

## PROTECTION OF VICTIMS OF HUMAN TRAFFICKING IN TANZANIA: A MYTH OR REALITY?

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### ABSTRACT

This article provides a critical analysis of the trafficking in persons (TIP) laws on victim protection. It is premised on the general perception that TIP victim protection in Tanzania, like other UN member states, is vested in the state and its institutions. The analysis focuses on the laws of the United Republic of Tanzania and brings to the fore principles of victim protection, which are typically not given the attention they deserve. The article's focus is on the protection of the rights of the Victims of human trafficking in Tanzania.<sup>1</sup>

The main conclusions made from this critical analysis are that the law on TIP has not been harmonized to reflect international principles of TIP victim protection. Further, contrary to legal and policy demands, issues of victim protection in practice remains to be handled by few private institutions. As a matter of Principle, victims must be efficiently identified as such and recognized in a way that grants them the full range of protection, assistance and support to which they are entitled. This role is practiced by few Private institutions, a gap that needs more attention from the government. Also, a review of the TIP Act's implementation evidences little success of the execution of the Act's preventive strategies and inadequate protective measures for trafficking survivors.

**Keywords:** *Human trafficking; Victim protection; Tanzania.*

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<sup>1</sup> It does not address victim protection in Zanzibar, another part of the union, because Zanzibar has its distinct procedures. Before a union Act enacted by the Parliament of United Republic of Tanzania can apply in Zanzibar, it must be tabled in the house of representatives for endorsement per Article 132 of the Constitution of Zanzibar, 2010. This procedure is not yet done; thus, the law does not apply in this other side of the union.

## HUMAN TRAFFICKING IN TANZANIA

*“TIP is an open wound on the body of contemporary society, a crime against humanity and an atrocious scourge that is present throughout the world on a broad scale. It is a global phenomenon that exceeds the competence of any one community/ country. In order to eliminate it, we need a mobilization comparable in size to that of the phenomena itself”*<sup>2</sup>

Trafficking in Persons is one of the *mala prohibita* offenses which involve gross violations of individual rights and freedoms. The commission of this crime deprives a victim of his right to freedom of movement,<sup>3</sup> freedom of liberty,<sup>4</sup> freedom against inhuman and degrading treatment<sup>5</sup> which goes to the root of fundamental inherent right to dignity of every person. The crime of human trafficking involves transactions in human beings just as commodities in the market. It may be procured for various purposes *inter alia*; commercial sex (sexual slavery), involuntary domestic servitude, forced and unpaid labor in the large scale & small-scale plantations<sup>6</sup> or some-times for removal of organs for sale and (or) for witchcraft purposes.<sup>7</sup>

From the foregoing precepts, it can be noted that not only does human trafficking impinge the whims of human rights and freedoms, but it also deprives the dignity of the victim who is transacted just like any other commodity in market or much-less exploited in a manner that reflects ancient slavery.<sup>8</sup> Records show that, the business of human trafficking is the second lucrative business tying with illegal arms dealing behind drugs trafficking.<sup>9</sup> Consequently,

<sup>2</sup> Pope Francis at the Seventy-Fourth Session of the United Nations General Assembly. Fifth Ministerial Breakfast Meeting of the Group of Friends United Against Human Trafficking New York Marriott East Side, Manhattan  
26 September 2019.

<sup>3</sup> This right is protected under Article 17 of the constitution of the United Republic of Tanzania, Cap 2 [R.E. 2002] 19777.

<sup>4</sup> *Ibid* at Article 15

<sup>5</sup> *Ibid* at Article 13(6)(e)

<sup>6</sup> These forms of exploitation are most dominant in domestic trafficking where victims are recruited from rural areas to urban areas especially in areas with mineral extractions, hospitality sectors such as in hotels and casino, in industries and in plantations. Source regions are mostly Singida, Babati, Dodoma, Manyara and Tabora. Whereas destination regions are Dar es salaam, Mwanza, Zanzibar and Arusha while transit regions are Tanga, Dar es salaam, and Zanzibar.

<sup>7</sup> In Tanzania the victims' organs are removed for witch-craft related reasons unlike in cross-border trafficking where organs are removed for sale and acquisition of wealth. Recently, there have been abductions and Killings of children in Njombe (southern part of Tanzania) for witchcraft beliefs. See <https://www.thecitizen.co.tz/News/Child-killings-in-Njombe-associated-with-witchcraft-beliefs-/1840340-4958098-rc9m3mz/index.html> accessed on 15th February, 2019. Also, see <https://www.thecitizen.co.tz/News/Three-arraigned-over-Njombe-brutal-killings-of-children-/1840340-4978302-gjoovw/index.html> accessed 15th February 2019.

<sup>8</sup> UNPF 'Trafficking in human misery' available at <http://www.unfpa.org/gender/trafficking.htm> accessed on 10th January 2019

<sup>9</sup> Olateru-Olagbegi 'State response to trafficking in women and children - the Nigerian experience' in Centre for

traffickers around the globe continue to exploit millions of victims, destroys families and communities, weakens the rule of law, strengthens criminal networks and infringes universal ethos of human decency and co-existence.<sup>10</sup>

Tanzania's anti-trafficking in Persons Act<sup>11</sup> was enacted in 2008 to curb human trafficking activities within, to, from and through Tanzania. The Act was shaped by the United Nation's Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol)<sup>12</sup> which is the core international instrument to combat human trafficking.

The Act which is in *pari materia* with the Palermo protocol comprises three main components constituting a crime of human trafficking *to wit*: (1) Prevention of human trafficking, (2) Prosecution of traffickers and (3) Protection of victims of human trafficking. This article is based on the third element-protection of victims of human trafficking.

Section 4(1) of the Act defines human trafficking as: recruiting, transporting, transferring, harbouring, providing or receiving a person by any means including those done under pretext of domestic or overseas employment, training or apprenticeship, for the purpose of prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude or debt bondage. This definition of TIP aims to give consistency in construction of trafficking phenomenon all over the world.<sup>13</sup> In particular, this definition is a guideline for state parties to this Protocol to adopt the most effective legislation to criminalize TIP.<sup>14</sup>

This definition is however not clear due to the use of the conjunctive ‘or’ in section 4(1). This is a confusion because each element listed at the section i.e. recruits, transports, transfers, harbours, provides or receives... combined with exploitation and the elements required in either of the sub-sections among (a-g) is sufficient to constitute trafficking in Persons.<sup>15</sup> the lack of definitional clarity causes concern for several reasons including the fact that, it is critical

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Human Rights *Gender based Violence in Africa: Perspectives from the Continent* 154.

