UNIVERSITY OF NAIROBI
INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

CRITICAL ANALYSIS ON THE VIOLATION OF CHILDREN’S RIGHTS IN TANZANIA

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2015
DECLARATION

I declare that this research paper is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

Signed……………………………………… Date ……………………………………………………

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This project has been presented for examination with my approval as the appointed supervisor

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DEDICATION

I dedicate this work to my lovely parents who stood by me during the period that I was working on this project.
ACKNOWLEDGEMENT

This project would not have been possible without the input of the following people to whom I am indebted. I acknowledge my university supervisor Dr. Anita Kiamba who gave me the focus and direction on how to go about with the project.

I also thank my friends who had to put up with my absence during the entire MAIS study and research project period. I was not able to be with them all the time and their encouragement has personally seen me achieve one of my dreams.

Finally, I thank the Almighty Allah for the life and strength He gave me. His protection has seen me through the turbulent moments.
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<thead>
<tr>
<th>Abbreviation</th>
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<tr>
<td>AMREF</td>
<td>African Medical and Research Foundation</td>
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<tr>
<td>CRC</td>
<td>Convention on the rights of the child</td>
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<td>CSA</td>
<td>Causes of sexual abuse</td>
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<td>CSEC</td>
<td>Commercial Sexual Exploitation of Children</td>
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<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
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<td>DHS/AIS</td>
<td>Demographic and Health Survey and AIDS Indicator data</td>
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<td>EU</td>
<td>European Union</td>
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<td>FGM</td>
<td>Female genital mutilation</td>
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<td>IPEC</td>
<td>International Programme on the Elimination of Child Labour</td>
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<td>ILO</td>
<td>International Labour Organization</td>
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<td>LGAs</td>
<td>Local Government Authorities</td>
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<td>MDGs</td>
<td>Millennium Development Goals</td>
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<td>MESWYWC</td>
<td>Ministry of Empowerment, Social Welfare, Youth, Women and Children</td>
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<td>MOEVT</td>
<td>Ministry of Education and Vocational Training</td>
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<td>MVC</td>
<td>Most vulnerable children</td>
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<td>UNODC</td>
<td>United Nations Office on Drugs and Crime</td>
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<td>OVC</td>
<td>Orphans and vulnerable children</td>
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<td>OSC</td>
<td>One Stop Centre</td>
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<td>PLAN</td>
<td>Plan International</td>
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<td>SCI</td>
<td>Save the Children International</td>
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<td>SOPs</td>
<td>Standard Operating Procedures</td>
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UNDAF United Nations Development Assistance Framework

UNICEF United Nations Children’s Fund
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ABSTRACT

The first international human rights instrument to address the rights of children (the 1924 Geneva Declaration of the Rights of the Child), which was adopted by the League of Nations was drafted in 1924 by Eglantyne Jebb (1876–1928), a social reformer and founder of the Save the Children. Children worldwide experience a varied forms human rights violations, exploitation and abuse. They are forced to fight in wars or labour in intolerable conditions; they are sexually abused or subjected to violence as a punishment; they are forced into child marriage or trafficked into exploitative conditions of work; they are needlessly placed in prisons, detention facilities and institutions. This study investigated the forms of children’s rights violation with specific reference to Tanzania. This was done by investigating the forms of children’s rights violation, the causes of children’s rights abuse and analyzing the various measures put in place to protect children from rights violation in Tanzania. This study used secondary data in analyzing the variables. The findings were analyzed through content analysis. The study found that children in Tanzania continue to suffer violence, abuse and exploitation. The violation of children rights in Tanzania have been due to the lack of a common understanding as to who is a child. Poverty has come out as one of the main sources of child exploitation in Tanzania; many children who are involved in prostitution, child labour and any other form of child abuse come from poor families. Consequently, there are programmes from the collaboration by the government and international actors to protect and save children from various forms of exploitations in Tanzania.
CHAPTER ONE

INTRODUCTION

1.1 Background of the study

There are many violations to children’s rights that countries need to address, such as: violence, child labor, and sexual exploitation. While practices such as child marriage was once an accepted traditional practice, over the years, its practice has diminished considerably and is increasingly frowned upon in many countries where it is practiced. Although governments around the world have attempted to eradicate violations to children’s rights, it continues to exist to a significant extent all nations around the world.¹

Around the world, far too many children are subject to violence, exploitation and abuse. Some are forced to work under harmful conditions. Others face violence or abuse in their homes, their schools, their communities or in institutional care. In some places children are targets for illegal recruitment by armed groups and armed forces or are forced to flee their homes due to conflict or natural disaster. And millions, especially girls, are subject to sexual violence and abuse as well as harmful traditional practices.

In an effort to ascertain the level of children’s rights violation, a meta-analysis based on 65 cross-sectional community and school surveys from 22 countries estimated the worldwide prevalence of children’s rights violation through exposure to sexual abuse before the age of 18.

years as 7.4% among men 19% among women. The highest prevalence rates are reported among men (61%) and women (44%) in South Africa. Among men, high prevalence rates are also reported from Jordan (27%), rates ranging between 10-20% are reported from Israel (16%), Spain (16%), Australia (13%) and Costa Rica (13%). Among women, prevalence rates above 20% are reported from Australia (38%), Costa Rica (32%), Israel (31%), Sweden (28%), the United States (26%) and Switzerland (24%).

In Sub-Saharan Africa, the 2000-2010 Demographic and Health Survey and AIDS Indicator data (DHS/AIS) from 24 countries show that 25% of 15-19 years olds had their first sexual experience before reaching 15 years of age. Similar figures were found in cross-sectional surveys conducted in 2003 and 2007 among school children aged 11-16 years in ten Southern African countries. There, 25% of boys and 29% of girls reported experiences of forced or coerced sex. UNICEF estimates that more than 70 million girls and women 15–49 years old have undergone FGM/C in 28 countries in Africa, plus Yemen. Some 60 per cent of girls and women who have been cut live in sub-Saharan Africa, while 40 per cent live in the Middle East and North Africa. Moreover, UNICEF estimates that 150 million children 5–14 years old worldwide are engaged in child labour. This estimate is based on data from 102 countries. Child labour is most common in sub-Saharan Africa, where more than a third of children work.

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7 Ibid
The Convention on the Rights of the Child (CRC) sets out the human rights of children: the right to survive; the right to develop to their fullest; the right to protection from harmful practices, abuse and exploitation, and the right to participate fully in family, cultural and social life. In signing the convention, governments also committed to take all effective and appropriate measures with a view to abolish traditional practices prejudicial to the health of the children, which includes, among other practices, female genital mutilation/cutting and child marriage. Any departure from the obligations enshrined in these conventions is a violation of human rights. By becoming party to these conventions, governments agree to hold themselves accountable for violations.

1.2 Statement of the Research Problem

Children worldwide experience a varied forms human rights violations, exploitation and abuse. They are forced to fight in wars or labour in intolerable conditions; they are sexually abused or subjected to violence as a punishment; they are forced into exploitative conditions such as trafficking, they are needlessly placed in prisons, detention facilities and institutions.

Several factors explain the high prevalence of children’s rights abuse in sub-Saharan Africa. For instance, traditional practices such as early marriage, forced marriage and beliefs that early sex can give magical power, wealth or cure HIV may be partial explanations. On the other hand, the number of children’s rights violations incidents may have increased because of rapid social change and male dominant cultures that interfere with efforts to prevent or limit causes of sexual abuse (CSA) within the society; poverty, pornography, HIV/AIDS, drug abuse, armed conflicts,

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as well as challenges that emanate from recent advances in information and communications technologies, such as the advent of the internet. Some socio-economic challenges have resulted in some parents abdicating their parental responsibilities to friends, care givers, teachers or even to individuals that they know little about. Consequently, some parents even sell their children into prostitution for economic gain. Thus, children in Africa are more vulnerable to children’s rights abuse today than ever before.

The violation of children’s rights in Tanzania have become pervasive problems that impacts children in all spheres of their life regardless of international legal documents under the United Nations that protect children from threats such as sexual abuse and exploitation. According to the Legal and Human Rights Centre’s (LHRC) 2012 Human Rights Report, children in Tanzania continue to be victims of physical violence and sexual abuse with perpetrators that are always parents, close relatives and neighbours. The trend of children’s rights being violated is increasing despite the Law of the Child Act that was instituted in 2009. The above-mentioned 2012 Report indicates that various regions in Tanzania have had a substantial number of cruelties reported against children. For example, in Mpwapwa, a district court convicted a mother to five years imprisonment for deliberately causing bodily harm to her own son. The mother inflicted harm by using a razor blade, blaming her child to have stolen five hundred shillings. Also reported is an increase of sexual abuse against children, especially in the form of rape. In 1998, the Sexual Offences Special Provisions Act was enacted and imposes heavy punishment for rape. However, such incidents continue to rise. This study thus sought to inquire into what forms of children’s rights abuse are practiced in Tanzania, what are the causes of such practices and finally what are the measure that are put in place to curb this situation.
1.3 Objectives of the Study

i. To investigate the forms of children’s rights violation in Tanzania

ii. To establish the causes of children’s rights abuse in Tanzania.

iii. To analyze the various measures put in place to protect children from rights violation in Tanzania.

1.4 Literature Review

The elements of a healthy childhood as specified in the Convention on the Rights of the Child are being denied because the world is failing to provide children the protection to which they are entitled. The true extent of violence against children is impossible to measure because so much of it happens in secret and is not reported. Probably the best confirmation of this statement is the data on physical violence compiled by the Innocenti Research Centre for the UN Secretary-General’s Study on Violence against Children, which led to an estimate of between 500 million and 1.5 billion children experiencing violence annually.

Despite the fact that violations to children’s rights is an old practice, its recognition in recent years is evidenced by an increasing number of publications within human rights, numerous non-governmental and international organizations, bodies and lobby networks, as well as in sensationalist media. The subject of violations to children’s rights has become increasingly urgent and widespread; it spans historical, political, humanitarian, legal and socio-economic

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9 Innocenti Research Centre for the UN Secretary-General’s Study on Violence against Children (2006).


dimensions. Plant\textsuperscript{12} argues that similarly, the question of exploitation has been much debated because the UN protocol and the national laws do not demarcate at what degree of severity of exploitative actions the case should be called violations to children’s rights and not negligent parenting or bad fostering. Kamidi\textsuperscript{13} for instance argues that as far as violations to children’s rights is concerned; girls’ trafficking is debatable as not all people may have the intention to exploit the children. Traffickers in this context are recruiters, transporters; those who exercise control over girls; those who transfer and/or maintain girl in exploitative situation and those who profit directly or indirectly from trafficking and its offenses. According to Ochanda et al.,\textsuperscript{14} child trafficking is interplay of many factors. Some of them are poverty, child fostering and extended family, gender inequality, inadequate registration and poor law enforcement.

The tradition of child nurturing has been linked with child exploitation. According to Koda,\textsuperscript{15} under the pretext of taking care of orphans and children from poor families, children are recruited by relatives or non-related adults, particularly from rural areas, for domestic work in the homes of wealthier families. Koda describes a typical domestic servant in urban centres as “a young girl of between nine and eighteen years of age who may have been brought to her employer by a relative, a friend, a village-mate, or a child who has migrated to the urban area on her own”. Child development is a factor in child exploitation. Child fostering turns to trafficking or slavery when the child is deprived of his/her basic rights such as education, health


services and basic needs. When she/he is made completely dependent on the caregiver and denied the right to choose.\textsuperscript{16}

There are many forms of violations to children’s rights that countries need to address. These include: violence, child labor, and sexual exploitation. Although some violence is unexpected and isolated, most violence against children is carried out by people children know and should be able to trust, such as parents, step-parents or parents’ partners, schoolmates, teachers and employers. Certain groups of children are particularly vulnerable, including children with disabilities, children belonging to minority groups, children living on the streets, adolescents in conflict with the law, and refugee and displaced children. Often children who face violence or witness it remain silent out of fear and stigma, and many children accept violence as an inevitable part of life.

UNICEF estimates that 150 million children 5–14 years old worldwide are engaged in child labour.\textsuperscript{17} This estimate is based on data from 102 countries. Child labour is most common in sub-Saharan Africa, where more than a third of children work. Understanding Children’s Work, an inter-agency project of the International Labour Organization (ILO), the World Bank and UNICEF, has reviewed the data from several countries for which comparable data exist on child labour. It observed a reduction in children’s engagement in economic activity in most countries,


including large ones such as Brazil, India and Mexico. Consequently, in several countries, the trend is stable or child labour has even increased.\textsuperscript{18}

ILO estimated that more than two thirds of all child labour is in the agricultural sector.\textsuperscript{19} The report indicated that children in rural areas and girls in particular begin agricultural labour as young as 5–7 years old.\textsuperscript{20} Common locations for child labour include quarries, coffee plantations, mines, sugar-cane fields and wholesale markets, and children, mainly girls, are engaged in domestic child labour. Household survey data showed that children from poorer households were more likely to be engaged in child labour than children from richer households. In both Bolivia and Nicaragua, for example, children in the poorest quintile are six times as likely to engage in child labour as those in the richest quintile.\textsuperscript{21} Child labour is both a cause and a consequence of poverty, and it perpetuates impoverishment by severely compromising children’s education.\textsuperscript{22}

With early entry into the labour force, most children delay entry to school, fail to complete a basic education or never attend school at all. Where girls who labour are in school, they carry a ‘triple burden’ of housework, school-work and work outside the home, paid or unpaid, which inevitably reduces their educational attainment and achievement.

Rwezaura\textsuperscript{23} argues that children have suffered from various forms of discrimination perpetrated not only by third parties but also by the children’s own parents and relatives. Daniel\textsuperscript{24} reports the

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22 Ibid
manifestation of negligence, irresponsibility and loss of parental love, whereby parents leave their children unattended. In other cases, the father is alive while in others, the mother married a man who did not like to take care of the step children.

A study by Lachman\textsuperscript{25} reveals that violence is also common in juvenile justice facilities. There have been reports of torture of children in detention as well as the use of children for espionage by the police. It is, in addition, not difficult for children inside detention facilities to obtain weapons. According to Okeahialam\textsuperscript{26} study of child abuse in Nigeria, violence on children took the form physical abuse such as excessive corporal punishment, infanticide, and female circumcision. Again, the sexual abuse of children was not addressed.

Armstrong\textsuperscript{27} investigates 36 cases of child sexual abuse among the Shona of Zimbabwe, largely from a legal perspective. She described the remedies enacted by families to compensate them for the rape of a girl-child; for example, the payment of fines or (in 8 of the 36 cases) the marrying of the rapist and victim to fulfill the girl’s lobola (bride price). She noted that a girl who had sexual intercourse, whether consensual or not, had less chance of contracting a marriage that will contribute lobola to the family.\textsuperscript{28} Thus, the sexual abuse of a girl has grave economic consequences for the family. Lema\textsuperscript{29} describes 20 cases of child sexual abuse that presented at the Department of Obstetrics and Gynecology, University of Malawi between. In this study, half


\textsuperscript{\(28\)} Ibid

were less than 10 years old. Lema estimated that these cases were merely the tip of the iceberg, and were reported due to the serious injury caused in the rape of very young children.

