

# Community Responses, Enforcement of the Law of Child and its Implications on Child Sexual Assault in Arusha Tanzania

Dickson Lukumay<sup>1\*</sup>, Hosea Rwegoshora<sup>2</sup>, Harieth Mtae<sup>1</sup>

<sup>1</sup>Open University of Tanzania

<sup>2</sup>St. Augustine University of Tanzania

\*Corresponding author: dickloriku@gmail.com

## Abstract

Enforcement of the law means maintaining public order through prevention, detection, and investigation of crime and apprehension of criminals (Alvendia et al. 2018). Tanzania government, ratified the UN Convention on Rights of the Child (UNCRC) and the African Charter on Rights and Welfare of the Child (ACRWC) and enacted the Law of Child in 2009 for the purpose of protecting and responding to violence against children who are victimized. This study was conducted in Arusha region while involving 299 children age 10-17 both boys and girls. Arusha was selected because of having high prevalence of child sexual assault records than any other regions in the country. The objective of the study was to examine community responses on the enforcement of the law of the child to eliminate child sexual assault in Tanzania. The objective of the study was to examine low level of law of child enforcement influence in the increase on child sexual assault in Tanzania. The study used a multistage random sampling technique to select the districts involved in this study. Further, the study used both quantitative and qualitative approach for the triangulation of data, while using ecological system perspective. Methods of data collection were questionnaire and interview guide which was analyze by descriptive statistics and themes. The main findings of the study was; the communities lack adequate knowledge of the law of child act 2009. The communities rely on traditions ways of dealing with child sexual assault issues than reporting cases to police. The perpetrators of child sexual assault are not tried in accordance to legal procedures, instead they dealt traditionally. Therefore, low enforcement of the law lead to persistent child sexual assault. This appeal for supervision of law enforcement system and sensitization of the general public.

**Keywords:** Child Sexual Assault, Law Enforcement, Ecological system

## 1. Introduction

Child Sexual Abuse (CSA) is a world's prolonged problem that affects the well-being of societies. It affects human dignity of children and in the long run the well-being of the society at large, for example the physical, social and psychological aspects of life. Children experience effects like internal injury, transmitted diseases, depression, anxiety, stigma and low self-esteem. These effects result into direct and indirect short and long term consequences to both individuals and society including nation's government. Alarming rate of child sexual assaults has been presented by various researchers at different levels (Kang'ethe and Walioli 2020).

The literature shows the prevalence of child sexual assault in various continents as follows; Europe 9.2%, America 10.1%, Asia 23.9% and 34.4%. The estimate showed that, 7.9 % of males and 19.7 % of females universally faced sexual abuse before the age of 18 years. Moreover, literature provide data that, in United States of America nearly 1 in 3 females and 1 in 4 males experience rape for the first time between 11 and 17 years old. However literature indicate that, African region is highly hit by child sexual assault (CDC; 2021, Yemisi; 2020). Although the problem is rampant in African, the prevalence vary from country to country. Statistics showed that in South Africa the prevalence ranges from 4.1% to 60.0% among males, in Swaziland and Nigeria the rate was between 4.9 % and 56.0 % for females while the same ranges from 3.5% to 54.0% for males in Kenya and Nigeria (Selengia et al; 2020). In the same note, statistics showed

same trend in Tanzania, whereby the rate was 27.9% of females and 13.4% for males aged between 13 to 24 years old (URT, 2016). Moreover, the literature showed that, the problem in Tanzania is not only prevalent but also in a gradual increase (Singh *et al*; 2014, Badoe; 2017). Furthermore, incidences of child sexual assault have increased from 482 in 2013 to 13457 cases in 2017 (LHRC 2019; Mogoatlhe; 2019). This increase cause a huge range, equals to 2791.9%. The increase raises questions to the interventionists, professionals and the communities in which the problem occurs. Although the increase was alarming, it was not uniformly prevalent among the regions. Some regions had high rate of incidences than others which lead to the selection of the study area.

Several initiatives have applied by the government, civil society organizations and professionals to eliminate the problem without success. The situation continued to cause harm to children and compromise their value of dignity and worth of a person. Also contradict with the international, regional and national child protection instruments (UNCRC, ACRWC and LCA). The Law of Child Act (LCA, 2009), in its introduction part, states that the law shall be;

*“An Act to provide for reform and consolidation of laws relating to children, to stipulate rights of the child and to promote, protect and maintain the welfare of a child with a view to giving effect to international and regional conventions on the rights of the child”.*

The condition appealed for the study so as to examine the influence of the law of the child enforcement in the increase or decrease in incidences of child sexual assault in Tanzania. The study was guided by the following specific objectives; to understand knowledge of the community about the law of the child 2009, to understand authorities which communities reporting incidences of child sexual assault and to understand the extend of reporting incidences to child sexual assaults to the respective authorities.

