

## **HANDLING OF CHILDREN IN CONFLICT WITH THE LAW CASES IN TANZANIA: ANALYSIS OF LAW AND PRACTICE**

*Written by Anne George Malipula*

*Senior State Attorney at National Prosecution Services and Phd Candidate, Faculty of Law,  
The Open University of Tanzania. Dar Es Salaam - United Republic of Tanzania*

---

### **ABSTRACT**

Handling of children in conflict with the law cases has got its unique way of doing it, it does not follow the procedure narrated under the Criminal Procedure Act Cap. 20 [R.E. 2002]. Part IV of the Law of the Child (Juvenile Court Rules) provides for those procedures. The Law of the Child Act No. 21 of 2009 was enacted to replace The Children and Young Persons Ordinance Cap 13 and to comply with the regional and international requirements in relation to treatment of children especially to what is enshrined in the United Nations Convention on the Rights of the Child abbreviated as UN-CRC and the African Charter on the Rights and Welfare of the Child also abbreviated as ACRWC. Among the crucial treatment is prosecution of children in conflict with the law. The LCA clearly stipulates in its preamble that among others; that is what has been adopted from the UN-CRC and ACRWC is the making of provisions with respect to handling of children in conflict with law and to provide for related matters.<sup>i</sup>

Recognizing the presence and the importance of the LCA on May, 2016 the Chief Justice made the Juvenile Court Rules which was published under Government Notice No. 182. The Juvenile Court Rules was made under section 99(1) of the LCA.

The purpose of these local rules is to establish procedures for Juvenile Courts, which are designed to fulfil the purposes of the LCA. To that end, these rules serve the following functions: (a) To help juvenile justice personnel to know exactly what is supposed to be done during juvenile trials; (b) To help elimination of unnecessary delays in court proceedings; and (c) To help the parties present issues and evidence to the juvenile court in an efficient and

simple manner considering the vulnerability of children. This article therefore, addresses necessary procedures for handling children in conflict with the law from arrest point to sentencing as suggested by the JCR and personnel involved main focus being public prosecutors roles under the processes and suggests the way forward.

**Key words:** Juvenile justice, Children in conflict with the law, Public prosecutors

## INTRODUCTION

Prosecutions is at the heart and centre of the Tanzania juvenile justice system. They serve as stages of case processes that follow the police arrest and precede the delivery of convicted defendants to correctional authorities. Public prosecutors play central roles between the courts and the police. When the police arrests a child who is suspected to have conflicted with the law the file is being sent to the National Prosecutions Service the DPP and officers under him are mandated to opine on whether the child be charged or not. Upon deciding that the child be charged, public prosecutors move courts by instituting criminal proceedings against the child offender. Therefore internationally and nationally prosecutors are key players in juvenile justice whether involve adults or children who have been subjected into criminal processes for prosecutorial measures to take its course. All proceedings relating to handling of children in conflict with the law cases are governed by the LCA and its related JCR.

Consequently, The Law of the Child Act No. 21/2009<sup>ii</sup> was enacted as a way of adhering what is enshrined in the spirit of the UN-CRC<sup>iii</sup> and the ACRWC.<sup>iv</sup>

## CHILDREN IN CONFLICT WITH THE LAW

The issue of managing or dealing with children who are coming in conflict with the law has historically haunted the global community, and Tanzania is no exception.<sup>v</sup> Although there have already been important headways, much remains to be done in ensuring child justice in Tanzania, Africa and the world at large. The term "children in conflict with the law" has

historically developed to refer to the situation whereby anyone defined by the relevant law as a child comes into contact with the justice system as a result of being suspected, accused or adjudged of committing an offence.<sup>vi</sup> Notably, the main problem has for ages risen when children come in contact with a justice system that does not comprehend the requirement of the best interests of the child principle, which is expected by the international treaties particularly the UN CRC and ACWRC not only deprives them of their liberty, but also increases their vulnerability to abuse, violence etc.

Considering the above, child needs exceptional attention, not only by the particular State, but also from the world community as a whole. Once the importance of children's issues is put in place, then all countries in the world will endeavour to look for alternative forms of the settlement for the children in conflict with the law. Some children in conflict with the law commit petty crimes but some commit serious offences like murder, rape, unnatural offences, armed robbery, drug trafficking etc which necessitates them to be subjected into juvenile justice processes.

