Understanding Strengthening Administration of Justice through Experiences of Child Sexual Abuse Victims in Tanzania

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Abstract

Writing of this paper was inspired by reading of Tanzania "Child Justice Five Year Strategy for Progressive Reform, 2013-2017" (Ministry of Constitutional and Legal Affairs, 2012), and the making sense of a paper by Honorable Murtaza Jaffer (2012) titled, "Strengthening Administration of Justice and Upholding the Rule of Law in East Africa". The two inspiring documents recognize that the administration of justice depends on the rule of law, which depends on just laws to begin with. The Child Justice Five Year Strategy for Progressive Reform in particular, acknowledges "the challenges the justice system faces in dealing with children's cases expeditiously but fails to stipulate strategic plans for addressing social-cultural factors inhibiting reporting of abuse and exploitation by children and their families. This paper attempts to draw justice administrators' attention to cultural adjustment the Tanzanian society made to Sexual Offenses Special Provision Act, 1998 (SOSPA) through sharing of documentary research experience with enforcement of child sexual offenses law in Tanzania where only 11% of perpetrators were found guilty of sexual offense charges brought before the court.

Keywords: Barriers to child justice, cultural adjustment in Tanzania, child sexual abuse.

Introduction

The inspiration for writing this paper came from reading the Tanzania "Child Justice Five Year Strategy for Progressive Reform, 2013-2017" and making sense of an annual conference presentation by Honorable Murtaza Jaffer (2012) titled, "Strengthening Administration of Justice and Upholding the Rule of Law in East Africa". The two inspirational documents acknowledge that the administration of justice depends on the rule of law; the laws which must first be based on justice. For instance, the Child Justice Five Year Strategy realizes that, child protection "requires a comprehensive regulatory framework to facilitate the implementation of the Law of Child Act, 2009 (LCA); a cultural and attitudinal change on the part of parents and the public; and a new way of approaching and managing child protection on the part of the police, social welfare officers, community development officers, the judiciary and those working in the education and health sectors". It also acknowledges "the challenges the justice system faces in dealing with children's cases expeditiously and in protecting children from further harm" without stipulating strategic plans for addressing social-cultural factors contributing to "the low level of reporting by children (and their families)".

Coming from the social protection background, the Child Justice Five Year Strategy for Progressive Reform is consoling as it strives to ensure child justice in Tanzania even though the concerted efforts at curbing social-cultural factors inhibiting accessibility of justice to child victims and their families are not apparent. My research experience with enforcement of child sexual offenses law in Tanzania showed inadequate administration of justice to the suffering of child sexual-abuse victims (Bali, 2006). As a result, contents of the Child Justice Five Year Strategy for improving accessibility of justice to Tanzanian children were met with mixed feelings and crucial questions: can all groups benefit equally from a particular construction of laws? What happens when different groups and individuals view these laws differently? How can credible justice administration be achieved in a society in which different cultures have historically determined their meaning of injustice? How can cultural adjustments that societal members made to statutory laws be tackled? This paper is an attempt to share my research experience and draw the attention of justice administrators to cultural adjustment the Tanzanian society made to Sexual Offenses Special Provision Act, 1998 (SOSPA).

Even as he overlooks the inhibition of social-cultural influence on the part of the disadvantage groups trying to access justice, Honorable Jaffer (2012) correctly argues that, "the justice and rule of law components of governance reform promise eradication of corruption and insecurity and a justice system that works". In Tanzania, SOSPA is a regulatory framework, which provides severe penalty for anybody found guilty of a sexual offense. Yet, it is this severity of the law that has created unintended problems in the legal proceedings including inadequate prosecution and a low rate of convicting perpetrators (Bali, 2006). A documentary review of 180 court cases in Dar-es-Salaam City in Tanzania, showed only in 11% of the cases were the perpetrators convicted; 55% of the cases were dismissed; and 34% were withdrawn by the complainants (Bali, 2006); the finding that was consistent with Faller (2000) who documented 6% conviction rate of those cases that go to trial.