A report by UNHCR and Save the Children-UK in Guinea, Liberia and Sierra Leone revealed alarming levels of sexual violence and exploitation of refugee children.\textsuperscript{30} Allegations were made against UN peacekeeping forces, international and local NGOs, and government agencies responsible for humanitarian response. Most of the allegations involved male national staff, trading humanitarian commodities and services, in exchange for sex with girls under.\textsuperscript{31} The children most vulnerable to sexual exploitation were those without the care of their parents, children in child-headed households, orphaned children, children in foster care, children living with extended family members, and children living with just one parent. A number of the men interviewed believed that sex with a virgin could cleanse a man from infection.

A study of child abuse in the East African region carried out by Fraser and Kilbride\textsuperscript{32} identified three cases of physical abuse among the Samia of Kenya. In another study, Loening\textsuperscript{33} detailed the physical and emotional abuse and neglect of children among the Zulus of South Africa. The author noted that in a society where the absolute taboo of incest includes sexual contact between any blood relatives, it is unlikely that this, the most shameful of misdemeanors, would come to light readily.\textsuperscript{34} LeVine and LeVine\textsuperscript{35} noted sexual abuse of young girls in their anthropological studies of the Gusii in Kenya. Consequently, sexual molestation of girls is a known phenomenon

\textsuperscript{31} Ibid
\textsuperscript{34} Ibid
in tropical Africa. Among the Gusii LeVine and LeVine encountered cases, for example, of rape of prepubescent girls by adult men who in many instances are the classificatory fathers of their victims (i.e., they are closely related members of their victims’ parents’ generation). They also came across actual father-daughter incest. In addition, the seduction of pubescent girls by male schoolteachers is the occasion for recurrent scandals in Nigeria and Kenya.  

Although governments around the world have attempted to eradicate child marriage, it continues to exist to a significant extent as a traditional practice in rural areas and amongst people living in poverty. Most of these people lack the resources to change the course of their futures and due to deprived circumstances, find it difficult to see any other alternatives. According to UNICEF’s approximations, more than 60 million children worldwide are affected by child marriage. The International Center for Research on Women states, reported that if the present trends continue, 100 million girls will marry over the next decade. That’s 25,000 girls married every day for the next 10 years. UNICEF mentioned that though in general child marriage is becoming less common, the pace of this change is slow.

The Innocent Digest reported that the practice of child marriage varies depending on a society’s view of the family; its role, structure, pattern of life, and the individual and collective responsibilities of its members. The report explained that the idea of what family is and its

36 Ibid
function is different to each country’s social groups. For instance, Ursula Ebenhöh explained that throughout Western Europe and North America’s history, marriages have taken place later in life. Because women and men marry as adults with experience of life, it is alien to accept unquestioningly a parental choice of spouse. On the other hand, amongst some groups in Asia, the Middle East, and North Africa marriage after puberty is common; in parts of Western and Eastern Africa, and Southern Asia some girls marry before puberty.

Susanne Mikhail mentions that child marriage is deeply rooted in cultural values and its practice is celebrated in some communities. The families who engage in this practice consider it a way to secure their child’s future and at the same time alleviate their own financial responsibilities. Furthermore, child marriage is viewed as a way of preventing girls from initiating sexual relations with unknown men. The honor attached to this practice has traditionally been linked to its central purpose, which is to assure virginity at the time of marriage.

A research on child marriage in Indonesia and Nepal revealed that the social group that had the highest amounts of child marriage cases was the most traditional among the other provinces. In many African cultures, parents of a virgin bride are recompensed with gifts and the virgin is valued by her husband and honored by his family. There is the unjustified belief that a child bride comes to learn and venerate her husband from a very early age and will become firmly

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42 Ursula Ebenhöh, Family History: Historical Changes and Regional Differences on that what is called “family” (Germany: GRIN Verlag, 2004).
43 Ibid
44 Ibid
46 Ibid
attached to him as she grows older.\textsuperscript{48} Bamgbose\textsuperscript{49} stated that the increase of girls seeking help because of abuse and other situations they are involved in proves that this belief fails to hold true. Instead of drawing the young wife towards her husband, the violence and situation they are in draw these girls towards the opposite direction.

Poverty, protection of girls, fear of loss of virginity before marriage and related family honor, and the provision of stability during unstable social periods are suggested as significant factors in determining a girl’s risk of becoming married as a child.\textsuperscript{50} Most parents make their sons-in-law promise not to have sexual intercourse with their daughters until she starts to menstruate. Bamgbose\textsuperscript{51} argued that in many cases, this promise is disregarded. For example, Yemeni law allows girls to marry at any age but prohibits sexual intercourse until the girl is physically mature.\textsuperscript{52} In African countries, there are laws that forbid sexual intercourse with any girl under the age of fourteen.\textsuperscript{53} It has been observed that such a young child (five or six) goes to her marriage home at this age and is nursed and generally brought up by her husband. However, the husband does not have sexual intercourse with her until he thinks she is ready for it and certainly not below the age of twelve.\textsuperscript{54}

\textsuperscript{48} Ibid
\textsuperscript{50} Ibid
\textsuperscript{54} Ibid
Forbes et al., (2011) argue that child trafficking is a another common form of children’s rights violation in many states.\textsuperscript{55} Children are trafficked both within and between countries for the purposes of forced labour, prostitution, forced marriage, domestic work, begging, use by armed groups and many other forms of exploitation. Statistics are hard to gather and often unreliable. Children trafficked into domestic work, for example, are hard to document due to the privacy of the home and because such work may not be regulated. Children who are trafficked for sexual purposes are also difficult to document because of the hidden nature of the crime. Continued misconceptions of the difference between trafficking and prostitution, and between trafficking and illegal migration, also affect data reliability.

The multiple factors that contribute to the violation of children’s right to protection including poverty and gender inequality, harmful traditional practices, inadequate legislation and policies, and unresponsive government services are evidence that child protection cannot be pursued single issue by single issue but must be embraced systematically and holistically. According to Eldring et al.,\textsuperscript{56} the most commonly cited reasons for child exploitation are poverty, failure of the education system and lack of legislative enforcement agencies. For in Malawi, children work for a wage on tobacco estates as this seems the only “survival strategy” available to them and their families whose lives are characterized by constant struggle for survival.\textsuperscript{57}


\textsuperscript{57} Ibid
Additionally, parents who are unable to pay for their children’s education substitute this situation for child labour.\textsuperscript{58} Thus, as long as household income is too low to meet the basic needs, it is inconceivable that a household will financially support education activities. Child work remains the only realistic way to survive their economic condition. Another reason for child exploitation is that children provide cheap labour which is on high demand in a majority of states. Jobs which children do are seasonal while adults work almost on a permanent basis. Job security is hugely compromised by child labour illegality. This illegality augments give employers power to hire and fire as labour laws do not protect working children.

The other factor which has often been denied space or simply ignored in most research on the violation of children rights is the influence of certain cultural practices. For instance most parents’ attitude towards child labour is indifferent believing it provides public space for socialization and character development. Children also feel they have an obligation to help their parents in many ways possible.\textsuperscript{59}

Preventing and responding to violence, exploitation and abuse are essential if children’s rights as set out in the Convention on the Rights of the Child are to be guaranteed. Abusive practices against children aggravate poverty, social exclusion and the transmission of HIV, and create an unwelcome legacy for succeeding generations. By contrast, where children are protected, their health, education and well-being are improved as well as their ability to contribute to society as future parents and citizens. Ochanda et al.,\textsuperscript{60} writing on Human Trafficking and Commercial Sexual Exploitation of Women and Children in East Africa study the global magnitude and

\textsuperscript{58} Ibid
\textsuperscript{59} Dottridge, M. and L. Stuart (2005), Child labour today, UNICEF: Hobbs the Printers Ltd.
trends of child exploitation in Kenya and Tanzania. They made an inventory of institutions that deal with trafficking; and examined the requirements in material, financial and human resources as well as possibilities of collaboration in combating human trafficking. These authors aimed at understanding how faith based organizations, NGOs and other civil associations are involved in advocacy and awareness raising on child exploitation.

As of May 2009, 131 countries had ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, which criminalizes all forms of sexual exploitation of children and emphasizes support to children who are victims.\textsuperscript{61} The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents (2008) commits governments to a set of specific, time-bound goals to prevent and stop sexual exploitation of children and adolescents, and to protect exploited children.\textsuperscript{62}

\textbf{Summary of the Literature}

Child abuse has been cited with reference to the act of harming a child emotionally, physically or sexually. According to a definition of child abuse by Australian Institute of Family Studies (2012), child maltreatment refers to any non-accidental behaviour by parents, caregivers, other adults or older adolescents that is outside the norms of conduct and entails a substantial risk of causing physical or emotional harm to a child or young person. Such behaviours may be intentional or unintentional and can include acts of omission (i.e., neglect) and commission (i.e., abuse).

\textsuperscript{61} UNICEF (2001), Beyond Child Labour: Affirming Rights, New York: UNICEF Division of Communication. \\
\textsuperscript{62} Ibid
Children need to be protected at all stages of their growth, before and after birth. Therefore, children need to be protected against things such as abortion, murder, suicide, abandonment, exploitation, tasks incompatible with their age, deprivation, oppression and neglect. Children also need protection against all forms of abuse, bad practices and cruelty for example female genital mutilation, forced early marriage and also drug abuse. Because of the decline in morality and neglect of our traditions and customs, there has been a large increase in cases of rape and defilement of children in our society.

1.5 Justification of the Research Problem

The Millennium Declaration of 2000 explicitly addresses the need to protect children from conflict, violence, abuse and exploitation. All countries adopting the declaration resolved to:

Strive for the full protection and promotion of civil, political, economic, social and cultural rights for all; ensure that children and all civilian populations who disproportionately suffer the consequences of natural disaster, genocide, armed conflict and other humanitarian emergencies are given every assistance and protection so they can resume normal life as quickly as possible; encourage the ratification and full implementation of the Convention on the Rights of the Child and its Optional Protocols on the Involvement of Children in Armed Conflict and on the Sale of Children, Child Prostitution and Child Pornography. Child protection intersects with every one of the Millennium Development Goals (MDGs) – from poverty reduction to getting children into school, from eliminating gender inequality to reducing child mortality.

This study would be relevant because it provides an additional empirical reference material on the overall understanding of violations to children’s rights as well as its effects on lives of victims. Also, the insights and findings of the study will highlight the specific groups or
individuals involved in the violations to children’s rights, identify vulnerable groups, disclose and generate evidence for an action plan to combat the crimes. Furthermore, this study is a contribution to highlighting the presence of violations to children’s rights in Tanzania and showing how it is operated hence helping in policy making.

1.6 Hypotheses of the Research

i. Child prostitution, Trafficking and Child Labour in are the major forms of children’s rights violation in Tanzania

ii. Poverty is a major cause of children’s rights abuse in Tanzania

iii. The various strategies used by the Tanzania government have reduced children rights abuse.

1.7 Theoretical Framework- The Rational Choice Theory

The proponents of the rational choice theory took as its starting point the assumption that offenders are deliberative and purposive decision-makers. According to this perspective, and in line with its uncomplicated theoretical approach, criminal motivations do not require any special explanation. Rather, crime is seen as intrinsically rewarding. Offenders, like everyone else, seek money, material goods, status, excitement, sexual gratification, and so on. Consequently, offenders do not commit crimes all of the time. Some do so relatively often, and many do so episodically or rarely. Otherwise they generally pursue goals similarly to everyone else they get jobs to earn money to buy goods, settle disputes with others in a civil manner, and so on.

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These same people at other times pursue these ordinary goals in illegal ways, for example by stealing to obtain money or goods, using violence to resolve a dispute, exploiting vulnerable others for some personal benefit, or engaging in unlawful sexual behavior. Individuals who are criminally involved, whatever the reason, from time to time encounter specific situations that present criminal opportunities. At these decision-points they sometimes opt to use unlawful means to achieve specific goals, generally because the unlawful option requires less effort and promises a better reward than legally available options.64

Although criminal choices may ultimately be self-defeating, such choices nevertheless represent the most desirable option in the immediate circumstances, at least as the offender sees it. In fact the rational choice perspective does not assume that offenders always act completely rationally, nor that they necessarily possess the best information upon which to base their criminal decision-making. Rather, offenders operate within the constraints of ‘bounded rationality’. Offenders’ decision making may be constrained by the limited relevant information available to them, by the limited time they have to weigh up their options, and by their own cognitive biases and limitations. According to the rational choice perspective, there are two main types of criminal decision-making: involvement decisions, and event decisions. In line with its central focus on the role of immediate environments on crime, however, the main practical focus of the rational choice perspective is on offenders’ event decisions. Event decisions are in-the-moment decisions concerning the planning, execution and completion of specific crimes.65

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65 Ibid
Normally, individual crimes are understood to unfold in a series of stages, each of which requires the offender to make relevant decisions. After an offender has decided to initiate a crime, events may unfold in unanticipated ways a victim may fight back, a third party may arrive at the scene, or problems may be encountered while attempting to decamp. Offenders thus do not necessarily intend the outcomes that ultimately ensue. Indeed the unfolding of events in unanticipated ways leads many offenders to ‘dig themselves deeper’ into trouble.\textsuperscript{66} According to the rational choice perspective, then, situations provide the already-motivated or criminally-inclined offender with criminal opportunities and with (albeit often limited) information about the potential costs and benefits associated with a contemplated crime. Incentives for criminal behavior are the same as for ordinary non-criminal behavior money, material goods, status, excitement, sexual gratification, and so on. Disincentives include the effort involved in completing the crime, the risks of getting caught, and potentially the guilt associated with violating personal or social moral standards.

1.8 Methodology of the Study

According to Strauss and Corbin\textsuperscript{67} a research method is a set of procedures and techniques for gathering and analyzing data. A method may be quantitative or qualitative. This study used a qualitative research approach which according to Creswell\textsuperscript{68} entails immersion in the everyday life of the setting chosen for the study. In my study, a qualitative approach was the best method


because it provides opportunity for researcher to describe complex experiences that cannot be obtained in quantitative techniques. It also facilitates recording of behaviours, and it is effective in identifying intangible factors, such as social norms, socioeconomic status and gender roles which in this study were important variables.\textsuperscript{69}

In this study information was gathered by secondary data in because the researcher was not able to collect primary data from the study areas due both financial and time limitation. Secondary data included data gathered from documents search such as media reports, analysis and review of published books, journals, papers, periodicals, and unpublished works as well as government's official documents. The findings from these secondary data once collected were analyzed through content analysis. Content analysis is any technique for making inferences by systematically and objectively identifying special characteristics of messages.\textsuperscript{70}

1.9 Chapter Outline

**Chapter One:** Provides the Background of the Study, statement of the problem, objectives of the study, justification of the study, literature review and hypothesis of the study, conceptual Framework and the research methodology.

