TUMAINI UNIVERSITY MAKUMIRA
DAR ES SALAAM COLLEGE

THE PROHIBTION OF CHILD LABOUR IN TANZANIA; GAPS IN LAW AND PRACTICE

Prepared Under the Supervision of

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A Research Paper Submitted for the fulfillment of the Academic requirement for the Award of the Bachelor of laws (LL.B) of Tumaini University Makumira's Dar es salaam College,

By

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Certification

The undersigned certifies that he has read and hereby recommend for acceptance by Tumaini University Makumira Dares salaam college a research title Prohibition of Child Labour Gaps in Law and Practice. In particular fulfillment of the requirements for the Bachelor of law.

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Declaration

I Ouma George James do hereby declared that this research paper is my own original work. It has not been and is not currently being submitted for a degree in any other University.

Signature.....

OUMA GEORGE JAMES (Supervisee)

Date.....2013

Dedication

This work is dedicated to Tanzania community, I feel very fortune to have this opportunity to make something for my country Tanzania, God bless Africa, God bless my county Tanzania.

Acknowledgment

I would like to acknowledge those who assisted and contributed scholarly comments to make this study possible, to the all I really indebted.

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Abstract

The issue prevailing the effectiveness of laws prohibiting child labour in Tanzania. This research paper endeavors to investigate, analyze, and examine the precise effectiveness of prohibition of child labour in Tanzania. However, possible solution by way of recommendation is also provided. This research is basically divided into four chapters as shown below.

Chapter one covers background of the research problem, statement of the problem, objective of the research, significant of the research, hypothesis, the scope of the study, Research methodology and literature review. The chapters also discusses the nature of the problem and the underlying assumptions of the study.

Chapter two discusses general overview on the issue of child labour and its prohibition efforts in Tanzania, it provide for the basis of this study by discussing the right of a child and their duties upon those rights, also the efforts made by Tanzania government in eradicating the problem, further it focus on the discussion on laws and enforcement on prohibition of child labour.

Chapter three details on the findings of the area affected by the child labour in Tanzania, the reason behind the issue of child labour, impact of the child

labour in Tanzania and more it analyze the effectiveness and the gaps in law prohibiting child labour in Tanzania.

And chapter four deal with the conclusion and recommendation on the subject.

List of Statutes

The Law Of Child Act, Cap, 2009.

Employment and Labour Relation Act. Cap 6, 2004.

The Law Of Marriage Act Cap 29, R.E. 2002.

The constitution of United Republic of Tanzania, 1977.

Vocational Education and Training Act,1999

Law of The Contract Act, Cap. 345, 2002

Abbreviations

GDP	--	Gross Domestic Production
OVC	--	Orphans and Vulnerable Children
ILO	--	International Labour Organization
WFCL	--	Worst Forms Of Child Labour
IPEC	--	International Programme on the Elimination of Child Labour
HIV	--	Human Immunodeficiency Virus
AIDS	--	Acquired Immune Deficiency Syndrome
LHRC	--	Legal and Human Right Center
MDG	--	Millennium Development Goals.
URT	--	United Republic of Tanzania.
CEE	--	Central and Eastern European
CIS	--	Commonwealth of Independent States
UN	--	United Nations.
CRC	--	Committee on the rights of the child

Table of Contents

Certification.....i

Copyright.....ii

Declaration.....iii

Dedication.....iv

Acknowledgment.....v

Abstract.....vi

List of Statutes.....viii

Abbreviations.....ix

Table of Contents.....x

CHAPTER ONE.....1

INTRODUCTION.....1

1.1 Background of the problem.....1

1.2 Statement of the problem.....2

1.3 Objective of Research.....2

1.4 Hypothesis.....3

1.5 Significances of Research.....3

1.6 Research Methodology.....4

1.6.1 Primary Data.....4

1.6.2 Secondary Data.....4

1.6.3 Data Analysis.....4

1.7 Literature Review.....5

1.8 Scope of the Study.....6

CHAPTER TWO.....8

GENERAL OVERVIEW ON THE ISSUE OF CHILD LABOUR AND ITS PROHIBITION EFFORTS IN TANZANIA.....8

2.0 Introduction.....8

2.1 Definition of child and child labour.....8

2.2 Rights of a child.....10

2.3 Duties and responsibility of a child.....12

2.4 Efforts made in prohibiting child labour in Tanzania.....14
2.5 Laws and enforcement on prohibition of child labour.....15
CHAPTER THREE.....21
FINDINGS ON THE PROHIBTION OF CHILD LABOUR IN TANZANIA; GAPS IN LAW AND PRACTICE.....21
3.1 Areas affected by child labour in Tanzania.....21
3.1.1 Child labour in Tabora.....22
3.1.2 Child labour in Zanzibar.....23
3.1.3 Child labour in Dodoma.....24
3.2 The reason behind the issue of child labour in Tanzania.....25
3.3 The impact of child labour in Tanzania.....30
3.4 Prohibition of child labour laws in practice.....31
3.4.1. The Constitution of United Republic of Tanzania, 1977.....31
3.4.2 The Law of The Child Act, 2009.....32
3.4.3. Employment And Labour Relation Act.....32
3.5 Gaps in law accelerating child labour.....34
3.5.1. Gaps caused by contradiction of law on the issue of child affairs.....34
3.5.2. Gaps in law caused by lack of the governmental enforcement body.....35
CHAPTER FOUR.....37
CONCLUSION AND RECOMMENDATION.....37
4.0 Conclusion.....37
4.1 Recommendations.....38
BIBLIOGRAPHY.....41
APPENDIX.....43

CHAPTER ONE

INTRODUCTION

1.1 Background of the problem

Hundreds of millions of children throughout the world are engaged in work that deprives them of adequate education, health, leisure and basic freedoms, more than half are exposed to the worst forms of child labour such as work in hazardous environments, slavery, or other forms of forced labour, illicit activities such as drug trafficking and prostitution, as well as involvement in armed conflict. And all this happens regardless of the laws that prohibiting such activities imposed to those child[1].

Despite the existence of regulations and policies against child labour, the problem increase in Tanzania. From activities carried out by ILO`s International Programs on the Elimination of Child Labour (IPEC) which has been operating on Tanzania since 1995, there are ample evidences that indicated that child labour and in particular of hazardous and exploitative nature was becoming rampant. These evidences, however, are based on small-scale surveys and qualitative situational assessments and have been used mainly for advocacy campaigns for the sensitization of the general public on the consequences of child labour[2].