<sup>10</sup> See USA Department of state, Human Trafficking in Persons Report (2017) at Pg. 1

<sup>11</sup> Act No.6/2008

<sup>12</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime, UN. Doc. A/53/383 (2000).

<sup>13</sup> United Nations Office on Drugs and Crime (UNODC), ‘Toolkit to Combat Trafficking in Persons’ 2nd edn (UNODC 2008) ISBN 978-92-1-133789-1, Sales No. E.08.V.14, At 3; UNODC, ‘Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto’ (2004) UN Sales No. E.05.V.2, at 269.

<sup>14</sup> See Article 5 of the Protocol.

<sup>15</sup> *Kitilya and Two Other Vs Republic. Cr Appeal No. 126 of 2016* (CAT Unreported)

to distinguishing human trafficking from other crimes because laws criminalizing those acts often contain weaker penalties, lack of victim protections and focus on the perpetrator rather than the person who has had his or her rights violated.<sup>16</sup>

Along with adopting the definition and TIP components in the Act<sup>17</sup>, it comprises penal provisions providing for a minimum sentence of two years' incarceration and maximum of 20 years' incarceration with an added option of pecuniary fines ranging from five to one hundred fifty million Tanzanian Shillings.<sup>18</sup> The Act also outlines provisions for Victim protection and support, creates the anti-trafficking fund<sup>19</sup> to finance this protection and support, and establishes the anti-trafficking in Persons Committee<sup>20</sup> and its Secretariat<sup>21</sup> to coordinate counter trafficking activities in the United Republic of Tanzania. On paper the Act appears to address the key concerns regarding TIP victim protection. However, the question remains whether the Act adequately protect rights of the victims of human trafficking twelve years since the enactment of the law.

## LEGAL ANALYSIS

Trafficking in Persons Offense in Tanzania is governed by the anti-trafficking in Persons Act.<sup>22</sup> This Act is divided into VIII parts. Part I is composed of Preliminary provisions (Short title and commencement, Application and Interpretation of the law), Part II covers prohibitions of the acts constituting trafficking in Persons and penal provisions for the crime of trafficking in Persons. Part three provide for Investigations and Judicial proceedings of the TIP cases, Part IV highlights on the rescue, rehabilitation, protection and assistance to victims of TIP, part V establishes the anti-trafficking Fund, part VI establishes the anti-trafficking committee, part VII of the Act provide for miscellaneous provisions whilst part VI covers consequential amendments.

<sup>16</sup> Sertich M., & Heemskerk M., Ghana's Human Trafficking Act: Successes and Shortcomings in Six Years of Implementation. Available on <https://www.corteidh.or.cr/tablas/r27682.pdf> (2011) accessed on 20th November, 2020.

<sup>17</sup> Act No.6/2008.

<sup>18</sup> See SS 4-6 of the Act.

<sup>19</sup> See section 25 *ibid*.

<sup>20</sup> See section 30 *ibid*

<sup>21</sup> The anti-trafficking Committee Secretariat is established under regulation 26(1) of the anti-trafficking in Persons (Prevention, Protection and Treatment) regulations, GN No. 28 of 2015.

<sup>22</sup> Act No. 6 of 2008.

The entire of Part IV of the anti-trafficking in Persons Act (supra) covers aspects of rescue, rehabilitation, Protection and assistance to victims of human trafficking and Part VII of the Act, particularly sections 34 & 35 of the Act embrace victim protection principles. The analysis addresses some relevant provisions of the Act in relation to international Principles of TIP victim protection.

## **NATURE OF LIABILITY AND PUNISHMENT**

### ***Trafficking in Persons defined***

Section 4 of the Act<sup>23</sup> establishes some acts which constitute the crime of human trafficking. It makes it a criminal offense for someone to recruit, transport, transfer, harbor...by fraudulent means or any other means whatsoever for purposes of exploitation. Where the acts of trafficking and exploitation are established, consent of the victim of trafficking in persons become immaterial and irrelevant in exonerating a perpetrator from liability.<sup>24</sup> Subsection (5) of the same section establishes punishment for the crime. A person who commits an offense under section 4 above shall on conviction be liable to a fine of not less than five million shillings but not more than one hundred million shillings or to imprisonment for a term of not less than two years and not more than ten years or to both.

Though, the purpose is to prohibit, prevent human trafficking and protect victims from falling prey of the traffickers, the punishment imposed is too lenient to achieve this goal- as such, it will always remain a nightmare to protect victims where there are non-deterrent laws. Trafficking in Persons is a serious crime under international law. The legislative guides for the Implementation of the UN Convention Against Transnational Organized Crime defines a serious crime' as a conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty.<sup>25</sup> The crime of trafficking in persons is such that it is comparable to that of Rape and Kidnapping which are severely punishable under the Penal Code cap 16 [R.E. 2002]. The current Tanzanian anti-trafficking law allows for a fine in lieu of imprisonment, which in turn allows for a prescribed punishment that is not commensurate with those for other grave crimes under Tanzanian law, such as rape.<sup>26</sup> For

<sup>23</sup> *Ibid*

<sup>24</sup> See section 4(4) of the Act.

<sup>25</sup> See <https://www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html> accessed on 30th April, 2019.

<sup>26</sup> See section 131 of the Penal Code Cap 16 R.E. 2002.

purposes of TIP cases, the law would be more effective if any reference to fines as a sole form of punishment in regard to human trafficking is removed or prescribed as an addition to imprisonment; not an alternative to imprisonment.<sup>27</sup>

### ***Severe Trafficking in Persons***

Section 6 of the Act establishes a crime of severe trafficking in Persons as trafficking in Persons involving the aggravating factors.<sup>28</sup> The law provides that;

*‘a person who commits an offence under this section shall, on conviction, be liable to a fine of not less than five million shillings but not more than one hundred and fifty million shillings or to imprisonment for a term of not less than ten years but not more than twenty years or to both’.*<sup>29</sup>

For same reasons as in section 4 above, the law is very lenient such that the loss suffered by the victims of severe trafficking cannot be healed or numbed by the punishment imposed to their exploiters given the fact that, trafficking business is one of the most lucrative organized crime-traffickers have a lot of money, therefore, paying petty fines would not deter them in any way. Further, in this section, it is not made clear that consent of victims of severe trafficking in Persons is immaterial. So, it is possible that Stockholm syndrome favors perpetrators to evade legal consequences. This is another gap that the law and policy makers should consider sealing so that the law is given sharp teeth to bite its violators.