**Chapter Two:** A review of the concept of human rights and children’s rights violation.

**Chapter Three:** Analysis of child exploitation.

**Chapter Four:** Analysis of the research findings.

**Chapter Five:** Outlines the conclusion and recommendations.


\textsuperscript{70} Holsti, O.R. 1969, *Content Analysis for Social Sciences and Humanities.* Reading MA; Addition-Wesley
CHAPTER TWO

A REVIEW OF THE CONCEPT OF HUMAN RIGHTS AND CHILDREN’S RIGHTS VIOLATION

2.1 Introduction

This section of the study elaborates the concept of human right as viewed by different authors and then discusses the various frameworks of children’s rights by different scholars.

2.2 The Concept of Human Rights

The classic definition of a human right is a right which is universal and held by all persons: A human right by definition is a universal moral right, something which all men, everywhere, at all times ought to have, something of which no one may be deprived without a grave affront to justice, something which is owing to every human being simply because he is human. One of the definitions cited most often is that any true human right, it is said, must satisfy at least four requirements: First, it must be possessed by all human beings, as well as only by human beings. Second, because it is the same right that all human beings possess, it must be possessed equally by all human beings. Third, because human rights are possessed by all human beings, we can rule out as possible candidates any of those rights which one might have in virtue of occupying any particular status or relationship, such as that of parent, president, or promisee. And fourth, if there are any human rights, they have the additional characteristic of being assertable, in a manner of speaking, ‘against the whole world.’ As one can see from the definitions, human

rights are presumed to be universal in character. This would not in itself be problematic (indeed it is desirable), except that the philosophical foundations are never adequately demonstrated. The failure to ground human rights, as will be discussed below, has much to do with their historical antecedents, in particular natural law and natural rights, with which human rights are assumed by many philosophers to be synonymous.  

Human rights are also seen today as the central moral issue in contemporary relations as the 'currency of the international moral discourse' or as the 'modern tool of revolution' in the struggle for human dignity in our time. While the claim of some scholars that the language of human rights has become the dominant mode of moral discourse of the last fifty years, edging out moral topics such as distributive justice, the common good and solidarity may be overstated, the increasing national and international law acceptance of human rights as a universal secular ideology with its attendant consequences for law, politics and morality cannot be denied. At the conceptual level human rights owe their existence to a variety of natural law theories, but it is the human dignity centric approach which has fuelled the contemporary human rights movement and has also found an endorsement in the U.N. Charter and numerous human rights treaties, covenants, declarations and conventions.

The human right concept is underpinned by principles that’s highlight its operational definitions:  
*First, exceptionless human rights are correlative to exceptionless duties; Secondly, human rights are essentially claim rights different from immunities and power in the Hofeldian classification of rights. This means that human rights are primarily claim rights held by all human beings against all human beings ’although in certain respects governments have special duties to secure*

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the rights and their objects are certain kinds of goods'. Thirdly, it is perhaps plausible to argue that notion of human right as individualistic and more communitarian. Support for this view may be found in principle of practical reasonableness such as 'do to (or for) others what you would have them do to (or for) you' or the principle of fostering the common good of one's community.74

The basic goods of 'sociability or friendship' in the sense of a good aspect of social life and entailing a recognition of man as a social and political man mellows down the individualistic view of human rights and brings it some distance closer to the views of communitarians who want that in place of rights with their individualistic focus, political theory should pay attention to the common good based on shared objectives, which they believe will make it possible to enjoy certain common goods such as solidarity, fraternity and a sense of belonging; we will be denied these common goods if exclusive focus is given on what is good for individuals. Fourthly, human rights encompass both individual interests and a common good in society. As much as human rights has the individual selfish aspects in it embraces a society in which all persons are able to experience a common good in their lives. Fifthly, human rights and their nature are were assessed in the past and such an assessment will be a recurring phenomenon in view of emerging new threats to and challenges for human dignity. In fact, the history of human rights bears a testimony to the evolution and development of human rights as a result of the ever-changing aspirations and needs of people and the ever increasing need to put constraints on what governments may do to individuals. It is because of this reason that the following four trends are discernible in the rights movement: generalization, institutionalization, collectivization, and internationalization. This might lead one to argue that lists of human rights 'are not truly

74 Ibid
autonomous but simply reflections of moral or ethical climate from different theoretical perspectives.’

The preamble to the Universal Declaration of Human Rights proudly begins, “Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”. Article 1 starts even more emphatically, “All human beings are born free and equal in dignity and rights.” But then it introduces a problem for proponents of children's rights: “They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

Children too have reason and the capacity for conscience but they have not yet learned to use them, still less to act toward one another in a spirit of brotherhood. Learning to do these things is an important part of growing up. So what does this mean for the idea of children's rights? Scholars are interested in children's rights because they raise interesting questions about the whole concept of rights. Can you have rights at all if you are too young to exercise choice, when others have to enforce your rights for you, when the obligations upon which your most essential rights depend are often vague and ill-defined, and when you are too young to have reciprocal obligations of your own? This has further been compounded by the argument that many of the “rights” contained in the UNCRC and other similar conventions are social ideas or moral rights rather than legally enforceable rights, or “merely claims based on ideals regarding children’s needs in a perfect world”. The argument that economic and social rights are not legally enforceable because they are too vague and indeterminate, is a familiar one, as is the argument

75 Ibid
that the determination of such rights is not an appropriate question for determination by a court, because they are largely questions of political policy and resource allocation. This has brought to the fore the concept of human rights with the conclusion that it is not statistic but prone to change over time.\(^78\)

Different people hold different concepts of human rights. This proposition might initially appear somewhat at odds with the commonly heard assertion that human rights are both universal and obvious (in the sense that they are derived from reason), which may suggest that human rights are unambiguous and uncontroversial. However, there is in practice a lack of agreement on what human rights are. Based on an analysis of the human rights academic literature, contribution identifies four schools of thought on human rights. These include Natural law of school, deliberative school, protest school and discourse school:\(^79\)

The natural school embraces the most common and well-known definition of human rights: a definition that identifies human rights as those rights one possesses simply by being a human being. This definition, where human rights are viewed as given, can be considered the foundation of the natural school. For most natural scholars, human rights are entitlements that, at their core, are negative in character and thus, are absolute. These entitlements are based on “nature,” a short-cut which can stand for God, the Universe, reason, or another transcendental source. The universality of human rights is derived from their natural character. The theorists believe that human rights exist independently of social recognition, even though recognition is preferable. They welcome the inscription of human rights in positive law. The natural school has traditionally represented the heart of the human rights orthodoxy. They theory tend to celebrate

\(^{78}\) Ibid

human rights law. For the great majority of the proponents, human rights law embodies the human rights concept: the law exists in direct continuation with the transcendental existence of human rights. Admittedly, a small minority is not convinced that human rights law, as it has been developed, corresponds to human rights.  

Nonetheless, most theorists regard the development of international human rights law in the last half-century as undeniable progress. For natural scholars, societies where human rights, by and large, are respected either already exist or can be created. Natural scholars believe in human rights. Historically, they also are the ones who set up the parameters within which human rights came to be both conceived and debated, at least intellectually. They have traditionally represented the human rights orthodoxy. The theory conceives human rights as entitlements: entitlements to specific objects that every individual should have respected. For it, human beings have human rights, and human rights are typically realized through individual enjoyment.  

Deliberative schools also have great faith in the potential of human rights law. All of its efforts are geared toward identifying, agreeing, and entrenching principles that allow for democratic decision and fair adjudication. According to the theory, there are no human rights beyond human rights law: the law, especially as it is embodied in constitutional principles of deliberation, is all there is to human rights. This law is more procedural than substantive in nature: it acts as a guide on how to do things in the political sphere. The orthodoxy is increasingly moving, however, towards the deliberative school of thought, which conceives of human rights as political values that liberal societies choose to adopt.

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80 Ibid
82 Ibid
Deliberative theorists tend to reject the natural element on which the traditional orthodoxy bases human rights. For them, human rights come into existence through societal agreement. The theory argue that there is need make human rights universal, but this will also recognize that this will require time. In addition, it proposes that this will happen only when and if everybody around the globe becomes convinced that human rights are the best possible legal and political standards that can rule society and therefore, should be adopted. This school invariably stresses the limits of human rights, which are regarded as fit to govern exclusively the polity and not being relevant to the whole of moral and social human life. The theory often holds that constitutional law is one of the prime ways to express the human rights values that have been agreed upon.\footnote{Michael J. Perry (1998) The Idea of Human Rights: Four Inquiries, human rights quarterly vol 33:12 pg 21-29.}

The protest school is concerned first and foremost with redressing injustice. For protest, human rights articulate rightful claims made by or on behalf of the poor, the unprivileged, and the oppressed. The theory looks at human rights as claims and aspirations that allow the status quo to be contested in favor of the oppressed. As such, it is not particularly interested in the premise that human rights are entitlements (though they do not reject it). It advocate for relentlessly fighting for human rights, as one victory never signals the end of all injustice. It also accept that the ultimate source of human rights lies on a transcendental plane, but most of them are more concerned with the concrete source of human rights in social struggles, which are as necessary as they are perennial. Even if the theory sometimes regard the elaboration of human rights law as a goal, it nonetheless tend to view human rights law with suspicion as participating in a
routinization process that tends to favor the elite and thus may be far from embodying the true human rights idea.\textsuperscript{84}

Protest theory would also accept that human beings have human rights. Though, instead of thinking of human rights as entitlements to particular objects that each individual, as it were, is selfishly at liberty to claim for herself, it thinks of the concept of human rights as a call to ensure that the rights of others be respected. In other words, when my rights are secured, I must ensure that the rights of my neighbor are secured as well as the rights of the neighbor of my neighbor and so on. In its perspective, the problem that arises out of the possession or enjoyment of human rights is that once individuals enjoy human rights, they often only use them for their own benefit. The loss of the sense of obligation to fight for the human rights of others is a betrayal of the human rights concept. For the protest school, human rights are realized through a perpetual fight for their realization. They conceive of human rights not so much as tangible but as a utopia or a project always in the making (and reversible). Protest theorists believe in the concept of human rights, though they deplore the fact that human rights have been institutionally high jacked. Thus, they call for a return to true human rights. Furthermore, they stress that human rights constitute an extremely demanding ethic (one can never do enough in the perpetual fight for the realization of human rights).\textsuperscript{85}

The discourse school is characterized by its lack of reverence towards human rights. In its perspective, human rights exist only because people talk about them. Discourse scholars are convinced neither that human rights are given nor that they constitute the right answer to the ills of the world, but they do recognize that the language surrounding human rights has become a

\textsuperscript{84} ibid
\textsuperscript{85} ibid
powerful language with which to express political claims. Discourse scholars fear the imperialism of human rights imposition and stress the limitations of an ethic based on individualistic human rights. Nonetheless, some accept that the human rights discourse, as the prominent political ethical discourse of our time, occasionally yields positive results. But they do not believe in human rights and often wish superior projects of emancipation could be imagined and put into practice.

The foundation of human rights concerns the natural and protest schools only. It simply does not interest the discourse school that believes that human rights exist only because they are talked about. Discourse scholars look at discussions of the foundation of human rights with disdain and as fundamentally flawed. As for deliberative scholars, who see human rights as emerging from agreement, the foundation of human rights is not an interesting issue. This does not detract them from being highly concerned with the issue of how to find, found, or reach agreement (where the emphasis shifts, expectedly given their general orientation, to process). They are more interested in justification than foundation. The natural and protest schools provides an overarching framework within which all rights are studied. However, the study of child rights has raised controversies which have led to a number of frameworks that have been proposed. These frameworks are discussed in the continuing sections. 86

For many centuries natural law played a dominant role in Western political theory. Natural law was considered to be the standard against which all other laws were to be judged. To contest the injustice of a man made law, one could appeal to the higher authority of God or natural law. Eventually natural law evolved into natural rights, which are considered to be the modern

manifestations of natural law. The change reflected a shift in emphasis from society to the individual. Whereas natural law provided a basis for curbing excessive state power, natural rights offered a means by which an individual could press claims against the government. Natural law/rights theorists have asserted the existence of specific rights such as the right to liberty, the right to life, the right to self-preservation, the right to property, the right to freedom from torture, and the right to participate. Because they take the validity of the rights to be a self-evident proposition, there has traditionally been little room for debate. Though the contemporary notion of human rights may be the offspring of natural rights, there are, nonetheless, differences between them. The most important of these is the extent of the moral universe to which they lay claim. Whereas natural rights were not widely contested because they were asserted in a universe of shared values, human rights have been highly controversial particularly in regard to child rights.

The question whether legally recognized rights should be afforded to children, and what the nature and extent of such rights should be, has been the topic of vigorous debate in courts, legislators and scholarly and popular journals since the sixties. The children’s rights movement can be attributed to increased societal concern over individual rights, the recognition of child abuse as a major problem, the loss of faith by many in courts, schools and other institutions dealing with children, and the changing structure and role of families in modern society.87

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2.3 Views of children’s rights

2.3.1 Freeman’s framework of children’s’ rights

The framework proposes four categories of rights for children, namely rights to welfare, rights to protection, rights to be treated as adults and rights against parents. This is strengthened by the fact that framework regards children, broadly speaking, to have the following two types of right: the right to equal opportunity and the right to liberal paternalism. The theoretical contribution to the children’s rights debate demonstrates the extremely diverse nature of the rights which children may claim. Rights to welfare Freeman’s first category originated in the general notion of human rights, more so from the United Nations Convention on the Rights of the Child 1989. The second category of the framework is more overtly concerned with protection from negative behaviour and activities, such as inadequate care, abuse or neglect by parents, exploitation by employers or environmental dangers. Whereas welfare rights are based on the assumption that society owes children the best it has to offer, protective rights aim to ensure that minimally acceptable standards of treatment are observed.88

The third category on the right to be treated like adults is based on social justice and egalitarianism. According to Freeman, the rights and liberties afforded to adults should also be extended to children as fellow human beings, unless there is a good reason for differentiating between adults and children. However, the framework argues that children should be treated as adults with skepticism. In light of this the theory propagates that the society should provide “a childhood for every child” and not an adulthood for every child. The fourth category of the

framework is concerned with the rights against parents with the main concern being with self-determination. 89

2.3.2 Eekelaar’s Framework of Children Rights

Eekelaar’s framework of children’s rights major preposition is social perception, that an individual or class of individuals has certain interests. The interests in question must also be capable of isolation from the interests of others. However, the theory points out those children often lack the information or ability to decide what is in their best interest. The framework identifies three separate kinds of interests which might form the foundation of these retrospective claims, namely basic interests, developmental interests, and autonomy interests. Basic interests relates to what might be described as the essentials of healthy living, including physical, emotional and intellectual care.90 Developmental interests entail that, subject to the socio-economic constraints in a particular society, “all children should have an equal opportunity to maximize the resources available to them during their childhood (including their own inherent abilities) so as to minimize the degree to which they enter adult life affected by avoidable prejudices incurred during childhood”. Autonomy interests on the hand refer to the freedom to choose their own lifestyle, and to enter social relations according to their own inclinations.91

2.3.3 Wald’s framework of children’s rights

Unlike the other two frameworks of child rights, the wald framework does not attempt to indicate what specific rights, if any, children should be given. Nevertheless the framework