## **THE NATIONAL PROSECUTIONS SERVICES OFFICE**

The National Prosecutions Services Office well known with its acronym as 'NPS' is the sole institution mandated by law to institute, conduct and control prosecution's for any offence other than court martial in the country. Offences may include criminal cases for adults and Juvenile cases for children. This office is created by the National Prosecution's Services Act<sup>vii</sup>. The office consist of a Director<sup>viii</sup> which is the head of operations in relation to prosecutions and coordination of investigations. Investigations are conducted by the investigative organs to include the Police Force. Under the Director there is a Deputy Director of Public Prosecutions who is the accounting officer of the institution, following him there are directors and assistant directors and other officers who are given instruments by the Director of Public Prosecutions to perform prosecutorial duties on his behalf. Basically these officers are State Attorneys who perform prosecutions function and other functions as mandated to them by the law.

Worth note the DPP is also mandated with power to appoint any other person from other institutions to assist on prosecutions these are Police, Prevention and Combating of Corruption Bureau officers, Immigration officers, officers from wild life etc. All these category together with State Attorneys from part of Public Prosecutors.<sup>ix</sup> This is provided under section 22 (1) and (2) of the NPSA, the said section reads:

*The Director may appoint a person to be a public prosecutor from other departments of the Government, local government authority or private practice to prosecute a specified case or cases on his behalf*

## **DEFINITION AND DUTIES OF PUBLIC PROSECUTORS**

A public prosecutor means a person appointed in accordance with the national prosecution service act No. 27/2008<sup>x</sup> to conduct prosecutions of a criminal case in the court of law. These include Director of Public Prosecutions, the Attorney General, Deputy Attorney General, a Parliamentary Draftsman, a State Attorney and any other person acting in criminal proceedings under the directions of the Director of Public Prosecutions.

Prosecutors are mandated to control criminal proceedings and coordination of investigations for end of justice. Section 9(1) of the NPSA<sup>xi</sup> provides for roles of prosecutors which they exercise by virtue of the DPP's instructions.

Duties of Public Prosecutors are well enumerated under section 9 (1) (a) (b) (c) (d) and (e) of the NPSA this includes and not limited to (a) decide to prosecute or not to prosecute in relation of an offence, (b) to institute, conduct and control prosecution's for any offence other than court martial, (c) to take over and continue prosecutions of any criminal case instituted by another person or authority,(d) to discontinue at any stage before judgment is delivered any criminal proceeding brought to the court by another person or authority and to direct the Police and other investigative organs to investigate any information of criminal nature and to report expeditiously<sup>xii</sup>

### ***Guiding Principles in Prosecutions of Juvenile Cases***

In deciding whether or not to prosecute a juvenile offender a public prosecutor shall be guided by the best interests of a child. In considering what amount to the best interests of a child, regard shall include but not limited to rehabilitation and reintegration, restorative justice objective, and; public safety and the rights of the victim. This is provided by the Juvenile Court Rules well known with its acronym as 'JCR'<sup>xiii</sup> The requirements enshrined in the LCA and the JCR are in conformity with the international laws which call for essential aim of treatment of every child during trial and also if found guilty of infringing the penal law, most important to him/her shall be his/her reformation, reintegration into his/her family and social rehabilitation. The wording of this article is to the effect that;<sup>xiv</sup>

*The essential aim of treatment of every child during the trial and also if found guilty of infringing the penal law shall be his or her reformation, reintegration into his or her family and social rehabilitation.*

### ***Institution of Criminal Proceedings of the Child***

As afore indicated the prosecution of children cases has got its unique way of doing it, it does not follow the procedure narrated in the CPA<sup>xv</sup> rather it follows procedures narrated under Part IV of the JCR. The rules require where the decision is made to prosecute a child who is on police bail with a criminal offence facing him/her that child shall be served with a summons to appear before the court, the summons to be issued to the child shall be in writing, in duplicate signed and sealed by the magistrate<sup>xvi</sup> The rules states further that the summons shall requires the child to appear before the court at a time and place to be specified therein, but where the child is in the care of the local government authority, the summons shall be served on the head of the social welfare department of that authority, the summons will include the charge sheet, particulars of the offence and any statements given by the child shall be attached there to.<sup>xvii</sup>