[1] **10-11 May 2010 The Hague Global Child Labour Conference report.**
[2] **Country Report 2000/2001 Integrated Labour Force and Child Labour Survey**

1.2 Statement of the problem

Child Act[3], Employment and Labour relation Act[4] and the Law of Contract Act[5] creates gaps to the employment of children. Child labour gaps may be caused by the contradiction of laws on the meaning of a child basing on the subject matter. there is no uniformity of laws, under the provision of section 5 of The Employment and Labor Relation Act children under the age of fourteen years are prohibited from employment but the act allow them to work as employee on the light work also under the Tanzania Law of Contract Act[6] every person is competent to enter into contract provided he is of the age of majority but the age of majority was not provided in accordance to law of contract act therefore you have to look on the age of majority in accordance to the subject matter hence this contribute much on child labour.

1.3 Objective of Research

- This research aim at finding out the reason behind the problem of child labour by establishing the weakness contained in Employment and Labour Relation Act and the Child Act that create a way for sectors that provide employment to engage in employing children instead of majority age people.

- The research will find the better proposal on the age of the child to be recognized by the law in order to reduce contradiction of the laws that create chances to the increase of the child labour.

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[3] **The Law of The Child Act, 2009**
[4] **Employment and Labour Relation Act 2004**
[5] **The Law of The Contract Act Cap 345, 2002**
[6] **Section 11 Law of Contract Act Cap 345 (2002)**

- The research will provide new understanding on the importance of having better laws that protect children from employment that deprive them from better education.

1.4 Hypothesis

Hypothesis is a tentative answer that a researcher put forward to the existing problem, it intend to give the researcher where to referred in researching directly to the existing problem. This study is guided by the following hypothesis;

i) The contradictions in laws create gaps that influence child labour.
ii) Economic problem in society push children to employment.

1.5 Significances of Research

This research will enable the society to know various right of children against child labour.

i) It will increase awareness to the Tanzanians society on how our law supposed to prevent and support the right of children by providing efficient laws to the problem.
ii) Also this research will encourage the people and institution which using their power in abolishing child employment to keep fighting against this situation.

1.6 Research Methodology

Research methodology is the process used to collect information and data for the purpose of finding decisions to the existing problem. It may include interviews, survey and research techniques regarding both present and historical on the subject matter. In this research the mode of collecting material and information include the following;

1.6.1 Primary Data

The primary data will be collected through relevant legislation and case law.

1.6.2 Secondary Data

Secondary data will be collected by reading various literatures that are books, journals dissertation and internet effective researched materials.

1.6.3 Data Analysis

Data analysis is a process of inspecting, cleaning, transforming, and modeling data with the goal of providing useful information, suggesting conclusions, and supporting decision making. Through data analysis relevant legislation and case law that the research will be passing through will be clearly inspected to ensure that the information are efficient to the problem. Also on secondary data trough data analysis

the information from different sources will be reviewed to analyze what kind of data are useful and what are not, only useful data will be taken into consideration.

1.7 Literature Review

Shivji[7] tried to provide for the history in which the problem come into existence, according to him the issue of child labour in Tanzania started during colonial time but it is difficult to trace the exactly time, only enumeration of labour traced until 1940's and early 1950's even though it appeared child labour did not constitute a very large proportion of the employed labour force and it quite substantial averaging 10-15 percent of total wage labour between 1947 and 1951, juvenile labour constituted almost three- fourth of this and much of this labour was conducted in agriculture, and it was cheap using child more than adult.

Cleland[8] Child labour is considered as one of the child abuse where child abuse is defined as to be depending on various forms on fundamental issues of what is acceptable child rearing in our societies particularly in relation to neglect and emotion abuse. He tried to show how serious the issue of child abuse is on Scotland and on that reference how the gaps are on Tanzania laws, Under the children and Young persons (Scotland) Act 1937, it is an offence for any person over 16 with parental responsibilities or care of child to will-treat the child in a manner likely to cause her unnecessary suffering or injury to health.

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[7] **Issa G Shivji. (1986) Laws, State & The Working Class in Tanzania.**
[8] **Alison Cleland(2008) Child Abuse, Child Protection and the Law pg 32 & 39**

Kinwangalla[9] On his own research he engage himself on finding out how heavy is the issue of child labour is in Tanzania, and on his research the source of the problem analyzed and providing that among three children between the age of ten and fourteen years one of them work outside their families instead of them being on school and enjoying their child hood.

Makaramba R,[10] Despite existence of employment legislation which prohibit employment of children below required age, still children are employed in various sector of economy, the continuity of this is due to poverty, lack of proper schooling for children and rural urban migration, actually he still believed that with proper arrangement the problem will be solved and Tanzania will be free from child labour.

1.8 Scope of the Study

This research looks on the efficiency of laws that prohibiting child labour in Tanzania. Also the study of research will extend further to the assessment of laws made in Tanzania that based on providing rights and duties of children in the society and position of those laws to the society.

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[9] **Nasser Kinwangalla, World Child Labour Day Focuses on Child, Sunday Observer June 19, 2005**

[10] Makaramba R, (1998) Children Right in Tanzania.

Basing on the subject matter the study of research will pass on the laws of employment from Tanzania, together with employment policies parallel to International Law Organization (ILO) requirements.

CHAPTER TWO

GENERAL OVERVIEW ON THE ISSUE OF CHILD LABOUR AND ITS PROHIBITION EFFORTS IN TANZANIA

2.0 Introduction

The concern on the child labour in Tanzania can be traced back to the colonial era. In 1955 while under the British rule, the Government passed Employment Ordinance Cap.366, which containing a provision that prohibit employment of children. The Ordinance was however amended by Act No. 5 of 1969 to prohibit employment in any capacity whatsoever of a child below the age of 15 years. Section 9 of the Ordinance empowers the Labour Commissioner, Labour Officers and Labour Inspectors to enter and inspect any work place or private dwelling believed to host or employ a child and since independence, Tanzania has put in place both national and sectoral policies to promote the welfare, enhance education opportunities, and protect the rights of children.

