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**Child Protection and Child Social Protection:
Institutional Issues and Practice in the Tanzanian Experience**

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SP2

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ACRONYMS

ACRWC	-	African Charter on the Rights and Welfare of the Child
CHF	-	Community Health Fund
CS	-	Child Protection
CDOs	-	Community Development Offices
CSP	-	Child Social Protection
CSW	-	Commissioner for Social Welfare
DSW	-	Department of Social Welfare
DSWO	-	District Social Welfare Offices
FGDs	-	Focus Group Discussions
MHA	-	Ministry of Home Affairs
MoHSW	-	Ministry of Health and Social Welfare
MVC	-	Most Vulnerable Children
MVCC	-	Most Vulnerable Children Committee
NGOs	-	Non-Governmental Organizations
NHIF	-	National Health Insurance Fund
RFA	-	Rural Facilitating Agency
RSWO	-	Regional Social Welfare Offices
STIs	-	Sexually Transmitted Diseases
SWOs	-	Social Welfare Offices
UNCRC	-	United Nations Convention on the Rights of the Child
URT	-	United Republic of Tanzania
VC	-	Vulnerable Children

LIST OF STATUSES

- Act on the 5th Amendment of the Constitution of the United Republic of Tanzania No. 15 of 1984
- Affiliation Act (Ordinance No. 42 of 1949) CAP. 278
- Affiliation Ordinance (Amendment) Act. No. 14 of 1964
- Children and Young Persons Act 1937
- Children's Home Act No. 4 of 1968
- Citizenship Act No. 15 of 1961, CAP. 512
- Citizenship Ordinance Act. No. 56 of 1961 CAP. 452
- Constitution of the United Republic of Tanzania, 1977
- Destitute Persons Act, Cap. 389 of
- Law of Marriage Act, No. 5 of 1971
- National Education Act, 1978
- Penal Code (Chapter 16)
- Sexual Offences (Special Provisions) Act No. 4 of 1998
- Tanzania Citizenship Act No. 5 of 1995.
- The Adoption of Children Act, Chapter 335
- The Law of the Child Act No. 21-2009

1.0 INTRODUCTION

The modern era show a troubling transition in the social construction of childhood (De Rijke, 1999) as instances of children vulnerability ramifies and traditional notions of childhood and family are undergoing unprecedented change (Higonnet, 1998). Four interconnected processes are especially attributed to this effect. First, increase in number of orphans in Sub-Saharan Africa (SSA) (Bicego, et al, 2003) and Tanzania in particular (Urassa et al, 1997). Second, increased adult mortality and morbidity (Holmes, et al. 2003) which results in diminution in the size of capable adult members of the society who are classical supporters of children (Foster, 2000); three, engraved structural poverty (Kessy et al. 2003) and four, social-cultural and economic changes which brings in new needs, new values and new challenges pertaining to child nurturing and growth in our societies. These factors strains and challenge the traditional social support networks, the social context and the social system and institutions responsible to mitigate against harsh childhood experiences and responsible to facilitate ideal childhood (Hunter, 1990, Roscoe, 1911).

Overall ideal childhood is fostered under two concepts; child social protection and child protection. Accordingly, in the face of the manifest challenges and context within which children grows in our societies it becomes necessary to explore the extent our respective institutions timely, effectively, efficiently and relevantly ensure child social protection and child protection.

CHILD SOCIAL PROTECTION (CSP)

The concept ‘child social protection’ derives from the concept social protection which can be conceived as “the set of policies, programmes and institutions government and private sector agents establish to promote efficient and effective labor markets, protect individuals from risks inherent in earning a living and provide a safety net that underpins communities when market or planning failure undermines the capacity of people to provide adequately for their needs” (Samaratunge & Nyland, 2007:346).

In its technical meaning, the concept social protection implies “the set of public measures that a society provides for its members to protect them against economic and social distress that would be caused by the absence or substantial reduction of income from work as a result of various contingencies (sickness, maternity, employment injury, unemployment, invalidity, old age, and death of the breadwinner); the provision of health care; and, the provision of benefits for families with children” (Garcia & Gruat, 2003: 13-14). This concept also comprises issues of health, social policies and pension systems. Within the emblem of social protection, in Tanzania direct coverage of children is often minimal or outright non-existent. Mostly, children are covered implicitly, particularly through the social protection of their adult members of the community, be it parents of guardians etc. In situations where social protection systems are underdeveloped, there is potential for increased poverty and social

instability, in such instances populations and especially children are exposed to excessive risk.

The alarming increase in the number of vulnerable children in the continent, on the other hand, manifests a profound rise of challenges facing children in the continent (Lachman et al. 2002). While it is argued that in Africa parenthood have very deep roots when compared to industrialized countries (Dyer, 2007) because children have unique value (Mace & Sear, 1997), like securing conjugal ties, provide inter-generation social security, assist with labor, confer social status, secure rights of property and inheritance provide continuity, maintaining the family lineage, and satisfy emotional needs (ibid.), it is also true that increasing local and global forces impact on patterns of human development in Africa (Nsamenang, 2005) such that primary institutions responsible for child protection and child social protection are highly challenged in their efficacy.

In Tanzania for instance where majority of the populations are peasants, primarily subsistence producers (Hyden, 1980), socialist policies provided a cushion against financial distress through substantive subsidies and free social services. However liberalization of the economic and transformation to free market economy, including the introduction of cost sharing has exposed many people to risks as they have to meet direct costs without necessarily having an increased income. Again, HIV/AIDS has taken a toll on the labor force orphaning many children in the process (Bicego et al. 2003; Evans, 2002; Lugalla & Kibassa, 2002). HIV/AIDS scourge impoverish households, constrain the work force, and leaves those behind in a state of social, psychological, structural and economic destitution, an environment ill-equipped to care for children.

At the same time economic pressure and increasing change in the values system is eroding traditional social security and hastening the breakdown of traditional family structure (Lachman, 1996). It should be remembered that “the importance of family in traditional Africa, where there are no formal social welfare institutions, derives from the fact that it provides a platform on which members offer and receive assistance, encouragement and advice. The extended family, thus, among other things, play the role that social welfare institutions play in the west” (Njoh, 2006:51). When the traditional family structure, composition and capacity are undermined, certainly its ability to be social support system is also compromised.

CHILD PROTECTION (CP)

The concept ‘child protection’ on the other hand, can be understood as protecting children from emotional, physical sexual abuse and from neglect. For UNICEF, (2006:1) child protection entails “preventing and responding to violence, exploitation and abuse against children-including commercial sexual exploitation, trafficking, child labor and harmful practices such as female genital mutilation/cutting and child marriage,” accordingly,

child protection interventions, i.e. interventions that respond to already experienced problems that have a child protection bearing are often necessarily coercive (Parkinson, 2003), meaning that the concept 'child protection' endeavors to protect children from being subjected to treatments or experiences that amounts to criminal treatments or experiences, and as such there are explicit judicial sanctions and measures related to issues of child protection.

CHILD SOCIAL PROTECTION AND CHILD PROTECTION

For analytical and intervention purposes it is very essential to recognize the difference between these two concepts. If we take an example for instance of children experiencing the problem of limited basic needs such as shelter, food and healthcare, this problem falls categorically under child social protection. However if we take an example of children who have been sexually abused, that is a problem which squarely falls under child protection category. It naturally follows that the intervention needs of the two categories of the nature of children's problems are essentially different in the sense that the former calls for social protection measures; while the latter calls for both child social protection measures and child protection measures.

A consideration of these two concepts suggests that there is an ideal childhood whose degree of attainment is measured against the extent there is both child protection and child social protection in the society. Children movements can therefore be considered as pushing for the construct of ideal childhood experience, where every nation, community and family should be striving to provide or construct that kind of childhood for its young people (Bissell, 1999).

However what is universally true across communities is that ideally childhood is a multistage continuum process that occurs within an institutional context, and it is this institutional context which is primarily responsible for ensuring child protection and child social protection. Under a normal livelihood atmosphere, in principle the first and most common institution responsible for children is the family, whether nuclear or extended. The family forms first-line institutions responsible for caring of children and it is obligated to facilitate and ensure child protection and expected to provide child social protection.

While at micro level child protection and child social protection may be guided by societal or community norms, values and morals, the child rights movements employ the concept natural rights which imply that each child is born with certain inalienable rights. The 'natural rights' concept suggests that these rights are legally protected entitlements, and therefore firmly establishes what practices are within national and supra-national acceptable standard and which practices contravene such standards. It is in this sense that Freymond & Cameron (2006) argues that "intrusion into families by child protection authorities is permitted only when parents violate minimum standards for the care of children" and that "the primary

focus of child protection is to protect children from harm (*even*) in their own homes (2006:5). For instance in an African context, the family is perceived as a custodian of morals and traditional values (Armstrong et al. 1993) and that these values permeate African family law (Nhlapo, 1995), however those values, morals and laws are only acceptable if they do not override legally established national or/and supra-national laws, e.g. while culture might support female circumcision; the Tanzanian law identifies such acts if conducted to a girl below 18 years old as cruelty to children and sanction against it in the Sexual Offences Special Provisions Act, 1998, section 169 (A).

It is therefore apparent that issues of child social protection and child protection are primarily institutional concerns because they can only be provided, protected and guaranteed in an institutional context because the vulnerable nature of children necessitate that there are effective and efficient mechanisms that ensures child social protection and child protection. The question that this study sought to explore was to what extent are relevant institutional categories in Tanzania coping with issues of child protection and child social protection in the face of increasing abuse of children rights. In particular, this exploratory analytical study, intended to document the experiences of Tanzania with regard to the nature, magnitude, application, interpretation, and operationalization of the concepts child protection and child social protection, as well as to assess the efficacy of the stakeholders, both state and non-state agents in effectuation of children rights in the context of child social protection and child protection. It was also the interest of this study to document the extent in which the social-cultural and economic context and differing child rearing patterns challenge principles of child protection and child social protection in Tanzania.

2.0 RESEARCH METHODS

In-depth interviews were conducted with 15 social welfare officers and 3 community development officers in the combined twelve districts of Mtwara and Mara regions. The respondents were purposely selected based on their respective portfolios in the respective districts. The study also conducted 12 focus group discussions with MVCCs, conveniently picked with the support of district social welfare officers and community development officers in the respective districts. The FGDs were collectively attended by an estimate of 120 participants. Furthermore, the study had 33 exploratory interviews with individuals working with NGOs supporting children in these localities. The study also entailed a deep legal review and review of secondary data from various reports and publications.

3.0 RESEARCH FINDINGS AND DISCUSSION

3.1 The Context of CP and CSP in Tanzania

3.1.1 The Right to have Children and its Implications in CP and CSP in Tanzania

In highlighting the context of CS and CSP, it was in the interest of the study to first understand who has the right to have children in Tanzania and why. That question was also linked with a related exploratory question of what were the endowed obligations of whoever had a child or children regarding CP and CSP. The underlying interest in exploring these two questions were to understand to what extent we have attempted to prevent children from the risk of becoming vulnerable, by first determining whether we have any explicit or tentative description of a person we consider fit to have a child or to have children.