The rules prohibit the child to be arrested, summoned or to be brought before the court unless is for the purpose of answering a complaint of charge against him, making an application to remand him in custody, when the child is remanded in custody for purposes of affording a child a right to fair hearing, the court issues removal order of the child.<sup>xviii</sup> When the child fails to appear in response of the summons the court may issue a warrant of arrest, but subject to complaint to be made on oath by a police officer. The above can be done only if an attempt to contact the child following failure to respond to the first summons has been made without



success and the child cannot be contacted or found and a second summons has been issued for the child attendance before the court and the child has failed to respond.<sup>xix</sup>

Consequently, the rules impose duties to the person arresting the child under warrant of arrest to immediately inform and notify the parent, guardian and the head of the social welfare department of the district where the child is arrested, of the arrest of the child, the reason for the arrest; and the child's whereabouts.<sup>xx</sup> The rules goes further to impose duties to police officers where a child has been arrested under the warrant that, that child mandatorily be brought before the court on the day of arrest and not later than the next day following the arrest, save that where the offence is a serious one, and-the child is arrested after the end of business on Friday, a child may be detained and brought before the court on a Monday morning; or the child is arrested after the end of business on the day before a public holiday, that child shall be brought before the court on the next working day.<sup>xxi</sup> If the child is not brought before the court within 24 hours it is mandatory to the police officer to inform the social welfare department of the area in which the child is arrested and it is also mandatory to the social welfare department to cooperate with the police officer to place the child in an approved residential home, institution or with a fit person until he is brought before the court<sup>xxii</sup> Consequently, the child is supposed to be provided with sufficient food, water, bedding and light. Importantly for that child is to be placed in a separate cell from the adults cell if it happens that he/she is kept overnight at the police station on warrant of arrest. It is also mandatory for a warrant of arrest to remain in force until it is executed or cancelled.<sup>xxiii</sup>

### ***A Charge Sheet***

The guiding rules for children who are in conflict with the law specify what the charge concerning a child shall contain the following; a statement of specific offence or offences with which the accused child is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the offence charged. Other requirements before the commencement of the trial as per JCR are; the court must ensure that the prosecutions side provide the child or the child's representative and or social welfare department with a copy of the charge sheet in sufficient time for the child to prepare his/her defence. The charge sheet and statement of facts must be in language which a child understands<sup>xxiv</sup>

### ***The Requirement of Attendance of Parents, Guardians /Carers***

As enshrined in the UN CRC and ACRWC on the requirement of the child who is in conflict with the law to be coupled with parents or guardians the JCR has also incorporated that requirement. A parent and guardian who has the information of child's case and fails to attend court proceedings relating to his/her child, to that the court may issue a summons requiring a parent or guardian to attend at the court on a specified date, unless it is not in the child's best interests that the parent or guardian should attend. The requirements of summons to compel a parent or guardian to attend juvenile proceeding is done away when it is not practicable for the parent or guardian to attend.<sup>xxv</sup>

Accordingly, a parent or guardian who has been issued with a summons to appear to court for the child's proceedings and fails to appear before the court without sufficient excuse, the court has the power to issue a warrant to bring him before the court at such time and place as specified in the warrant. This is also applied where the court satisfies itself that a parent or guardian is not willing to attend the court proceeding relating to his/her child unless compelled to do so.

None the less, the above position does not apply where the parents and guardians were not informed in sufficient time to permit attendance or were unable to attend for good reason. The JCR has left no room for the child who face trial to attend alone in court. The JCR gives power to the local government authority represented by the assigned social welfare officer to attend the hearing where the child is in their care. In this situation the social welfare office possesses the same rights as a parent.<sup>xxvi</sup>

### ***Disqualification of Parent or Guardian to Assist the Child***

For the purposes of protecting the child and for the purposes of his/her best interests the JCR is not silent in regard to powers of the court to disqualify the parent or guardian to assist the child if the court is satisfied that; the parent or guardian is charged with an offence based on the same facts, the parent or guardian has been convicted of an offence against the child, it is not in the child's best interests to be so assisted by a parent or guardian or the child is in the care of the local government authority and the local government authority. Other scenario is when the local government authority in exercising its parental rights under the Child Protection

