

**INTERNATIONAL OBLIGATION IN PREVENTING TRAFFICKING IN
PERSON:
AN EXAMINATION OF THE ANTI- TRAFFICKING LAW
IN TANZANIA**

By

Tausi Mbalamwezi

**A Dissertation submitted in Partial Fulfillment of the Requirement for the
Award of Masters of Law (International Law) of Mzumbe University**

2016

CERTIFICATION

We, the undersigned, certify that we have read and hereby recommend for acceptance by the Mzumbe University, a dissertation paper entitled **International Obligation in Preventing Trafficking in Person: An Examination of the Anti- Trafficking Law in Tanzania**, in partial fulfillment of the requirement for the award of the degree of Masters of Law in International Law (LL.M-IL) of Mzumbe University.

CHARLES W. MARWA
Major Supervisor

Internal Supervisor

Accepted for the Board of Faculty of Law

DEAN/ FACULTY OF LAW/BOARD

**DECLARATION
AND
COPYRIGHT**

I, **Tausi Kassim Mbalamwezi** declare that this dissertation is my own original work and that it has not been presented and will not be presented to any other University for a similar or any other degree award.

Signature _____

Date _____

©2016

This dissertation is a copyright material protected under the Berne Convention, the Copyright and Neighbouring Rights Act, [Cap. 218 R.E 2002] and any other international and national enactments in that behalf, on Intellectual Property. It may not be reproduced by any means, in full or in part except for short extract in fair dealings, for research or private studies, critical scholarly review or discourse with acknowledgement, without the written permission of Mzumbe University, on behalf of the author.

ACKNOWLEDGEMENT

It is only for the grace of the Almighty God of heaven whom I thank first, that I have even managed to give this tribute in an acknowledgment mode to all those who helped me to fulfill my academic desire of this level.

In an intellectual journey like this, so many people are involved in one way or another to make it a success, a long list of names upon which I cannot manage to mention all of them here but let it suffice to pass my gratitude to them unmentioned, just a few to be mentioned who cannot in any way go without being mentioned.

May I sincerely and heartedly pass my special thanks to my supervisor, Mr. Charles Marwa, who along with so many other commitments he had, he did put my work upfront and helped me as a mentor to achieve this stage without any regrets. Let it suffice to say few words with the deep meaning in it that, thank you very much for helping and making me achieve this work which makes up a new level of my academic understanding.

My sincerely and countless thanks dwells back on my husband, GODFREY KUSAGA. He has been one of the kind man I have met in my life. He had been so patient with me, tirelessly reminding me to accomplish my tasks, assisting in any way he can till now, I give my sincere thanks to him and my family at large.

My thanks also pass to my family, my mother, Sophia Juma, my sisters Mariam and Nduara, brothers and in laws who have been advising, supporting me and comforting me to keep it up so that I achieve this great step in an academic life.

Last but not least, I give thanks to my employer Ministry of Home Affairs who allowed me to go for my studies, my fellow staff who have been supporting me and those others not mentioned who helped me to do my research in one way or another.

Finally, I give thanks to Mzumbe University academic and supporting staff at large who tirelessly helped me as a student to achieve my goal in a manner which is commendable. Having those few words said, I wish to insist on the fact that many important people helped me to achieve my academic goals but reasonably cannot be named all here, but May the Almighty God reward all of them Abundantly.

DEDICATION

This work is dedicated to my lovely husband GODFREY KUSAGA, my lovely kid, Abdulrahaman Mohamed and friend of mine Secky Nyakunga.

ABBREVIATIONS

ACRWC	African Charter on the Rights and Welfare of the Child
AIDS	Acquired Immuno Deficiency Syndrome
ATPA	Anti-Trafficking in Persons Act
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
HIV	Human Immuno Deficiency Virus
ILO	International Labour Organization
IOM	International Organization for Migration
SPSS	statistical packages for social science
UNCRC	United Nations Convention on the Rights of the Child
UNICEF	United Nations Children's Fund
USDOS	United States Department of State

TABLE OF LEGAL INSTRUMENTS

INTERNATIONAL INSTRUMENTS

UN Protocol to Prevent, Suppress and Punish Trafficking in Person (2000)

United Nations Convention on the Rights of the Child (1989)

The African Charter on the Rights and Welfare of the Child (1999)

Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Pornography (2000)

Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2000)

ILO Convention no 182 on the Worst forms of Child Labour of 1999

UN Convention against Transnational Organised Crime (2000)

Convention on the Elimination of All Forms of Discrimination Against Women (1979)

REGIONAL INSTRUMENTS

The African Youth Charter (2006)

The SADC Protocol on Gender and Development (2008)