2.1 Definition of child and child labour

The term child labour is defined from the meaning of the child it self, under the provision of section 4 of Employment and Labour Relation Act[11] the child is defined as to mean a person under the age of fourteen years old but in case

[11] Section 4, Employment and Labour Relation Act, 2004

of hazardous sector a child is a person under the age of 18 years. But under section 4 of The Law of Child a child is defined as any person below the age of eighteen years, the definition of the child is within the context of the subject matter.[12]

On the other hand, from the definition of Employment and Labour Relation Act child labour can be defined as work that deprive children of their child hood, their potential and their dignity and that is harmful to physical and mental development.[13]

While under the African Charter on the rights and welfare of the child[14] a child is a person under the age of eighteen years, actually definition of a child on this charter is on international perspective, it tries to fix the situation on the meaning of the child in deferent jurisdiction, and giving out the general rule as an international organ to member states.

Therefore you may find it is difficult to define what is child labour basing on the age of a child, on that perspective then it is important to define child labour basing on general circumstance of a child's welfare that a child labour is any employment or activity that is not health to child capacity to handle

[12] Section 4, The Law of The Child Act. 2009
[13] section 5(2) & (4), Employment and Labour Relation Act 2004.
[14] Article 2 of African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force Nov. 29, 1999.

and that does not give a child opportunity to enjoy his childish and basic his rights as a child.[15]

2.2 Rights of a child

Children have rights as human beings and also need special care and protection. Jebb is the first person who drafted the stipulations on the child's rights, on his document in 1993 consist of criteria like; a child must be given the means requisite for its normal development, both materially and spiritually, the child that is hungry must be fed, the child that is sick must be nursed, the child that is backward must be helped, the delinquent child must be reclaimed, and the orphan and the waif must be sheltered and succored. The child must be the first to receive relief in times of distress, the child must be put in a position to earn a livelihood, and must be protected against every form of exploitation and the child must be brought up in the consciousness that its talents must be devoted to the service of its fellow men.[16]

However the International Save the Children Union, in Geneva on February 1923 and endorsed by the League of Nation General Assembly on 26 November 1924 as the World Child Welfare Charter. Although these proclamations were not enforceable by international law, but rather only guidelines for countries to follow.

[15] ILO/IPEC 2008

[16] C. Mulley, The Woman Who Saved the Children: A Biography of Eglantyne Jebb, Founder of Save the Children, Oneworld Publications, 2009.

In 1989, the Convention on the Rights of the Child was adopted by UN General Assembly. On September 2, 1990 it became international law. The Convention consists of 54 articles that address the basic human rights children everywhere are entitled to; the right to survival, develop to the fullest, protection from harmful influences, abuse and exploitation and participate fully in family, cultural and social life.[17]

Its implementation is monitored by the Committee on the Rights of the Child. National governments that ratify it commit themselves to protecting and ensuring children's rights, and agree to hold themselves accountable for this commitment before the international community. The CRC is the most widely ratified human rights treaty with 190 ratifications. Somalia and the USA are the only two countries which have not ratified the CRC. The CRC is based on four core principles, namely the principle of non discrimination, the best interests of the child, the right to life, survival and development, and considering the views of the child in decisions which affect them (according to their age and maturity).

The implication of the ratification in Tanzania is that of section 5 of Employment and Labour Relation Act[18] in which it provide for the prohibition of child labour and also the enactment of The Law of The Child Act[19] in

[17] UN Convention on the Rights of the Child, 1989

[18] section 5 of Employment and Labour Relation Act 2004

[19] The Law of The Child Act. 2009

which under part II the provision is providing for the Rights and Welfare of the Child.

2.3 Duties and responsibility of a child

Not only the community and state are responsible for children, but the children also do have the duties and responsibilities toward the community, under the provision of section 15[20] the duties of the child are provided, a child do have the duty to work for the cohesion of the child, respecting his parents, guardians, superiors, and elders, in accordance to his ability to serve his community and nation by placing his physical and intellectual ability and also to preserve and strengthen social and national cohesion and positive cultural values of his community.

According to Rebecca[21] Child psychology is in the field of developmental psychology and requires a minimum of a master's degree in the field. Child psychologists may work in school settings or the social services field as well as in independent practices. No matter which type of position a child psychologist holds, there are certain duties and responsibilities that apply to all practicing child psychologists. Then it is from the responsibility that a child is faced with that will help his mental capacity and make him a better future member of the society.

[20] Ibid
[21] Rebecca Herron, (1999-2010) The responsibility and duties of a child Psychologist.

However child and adolescent psychiatrists have an important role in both primary and secondary prevention of mental disorders in this population. For many retarded children, the early and judicious introduction of emotional supports for them and their families in addition to appropriate special education, reduces vulnerability to the emotional and behavioral disorders which so often complicate their lives.[22]

In this case therefore in accordance to laws made to protect a child, and those prohibit child labour, a person can go to the court and institute a case claiming a particular person or organ acting against the laws that provide for the welfare of the child, but that person must remember that not all activities are not supposed to be done by a child, or must understand that a child is not excluded completely from being employed, a child can be employed in accordance to the law since the said employment is light work, in that position the work will be not harmful to the child health and development.[23]

So the institution of claims against the particular person or organ must stipulate clearly that the employment of the child does not fit to the meaning of the light work as provided by the law and that they are harmful and not health to the child, also on other circumstances prejudice child's attendance to school, participation in vocational orientation or training program.

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[22] Policy Statement. (October 1986) The American Academy of Child and Adolescent Psychiatry
[23] Section 5(2) Employment and Labour Relation Act, 2006

2.4 Efforts made in prohibiting child labour in Tanzania

Efforts in prohibiting child labour in Tanzania does not stated today, in accordance to Country Report[24] since 1995 International Labour Organization through its project on International Programme on the Elimination of Child Labour (IPEC) was in Tanzania waging movements in prohibiting child labour in various economic sectors such as mines, industries, and on farms.