Regulations, 2015 has determined that it is not in the best interests of the child for the parent or guardian to assist the child.<sup>xxvii</sup>

### ***Prohibition of Proceedings in the Absence of a Representative for an Accused Child***

The JCR is very clear on matters of representation in proceedings involving a child who has conflicted with the law. It provides for the mandatory requirement for the child to be represented in all hearings. where the child does not have representation, the magistrate has a mandatory duty to adjourn the proceedings at the first hearing to allow a representative to be appointed and for the child to meet and speak with his/her representative but this adjournment shall not exceed fourteen days. On the hearing day it is required that the case be adjourned for short period of time where a child representative is present in court, this is done to allow the child to speak to the representative and the hearing is supposed to continue on that day.<sup>xxviii</sup>

### ***Bail In Relation To Children In Conflict With the Law***

Generally, the issues of bailing out a child who has conflicted with the law carries important consideration. Bail matters starts when the child has been apprehended by police and when he/she is before the court. For purposes of clarity is better to define what bail means generally in relation to offenders. Bail is a set of restrictions that are imposed on a suspect while awaiting trial or when under police custody. The former is meant to ensure they comply with the judicial processes. In some countries including Tanzania, bail usually implies a bail bond. This is money or some form of property that is deposited to the court by the suspect, in return for the release from pre-trial detention. If the suspect does not return to court, the bail is forfeited, and the suspect may possibly be brought up on charges of the crime of failure to appear. If the suspect returns to make all their required appearances, bail is returned after the trial is concluded.<sup>xxix</sup>

In other countries, such as the United Kingdom, bail is more likely to consist of set of restrictions that the suspect will have to abide by for a certain period of time. Under this usage, bail can be given both before and after charge.<sup>xxx</sup> For minor crimes, a suspect may be summoned to court without the need for bail. For serious crimes or for suspects who are deemed likely to fail to turn up in court, they may be remanded or detained while awaiting trial. A suspect is given bail in cases where remand is not justified but there is a need to provide an incentive for the suspect to appear in court. Bail amounts may vary depending on the type and



severity of crime the suspect is accused of either practices for determining bail amounts vary between countries.<sup>xxxix</sup> The LCA and its JCR also has considered treatment of bail issues for children in conflict with the law separately from those of adults.

The JCR require a child who appears or is brought before the court for the purpose of hearing any charges against him must, unless the offence with which the child is charged is not bailable to be granted bail. Consequently be released into the care of his parents, guardian, fit person, fit institution or the Commissioner of social welfare who will help the child to return to the court at a date to be specified.<sup>xxxix</sup> Notwithstanding the above, where the child is released into the care of the Commissioner the child care must be delegated to the head of the social welfare department of the district where the child ordinarily resides. Nevertheless, where the child is of no fixed abode the care must be delegated to the head of the social welfare department in the district in which the child was arrested or such other social welfare department as the Commissioner deems appropriate.<sup>xxxix</sup>

In case another local government authority has taken responsibility for that child, that local government must continue to take care of the child on behalf of the Commissioner. Finally, in considering bail of the child the court must, in releasing the child on bail, not require a financial surety.<sup>xxxix</sup>

The situation becomes different where the child has committed unbailable offences, the JCR allows the child to be placed under police custody or remand homes. Importantly to note prosecutors have got strong arm in matters of bail, if prosecution side is of the opinion that bailing out the child who has conflicted the law will be to his/her own risk/jeopardy, it will endanger public safety or rights of the victim the prosecutor will assist the court on whether to grant bail or not to child according to the circumstances.

## **DUTY TO DISCLOSE PROSECUTION CASE IN CRIMINAL TRIALS INVOLVING A CHILD**

Essentially the JCR is a tool which governs how to conduct juvenile trials, The JCR plays the role which CPA does in conducting criminal trials against adult offenders. The duty to disclose

the case which the child is prosecuted of lies to the prosecutor. Therefore the prosecutor must file the details of the prosecution case in duplicate to the court before the preliminary hearing (PH).