Methods and Goals

Bali's (2006) study was based on secondary data sources. Her dependent variable was court judgment, an indicator of whether or not the perpetrator was found guilty of the charges brought before the court and the subsequent penalty issued. Independent variables measured included: socio-demographic characteristics of both the perpetrator and victim (age, gender, ethnicity, occupation and religion), and crime-situation variables (rape, defilement, unnatural offenses, abduction, and indecent assault) and evidence (physical evidence of abuse as determined through medical examination and eyewitness), as well as perpetrator-victim relationship (whether or not the suspect is a family member) (Bali, 2006).

The obtained data were coded into binary numbers: 0= absence and 1= presence. One hundred and eighty criminal court records were reviewed and entered, but only 179 were kept for analysis because one case had missing data. Seventy two media report records were also reviewed, entered and kept for analysis. Probit regression models were estimated to determine which independent variables predicted better the likelihood that a perpetrator could be convicted using SOSPA.

Results and Discussion

The only statistically significant finding (see Table 1) came from the media report data where the presence of evidence increased the likelihood for convicting a perpetrator (t = 3.256, p = 0.001), which meant that the Tanzanian sexual offense laws work when the basic requirements of obtaining admissible evidence were met (Bali, 2006). A number of social-cultural and historical factors inhibited obtaining of evidence in Tanzania: the concept of weak state; colonial history of Tanzania's legal system; ineffective legislation; the legacy of the indigenous legal system; African adult-children interaction; conflicting definitions of child sexual-abuse and African childhood; the influence of perpetrator narrative discourse, and the effect of poverty among other socio-economic factors (Bali, 2006).

TABLE 1: Media Reports Regression Probit Test for the Likelihood of Conviction

Log Likelihood: -37.228

Variables	Estimate	S. E.	t-ratio	p-value
PERP AGE	0.167	0.361	0.463	0.644
PERP GENDER	-3.769	58.110	-0.065	0.948
CHRISTIAN	0.286	0.391	0.732	0.464
OCCUPATION	-0.315	0.331	-0.952	0.341
OFFENSE	-0.726	0.756	-0.961	0.337
UNNATURAL				
OFFENSES	1.105	0.837	1.320	0.187
EVIDENCE	1.740	0.535	3.256	0.001
VICTIM AGE	0.264	0.243	1.084	0.278
VICTIM				
GENDER	1.020	0.900	1.133	0.257
VICTIM PERP				
RELATED	-1.084	0.733	-1.478	0.139

-2 * L.L. ratio = 23.964 with 10 degrees of freedom
Chi-Square p-value = 0.008
Source: Bali, 2006

The Weak State

The weak state concept holds that states are less powerful than family and community in regulating individual lives (Bass 2004). The kinship system seems stronger and determines each individual's place in the primary social network. Kinship terminologies usually express the values and expectations of moral obligations for kin members (Ayisi 1979 quoted in Nsamenang 1992). Individual rights and duties are maintained within the family and larger kin groups.

Children are regarded as God's gifts to be cherished, as insurance for one's old age and vital to the future of the community that is why the communities and the state (through law enforcers) are always eager to punish anyone who commits criminal acts against children, but the results are not always effective. This is because in most parts of Tanzania, like in many African countries, state presence is minimal and its efforts to exercise power are sporadic and ineffectual. The police force is inadequate, fearful and corrupt, and generally entrusts safety and security to militia groups that are state encouraged and sponsored, yet largely operate beyond the purview of the state (Fleisher, 2000; Bali, 2011). Government institutions (local or national) are only deemed

important in times of revenue collection or when there are recurring conflicts such as lineage border disputes (Bali, 2006).

The History of Sexual Offense Laws in Tanzania

Almost all laws in Tanzania (i.e. child maintenance, customary, marriage, sexual offense laws) originated from English laws imported by the British colonial administration under the Tanganyika Order in Council proclaimed in 1920[1] (Rwebangira in Tumbo-Masabo & Liljeström 1998), albeit some amendments and enactment of new laws by post-independence parliament. As a result, these laws have always seemed foreign and ill suited to local circumstances (Bali, 2006). For example, the Sexual Offenses Special Provisions Act, 1998 resulted from the amended Sexual Offense law that was introduced during colonial period as part of the Penal Code. The 1998 amendment itself was the government's response to two key consensually produced human rights documents: the Vienna Declaration and Program for Action (UN 1993) and the Beijing Declaration and Platform for Action (UN 1995), which required states to eliminate traditional and customary practices that were deemed harmful to women (Merry 2003). It is no wonder that Tanzanians, like many people from colonized countries, often view the court system with suspicion, since the laws they try to uphold have relatively little autonomy in relationship to the state that is largely seen as an oppressive instrument (Bali, 2006).