Actually the government of The United Republic of Tanzania prepared its plan of action to combat commercial sexual exploitation of children, enacted the Anti-Trafficking Law, and implemented a number of policies and programs to support children and families impacted by the worst forms of child labour, the good example is enactment of Employment and Labour Relation Act No. 6 of 2004 which containing the provision that prohibiting child labour, more ever in 2009 the law of the child was passed containing a part that provide for rights and welfare of the child, on the said part under section 12 the provision prohibit any employer to employ the child and any one who contravene this part under section 14 of the same act is committed an offence and on conviction will be liable to a fine not exceed five million shillings or to imprisonment not exceeding six months.[25]

[24]Country Report 2000/2001 Integrated Labour Force and Child Labour Survey

[25] The Law of The Child Act. 2009

The government also had the policies on the Worst Forms of Child Labour, among them is the national action plan for the elimination of child labour for main land Tanzania (2009) in which through this policy the stake holders and Ministries responsible for child labour intervention and propose the strategies including poverty alleviation capacity building. However, funding for these efforts is limited and enforcement remains weak.

2.5 Laws and enforcement on prohibition of child labour

Many laws have been made both international and domestic that Tanzania dealing with them in enforcing the prohibition of child labour, the spirit in prohibition of child labour started from international level and according to international law the member states of international community had the duty to ratify them and enforce them as their domestic law but on the sense of the requirement of international law.

In 1919 the League of the nation was formed, and it enhance the formation of the organs that aimed at solving the problems around the world, one among them is the International labour Organization, One of the major aims set for the International Labour Organization (ILO) at its foundation in 1919 was the abolition of child labour. Historically, the ILO's principal tool in pursuing the goal of effective abolition of child labour has been the adoption and supervision of labour standards that embody the concept of a minimum age for

admission to employment or work. Furthermore, from 1919 onwards the principle that minimum age standards should be linked to schooling has been part of the ILO's tradition in standard setting in this area. Convention No. 138 provides that the minimum age for admission to employment shall not be less than the age of completion of compulsory schooling.[26]

The ILO's adoption of Convention No. 182 in 1999 consolidated the global consensus on child labour elimination. It provided much-needed focus without abandoning the overarching goal, expressed in Convention No. 138, of the effective abolition of child labour. Moreover, the concept of the worst forms helps set priorities and can be used as an entry point in tackling the mainstream child labour problem. The concept also helps to direct attention to the impact of work on children, as well as the work they perform.[27]

Child labour that is proscribed under international law falls into three categories:

- The unconditional worst forms of child labour, which are internationally defined as slavery, trafficking, debt bondage and other forms of forced labour, forced recruitment of children for use in armed conflict, prostitution and pornography, and illicit activities.

[26] C138 - Minimum Age Convention, 1973 (No. 138)

[27] Ibid

- Labour performed by a child who is under the minimum age specified for that kind of work (as defined by national legislation, in accordance with accepted international standards), and that is thus likely to impede the child's education and full development.

- Labour that jeopardizes the physical, mental or moral well-being of a child, either because of its nature or because of the conditions in which it is carried out, known as "hazardous work.

Also another instrument that made by the International Labour Organization is by setting the minimum age for work, this is the age at which children can legally be employed or otherwise work. The main principles of the ILO's Convention concerning the minimum age of admission to employment and work in term of hazardous work, basic minimum age and light work. In hazardous work any work which is likely to jeopardize children's physical, mental or moral heath, safety or morals should not be done by anyone under the age of 18. While in basic Minimum Age the minimum age for work should not be below the age for finishing compulsory schooling, which is generally 15. and in light work Children between the ages of 13 and 15 years old may do light work, as long as it does not threaten their health and safety, or hinder their education or vocational orientation and training.

The same trend was adopted in Tanzania and as the matter of ratification, Tanzania as the member of international community do recognized the fact that the initiatives that made by ILO was supposed to be supported by the government, then goals of ILO to eradication of child labour in the world in Tanzania implemented trough the ministry of Ministry of community development, Gender and children in large extent but also other ministries are supposed to act in such way that they support what is put in the laws of the country. This ministry is divided into Departments and unity and the issue of children are in The Children Development department. The Department for Children Development was established under the Ministry of Community Development, Gender and Children only in 2003. The Department is divided into two sections; children and Family section. The director of Children Department is also the head of the Department Coordination**.**

And it is from this fact that the department trough its activities has to fulfill the requirement and the duty of the state to eradicate child labour and defend the welfare of the child, the department actually have the following activities to fulfill in respect of requirements of international conventions especially that of NO. 138 of 1999;

- Plan, prepare implement, strategize, coordinate, monitor and evaluate implementation of the Children Development Policy.

- Coordinate, follow up/monitor and prepare implementation reports on the Convention of the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (ACRWC).
- Coordinate implementation of activities performed during the commemoration of the Day of the African Child and monitor/evaluate implementation of all national and international resolutions and agreements concerning child welfare.
- Prepare indicators and enlist customs and traditions which inhibit growth and development of children and advocate for policies and laws aiming at their eradication.
- Monitor and evaluate problems related to children in need of special protection such as orphans, children living in streets, child laborers and children with disabilities.
- Monitor and evaluate children and adolescents' concerns on HIV/AIDS
- Empower communities to support orphans and most vulnerable children.
- Support the Tanzania Movement for and with Children (TMC) and Junior Councils. why only this? What is that?? Better explain otherwise seems preference among other institutions caring about children and active in Tanzania.

In implementing this activities the ministry working together with other stake holders, such as Ministry of Health, and social Affairs, Ministry of Work, Employment and Youth Development with the duty to eliminate the work that

are harmful to children, Tanzania Communication Regulation Authority(TCRA) in giving out information about difficulties facing children and mostly in establishment of Child Helpline Tanzania and enhancement of law making that concern children and its implementation, also Ministry of Constitution and Law in establishment of laws concern children and of its implementation, and in translating laws concerns children into simple language, United Nations Children's Fund (UNICEF) in providing fund to running programs concerning children welfare, International Labour Organization in educating the society in eliminating activities that are harmful to the society, National Network Operations Center (NNOC) in protecting children against humiliation and so many others.

CHAPTER THREE

FINDINGS ON THE PROHIBTION OF CHILD LABOUR IN TANZANIA; GAPS IN LAW AND PRACTICE

3.1 Areas affected by child labour in Tanzania

Tanzania as one among the sub Saharan countries faced with child labour problem to a large extent , the research done all over the world shows that sub Saharan countries do have large number of child labour compared to other places in the world, this is in accordance to the International Labour Organization of 2002, refer table 1

.