According to Alvendia, et al (2018), enforcement of the law, means maintaining public order through prevention, detection, investigation of crime and apprehension of criminals. Relatively the Centre for Security Sector Governance (DCAF; 2015), describes, law enforcement, as the task of ensuring the provision of security for citizens going about their daily lives in accordance with a nation’s legal framework. Security provision is mainly done through deterrence and prevention, also with appropriate interventions to stop violations of the law. DCAF (ibid), added that, Law enforcement is carried out mainly by police, which is defined as a civil force responsible for prevention and detection of crime and maintenance of public order. Law enforcement or implementation of the law in other words, focuses on activities relating to prevention, detection, and investigation of crime and the apprehension of criminals (Bureau Justice Statistics; 2021, Alvendia et al; 2018). The effective law enforcement means that police organizations and personnel have the capacity to provide state and human security within a framework of democratic civilian control, and respect for the rule of law and human rights (DCAF; 2015). In the researcher’s view, without depleting the above description, law enforcement has also something to do with spreading knowledge of the respective laws to citizen in order to participate in the prevention of crime. This is because police get information from people concerning criminal acts through investigation or direct reported acts.

In Tanzania, law enforcement is mainly vested to police force. The police is mandated powers to maintain law and order: protection of life, property and prevention, detection and investigation of crime (APCOF; 2016, Mwakyosi; 2013, [https://www.unafei.or.jp/publications\\_No60/No60\\_19PA\\_Tibasana.pdf](https://www.unafei.or.jp/publications_No60/No60_19PA_Tibasana.pdf)). Further, Tibasana and Mwakyosi (ibid) account that, police force has the duty of preservation of the peace, the maintenance of law and order, the prevention, detection of crime, apprehension and guarding of offenders and the protection of property. Hence the government of Tanzania, established police posts all over the country to perform the critical role of maintaining peace and order including prevention of crime. Further, the country has ratified the UN Convention on Rights of the Child (UNCRC) and the African Charter on Rights and Welfare of the Child (ACRWC) and enact Law of Child in 2009 for the purpose of protecting children. However, acts of breaking the laws are widespread in the country, including child sexual assault. The situation raise questions as why the incidences of child sexual assault are rampant, persistent and increase in the presence of the law and enforcers. The literature show that, some people in the society do

not consider interpersonal sexual assault as a crime and Legal processes have limited potential to overcome barriers such as not being trusted, guilt and shame (Meba et al; 2019, Back; 2012). Prevalence of acts related to breaking the laws, denote weakness in the enforcement of the law and whether the communities in which the acts take place are responsible.