### ***Immunity of Victims***

The UNODC Model Law on Justice in Matters Involving Child Victims and Witnesses of Crime trafficking in Persons<sup>30</sup> “Victim of trafficking”, defines a victim of human trafficking as any natural person who has been subject to trafficking in persons, or whom [the competent authorities, including the designated non-governmental organizations where applicable]

<sup>27</sup> RTI International, Proposed reforms for anti-trafficking in Persons Act, No.6 of 2008 (Unpublished: 2017)

<sup>28</sup> See section 6(4) of the Act

<sup>29</sup> a person who commits an offence under this section shall, on conviction, be liable to a fine of not less than five million shillings but not more than one hundred and fifty million shillings or to imprisonment for a term of not less than ten years but not more than twenty years or to both.

<sup>30</sup> Available on

[https://www.unodc.org/documents/humantrafficking/UNODC\\_Model\\_Law\\_on\\_Trafficking\\_in\\_Persons.pdf](https://www.unodc.org/documents/humantrafficking/UNODC_Model_Law_on_Trafficking_in_Persons.pdf)

reasonably believe is a victim of trafficking in persons, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted.

Section 34 of the Act evokes immunity from prosecution to victims of human trafficking. The law states that, '*trafficked persons shall neither be the subject of prosecution of trafficking in persons nor penalized for crimes directly relating to prosecution of offenses stipulated under the Act*'. Much as this law is unqualified on the aspect of victim immunity, still the provisions are not designed in a way that accord full range of protection to the victim worth the status. The provision does not take on board necessary spices for non-punishment principle. For instance, the UNODC Model law against trafficking in Persons avers that, '*Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons.*'

<sup>31</sup>This is a model wording worth to emulate. Its scope is for acts done by victims as a direct consequence of their situations as victims of trafficking and at the same time it provides wider scope of protection including non-detention, charging or prosecution of victims of trafficking.

Also, the Act is not comprehensive enough to cover all types of trafficking in Persons nor does it appropriately address the most prevalent types of trafficking occurring in Tanzania. For instance, unlike in other criminal statutes, the TIP Act does not criminalize a crime of 'attempt to commit a TIP offense' thus it is pertinent that the amendment of this law should consider to include a crime of attempt in the list of the types of offenses punishable under the Act to facilitate their investigation and prosecution. It should also be clear that the Act is not all inclusive so as not to preclude new forms of trafficking that develop over time.

In a nutshell, anti-trafficking in persons Law in Tanzania embrace glaring flaws which in one way or another will always hinder effective victim protection. It is the high time that the law be revised and amended to emulate international standards set forth under Palermo Protocol.

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<sup>31</sup> See Article 10 of, the UNODC Model law against trafficking in Persons read together with Principle 7 of The Recommended Principles and Guidelines on Human Rights and Human Trafficking of the Office of the United Nations High Commissioner for Human Rights (E/2002/68/Add.1) concerning protection and assistance of TIP victims.

## CRITICAL REVIEW OF THE LEGAL FRAMEWORK

The law on trafficking in persons in Tanzania has advanced over the past decade. Until recently, there was no specific law that prohibited and punished human trafficking in Tanzania. The Penal Code<sup>32</sup> prohibited some forms of exploitation which had a direct bearing to human trafficking such as rape, and abduction, among others.<sup>33</sup> However, there was no specific piece of statute that prohibited, punished and prevented trafficking in persons nor was there any law providing for the rescue and protection of victims of trafficking in persons.

Following pressure from the international community,<sup>34</sup> in 2008 most of the countries in sub-Saharan Africa including Tanzania<sup>35</sup> enacted their pieces of statutes to prohibit, prosecute, punish trafficking in persons and protect victims of trafficking. States such as Zambia enacted its Anti-Trafficking in Humans Act in 2008.<sup>36</sup> In 2009 Uganda enacted its Prevention of Trafficking in Persons Act.<sup>37</sup> And in 2010 Kenya enacted the Counter Trafficking in Persons Act.<sup>38</sup> Tanzania's legislature enacted the anti-trafficking in Persons Act<sup>39</sup> to specifically rebuke Trafficking in Persons altogether. The Act criminalizes all forms of trafficking and calls for one or both of the following: a prison sentence of one to 20 years' imprisonment or a fine of five million to one hundred and fifty million shillings, depending on the trafficking offense committed.<sup>40</sup> The punishment is less Spartan if the acts committed fall within the crime of trafficking offence<sup>41</sup> but if the aggravating factors are involved<sup>42</sup>, the crime will be treated as a severe trafficking offence one hundred Fifty million shillings or both.<sup>43</sup> Similarly, the Act also

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<sup>32</sup> Cap 16 R.E 2002

<sup>33</sup> Section 139A now repealed by section 38 of the anti-trafficking in Persons Act, No. 6/ 2008 partly prohibited TIP. Section 131 imposed punishment for rape, section 133 imposes punishment for abduction. These forms of exploitation are currently defined as constituent elements of exploitation in trafficking offenses.

<sup>34</sup> Unpublished: Lwando Mufune, An Analysis of Human Trafficking in Southern Africa. Unpublished PhD thesis, 2010, *available at* <http://www.wisis.unam.na/theses/mufune2010.pdf> accessed on 18th June 2017

<sup>35</sup> Act no.6/2008.

<sup>36</sup> Act No.11 of 2008

<sup>37</sup> Act No. 7 of 2009

<sup>38</sup> Act No. 8 of 2010

<sup>39</sup> Ibid

<sup>40</sup> See sections 4 & 6 of the Act.

<sup>41</sup> See section 4 *ibid*.

<sup>42</sup> Aggravating factors may constitute trafficking of children or disabled persons, adopting a child for purposes of prostitution, pornography, sexual exploitation, forced labour and slavery, involuntary servitude or debt bondage, gang trafficking, the offender is a close relative or a person who exercises authority over the trafficked person, where the offence is committed by a public officer or a religious leader, a victim is recruited to engage in prostitution with any member of the military or law enforcement agencies, the offender is a member of the military or law enforcement agencies, or by reason or occasion of the act of trafficking in persons, the victim dies, becomes insane, suffers mutilation, or is infected with HIV-AIDS.