The problem of child labour in Tanzania is still huge despite the efforts made by the government and stakeholders to eliminate it, this is due to the fact that since the country is in developing process a lot of sectors emerge which automatically associate with the society, and from that point sectors need human labour and which is cheap. Most of adult become much costful for this new emerged sectors to afford thus the remaining option is to employ children.

Mining, fishing, and agriculture are the major said sectors in Tanzania that associated with child labour, actually the Tanzania economy do depend on this sectors, agriculture accounts for more than 25% of GDP, provides 85% of exports, and employs 80% of the work force in which children included, in which

Cash crops, including coffee (its largest export), tea, cotton, cashews, sisal, cloves, and pyrethrum, and most of people also cultivate food crops for their own consumption. And in according to AllAfrica.com,[28] the mining sector of Tanzania contributes 4.6% to the national economy where it also employ a lot of children.

3.1.1 Child labour in Tabora

Tabora is the region which is greater producer of tobacco in Tanzania. Tobacco-growing is labour intensive and requires attention throughout almost all the year. Children are involved in all tasks like preparing the land, planting seeds, watering seedbeds, weeding applying fertilizers and pesticides, harvesting, carrying tobacco loads from farms to the barn, On average, they work 8 to 12 hours per day. Migrant children are the most likely to be working in tobacco fields, yet obtaining an accurate count of migrant children is challenging as they come from other poor locations in the region and are often on the move. According to the International Labour Organization (ILO), orphans and vulnerable children (OVC) and those affected by HIV/AIDS are particularly susceptible to child labour.[29]

According to the ILO[30], the main causes of the worst forms of child labour (WFCL) in tobacco fields in Tanzania are linked to poverty 84% of the parents of children working on the tobacco plantations/farms come from poor and very poor socio-economic backgrounds. In rural areas, children involved in WFCL are

[28] AllAfrica.com, 2012, retrieved 26 September 2012
[29] ILO-IPEC Report , 2001
[30] Ibid

either school drop-outs, have never been to school, or are combining work and school, with education a lower priority.

3.1.2 Child labour in Zanzibar

4th June 2002 assessment by the International Labour Organization (ILO), an associate organization of the United Nations, has found that child labour is "common" in Zanzibar, with prostitution, fisheries and seaweed farming among the "most hazardous" sectors in which children are involved, The report also found evidence of child labour on clove plantations in Zanzibar, According to the report, the main causes of child labour are poverty, irresponsible parents, family breakdown, a lack of alternatives for children after they have completed their formal education, and children's desire to be financially independent from their parents.

Children between the ages of six and 14 were found to be involved in the preparation of seeds, planting, harvesting and drying processes on seaweed farms on the east coast of Unguja (the main island of Zanzibar, often referred to as simply Zanzibar), where working environments were reported to be "dangerous". Meanwhile, through the process of "physical counting", researchers revealed there were some 50 child prostitutes (aged between 14 and 18) in the Stone Town, the main urban centre on Unguja. None of these children were reported to be attending school, but, of the child prostitutes, only three percent were said to have originated in Zanzibar.

Actually Young boys, dressed in shabby clothes, are seen along the sea shore, sometimes during school hours earning between Tshs 200 and 1,000 depending of the workload. Even though the work seems cumbersome, the children say they love it because they earn money, and their parents are not concerned that the work may be considered child labour on the other hand Action Aid estimates that out of over 93,000 vulnerable children in Zanzibar have limited access to food, health services, education, over nine per cent of children between the ages of 5 and 17 are engaged in child labour. They generate incomes for themselves and their families.

3.1.3 Child labour in Dodoma

Dodoma is the region located in central Tanzania, this region is the capital city of Tanzania, Dodoma also is among of the victims child labour, since the region is covered by the nomadic societies most of the children engaged in animal keeping and moving with livestock from one place to another in searching for pasture, this actually denied the right of those children to education. in 2011 the statistics shows that the school dropout ratio was 18.9% on average as shown in the table below since enrolment in standard one in 2005 versus the dropout students who were unable to complete standard seven in 2011. refer table 2

3.2 The reason behind the issue of child labour in Tanzania

Child labour in Tanzania is caused by many thing and circumstances but poverty seems to be the major cause of all other factors, the researches show that poverty in family level put a lot of children with no choice but to enter into streets and look for job, The quality of the family house is one of the best indicators of household poverty. the results from Table 3 shows that, 67.7% of the families were found to be living in moderate good houses roofed with corrugated iron sheets regardless of the wall materials and type of floor, while 32.3% of the houses roofed with thatch grasses. These findings show that the majority 62% of the households live in houses made of brick red (burnt bricks), while 38% live in houses made by mud or sand.[31]

Rocky R.J. Akarro and Nathan Anthon Mtweve[32] tries to mention the cause of child labour in Tanzania but in most cases the other causes fall into poverty factor, They stipulated that child labour in Tanzania caused by three factors which stipulated in house hold context. Culture context and school context,

In **household context** poverty is said to be the major cause of child labour since it is from the fact that most of child laborers come from poor families. Apart from demographic characteristics, income or consumption which are typically used to determine whether a household is poor or not, other economic characteristics that correlate with poverty are whether the heads of households

[31] R. R.J. Akarro and N. A. Mtweve, Department of Statistics, University of Dar es Salaam, Tanzania, Poverty and Its Association with Child Labor in Njombe District in Tanzania.
[32] Ibid.

are employed or not, and the property of a household which includes possession of tangible goods like furniture, livestock, agricultural equipment, machinery, buildings, household appliances and other durable goods. The reason behind is that not only children from these families are forced to work so as to contribute to household income in the context of poverty and hardships, but also many parents prefer sending children to work rather than to schools. Although children from some of the poor households are enrolled in schools, they tend to do seasonal or part time employment and carry out household responsibilities. The periodic absence from school due to participation in seasonal work is not compensated by the teachers or by their family members. This results in their poor performance in school, grade repetition and finally drop out from school.

The other factor is **cultural contest** Children's social and cultural background plays an important role in their participation in work and educational opportunities. Religion, myths and traditions define childhood and generational role in African societies which differ significantly from that of European societies. Children are never accorded with an identity of their own; they remain as an object of their parents' wishes and family needs in many poor African societies. The cultural aspect for household's head gives the adults authority over children. Parents may demand labour from any employing firms and individual employers and send their children to work because they are considered as innocent, docile and less troublesome.