90 John Eekelaar (1994), Theimportance of thinking that children have rights, Int. Jnl. Of Law, Policy and the Family, Volume 6, Issue 1
91 Ibid
indicates that there are four different types of claims under the general rubric of children’s rights. The claims identified by the framework can be categorized under the protection of the rights of children. The framework refers to the claims usually made under the “nurturance approach” as "protections due [to], rather than rights of, children". Towards this the framework cites two categories of "protections", namely rights against the world and protection against inadequate care. 92

As far as the “self-determination approach” is concerned, the approach indicates that since 1967 the children’s rights movement has focused on two other categories of rights. These categories raise fundamental issues regarding the role children play in our society. The theory of children’s rights identifies two categories of rights that can be classified under this approach, namely adult legal status and rights versus parents. Wald shows that this category of rights has to do with the right of children, prior to reaching the age of majority, to act independently of their parents. It touches on issues such as consent to medical care, consent to abortion, decisions on the school the child should attend, and where the child will live. Historically, all such decisions were made by the parents. 93

2.3.4 Hafen’s framework for children’s rights

Hafen’s approach to children’s rights is viewed against the background of the following two themes: tradition of the individual, which is at the heart of culture, and secondly, family tradition, which is regarded by Hafen as an essential precondition for the individual tradition. To Hafen, the maintenance of the family tradition is a prerequisite for the existence of a rational and

93 Ibid
productive individual tradition. Children are excluded from the individual tradition mainly because of their lack of capacity for rational decision-making, an important requirement for individual freedom.94 However, children are part of the family tradition, where it is the duty of parents to develop the minimal capacities of their children with the intention of preparing them for the individual tradition. It is within this framework that Hafen divides children’s rights into two groups, namely rights of protection and rights of choice. Rights of protection include the right not to be imprisoned without due process, rights to property and the right to physical protection. Rights of choice include the right to make affirmative choices of binding consequence, such as voting, marrying, exercising religious preferences, and choosing whether to seek education. These rights are based on the assumption that the capacity for making rational decisions exist.95

Conclusion

The idea of children having legally recognized rights is a revolutionary one in many ways. Historically, children have been under the control of their parents. Since children are presumed by law to lack the capacity of adults, they are denied full participation in the political, legal and social processes. In lieu of most rights, children are afforded special protection by the state. Today, however, many consider this control (and the special protection that accompanies it) to be harmful, and even oppressive, to children. There is an immense volume of scholarship regarding the various ways of giving expression to the notion that children can have rights, and the actual formulation and content of these rights. At the extreme, some children’s rights advocates call for a total change in policy, giving children total freedom to decide for themselves what is best for

94 Alston Philip, John Tobin(20076), Children rights in international law, seminar paper pp 12-21
95 ibid
them. However, not everyone shares the views of these children’s rights advocates. Others are of
the view that children should be granted limited rights and expanded parental authority.

That there is as yet no coherent theory of children’s rights is hardly surprising. The demand for
the recognition and enforcement of children’s rights calls into question certain basic beliefs of
our society. The implementation of many of the rights being claimed on behalf of children could
involve substantially altering the role of the state towards parents and children, and the role of
parents towards children. The protection of children’s rights could create the perception that
parental authority and family values are suppressed, and that the state abdicates its role as
protector of children in favour of total freedom to a child. One hurdle in the formulation of a
coherent theory of children’s rights is the fact that, in giving meaning to children’s rights, it is
important to accommodate the status of the child both as an individual and as a member of the
family group. This presents a challenge to the law’s inexperience in formulating legal principles
that apply to a group of people, such as family members, as well as to the members of such a
group as individuals. Another difficulty in establishing a theoretical model for the concept of
children’s rights is the fact that the nature of the proposed rights of children goes well beyond
what is normally understood as legally recognized and protected rights.
CHAPTER THREE

ANALYSIS OF CHILD EXPLOITATION

3.1 Introduction

Violations of the child’s right to protection, in addition to being human rights violations, are massive, under-recognized and underreported barriers to child survival and development. Children subjected to violence, exploitation, abuse and neglect are at risk of shortened lives, poor physical and mental health, educational problems (including dropping out of school), poor parenting skills later in life, and homelessness and displacement. Conversely, successful protection actions increase a child’s chances to grow up physically and mentally healthy, confident and self-respecting, and less likely to abuse or exploit others, including his or her own children. This chapter reviews child abuse and the protection measures from such abuses.

3.2 Sexual exploitation of children

Every year, more than 1 million children worldwide are forced into prostitution, trafficked and sold for sexual purposes or used in child pornography.\(^96\) The Convention on the Rights of the Child affirms the right of children to protection from all forms of sexual exploitation and sexual abuse, including child prostitution, child pornography and other unlawful sexual practices.\(^97\) The term ‘sexual abuse’ is often used to refer to abuse within the home or family, but there is no real agreement as to the distinction between sexual abuse and sexual exploitation. For this reason, the term ‘commercial sexual exploitation’ is sometimes used to refer to child prostitution and child

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\(^97\) Ibid
pornography.\textsuperscript{98} However, children clearly have the right to protection from any form of sexual exploitation, whether commercial or not: sexual exploitation of domestic servants or students by teachers (for example, trading good grades for sexual favours) violates the rights of the victims regardless of whether there is any ‘commercial’ dimension. Systematic sexual abuse of the civilian population in times of conflict is also a crime against humanity, whether the victims are children or adults.

3.2.1 Child prostitution

Child prostitution has been defined as the use of a child in sexual activities for remuneration or any other form of consideration.\textsuperscript{99} Studies and research carried out has shown that from 28,000 to 30,000 children under the age of 18 are used for purposes of prostitution in South Africa, approximately half of whom are between the ages of 10 and 14.\textsuperscript{100} In India, from 21,000 to 30,000 prostitutes under the age of 18 are exploited in the six largest cities while the number of child prostitutes in the Dominican Republic is estimated to be some 30,000. The number of child prostitutes in the United States is estimated at 300,000.\textsuperscript{101}

Prostitution is not limited to girls. For instance, in some American cities, half of all child prostitutes are boys.\textsuperscript{102} In Sri Lanka, prostitution of boys is more widespread than prostitution of girls, because of differential sex roles. Girls are more protected, while boys have greater freedom


\textsuperscript{99} International Labour Organization, Unbearable to the Human Heart, ILO/ IPEC, 2000, p. 17

\textsuperscript{100} UN Special Rapporteur on Sale of Children, Child Prostitution and Child Pornography, E/CN.4/1999/71

\textsuperscript{101} Ibid

\textsuperscript{102} Ibid
from supervision and are expected to contribute to the family income. Prostitution of boys in Morocco also is reportedly due mainly to the expectation that boys will contribute to the family income and the lack of other employment opportunities.\textsuperscript{103} Homophobia in the home and at school is a major contributing cause to prostitution by boys in some countries. A Canadian study found that many homosexual boys leave home due to discrimination and harassment, and turn to prostitution to survive.\textsuperscript{104}

In some wealthier countries, poverty does not appear to be the main cause of child prostitution. In the United States, broken families, child abuse within the family and neglect, including emotional neglect, are among the main causes that children leave home and subsequently become involved in prostitution.\textsuperscript{105} The consequences of sexual exploitation are devastating. In addition to psychological, social and physical damages, child prostitutes are particularly vulnerable to AIDS and other sexually transmitted infections, because they are rarely in a position to negotiate safe sex. Prostitution and substance abuse are closely linked. Children who are addicted to drugs or alcohol may turn to prostitution to support their habits, and adults who exploit child prostitutes may encourage them to use drugs to make them more dependent. Addiction can be a serious obstacle to rehabilitation of victims of sexual exploitation.

**3.2.2 Sex tourism**

Sex tourism is a major industry. For example, according to a United Nations report, every year some 200,000 German men travel abroad for sex.\textsuperscript{106} Inadequate laws and inefficient judicial systems are among the main causes of sex tourism affecting children. For example, in some

\begin{footnotesize}
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\item \textsuperscript{103} UN Special Rapporteur on Sale of Children, Child Prostitution and Child Pornography, E/CN.4/1997/95 Add. 2
\item \textsuperscript{104} Ibid
\item \textsuperscript{105} Ibid
\item \textsuperscript{106} UN Special Rapporteur on Sale of Children, Child Prostitution and Child Pornography, E/CN.4/1998/101
\end{itemize}
\end{footnotesize}
countries sexual offences against children can only be prosecuted on the basis of a complaint by the parent. As prevention and protection efforts improve in Southeast Asian countries, Central American countries are fast becoming desirable destinations for child-sex tourists.

Although women and girls are the main victims of sex tourism, boys are also affected. In Sri Lanka, most child prostitutes are boys whose clients are male tourists, while in some countries in Africa and the Caribbean, the exploitation of ‘beach boys’ by female tourists is a problem. In 1995, the World Tourism Organization condemned the grave social, cultural and health consequences of sex tourism and adopted a series of measures and resolutions to combat this phenomenon.

### 3.2.3 Child pornography

The Optional Protocol to the Convention on the Rights of the Child defines child pornography as any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes. The working definition adopted by the International Criminal Police Organization (Interpol) is similar and states it is the visual depiction of the sexual exploitation of a child, focusing on the child’s sexual behaviour or genitals. Child pornography is harmful to children in two ways. First, it encourages the sexual abuse and exploitation of children. Second, every photo or videotape of child pornography is evidence of that child’s abuse. The distribution of that

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107 Ibid
108 Prostitution of Children and Child-Sex Tourism: An Analysis of Domestic and International Responses, Eva J. Klain, National Center for Missing and Exploited Children, 1999, p. 34
109 Ibid
depiction repeats the victimization over and over again, long after the original material was created.

*Child pornography and the Internet*

The digital age has facilitated the production and dissemination of child pornography. Advances in computer technology have made the creation and distribution of child pornography easier, cheaper and more difficult to detect. It has developed into a multimillion-dollar industry that can be run from within the exploiter’s home. The Internet is used by paedophiles to exchange information and to contact potential victims through chat rooms.\(^\text{111}\) It is virtually impossible to ensure the physical destruction of child pornography once it has been posted on the Internet. Digital technology also has led to a new phenomenon sometimes called ‘pseudo-child pornography’, which consists of creating or manipulating images to produce depictions of sexual activity involving children, without the participation of a real child in any sexual activity. Several countries, including Canada, the United Kingdom and the United States, have amended their legislation to prohibit this type of pornography. The UN Special Rapporteur supports making this material illegal because it encourages paedophiles to view their desires as normal and to engage in the exploitation of real children.\(^\text{112}\)

### 3.2.4 International standards on Sexual exploitation of children

Article 34 of the Convention provides that: States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in

\(^{111}\) Ibid

\(^{112}\) Ibid
particular take all appropriate national, bilateral and multilateral measures to prevent: the inducement or coercion of a child to engage in any unlawful sexual activity; the exploitative use of children in prostitution or other unlawful sexual practices and the exploitative use of children in pornographic performances and materials.\textsuperscript{113}

The Optional Protocol on the sale of children, child prostitution and child pornography

An Optional Protocol on the sale of children, child prostitution and child pornography was adopted in May 2000 and entered into force in January 2002.\textsuperscript{114} Whereas the Convention emphasizes the prevention of sexual exploitation, the Protocol emphasizes the criminalization of child prostitution and pornography and requires that any participation in these acts, including attempt and conspiracy, be subject to penalties that take into account the gravity of these offences (article 3). It also requires States to close any premises used for child prostitution and pornography and seize and confiscate the proceeds of such activities, as well as any means used to commit or facilitate them (article 7) and contains detailed provisions concerning the treatment of victims.\textsuperscript{115}

International Labour Organization (ILO) Convention No. 182

International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour requires States parties to adopt penal or other sanctions against child prostitution and pornography. Like the Optional

\textsuperscript{113} Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Article 2(a)
\textsuperscript{114} Ibid
\textsuperscript{115} Ibid
Protocol, it requires that legal provisions that protect children against sexual exploitation apply to all persons under the age of 18. It has been ratified by 147 States.  

### 3.3 Trafficking and sale of children

Traffic in persons has been defined as: the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. However, the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is considered trafficking, regardless of whether or not force, abduction, fraud and the other means mentioned above are employed. Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration. The concept of sale overlaps with that of trafficking, except that trafficking implies a practice whereby a child is moved.

Trafficking of persons is on the increase. Approximately, 200,000 to 250,000 women and children are trafficked annually in South-East Asia alone. Trafficking in children is truly a global phenomenon connecting all countries and regions of the world in a complex network of illicit movement that affects an estimated 1.2 million children annually.  

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118 Ibid  
119 Ibid  
from one country to another, but may also occur within a country, often from rural to urban areas. The smuggling of migrants, although illegal, is not trafficking if the migrants freely contract the services of smugglers and if they are not exploited. Smuggling becomes trafficking if fraud or deception of the migrants is involved, or if they are forced to live and work in conditions of servitude.

The root causes of sale and trafficking are multiple and complex, and include poverty, lack of employment opportunities, low social status of the girl child and a general lack of education and awareness. Minority and tribal children, stateless or undocumented children and children in refugee camps are particularly vulnerable.

3.3.1 Trafficking and sexual exploitation

The trafficking of children, especially girls, for purposes of prostitution is well documented in many parts of the world. Adolescent girls from Africa are trafficked to Europe, in particular Belgium, Italy and the Netherlands. An estimated 2,000 to 6,000 girls and young women are trafficked into Italy annually, most of them between the ages of 14 and 18.\textsuperscript{121} Children from Bangladesh and Nepal are trafficked to India for purposes of sexual exploitation. Children from South-East Asia are trafficked in large numbers to Japan and Thailand. Trafficking of girls from rural areas to cities for purposes of prostitution is widespread in Cambodia, China, Thailand and Viet Nam.\textsuperscript{122}

The collapse of the economies and social structures of Eastern Europe in 1989 and the Balkan crisis gave rise to large-scale trafficking from Eastern to Western Europe and within Eastern

\textsuperscript{121} Ibid
\textsuperscript{122} Ibid
Despite considerable efforts in law enforcement and victim protection, every country in the region is still either a destination, a point of transit or a country of origin for trafficking in human beings. Within this large pattern more specific ones can be detected, such as the traffic of adolescent girls from the Baltic States to Scandinavia, from Russia and the Ukraine to Germany and Poland, and from Albania to Italy and Greece. Consequently, as stricter legislations are developed in some countries the trafficking route changes through other transit and destinations countries. The very flexible nature of trafficking networks requires a global or regional approach rather than this issue being addressed in one country at a time. The victims of this particular form of trafficking are often stigmatized, which poses special challenges to social reintegration and even repatriation.

3.3.2 Trafficking and child labour

Studies in Africa and Asia confirm that children are often trafficked for domestic labour or to work in service industries, construction, agriculture, fishing and begging. Various patterns of trafficking have been documented in different parts of the world. In West Africa, children are often trafficked by ‘employment agencies’ for domestic service or work in mines or on plantations. Children from Central and Eastern Europe are trafficked to Western Europe into the service and entertainment sectors, as well as for begging, prostitution and petty crime. In South Asia, children are trafficked for use in carpet and garment factories, construction, tea plantations and begging. In the Middle East, trafficking of girls for domestic labour is the predominant form

124 International Labour Organization, Unbearable to the Human Heart, op.cit., pp.17-19
125 Ibid
of trafficking of children. In South-East Asia, trafficking occurs for a wide range of services and for industrial and agricultural work.\textsuperscript{126}

Trafficking for purposes of child labour is largely demand-driven, and is part of a large unmet demand for labour that is cheap and flexible. The ILO points out that child labour is attractive not because it is cheap, but rather because children are easier to abuse, less assertive and less able to claim their rights than adults; they can be made to work longer hours with less food, poor accommodation and no benefits.\textsuperscript{127} Victims of trafficking for child labour often work in conditions that risk their physical and mental health.