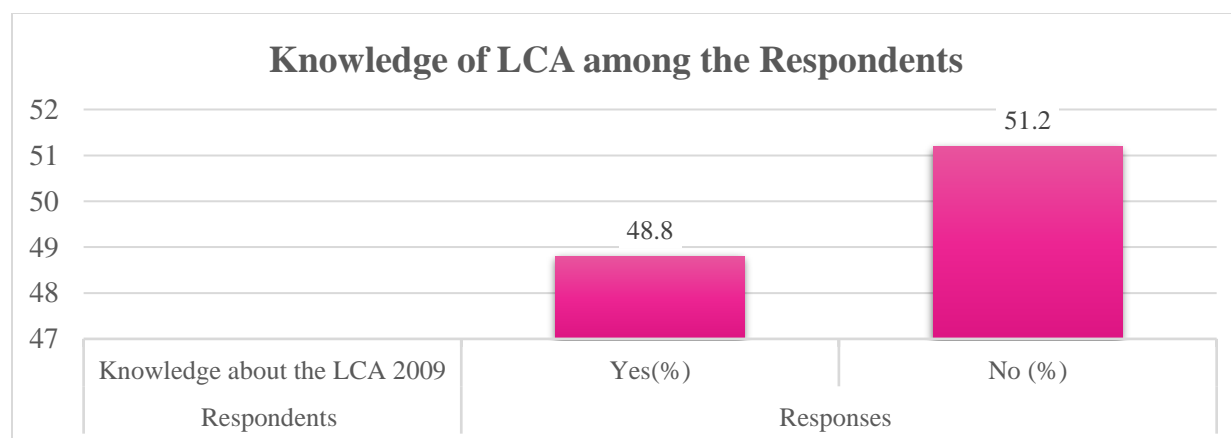
## 2.0 Methodology

This study was conducted in Arusha region. The reason why Arusha was selected was the prevalence of the problem. Different sources of data indicated that Arusha had more incidences of child sexual assault than other regions as follows; Arusha 808 cases, Tanga 691, Mwanza 500 and Ilala 489 (Ministry of Health-Department of Social Welfare; 2020, LHRC; 2018, Police Force 2016, Omar; 2015). The target population of the study were children aged 10 to 17 years, both boys and girls since they are victims of sexual assault incidents and have ability to provide information. The study was carried out using cross sectional research design because it allows a researcher to collect data from many different individuals at a single point in time and without influence variables involved. The sample of the study was 299 respondents and it was calculated from a known population of children (810,089) using Yamane formula (1967). The population was obtained from national census (URT; 2012). Further, multistage simple random technique was used to select the districts involved in this study. In stage one, three districts were selected, stage two, 2 wards from the selected districts were selected and stage three, selected 2 villages/schools from each ward and therefore made the total number of schools participated twelve. The study used both quantitative and qualitative approach for the triangulation purpose while using ecological system perspective. Methods of data collection were questionnaire and interview guide. The data collected were first, edited, classified and coded and before entered in Scientific Social Research Package (SPSS) version 20. Then, the incidents of child sexual assault (quantitative data) were analyzed by using descriptive statistics while data from interview was analyzed by using themes.

## 3.0 Results and Discussion

### 3.1 Knowledge of the Law of Child Act 2009 among Respondents

Distribution of Knowledge of LCA 2009 among Respondents (n= 299)



**Figure 1:** Distribution of Knowledge of LCA 2009 among the Respondents

Source: Research Findings 2021

The respondents answered the question asking if they have ever heard about the Law of Child Act 2009. The response indicate that 51.2% of all respondents had no knowledge of the law of child 2009 against 48.8% who were knowledgeable. Further, the respondent were asked the question about the source of knowledge of the law of child Act 2009. The findings for the question indicated that, 41.8% of the respondents got from television while only 14.3% got from parents/guardians. This findings may imply that, the parents/guardians do not know the law that protect children so that they can help in its enforcement. Legal and Human Rights Centre (LHRC; 2020), found that, knowledge of the community on protection issue is poor. The findings is complemented by opinion from research participant that;

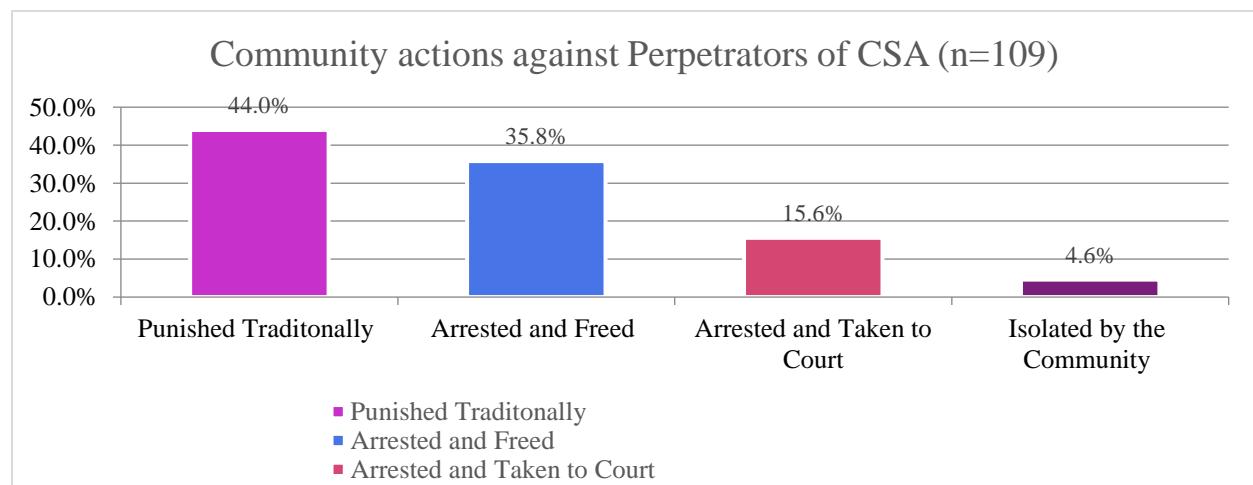
*“Many people do not know the law of child Act 2009, we have not seen the statute, even, teachers who could help implementing it have never seen”, (Participant; October 12<sup>th</sup> 2021).*