A preliminary hearing is best described as a "trial before the trial" at which the magistrate/judge decides, whether the child offender is "guilty" or "not guilty," but whether there is enough evidence to force the child offender to stand trial. In making this determination, the Judge/Magistrate uses the "probable cause" legal standard, deciding whether the government has produced enough evidence to convince reasonable Judges/Magistrates that the child suspect committed the crime(s) charged.<sup>xxxv</sup>

The "probable cause" standard is different from the standard for conviction which is typically guilt "beyond a reasonable doubt." Probable cause refers to the existence of a logical basis for the prosecution, as opposed to strong evidence of guilt suggested by the conviction standard of "beyond a reasonable doubt." This means that winning at a preliminary hearing can be more difficult than winning at trial. Difficulty doesn't mean impossibility though, a success at this stage can result in charges being dropped.<sup>xxxvi</sup>

## **WHAT TO EXPECT AT THE PRELIMINARY HEARING**

The JCR mandates the prosecutor to file the details of the prosecution case in duplicate to the court before the preliminary hearing. The prosecutor is also required to supply a copy of the details of the prosecution case to the child or child's representative before the date of the first hearing. The details of the prosecution case must include; the charge sheet with statement of offence which will disclose the law violated. In addition, the charge sheet will include particulars of the offence which will also disclose the name of the child offender, when the offence was committed, the place where the offence was committed and the type of the offence committed. Together with the charge sheet the prosecutor is duty bound to prepare and produce to the court a statement of facts, any document or extract on which the case will be based and any previous convictions of the child. Disclosing previous conviction of a child will assist the court to determine the kind of sentence suitable for that particular child.

In the main, the JCR mandates the prosecutor to disclose to the court any witness statements and any other evidence upon which the prosecution seeks to rely within fourteen days before the final proceedings. Likewise the JCR requires the prosecution side during the court proceedings, to mandatorily keep under review whether there is prosecution material, which might reasonably be considered capable of undermining the case for the prosecution against the accused child or of assisting the case for the child, which has not been disclosed to the court. The prosecutor is also duty bound to disclose to court materials encountered during the proceedings. The prosecution material referred to includes and not limited to materials which is in the prosecutor's possession and came into his/her possession in connection with the prosecution case against the accused or materials which he/she has inspected in connection with the case.<sup>xxxvii</sup>

In the situation where the prosecution side fails to file the details of the prosecution case within the required times, the court has mandate on the application of the accused or on its own motion to order the prosecution side to file such documents within three days. It is also mandatory for the court before it exercises its above mentioned powers to give the prosecution side the rights to make representations against disclosure.<sup>xxxviii</sup>

Importantly to note, the JCR provide for juvenile court environments to be child friendly and not to subject the child into adversarial proceedings, likewise tricky questions in cross examination are not allowed. Ultimately the court when sentencing the juvenile who has been found guilty of infringing the law, the general principle is that detention should be as a matter of last resort and for the shortest period of time. That means alternative sentences have to be explored first before considering the harsher punishments. Rehabilitation of the child offender and finally reintegration to his/her society for the betterment of his/her future being the main focus. Likewise while in custody the child should be placed in a separate wing not those which are normally used by adults. This is well articulated in the UN CRC and ACRWC. Again for purposes of insuring juvenile justice the DPP or officers under him are mandatorily required to visit children who are placed under custody by courts for purposes of ensuring that good administration of juvenile justice takes its course.<sup>xxxix</sup>

## **SOCIAL WELFARE OFFICER ROLES IN JUVENILE TRIALS**

The LCA imposes vast roles in relation to children in conflict with the law in the hands of social welfare department. In a manner of speaking, this statute vests the destiny of the child offender in the hands of social welfare officer known by law. The Department using its mandate disseminated the Child Protection Regulations in 2015, and issued a Circular under section 16(q) of the LCA designating children in conflict with the law as children who are in need of care and protection in 2012.<sup>xI</sup> Noting the importance of this Department even the Police General Orders abbreviated as 'PGO' No. 240 which is the day to day police officer's major working tool when dealing with children offenders, requires upon apprehension of the child and upon deciding that for any reason in the best interests of the child, the child be held in custody the social welfare department to be notified immediately.