### 3.3.3 International standards on trafficking

Article 35 of the Convention on the Rights of the Child provides that States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.\textsuperscript{128} Children who have been victims of any form of exploitation have the right to physical and psychological recovery and social reintegration (article 39). If the victim’s right to identity has been affected, the State also has an obligation to provide assistance and protection in re-establishing the victim’s true identity (article 8). Identity includes name, nationality and family ties (see Chapter 6).

\begin{footnotesize}
\begin{enumerate}
\item Ibid
\item \textit{Toward a Mine-Free World}, The Landmine Monitor, The International Campaign to Ban Landmines, 2003
\end{enumerate}
\end{footnotesize}
The Optional Protocol on the sale of children, child prostitution and child pornography

This Protocol to the Convention on the Rights of the Child entered into force on 18 January 2002. It applies to the sale of children for purposes of sexual exploitation, child labour or adoption, and covers prevention, prohibition and assistance to victims. With regard to prevention, the Protocol indicates that this should include efforts designed to make the general public more aware of the harmful effects of sale on the children as well as efforts that focus on the most vulnerable.

The most detailed provisions of the Protocol are those concerning prohibition and punishment. It indicates that the criminal or penal law shall cover the person who offers a child for sale, anyone who buys a child and any intermediaries, and that any participation in such acts (including attempt or complicity) shall be punished by penalties “that take into account their grave nature”. It also indicates that the Parties to the Protocol shall assist one another in investigating such crimes and bringing the offenders to justice, and that premises used for these purposes shall be closed and the proceeds seized. The Protocol also contains provisions designed to help establish ‘universal jurisdiction’ over these crimes.

SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution

In January 2002 the South Asian Association for Regional Cooperation adopted a treaty on the trafficking of women and children for purposes of prostitution. The SAARC Convention obliges States Parties to criminalize trafficking and establish penalties that take into account the

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130 Ibid
grave nature of this crime, and to sensitize law enforcement agencies and the judiciary with regard to the nature and causes of trafficking in women and children. It also contains detailed provisions concerning cooperation among national law enforcement agencies.

3.4 Children and armed conflict

Children continue to be the main victims of conflicts. Their suffering takes many forms; they are killed, made orphans, maimed, abducted, deprived of education and health care, and left with deep emotional scars and trauma. Forced to flee from their homes, refugees and internally displaced children are especially vulnerable to violence, recruitment, sexual exploitation, disease, malnutrition and death. Children are being recruited and used as child soldiers on a massive scale. Girls face additional risks, particularly sexual violence. These egregious violations of children’s rights take place in a pervasive climate of impunity.

3.4.1 Child soldiers

Despite some successes in negotiating commitments to stop the recruitment of child soldiers and release those in service, thousands of child soldiers continue to participate in armed groups around the world. In Colombia for example, an estimated 14,000 persons under the age of 18 form part of private militias and revolutionary groups. Children are uniquely vulnerable to military recruitment and manipulation into violence because they are innocent and impressionable. They are forced or enticed to join armed groups. Regardless of how they are recruited, child soldiers are victims, whose participation in conflict bears serious implications for their physical and emotional well-being. They are commonly subject to abuse and most of them

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131 Secretary-General’s Report on Children in Armed Conflict, A/58/546.5/2003/1053 para. 55
132 Ibid
witness death, killing and sexual violence. Many participate in killings and most suffer serious long-term psychological consequences.¹³³

3.4.2 Refugee children

A refugee is a person who has fled his or her home country due to a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group.¹³⁴ Increasingly, persons who flee their home countries to escape from armed conflict are also recognized as refugees, even if they are not at risk of persecution. Persons who have fled their homes but remain within their own country are internally displaced persons. Children who arrive in a country of asylum without an accompanying family member are especially vulnerable. In refugee camps, they are vulnerable to neglect, sexual exploitation and physical abuse. If the security of the camps is inadequate, they may risk forcible recruitment or abduction by armed groups.

In countries where applications for refugee status are examined on a case-by-case basis, children often have greater difficulty than adults in presenting their claim effectively. Where asylum seekers are detained, children are particularly vulnerable to psychological and social risks inherent in any deprivation of liberty. Whatever their particular situation, children separated from their families require assistance in locating and re-establishing contact with them.

¹³⁴ Ibid
3.4.3 Internally displaced children

The needs of displaced children are similar to those of refugee children: shelter, medical care and rehabilitation, food, protection from violence and exploitation, and assistance in re-establishing contact with their families. Some 25 million persons have been forced to flee their homes to seek refuge within their own country, according to the Representative of the UN Secretary-General for Internally Displaced Persons.\textsuperscript{135} Approximately half of them are under the age of 18. The most common causes of displacement include armed conflict, other situations of generalized violence, gross violations of human rights and natural disasters. Many internally displaced persons find themselves at risk of violence, sexual assault and abduction, and frequently lack shelter, food and health services. The majority of internally displaced persons are women and children. Internally displaced people often remain close to the conflict or disaster they fled from, making them more vulnerable.

3.4.4 The Convention on the Rights of the Child and armed conflicts

The Convention contains standards concerning the participation of children in armed conflicts and the recruitment of children: States shall not recruit any person under the age of 15 into any branch of the armed forces; a State that recruits persons between the ages of 15 and 18 should begin with those closest to age 18; states must take all feasible measures to prevent the direct participation of persons under the age of 15 in hostilities, whether on the side of the government or in the ranks of any other armed group.\textsuperscript{136}

\textsuperscript{135} World Health Organization, World report on violence and health, 2002, p.14
\textsuperscript{136} Ibid
Strengthening this provision, an Optional Protocol to the Convention on the use of children in armed conflict was adopted in 2000 in order to allow States to make greater commitments to the protection of children from participation in armed conflict and recruitment into the armed forces. It entered into force in 2002 and provides in part that: Recruitment of persons under the age of 18 shall be strictly voluntary; Non-governmental armed groups shall not, in any circumstances, recruit persons under the age of 18, nor use them in hostilities; states shall provide children who have participated in armed conflict, in violation of the Convention or the Protocol, with any necessary physical and psychological rehabilitation and support for reinsertion into society.  

3.4.5 International standards and Child refugees

Article 22 states that States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties. It also states that child asylum seekers and refugees should be provided with assistance in tracing family members and provided with alternative care whilst deprived of a family environment, as envisaged by articles 20 and 21 of the Convention. The right not to be deprived of liberty except as a last resort, set forth in article 37 of the Convention, is also applicable to child asylum seekers.

138 Ibid
3.5 Harmful traditional practices

The Convention on the Rights of the Child prohibits traditional practices harmful to the health of children. The Protocol on the Rights of Women in Africa to the African Charter on Human and Peoples’ Rights defines the concept more broadly in Article 1(g) as all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity.\footnote{Cited in *Domestic Violence against Women and Girls*, UNICEF Innocenti Digest 6, 2000, p. 7}

3.5.1 Female genital mutilation

Female genital mutilation, also known as female genital cutting or female circumcision, is widespread in some 29 countries the majority of which are in sub-Saharan Africa. In many countries, over 90 per cent of women of reproductive age have been circumcised.\footnote{Ibid} Female genital mutilation is an initiation rite in many societies, frequently carried out by traditional practitioners with rudimentary tools in unsanitary conditions. In addition, according to the UN Special Rapporteur on traditional practices affecting the health of women and children, it is a deeply rooted symbolic reaffirmation of the subordination of women to men.\footnote{United Nations Population Fund, *State of the World’s Population 2003*, UNFPA, p. 21}

Different forms of genital mutilation are practiced. The most common form, excision, involves removal of the clitoris. About 15 per cent of the victims are subjected to infibulation, or the partial closure of the vaginal opening, usually by sewing. An estimated 100 to 140 million women and girls have undergone some form of genital mutilation, and 2 million are at risk annually.\footnote{Ibid} The health consequences of this practice vary according to the procedure performed.

Short-term consequences can include severe pain, shock, haemorrhage and infection; haemorrhage and infection may be fatal. Long-term consequences include scar formation, incontinence, sexual dysfunction and difficulties with childbirth.

3.5.2 Child marriage, arranged or forced marriages and adolescent pregnancy

The issues of child marriage, arranged or forced marriages and adolescent pregnancy are closely related. All marriages are meant to be based on the freely-given consent of both parties and marriages that do not respect this principle are considered a practice similar to slavery, violating the rights of those concerned, whether male or female, regardless of their age.\(^{143}\) A person cannot consent to marriage until they are mature enough to fully understand the consequences of the commitment and able to disregard any improper pressures. While premature marriages imposed on an adolescent against his or her will are especially serious, in a sense all marriages of persons below the minimum age established by law are non-consensual. The vast majority of persons who marry prematurely are girls. Such marriages are most prevalent in societies where traditional values concerning the subservience of children and women are strong.\(^ {144}\)

Child marriages are incompatible with the rights of girls and boys not only because they deny the right freely to decide whether or not to marry and to choose one’s spouse, but also because they entail serious risks to reproductive health. Premature sexual relations and especially premature pregnancy endanger the health of girls whether or not they are married. Premature pregnancy outside marriage is a cause of early and non-consensual marriage. In some countries, this is facilitated by legislation that allows children under the usual minimum age to be married with

\(^ {143}\) Cited in Domestic Violence against Women and Girls, UNICEF Innocenti Digest 6, 2000, p. 7
\(^ {144}\) Ibid
the permission of their parents or a court. The legislation of some countries still provides that subsequent marriage of a rapist with the victim is a bar to prosecution for rape. Every year some 14 million girls aged 15 to 19 give birth, and another 5 million girls of this age have unsafe abortions.145

3.5.3 International standards on female genital mutilation

Article 24 of the Convention on the Rights of the Child, concerning the right to health indicates that States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children. The United Nations Committee on the Elimination of Discrimination against Women recommends that; there should be collection and dissemination by universities, medical or nursing associations, national women’s organizations or other bodies of basic data about such traditional practices; the support of women’s organizations at the national and local levels working for the elimination of female circumcision and other practices harmful to women; the encouragement of politicians, professionals, religious and community leaders at all levels, including the media and the arts, to cooperate in influencing attitudes towards the eradication of female circumcision; and the introduction of appropriate educational and training programmes and seminars based on research findings about the problems arising from female circumcision. Moreover, it recommends including in national health policies appropriate strategies aimed at eradicating female circumcision in public health care. These could include the special responsibility of health personnel, including traditional birth attendants, to explain the harmful effects of female circumcision.146

146 Eliminating the Worst Forms of Child Labour, A Handbook for Parliamentarians, ILO and the IPU, 2002
3.5.4 African standards on harmful traditional practices

The provisions of African treaties on the rights of children and women provide additional protection. Article 21 of the African Charter on the Rights and Welfare of the Child, entitled ‘Protection against Harmful Social and Cultural Practices’, provides that: states Parties to the present Charter shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular those customs and practices prejudicial to the health or life of the child; the Charter also condemns all child marriage in the strongest terms: Child marriage and the betrothal of girls and boys are prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.\(^{147}\)

Article 5 of the Protocol, entitled ‘Elimination of Harmful Practices’, provides that States Parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognized international standards.\(^{148}\) States Parties shall take all necessary legislative and other measures to eliminate such practices, including: creation of public awareness in all sectors of society regarding harmful practices through information, formal and informal education and outreach programmes; prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalization and para-medicalization of female genital mutilation and all other practices in order to eradicate them; provision of necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological

\(^{147}\) Eliminating the Worst Forms of Child Labour, A Handbook for Parliamentarians, ILO and the IPU (2002) p.15
\(^{148}\) Ibid
counseling as well as vocational training to make them self-supporting and protection of women who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance.

3.6 Violence and neglect

Globally, around 40 million children are subjected to child abuse each year. Violence is found in the family, in schools, in institutions such as orphanages and other places of residential care, on the streets, in the workplace and in prisons. It can arise as a result of cultural beliefs, norms and traditional practices or within the context of conflict situations. Violence against children is one of the most serious problems affecting children today. Much violence is hidden. Children may not feel able to report acts of violence for fear of retribution from their abuser. Both child and abuser may see nothing unusual or wrong in the child being subjected to violence. They may not consider an act of violence actually to be violence at all, perhaps viewing it as justifiable and necessary punishment. Child victims may feel ashamed or guilty, believing that they deserved to be subjected to violence, and they may therefore be unwilling to speak about it.

3.6.1 Violence against children in the home

Young children are at greatest risk as homicide rates for children aged 0-4 years are more than twice those for children aged 5-14 years (5.2 per 100,000 compared to 2.1 per 100,000). The most common cause of death is head injury. Many children experience physical violence at some point during childhood. Patterns of violence vary from one society to another, and

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149 WHO, Statement to the Committee on the Rights of the Child, 28 September 2001
150 World Health Organization, World report on violence and health, op.cit., p. 27
151 World Health Organization, World report on violence and health, op.cit., p. 16
according to the age and sex of the child. In most cases it is inflicted by relatives within the home, and occurs repeatedly. A recent study of secondary school students in the United States, for example, found that 17 per cent of girls and 12 per cent of boys were victims of physical violence.\textsuperscript{152}

Spousal violence is widespread throughout the world. Approximately, 20-50 per cent of women suffer violence at the hands of their spouses or partners.\textsuperscript{153} This has serious consequences for children. One study reported that children of women who were physically and sexually abused by their partners were six times more likely than other children to die before the age of five.\textsuperscript{154} Living in a home where domestic violence occurs also adversely affects success in school. One study found that children from homes in which women suffer violence leave school on average three years earlier than other children.

Consequences of violence can take many different forms. In addition to the psychological and physical effects, victims of physical abuse during childhood leave an increased risk of becoming violent offenders themselves. One study in the United States concluded that the experience of abuse or neglect increased the likelihood of arrest as a juvenile offender by 53 per cent. A study in the United Kingdom found that 72 per cent of juveniles who committed serious offences were victims of abuse.\textsuperscript{155} Violence is also one of the main reasons that children leave home.