As is the case with majority of nations universally, the right to procreate is considered a basic human right and in Tanzania it is provided for, in two primary legislations;

- i. The constitutions of the United Republic of Tanzania, which protects autonomous rights. Autonomous rights refers to rights of individuals to have and exercise independence in mind or judgment such that they are deeds are self directed and they enjoy independence or freedom regarding their personal wills or their actions as long as they do not break the law. In the URT constitution, these rights are for instance provided in Section 15 (1) which states that “every person has the right to and to freedom to live as a free person;” and Section 29 (1) which provides that “Every person in the United Republic has the right to enjoy fundamental human rights.”¹ Such that a person can do whatever it is that pleases them as long as they do no break the laid down laws. Having children is among such autonomous rights, alongside simple rights such as the right to indulge or not to indulge in romantic relationship with anyone as long as such a relationship is legal etc.
- ii. The Tanzania marriage Act No. 5 of 1971 which indiscriminately provide for the right of every individual of full age or given special circumstances legally accepted age, to get married and found a family. With the right to get married and without any restrictions or separation between getting married and procreating, one is implicitly given the unsanctioned right to have children.

The study found out that in Tanzania we do not have legislations that preclude anyone from having children, except underage children who are implicitly excluded by virtue of the Sexual Offences – Special Provisions-Act No. 4 of 1998 (SOSPA, 4-1998): That is to say,

¹ The rights were sanctified by the Act on the 5th Amendment of the Constitution of the United Republic of Tanzania No. 15 of 1984

according to SOSPA-4,1998, a male person under the age of twelve years old is presumed to be incapable of having sexual intercourse; again it is considered rape if a male person engages in sexual intercourse with a woman with or without her consent when she is under eighteen years of age, unless the woman is his wife who is fifteen or more years of age and is not separated from the man. Under these provisions, underage children are not expected to be involved in sexual intercourse and are therefore implicitly pre-empted from having children. In that sense, children are protected from being born by underage parents who can be considered to be unfit to be parents because of their young age and other age related matters, such as the right and ability to earn livelihood which would cater for their particular needs and the needs of the child. However, they are not protected from being born by another other person for any other reason, for instance mental instability, poverty, disability or any factor which may have implications on the biological parent providing basic care and support to the child.

However, the right of the parent to choose whether and when to have children ends before conception. This is because under the Penal Code of Tanzania (chapter 16, sections 150-152)² abortions are generally prohibited. The reason is rooted in the English Offences against the Person Act of 1861 and the Infant Life (Preservation) Act of 1929, and it is focused on the preservation and protection of life. The right to life is further anchored in the URT constitution Section 14, which provides that “Every person has the right to live and to the protection of his life by the society in accordance with law.” Abortion in Tanzania is only acceptable where it means preserving the life of the woman, and her physical and mental health. Issues such as rape or incest; economic and social reasons; choice or fetal impairment are not considered a basis for abortion. In this sense child protection in Tanzania begins with the prohibition against abortion.³

The study had an observation regarding SOSPA, 4-1998 and the Law of Marriage Act, No 5 of 1971. It found that there is a paradox because SOSPA, 4-1998 implicitly recognizes that a male person of 12 years old and above can be engaged in sexual intercourse; yet again the Law of Marriage Act, No. 5 of 1971 prohibits any male person below the age of 18 years old to marry, but does not prohibit them to be engaged in sexual intercourse, since sexual intercourse outside marriage is not a crime. While under the presumption that a male person

² According to section 150 of the Penal Code illegal abortion is penalized: “Any person who with intent to procure miscarriage of a woman whether she is or is not with child unlawfully administers to her or causes her to take any poison or noxious thing or uses any force of any kind, or uses any other means whatsoever, is guilty of a felony and is liable to imprisonment for fourteen years”.

³ In Tanzania, an abortion may be performed to save the life of a pregnant woman. Section 230 of the Code provides that a person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon an unborn child for the preservation of the mother’s life if the performance of the operation is reasonable having regard to the patient’s state at the time, and to all the circumstances of the case. In addition, Section 219 of the Code provides that no person shall be guilty of the offence of causing by willful act a child to die before it has an independent existence from its mother if the act was carried out in good faith for the purpose of preserving the mother’s life

under the age of twelve years old is incapable of having sexual intercourse, and we can interpret this provision to imply that if a female person of age 18 years and above engages in sexual intercourse with a male person under the 12 years of age is taking advantage of the latter and therefore might be in error, the law does not provide any explicit or tentative protection of male persons of 12 years old and above, and below 18 years old regarding their involvement in sexual intercourse. Since the our respective legislation does not dissuade male persons of 12 years old and above, and below 18 years old from having sexual intercourse, they at the same time implicitly gives them the right to have children. If that happens, these potential children are likely to be born with what can be considered as unfit parents, and therefore can be vulnerable children.

Another fundamental legislation under the auspices of the right to have children in Tanzania and its implication to CP and CSP has to do with the particular attention provided to children born out of wedlock. The legislation to this effect is the Affiliation Act (Ordinance No. 42 of 1949) CAP. 278 which is an Act to provide for the maintenance of children born out of wedlock^{4,5}

This Act was amended by Affiliation Ordinance (Amendment) Act. No. 14 of 1964 and important observations in this amendment includes:

- Section 2 of the act amended in the definition of a child and specifying the beneficiaries of this Act by explicitly defining a to mean " child' means a child born out of wedlock”
- Explication of the condition for issue of summons to alleged father by a magistrate in section 4, which requires the satisfaction of the following conditions:
 - a) the man alleged to be the father of the child is in truth and in fact the father of such child and that the application for a summons is made in good faith and not for any purpose of intimidation or extortion; and
 - b) the man alleged to be the father of the child has been requested by or on behalf of the applicant, to make provision for the maintenance and education of the child and for such further expenses as are referred to in subsection (1) of section 5, or for one or more of such matters, and has refused or neglected to make such provision, or has made inadequate provision

The study observes the following issues as pertinent challenges as far as the practicality of this legislation is concerned:

⁴ G. N. No 183 of 1949

⁵ Overtime the ordinance has been amended by Ords. Nos. 10 of 1950; Acts Nos. 55 of 1963 and 14 of 1964

- There are difficulties associated with establishing beyond reasonable doubt that the alleged father is in truth and in fact the biological father of the child, especially when the alleged fathers refuse to acknowledge responsibility over the pregnancy. This is especially difficult where the alleged father has no history of cohabitation or marriage to the mother of the child in question such that it can be established that the child was a result of such a involvement. According to respondents in the field, there are many cases where children are born, and they do not have fathers and one of the reasons being the alleged father had refused to be responsible over the pregnancy or the child, and there is no way anyone can establish for a fact that he is the father. This is a problem since refusal of paternity leads to child's vulnerability because of potential lack of support from the father, especially because paternity determination is of utmost importance in child maintenance issues (Armstrong, 1990).

Apart from child maintenance issues, refusal of paternity has also been found to lead into other more devastating consequences, for instance, Varga (2002) argues that often refusal of paternity influences high rates of abortion and life risking abortions especially among adolescents. This is because stigma, humiliation and the fear of facing child rearing without support related to paternity refusal frequently leads to girls to take extreme measures in dealing with the unplanned and unwanted pregnancy including 'backstreet abortion' (Varga, 2003).

On the other hand, there is a psychosocial impact to the child who has been refused, as they grow up and often learn that they do not have a father because the responsible person had refused to accept the pregnancy or to accept the child as his. In many cases mothers have been unable to help their children deal with the effect of refusal or rejection by their alleged fathers (Levina, 1959). Furthermore, LeRoux (1996) had found that the street children scourge can also be highly linked with child rejection and desertion.

- Another noted challenge in this legislation concerns the vagueness in the fate of paternal responsibility over a child when a woman marries a man who is not the biological father of child in affiliation case. This legislation *implicitly* suggests that the man the woman marries automatically becomes responsible for the child, who is not his biological child. This is because in sect 5 (a) states that

“Where, after the commencement of the Affiliation of orders on marriage, etc. Ordinance (Amendment) Act, 1964, an order is made under this Ordinance for payments in respect of a child, the putative father may apply to a magistrate for the discharge of the order on the grounds that, since the date on which the order was made the mother of the child has married.”

This law gives the biological father to apply for discontinuation of child support on the grounds that the woman has remarried but it does not obligate the man who has married the mother of that child to assume paternal responsibility over that child, neither does it obligate the said man (who has married the woman) to file for custody of the child in question.

- Again, section 7 provides for the privacy of the hearing over affiliation cases but does not stipulate on protecting the child from hearing arguments on his or her account that might prove destructive to the child or the child's relationship with either of the parents. In affiliation cases there are potential for comments or arguments that can have a damaging effect to a child in question; however the law does not provide for the protection of children against hearing such comments or arguments.

Another law worth mentioning at this point is the Destitute Persons Act, Cap. 389 of 1923. This legislation is particularly important to consider because by its sheer existence, it recognizes the existence of destitute people in society. Based on the above discussion highlighting the right to have children in Tanzania, it is reasonable to presume that some of the destitute people will be having children. Unfortunately however, while this legislation was enacted to make provision for the control of destitute persons, it fails to provide for their children. This is especially pertinent now, that we see an increasing number of destitute persons with children in the streets, something amounting to street families.

Another limitation in this legislation is that it fails to provide for destitute children in the country. Over a period of almost four decades now, there has been an increase in the number of street children and children with other forms of destitution. The technical outcome of the implementation of this law to destitute person regardless of their age is that: One, contrary to Article 15 to the Constitution of the United Republic of Tanzania, it allows children to be arrested, detained and deprived of their liberty; and secondly, contrary to Articles 12 and 13 of the constitution, it fails to treat children differently from adults, and also in that it treats street children differently from other children.

3.1.2 The Institutional Context of CP and CSP

Child vulnerability refers to living situations or circumstances of life of a child that do or have the potential to constrain the realization of their basic rights. Accordingly, this study attempted to establish the context of CP and CSP in Tanzania.