Worth note, no juvenile trial is allowed to be conducted in the absence of a social welfare officer this is well provided under section 99(1)(d) of the LCA. Social welfare are mandates to prepare social inquiry report before verdict is entered against the child offender, In addition a social welfare officer serves as a parent or guardian in the absence of them to the child offender. In *Furaha Johnson 'v' Republic* Criminal Appeal No, 452 of 2015, CAT, Arusha, (Unreported) thou the main duty of prosecutors is to prosecute the case to an end, the prosecutor played brilliantly her role of being an officer of the court hence implementing her duty of assisting the court to reach just decision. Notably in this case the learned state attorney strongly raised the only point of contention that the trial of the appellant was blemished by one fatal irregularity. This was failure to give effect to the mandatory provisions of the LCA hence conducted juvenile trial in the absence of the social welfare officer. The Court of Appeal of Tanzania abbreviated as "CAT" in perfecting the position pointed out that the learned state attorney was right because up to the stage when the appellant was called upon to defend himself, it was not in dispute that he was 17 years old. This position never changed until the conclusion of the trial as no evidence was given to prove otherwise, in view of this, the appellant for all intents and purposes, was a child under the provisions of the LCA.<sup>xii</sup>

## **NEED FOR TRAINED PUBLIC PROSECUTORS IN JUVENILE JUSTICE**

Undisputedly, the main reason for conducting the juvenile trial in the absence of social welfare officer as opposed to the law is lack of trained personnel in juvenile justice. Notably, many people regard juvenile issues as trial issues, therefore can be handled by any lawyer, this is a matter of concern as the CAT pointed out in the case of Republic 'v' Majuto s/o Ngailo Criminal Session Case No. 19 of 2014 in the HCT at Njombe original jurisdiction (Iringa Registry) (Unreported) that;

*The questioning of a child requires special skills, similar to those required to run day-care centres or to teach younger children. Questioning a child in court is an exception. It requires a skill". "with skilful questioning, that child may be able to convey in his or her own child language, to the presiding officer that he or she understands what it means to speak the truth".<sup>xlii</sup>*

Notwithstanding the above in the same case the CAT further pointed out that;<sup>xliii</sup>

*We further know that the level of accuracy and the amount of details provided by young witnesses depends on the ways in which children are interviewed and the role of the interview is thus important"*

Recognising the importance of trained personnel for administration of juvenile trials the UN-CRC Committee General Comment No. 10 requires State parties to the UN-CRC " to;

*ensure the appointment of specialized and skilful judges or magistrates for dealing with cases of juveniles." <sup>xliv</sup>*

## **CONCLUSION**

The practice and procedure for dealing with juvenile offenders in any way has to follow the minimum standards that are applied almost universally for any juvenile offender. This means all personnel who are appointed/selected to deal with juvenile justice has to be conversant/competent and well trained with national and international standards. Special skill is not only the international requirement even Court of Appeal of Tanzania saw this



requirement to be banning for better management of juvenile cases, in the case of Othiniel Kimbute v. Republic.<sup>xlv</sup>

Considering what happened in the case of Furaha Johnsons v. Republic undisputedly the juvenile justice personnel who resided in that case was not trained on that area. Recognising the CAT's decision on Majuto Ngailo v. Republic case public prosecutors and or presiding magistrates/judges on juvenile matters they need to be skilful.

It is therefore recommended that, the Government should strive to train more public prosecutors on juvenile justice and to appoint/select Judges and Magistrates with specialized skills on juvenile justice to deal with juvenile cases.

## REFERENCES

---

<sup>i</sup> See the Preamble of The Law of the Child Act No. 21 of 2009 was enacted as a way of upholding the contents of UN=CRC and ACWRC

<sup>ii</sup>The Law of the Child Act (n1)

<sup>iii</sup>The United Nations Convention on the Rights of the Child (commonly abbreviated as the **CRC** or **UN-CRC**) which was ratified by Tanzania on 10th June, 1991, two years after it was opened for signature is an international human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children

<sup>iv</sup>The African Charter on the Rights and Welfare of the Child was adopted in 1990, it came into force in 1999. Tanzania ratified this regional guidance of the rights and welfare of the child on 16th March, 2003. As of August 2012, it had been ratified by 46 AU Member States out of 53.