Although the law-reform efforts raised awareness about law and gender, the agency, autonomy, and legal protection sought through the growing number of these reform efforts have not yet affected the lives of many Tanzanians, particularly women and children (Bali, 2006). The law-reform efforts, like other externally funded development projects, have often perpetuated rather than questioned global structures of power (Hirsch 2003). These externally influenced policies encouraged the privatization of the Tanzanian economy and resulted in the impoverishment of local people and subsequent social problems such as the displacement of children from their families (Bali, 2006).

Ineffective Legislation

Tanzania, like most African states, ratified both the United Nations' (UN) Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. Demonstrating her commitment to the welfare of children, Tanzania strengthened child welfare policies including establishing children's basic rights to life, care and education, and created very stern child sexual-abuse laws so as to deter people from sexually exploiting children. The clauses in the laws provide severe penalties for child sexual-abuse crimes (maximum of life imprisonment) but, the prevalence of child sexual-abuse problems in the country continues to grow.

The amended laws have proved futile not only in deterring people from sexually exploiting children but also in convicting the suspected perpetrators (Lockhart 2001; Rajani & Kudrati 1996; Bali, 2006). One of the defense arguments used by law enforcement agents was that street children never launched a complaint regarding sexual exploitation (Bali personal field notes during documentary research)[2]. According to the law enforcement agents, legal intervention has to be preceded by a complaint from an affected child, his or her caregiver, or the community.

It is doubtful if justice will ever be served to street children given the history of their criminalization worldwide and particularly in Tanzania (Finkelstein 2005, Lugalla & Kibassa 2002; Montgomery 2001). This coupled with the fear of police and distrust of the courts among many Tanzanian sexual-violence victims, (Hirsch 2003), it is too optimistic on the part of law enforcers to hope that street children will come forward to aid in the apprehension of child sexual-abuse perpetrators. Considering that street children are already neglected by their families and ignored by their communities, it is unlikely that this situation will change any time soon, which leaves little hope for the credibility of these laws among child sexual abuse victims in Tanzania if law enforcers do not become pro-active.

The law constructs a social space and a rule, within which people can or cannot, operate, and sometimes displaces traditional systems for regulating social behaviors which unfortunately comes with consequences (Rwebangira in Tumbo-Masabo & Liljeström 1994). Indeed, this is the case with many laws in Tanzania including the Sexual Offenses Special Provisions Act, 1998, that carries severe punishment for child sexual-abuse crimes even though only a few individuals get tried and convicted. This is partly due to an unrealistic

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[1] The relevant article stipulated the exercising of jurisdiction in conformity with the common law, the doctrine of equity, and the statutes of general application used in England at that time. The Juridicature and Application Clause of Laws Ordinance of independent Tanganyika reenacted this general application with minor modifications in 1961.

[2] I interviewed Mr. Adadi Rajabu, the then Director of Criminal Investigation in Tanzania. He informed me that law enforcement agents are hindered by the legal requirement that, unless they receive a complaint from the affected child, the caregiver or the community, an investigation cannot be launched. He also remarked that in his many years of service in the department of criminal investigation, he had never encountered a case in which the community complained on behalf of a child.

demand by magistrates for evidence convincing them beyond reasonable doubt that the accused committed the crime.