<sup>43</sup> See section 6 *ibid*.



penalizes all partners to the crime of trafficking in persons<sup>44</sup> and beneficiaries of the services of the trafficking victims.<sup>45</sup>

### ***Legal Protection of Victims***

The international standards on victim Protection are enshrined under the UN Convention<sup>46</sup> as supplemented by three Protocols. These protocols include; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. (Palermo Protocol), Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition<sup>47</sup>, supplementing the United Nations Convention against Transnational Organized Crime as well as the Protocol against the Smuggling of Migrants by Land, Sea and Air. The Palermo Protocol is the main law providing for international principles on victim protection as well as establishing states' responsibility under International Law. Specifically, Article 6(5) of the Palermo Protocol imposes an obligation of member states to endeavor in providing physical safety of victims of trafficking while they're within its territory. Article 9(1)(b) make it mandatory for state parties to establish comprehensive policies, programs and other measures, especially women, and children from victimization.

Similarly, Article 25(1) of the Convention requires each state party to take appropriate measures within its means to aid and Protection of victims of offences covered under the convention. This provision implies that, the state in which a victim of TIP is located is duty bound to provide that person with physical and psychological care that is adequate to meet at least immediate needs. The provision of this care and protection is non-negotiable and indeed inalienable.<sup>48</sup> Indeed, states are required to take reasonable measures to this end. In most situations, reasonable protection from harm requires (1) moving the trafficked person out of place of exploitation to a place of safety; (2) attending to the immediate needs of the victims of TIP,; and (3) assessing whether the trafficked person is under a particular risk of intimidation

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<sup>44</sup> See sections 5 & 7 *ibid*.

<sup>45</sup> See section 8 *ibid*.

<sup>46</sup> United Nations Convention against Transnational Organized Crime, 2000

<sup>47</sup> United Nations, *Treaty Series*, vol. 2326, p. 208; Doc. A/55/383/Add.2 accessed on [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12-c&chapter=18&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-c&chapter=18&clang=_en) on 20<sup>th</sup> November, 2020

<sup>48</sup> See UN human Rights office of the high Commissioner: Human Rights and Human Trafficking: Fact Sheet No. 36 at Pg 21.

or retaliation.<sup>49</sup> On same footing, Article 6(3) of the Protocol requires states parties to engage measures to provide for the physical, psychological and social recovery of TIP victims including but not limited to provision of; appropriate housing, counselling and information, medical, psychological and material assistance, employment, education and training opportunities.

At this point, Protection of TIP victims presupposes two main aspects that impose strictly legal obligations on 3Ps.<sup>50</sup> This analysis is purely confined on the second ‘P’ which is Protection. Protection of Victims of Trafficking in Persons constitutes aspects of ‘*Victim identification*’ and ‘*Victim assistance*’.<sup>51</sup> Identifying a victim as so is core-it precedes protection. The onus to identify a victim lies on authority. There is a series of civil society actors in Tanzania who contribute in identification process. Identifying a victim of trafficking require a multi-agency, multi-disciplinary effort to ensure no victim remains unidentified. From a practical point of view, proper identification requires setting up the coherent national referral mechanisms. On the other side, assistance of victims entails an effort for providing measures to meet the needs of victims. There is always short term, mid-term and long-term needs of victims of trafficking which must be met. Ordinarily, victims would always need immediate medical care, counselling, food, accommodation and rehabilitation. Consequently, it is an ultimate responsibility of states to aid victims and when such duty is delegated to NGO’s and CBOs, states have to provide adequate material and moral support to these organizations.

### ***Two Core Principles of Victim Protection and States’ Obligation***

It is a cardinal principle of international law that, once a state has ratified or acceded to the treaty or Protocol, it must obey, perform and comply to the obligation arising therefrom in good faith (also known as *Pacta Sunt Servanda*).<sup>52</sup> In December 2000, Tanzania signed the UN Anti-Trafficking Protocol, a legally binding international treaty that calls on state parties to enact “measures to prevent trafficking, to punish the traffickers and to protect the victims of such trafficking.” Tanzania then ratified the UN Anti-Trafficking Protocol without reservation on May 24, 2006, leading to the enactment of Anti-TIP Act of 2008. This means that, all member

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<sup>49</sup> See the European Court of Human Rights Case of *Rantsev vs. Cyprus and Russia*. Application No. 25965/04 at Para 286.

<sup>50</sup> Prevention, Protection and Prosecution

<sup>51</sup> Ibid at Footnote 41

<sup>52</sup> See Article 26 of Vienna Convention on Law of Treaty, 1969

states to the protocol, Tanzania inclusive is bound by certain principles of TIP victim protection. In discussing the principles, a glance shall be made to European Law on TIP victim protection. The discussion shall bring to the fore the principles enshrined under the Council of Europe Convention on Action against Trafficking in Human Beings (16<sup>th</sup> May 2005), 2014 Protocol to the ILO Convention against forced labour, 1930 (Geneva, 103<sup>rd</sup> ILC session), UNODC Model law against Trafficking in Persons (5<sup>th</sup> August 2009) and Principles developed in *Landmark UK case of L & Ors vs. Children's Commissioner for England & Anor*<sup>53</sup>. The principles are as explained here below;

***The principle of non-punishment of victims***

As discussed in preceding paragraphs, the principle of non-punishment of victims of human trafficking implies that, the victim of TIP is immune from prosecution and punishment for the acts he or she committed in his position as a victim of trafficking. The Palermo Protocol does not embrace any provision on the Principle of non-Punishment of trafficking victims.<sup>54</sup> However, the Working Group on Trafficking in Persons, a body established to make recommendations on the effective implementation of the Protocol called on state parties to *inter alia* ‘consider in line with their domestic legislation, not punishing or Prosecuting trafficked Persons for unlawful acts committed by them as a direct consequence of their situation as trafficked Persons or where they were compelled to commit such unlawful acts.’<sup>55</sup> The principle of non-punishment of Trafficking victims was first introduced in the Council of Europe Anti-Trafficking Convention, and subsequently, the EU Anti-Trafficking Directive. A non-Punishment clause was also entrenched in the Protocol of International Labour Organization (ILO) Protocol supplementing the Forced Labour Convention.<sup>56</sup> These instruments are non-binding. They assist in setting guidance to countries, Tanzania inclusive to enact laws that emulate standards set therein. Article 26 of the EU convention sets a scope within which the