- The first question this study explored regarding the institutional context of CP and CSP in Tanzania was how children actually became vulnerable. The study found that the risks to children's vulnerability pertaining CP and CSP, occurs consistently in three primary conditions, what I have called the "**Taxonomy of Child**

Vulnerability.” These conditions are:

- i. The biological parents of the children, who form the first line institution for child care for various reasons, can be considered unfit in their particular conditions to have and adequately care for the child. For example, extremely poor people; or people with disabilities that prevent them from earning their livelihoods adequately; or the mentally unstable.^{6,7}
- ii. The child is born with special needs – By all social, economic and rational standards, parents might be perceived as fit to have a child or children; however a child might be born with special needs; needs beyond the reasonable or normal expectations and ability of the family to handle. E.g. For example a child might be born with a financially, time and attention demanding chronic medical conditions or an extremely challenging physiological condition. In such circumstances it depends with parents’ and/or societal systemic capacity, willingness and arrangement on how to manage and lighten the challenge to the child or children.
- iii. The biological parents of the children or the family who form the first line institution for child care fail to provide adequate child social protection or child protection. Many conditions and circumstances lead to this situation, such that something happens and a parent or parents who were able or had the potential to care appropriately and adequately for their children fail to continue to do so or to do so sufficiently. This situation is confounded with the consistent decline of the traditional social support system such as extended family to step in and support other individuals in crisis or children who have become vulnerable as a consequence of their parents dire situations or life occurrences. It may be because of an unexpected, unplanned or unmanaged loss of income for instance from injury, death, loss of job. Also, the parents or family unit may be dysfunctional in some way and therefore fail to care or abuse the children, etc.

⁶ It should be noted that based on current legislations it is not ethically or legally right to disallow such persons from having children or to enforce mandatory birth control procedures to them, because the right to procreate for people of full age is recognized as the basic human right in Tanzania. However, the catch is that children born in such situations become vulnerable and the society cannot prevent them from falling into vulnerability by taking measures to the effect of precluding potentially unfit parents from having children. Regardless of the circumstances or the conditions of the parents, even for the sake of the child, the society has no power or right to preclude any of its full age members from having children.

⁷ In case for instance a woman with a chronic mental disorder conceives from sexual intercourse with a man, or if the woman was not of sound mental state at the time of the sexual intercourse that led to conception, the case may be treated as rape to the woman but does not justify abortion.

■ The second question this study attempted to explore as far as the institutional context of CP and CSP is concerned in Tanzania is the rationale, motivation and framework of measures Tanzania has taken so far to promote CP and CSP. It became apparent that the concerns and extensive initiatives focusing on child protection and social protection are based on three simple but related reasons;

- a) One that, unanimously, children have basic rights: These are stipulated in the United Nations Convention on the Rights of the Child (UNCRC) of 1989⁸ and African Charter on the Rights and Welfare of the Child (ACRWC) of 1990⁹. UNCRC and ACRWC adequately set international standards regarding the rights of all children, and since Tanzania has signed both of these frameworks in 1st Jun 1990 and 23rd October 1998 respectively, it is bound by them since they provide a framework under which states are obliged to operate and establish local conditions. These two instruments provide the following universal rights for children:
 - i. As far as CSP is concerned, all children have rights to access to education and guidance; immunization; adequate diet; clothing and shelter and appropriate medical attention.
 - ii. As far as CP is concerned, all children have right to protection from discrimination; violence; abuse; neglect and social and customary practices that may be harmful to a child.
- b) Second, that essentially children have no ability or capacity to protect themselves; and,
- c) Third, that society has a social responsibility to ensure that all children enjoy their basic rights.

■ The third question that this study examined regarding the institutional context of CP and CSP was that, in case a child experienced any situation under the taxonomy of child vulnerability, what mechanisms Tanzania has to mitigate and/or intervene to protect the welfare of the child. What are available children's citizenship rights?

A key strategic legislation providing a basis for claim and access to public rights¹⁰ and privileges for any person in the country has to do with the provision establishing one to be a citizen of Tanzania. Accordingly, a key premise for CP and CSP in Tanzania is in the recognition of children as citizens of Tanzania and therefore giving

⁸ Entered into force on 2 September 1990

⁹ Entered into force on 29th November 1999

¹⁰ These are also known as citizenship rights

them the right of access and duly entitlement to appropriate citizenship rights pertaining child protection and child social protection. The evolution of citizenship legislation in Tanzania started with the Citizenship Act No. 15 of 1961, CAP. 512¹¹ which intended to give effect to the provisions of subsection (1) of section 26 of Republic of Tanganyika (Consequential Transitional and Temporary Provisions) Act. 1962 CAP. 500.^{12, 13} Then the “Citizenship Ordinance Act. No. 56 of 1961¹⁴, CAP. 452 stipulated that the acquisition of citizenship in Tanzania (then Tanganyika) was explicitly by birth, by descent and by registration. The citizenship ordinance was repealed by Tanzania Citizenship Act No. 5 of 1995. It still retained the principal provision that citizenship is acquired by birth, by descent and by registration. This right is complimented by an ordinance¹⁵ explicitly designed to make provision for the registration of births, which is the right of every child and a basis for justification to access and claim prospective citizenship rights.

In Tanzania, there are three mechanisms through which CP and CSP is explicitly exercised as a ‘citizenship’ and ‘child’s’ right:

- i. **Social Policies:** In inclination to the subject of the study, social policies are particularly essential in addressing matters of child social protection in the country. These are national policies which provide frameworks, establish standards and the outline social protection rights for Tanzanian children as their citizenship rights. Some of the children’s social protection rights addressed through national social policies are such as:

- ii. **Education:** where it is the right for all Tanzanian children who are have attained school going age to be enrolled in public schools and access free primary education. The state covers all the basic costs associated with provision of universal primary school in the country.

¹¹ Citizenship Act No. 15 of 1961 (CAP.512) was amended by the Citizenship (Amendment) Act. 19 of 1963

¹² S.26 of CAP.500 provides “Notwithstanding the provisions of S.4 of this Act, (CAP. 500) Chapter1 of the existing constitution as amended in accordance with the Third Schedule to this Act, shall continue to be law after the commencement of the Republic of Tanganyika and shall have effect as if it were an act of parliament and shall be cited as The Citizenship Act, 1961 and printed accordingly

¹³ Sections 3 to 11 (inclusive) of the Citizenship Act 1961 (CAP.512) Extend to Zanzibar: Subsidiary legislation to this effect is in GN. 652/1964

¹⁴ Subsidiary legislations to this ordinance include: GN.431/61; GN.21/64; GN.69/67; GN.121/82

¹⁵ Births and Deaths Registration, CAP. 108 of 1920: Subsidiary Legislations to this Act include: GN. 58/66; GN.60/66; GN.175/66; GN.275/66; GN.436/68; GN.106/69; GN.121/69; GN.259/69; GN.195/75; GN.41/81; GN.80/81; GN.81/81; GN.84/81; GN.103/81; GN.476/86;GN.117/87

The National Education Act, 1978 has made it compulsory for all children who have attained the age of attending school, which is stipulated to be between seven years old and thirteen years old, to be enrolled in school and parents (which also include legal guardians) are obligated to ensure the child consistently attend to school. Sec 35 of the Act, subsection (1) provides that “it shall be compulsory for every child who has attained the age of seven years but has not attained the age of thirteen years to be enrolled for primary education. Compulsory enrolment and attendance of pupils at subsection, (2) provides that “the parent or parents of every child compulsorily enrolled for primary education shall ensure that the child regularly attends the primary school at which he is enrolled until he completes primary education schools. Subsection (3) provides that, every pupil enrolled at any national school shall regularly attend the school at which he is enrolled until he completes the period of instruction specified in respect of the level of national.

The government’s efforts and commitment to provide free universal primary school is applauded, however, there are two things which need to be addressed:

- a) Who is responsible to ensure parents or guardians comply to this provisions?
- b) Where there are no parents or guardians, as is the case with child headed households, who takes responsibility?

Explicitly addressing these two items will ensure that some children are not left out. These two elements makes the institutional set up ensuring universal primary education porous and many children can miss the opportunity to access basic education because of that institutional weakness.

- i. **Health:** Through the national health policy, for the sake mother and the child, all healthcare for pregnant women in Tanzania is free in the public hospitals, regardless of the nationality of the pregnant woman. Healthcare for pregnant women includes prenatal care, delivery services, post natal care including immunization, and general primary health care. Furthermore, all Tanzanian children under five years old have the right to access postnatal care including immunization and general primary healthcare free of charge in all public hospitals.
 - a. The observed challenge however, is that for children beyond 5 years old up to 18 years, there is no health coverage for them. They therefore exclusively rely on parents, guardians and for most vulnerable children well wishers to access health care when they need it.
 - b. When we, look at for instance something that affect children directly like illness, one of the most reliable means of ensuring universal healthcare coverage for children in the beyond 5 years old and 18 years old and below cluster would have been by means of a health insurance scheme. The current public health insurance scheme is the National Health Insurance Fund (NHIF). This scheme covers primarily people secure

in the formal employment¹⁶. It does not cover unemployed persons, people in the informal sector, peasants, or vulnerable groups. When you consider that less than 10% of the total population of Tanzania is engaged in formal employment, it means that NHIF has left out approximately 90% of the total population, their children included. In case of inability for parents or guardians to pay for health care when the child needs it, the child becomes immediately vulnerable since there is no reliable and sustainable health social protection mechanism available.

- c. Another challenges, is that in the NHIF benefits schemes, there are no provision for vulnerable groups. So, while the society might recognize and identify particular children as especially vulnerable, i.e. most vulnerable children (MVC), there is no mechanism through which their health care can be ensured by the state. This was one of the challenges that Most Vulnerable Children Committee (MVCC) highlighted during data collection. The MVCC is obligated to raise funds for health care of MVC in their patronage, and this is a daunting task since the MVCC have no reliable income. For that reason, to a very great extent the children of Tanzania have no protection against risks of illness.
- d. The study observed that Community Health Funds (CHF) were the most practical mechanisms for ensuring health care coverage to majority of children who are not covered through NHIF. CHF needs to be enhanced to provide service to their actual potential. They have great credit because, they can cover all people especially those not employed in the forma sector. Some of the observed challenges of CHFs
 - That, while in formal employment, especially in the public sector provision and health insurance coverage is compulsory, in CHFs it is voluntary. This needs to be changed and to compel individuals to ensure they have health coverage for themselves and their dependants, which will to a great extent, cover children.
 - There is also independent, inconsistent management systems and even membership conditions of CHF across localities. For example there are different contribution rates between Mtwara and Mara region. There is a necessity of consolidation of the CHF operations and establishing consistent operation procedures across the country.
 - CHF are not well known by potential members, many individuals in the Focus Group Discussions (FGDS) do not know of CHFs, and most have no idea exactly how they operate and I did not encounter one CHF beneficiary among the MVCC members involved in the FGDS.

¹⁶ By means of social security, members are protected such that in case of a contingency, they can still live a decent life or their dependants will not fall into depravity and they can get benefits such as medical care, child maintenance, unemployed pay, compensations, retirement benefits etc.