According to Bali (2006), there are a number of problems with evidence-focused judicial procedures: First of all they take little consideration of the realities of sex crimes as rarely does a sex crime occur in the presence of others, unless multiple perpetrators are involved, in which case they would not testify against one-another. Secondly, the rape kit in Tanzania can be obtained only in a few designated district hospitals, which would require most victims and their families to travel a long distance under a very unreliable transport system to access the crucial forensic medical service. Often they reach the hospital after the specified time period for the rape kit has elapsed rendering the rape kit service useless. At times the abuse had gone undetected for any rape kit to be obtained. Thirdly, even where multiple child victims who could testify are involved, the law requires that adult witness(es) corroborate the child testimony. No wonder the documentary review showed that most cases (89%) reported to law enforcement agents were decided in disfavor of the victims (Bali, 2006).

Legacy of Indigenous Justice Systems

Many Tanzanian communities, like most in Africa, supplement the legal process with flexible, informal, paralegal, dispute-settlement procedures (Gibbs in Ferraro 2004) in which legal norms, institutions, and procedures are negotiable (Mann & Roberts 1991). Hearings in these semi-legal proceedings differ from court procedures in that associational groups (such as lineages or religious groups) settle the grievances. Justice is administered through resolving disagreements, extracting apologies, imposing token penalties, normalizing good relationships between the disputants, and reintegrating both parties back into the community (Nsamenang 1992).

The proceedings often begin with a blessing or word of grace so as to enlist the presence of the supernatural and the ancestral spirits, and to bring cosmic harmony. The aggrieved person is given the right to speak first and may be questioned or interrupted by the mediator or those present in order to clarify any inconsistencies. Once the hearing group is satisfied, the accused is allowed to respond and subjected to similar questioning. The two parties question each other directly and question others in the room in a lively and uninhibited testimony (Gibbs in Ferraro 2004). Where there are witnesses to the alleged infractions, they too would speak and be questioned. In the end, the mediator summarizes the proceedings and points out the offenses committed by each party. The person found to be primarily at fault formally apologizes and pays a token given to the aggrieved person. The winning party also gives a token to the assailant to show sincere satisfaction with the dispute resolution (Gibbs in Ferraro 2004, p.68). As such, the indigenous judicial procedures are more conciliatory and healing in nature rather than coercive and punitive as at the termination of the hearing all in attendance share rum or beer and pronounce a blessing to restore harmony.

The difference between the indigenous semi-legal and legal justice systems primarily lies in the decision-making process. Magistrates or judges within a court system impose a solution to resolve a conflict, while in the semi-legal adjudication, the decision is consensual. The principle of cosmic justice and the perception of divine omniscience are alternative enforcers of social conformity since both imply reward for good behavior and punishment for evil doing (Nsamenang, 1992). For the child sexual-abuse laws to be accepted, they must meet the principles of enforcing right moral posture, observance of taboos, and the avoidance of acts of disgrace (Bali, 2006). Apparently, the laws have been premised on the western model in which the state takes the responsibility for protecting victims and punishing the perpetrators (Baker & Dwairy 2003). Justice is administered by determining the guilty party and meting out the penalty; focusing on the perpetrator as opposed to the context in which the sexual violence occurred. This exclusive focus on the individual actors neglects the social inequality that shapes supply and demand for the sexual abuse of children (O'Connell Davidson 1996). It also overlooks the nature of interdependence among members of collective societies and the fact that enforcement of sexual offense laws against a family member threatens such interdependence (Baker & Dwairy 2003). Child sexual-abuse problem acutely reveals the limitations of the pan-cultural legal approach to sexual molestation of children. The violence children suffer lies not in the courts' failure to provide justice but in persistent traditional cultures that condone such violations, so a viable solution must be sought within specific cultural contexts (Bali, 2006).

A frame of reference which focuses on the individual is alien to the African viewpoint since "human is not human on his/her own: the individual gains significance from and through one's relationship with others" (Nsamenang, 1992, p.75). Without socialization or incorporation into specific communities, individuals are considered baseless or not quite human yet. Based on the nature of interdependence the family (rather than the states) takes sole responsibility for children's safety and survival (Baker & Dwairy 2003). Accommodating this interdependence among Tanzanian communities, sexual offense laws provide disputants with the right to settle cases out of court. Aggrieved persons tend to withdraw reported cases from the court especially when a relative perpetrates child sexual-abuse, either because incestuous abuse carries a lot of stigma or because the larger

family network pressures the caregiver. Withdrawing the case allows settlement within customary rules of arbitration, which would resolve underlying fears of shame and guilt from the kin groups and appeasing of the ancestral spirits who could punish cruelty to children.