And in **school context**, this is due to reason that Parents are discouraged to send their children to school when direct costs of books, uniforms, writing materials, transportation to school, need to be covered by families. Like other developing countries, a large number of the population in Tanzania is in rural areas and engages in subsistence farming. In this context, children have a defined role and indeed growing up is associated with the gradual acquisition of new specialized task for boys and girls in order to cover their school expenses. Refer figure 1.

The conceptual framework postulates that, not all parents can afford to pay indirect costs for their school children. This is due to unfavorable home environment and sometimes lack of basic needs. Consequently such parents tend to hunt for part time employment after school hours for their children.

The Survey by ILO/ IPEC[33] also revealed that; declining household income that has made it difficult for parents to meet the basic needs of their children including school requirements. 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 laborers. The study found economic hardships at household level as the

[33] ILO/ IPEC Tanzania (2001: 12)

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 jeopardized 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.

Death as a result of HIV/AIDS is also among the cause on the exceeding number of child labour in different sectors; after both parents passed away the children left with no option for surviving but to engage themselves into the activities that will make then earn something for their living, H.A Dachi and R.M Garrett[34] provides that in households where parents have died of HIV/AIDS related diseases and where children live with a single parent or guardian 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. This finds support from the findings by Amma *et al* (2000) which indicate that working children contribute about 40% of the household income that is geared to basic food items.

[34] H.A Dachi and R.M Garrett (2004) Child Labour and Its Impact.

Ignorance of the law also play a big role in causing child labour in the country, most of the parents and employers as well as the community do not have any awareness of the law that prohibit child labour, although the maxim *ignorancia juris non execusant* (ignorant of the law does not afford an excuse) do apply in Tanzania still it does not count any thing since implementation of law in many area of the country is still the problem, the good example of this is in the Rorya District in Mara region where many children are engaged in fishing in lake Victoria and the community seems to be satisfy with the situation because there are even no any machinery that engaged in covering such situation in those places.

LHRC's media survey on physical violence and sexual abuse against children of 2012[35] stipulate that the reason of child rights violation in Tanzania is because of improper ministerial arrangements, for example children affairs are handled by tree different ministries, the Ministry of health and social affairs, community development, Gender and children and Culture, Youth and Sports. According to them this situation lead to loss of focus on responsibilities, apart from that they mention also the lack of linkage between these ministries and the ministry of home affairs since is due to this reason why the ministries fail to effectively command and promote respect and of the right and welfare of the children in Tanzania.

[35] LHRC (2012) Tanzania Human Right Report. Pg 164

3.3 The impact of child labour in Tanzania

Child labour is one among things that cause failure to universal education, most of students who are supposed to attend school engage them selves in working, according to Rocky R.J. Akarro and Nathan Anthon Mtweve[36] Child labour is one of the obstacles to universal education as well as achieving Millennium Development Goals (MDGs) by 2015 for all developing countries, Tanzania inclusive (URT, 2005). Today, at the midpoint between the adoption of the MDGs and the 2015 target date, many countries have already reached the goal of universal primary education. However, in Sub-Saharan Africa, primary and secondary school attendance rates continue to be low because millions of school children work instead of attending school (World Bank, 2005). This suggests that child labour is one of the obstacles to achieving Millennium Development Goals (MDGs) of universal primary education in Sub Sahara Africa,

On their statistics, it is estimated that about 1 out of 3 children aged between 5-14 years in Sub-Saharan Africa are employed, compared to Central and Eastern European/ Commonwealth of Independent States (CEE/CIS) region where only 1 out of 20 are employed. In absolute numbers, 69 million children in Sub-Saharan Africa, which is 35% of its child population, are engaged in child labour (ILO, 2006). This statistic makes Sub Saharan Africa including Tanzania the most dominant place with prevalent practice in child labour. Rural children were much

[36] Optic

more likely to be involved in child labour compared to urban children including Tanzania.

3.4 Prohibition of child labour laws in practice

There are various other laws providing for employment of a child and some of these are the Constitution of the United Republic of Tanzania, 1977, the Law of the Child Act, and the Vocational Education and Training Act, Employment and Labour Relation Act to mention a few, These laws provide for what we say child labour and on the other circumstances they provide for the circumstance in which a child can be employed, in Tanzania not all employment to a child is child labour there is the recognition of the age in which a child can work and such employment not to be child labour.

3.4.1. The Constitution of United Republic of Tanzania, 1977

The constitution of United Republic of Tanzania provide that every person has a duty to participate in a voluntarily and honestly in lawful and productive work[37], hence child labour to the meaning of this provision is dishonest and unlawful since there are the laws which created under this constitution which declare it to be unlawful, on the other hand Tanzania's Constitution prohibits forced or compulsory labour.

[37] Constitution of the United Republic of Tanzania of 1977, Chapter 1, Article 25(1) b

3.4.2 The Law of The Child Act, 2009

The law of the child under section 12 provides for prohibition of employment of the child which is harmful to his or her health, education, mental, physical or moral development. and anyone who contravene this part under section 14 of the same act is committed an offence and on conviction will be liable to a fine not exceed five million shillings or to imprisonment not exceeding six months, but under this act also the duty of the child to work is recognized since under section 15(b) the child do have the duty to work for the cohesion of the family.

3.4.3. Employment And Labour Relation Act

Section 4 of the Employment and Labour Relations Act, 2004 defines a child as a person under the age of fourteen years but for the purpose of employment in hazardous sector , it is defined as a person under the age of eighteen years. Generally the law prohibits employment of a child under the age of fourteen years. It further prohibits employment of a child under the age of eighteen years in a mine, factory, as a craw in a ship, or any other work site including non-formal settings and agriculture where work conditions may be considered hazardous by the Minister.

However, the law permits employment of a child of fourteen years in light work which is not likely to be harmful to the child's health and development and does not

prejudice the child's attendance at school, vocational orientation or a training programme. The general welfare of the child must not be prejudiced, The law also prohibits the military recruitment of children under 18 years, though children may volunteer with parental consent. The law also prohibits the procuring of a child less than 18 years for indecent exhibition or for sexual intercourse, either inside or outside the country.