Being aware of the instruments protecting children from violence could make the general public help in prevention of crime something which is also a constitutional right. Contrarily Tanzanian citizens hardly enjoy this right. The literature show that Tanzania has no culture of disseminating information to citizen (LHRC, 2020, Kalemera et al, 2015).Kalemera pointed out that the right to seek, obtain and disseminate information is provided for under Article 18 of the Constitution of the United Republic of Tanzania of 1977.This is an indicator that there is low enforcement of the law. Knowledge of people in the enforcement of the law is very important because of awareness raising that lead to citizen demand for leaders’ accountability, individuals respect to laws including participate in enforcement through reporting incidences that violate the law. In ecological system perspective, the Society acts as an interdisciplinary agent for the presentation, discussion, dissemination and integration of ideas, information and discoveries about what is happening to her members including children (Leonard 2016, Crawford & Lewis, 2013).

### 3.2 Reporting Incidences of Child Sexual Assault

Reporting incidences of CSA is one the aspects of law enforcement including the law of child Act 2009. The respondents answered the question asking, where the incidences of child sexual assault reported by the community members. The results of response to the question showed that, only 36.4% of the respondent against 63.5% answered the question. Whereby 44.0% of those answered the question indicate that incidences CSA are reported to police. While 35.8% and 16.5% indicated to report to community leaders and parents/guardians respectively and 3.7 % report to teachers. This findings may imply that cases of child sexual assault are not adequately reported that is why the majority could not indicate any authority in which incidences of assault are reported. This argument correlates with the opinion from one of the research participants, that; *“The community is passive: hides the perpetrators because of social capital (i.e. relatives and neighbors), and thus they, solve such matters at home traditionally (Participant; 29<sup>th</sup> March 2022).* The literature provide that, reporting a crime means notifying the police about a criminal act that took place, however, victims report a crime to the police if the victimization is serious enough with regard to threat, injury or economic loss(Alameri at el; 2022, Holland; 2021,Guardian; 2006).

### 3.3 Response of the Community against Perpetrators of Child Sexual Assault



**Figure 2:** Community actions against Perpetrators of CSA

Source: Research Findings 2021

Dealing with, perpetrators of crimes like child sexual assaults, is actually one of the core aspects of law enforcement and function of law enforcement agencies. In this study the researcher wanted to examine how the community members deal with perpetrators of CSA. Are the actions taken correspond to legal procedures and or not? The findings for this question show that, actions taken to perpetrators upon

allegation with incidences of CSA, among others includes, punished traditionally. The findings as on figure 2, indicate that 44.0% of the respondents showed that, perpetrators are punished traditionally, 35.8% of them indicate that, the perpetrators are arrested and freed while 15.6% are arrested and taken to court. 4.6% are isolated by the community. This data, may imply that community do not act in accordance to the law or either do not value the right of the child. Moreover arresting the perpetrators and releasing them shortly indicate ineffective implementation of the law. The information gathered from one of the research participants pointed out that, *“Norms and traditions of using grass to settle critical issues is a barrier to the efforts initiated to end violence against children. For instance, a perpetrator can be arrested but parents meet and request to solve the matter at home”*, (Research Participant; April, 2022). The illustration from research participants qualifies that the communities rely on norms, beliefs and traditions than the legal system, no wonder why only few perpetrators are taken to court and majority are discharged at police and punished traditionally. The behaviour of hiding perpetrators has been observed in many countries including Tanzania, South Africa, Uganda just to mention a few as presented by several researchers (Pandey 2019, McCrann thesis 2017, Murray et al 2014,). However, collective response against child sexual abuse has tremendous impact in preventing crime like sexual assaults incidences including lessening them. Some parents hide the perpetrators especially when the perpetrator is a close relative, friend or known to the family of the survivor. In the same note, communities failure to act in accordance to the law when responding to incidences of child sexual assaults can lead to low enforcement of the law as the result incidences of assaults increase.