Conflicting Definition of African Childhood

Childhood and what constitutes child sexual-abuse varied historically and still vary cross-culturally (Davenport 1978; Evan & Maines 1995). Rural and urban parents define childhood differently, and these different meanings of childhood result in different expectations in the household and in public domain. Educational infrastructure further shapes parents' orientation. Children from urban families generally have access to a more adequate educational system than do children in rural areas. The rural-urban economic divides continue to shape how childhood is viewed in both rural and urban areas (Bass 2004).

In many societies, marriage between a man and a woman not only establishes the most basic acceptable family unit but also accords full adult status to the married couples. For example, 14 or 15 year-old adolescents may become adults by virtue of marriage and parenthood, while an unmarried, childless person who is 24 years of age remains socially immature (Nsamenang, 1992, p.84). To avoid this social stigma, childhood betrothal is common in some cultures. Parents, particularly fathers, arrange their children's marriage at birth. While the mean age at first marriage has increasingly gone up for Tanzanian men, the median age at first marriage for women is still low [17 years among the Nyakyusa of southern highlands and Gogo of the central region, and 16 years among the Haya of north western and Makonde of southern regions (Chambua, et.al. in Tumbo-Masabo & Liljeström 1994)].

Although the Law of Marriage Act, 1971 sets the minimum age of marriage at 18 years, families can arrange marriage for their daughters who are under 14 years old as long as they don't involve agents of the state. The court may also be asked to lower the age of consent to age 14 if the parents unreasonably withhold consent for girls to get married (Rwebangira in Tumbo-Masabo & Liljeström 1994). At times marriage by capture is endorsed after consultation with male relatives (Okin, 1998), and such cases only come to the attention of the public if a girl strongly resists strongly and finds a sympathetic relative.

A review of laws governing children's rights in Tanzania has shown that the definition of a child or a young person has always been contextual as opposed to collective (Mbunda 2002). The Law of the Child Act defines child as anybody below the age of 18 years. The criminal Procedure Act (CPA) defines a child as a person below the age of 16 years. In the Evidence Act, a child is anybody below 14 years of age. The Young Persons Ordinance defines a child as a person under the age of 12 years, and a young person as anybody who is above 12 but below 16. The Law of Marriage Act sets the minimum age of marriage at age 18 years for men and 15 years for women. In the Corporal Punishment Ordinance the term 'juvenile' is used to mean a person under the age of 16 years. In the international arena, the child is anybody under 18 years of age unless the individual nation recognizes adulthood earlier (Mbunda 2002). Similarly, the Convention on International Child Abduction sets the lower limit of 16 years, whereas the International Labor Convention on minimum age for employment and its recommendation on the minimum age for marriage set the age at 15 years. The Sexual Offenses Special Provisions Act, 1998 defines a child as any person under the age of 18. This contradicts the Law of Marriage Act pointed above, and differs with the understanding of most cultural groups (Bali, 2006). Depending on the legal argument, the distinction between a child and a young person has always revolved around age—one to 15 years being a child and 16 to 17 years a young adult (Lugalla & Kibassa, 2002, p.162).

Given such conflicts in the local norms as well as national and international laws governing the protection of children, how can the general public define childhood and what constitutes child sexual-abuse in the same way? This poses a major obstacle when attempting to enforce the laws because the general public doesn't share the legal definition of child sexual-abuse. For enforcement of these laws to benefit the general public, they must come closer to the fundamental cultural definitions of what constitutes child sexual-abuse and childhood.

Adult-Children Interaction in Africa

There is hardly any Tanzanian child who grows to adulthood without having encountered several caring persons and diverse developmental experiences. Childcare in traditional Tanzania, like in many African cultures, is not a parental privilege; it is a collective enterprise in which parents and kin, as well as siblings and sometimes neighbors and friends, actively participate (Nsamenang 1992). Although in much of the world, literature on parenting places childcare responsibilities primarily on mothers, in Tanzania, as in much of Africa, children spend much more time engaged in interactions under the care and supervision of other children and peers (Bali, 2006).