<sup>53</sup> [2013] EWCA Crime 991

<sup>54</sup> According to Anne Gallagher, the Protocol drafters rejected a proposal advanced by the Inter-Agency Group and supported by NGOs, to include a provision protecting trafficked persons from prosecution for status-related offences such as illegal migration, working without proper documentation, and prostitution. A. Gallagher, ‘Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis’, *Human Rights Quarterly* 23. In Jovanovich M (2017)., a principle of Non-Punishment of victims of Trafficking in Human Beings: a Quest for Rationale and Practical Guidance. *Journal of Trafficking and Human Exploitation* Vol. 1 NR 1, 41-76, Paris Legal Publishers.(2001), 975, 990-91

<sup>55</sup> Report on the meeting of the Working Group on Trafficking in Persons held in Vienna, 14-15 April 2009 (21 April 2009), CTOC/COP/WG.4/2009/2, para. 12.

<sup>56</sup> Protocol of 2014 to the Forced Labour Convention, 1930 (Geneva, 103<sup>rd</sup> ILC session, 11 June 2014) (entry into force: 09 November 2016).

principle of non-punishment may apply. It provides that, each party shall, in accordance with basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so. This principle is cemented in Article 8 of the anti-trafficking directive which states that, member states shall in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2'. Both laws demand an element of compulsion as a pre-requisite for evoking this Principle.

In Tanzania, this principle is emulated under Section 34 of the Anti-Trafficking in Persons Act<sup>57</sup> which provides that;

*'Trafficked Persons shall neither be the subject of Prosecution of Trafficking in Persons nor Penalized for crimes directly relating to Prosecution in Offences stipulated under the Act'*

The scope of this principle in Tanzania is to the extent of 'Prosecution' and 'Penalization'. This means that, a victim of trafficking is immune from both prosecution and Punishment for any crime they will or have done in their status as victims.<sup>58</sup>

The rationale behind this principle is quite clear though with some aspects of controversy. If a prosecutor can prosecute a victim of trafficking this means, he is taken as a wrongdoer. This attitude does not only contravene state obligation to aid and protection to victims, but it also discourages the victims from coming forward to cooperate with law enforcement agencies which ultimately interferes with state obligation to investigate and prosecute those responsible to perpetrate the crimes of TIP. Criminalization of victims is tantamount to revictimization which consequently decrease victims' chances to social rehabilitation. This principle is premised on the assumption that, victims of trafficking have no independent decisions. Whatever they do is done on compulsion. Thus, it would be a misnomer to incriminate their acts done in their *status qua*. However, the controversial side of this principle is that, absolute immunity to the victims of trafficking would in some circumstances defeat the ends of justice.

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<sup>57</sup> Act No. 6 of 2008

<sup>58</sup> *Ibid.*

For example, there are situations where a victim of trafficking may be asked by their traffickers to recruit ten individuals in return for their freedom or some other gains. If this happens, should a victim still benefit from this immunity? This controversy has not been addressed both in international instruments and in Tanzania's anti-trafficking in Persons' Act and requires additional research. On her side, Marija Jovanovic<sup>59</sup> discusses this principle in Human Rights Perspective. Her discussion sought to establish the type of criminal or other offences to which the principle applies; the necessary conditions for its application; and finally, its legal effects. She asserts that, much as the victims of trafficking are entitled to protection, the victim should be vetted in such a way that immunity should only extend to a victim after it is proved that, there was a link between her offense and any compulsion arising out of the fact that he/[s] was a victim of trafficking in Persons offense. She backed her arguments with a decision in UK case of *L & Ors v. The Children's Commissioner for England & Anor.*<sup>60</sup>

In this case at issue was the liability of three children and one adult victims of trafficking for criminal acts they committed in UK where they were trafficked to. The three children were convicted of drug-related offences, and for possession of a false identity document (the adult). The adult appellant was a native of Uganda, a woman who after several years of forced prostitution, had been released by her trafficker, and given a false passport which she innocently believed to be genuine. She was subsequently arrested when she tried to apply for a national insurance number using this forged passport and was sentenced for six months imprisonment for possession of a falsified document. After her release, national referral mechanisms were devised to assess whether she might have been a victim of trafficking and it was found that she was indeed a TIP victim. Among the questions raised in the appeal was a possible absence of any link between her offence and any compulsion arising out of the fact that she was a victim of trafficking. From its reasoning, the court stressed that, the non-punishment principle could not be construed to infer that a trafficked individual should be given some kind of immunity from prosecution, just because he or she was or has been trafficked, nor for that reason alone, that a substantive defense to a criminal charge is available to victim of trafficking.

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<sup>59</sup> Jovanovic M, (2017) The Principle of Non-Punishment of Victims of Trafficking in Human Beings: A Quest for Rationale and Practical Guidance. Journal of Trafficking and Human exploitation. V.1 NR. 1 41-76. Paris Legal Publishers.

<sup>60</sup> [2013] EWCA Crim 991.

This decision echoes Article 26 of the Council of Europe Convention on Action against trafficking in human beings<sup>61</sup> which states that, each party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do. The decision of the case and the convention is not binding in Tanzania but rather persuasive. It sheds light in the eyes of law and policy makers to enact laws that emulate good standards and practice. This is good law that strikes a balance between rights of the victims of trafficking and state interests to put to criminal justice perpetrators of crimes.<sup>62</sup> Thus, Tanzania should consider amending the law to widen the scope of this principle for the ends of justice to be met.

