designed to assist delinquents in addressing their challenges and their environments. In the event of a successful probation order, the factors that brought the Tanzanian delinquent into contact with the law should be resolved, and at the same time, the reintegration process for the delinquent should be carried out. However it is imperative to note that before a Tanzanian court of law issues a Probation order, the court has to first provide details to the delinquent in a language he or she understands, the effect of the order proposed to be made and the penalty of the delinquent's failure to adhere with the Probation conditions. Violations of Probation orders by Tanzania's juvenile offenders normally have a dramatic impact on them whereby in most cases aspects such as consequential charges for contempt, revocation of probation, transfer to the adult criminal justice system or even securing placement are the cost of failure of honouring a Probation order. Many Tanzanian juvenile offenders fail on probation because the conditions set by the court for their probation are often too erroneous or too burdensome especially in fulfilling the list of 'Standard' Probation conditions. This aspect simply sets many juvenile offenders up for failure in fulfilling Probation order requirements.

9.7. Incapability of Tanzania's Approved School System in the Rehabilitation of Juveniles

Historically, approved schools have their origin from England's first reformatory school at the beginning of the Nineteenth century, the sole purpose being; saving children from imprisonment. According to Tanzania's LCA,2009, an approved school is a school put in place under the provisions of an approved school decree, declared to be under the provisions of the Act.⁴¹

In Tanzania, a child may be moved to an approved school in mainland Tanzania. The sole purpose of having such a School in the country is to enable a juvenile convict learn different skills for a better future. Unfortunately, Tanzania has only one such school situated at Irambo, Mbeya, in the south west of Tanzania which handles all categories of children taken there while in Zanzibar, there is none. The situation at this school becomes challenging especially when children brought to this school are put together with other categories of other disadvantaged young people such as the homeless and destitute. All these children come from various backgrounds with different characters and brought to the school for different reasons.

The challenge here and which also contravenes the law is that when these children are mixed together, this situation makes serious offenders negatively influence other homeless, abandoned or orphaned children to adapt their delinquent behaviour which they never had in the first place. Although the school's sole objective is to educate and rehabilitate children in abid to turn them into responsible citizens of social culture, this school's repute for being more than a Prison makes it hard for former inmates to get integrated into main stream society after their later release from this school.

9.8. The Mix- Up of Juveniles and Adult Convicts in Tanzania's Prison Cells

While in Prison, a delinquent child is supposed to be confined in a separate building in such a way as to prevent him/her from associating with adult prisoners.⁴² Tanzania's Prisons Act provides that, in a Prison facility, adult prisoners are to be kept apart from juvenile prisoners.⁴³ In many cases this very important provision of the law is violated as we get to see juvenile offenders imprisoned with adult offenders in the same Prison facilities un abetted.

⁴⁰Marshall B. Clinard, '*Sociology of Deviant Behaviour*, ' 3rd ed, New York: Holt, Rinehart and Winston,1968.

⁴¹The Law of Child Act, No.21, 2009,Sec 3.

⁴²Ibid,Sec 98[3].

⁴³The Prisons Act,No.21,2009Sec 36[2].

9.9.The Challenge of Inadequate Juvenile Remand Homes in Tanzania's Juvenile Justice System

Juvenile remand homes are homes for juvenile offenders aged eight to sixteen years; a temporary place of care, where juveniles are remanded awaiting court trial or subsequent orders.⁴⁴ Remand homes normally provide temporary housing for juveniles in Probation or those released but do not have suitable places to stay. Under this arrangement, juveniles are separated from adult remand prisoners held in remand prisons.

While at the remand home, juveniles can undergo short term institutional training, especially when the court thinks that certain children in probation can benefit from short periods of residential training under supervision of the probation officers; but this training should not exceed six months. Tanzania mainland has got five remand homes while there is none in Zanzibar. At the moment the number of remand homes in Tanzania is too small to contain the ever rising number of juvenile offenders around the country which makes juvenile justice almost an illusion.

10. CONCLUSION

In conclusion, this Paper focused on the law and practice regarding the operation of juvenile justice in Tanzania. The Paper also focused on child legal protection of juvenile children who are in breach of the law, especially when they are committed in institutions such as remand prisons. Tanzanian law is very clear on this matter but because of certain circumstances such as lack of adequate remand homes, approved schools, confinement of juveniles and adult offenders in the same detention facilities and so on; creates a gap between the law and practice.

In general overview, all this has been brought about by lack of resources, political will, lack of training in Tanzania's juvenile justice system for law enforcers and judicial officers and professional advocacy services for the country's juvenile offenders. In a bid to enhance development and prosperity of Tanzania's Juvenile system, the Tanzanian Government should come up with a reform policy geared towards overhauling the country's entire juvenile system. Specifically, the Tanzanian Government should roll out refresher courses for the Police force on the treatment and proper handling of juveniles. More resources should be sunk into training and equipping legal personnel with special skills of addressing juvenile needs. More juvenile homes should be erected all over Tanzania so as to prevent juvenile offenders from being detained in the same detention facilities with adult criminals.

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