Socialization, which literally begins at birth encourages getting along with others rather than competing. Deference to and locus of authority in elders (especially parents) characterize the social system. Cultural

traditions clearly define and strictly regulate social life and relationships, especially those pertaining to children's welfare, sexual access, and marriage (Nsamenang 1992). For instance, gender and age of the child, and the side of the lineage to which the child belongs determine allocation of time, attention, and resources. Furthermore, sexual activities between close kin are forbidden and strict incest inhibitions instruct kinsmen to marry outside their lineages.

Usually, parents are not the only adult members of the household. Sometimes adult relatives and/or friends are members of the same household together with their children resulting into a large household consisting of people who approximately belong to the same lineage (Hake 1972 in Nsamenang 1992). From the earliest months of life, babies are cuddled and teased to smile along with adults. By the first year of life, parents and other caregivers offer infants objects—food items and baby tools—and lure them both verbally and nonverbally to return the gifts. This is an example of social priming and a preliminary step to more extensive training in gift giving, sharing and generosity (Jahoda 1982 in Nsamenang 1992).

Parenting styles range from permissiveness and loving tenderness to neglect and extreme abuse (Nsamenang 1992). On this continuum, what is considered parental neglect or abuse in one culture could be the opposite in other cultures. However, African parents are very strict about their children acquiring the correct affective and behavioral stance with respect to appropriate gender roles and social competence, especially in communicating with elders. The bulk of this knowledge is acquired vicariously—simply observing and imitating what adults, older siblings, and mentors do. Failure to learn is verbally rebuked (usually with a snappish proverb), sometimes punished by withdrawal of privileges (usually food) and by spanking. Children are expected to take punishment without resentment and accept the parental right to "deal with them" as they see fit (Jahoda 1982 in Nsamenang 1992). The enforcers of such codes are many including other adults living in the same household; they will not let the punishment to go beyond what is culturally acceptable. Abusive parents are usually urged to refrain from child maltreatment before they are labeled harsh or wicked. Most parents avoid such stigma because of the cultural belief that cruelty to children is punishable by supernatural forces or ancestral spirits (Bali, 2006).

Within the family and spousal networks, kin feel a strong obligation for supportive companionship and reciprocal assistance in all activities, including childrearing. Network members describe themselves as relatives; the term brother for instance, is used freely for all male members of the group in the same age cohort (Ayisi 1979 in Nsamenang 1992). Similarly, the terms father and mother apply to all kin in the parental generation. Early in life, children are introduced adult kin as 'other' parents and their children as sisters and brothers. They in turn regard and treat them accordingly, even if distantly related (Maquet 1972 in Nsamenang 1992).

This initiation into networks of social values and status roles that demand conformity and promote collectivism does not, as one may think, make African children overly subdued. By coming into contact with many relatives early in life and learning how to relate and behave towards them, they are ready at adolescence to assume their social positions and are expected to have internalized the essential socio-cultural codes (Nsamenang 1992). They know categories of people with whom it is okay to exchange jokes, including sexually expressive ones, and those with whom such jokes are a taboo. Adolescents in particular, learn about sex in a casual and natural way by overhearing or even witnessing their adult siblings negotiate sex with their lovers. Often children as young as five are messengers for passing information (verbal or written) with regard to meeting time and place between adult siblings and their lovers. It is not uncommon for grandparents to tease their grandchildren "husbands/wives" or vice versa. This verbal teasing always happens in public to amuse the parties, avoid misconceptions, and provide children with avenues to freely learn sexual subject. No party would inappropriately touch the other, for that would constitute incest (Bali, 2006).

The introduction of formal education, plantation agriculture, and food processing and mining industries in the 1900s launched patterns of migration, which altered the family compositions seen now. Men migrated to take up paid jobs, leaving a heavy burden of smallholder cultivation of both subsistence and cash crops to women. Increasingly, children were raised in single parent households resulting from divorce or spousal absenteeism. Settlement in urban areas in search of economic opportunities (paid service sector jobs or trading activities) not only separated children from their natal grandparents but also exposed them to unrelated "grandparents" with whom they needed to maintain the socially approved sexual expressiveness, which often than not was taken too far given the non-binding incest taboo and selfish interests on the part of the adults.