### ***The Principle of Victim compensation***

The second principle is the principle of victim compensation. Article 6(6)<sup>63</sup> poses a responsibility to member states to enact laws that take on board compensation of victims of trafficking for damage suffered. In some countries, victims have rights to civil actions to recover on tort of human trafficking regardless of the criminal proceedings. The convention and Protocol direct that, state parties should enact laws allowing the seizure of assets and all other proceeds of the crime of trafficking in persons and use the same to compensate victims. In Tanzania, the law entitles victims of TIP compensation from their traffickers<sup>64</sup>. The Act states that, a person convicted of the offence of trafficking in Persons under this Act shall be ordered to pay compensation to the victim of trafficking in Persons.<sup>65</sup> The law further demands that, a person who causes injury to any person in pursuant of trafficking in persons under the anti-trafficking law shall be ordered to pay compensation to the injured person.<sup>66</sup> The payment of compensation to the victim does not substitute the criminal punishment, but it is in addition to any other punishment.<sup>67</sup>

Despite this good law, no victim of trafficking has been compensated at the time of writing this article. Consequently, efforts to protect victims of trafficking in persons remain negligible.<sup>68</sup>

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<sup>61</sup> Convention of 16<sup>th</sup> May 2005

<sup>62</sup> The rule is grounded on the Principle in *Riggs vs Palmer* case 115 N.Y. 506 (1889) which established a rule that no one should benefit from his/her own wrongs.

<sup>63</sup> Palermo Protocol, 2000.

<sup>64</sup> See Section 15(1) of the Anti-trafficking in Persons Act, No. 6 of 2008.

<sup>65</sup> *ibid*

<sup>66</sup> See section 15(2) of the Act.

<sup>67</sup> *Ibid* at Section 15(3)

<sup>68</sup> See US Department of State Global Status Report on Human Trafficking, 2018.

### *Assessment of Implementation of Commitments in Tanzania*

As observed from international instruments, the issue of victim protection is of paramount importance when dealing with trafficking in persons cases. The rationale is to ensure that the criminals are punished, and the innocent captives are rescued, rehabilitated, protected against re-abuse and revictimization, protected against prosecution and subsequently reintegrated with their families. Tanzania has enacted a surfeit number of legislations on victim protection. It has done so in order to meet state obligation on Palermo Protocol. However, due to limited resources, the commitments remain only on paper, with little effort to act proactively. Section 17 of the TIP Act<sup>69</sup> imposes obligations to rescue, support and protect victims of trafficking in persons to the officers in security services.<sup>70</sup> The law avers that;

*“the public officers in security services shall be responsible for the rescue of trafficked person and provision of temporary basic material support for the care and protection of a rescued victim of trafficking in Persons.”<sup>71</sup>*

The question here would be, upon rescue how will the protection be consummated? And where will these rescued victims be temporarily sheltered? Section 20 of the Act<sup>72</sup> imposes a duty to the government to establish centers for protection and assistance of the TIP victims. The provisions aver that;

*“ the government shall, on the advice of the Taskforce establish or designate centers for protection and assistance to victims of trafficking in Persons”<sup>73</sup>.*

Subsection (2) provides for the uses of which the centers shall serve. It articulates that, Centers established or designated pursuant to subsection (1) shall provide accommodation, nutrition, legal assistance, psychological and medical care, security and protection to the victims of trafficking in persons as well as assistance to locate their relatives. Despite these paper commitments, to date the government has hitherto not established any center to cater for the needs of victims of trafficking in Persons. Thus, the commitments remain on paper. Very few numbers of unlicensed and unequipped private run home shelters exist. There are at most four

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<sup>69</sup> Act No. 6 of 2008.

<sup>70</sup> Section 3 of the Act defines officers in Security Services to include the Police, Tanzania Revenue Authority, Immigration and the Tanzania Intelligence and Security Services.

<sup>71</sup> *Ibid*

<sup>72</sup> *Ibid*.

<sup>73</sup> Section 20(1) of the Act.

of them<sup>74</sup> which hardly can host sizeable number of victims for lack of material assistance from the central government.

## **INTERVIEWS WITH STAKEHOLDERS OF ANT-TRAFFICKING IN PERSONS LAW**

The interviews with the law enforcement agencies were geared at getting empirical data that helps to gauge knowledge, attitude and practice. It helped to get data that portray the challenges of enforcing the TIP Act in protecting victims of human trafficking, gauging the law enforcement officers' knowledge of the TIP law, as well as their attitude and practice in enforcing the law.

In an interview with an immigration officer from the boarder management and control (BMC) department of Immigration Headquarters at Kurasini, Dar es salaam, he said that, one of the main challenges facing law enforcement agencies in countering TIP crimes is the fact that we have porous borders. There has not been enough manpower and tools to patrol all boarder and secret routes. Consequently, traffickers and victims continue to cross boarders in and out the territory of the United Republic of Tanzania. The informant was of the opinion that, in order to effectively protect victims of trafficking, it is important that the government tightens the boarder, and supply ample tools for patrol across border posts. He also insisted on recruiting more officers especially at border posts so that patrol is done all the time without affecting other official duties.

On her part, a Police officer from Murongo-Kikagati boarder post opined that, knowledge is still limited to enforcing police officers. in most cases, TIP cases are treated as immigration cases whereupon the victims are not accorded the protection that they deserve.

*'we are not aware of the TIP Laws, and we have not been trained on the same. We normally detain victims and repatriate them after going through legal procedures set under Immigration laws.'* The informant asserted that, TIP victims are dealt with in accordance with immigration laws- meaning that, they are treated as criminals whereby some are prosecuted and convicted as illegal immigrants and others repatriated to their countries of origin by force. This is the practice in most of regions in remote areas. Same practice was noted at Mutukula boarder post

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<sup>74</sup> Kiota Women Health and Development Organization, Wotesawa, Daughters of Mary Immaculate and Faraja Orphanage Centre.



where both Police officers and Immigration officers confessed that, TIP was a new terminology and the practice is that, they deal with victims and perpetrators in accordance with Immigration laws.

The findings above give clearer picture for the existing very few TIP records (reported cases, Prosecutions and convictions). Most cases are treated as smuggling cases consequently, defeating the purposes of TIP laws. This practice has resulted to insecurity and lack of protection to victims of human trafficking.

Other two key informant interviewees from Kayanga district Court in Karagwe<sup>75</sup> upon being asked to share their court experience and number of TIP cases they have decided in the last five years, it was surprising that no such case have ever come on their desks.

*“I have not met such case since holding of office as a district court magistrate in the last seven years...I don't know if the cases do not happen or if it is the problem of police officers and Prosecutors. It is not the duty of a magistrate to go in street to hunt human traffickers or criminals generally- it's the duty of the police to arrest and subsequently a duty of the prosecutors to arraign them for trial”*...from the responses it was apparent that, there is very minimal enforcement of TIP law in the remote areas in Tanzania mainland.