\textsuperscript{153} Domestic Violence against Women and Girls, Innocenti Digest No. 6, op.cit., Table 2
\textsuperscript{154} Asling-Monemi et al., Violence against women increased the risk of infant and child mortality. A case reference study in Nicaragua, 1999 Cited in Domestic Violence against Women and Girls, op. cit. p.12
3.6.2 Psychological and emotional abuse

Psychological and emotional abuse consists primarily of verbal behaviour that terrorizes, intimidates, humiliates or demeans the victim. Depriving children of normal contact with other persons is a form of psychological and emotional abuse, which children with disabilities are particularly prone to suffer in a number of societies. Studies indicate that psychological and emotional abuse can have an even greater impact on the victims than physical violence.156

3.6.3 Neglect and abandonment

Neglect is a broad concept that includes failure to meet the material and emotional needs of children and failure to provide physical and intellectual stimulation and adequate supervision and guidance. Inadequate supervision is a leading cause of death and injury due to accidents in the home, and contributes to the involvement of children in dangerous activities such as drug abuse and premature and unprotected sexual activity. WHO reports that 400,000 children under the age of 5 die annually from accidents such as drowning, burns, poisons and road traffic accidents.157

The abandonment of children is an extreme form of neglect. The decision to abandon a child may sometimes be a response to lack of support mechanisms or the weight of cultural traditions. In some countries, children are abandoned because the parent or parents feel unable to provide them with the means of subsistence, or believe that abandoning the child to families or institutions with more resources is the only way to offer their child a chance for a better future. And in some cultures, the stigma attached to conception outside marriage causes most children conceived out of wedlock to be abandoned at birth. Studies indicate that neglect, including weak

156 Ibid
157 A League Table of Child Maltreatment Deaths in Rich Nations, Innocenti Report Card, Issue No. 5, 2003, Figure 3
supervision, inconsistent discipline and failure to reinforce positive social behaviour, contributes to the risk of children coming into conflict with the law.\textsuperscript{158}

\textbf{3.6.4 International standards on Violence and neglect of Children}

Article 9(1) states that States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.\textsuperscript{159} The State should take a holistic approach to the protection of children against violence and neglect while in the care of parents or other caretakers. This includes preventive measures, measures for detecting, identifying and investigating cases, treatment and law enforcement. Article 27 recognizes the right of every child to a standard of living adequate for his or her physical, mental, spiritual, moral and social development, and indicates that parents have the primary responsibility for providing children with adequate living conditions, in so far as they are able to do so.

The Committee on the Rights of the Child, in its Guiding Principle No.3 on Violence against Children in the Family and Schools, states that all corporal punishment of children violates the rights recognized by the Convention.\textsuperscript{160} When parents are not able provide their children with a safe and healthy environment suitable for their development, even with assistance, children should be removed from the home. The operative criteria for removal of children from the home

\textsuperscript{158} Asling-Monemi et al., Violence against women increased the risk of infant and child mortality. A case reference study in Nicaragua, 1999 Cited in Domestic Violence against Women and Girls, op. cit. p.12
\textsuperscript{159} A League Table of Child Maltreatment Deaths in Rich Nations, Innocenti Report Card, Issue No. 5, 2003, Figure 3
\textsuperscript{160} Eliminating the Worst Forms of Child Labour, AHandbook for Parliamentarians, ILO and the IPU (2002) p.15
according to Article 9 of the Convention, is that such separation is necessary for the best interests of the child. Children removed from their home have the right to suitable alternative care.\textsuperscript{161}

\textbf{3.7 Child Labour}

The term ‘child labour’ refers only to forms of employment or unpaid work that violate the rights of children and should be prohibited.\textsuperscript{162} There are two main types of child labour; under-age employment and hazardous employment. Both are widespread throughout the world. An estimated 67 million children in the 5-14 age group are engaged in non-hazardous child labour.\textsuperscript{163} More than 180 million are estimated to be engaged in hazardous employment. \textsuperscript{164} The ‘worst forms of child labour’, a term used in International Labour Organization Convention No. 182, include grave forms of exploitation that violate the rights of any person regardless of age, such as slavery, trafficking and forced labour, as well as certain forms of exploitation specifically prohibited by the Convention on the Rights of the Child. These include sexual exploitation, the use of children in the production and trafficking of illegal drugs and forced recruitment into armed forces. An estimated 8 million children are victims of these kinds of child labour.\textsuperscript{165}

Poverty is obviously one of the principal causes of child labour. Many children who work, whether in the home or in paid employment, do so in order to help their families to survive. Ironically, however, child labour is also a cause of poverty. It usually deprives children of an education and the opportunity to acquire skills, and in some cases also results in physical disabilities that further limit the earning potential of the victim. The link with poverty is reflected

\textsuperscript{161} International Labour Organization, A Future Without Child Labour, op.cit.
\textsuperscript{162} Ibid
\textsuperscript{163} Eliminating the Worst Forms of Child Labour, AHandbook for Parliamentarians, ILO and the IPU (2002) p.15
\textsuperscript{164} Ibid
\textsuperscript{165} International Labour Organization, A Future Without Child Labour, op.cit.
in the number of children who work outside the home. The rate ranges from 2 per cent of children under the age of 14 in industrialized countries to 29 per cent of children under the age of 14 in sub-Saharan Africa. Other causes of child labour include family indebtedness, the lack or poor quality of schools, breakdown of the extended family, uneducated parents, cultural expectations concerning the role of children, high fertility rates and consumerism.\footnote{166 Eliminating the Worst Forms of Child Labour, AHandbook for Parliamentarians, ILO and the IPU (2002) p.15}

3.7.1 Underage employment

The main purpose of minimum ages for employment is to protect the right of children to obtain an education. The relationship between education and child labour is an oppositional one. Many children leave school or are unable to meet the demands of the school system because of the need to work. Other children become child labourers because no schools are available, because they cannot afford the cost of school attendance, because the education offered is of poor quality or perceived as irrelevant, or because the school environment is hostile.\footnote{167 Ibid} While some children are deprived of their right to an education because of premature entry into the labour market, others enter the labour market prematurely because their right to obtain an education is not effectively guaranteed.\footnote{168 International Labour Organization, A Future Without Child Labour, op.cit.}

The main causes of underage employment are structural, and are related to weaknesses in the economic, social and educational systems. Structural adjustment programmes, privatization and transition to market-oriented economies have had a significant impact on school enrolment and child labour in many countries. Legal and cultural factors also play a role, however. In many countries, the minimum age for employment is lower than the age of compulsory school
attendance, which leads to a puzzling situation where children have a right to seek employment while being legally obliged to attend school.  

### 3.7.2 Hazardous employment

Every child has the right to living conditions that are suitable to his or her physical, mental, spiritual, moral and social development. Hazardous work is work that is likely to prejudice the development of the child concerned in any of these areas. Almost two thirds of all children engaged in hazardous work are under the age of 15.  

Work may be hazardous due to the nature of the activity itself, the tools or materials used in the workplace, or the hours or conditions of work. Certain types of labour, such as agriculture, fishing and mining, have long been recognized as dangerous for children, but other types of labour may also be hazardous depending on the circumstances, including the age, health and sex of the child.

Children who are malnourished or stunted, for example, are more vulnerable to physically demanding work. Girls employed as domestic servants are particularly vulnerable to sexual exploitation. Statistics from developed countries, where more data is available, indicate that child workers are more vulnerable to work-related accidents and injuries than adults, and that girls are generally more vulnerable than boys. In the United States, for example, the rate of injury for children and adolescents is almost twice as high as that of adult workers.

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169 Ibid  
170 Eliminating the Worst Forms of Child Labour, AHandbook for Parliamentarians, ILO and the IPU (2002) p.15  
172 Ibid
3.7.3 International standards on child labour

Article 32 recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development. The second paragraph of this article spells out the corresponding obligations of States. These include a general obligation to take legislative, administrative, social and educational measures to ensure effective protection of this right, and three specific obligations, namely, to provide for a minimum age or minimum ages for admission to employment; provide for appropriate regulation of the hours and conditions of employment and to provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.\textsuperscript{173}

3.7.4 The African Charter on the Rights and Welfare of the Child

Article 15 provides that every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s physical, mental, spiritual, moral, or social development. The second paragraph of this article recognizes the obligation of States to take legislative and other measures to protect this right, including the establishment of minimum ages for employment.

3.7.5 International Labour Organization (ILO) Conventions

ILO Convention No.138 establishes three age limits 18 for hazardous work, 15 for full-time employment in non-hazardous work and 13 for ‘light’ work that does not interfere with

\textsuperscript{173} ibid
Each country is to establish a list of the types of employment that are considered hazardous. Countries whose economic conditions and educational system would make these age limits unrealistic may lower the minimum age for ‘light’ work to age 12 and for other non-hazardous work to age 14. ILO Convention No. 182 on the Elimination of the Worst Forms of Child Labour also prohibits the employment of any person under the age of 18 in hazardous employment and, unlike Convention No. 138, it allows for no exceptions. The Committee on the Rights of the Child considers that the general obligation of the States Parties to the Convention on the Rights of the Child to set minimum age limits for employment should be interpreted and applied in the light of the age limits set forth in these ILO Conventions.

In 1998 the ILO adopted a Declaration on Fundamental Principles and Rights at Work, which recognizes the abolition of child labour as one of the four basic principles that all Member States of the Organization are bound to respect. This supports the position that the abolition of the employment of children in work that is hazardous or deprives them of their right to education is a customary rule of international law that all members of the international community are obliged to respect.

Conclusion

There are various factors that contribute to child exploitation some of which include: social, cultural and economic problems. For example, child trafficking is a complex interplay of different factors, the major one being poverty. That means, all other factors fall within the poverty circle. Again some factors are indirect while others like forced marriage are direct. These

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174 International Labour Organization, A Future Without Child Labour, op.cit.
175 Ibid
176 Ibid
factors can be divided into five categories: rural poverty, low income and decline of the agricultural sector; sickness, parental death and orphanhood; family conflicts, separation and remarriages; polygamous and large families as well as forced marriage.
CHAPTER FOUR

RESEARCH FINDINGS

4.1 Introduction

This chapter analyzes the findings as per the research objectives. It uses secondary data to test the hypothesis of the study.

4.2 Forms of children’s rights violation in Tanzania

The trend of violations has continued because the country has a high population of children. Recent studies conducted in Tanzania have revealed that sexual, physical and emotional abuses are commonly experienced by large numbers of children growing up in the country. According to UNICEF’s,¹⁷⁷ among every ten females, three reported to have experienced sexual violence before they were 18 whereas among every twenty boys, three reported a similar experience before they were 18 as well.

4.2.1 Child prostitution and Trafficking in Tanzania

Though there are very limited statistical data and reliable information on the nature and extent of the Commercial Sexual Exploitation of Children (CSEC) in Tanzania due to lack of research on the issue, and more importantly, a cultural inhibition that makes CSEC related issues a taboo, the available information so far indicates that child prostitution exists in various forms and that it

¹⁷⁷ UNICEF’s survey report on violence against children in Tanzania (UNICEF Tanzania, 2011)
is increasing. Tourism, poverty and the growing number of street children in the urban areas have led to this increase. In most instances, child prostitution is hidden and in some cases it is disguised as early or forced marriages or as child abuse. CSEC is a growing problem in the Tanzania urban areas due to acute poverty.

Harsh economic conditions are causing children to drop out of school. Often young children and especially girls have no way to survive other than prostitution. Extreme poverty provokes parents to sell their children into sexual exploitation or to give away their young daughters in marriage in exchange for a dowry. There are also increasing reports of children being trafficked from the rural areas to the urban areas because of the belief that they are free from AIDS. Moreover, sexual abuse of child domestic workers is increasing. Tanzania also has a growing number of street children who are often harassed and sexually assaulted by “Sungusungu” (local traditional community security guards) or neighbourhood patrols. Children in Tanzania engage in prostitution in order to support themselves or support their families. Some children exchange sex in return for protection or special favours.

Girls as young as nine are sexually exploited. Sex tourists are increasingly seeking children in Arusha, Dar es Salaam and Singida areas. Child abuse in Tanzania is on the rise although it is still a hidden issue. There is limited information available on the state and extent of child pornography in Tanzania. Child pornography is also a taboo in Tanzania and it is presumed that a lack of modern information technology has prevented it from becoming widespread.

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178 ibid
180 Ibid
Although there is limited information on trafficking of children in Tanzania, sources such as NGOs dealing with domestic workers such as Kiota Women’s Health and Development Organization (KIWOHEDE), reveal and acknowledge the existence of child trafficking. Children as young as seven are trafficked from rural to urban areas. They go to work as domestic helpers for prosperous families as cheap labour. Most of these girls come from Singida, Morogoro, Dodoma, Iringa and the Coast region to Dar es Salaam.\footnote{URT. (2009a). The Law of the Child Act, 2009. Dar es Salaam: URT.}

According to End Child Prostitution, Pornography and Trafficking, about 90\% of girls aged between seven and 18 years from Kwamtoro (Dodoma) and Kidabaga (Iringa) immigrate to Dar es Salaam, Arusha and Mwanza.\footnote{URT. (2009b). Poverty and Human Development Report. Dar es Salaam: Government of Tanzania.} Most of these victims are girls who are subjected to harsh living and working conditions. These children are very vulnerable to commercial sexual exploitation. In many cases girls are abused by their employer and in the event of pregnancy, they are expelled from the family. Some of them, without any support and with few possibilities to return to the native village, can become victims of CSEC.\footnote{Ibid}

There is a high mobility of children across the country. Moving as domestic workers from a very young age, and often abused in the employers’ houses, many girls find themselves without any other alternative than engaging in prostitution. The organized system that recruits girls into prostitution can involve ringleaders (as in Manzese in Dar es Salaam), but often it is children themselves who recruit their siblings, friends or children living with them in the same house, neighbourhood or in the streets to engage in prostitution.\footnote{Ibid}
In opposition to Tanzanian cultural norms, desperate parents have had their priorities impacted by their circumstances, and thus welcome this sort of trafficking, knowing they then have a guaranteed wage earner. Most of the families felt they had no other choice than to give up some of their daughters. In some cases some of the girls received good income in other jobs, but they engaged in prostitution as an opportunity to meet white men even if they had a decent job.\textsuperscript{185}

The phenomenon of children engaging in prostitution is growing quickly and steadily, and developing largely unnoticed in Tanzania. Moreover, child prostitution is evident throughout the country and highly pronounced in major towns and at main truck stops along the highways where state, administrative, military and commercial activities are highly centralized. The mere existence of the market continues to promote the sexual exploitation of children. The main customers of the children are common men, medium and big businessmen, bureaucrats from public and private institutions, policemen, tourists and foreigners. Prostitution involves quite a number of children who are 10-17 years old, do not have families, have criminal records, have a history of drug abuse and very few social skills, and lack parental guidance, love, affection and care.\textsuperscript{186}

Child prostitution is now becoming a more organized network in Tanzania. Those involved know each other, and sometimes they know each other’s phone numbers; if they happen to be in Remand prison (being kept in custody while further evidence is sought) they know who will bail them out. According to the survey in Dar es Salaam, in nine selected sites in Kinondoni district approximately 450 –500 children (counted per head) were seen on one occasion or another.