Gender, age, and differential social status are key stratifying factors in determining children's rights and duties within the family. Poverty or affluence gave rise to differential standards of living and access to health care and education. It also shaped aspirations; encouraging some and eliminating others. Since agency-based social services were lacking for the poor, families often "adopt" relatives in order to foster a stronger support system. The reciprocity, coupled with deference to the authority of elders, elicited compromises such as loss of individuality or personal freedom resulting from obvious gains of security that come from being a member of a

supportive network (Olekambaine in Tumbo-Masabo & Liljeström 1994). The initiation rites that used to prepare children as gendered and sexual beings became less important if not obsolete in the changing world (Shuma in Tumbo-Masabo & Liljeström 1994). Such rites used to take place when children reached puberty, but today that would mean interfering with children's formal education.

For this reason the communities now initiated children as young as seven years, just before they begain primary education (Shuma in Tumbo-Masabo & Liljeström 1994). While the message of sexuality and marriage once imparted to pubertal initiates remained largely unaltered in spite of the lower age of the novices, the children were now given double meaning: "just wait until you are old enough but retain your skills" (Tumbo-Masabo & Liljeström 1994: 125). Consequently, boys and girls practiced their newly acquired sexual skills; landing them into bigger problems like teenage pregnancy or child sexual-abuse that is prosecutable according to SOSPA.

As mothers were combining motherhood and career roles, nascent forms of changes became visible in gender roles and child-rearing practices. An increasing number of young husbands are now helping in care giving and domestic roles, which they could not previously undertake. Also, urban children are increasingly being placed in the care of domestic helpers—relatives and non-relatives—distancing them from their parents and eroding the firm disciplinary mechanisms that were formerly in place. More often than not, most of the domestic helpers are children from poor rural families who sometimes fallen prey of opportunistic attackers including adolescent children of their employers.

Influence of Perpetrator Narrative Discourse

Evans & Maine (1995) argue that the category of childhood did not exist prior to the industrial revolution and have identified two broad definitional problems with regard to incestuous child-adult contact. According to the authors, perpetrators influence their victims' understanding of the realities of sexual abuse. These authors highlight stories in and of the act of incest, and argue that the conventional definition of incest leaves out indirect incest such as parents offering their children to other adults for sexual purposes such as arranged marriage for child brides. The authors elaborate that perpetrators tell children stories, in order to convince them that what is happening is normal and to confuse their reasoning. Such stories influence a child's construction of the realities of child sexual-abuse (Evans & Maine 1995). According to the authors, two groups of perpetrators are distinguishable based on the stories they tell children. While some use covert violence stories characterized by manipulation and a language of alliance and cooperation, others use overt coercion stories characterized by outright threats. Regardless of the level of coercion the children experience, the stories they tell are internalized versions of what the perpetrators made them to believe. This largely explains why most Tanzanian child-victims and their caregivers refrain from testifying against their assailants (Bali, 2006).

The Effect of Poverty

Poverty doubtlessly contributes to the phenomenon of child sexual-abuse (Sacks 1997) by pushing children out of homes to fend for themselves on the streets where they fall prey of opportunistic attackers (Lugalla & Kibassa 2002); forcing families to look for pseudo relatives who end up abusing children due to non-binding incest taboo; and creating crowded sleeping arrangements that increase children's vulnerability to sexual-abuse (Bali, 2011). Efforts to combat child sexual-abuse need not to be taken in isolation from addressing structural inequalities that emerged in the 1990s when Tanzania liberalized its national economy, privatized the semi-public organizations that offered jobs, and laid-off thousands of workers from the public sector (Bali, 2006). With the liberalization of the economy also came the introduction of television and Internet technology that popularized western lifestyles, which focus on individual (as opposed to community) values. The effect is the erosion of the traditional child-care practices in which it took the whole community to raise a child, thus leaving a vacuum in the community support systems, which opened doors to social injustices like child sexual-abuse (Bali, 2006). Any effort to make laws credible should go hand in hand with development strategies aimed at alleviating poverty.