- ii. **Adequate diet, Clothing and Shelter:** As far as children’s rights over adequate diet as well as clothing and shelter are concerned, in Tanzania there are no public social policies, programs or system that is set to ensure that no child falls into vulnerability for lack of these things. Having majority of population living in poverty makes consideration of these items in terms of universal coverage for children in Tanzania, a daunting task and potentially an extremely expensive exercise.
- iii. **Social Security Schemes:** By their nature, social security systems or schemes have been introduced with the objective of using social means or resources to prevent members of the society from living very low standards of living irrespective of the source of the individual’s deprivation, i.e. whether it is chronic deprivation or temporary diversity. Social security schemes therefore intends to ensure that every member of the society live a life that is not below the expected societal standard, and in its broadest sense it should be understood to mean “the support provided to the individual by the society to enable him/her to attain a reasonable standard of living and to protect the same from falling due to the occurrence of any contingency¹⁷ (Tungaraza, 1999:2). When members of the society are protected through social security systems, the children of the society are also protected on the other hand if members of the society are not protected by means of social security, it follows that in case of a contingency befalling the bread winner of the family, dependents and especially children becomes immediately vulnerable and the most affected of the calamity.¹⁸
- a. Unfortunately however, conventional social security programs in Tanzania provide coverage to only a small fraction of the population-primarily the regularly employed in the formal sector, and therefore leaving majority of the people without social security coverage (Tungaraza, 2004). This situation confounded with unreliable and weakening traditional social security system, which majority of the people have for centuries relied on in Tanzania, means majority of children are exposed to risk should any of the contingencies befall themselves or befall the adult members of the society they depend on.
- b. When we consider the fact that majority of Tanzanians live below poverty line, it means that majority of children are already vulnerable by virtue of the structural poverty inherent among majority of the people. In the absence of a comprehensive and inclusive social security system all these children becomes vulnerable.

¹⁷ Examples of such contingencies are such as Sickness; Maternity; Old age; Invalidity; Death; Unemployment; Employment injury; Occupational disease etc.

¹⁸ The scheme covers members of the scheme who qualifies through organizations where they are employed. Apart from the principal member, the scheme covers people who fall under the category of dependants of the principal member, and this may be a spouse, children, and other dependants, but the total number of dependants should not exceed four (4) people. In case of the retiree, the scheme will continue to provide support for up to only three months after retirement and therefore their membership expire.

- c. Another challenges as far as universal social security coverage is concerned is the fact that, conventional social security systems are based on consistency pull of resources by its members, such that for formal employees, the employee and employer compulsory contributes monthly for membership of employees in the social security programs. This poses two challenges for universal social security coverage in Tanzania,
- One, majority of people are poor and have no regular incomes or means of consistently contributing in the programs; and,
 - Second, the mechanism of collecting contribution from these people is a challenge.
- iv. **Social Work Practice:** Social work practice is primarily concerned with enhancement quality of life particularly to the vulnerable members of the society. Through the pursuit of social justice, social work profession and practice seeks the development of the full potential of each individual, group and community in the society by resolving issues that constrain the realization of that potential be it biological, social, economic, cultural or structural. In particular, social work practice focus enhancing the chances of the vulnerable members of the society who percolates and falls below the norm, who find themselves incapable of living the expected basic minimum standard of living, and fails to live a life of dignity worth of a human being. With regard to CP and CSP, social work practice therefore seeks to ensure that all children in the country enjoy their basic rights and have adequate social protection and protection. Social work practice also have a responsibility to identify the children who falls below the norm, those who for some reason do not enjoy their basic rights and have no adequate protection and are therefore at the risk of harm or are harmed, and try to resolve their problems to ensure that they enjoy CSP and CP rights.

In Tanzania, social work practice is coordinated through the Department of Social Welfare (DSW), which is at the moment, anchored in the Ministry of Health and Social Welfare (MoHSW). The head of this department is the Commissioner for Social Welfare (CSW) and the structure of the department shows that there are Regional Social Welfare Offices headed by Regional Social Welfare Officers (RSWO) and there are District Social Welfare Offices, headed by District Social Welfare Officers. The social work professionals who work in the in these social welfare offices are generally known as social welfare officers (SWO) or social workers.

The beneficiaries of social work services or social work practice are varied and can be found from all walks of life, and with particular consideration to children, the beneficiaries are supposed to b are all children in the country whose basic social protection and protection rights are being compromised, and therefore consequently are vulnerable. In other words, social workers are supposed to ensure that all children enjoy their basic CP and CSP rights,

and in case there are some who do not enjoy those rights, social workers through the social work department are supposed to intervene and ensure that the contingency is rectified or alternative means of ensuring those children enjoy their rights are effectuated, this includes taking to task according to the stipulations of respective legislations, those who violates child protection rights.

Social work practice use four key instruments in promoting and protecting children's right in the country,

- i. Legislations specifically designed to provide for child social protection, child protection and other child related matters for example:
 - ✓ The Affiliation Ordinance;
 - ✓ Children and Young Persons Act 1937;
 - ✓ Children's Home Act 4-1968;
 - ✓ The Adoption of Children Act, Chapter 335;
 - ✓ The Law of the Child Act No. 21-2009 etc.
- ii. They also use provisions made in other legislations, where they guide on matters related to children or where they specifically provide for child social protection or child protection, for example:
 - ✓ Law of Marriage Act No.5 of 1971 which among other things protects children from getting married while still children and provide guidance under what circumstances an underage girl can be legally married;
 - ✓ The Sexual Offences (Special Provisions) Act No. 4 of 1998, which among other things protects children from sexual exploitation;
 - ✓ The National Education Act No. 25 of 1978, which provides for compulsory basic education for children;
 - ✓ The Penal Code which among other things protect children from being abused and protect rights of unborn children to live etc.
- iii. Social policies programs and social security systems available, especially to foster child protection and child social protection issues.
- iv. Voluntary Organizations and initiatives: Social Work Practice, particularly through the social work department (SWD) have the responsibility to oversee, support and ensure that voluntary organizations and initiatives that focus on CSP and CP align to the national priorities, guidelines, legislations and supplement or compliment national initiatives, as well as to ensure that the interventions implemented have no counter effects to recipient of services, in the short term or in the long run.

It was however learnt that the SWD has little control and influence over voluntary organizations. Some of the issues includes limited budget for SWD outreach activities which will provide opportunity for firsthand impression of the modus operandi of voluntary organizations and initiatives, and as such play an effective role on its responsibilities.

Furthermore, lack of a comprehensive national approach towards interventions especially on CSP leaves the gap for voluntary organizations and initiatives to have a free hand in program design and implementation, and even in identifying priority areas and localities. SWD have no ability, capacity and rationale to guide otherwise.

The role of organized social work profession was also highlighted as a critical missing link. With the defunct organized social work profession in Tanzania, there is little generation of knowledge and training to provide for practical professional guidance on CSP and CP in the country and this also means that the voluntary sector on CSP and CP is not adequately researched and understood to allow for developing of tools that SWD can utilize in working with this important element in service provision.

- The fourth question that this study examined regarding the institutional context of CP and CSP was what are the most common children rights' abuses in Tanzania, and hence the study provides a synopsis of reported children's rights abuses in DSM, Mtwara and Mara
- Lack of updated proper records and statistics which can concretely provide a sensible cross-sectional description of children's right abuse trend in the localities highlights the depth of the challenge in fundamentally addressing and redressing children's right abuse in the country. Without the ability to consistently capture children's rights abuse in the grassroots, where most of such abuses happen, there is a great possibility of dealing with the problem superficially and abstractly. The study however, managed to access official police records and to analyze reported child abuse cases over a six years period. The depiction of the records is provided in the tables below:

Table I: Statistics on reported crimes against children: Rape

Year		2004		2005		2006		2007		2008		2009	
Sex		M	F	M	F	M	F	M	F	M	F	M	F
		F		F		F		F		F		F	
REGION	Dar es Salaam	429		471		441		320		789		846	
	Mtwara	102		68		135		178		162		121	
	Mara	130		115		62		209		184		181	
	Total	661		654		638		707		1135		1148	

Source: MHA: Police Department

Table II: Statistics on reported crimes against children: Sodomy

YEAR		2004			2005			2006			2007			2008			2009		
REGION	SEX	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total
	Dar es Salaam	101	3	104	100	5	105	158	3	161	102	5	107	142	5	147	201	15	216
	Mtwara	14	2	16	16	3	19	9	1	10	9	3	12	14	1	15	14	3	17
	Mara	3	0	3	10	1	11	4	2	6	10	1	11	9	3	12	8	2	10
Total		118	5	123	126	9	135	171	6	177	121	9	130	165	9	174	223	20	243

Source: MHA: Police Department

Table III: Statistics on reported crimes against children: Causing Bodily Harm

YEAR		2004			2005			2006			2007			2008			2009		
REGION	SEX	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total
	Dar es Salaam	3	2	5	2	2	4	1	2	3	3	4	7	2	2	4	4	3	7
	Mtwara	1	2	4	1	1	2	0	2	2	2	1	3	1	1	2	1	3	4
	Mara	1	2	3	1	0	1	1	1	2	1	1	2	1	0	1	2	1	3
Total		5	6	11	4	3	7	2	5	7	6	6	12	4	3	7	7	7	14

Source: MHA: Police Department

When we look at the tables provided above with regards to reported crimes against children, in the three regions, several things become clear:

- i. One would notice for instance that in table only girls are reported as raped. The law does not recognize the probability that a woman is able to rape child, especially male children. This perception is contrary to expressed concern especially during MVCCs FGDs where participants widely and repeatedly stated that older women were increasingly ruining the lives of young boys by enticing them and engaging them in early sex, and there was no legal basis of admonishing such women, nor is it considered as rape.
- ii. Statistics provided in the three tables are alarming, not in the least because of their sheer enormity, but rather taking into consideration that there was a wide consensus among all groups of respondents that majority of child abuse cases and issues inclined towards children's rights contravening went unreported for various reasons, including the fact that most are hidden within families; resolved within families or families turn a blind eyes on them. The case in point is for instance a recurring situation of especially step mothers abusing their husbands' children. Although, many children suffer immense bodily and emotional harm because of abuses under these situations, often, families and communities turn a blind eye on them. Again, many issues of sexual abuse go unreported and many girls are impregnated, and most of the matters are resolved at family level.
- iii. Another challenge is that grassroots institutions such as village governments and the established MVCCs have no technical, institutional capacity and sufficient skills to effectively intervene in these matters, and they are mostly delinked from the social welfare department which would have provided such support. Accordingly, critical cases are reported to the police, where are treated as criminal cases and follow police procedures which does not necessarily entail special skills in protecting children's rights. Most of the reported cases in the police are eventually dropped for one reason or another, often for claim of lack of sufficient evidence.
- iv. Another concern highlighted in these findings is that in a period of six years, crimes over children show no indication of subsiding, but rather increasing. A case in point is rape statics which for instance almost doubled in years 2008 and 2009 compared to 2004 up to 2007, a finding which might suggest two things, that either, the phenomenon of rape on children is increasing or that awareness raising has helped and that there was more reporting of such cases.
- v. Another troubling aspect in these statistics is that, Dar es Salaam has the most of reported cases in most instances compared to Mara and Mtwara. Quantitatively, this might mean that most crimes against children are committed in Dar es Salaam, however, qualitatively it might mean that Dar es Salaam residents are more

progressive in protecting children's rights compared to the other two regions, and therefore the same enthusiasm need to be built in the other regions.