\textsuperscript{186} Ibid
involved in child prostitution. Child prostitution (mostly in urban centres) is commonly practiced in brothels, bars, guest houses, tourist hotels, and along the streets.\textsuperscript{187}

\subsection*{4.2.2 Exploitation of children through child Labour in Tanzania}

According to ILO statistics between 350,000 and 400,000 children aged below 15 are engaged in child labour in Tanzania alone.\textsuperscript{188} In Tanzania today, children continue to be employed at a ‘slave wage’ in small-scale mining, factories, plantations and in households. A recent ILO-IPEC study 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.\textsuperscript{189} The study states that more than 40\% of Primary School Age Children interviewed at Mtibwa in Morogoro region indicated that they were working part-time at the Mtibwa sugar-cane plantation under hazardous conditions, and for little pay, in order to buy school uniforms and other requirements.\textsuperscript{190}

The ILO – IPEC study has noted further that children involved in the mining sector are exposed to environmental hazards and subjected to sexual abuse, thus risking being infected with the deadly HIV/AIDS virus and other sexually transmitted diseases. The study reported that primary school dropout rate is between 30\% and 40\% in the villages surrounding the mining sites, for example at the Mererani mines in Arusha region.\textsuperscript{191}

The problem of child labour in Tanzania has so far escaped judicial scrutiny. This is mainly due to the great secrecy in which it is shrouded, coupled with the uncooperative nature of parents

\textsuperscript{188} Ibid
\textsuperscript{189} Ibid
\textsuperscript{190} Ibid
who give consent for their children to be employed. A study that was conducted in Makete
district in Iringa region discovered that some employers in tea plantations did not keep proper
registers of children employees.\textsuperscript{192} This is a clear violation of the Employment Ordinance and
Article 9 (3) of the ILO Convention No.138 both of which require every employer to keep a
register of children under 18 years.

4.3 The causes of children’s rights abuse in Tanzania

Poverty is the major condition for girls trafficking/exploitation in Tanzania. A good number of
Tanzanians lives below the poverty line. For example, it has been estimated that about a half of
the Tanzanian population live below the basic needs poverty.\textsuperscript{193} In terms of children, UNICEF
reports that 78\% of children in Tanzania suffer severe shelter deprivation while 63\% suffer water
deprivation.\textsuperscript{194} In 2010, the government admitted that there was an increase in poverty especially
in rural areas to due to severe drought which affected crop production, livestock and power
generation.\textsuperscript{195} In rural areas people lack quality food, sleep in poor accommodation, and do not
have money to buy basic needs such as clothes, salt, soap and medicine as we have seen in the
study.

Poverty is a central factor in the decision of parents to send their children away to work in
Tanzania.\textsuperscript{196} It disempowers people by limiting their ability to control their lives and make
choices hence they opt for sending a girl away. Sending children to town has two implications:

\begin{thebibliography}{99}
\bibitem{Ibid} Ibid
D.C: World Bank
\end{thebibliography}
one is to let her/him find means of supporting herself and possibly to contribute to family income and two, to reduce the number of dependents at home.\textsuperscript{197}

Majority of people have taken advantage of the poverty to attract girls and promise a better living situation. Traffickers exploit the aspirations of those living in poverty and seeking better lives.\textsuperscript{198}

They use dramatic improvements in transport and communications to sell men, women and children into situations of forced labour and sexual slavery with virtually no risk of prosecution. Poverty affects the children especially girls much more than the adults. In Tanzania, due to the burdens of poverty, desperately poor and uninformed parents have been reported to be willing to co-operate with the traffickers, giving away their children in exchange for a small fee.\textsuperscript{199} Studies show that poverty, cultural values and traditional beliefs tend to weaken the protection of child rights; hence push them to the hands of traffickers. Thus, in a poverty situation, instead of using money for bringing up children, caregivers utilize the children as assets to get money.\textsuperscript{200}

Poverty deprives one of human rights; it limits freedom and ability to develop human potential.\textsuperscript{201} In other words, it limits one’s ability to exercise his/her agency which is a key aspect of empowerment.\textsuperscript{202} Similarly, poverty limits people’s ability to participate in society and so leaves them feeling powerless to change their situation, which implies depriving power with which according to Rowland\textsuperscript{203} implies ability to associate with others. Being poor also implies lack of resources, economic human and social resources. Resources form the second element of

\textsuperscript{199} UNICEF. (2007). Information Sheet: Child Trafficking, Nigeria. Lagos: UNICEF.
\textsuperscript{201} Irish Aid. (2008). Irish Aid Factsheet 2: Poverty and Development. Dublin: Irish Aid.
empowerment. Consequently, due to poverty, the rural community is disempowered; they do not have choices except agreeing with false promises.\textsuperscript{204}

Poverty is intertwined with socio-cultural issues such as family instability. The instability of the family is associated with marital conflict, divorce or death of one or both parents. This may lead the child to going to grandparents and most of these grandparents are poor and old.\textsuperscript{205} Children from families which have disintegrated either through death (leaving orphans and widows) or divorce are more vulnerable to trafficking than those living with family members and friends.\textsuperscript{206}

According to the government of Tanzania, the vulnerability of the poor is increased by the preponderance of disease, including the rapid spread of HIV/AIDS.\textsuperscript{207} In 2012, the population census reported that 10\% of children under the age of 18 had lost either one or both parents while in Makete district (one of the most affected districts in Tanzania), almost one quarter of children had been orphaned.\textsuperscript{208} In relation to trafficking, poor children especially orphans may at times be abused by some people taking advantage of the poverty in their families. Orphans are always in danger of ending up being house maids and then by default become sex slaves.\textsuperscript{209} Also marital conflict and divorce lead children to be unsettled hence may want to go to elsewhere; that desire to go away may lead them to be trafficked.

\begin{flushright}
\textsuperscript{208} Ibid
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Another socio-cultural aspect is the gender stereotype in domestic work. The vast majority of domestic child workers are girls as young as six years old.\(^{210}\) Moreover, women employers not only say that girls are more obedient than boys and consequently preferred, but sometimes even know which ethnic group they prefer most as obedient.\(^{211}\) For example, in Tanzanian cities most women prefer girls from Hehe community from Iringa region. Again, the tradition of child fostering play a great role in perpetuating child trafficking. Caregivers consent with very little questioning about what will happen to their daughters which is explained by trust built on existing social networks.\(^{212}\) The extended family network is very much valued in East Africa, making it easy for the affluent family members, friends and acquaintances to offer to assist the poor folk in their midst. As a result of this network of trust, the poor folk will tend to give out their children with ease hoping that the child will be assisted to get good education.

Most of girls trafficked go to known persons (close relatives, neighbours or family friends) with a few number landing into the hands of unknown persons. Even when both parents are alive children are usually exploited and deprived their basic rights. Children have suffered from various forms of discrimination perpetrated not only by third parties but also by the children’s own parents and relatives.\(^{213}\) The manifestation of negligence, irresponsibility and loss of parental love in Tanzania has been reported by Daniel\(^{214}\) who illustrates two cases of families in Makete district (Tanzania) whereby parents left their children unattended. In the first case, the


father was alive while in the second case the mother married a man who did not like to take care of the step children. These are incidents of violation of child rights as stipulated by (UN, 1989) and.\textsuperscript{215}

Rural poverty is the major factor in child trafficking in Tanzania. Poverty is intertwined with other socio-cultural aspects such as family instability, gender stereotype, child fostering and forced marriage. These cause children especially girls to be deprived of basic rights such as education, basic needs, parental care and love.

4.3.1 Factors contributing to the commercial sexual exploitation of children

Gender inequality and gender discrimination: The pervasive legal, social and economic inequality faced by women and girls in Sub-Saharan Africa Tanzania included increases their vulnerability to commercial sexual exploitation. The intersection of gender and ethnic discrimination heightens this vulnerability, as is evident in the disproportionate representation of racial or ethnic minorities in the commercial sex trade. The stigma attached to victims of sexual exploitation and abuse can lead to further marginalization and re-victimization.

Poverty: Poverty is not the only reason for commercial sexual exploitation of children, but it is the principal catalyst in most Tanzania communities. For example, procurement agents thrive in urban slums and poor rural villages, where there are few educational or employment opportunities. Poverty have pushed most families to go to desperate lengths to survive including sending their children to seek for employment.

Demand for sexual services: Child-sex offenders can be found in any profession, in rich and poor nations, may be married or single, foreigners or locals, heterosexual or homosexual. In Tanzania, the majority are male. They often justify their abusive behaviour on the grounds that the children have chosen to be involved in the commercial sex trade or come from cultures where children are more open and sexually experienced at an early age, and that they are helping these children by giving them money.

HIV/AIDS: Feeding the demand for child sex is the belief that a child is more likely to be ‘clean’ and unable to transmit diseases such as HIV/AIDS. However, children are physiologically more prone to disease and less likely than adults to be able to require ‘customers’ to use condoms. The HIV/AIDS epidemic has also increased the number of orphans and child-headed households in Tanzania. These children are often more vulnerable to sexual exploitation.

Misuse of the Internet: Child pornography, information on sex tourism and mail-order brides are openly available on the Internet. Forums such as chat rooms facilitate communication between gangs and trafficking networks and have become meeting grounds for pimps and predators stalking children.

Family dysfunction/breakdown: Some families in Tanzania live in desperately difficult circumstances. Some parents suffer from physical or mental illness, drug abuse or alcoholism, causing children to leave home at an early age to try to survive on the streets through whatever means are available, exposing them to the risks of sexual exploitation. Also, for many children, sexual abuse occurs in the home at the hands of a close relative or friend.
4.3.2 Micro-economic determinants of the household demand for child labour

There have been circumstances where the micro-economic environments of some households lead to demand for child labour. In this situation children engage in work because the social economic status of those households dictates so. For example, in Chunya District (Tanzania) especially among the pastoralists’ communities, the nature of households’ economy is an explanation for why some children need to work.\textsuperscript{216} The pastoralists involve their children in looking after their animals instead of enrolling them in schools. And for those children who do happen to get enrolled most have to drop out of primary schooling so as to accompany their parents in search of pastures for their animals.

Children also suffer from the effects of child labour as a result of internal division of work within the households. Some children are engaged in work outside the home together with their parents, whereas others carry out duties within the households in order to enable adults or other siblings attend work outside the home.\textsuperscript{217}

4.3.3 Micro-economic determinants of the household supply of child labour

There are a number of explanations regarding the determinants of the supply of child labour at household level. A Survey by ILO/ IPEC in Tanzania reveals that the declining household income that has made it difficult for parents to meet the basic needs of their children including school requirements.\textsuperscript{218} Due to economic hardships people are prompted to take care of the


nuclear family only, a departure from traditional norms and values which bound the extended family and clan members together. Abandoned and neglected children ultimately run away from their homes and end up in different work-sites as labourers.

Findings by ILO/IPEC Tanzania are supported by a study by Masudi, Ishumi and Sambo. The study found economic hardships at household level as the possible explanation underlying child labour in different parts of the country. This implies that, had families wherever they are been able to provide their children with all basic needs and beyond, none of the children who suffer from the consequences of child labour today would have endangered their physical, moral, mental health and future in general. In search for survival many children find their way into labour markets, which are actually detrimental and dangerous to their wellbeing. To this end, child labour has been continuously depriving children their rights to a number of opportunities including social services such as basic education.

The micro-economic factors, which contribute to child labour, and that force households to be suppliers of child labourers in Tanzania include family related factors and household needs. This is very common, for example, in households where parents have died of HIV/AIDS related diseases and where children live with a single parent or guardians who depend on the products of working children. Consequently, this situation forces children to work for money for the survival of the family. In this context, therefore, a child frequently is a breadwinner for the all family.

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219 Ibid
Working children contribute about 40% of the household income that is geared to basic food items.\(^{221}\)

Inability of households to meet the basic needs of children (education, food, shelter, and clothes) in most cases forces children to engage in employment in their endeavour to improve their conditions and livelihood.\(^{222}\) There is a significant relationship between child labour and poverty in most places especially rural areas. Children work because they want, and need, to fill social and economic gaps that exist in their households. Likewise, sending children to work can be a survival strategy employed by either parents or guardians in the course of trying to reduce risk of interruption of the income stream within the households. This is very common when households that are normally relatively prosperous, are exposed to diseases, natural disaster and outbreak of wars.\(^{223}\)

The internal divisions of work within the household as one of the contributory factors for child labour.\(^{224}\) On the one hand, children have to work hand in hand with their parents as part of traditional socialization of children. This is because children will be future adults who are expected to handle families. On the other hand, children ought to undertake household duties in order to enable their parents work outside the home. In this case children often assume the role of father and mother in the absence of their parents.\(^{225}\)

\(^{221}\) Ibid


\(^{224}\) Ibid

\(^{225}\) Ibid
4.4 The various measures put in place to protect children from abuse in Tanzania

Human rights expresses the bold idea that all people comprising children and young people have claims to social, economic and political arrangements that secure them a life of freedom and dignity and protect them from deprivation and harm. Human development, in turn, is a process of enhancing human capabilities to enable each person to live a long, healthy life of value and respect. Human rights add value to the development agenda draw attention to the imperative to respect, protect and fulfill the rights of all people, such that ensuring children's wellbeing is no longer a matter of charity or goodwill but obligation and accountability. In this light, children are no longer mere recipients of services but subjects of rights.

The tradition of human rights also brings a deep history of collective organizing for justice and social change as well as practical legal tools and institutions such as laws, due process and an impartial judiciary that are essential to sustainable development. The rights perspective places special emphasis on those who are excluded, vulnerable or deprived, particularly when these are caused by discrimination. It directs attention to the need for access to information and political voice for all people including children and young people, and especially the poor and marginalized and to civil and political rights as being integral to the development process. In this sense human rights are not neutral. They stand for clear values and truthfulness; and they express solidarity with those who are oppressed and criticize those in positions of authority who abuse their powers.

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227 ibid
229 Ibid
The human rights of children generate duties and responsibilities that must be honoured. The primary obligation lies with the State and its representatives, to provide the services and create the conditions that are necessary for the fulfillment of rights. Consequently, duties also lie at all levels of society, from the individual to the international levels. The most important is the community level, where children live, and where most rights are fulfilled or violated. Thus engaging with communities in the development of community capacity to recognize, respect, fulfill and promote rights is vital. This includes strengthening the capacity both of rights-holders to articulate, organize and claim their rights, and of duty-bearers to listen and act responsibly in kind. It is in effect the creation of a dynamic environment for accountability.\textsuperscript{230}

The Government and Parliament of Tanzania have expressed a clear commitment to human rights. The Constitution recognizes the fundamental rights and freedoms of all citizens. The country's Vision 2025 document places democracy, empowerment and popular participation at the heart of development. The Government has also ratified several important human rights treaties, including the United Nations Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Recent Government policy decisions, including the process of local government reforms, aim to create greater space for public participation in governance and development.

The partnership between Tanzania and the United Nations (UN) is grounded in respect for human rights, a commitment to promote sustainable human development and a desire to create conditions for democratic public participation in the development process. The United Nations Development Assistance Framework (UNDAF) for Tanzania, whose development has been

guided by Government decisions and policy positions, embodies this commitment. The UNDAF
aims to achieve greater coordination, effectiveness and efficiency in the UN system. This is
especially important in the support of local government reform/decentralization processes and
the associated sectoral development programs. This analysis of the situation of children
complements the analytic work that informs the UNDAF process. This analysis is also informed
by the principles outlined in the guidelines on the operationalization of human rights
programming, developed by the UNICEF East and Southern Africa Regional Office.