Bali's (2006) documentary research noted a substantial number of court cases (10%), which were defined as abductions of girls from the custody of their parents. These abductions were perhaps motivated by economic inability of the young men to pay bride wealth. Since young men have little economic resources of their own in this era of mounting poverty, they seem to have been taking matters into their own hands by simply abducting their brides. Katapa (1994 & 1998) noted among the Nyakyusa that old men were hesitant to pay bride wealth for their son's marriage for reasons of power struggle.

As stated earlier, in African cultural context marriage grants an individual adult status, which would preclude a father from having control over his son. At a more competitive level, old men themselves often want multiple wives, so there is a conflict of interest in facilitating a son's marriage. This kind of generational tension affects how youth construct their social actions and may explain why more young men commit child sexual-

abuse offenses in Tanzania as exemplified by perpetrator median age of 24 years (Bali, 2006).

Undeniably, men in Tanzania and particularly young men have internalized societal power dynamics coupled with gender inequality. It is not surprising to note the prevalence of marriage by capture (10%) and a substantial number of reported cases (7%) commonly defined as indecent assault. The willingness of custodians of girls to accept material compensation from child sexual-abusers for defiling a girl's virginity only fosters the phenomena of child sexual-abuse. Thus the solution for the child sexual-abuse problems should be found in both broader societal and individual arenas (Handwerker, 1993, 1998, 2001). In fact, it is not the unequal domestic power that matters but the broader societal-level power differentials that emerged in the 1990s when the state adopted structural adjustment policies that resulted in a wider gap in wealth, power and prestige among citizens. The structural adjustment policies imposed cut backs in public spending at the expense of the quality of life among the majority of people. The government privatized the semi-public organizations, removed agricultural subsidies, and introduced user fees for social services like health care and education (Bali, 2006). These in turn, intensified poverty due to mass unemployment of youth, high cost of agricultural input to peasants, laying-off of workers from the privatized organizations, and diminishing education opportunities.

It is therefore, important to be concerned with these large-scale structural and relational issues if we are to understand community adjustments to child sexual-abuse laws in Tanzania. Striving for child protection and justice require, first and foremost, addressing conditions that produce, for instance, opportunistic attackers and neglected children. Child sexual-abuse is part of a wider violence entrenched in the society. How will it be possible to eradicate child sexual-abuse when the streets are filled with children who must choose between death and exchanging sex for survival? Strengthening administration of justice calls for addressing structural inequalities that perpetuate such wide spread violence. The current legislation does a little except to make the government appear concerned and responsive (Bali, 2006). Unless the underlying issues of poverty, education opportunities, and widely condoned forms of violence are redressed in Tanzania, the credibility of the justice system will remain doubtful.

1.1.2 Conclusion

Although Tanzania has stern sexual offenses laws, they are practically unenforceable on many levels and real closure of child sexual abuse victims' suffering seems rare. Basically because the justice administration in court proceedings takes months or even years before the grievances are discussed. As a result, the affected party often loses hope in receiving justice and eventually decides not to pursue the case. Contrarily, the indigenous semi-legal adjudication which takes place as soon as the grievances are aired and the matter is resolved in a satisfactory manner for both parties with the goal of restoring harmony reintegrating each party back into the community (Gibbs, 2004; Jaffer, 2012). Without undermining the rights to procedural fairness, which the principles of natural justice grant to the accused perpetrator of child sexual violence, the child justice administrators should find ways of incorporating best practices from the indigenous justice system (Jaffer, 2012) to appease the victims' pains and put the burden of responsibility more on the perpetrator given his position of power, especially in cultures that emphasize deference to elders. This way, the legal justice administration will seem less of a guilty finding and meting out penalties; thus become more credible in the eyes of the disadvantaged groups such as women and children. Victims and their caregivers, who believe in the folk principle of cosmic justice, would rather defer punishment of defilement to divine retribution so that they take no part in judging others, lest they may be judged or fail to earn grace (Bali, 2006).

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ACKNOWLEDGEMENT

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