### **3.4 Prosecution of Perpetrators of Child Sexual Assault**

According to Britannica dictionary (2022) the term prosecution is defined as “the act or process of holding a trial against a person who is accused of a crime to see if that person is guilty”. Prosecution was considered as one of the core indicators of law enforcement: and for the matter of this study mean enforcement of the law of child Act 2009. Further, several researchers of prosecution admit that, prosecution is the goal of access to justice to both criminals and victims (Williams, et al; 2022, Stephanie, & Williams, 2019, Walsh, et al; 2010). Contrary to scholars’ argument and intention of the law, this study found that, only 15.6% of the perpetrators were arrested and taken to court (figure 2). Furthermore, the data obtained from the Resident Magistrate Court (RMC) Arusha-Juvenile Department indicate that only 13 cases of rape and sodomy (unnatural offence) were filed in the court in 2020 and 2021 despite the trend showed increase in cases reported. Out of those 13 cases, 3 were of rape and 10 of sodomy. All 10 cases of sodomy affected boys (Arusha Juvenile Court register, 28<sup>th</sup> March 2022).

## **4.0 Conclusion and Recommendations**

### **4.1 Conclusion**

The findings reveal that low enforcement of the law of child 2009 was contributed by inadequate knowledge of the community on the law of child 2009, to the extent that the statute has never been seen to the majority of the community. Community rarely report incidences of child sexual assault because of relying on norms, beliefs and traditional dispute resolutions. Further, community response to perpetrators is contrary to law enforcement because perpetrators were hidden, especially relatives and neighbors perpetrators. Therefore only few cases reach to the court for prosecution. The results imply that failure of the community response to incidences of child sexual assault lead to not reporting of incidences to the respective authorities and therefore not enforcing the law of child Act 2009 adequately. Consequently perpetration of child sexual assault increases. Furthermore, the study noted that, implication of ecological system theory does not happen automatically without human actions.

### **4.2 Recommendations**

The administrative bodies like District Commissioners, District Executive Directors should pay close supervision to police, child right duty bearers and community leaders for effective enforcement of the laws. Moreover, the government and child protection civil society organizations should publish a user friendly version of the law of child Act 2009 and make deliberate efforts to disseminate it through community

meetings, child rights clubs in schools and the media (televisions, radios and Newspapers). This will create awareness and sensitization to the general public on children rights and the effects of children abuse

## References

- Almery T, Alhilali. A. H, Ali. N .S and Mezaal. J. K (2022) “*Crime Reporting and Police Controlling: mobile and web-based approach for information –sharing in Iraq*” Journal Intelligent System, vol. 31, No 1, 2022, PP. 726-738.
- Goudriaa, H (2006) “*Reporting Crime*” Effects of Social Context on the Decision of Victims to Notify the Police; Research Gate.
- Holland, S. E (2021) “*Reporting Crime to the Police: Does What the Police do make a Difference*”. Thesis, University of Maryland, College Park.
- Kalemera. A, Kimumwe. P, Massawe. E, Nalwoga. L, Nanfuka. J. N and Wakabi. W (2015) “*The Right to Information in Tanzania: Insights on the Laws, Policies and Practices*”, CIPESA
- Legal Human Rights Centre (LHRC, 2019) ‘*Human Rights Report 2018: Sexual Violence against Children on the rise, Civil and Political Rights still in jeopardy*’, Dar es salaam
- McCrann, D. (2017) ‘*An exploratory study of child sexual abuse in Tanzania*’ Technological University Dublin.
- Mogoatlhe. L (2019) ‘*Violence against Children Is on the Rise in Tanzania*’, Cases of child rape have tripled between 2017 and 2018.
- Mwakyosi G (2013) “*The role Training in Improving the Performance of Police Force in Tanzania*”, A case study of selected units in Police Force.
- Omar, B. M (2012) “*Critical Analysis on the Violation of Children’s Rights in Tanzania*”, University of Nairobi, Institute of Diplomacy and International Studies.
- Pandey S and Reddy S (2019) ‘*Risk Factors, Outcomes, and Protective Factors of Child Sexual Abuse in India: a Conceptual Framework*’, E-journal of the Indian Sociological Society: Vol 3 (1).
- Singh M. M, Parsekar S. S, Nair S N (2014) ‘*An epidemiological overview of child sexual abuse*’, Pub Med: DOI: 10.4103/2249-4863.148139
- United Republic of Tanzania (URT, 2020) Report from Ministry Community Development] Gender, Women and Special Groups
- United Republic of Tanzania (2016) ‘*Tanzania Police Force Response to Gender-Based Violence and Violence against Children: Planning for the Future*’, Dodoma
- Yemisi A, C (2020) ‘*Child Sexual Abuse: Consequences and the Way Forward*’, Global Journal of Arts, Humanities and Social Sciences Vol.8, No. 6, pp.40-62. Published by ECRTD-UK