- vi. The study was also concerned that most three types of crimes are reported to the authorities, namely rape, sodomy and cause of bodily harm; and many others are not such reported, for instance child female circumcision, child labor, desertion etc. Desertion for instance is recognized as the second largest cause of child vulnerability on Mara region after orphan hood. For example, of 8,807 cases of vulnerable children identified in Serengeti district in 2007, 4995 of the cases were from orphanhood and 2295 from desertion, while it was not possible to capture data of female child circumcision despite its renowned wide practice in the region.

3.2 Key Institutions in CP & CSP: Their Practices and Experiences in Mtwara and Mara Regions

The study specifically explored on three types of institutions, namely Most Vulnerable Children's Committees (MVCCs); Non-Governmental Organizations (NGOs) focusing on providing services to children and District Social Welfare Offices (DSWO),

3.2.1 Most Vulnerable Children Committees (MVCCS)

MVCCs, respondents provided an insight in two primary questions that the study probed. One, what nurture were the child protection or child social protection issues predominant or emerging in their localities, and second, what institutional challenges MVCCs experienced and constrained their effectiveness in promoting, enhancing and upholding CP and CSP rights in their localities. This section responds to these two elaborate questions, and the questions are set into two themes. Question one is explored as a theme under the caption, 'the nature of CP and CSP issues' and the second question explored under the theme captioned MVCCs: Institutional Experiences, Challenges and Lessons Learnt

3.2.1.1 The nature of CP and CSP issues

MVCCs respondents in Mara and Mtwara argued that because in affiliation cases, paternity confirmation is fundamental; one of the biggest challenge that constrain child social protection rights are the increasing crisis of girls bearing children 'without' fathers. This is a situation where unmarried girl or woman, and/or one who is not cohabiting with a man, gets pregnant or bears a child but, either does not know the man responsible for the pregnancy, which happens on few occasions, or the alleged father of the child refuse the claim that he is responsible for the pregnancy and therefore liable for fatherhood obligations. This problem has been on an alarming increase both in urban and rural areas, and has been noted as significantly taking root in rural areas, as the urban way of life increasingly permeates in village settings.

Respondents explained that failure to attach fathers with children was caused by two main reasons, social constrains¹⁹; and irresponsible sexual behaviors.²⁰ The failure to attach children to fathers has led to the increase in the number of children who do not have fathers in their lives, either because the mother has failed to determine who the father is, or because the responsible person refused responsibility over the pregnancy. Two main reasons were identified as major causes for this problem:

(i)

One, that social change has changed the morals, values and norms of people such that sexual relations have become very simplified and more or less unsanctioned. This situation has made illicit sexual relations to proliferate in urban and rural areas such that if such relations results in to pregnancy and the woman fail to undergo illicit abortion, then the child has high probability of becoming fatherless.

Second, the weakening of traditional mechanisms of paternity confirmation²¹ and absence of new, effective and efficient mechanisms to that effect. In the traditional setting two conditions lead to the question of paternity confirmation, one, when an unmarried girl or woman conceives²²; and second when the person allegedly responsible for the pregnancy refutes the claim and assert that he is not responsible over the pregnancy. The first condition was often a matter of following laid down protocols if the man accepts that indeed he was responsible for the pregnancy, this was a formal mechanisms of linking the two families and ensuring that the child to be born is linked, from the outset with the father and the paternal family; the second was often followed by the first, and involved traditional sanctions and systems of authentication because apart from the child facing the risks of not having a father, it also involved the question of honor to the pregnant girl and her family. In the locality of the study, some of the traditional mechanisms for paternity confirmation are for example:

¹⁹ Such social constrains to accepting paternity claims were mentioned to be for example the man is married or has other relationships; the responsible persons is still a child and dependant on family; feeling ashamed to have impregnated someone outside marriage; the aftermath of admitting that fact if the girl is below eighteen years old or if she is a student

²⁰ This was explained to happen when two people engage in sexual relations but have no any commitment to each other or do not have prospects of having a future of any kind together and do not use protections such as condoms to prevent potential pregnancy or by ill fate the protection the use do not manage to prevent conception. The woman for instance those who have tendencies to be sex workers by any degree might not know for sure who the father of the child is. In case the prospective mother knows who the responsible person is, under those circumstances the man is likely to instantly refuse responsibility.

²¹ In this regard 'paternity confirmation' implies social –cultural and traditional process of ascertain the paternity of the child. This process includes the protocol, conditions, circumstances and associated sanctions mechanisms put in place to foster authenticity. Often paternity confirmation was done before the child was born and not after it was born!

²² According to the respondents, in the traditional setting, there was no room for cohabitation, either people did not leave together, or they undergo traditional marriage ceremony and become a couple.

a. Wa-Zanaki – Traditional Paternity Confirmation

Often it was the woman of the house who noticed changes indicating that the girl in the household might be pregnant. When she has noticed, and in this regard sometime the girl herself might not be aware of the situation or the likelihood that she has conceived. The woman of the house will find time and sit with the girl and have an in depth talk with her, she will learn of all details necessary to determine whether she was pregnant, and if so, who was responsible and the details about this person.

The woman of the house after being full convinced and satisfied that indeed the girl in the household was pregnant, and that without a doubt a particular person was responsible for the pregnancy, she will relay this information to her husband (who often was the guardian or parent of the girl). The man will therefore find time and go to the parents of the boy who was responsible for impregnating the girl and relay this information to him. The boy's father had responsibility to ask his son about the allegations brought against him. If the boy concurs, then they have a responsibility to come to the household where the girl stays and inform them that their son was indeed responsible for the pregnancy. With that, they have to come with a proposal for marriage, it was not permissible for them to come and state that although their son was responsible for the pregnancy, he has not interest or they have decided that he should not marry the girl. With that cleared, the parents of the pregnant girl, with their close elders will outline their demands for dowry for the girl as custom directs. With the payment of the dowry also went the wedding where the girl was traditionally married to the boy and was therefore to go and live with him or go and live in their household. In case the family of the boy delays in coming to give feedback over the issue, the parent of the girl with elders of from his family will go over to the household of the boy and outline their demands for dowry for the girl as custom directs. This was considered less honorable, and indicated a potential rock relationship between the two families.

- *The Okunganya Practice*

In case, the boy refuses responsibility over the pregnancy, the elder women in the family of the girl, will sit again with her, and ascertain for certain if she was telling the truth, the explain all the implications of the situation the potential consequences if she was lying, and if they are again satisfied that she is telling the truth over her relationship with the alleged potential father of the child and her conviction that he was indeed he was responsible for the pregnancy, they will inform the father of the daughter, who rise and go with the elder members of his family and strong men of the family, force their way into the alleged boy's household and take their dowry by force. This process was known as '*okunyaga*.' loosely translated as taking by force.

- *Kibisirio* and *Kiaramero*

Wa-Zanaki, as most of the Tanzanian tribes, had a unique rite a passage; a process that community members went through to prepare them and mark their transition from childhood to adulthood. Females' rite of passage involved two processes, namely *Kibisirio* and *Kiaramero*.

Kiaramero, was a universal rite of passage process that each female member of the community must go through it, '*Kibisirio*' on the other hand only few women went through; after a woman has gone through '*Kiaramero*', there were few courageous who went another step ahead. This involved traditional initiation into a woman elder in the society that involved other things traditional rituals and customary sacrifices. Most of the initiation was done in secrecy and in an isolated wilderness, and participants are sworn to secrecy. It was a taboo for anyone and especially a male person to visit, or come close to the centre of initiation; therefore it was exclusive to the initiates and the women who were initiating them. One of the most distinguished and known element, distinct to the second stage i.e. '*Kibisirio*,' was that towards the end of the process, the initiate will walk totally naked, from head to toe in a public place in front of groups of people. That final stage marked the woman to hold an esteemed and awed position in the community particularly when she marries and has her own family, and such women are identified by a specially made traditional stick they carried with them. This stick were also extremely feared, because they were considered to have powers bestowed on them with rituals that these women went through and went on attending or organizing throughout their lives. For instance, it was believed that if a man was to be touched by that stick or even touch it accidentally he was bound to be impotent. Such women were considered elders even by women who were older in age but had not gone through '*Kibisirio*.'

In matters of paternity confirmation, particularly where there is a controversy, particularly where the alleged father for instance has refused that he is responsible over the pregnancy; elder women who had gone through '*Kibisirio*' became very vital. The warning was standard, and it involved reminding the alleged father that, '***the women who are asking you had walked in public naked, you dare defy them or lie to them?***' If the man was unequivocal in his stance, they would leave him and go running into a mole hill wailing and uttering what they feel should befall the man either himself or together with his family depending on how his family was handling the whole affair. If they wail and say so and so have died, it is believed that, the named person will not go through a full year and will die if he was guilty, whatever curse they lay on the alleged father or his family will come to pass if he was guilty and his family was an accomplice to his crime. On the contrary, if the girl is implicating the wrong person, the curse uttered towards him will fall on her and her family. This formed part of the most feared sanction against false accusations in general and in paternity confirmation cases in particular, because it essentially involved the honor and integrity of women.

b. Wa-Kurya: Traditional Paternity Confirmation and the power of 'I'muma'

Among wa-Kurya – the woman, of the house would ask the girl and ascertain that she was pregnant and who was responsible. The woman would then tell the girl's father about it. The girl's father will in turn sit the girl down and ask her again who was responsible, and demand that she be absolutely certain about it. The father will then take the girl and more less drag her into the household of the allegedly responsible person. The head of the household, will call the allegedly responsible person where the girl's father will address him and inform him that his daughter is pregnant, and that, she claims he was responsible, and demand for the dowry. If the responsible person agrees, they will then discuss dowry, if he does not agree, the father of the girl will leave, but she will leave the girl to stay behind in the household. **It was customary that after the girl has spoken to her father and mentioned someone as responsible, there will be no way she can take that back, and since it was expected to be the truth, she was to remain in the allegedly responsible person's household no matter what, even if it meant death.** If they invited her inside well and good, if they did not, she will stay at their compound, at the pain of abuse, beatings, sleeping outside, hunger or anything even to the point of death, she will die there. She will not shame her parents, especially her father, or herself by leaving, because the moment she leaves it will be interpreted that she had lied, and falsely accused the allegedly responsible person.

- *Use of Force*

The other common way in which paternity was confirmed among wa-Kurya was the use of force. It would happen that after the girl has conceived, and the woman of the house has established from the girl who was responsible beyond any doubt, the woman would tell the girl's father, who would also need the girl to ascertain as to who was responsible. When the girl has mentioned who was responsible to the father, the father will convene strong men of his household or his kinsmen, he will then tell them to bind the girl with ropes and carry her to the compound or the household where the alleged responsible person dwells. He will ask the group he sends to return with dowry and mention the specific number of cows he expects them to bring back.