Interviews with fifteen police officers, four Prosecutors, Six Immigration officers, and five social workers from Dar es salaam contended that, they were aware of human trafficking phenomena due to periodical trainings that they receive from international organizations and the government. They also concede that Victim protection has not been effective due to lack of funds to refer the victims to private home shelters run by NGOs, lack of government owned safe shelters, as a result victim are sometimes detained at the police station or subjected to unsafe environment. It was observed that, most of time victims are revictimized. Victim centered approach in handling TIP cases never exist.

In a nutshell, views from stakeholders of TIP suggest that victim Protection as a matter of practice do not exist. Lack of protection is caused by poor laws and inadequate resources on the other hand. It is high time that the government take both policy, legislative and political initiatives to protect the victims of human trafficking, for its international law obligations under Palermo Protocol.

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<sup>75</sup> Two Magistrates were interviewed on how they have been able to interpret and apply TIP law.

### ***Forms of TIP taking place in Tanzania***

The interviews revealed that domestic trafficking in persons is very rampant in Tanzania; However, because most people are not aware that the acts constitute a criminal offense or violation of human rights.<sup>76</sup> Consequently, the incidents of domestic TIP remains underreported in most parts of the United Republic of Tanzania.<sup>77</sup> Interviewees further noted that, although an overwhelming number of TIP cases go unreported, they are attributed for by *inter alia* porous nature of the border posts that allow traffickers and the victims to easily cross unnoticed, the illusion of employment opportunities in urban areas and across the borders, the misconception that there is good lifestyle in towns, and development imbalances among regions.<sup>78</sup>

### ***Experience from the Field on Victim Protection***

#### ***Safe Shelters***

The Kiota Women Health and Development Organization (KIWOHEDE) is one of the home shelters. The organization was founded in 1998 by health and social worker activists and got her registration in 1999. Since her inception, KIWOHEDE engaged in rights promotion, social economical and development approaches as the organizing principle of her project to serve women, children, youth and the community. KIWOHEDE's project thematical focus is to fight child sexual abuse, violence and exploitations, teen pregnancy, early marriages and school dropouts among girls across the country.<sup>79</sup> It operates in four regions of Tanzania mainland.<sup>80</sup>

Between 2013-2019, the number of victims of trafficking in persons sheltered has varied depending on availability of resources. There are times when the center was on the brink of

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<sup>76</sup> Views of some respondents from the border post of Murongo, kyerwa Kagera, the boarder that separates Tanzania and Uganda at eastern Tanzania commonly known as Murongo-Kikagati boarder, Mtukula boarder Post (a boarder separating Tanzania and Uganda) , Namanga Boarder Post (a boarder separating Tanzania and Kenya), Rusumo Boarder Post (Boarder separating Tanzania and Rwanda) and Tunduma Boarder Post (Boarder separating Tanzania and Zambia).

<sup>77</sup> RTI International; a Report on Stakeholders' Views on state of Trafficking in Persons in Tanzania. a pilot study conducted in 2017 to collect TIP stakeholders' views on State of TIP and the laws. The views resulted to authoring of TIP law amendments that are due to be passed into amended law by the Parliament of the United Republic of Tanzania.

<sup>78</sup> According to one informer during key informant interviews at the border post of Murongo where immigrants enter and exit Tanzania to and from Uganda through Kikagati-Murongo boarder.

<sup>79</sup> See <http://kiwohede.org/>. accessed on 06<sup>th</sup> February 2019.

<sup>80</sup> Dar es salaam at Bunju area, Mbeya urban, Mwanza at Nyegezi, and Iringa at Kilolo.

deregistration of TIP victim shelters because of lacking funds to run them.<sup>81</sup>This shelter currently hosts 58 TIP victims at its Nyegezi Center, 62 at Bunju, 47 at Mbeya, and 20 at Iloilo respectively. According to the forerunners of KIWOHEDE, the victims' survival at the shelters has always depended on donations from foreign donor organizations and other compatriotic well-wishers.<sup>82</sup> It was brought to the attention of the factfinder that, Mwanza shelter depended on the funding from a swiss donor organization-*Terre Des Hommes Schweiz (TDHS)* from the year 2013 to date. With the funding from TDHS, the Nyegezi shelter has been running smoothly. On equal footing, the Bunju shelter in Dar es Salaam runs by the funds from the Italian organization-*We world*. However, on the blink of the shutdown are Kilolo, and Mbeya urban shelters respectively for shortage of running resources. The Kilolo shelter in Iringa depended on funding from International Labour Organization (ILO) but the funding has ceased. It has received no funds since 2018.<sup>83</sup> As a consequence, the hosts thought of deregistering the shelter in early 2018 but because of numerous victims, it became impossible for all intents and purposes, thus the shelter operates on limping survivorship.<sup>84</sup>

The Mbeya shelter used to get funds from ILO and International Youth Foundation (IYF) for ten years. Currently the funding period is over, and victims still need services. It is in contemplation of the hosts that if no funding is available by March 2019, the shelter will be closed and victims dispersed.<sup>85</sup> Asking what the government thinks of the situation, it was learnt that, the government's plea is 'No funds is available'. This situation is quite similar with the Wotesawa home shelter, which operates in Mwanza and Kigoma and depends on funds from donors. DMI has recorded 8 TIP vetted victims. The shelter's survival depends on donations from local citizens who bring food, clothing, and other basic amenities to the victims. This center has neither donor nor government support.<sup>86</sup> With the unpredicted resources, the future of these shelters is unguaranteed. A different perspective on donation and funding was noted at Faraja Orphanage center.<sup>87</sup>This center has a total of two hundred (200) victims (103 girls and 97 boys). Thirty of the victims are living with HIV/AIDS and their parents'

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<sup>81</sup> Hinted by the Director of the organization during an Interview with the researcher. She is available on +255754694107, katri@kiwohede.org

<sup>82</sup> *ibid*

<sup>83</sup> It was hinted that, has outsourced funds from well-wishers since then.

<sup>84</sup> *ibid*

<sup>85</sup> *ibid*

<sup>86</sup>This information was collected by the author during interview with a key informant from amongst the hosts of the shelter. She preferred her particulars to be kept anonymous.

<sup>87</sup> Founded in 2006, based in Arusha Northern Tanzania.

whereabouts are unknown. The director of this organization has taken all child victims to schools. He pays for their food, schooling and good clothing. He treats them as his own kids, as he believes that the plight of the unfortunate folks, is the plight of us all and we should use the blessing we have to put a smile to others' face. He has no sponsor and donor whatsoever. He has a vast piece of land in which he grows both commercial and noncommercial crops, and cows that produce many liters of milk a day.