Under this law it is an offence to employ a child contrary to the provision of the mentioned act and the sanction thereof is provided for under section 102 (2) of the act which empowers a District and Resident Magistrate's Court to impose a penalty amounting to a fine not exceeding five million shillings, imprisonment for one year or to both fine and imprisonment as the Court may deem fit to do so depending on the circumstance of the case.

In Zanzibar they do have their labor law, the minimum age for employment in Zanzibar is 18 years. Zanzibar law provides for the following two categories of child labor offenses:

(a) ordinary practices for child labor, and

(b) worst forms of child labor.

Penalties for these offenses are similar to mainland Tanzania's; the penalty for category (a) offenses is a fine or imprisonment for up to 6 months; while penalties

for category (b) offenses include a fine, imprisonment for a minimum of 1 year, or both.

3.5 Gaps in law accelerating child labour

Laws applicable in Tanzania especially those dealing with the issue of child and child labour seems to have gaps that pave the way to the issue of child labour,

3.5.1. Gaps caused by contradiction of law on the issue of child affairs

In most cases laws contradicting each other, the good example of this is on matter of definition of a child, the definition of child is derived from the proposed age to who a certain person is said to be a child, and to that context in which age if a child is employed such employment will be termed as child labour.

Under Employment and labour relation Act[38] the child is defined in two ways, on the meaning of hazardous areas the child is said to be of 14 years while in other circumstance under this law a child is who below the age of 18 years, in that case itself it is impossible for the layman of law to determine the differences and this contribute to child labour since the community fail to determine the real age of who is a child in a particular field.

[38] No.2 of 2004,

On the other hand there is the law of Marriage which still provide for the child of 15 years capable of being married under the parents consent, but the law does not provide for the machinery governed the circumstances provided in this issue, and at the end of the day a child start to assume the responsibility of the marriage and among them is taking care of the house and other family activities in which to the normal interpretation are child labour, then in this case failure of having constant age for the definition of child in term of The Law of Marriage Act[39] accelerate the issue of child labour in Tanzania.

3.5.2. Gaps in law caused by lack of the governmental enforcement body

The laws dealing with child issues does not provide for the governmental instrument that can deal only with the enforcement of the laws on children affairs, the laws create regulations and offences but left for the general enforcement machinery to deal with these sensitive, police are the one who investigate and prosecute on the offences against children affairs, children issues do need special attention , the issues like dealing with corruption given priority of having their own enforcement machinery but offences against children are not, then laws that made to eradicate child labour and any child affairs cannot be effectively enforced if there is no independent body with the power to investigate and prosecute those who going against these laws.

[39] Cap 29,2002.

CHAPTER FOUR

CONCLUSION AND RECOMMENDATION

4.0 Conclusion

The research has revealed that despite the existence of these regulations and policies against child labour, the problem is increasing in Tanzania, the number of the events taken to eradicate the problem still does not cover the whole nation, the programs that mostly waged by international stakeholders to eradicate child labor engaged only on the place that are notable and can be reached easily but the large area of Tanzania is not yet reachable.

The regulations still do not fit to the problem, this is from the fact that even if laws made to solve the issue the community does not know those laws and it is difficult to eradicate or obey the rules which are not known to community, most of sectors in Tanzania are unregistered and this play a great role to the government not to know the statistics of the existence of the problem of child labour in those sectors, then difficult to eradication of the problem also.

Also household poverty were observed to significantly associate with sex, age, marital status, household size and the level of education of the household head to cause child labour. Data analysis was used to determine and quantify the association between household poverty and child labour. The findings show that poverty is the main cause of child labour. Poor households were more likely to send their children to employing firms compared to well-off households. Other factors which were observed to be significant include gender, marital status of the household heads and family size.

4.1 Recommendations

The government of United Republic of Tanzania must ensure that it put forward the aim of prohibiting child labour forward on its plans, by doing so it must make sure the funds are provided by the government it self and not only depending on the donors to eradicate the problems that found on its own jurisdiction, also in the process of the government programs of eradicating child labour it must focus on the interior place where the most of the problem found there instead of putting more efforts in prohibiting child labour in towns where even the problem is not much compared to rural areas where a lot of field like agriculture which involve in employing child labour are found over there.

Since the elimination of child labour cannot be achieved in the short term, efforts must be made to protect some working children by offering them essential social services and withdrawing them from the most hazardous work and dehumanizing working conditions as transitional measures. Tanzania should decided to take the long-term perspective of problem.

The issue of government to find the new way of implementing its laws must be taken into consideration also, enacting laws only does not suffice in eradicating the problem to the community, the machineries must be made in

making sure that laws made are implemented accordingly, the Tanzania law system must also change in some extent that they should go with the Tanzania environment instead of still exist as in common law to enable implementation, the presumption that once the law is made and published then the whole community presumed to know about it does not suffice to Tanzania environment and lead to the problem even increase, since once the law is enacted it must be well known to the people so that the community to know that the particular acts are illegal,

Taking an example of the awareness of the most people in Tanzania on the issue of what age a child is said to be engaged in child labor in accordance to the Employment and Labour Relations Act, people do not know about the circumstances of hazardous and non hazardous environment to the child work, hence only that being found in law does not make the government said to have combating child labour.

The community also must be flexible in understanding the effect of children to be engaged in employment which are harmful to them and must recognize the efforts made by the government and other stakeholders that it is not just wastage of time, and that they must work together with them in providing information on those who seems to employ the children against the law.

The government also should prioritize primary education, it is no coincidence that the countries where child labour is worst are those that spend least on primary education. Primary education should be free, compulsory, well-resourced, relevant and nearby. It is much easier to monitor school attendance than to inspect factories and workshops. Sponsoring a child doesn't solve this problem, it might make people feel good, but it only helps to educate one child, isolating them from others in their community, hence the attendance of the donors to take few children from working place and sponsor them is not actually bad but it does not solve the problem continuously.

The other main thing also is to get rid of poverty, many things are needed to overcome poverty, but what the government should do is to improve the economic structure of the communities, providing the main social services that will reduce the expenses to the families and the families will engage their selves in improving their economic capability that will left their children with no reason to work for payment in order to receive something for their living.

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APPENDIX

1.