These men, attired and equipped for war will bind and carry the girl to the alleged persons homestead, on getting there, they will put the girl down, explain her predicament and express their demands, particularly the dowry and the number of cattle they want. If the man responsible accepts his responsibility, and express his desire to marry the girl properly, the people who brought the girl there will leave the girl in that compound, and ask elders of the family to come along with them to go and meet the girl's parents where formal negotiations will proceed. On the other hand, if the alleged person refuses responsibility over the pregnancy and assert his disinterest to marry the girl, the people who brought the girl will force their way into the barn and collect cattle. Should the men of the homestead resist, a bloody war will ensue and if they homestead wins and chase the people who came, so be it;

but if they lose, the people who came will collect the number of cattle asked and take them to the girl's father and he will consider the girl married. Either way, the girl does not return to her father's house.

Force although crude, was used because people wanted to avoid war at all costs and often, the cattle that were taken were much more than the customary negotiated bride price. Therefore, if the person was responsible they would just come clean and prevent a war.

- *I'muma*

Although the girl will keep staying at the allegedly persons compound, if the man persists to refuse the claim, and parents, as well as elders and many other respected parties have been involved but he remains adamant that he is not responsible and the girl remains adamant that he is, they will go into final level, which involves participating in the traditional oath called '*I'muma*.' There were two forms of oaths under the concept '*I'muma*.' One form, it involved drinking a ritualistically prepared fluid, while swearing on your innocence of that particular offense. This drink was poured into an old human skull and the alleged person has to drink it. It is believed that if he was innocent, he would drink and it would not harm the person, but if he was not innocent, they will certainly be harmed.

The other form of '*I'muma*' was known as '*kutambuka e'kehore*,' which involves the alleged person crossing over the human skull which contains a ritualistic prepared medicine, while proclaiming his innocence over the alleged offence, and swearing over the things he holds dear or things closest to him. When he swears on those things, he is actually giving them to the ritualistic powers as ransom should he in fact be guilty of refusing to accept responsibility of the pregnancy he was actually responsible for. Things that he can swear over include his family, his father or mother; his health or sanity etc. If he is innocent and he has nothing to fear because the oath will not harm him, but if he is guilty there is everything to fear, because what he swore over, will definitely come to pass, if he swore over his life or his mother's life and he is guilty, death will follow upon him or his mother in the near future, if he swore on his sanity and he is guilty, he will definitely go insane.

Both oaths were double edged, because if the alleged person was indeed innocent and the girl had lied, the effects of the oaths, especially what the alleged person swore over, the ritual will seek vengeance on the girl and carry out the utterances of the alleged person and visit them upon herself and/or her family.

c. **Wa-'Jita' – Paternity Confirmation Tradition and the *Burekesi* tradition**

With Wa-Jita, the woman of the house had responsibility over the affairs of children and especially female children. Often, she would be the first to notice that a particular girl in the household did show signs of having an affair or being pregnant. She would therefore make sure to learn the ways of the girl, and sit with her for a private talk somewhere. She

will find out all there is to know, to the effect of knowing whether she had an affair with someone, who, was it, have they had sex with him, when, where, who else knows about this relationship, the last time she saw her period and all pertinent details.

After learning all this and satisfying herself that the girl was pregnant, and that a particular boy was responsible she will find the boy's mother and inform her of the situation.

The woman whose daughter, got pregnant will then return to her household and inform her husband about the situation and what she has done so far; the man will then sit his daughter and the woman of the house together and have to hear from the girl's mouth, that she was indeed pregnant, and that particular person was responsible. When the girl tells this to his father, the father will then ask her to go and speak to the boy about the situation and ask him if he will marry her. The girl will then go and find this out from the boy, and if he accepts, the girl will return and inform both her parents about the boys answer, and the woman of the house will then arise and go for the second time to the boy's mother and inform her about this outcome. The mother of the boy will relay this information to her husband, and they will call the boy to ascertain all this, and if he ascertain it to them, they are supposed to send a message to the girl's family that they are preparing to come, and will come on a certain day to discuss the marriage of the two, what was known as '*Burekesi*.'

Wa-Jita, relied heavily on three things to confirm paternity over a pregnancy:

- They had a long standing tradition and life system which made it very difficult for a girl to be involved in romantic relations with men, and even more difficult to be able to sleep with them. The girls were taught about the severity of the consequences of associating with men, such that it was very difficult to have the opportunity for private times with girls.
- The second situation was that based on the difficulties associated with involving with girls, and the difficulties girls posed in associating with boys, if a boy was interested in a particular girl, it was very difficult for him to do it alone in secrecy and succeed, it has to involve his friends, peers close to the girl and the likes, and accordingly there will be a lot of evidence linking the two, which was an important back up if the girl got pregnant. This was coupled with the fact that based on the circumstantial evidence linking the boy to the girl, if the boy refused responsibility; he most probably will be isolated by all other girls and become a '*pariah*' among women and his social life will be made very miserable.
- The third situation was the fact that there was fear of dire consequences to the person and the family of the person who lie in such matters. The curse laid can kill or ruin the life of the person who lie and the entire family. The aftermath of lying was irreversible horrible consequences, not worth it at all. In the light of the calamitous prospect, often parties came clean and took responsibility.

d. Wa-Makonde – Paternity Confirmation and ‘Kunyenela’ Practice

Wa-Makonde, as is the case with most of the Tanzanian tribes, had a rite of passage process more prominent in marking the growth of a female person from childhood to adulthood. It was considered a taboo for anyone to engage sexually with a female who has not become a woman yet, i.e. they have not gone through initiation. It however did happen that sometimes unmarried females or girls (i.e. females who have not attended initiation) would be sexually active and get pregnant. If this happened, the most important person to deal with this was the girl’s grandmother or mother. She took the initiative to speak with the girls and ascertain from her who was responsible, on learning who was responsible, the woman would take the girl to the alleged man’s compound and literally dump her there with some kind of a commotion, lamenting things to the effect that since he has destroyed her youths by engaging with her in sex and impregnating her, he should leave with her. In this practice, known as ‘*kunyenela*’ the woman would normally leave and admonish the girl to stay and not return home, instead to fight for her right to be with the man, which she has earned by carrying his child. The family of the girl will consider her married to the man.

There are times when the alleged man became difficult, and refused responsibility over the pregnancy. When the man became adamant that he had nothing to do with the pregnancy, they made him take an oath to that effect, and with that oath they lifted his footprints from the sand, which were symbolic for knowing the man’s ‘ways.’ His footprints were then used in the traditional rituals and it was believed that if his ways were clean as far as the girl is concerned, then he would be fine; but if he was lying and he had his ‘way’ with the girl then the oath he took would testify that he had no one to blame for the calamities that will befall him, which was often a curse that completely ruined his life or probability of death depending on the vengeance the spirits wanted to take on him. This was the most feared practice, and it was believed a guilty man would never attempt to risk venturing into it.

(ii)

MVCCs also pointed to traditional or cultural practices that led to the abuse of children rights and called for CP and CSP. Among many such practices, the following were most problematic

- a. **Initiation ceremonies**, particular its female circumcision aspect known as ‘okosarwa’ in the Mara region. Rites of passage were considered necessary to train the girl on the values, customs, traditions and place of the woman in the community. They were considered necessary to ensure that the girl qualifies to get married, because without going through them, she most likely will not be married by anyone in the community.

MVCCs noted that, these ceremonies were increasingly becoming less valuable

because of many changes in the community. For example girls do not spend much time in the process, as they were expected to because they have to compulsorily attend primary school or sometimes go to secondary school. Accordingly, the most important aspect of the rites, which was to inculcate the traditions and values necessary for women of the tribe to know, was not realized. With these girls, increasingly ending up knowing very little of the essence of rites of passage, 'okosarwa' which was the symbolic²³ aspect of this ceremony lost its value as well. The contradiction however, is the fact that despite these ceremonies losing the ability to train girls better, somehow, 'okosarwa' continues to be an important and enduring symbol of tradition and identity. Since it is mostly done to girls below eighteen years of age, this practice is harmful to children and illegal.

MVCCs have not been able to intervene and curtail the 'okosarwa' practice for several reasons, one, it was done with the sanction of the family, and very secretly such that you have to be part of the family to know. Secondly, because MVCCs members were also common people and members of the community, most of them still have not been very much opposed to the practice; thirdly, it was practically difficult to question families or children if they have participated in 'okosarwa' so that you can have cases to present for instance to the police.

Another push for girls to undergo '*okosarwa*' was the problem that it would raise if she ever got pregnant. When she has gone through it she is considered a woman, and therefore the family will stand to ensure that she gets her place with the man who got her pregnant. If she has not gone through with '*okosarwa*' however, it is a different matter altogether. Irrespective of how old she is, she is chased from the house and the family and disowned completely. When she leaves, behind, they prepare a funeral for her and perform traditional rituals to the effect that she is dead. She becomes an outcast thenceforth, never to return and the family will never associate with her again, as far as they are concerned, she is dead.

- b. *Nyumba n'tobo*- this involves girls being married to older women who have no husbands and/or no children of their own. Such girls are usually very young, and often do not know that they have been married. These women have the right to choose a man with whom the girl should be sexually intimate with and get children for her. These practice, continuously cause problems because, these women are grown up and sometimes old, such that over time the burden of raising children is with the girl because the man who get her pregnant traditionally does not have any responsibility over the girl or the children. He just contributed his sperms, and that's the end to it. He does not even consider the children as his children.

²³ Apart from '*okosarwa*' being a symbolic expression of a woman to have gone through the rite of passage to become a full and complete woman, the study could not get a more deeper understanding as to its essence.

Another challenge however, is that, in recent years, as the girls who were married via '*nyumba n'tobo*' grows up and matures, most do not want to continue and they escape to urban areas leaving this old women with children. They escape and seek to start a new life often rarely do they return home, and when they do it, it is usually a long time after their escape.

This practice is problematic to both the girls who get married, because it takes from them their prospects and future, often curtailing their education, and it causes a challenge to the children they begets because they will not have fatherly attention and often becomes vulnerable particularly of poverty, or if the woman who married is old and incapable of sufficiently providing for them, or if their mother escapes or the old woman dies.