<sup>v</sup> Mgimba, L.M. Ensuring Fair Trial in Cases of Children in Conflict with the Laws; The Tanzania Paradox, May, 2012

<sup>vi</sup> Ibid

<sup>vii</sup> The National Prosecutions Services Act, No. 27/2008

<sup>viii</sup> The Director of Public Prosecutions appointed by virtue Article 59 B of The Constitution of the United Republic of Tanzania, 1977 as amended from time to time

<sup>ix</sup>NPSA (n7) section 22 (1) and (2)

<sup>x</sup> NPSA (n7) section 31

<sup>xi</sup> The NPSA (n7)

<sup>xii</sup> NPSA (7) section 9 (1) (a) (b) (c) (d) and (e)

<sup>xiii</sup> Rule 49 (1) (b) and (c) of The Juvenile Court Rules of May, 2016

<sup>xiv</sup> See article 17 (3) of the ACWRC (n4)

<sup>xv</sup> Criminal Procedure Act Cap 20 [R.E 2002]

<sup>xvi</sup> Juvenile Court Procedure (n13) rule 21 (1) and (2)

<sup>xvii</sup> Juvenile Court Rules (n 13) rule 21 (3), (4) and (5)

<sup>xviii</sup> Juvenile Court Rules (n 13) rule 22 (1) (a), (b) and (2)

<sup>xix</sup> Juvenile Court Rules (n 13) rule 23 (1), (2) (a),(b) and (c)

<sup>xx</sup> Juvenile Court Rules (n 13) rule 23 (5) (a), (b) and (c)

<sup>xxi</sup> Juvenile Court Rules (n13) rule 23 (4) (a) and (b)

<sup>xxii</sup> Juvenile Court Rules (n13) rule 23 95) (a) and (b)

<sup>xxiii</sup> Juvenile Court Rules (n13) rule 23 (6) and (7)

<sup>xxiv</sup> Juvenile Court Rules (n13) rule 24 (1), (2)and (3)

- 
- xxv Juvenile Court Rules (n13) rule 25 (1) (a) and (b)
- xxvi Juvenile Court Rules (n13) rule 25 (2) (3) (4) and (5)
- xxvii Juvenile Court Rules (n13) rule 26 (a) (b) (c) and (d)
- xxviii Ibid
- xxix <https://en.wikipedia> accessed on 11/05/2018
- xxx Ibid
- xxxi <https://en.wikipedia> (n29)
- xxxii Juvenile Court Rules (n13) rule 28 (1), (2), (3) and (4)
- xxxiii Juvenile Court Rules (n13)
- xxxiv Ibid
- xxxv See Children and Court Bail - Queensland Law Handbook Online accessed on 11/05/2018
- xxxvi Ibid
- xxxvii Juvenile Court Rules (n13) rule 36 (1)- (9)
- xxxviii Ibid
- xxxix See National Prosecution Services Act (n7 ) section 16(4)
- xl Commissioner for Social Welfare, Circular No. 1 of 2012, made under Section 16(q) of the LCA designating children in conflict with the law as children who are in need of care and protection.
- xli In *Furaha Johnson 'v' Republic* Criminal Appeal No, 452 of 2015, CAT, Arusha, (Unreported)
- xlii Republic 'v' Majuto s/o Ngailo Criminal Session Case No. 19 of 2014 in the HCT at Njombe original jurisdiction (Iringa Registry) (Unreported)
- xliii Ibid
- xliv UN-CRC Committee: General Comment No. 10, 2007, paragraph 93
- xlvi Othman, C.J. Kileo, J.A., Bwana J.A. Mussa J.A. and Juma J.A. in the case of *Kimbuta Otiniel V Republic* Criminal Appeal No. 24 of 2010 High Court of Tanzania, Arusha 2010 Said questioning a child in court is an exception. It requires a skill” “with skillful questioning, that child may be able to convey in His or Her own child language, to the presiding officer that he or she understands what it means to speak the truth.
- 