Region	No. of working children in millions.	Working of children (%)
Developed countries	2.5	2

Developing countries	2.4	4
Asia and the Pacific	127.3	19
Latin America and Caribbean	17.4	16
Sub Sahara Africa	48	29
Middle East and North Africa	13.4	15
Total	211	18

Table 1: Working children by region in 2002.

2.

District	Student enrolled-2005			Student who dropped out of school 2012			
	Male	Female	Total	Male	Female	Total	%
Bahi	2387	2344	4731	685	550	1235	21.6
Chawino	2838	2925	5763	281	180	461	8.0
Dodoma(u)	5662	9361	11086	1321	1165	2486	22.0
Kondoa	8818	9361	18179	1216	23	1239	6.8
Kongwa	5474	5612	11086	2458	1632	4090	36.9
Mpwapwa	4471	4799	9270	1077	841	1918	20.7
Total	29650	30679	60329	7038	4391	11429	18.9

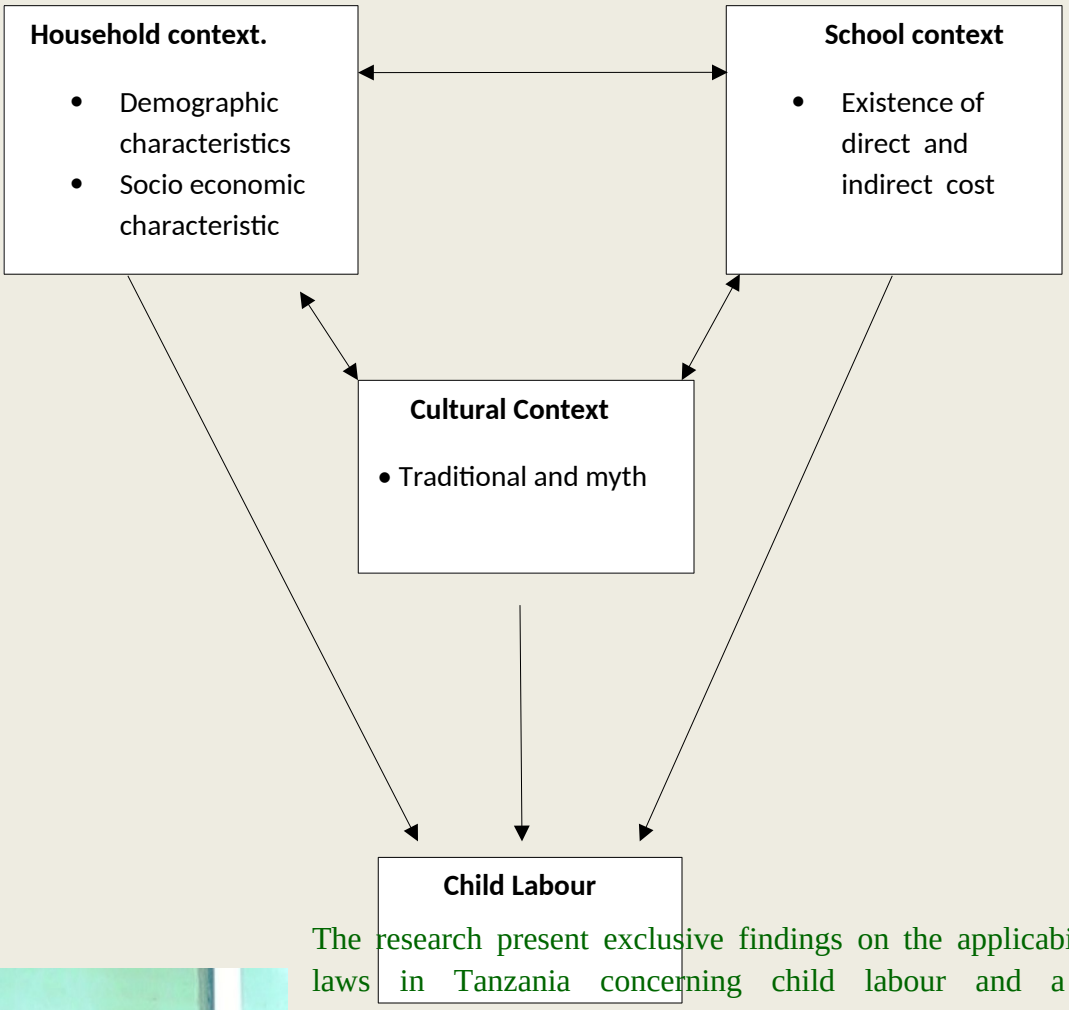
Table 2: School Enrolment v Dropouts in Dodoma region.

3

Variable	Frequency	%
Roofing materials		
Corrugated iron sheets	203	67.7
Thatch grasses	97	32.3
Total 300	100.0	
Wall materials		
Brick red	186	62.0
Mud / sand	114	38.0
Total 300	100.0	
Floor		
Mud/sand	164	54.7
Cement	136	45.3
Total 300	100.0	
Power source		
Electricity	2	0.7
Kerosene, Firewood and wood charcoal	298	99.3
Total 300	100.0	
Type of toilet used		
Pit latrine	299	99.7
Flushing	1	0.3
Total	300	100.0
Health service available		
Yes	230	76.7
No	70	23.3
Total	300	100.0

Table 3.shows indicator of poverty.

4.



ame work showing the relationship between household context, schooling and child labour.



The research present exclusive findings on the applicability of laws in Tanzania concerning child labour and a child environment in Tanzania perspectives. Ouma George James dedicated most of his time to study and present to the Tanzanians the efforts of his searching.

Ouma George James was born in Tanzania in 1989, and started his life as a normal person in Serengeti district in Mara region, he went to a primary school at his home town in Musoma at Mukendo Primary School, from there he completed his secondary education at Mara secondary school before he joined to Musoma Utalii High School for his Advance Secondary Education from 2008 to 2010. in the same year he was selected to join Tumaini University Dar es salaam college at Dar es salaam Tanzania and in November 2013 he awarded a Bachelor degree in laws.

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While he was in college Ouma George engaged himself in the college human rights association and it was from there he got an idea of doing a research for his bachelor degree requirement in child and child labour issues. However it was from that spirit and passion h ertificate of being a human rights activist d this actually made him with a ghts issues.

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