- c. Following the female rite of passage a girl is considered a woman and no longer a child, and irrespective of her actual age traditionally she can be proposed to and married which has led to a lot of marriage to young children; again there is a related practice where sometimes people proposes to marry children even while still in womb, so if it happens to be a girl she is born while already engaged and perhaps party of the dowry paid, if that happens, it will just be a matter of the girl growing a bit and she is sent to leave to her husband's house. She might be sent very early, and the husband will exercise caution to have intercourse with her until the right time, which is usually to the discretion of the husband.
- d. In both Mtwara and Mara, MVCCs argued that the cultures and ways of life put very little value on female children and put profound value on male children- Accordingly, female children are still very ignored by parents in these localities in terms of ensuring they get education or support after primary school. Because they are expected to get married, investment in them is considered a waste of resources. The upbringing of girls, often being nurtured to expect to be married, to be pleasing to men and to have expect no other prospect in life, was alluded to contribute to girls becoming sexually active very early in life and subsequently getting early unplanned pregnancies. These practices also were noted to demoralize the initiative of girls particularly in education.

(iii)

MVCCs also strongly and consistently explained that while there are many causes for child vulnerability, beyond the control of the family, many families were also the core reason for the household's children's vulnerability which in most cases could be avoided. This was an important finding in the study because it shed light on the ways families caused preventable children's vulnerabilities in these localities, but more

importantly because they presented a contrasting way of looking at families as first line institutions in issues pertaining to CP and CSP. Ideally, families are expected to be a haven for children with adult members of the family striving to ensure their basic needs are met. Similarly, the family is also the primary setting where some of the most important needs for instance those identified by (Pringle, 1986) such as love and security; new experiences; praise and recognition, and responsibility are expected to be found or to be facilitated. Responding to the same belief, the United Nations Declaration of the Rights of the Child declares that 'the child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents, and in any case in an atmosphere of affection and of moral and material security.'" Contrary to this noble expectation, MVCCs pointed out that most families were responsible to the plight of the children in many ways, including, families' apathy with regards to the future of children. According to MVCC, there is very limited or complete lack of vision of a different adulthood for children in these societies. Families and parents do not have high expectations for their children and there is a sense of resignation that nothing better could be expected. They have accepted the quality of life in their settings and do not comprehend the potential for improvement or better; they do not have any high expectations for the children, and therefore do not encourage, nurture, guide and work to ensure that they set the children in the path to the visions and dreams they have for them. This apathy is at the root of child vulnerability in several ways; in particular however, it is the basis for lack of caring and concern about the children's future, and therefore a disinterest with what they are involved with as children, for example education.

MVCC commented that families also readily took poverty as an excuse not to support children with their needs. They pointed out that parents may be drinking local brew daily and paying for it, but when it comes to buying school uniform, or buying exercise books or ensuring children are treated when they are sick they feign poverty.

MVCCs also mentioned that parents consistently neglected children without any form of reprimand or mechanism to make them responsible. Children are left to fend for themselves as parents become alcoholic and cease to care, and consequently children become vulnerable.

It was also highlighted that parents were in the fore front to condone serious matters that causes vulnerability or even encourage them. For instance, parents were fingered as the basis of hiding and negotiating when their daughters are impregnated while still underage. They fail to report, fail to give cooperation and often cut deals with culprits and therefore justice is not done. It has also happened often that parents discourage their daughters from

performing well in exams so that they fail and discontinue with education to pave way for early marriage of these children. In cases where the police are involved, parents will go to the length of moving the daughter away from the village to make it difficult and even impossible for her to be around and testify.

Efforts towards child social protection and child protection will gain little success and be costly and complex without families being the first unit to aspire, want and push for better opportunities and fate for their children.

3.2.1.2 MVCCs: Institutional Experiences, Challenges and Lessons Learnt

The initiative to establish MVCCs reflects the recognition of diminishing capacity of traditional institutions to support orphans and/or vulnerable children, and the realization that there are inadequate alternative institutional frameworks to indiscriminately address structural challenges of children. The study was able to perceive that MVCC intervention methodology was meant to infuse support to vulnerable children by embroidering services to community grounded institutions in order to create a socially acceptable, conducive and equitable environment for children nurturance and growth. The other conviction in establishing MVCCs that children live and should grow within the community and not in isolation from or parallel to the community and accordingly, it is therefore imperative that community institutions to care for children be established and strengthened to be able to better care, and nurture vulnerable children.

The ideal MVCC therefore need to be able to identify structural challenges that inhibits positive growth of children and young people and inculcate interventions endeavoring to sustainably pacify those challenges. The uniqueness of MVCCs is in the fact that in an embroidery manner, it integrates its services with existing relevant community institutions to address identified social malice. This use of community components was meant to correct a classical practice that introduces change through intervention measures separate and often foreign to the social context which often has a negative consequence of usurping intervention ownership from the community and of potentially creating a dependency syndrome.

It is the observation of the study that MVCC were developed in the wake of a wide-ranging consensus that communities are in the frontline in support of children but lack of an effective model has hindered channeling funding to the communities (Forster, 2000 op cit). They were established on the assumption that intervention into the diverse needs of the community can be sustainable and of overall qualitative significance through service integration to, and enhancement of community institutions.

From various interviews, the study was able to rationalize some of the exclusive features of an ideal MVCC model. Such characteristics include:

- Undisguised community ownership through institutional capacity building that enables the MVCC to work with the community and manage vulnerable children more sustainably. This was facilitated through for instance forming the MVCC from members of the community in a public meeting, by either asking for volunteers or recommendation by other community members and endowing it with its key tasks with the consent of the members of the community
- In exception for the MVCC which was a different structure introduced to work alongside the village or street governance structure, the committee is to use existing structures, which has three major benefits; first, existing structures understand the community, its needs and its problems, most clearly. Second, the MVCCs do not need to go through the hassle of establishing themselves or to seek new institutional legitimacy. Third, they offer a direct sustainable avenue for community empowerment and support;
- Overall concern to achieve impartial qualitative change among vulnerable children and improving their conditions of life through social support as well as the well-being of community members who have responsibility over these children;
- The likelihood of programs sustainability due to MVCCs embroidery in community institutions;
- Providing an avenue for enhancement of community and institutional capacity in dealing with the vulnerable children crisis and thereby providing support instead of giving aid-the idea is to give a hand not to give handouts;
- Promotions of smooth promotion of social equity through unbiased accessibility of services by all members of the community;
- Inculcate the ability of the community through the work of MVCCs, to moderate bias and stigma particularly its elements that are detrimental to the welfare of vulnerable children; and
- Indiscriminate improvement of quality of social services to the vulnerable children.

In this study therefore, MVCC were evaluated by the degree to which its services are sustainably engraved in community institutions and are indiscriminately accessible to all children and especially vulnerable children in the society rather than direct causal relationship between the intervention and impact to the structural problem. Preceding the

nature of the intervention, the priority is on how the intervention effectuated. Meaning that the important aspect emphasized is not what programs are implemented but precisely how they are implemented, which is fundamental in explaining the effectiveness of the methodology. Based on this, the following issues became apparent as far as MVCC were concerned:

- In the time of their establishment, there was very little capacity building on the committees, to enable members to sustain the activities and ensure children's welfare were protected and ensured in the localities. Committee members received hardly two days training and since then no other capacity building have been undertaken. The activities they are supposed to undertake requires that they have meticulous record keeping skills, good interpersonal relationship, mobilization skills, a basic understanding of children's rights; a basic understanding on the larger institutional framework that they can be linked with, and can work with in promotion of children's right and welfare etc., which they do not have.
- MVCCs do not have a patron and therefore hangs loosely in the community. They are not part of the village or street governance per se because they are neither in the structure of the grassroots institutions of governance nor under the social welfare department. Accordingly, they do not have a support system for guidance or reporting. They are widely considered a UNICEF project- with UNICEF pulling out in continuing the project, MVCCs widely lost luster.
- MVCCs do not have clear terms of reference or consistent operational manual to guide their activities. Accordingly there are conflicting understandings across committees and amongst members regarding their portfolio. When you look for instance how they view means of getting resources for support of vulnerable children's needs, some committees are of the understanding that donors were responsible, and feel betrayed by the UNICEF's pull out which left them hanging and lost; some feel they need to be able to write proposals and apply for donor support; some feel that community members were to contribute, but the attempt to collect from community members miserably failed; yet still, some feel that it was not compulsory for community members to contribute but voluntary; some felt that the nature of contribution depended on the ability of the person and what they can give whether it was crops, money or anything; some felt it was the responsibility of the committees members to resources amongst themselves. By and large, the committees have no consistent and shared understanding of the committees' modus operand.
- MVCCs are exclusively concerned with child social protection issues, and therefore generally interpret children's needs in terms of basic needs, they therefore do not feel to have mandate over child protection issues, and therefore have not been focusing on child protection issues at all. In the identification process for instance, there

was no provision or criteria for including children who might have experience or are experiencing problems that needs child protection, for instance child abuse; child pregnancies, etc. If a child who experience that is among the vulnerable children, they might be assisted but if the child is outside those identified as vulnerable which is actually on the basis of social protection, then they are not considered vulnerable.

- MVC-Committees were established in ad hoc without the required effort to institutionalize and capacitate this institutions – the common practice of their establishment was a village general meeting – often attended by less than 40% of the village members; then, a general discussion about MVCCs formation of the committee on voluntary or recommendations basis, then the committee was there and then instituted and endowed with the responsibility to oversee issues of vulnerable children; accordingly, there was no sufficient exploration on key issues such as the community members social responsibility in the committee and regarding vulnerable children; there was no wide consensus across members and sufficient community members" education and motivation in understanding child vulnerability issues as well as working with the committees.
- At the District level there is no clear ToR on how Social Welfare Officers should work with MVC committees at the village or street level, while at the village level there is also no provision in the village governance how they should work with MVCCs.
- Despite the notion of volunteering – committees' members are often motivated by monetary or material gains and in absence of funding, hardly any MVCC is active. Most are dysfunctional and exists in names only. It was interesting to note that almost 95% of the committees involved in the study were not active and had not worked on anything or even met as a committee since their early days of establishment. Most of them met for the first time on invitation to participate in the study, and some have worked on ad hoc on need basis, if they are called for something specific.
- Since their establishment, MVCCs are considered permanent entities, with members involved on permanent basis. There is no mechanism on when, why and how to recruit new committee members; incase of deaths or a committee member shifting, there is no mechanism on how to replace them; in case of a unmotivated member there is no mechanism of addressing that problem; while village governance structure changes with election or getting re-elected, there is no such room in the committee. This has it's downsize because there is no sense of accountability and no responsibility whatsoever.
- MVCCS were supposed to be the primary coordinator of all issues that have to do with vulnerable children programs or initiatives in a locality. However, they are consistently overstepped, ignored or bypassed by various interests or initiatives. For example some NGOs come and use the village government, and often the village authority do not

involve the committees, such that they are usually not aware on the initiatives or activities that are ongoing on their localities. Some NGOs use their strategy and people to work directly with vulnerable children without involving or consulting with the committees.