4.4.1 Child Protection in Tanzania

A majority of children in Tanzania report experiencing violence and abuse without a clear point
of contact for support. The 2011 Violence against Children in Tanzania report presents violence
against children as a serious problem in Tanzania with nearly 3 in 10 girls and approximately 1
in 7 boys in Tanzania having experienced sexual violence prior to the age of 18. Almost
three-quarters of both girls and boys have experienced physical violence prior to the age of 18.
Despite these alarming rates and national efforts to address the problem, necessary services for
affected children have been fragmented and uncoordinated with no clear primary point of contact
for services provided across different ministries, departments and national agencies. The lack of
response from families, community leaders, police, and state departments has meant that many
cases never get reported, let alone reach the health and/or judicial services.

Ibid
4.4.2 Child Protection System Strengthening

From 2010–2013 Save the Children implemented a *Child Protection System Strengthening Pilot*, with support from UNICEF on the Tanzania mainland in Magu, Hai and Temeke districts. The pilot aimed at improving and strengthening district level government in management of child protection systems and structures. In addition it supported the development of a skilled child protection workforce at ward and district level for the effective delivery of social welfare services, prevention and response to child protection issues. It worked to develop and implement a Monitoring and Evaluation system to ensure adequate monitoring and oversight. Linked to this is the support to central government in developing National Guidelines on how to establish and manage a District Child Protection System and One Stop Centre to provide services for victims of abuse. The Government of Tanzania, the United Nations Children’s Fund (UNICEF), the European Union (EU) Delegation to Tanzania, Save the Children International (SCI) and Plan International (PLAN) launched a joint child protection initiative to end violence against children in Dar es Salaam in 22 January 2014.

UNICEF, Plan International (PLAN) and Save the Children International (SCI) have implemented an initiative funded by the EU to the tune of 4 billion TSH (1.8 million EUR), in Kisarawe, Kibaha, and Shinyanga Rural districts on the mainland and West district of Zanzibar. SCI, PLAN, in partnership with local authorities and civil society organizations have taken the lead at the local level while UNICEF has taken the lead at the national level with the Ministry of

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235 Ibid
Health and Social Welfare on the Mainland and the Ministry of Empowerment, Social Welfare, Youth, Women and Children Development in Zanzibar.\textsuperscript{236}

This partnership is a significant step forward to strengthen child protection systems in order to address violence against children in the country, as well as an opportunity to foster a stronger alliance for children among the EU, the host government and agencies working closely with children UNICEF, Plan International, and Save the Children. Protecting children’s rights and welfare is not only a moral imperative, it is also a fundamental development objective. The European Union is honored to contribute to this multi-stakeholder initiative which is meant to go a long way in supporting comprehensive and integrated services to curb violence against children.

The initiative supported by the joint-project is a follow-up to the Violence against Children Study undertaken in 2009 that will help the country move from research to action. The child protection project has created collaborations with existing action and framework in the country. The project supports the National plan of Action for the Prevention and Response to Violence against Children (2013-2016) as well as the National Costed Plan of Action for Most Vulnerable Children (2013-2017). In the former, the Ministry of Health and Social Welfare committed to expanding the child protection system to 30 districts by 2016. The support from the EU is a significant contribution towards achieving this goal.

The initiative will support the establishment of child protection systems to effectively identify, prevent and respond to all forms of violence against children, especially girls. At the subnational level, the action will complement existing interventions focusing on fighting child labour and establishing safe schools in Zanzibar with SCI and will build on community structures strengthened under the Water and Sanitation Programme in Kisarawe with Plan International, both carried out with EU support.

The project is aimed to support national authorities to build district-based child protection systems to prevent and respond to all forms of violence against children, particularly girls. It will focus on children and their families, promoting a protective community environment and safe schooling while building the capacity of frontline duty bearers. The programme aims to achieve a long-term, sustainable system for identification, prevention, response and rehabilitation of children by embedding the system into the Local Government Authorities (LGAs) and community structures using the results generated to advocate for a regular budget allocation for child protection at the district level. At national level, the programme aim to strengthen the capacity of the Departments of Social Welfare on the mainland and Zanzibar to provide technical support to LGAs on child protection system strengthening.237

4.4.3 Strengthening of the Multi-Stakeholder Child Protection System in Zanzibar

Funded by SIDA, the Multi-Stakeholder Child Protection System strengthening in Zanzibar focuses on ensuring that communities are aware of all forms of child abuse, that protection services are available, and that effective coordination and referral mechanisms ensure

convictions of perpetrators. Save the Children is supporting the implementation of an integrated, functioning and well-coordinated child protection system by using the Children’s Act, National Guidelines on Child Protection, and working with various Government bodies and civil society through capacity building to ensure sustainability of resources as well as improved quality of services to children. The Child Protection Unit under the Department of Social Welfare with the Ministry of Empowerment, Social Welfare, Youth, Women and Children (MESWYWC) is the coordinating agency at national level and responsible for the implementation of the national strategy and to involve and coordinate across governmental sectors (social welfare, health, education, justice, etc.), and involve civil society, international agencies, families and children in a safe way.

4.4.4 Creating One Stop Centers as part of broader child protection system strengthening

In 2011 Save the Children, in collaboration with the Child Protection Unit of the Department of Social Welfare, established the first One Stop Centre (OSC) at Mnazi Mmoja Hospital in Stone Town, Zanzibar. The Centre consists of a 3-room unit of police officers (without uniform); medical personnel and counselors who provide health, legal and psychosocial services to survivors of violence 24 hours, 7 days a week. Encouraged by the results and the government support, Save the Children has supported the establishment of 5 other Centers at the Chake Chake, Michweni and Wete hospitals in Pemba and Makunduchi and Kivunge hospitals in Unguja. Each OSC aims to offer the following services to survivors of all forms of abuse: Medical services by health professionals who include a medical doctor; reporting of cases to

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police officers; and psychosocial counseling provided by a social worker. Save the Children intends, with other actors, to expand this child protection initiative across the country.

4.4.5 Establishment of a child friendly court in Zanzibar as part of the Child Justice reform

In February 2013 the first child friendly court of Zanzibar was officially opened. Renovation of the rooms to establish the pilot child friendly closed court at the High Court in Stone Town was done, and appropriate furniture and appropriate audio visual equipment were purchased and installed in 2012.241 The court is set in a child friendly environment and although it is located in the High Court building, it is separate from the other courts. The Court, which is unique in Tanzania, will provide children with the support and security that they need when they make their appearance in court either as victims, witnesses or offenders. Since 2012 Zanzibar University offers a Diploma course in Child Rights and Child Protection. Several of the students are professional law enforcement professionals (Police) and government civil servants such as Social Welfare Officers. Due to increased demand for a high level cadre with higher knowledge in the area of child rights and protection, Zanzibar University is exploring ways to establish a degree course in child protection. These are meant to enhance the understanding of child abuse and child protection.

4.4.6 Safe environment in schools

Save the Children supports the Ministry of Education and Vocational Training (MOEVT) to pilot a “safe school” model in 20 schools in Zanzibar which have introduced positive forms of

241 Ibid
discipline instead of corporal punishment, directly reaching almost 20,000 children.\textsuperscript{242} Save the Children has supported the MOEVT to develop child protection guidelines which will be used by all ministry staff, including the non-teaching staff, and includes all schools in Zanzibar i.e. private, government, and religious. These guidelines have been adopted for use by all MOEVT staff as intended, thereby achieving a key child protection milestone.

4.4.7 Fighting the Worst Forms of Child Labour

Fighting the Worst Forms of Child Labour project is funded by the European Commission and Embassy of Sweden/Sida. It is a pilot project working to eliminate the worst forms of child labour in the regions of Unguja and Pemba (Zanzibar Island) focusing on legal frameworks, strengthening the capacity of local and national institutions, providing educational alternatives, alternative income-generating activities for families, and enhanced corporate social responsibility.\textsuperscript{243}

General raising awareness on child labour and its negative impacts on children have been undertaken in the communities through the NGO partners’ sensitization efforts, as well as through the media. By February 2014 a total of 3,094 children under 18 years of age who were either working or were at risk of entering into labour were withdrawn or prevented from entering into labour on Unguja & Pemba.\textsuperscript{244} These children have been sent back to school and are given scholastic materials such as uniforms, stationery (pens/pencils/exercise books), shoes, and

\textsuperscript{243}Ibid
satchels. By the end of 2013 a total of 672 most vulnerable families of children withdrawn from labour had been supported to start income generating activities (IGAs). Some of the families are engaged in goat keeping, poultry keeping, bee keeping, horticulture and tailoring. Standard Operating Procedures (SOPs) on implementing and monitoring a child labour project have been developed since 2012. These have been adopted by the Ministry of Labour, Economic Empowerment. Within the SOPs is a list of hazardous labour for Zanzibar. The list was successfully incorporated in the draft regulations for the Zanzibar Children’s Act No. 6 of 2011.\(^{245}\)

### 4.4.8 Tutunzane II project (Support)

Funded by USAID, the Tutunzane II project provides an integrated package of family-centred services to orphans and most-vulnerable children in Shinyanga region, in collaboration with Pathfinders International, Population Services International, and Tanzania Red Cross Society. Tutunzane II Shinyanga orphans and vulnerable children (OVC) project have been implemented in two districts of Shinyanga Municipal and Shinyanga District Council, ten wards and 72 villages between 2009 and 2013. It aimed at improving lives of 6,100 most vulnerable children (MVC) with education, health, nutrition and psychosocial support.\(^{246}\)

Some immediate results of the programme are: a minimum of three standard packages of services provided to 6,100 MVC in Shinyanga Urban and Shinyanga Rural districts; strengthened capacity of the districts, communities and families to effectively support provision

\(^{245}\) Ibid
of basic services for OVC in Shinyanga Urban and Shinyanga Rural districts; and Increased technical and coordination capacity of service providers and communities to provide quality, consistent care, support, and protection to OVC.
CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

Child exploitation and protection are issues for every child in every country of the world. At any given time, more than 300,000 child soldiers, some as young as eight, are exploited in armed conflicts in over 30 countries. More than 2 million children are estimated to have died as a direct result of armed conflict since 1990. More than 1 million children worldwide are living in detention as a result of being in conflict with the law. In Central and Eastern Europe alone, almost 1.5 million children live in public care. Over 13 million children are estimated to be orphaned as a result of AIDS alone. Approximately 250 million children are involved in child labour, with more than 180 million working in hazardous situations or conditions. An estimated 1.2 million children are trafficked every year. The number of children in the commercial sex trade indicates that 1 million children (mainly girls but also a significant number of boys) enter the multibillion-dollar industry every year. The figures may now be higher. Forty million children below the age of 15 suffer from abuse and neglect, and require health and social care. An estimated 100-130 million women and girls living in Africa today have undergone some form of genital mutilation.

Failure to protect children undermines national development and has costs and negative effects that continue beyond childhood into the individual’s adult life. While children continue to suffer violence, abuse and exploitation, the world will fail in its obligations to children; it will also fail
to meet its development aspirations as laid out in such documents as the Millennium Agenda with its Millennium Development Goals.

The violation of children rights in Tanzania have been due to the lack of a common understanding as to who is a child. For instance, according to the constitution of the United Republic of Tanzania a child refers to a human being below eighteen years of age. Conversely, Tanzania is also a signatory of the ILO Convention, no 38, of 1998 which sets 15 years as the minimum age for a person to be employed. In addition, the Marriage Act of 1971 allows a girl to get married at the age of 15. The employment of women and young person’s ordinance (enacted in 1940) made it illegal for children to work in factories. Nevertheless, the interpretation of who are young persons under this ordinance is that people between ages 16-18 are not considered to be children. There are many answers and interpretations to the question ‘who is a child in Tanzania?’ and are determined by a number of factors including among others the legal interpretations, traditions and customs and the context in which the young person is to be found.

Tanzania was the first country in Africa to undertake a comprehensive survey on prevalence levels of sexual, physical and emotional violence against girls and boys. The Tanzania Violence against Children Study, released by the Government and UNICEF in 2011, reveals that one in three girls and one in seven boys in Tanzania experiences sexual violence before the age of eighteen. In addition, rates of physical violence are alarmingly high, nearly three out of four boys and girls experience being punched, whipped or kicked during their childhood, while one quarter of all children are emotionally abused. The majority of children do not report their experience, few seek services, and even fewer actually receive any care, treatment or support.
In summary, the following are the most salient causes of child exploitation in Tanzania: Poverty: Poverty has come out as a source of child exploitation in Tanzania; many children who are involved in prostitution, child labour and any other form of child abuse come from poor families. This is revealed through the inability of parents to support their children. The parents are either under-or unemployed, and because of this they possess fewer means to fulfill their role and obligations. When met with poverty-stricken situations, some of the parents have facilitated the trafficking of their children to migrate to urban areas to search for jobs in areas such as Singida, Dar es Salaam, and Mwanza).

Laxity of families and community members at large: Communities and families are considered to be falling apart in the sense of losing moral ethics. There is a lack of parental responsibility for various reasons such as lack of hope, declining values, marital separation and domestic violence. These circumstances have driven children out of their homes to the streets, seeking an alternative.

Child exploitation by local and international private social entertainers: Most of the child prostitutes are found in tourist places like brothels, hotels, guesthouses, disco bars, local brew shops, casinos and more generally in the entertainment industry. Owners of these places utilized girls to attract more customers and the girls were given false jobs. Normally the two parties do not enjoy a positive cost-benefit balance. It is a ready-made market and children are not sexually exploited only because they are poor, but also because they are vulnerable to such pull factors.

Child Prostitution as a last resort for survival: It is noted that to survive in prostitution one needs a great deal of courage and a large dose of initiatives. Engaging in prostitution is not for anyone;
it is for those who can cope. The children in the business have already made their own decisions and developed strategies for coping and surviving around prostitution. The children have concluded that they have no options, and in some cases they have made the decision to remain in business for a long period of time.

5.2 Recommendations

A comprehensive programme against the exploitation of children should include components on prevention; detection, reporting and intervention; reduction of demand and the prosecution of offenders; and the proper treatment of victims and compensation. It should be based on empirical research and designed for implementation on the local and national level. It should also include international cooperation, in particular in the prevention and repression of trafficking for purposes of prostitution, pornography and sex tourism.

Programmes to child exploitation should recognize that victims of other rights violations are more liable to become victims of abuse and exploitation. The approach should encourage all social services that come in contact with children, such as health services, schools or day-care centre’s, to be part of the identification and referral of abuse at home.

Efforts should be made to reach out to children who have left home and dropped out of the school system in order to provide them with shelter and reinsertion into an appropriate form of education, and an alternative to life on the streets.

Parliamentarians should promote improved access to quality education, which specifically includes addressing the obstacles to the full participation of girls. Primary education should be compulsory and available free to all (including school fees, textbooks and uniforms). In addition
to providing children with the skills to change and improve their lives, schools must educate children to recognize and avoid high-risk situations, while addressing the specific needs of those children who have suffered from various abuses. At the same time, schools must provide a safe and protective environment for children, free from the threat of exploitation.

Parliamentarians are encouraged to use their leadership to secure financial commitments for programmes to combat exploitation of children. This includes budgeting for prevention measures aimed at root causes of exploitation, such as poverty alleviation, promotion of gender equality, education and protection of children without caregivers.
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