*“ I grow beans, sunflower, corn and other crops using modern technology such as tractors, I keep cows that produce liters of milk, I have incubators to hatch chicken of all breeds and above all I am a pastor. I have therefore never fell short of the provisions to feed my kids, nor have I ever fell short of money to buy their uniforms or pay for their schooling. I have employed helpers who take care of them. My schedule is watertight. I have to attend all the projects and at the same time feed the Lamb of God in my private ministry.”*

He has no any biological child of his own, believes that through helping others, God has opened him more doors of success. And he has remained committed into helping the needy including the helpless victims of Trafficking in Persons. The government has not taken active roles in implementing its international obligations of enhancing victim protection in the process of dealing with trafficking in persons cases. As observed, it has delegated that responsibility solely to the private organizations which are unequipped leaving room for the victims to be revictimized.

In 2018 the Anti-Trafficking in Persons Action Plan (2018-21) was passed. Among other things, the plan of action puts the government on the spotlight of victim support and protection.<sup>88</sup>The action plan envisions a commitment to provide shelter and other necessary facilities conforming to the international standards. It further stipulates that, basic facilities and necessities must be available for victim's comfort where the victim should be made to feel safe, secure and protected. Availability of victim friendly rehabilitation and reintegration services based on best practices is essential to secure the mental and emotional well-being of the victims and to assist them in the recovery process. Thus, the victim would also be in a better frame of mind and well prepared to assist in investigation and prosecution. The implementation of these averments depends on availability of the resources and political will on the side of the

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<sup>88</sup> See Paragraph 6.4 of the National Ant-trafficking in Persons Action Plan (2018-21).

government to do so. There has been so far an attempt to establish law and policies to that effect. Section 25 of the Act<sup>89</sup> establishes an anti-trafficking fund. The source of funds of this statutory fund includes but not limited to (a) such amount of money as may be appropriated by the parliament; (b) voluntary contributions from individuals, NGO's and other private sector; (c) grants and donations from bilateral and multilateral organizations...<sup>90</sup> The law further provides the uses for which the fund is intended. These include;

- (a) To support the basic material needs of victims of trafficking in Persons,
- (b) For training of victims of Trafficking in Persons,
- (c) For tracing the families of victims of trafficking in Persons, and
- (d) For any other matter connected with the rehabilitation and re-integration of victims of trafficking in persons to countries of origin to their best interest.<sup>91</sup>

The law mandates the anti-trafficking secretariat (ATS) which operate in auspices of Ministry of Home Affairs with managing functions. The ATS has duty to manage the fund to ensure it channels all monies to activities associated with coordination of trafficking in persons offenses-identification of victims, rescue, rehabilitation and reintegration of victims to their families. With all intents and purposes this commitment as it is to all others observed remains on paper. The implementation of the commitments has always remained a myth. Ever since the TIP fund was established by the law in 2011, the same has never been practically put to existence.<sup>92</sup> Legal documents for establishing the fund are with the office of the government Treasury in the Ministry of Finance.

It has never been established therefore; no funds have been allocated by the parliament in the fund. This insinuates that, victim protection agenda remains on impasse. Lack of funding has affected the agenda in one way or the other. As of the time of writing this article, the government has not set a budget for anti-trafficking in persons fund. No feasible centralized mechanism has been devised to audit the number of TIP victims in the country.<sup>93</sup>

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<sup>89</sup> No. 6/ 2008

<sup>90</sup> See section 26 (a),(b) ,(c) ,(d), (e) of the Act.

<sup>91</sup> See section 27 *ibid*

<sup>92</sup> Hinted by a key informant from amongst the members of the ATS during interview with the author.

<sup>93</sup> With support from UNODC and SADC secretariat, the government launched National Centralized anti-trafficking data collection and reporting tool in 2018 the tool allows the government through its agencies to upload information on trafficking cases and victims and trafficker profiles. However, this effort is limited by

The scraps of information available are based on guess work and intuition.<sup>94</sup> On this premise, it would not be a hyperbole to conclude that, there is mismatch between TIP victim protection that we see on paper and the realities on the ground in Tanzania.

## **CONCLUSION**

The article has revealed that, despite the laws evoking the principles of protection of victims of Trafficking in Persons, in the practical sense, it remains a myth. The analysis of the laws that govern TIP in Tanzania and practice on the ground has left no shadow of doubt that to a larger extent the government has repelled its obligation to create friendly environment and structures for identification, rescue and protection of victims of human trafficking.

## **RECOMMENDATIONS**

The role of the government on victim protection should be given prominence and emphasis in the regulations. The government should have the primary duty on victim identification, rescue, rehabilitation and reintegration. It should comply with the legal provisions by establishing its home shelters for victims of trafficking in Persons. Along with the establishment of the centers, it should also have a periodical TIP victim audit across the country. Evidence on record from privately owned home shelters suggest that most of the victims of trafficking are those recruited from rural areas to urban areas (domestic trafficking) therefore, census should be devised to record their actual numbers rather than basing on guess work . This is important because it will help to gauge the magnitude of trafficking in the country and it will aid to have on record for research purposes the number of victims recorded annually to determine whether efforts devised to protect them (victims) has borne fruits or diminish returns.

Again, in order to effectively coordinate efforts for victim protection, it is so fundamental that, the anti-trafficking fund be inaugurated, and Parliamentary budget be allocated. This will make the monetary resources available to manage the established shelters by ensuring supply of necessities to the victims of trafficking in the shelters (short term, mid-term and long term) needs of the victims of trafficking.

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lack of a unified protocol for reporting trafficking statistics from regional, and district levels to the central data system- consequently to any TIP data is available in the system since the inception of the system to the date of authoring this article.

<sup>94</sup> The ATS collects TIP data from the four existing NGOs that operate home shelters. Data collected from four NGOs cannot be relied upon to portray a clear magnitude of TIP victims in Tanzania Mainland. For info about these NGOs refer to footnote 65.

The existing privately-owned shelters manned by NGOs should be licensed as per the requirements of the law. Then support them materially to ensure they don't fall short of the material needs necessary for victims' survival and development. Leaving the protection task entirely to the NGOs would as it have been obnoxiously detrimental to the victims of trafficking in Persons.



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