3.2.2 Non-Governmental Organizations (NGOs)

In the outset, I should point out that although NGOs contributions in addressing various social ills in the society cannot be understated, by their nature, these are voluntary initiatives and have no compulsory obligation to provide any support. Accordingly, unless there is an unequivocal agreement between the state and NGOs, the state is supposed to plan its initiatives as if they did not exist. The study was therefore interest in two questions as far as their involvement in enhancement of children's welfare was concerned. One was to identify and evaluate modus operand they employ in delivering services to children, and second was to specifically look at how they addressed the question of sustainability of the initiatives they get involved in or initiatives they start.

In the regions of Mtwara and Mara, NGOs that works with children are most focused on providing basic needs to vulnerable children through the Direct-Support Model (DSM). MVCs therefore get things like school uniforms, school materials, food and the like. The challenges with the direct- support model are such as:

- a) It is exclusively external resources dependent and thus from fostering a dependency syndrome;
- b) It is unsustainable and inconsistent, for example many NGOs get support from international NGOs or bilateral organizations but they can pool out anytime of their choice and they can refrain to give support at any time. Their support, the extent of support and their presence cannot be guaranteed for example the case with UNICEF;
- c) Direct-support model is incapable of long term, effective and equitable catering of increasing numbers orphans and ubiquitous forms of vulnerabilities in children. In the words of one respondent, there are *“so many NGOs, so many projects, initiatives, players – it is confusing, one does a little of this, another a little of that, and at the end of it all, the problem of vulnerable children is not abating...just increasing”*²⁴ This situation seems to be exacerbated by the following reasons,
 - i. NGOs or rather donor agencies supporting NGOs want direct recognition of what they do, they require tangible results to be exclusively associated with their funds,

²⁴ Ms. Mkoto, pers. Comm..

- ii. NGOs want to report their exclusive deliverables to their donors to justify funding
- iii. NGOs have different priorities and strategy of operation often provided by their funders, accordingly, there is no consistent of intervention. This is because NGOs design program based on donors' priorities and not necessarily on actual need basis. This also leads to NGOs having NGOs involved in many activities and children are just one aspect of what they do.
- iv. NGOs cannot and do not help all vulnerable children, they tend to limit they are support to a certain number, and children left out have no support
- v. Inconsistency on donors modus operand – e.g. there is a different approach that UNICEF used, they created MVCC and the idea was the all issues regarding vulnerable children in the village level should be coordinated with MVCC, PACT came and they had a different system which bypassed and ignored MVCC altogether, they identified volunteers and are working with them.
- vi. In most cases, or with the exception of activism, as far as CP and CSP are concerned NGOs are meant to supplement or complement government initiatives; however, they find circumstances where there is a vacuum of government's responsibilities in CSP and addressing the entire need becomes an uphill task.

3.2.3 The Social Welfare Department – Regional & District Social Welfare Offices

The study interviewed regional and district social welfare officers from in the districts of Mtwara and Mara, to explore their roles and experiences in the context of CP and CSP issues. Some of the findings from these explorations are as follows:

There is very limited recognition of the role of social workers and social welfare officers in the regions and districts especially from various stakeholders who have to necessarily work with social workers in the interest of children. The presence of the social welfare department is very weak and their relevancy oblivious, such that very few cases relating to child protection are brought to their attention. So with the police for instance, when there are matters involving children, the police do not contact or seek the presence of a social worker, while there are almost no social workers in the police force. Also, most NGOs working with children do not report, link with or engage the SWD and except in cases of children's homes their registration is not sought from the SWD.

There is very limited budget for outreach programs and the office's basic activities such as routine visits to potential areas of social work interests such as hospitals, the police department and stations, orphanages, villages etc. Accordingly there is a loophole which allows people not to comply with regulations and laws put in place to protect children or enhance their social welfare. For instance in Tarime, the district social welfare officer

highlighted two cases to stress this point. There are two orphanages namely the Methodist Angel House Orphanage Home Tanzania Trust (MAHOTT) and City of Hope Orphanage Center. MAHOTT started its activities in 2005, but it was only in 2009 after writing them a letter did they apply for the obligatory license from the social welfare office to operate. They thus operated for four (4) years without a license and therefore without clearance; they also operated all that time without a social welfare officer visiting to ascertain that all is well with the children, the conditions of living and satisfying themselves that the center is operating properly as far as CP and CSP issues are concerned.

The City of Hope, on the other hand was even officially launched by the His Excellency, the President of the United Republic of Tanzania in 2009, but till then they had not applied for the license to operate and were therefore not cleared. The social welfare officer had to write them a letter informing them that they need to apply and get a license to operate, and in the time of the study, they had just visited the social welfare office to collect forms.

All these institutions are being run without necessarily having qualified staff such as social workers to oversee them or in-house, and the law does not obligate that. Therefore it is not easy to determine whether children with special needs particularly psychosocial needs, are adequately attended to professionally.

There is very limited knowledge among social workers of the various laws and comprehension of the strategic position of their portfolios in ensuring and enhancing CP and CSP, including understanding of basic information about existing relevant programs. They therefore do not have consistent program or strategy in the social welfare department to promote and enhance CP and CSP in their respective constituencies.

There are deep misunderstandings and conflicts between social welfare offices and community development offices over who was responsible of what, what was in the portfolio of the community development offices (CDOs) and what was in the portfolio of social welfare offices (SWOs). The tension was exacerbated by several things:

- i. Most people do not know about social welfare offices, what they do and what their responsibilities are;
- ii. CDOs are linked with local government in the municipality, and their officers work in the municipality and in wards level, while social welfare is linked with the Department of Social Welfare, and in the executive wing of the government. As such, with CDOs having officers up to a ward level, they are closer and easily integrate with the community while social welfare offices are in the district level and hardly engage frequently with the community.

- iii. The concept community development brands itself more in line with activities that social welfare departments have to deal with, while social welfare departments seem to have branded themselves as dealing with limited individual issues such relationships or marital conflicts. This has more to do with courts often referring contestants to welfare departments before hearing their cases.
- iv. Most individuals and agencies either for lack of knowledge or for practical reasons tend to approach and work with CDO than social welfare offices.

4.0 CONCLUSION

While Tanzania has made significant progress in instituting legislations for child protect, to a large extent the state has not embraced completely the responsibility to ensure universal child social protection in the country, as such, except for universal primary education there inadequate attempt by the state to ensure child social protection. The institutions that are supposed to ensure child protection and child social protection in Tanzania are very porous, weak and quite unsustainable, accordingly while many children are already vulnerable most are at the risk of becoming vulnerable with each passing moment. This is because there are no preventive mechanisms to prevent children from falling into vulnerability, but also because there are not effective grassroots based institutions to identify and timely intervene in issues that have to do with children's welfare. This situation will, without a doubt lead into consistent and fundamental increase in vulnerable children in our country. It is in this sense that the social welfare department needs to take the lead in strategizing, coordinating and streamline interventions that have to with children welfare in the country.

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ANNEXES

Annex I: List of Respondents: Social Welfare Officers and Community Development Officers in Mara and Mtwara Regions

MARA REGION			MTWARA REGION		
Name	Position	Location	Name	Position	Location
Ms. D. Mazaro	Regional Social Welfare Officer	Mara Region	Mr. Nguyu	Regional Social welfare Officer	Mtwara Region
Mr. Mtani	Former Regional Social Welfare Officer	Mara Region	Mr. G. Miho	District Social Welfare Officer	Mtwara Urban District - Mtwara
Ms. Lydia Kwesigabo	District Social Welfare Officer	Musoma Rural District-Mara	Ms. D. Nambalwa	District Social Welfare Officer	Mtwara Urban District-Mtwara
Ms. A. M. Kabaka	District Community Development Officer	Musoma Urban District -Mara	Mr. D. Mtitu	District Community Development Officer	Mtwara Urban District-Mtwara
Mr. Matesi	District Social Welfare Officer	Serengeti District- Mara	Ms. E. Komba	District Social Welfare Officer	Mtwara Urban District- Mtwara
Mr. F. T. Manase	District Social Welfare Officer	Bunda District-Mara	Mr. George	District Social Welfare Officer	Newala District – Mtwara
Mr. Mwanga	District Social Welfare Officer	Tarime District-Mara	Mr. I. Kasondela	District Social Welfare Officer	Tandahimba District- Mtwara
Mr. Adam Ali	District Social Welfare Officer	Rorya District-Mara	Ms. S. Raymond	District Social Welfare Officer	Nanyumbu District
Ms. Mujemulla	District Community Development Officer	Tarime District	Ms. M. Mwakanyamala	District Social Welfare Officer	Masasi District

Annex II: List of Respondents: NGOs involved in the study in Mara and Mtwara Regions

Mtwara Region				Mara Region			
	District	NGOs	Support		District	NGOs	Support
1	Nanyumbu	Christian Council of Tanzania (CCT)	PACT-TZ	1	Musoma Urban	Anglican Church of Tanzania (ACT)	PACT-TZ
						Network for Youths, Children and Women Infected/Affected by HIV/AIDS (CHIYOWONET)	PACT-TZ
2	Tandahimba	Kikundi Cha Malezi ya Watoto na Jinsia Tandahimba (KIMAWAJITA)	PACT-TZ	2	Serengeti	Network for Youths, Children and Women Infected/Affected by HIV/AIDS (CHIYOWONET)	PACT-TZ
						COMM-CARE TRUST	PACT-TZ
						BAK-AIDS	PACT-TZ
						SALVATION ARMY	PACT-TZ
						CBHPP - IMARA	Various
3	Newala	New Ngonet	PACT-TZ	3	Bunda	Huduma ya Afya Mara na Ukerewe (HUYAMU)	PACT-TZ
		Basic Needs Tanzania	PACT-TZ			ELCT	Various
		Freedom Orphanage Aid Trust – (FOAT)	Various			Red-Cross	PACT-TZ
						St. Peters Anglican Church	Various
						Network for Youths, Children and Women Infected/Affected by HIV/AIDS (CHIYOWONET)	PACT-TZ

Mtwara Region				Mara Region			
	District	NGOs	Support		District	NGOs	Support
4	Mtwara Urban	Mtwara Economic Development Initiative	FHI	4	Tarime	Save the Children of Tanzania (SACHITA)	PACT-TZ
			TASAF				
			RFA				
			SATF				
			ARTUMAS				
		Mtwara Society Against Poverty (MSOAPO)	Various			BAK-AIDS	PACT-TZ
		Faidika Wote Pamoja (FAWOPA)	Various			ANGLICAN ABC	PACT-TZ
Mtwara District Against Malaria Network (MDAMNET)	Various	Salvation Army	Various				
		Nyerere Youth Development Group	Various				
5	Mtwara Rural	YAG	Various	5	Rorya	Rao Women Group(RAWOG)	Rao Hospital
						BAK-AIDS	Pact-TZ
6	Masasi	Masasi Orphan Children Vocational Training Center (MOC-VTC)		6	Musoma Rural	Tupendane Women Group	Various
		Shirika la Kusaidia Watoto (SAWA)	VICOBA				