Maputo Protocol (2003)

DOMESTIC INSTRUMENTS

Tanzania Anti- Trafficking in Person Act (2008)

The Tanzania Employment and Labour Relations Act, 2004

Penal Code [cap 16 R.E 2002]

ABSTRACT

This study focuses on the experiences of the law on human trafficking in Tanzania. Trafficking of human being has many effects on victims: it deprives them of human rights and freedoms; it may also pose a public health risk. Historically, migration of people for example, those who are fostered by extended family is a long-standing customary practice in Tanzania, but while the circumstances of fostering have changed, given increasing rural poverty and the impact of the HIV/AIDS crisis, this has not been recognized in Tanzanian society. The government of Tanzania enacted the Anti-Trafficking Act in 2008, and the Law of Child Act 2009, but people (children) who migrate are increasingly being exploited and abused; this has transformed specific cases from migration into trafficking. Despite its rising profile in many parts of the world, and Tanzania specifically efforts are made to raise public awareness to the problem in Tanzania on human trafficking.

Tanzania is a source, transit, and destination country for men, women, and children trafficked for the purposes of forced labour and sexual exploitation. Boys are trafficked within the country for forced labour on farms, in mines, and in the informal business sector. Tanzanian girls from rural areas are trafficked to urban centers and the island of Zanzibar for domestic servitude and commercial sexual exploitation; some domestic workers fleeing abusive employers fall prey to forced prostitution. The Government of Tanzania does not fully comply with the minimum standards for the elimination of trafficking.

The overall objective of this study was to explore in depth international obligation in preventing trafficking in person while the specific objectives were: To examine the international laws which establish obligations in preventing human trafficking, To make an assessment on how the Tanzania anti trafficking Laws have curbed human trafficking in Tanzania.

The studies employed Library research on documentary data, starting to find out whether this issue of trafficking has been taken care of effectively and go further to explore the modality and best practices from other jurisdiction as far as ways to prevent the problem. Interview was conducted to few stake holders for analogous reasoning on this aspect. Comparison is made on the law at common law and other related jurisdictions on this subject.

TABLE OF CONTENTS

CERTIFICATION	i
DECLARATION AND COPYRIGHT	ii
ACKNOWLEDGEMENT	iii
DEDICATION	iv
ABBREVIATIONS	v
TABLE OF STATUTES	vi
ABSTRACT	vii
TABLE OF CONTENTS	viii
LIST OF TABLES	xi
LIST OF FIGURES	xii
CHAPTER ONE.....	1
1.0 Introduction	1
1.1 Background to the study	1
1.2 Statement of the problem	5
1.3 Objectives of the study	6
1.3.1 General objective.....	6
1.3.2 Specific objectives.....	6
1.4 Research questions	7
1.5 Significance of the study	7
1.6 Research design and methodology	7
1.6.1 Research design	7
1.6.2 Population of the study.....	8
1.6.3 Sampling procedure and the sample size	9
1.6.3.1 Sampling procedure.....	9
1.6.3.2 Purposive sampling	9
1.6.4 Sample size.....	9
1.6.5 Data Sources.....	10
1.6.6 Primary data Collection Methods.....	10
1.6.6.1 In-depth Interviews.....	10
1.6.6.2 Secondary Data collection Method	11
1.6.7 Data Collection Instruments	11
1.6.7.1 Questionnaire.....	11

1.6.8 Data Processing and Analysis	11
1.7 Literature Review	12
CHAPTER TWO.....	16
CONCEPTUAL FRAMEWORK OF INTERNATIONAL OBLIGATION IN PREVENTING TRAFFICKING IN PERSON.	16
2.0 Introduction	16
2.1 Defining Trafficking.....	16
2.2 Forced Labour	18
2.3 Traffickers	19
2.4 Human Smuggling.....	19
2.5 Protection.....	20
2.6 Theoretical Framework of the Study.....	22
2.7.1 Rational Choice Theory.....	23
2.7.2 Victim Vulnerability Model	23
2.7.3 Modern Slavery Theory.....	24
2.8 Conclusion.....	25
CHAPTER THREE	26
LEGAL FRAMEWORK OF TRAFFICKING IN PERSON.....	26
3.0 Introduction	26
3.1. International Legal Framework	26
3.2 Regional Legal Framework	27
3.2.1 The African Youth Charter, (2006).....	28
3.3 Domestic Legal Framework	29
3.3.1 Tanzania’s Anti-Trafficking in Persons Act	29
3.4 Conclusion.....	32
CHAPTER FOUR	33
DATA ANALYSIS, FINDINGS AND DISCUSSION.....	33
4.1 Introduction	33
4.2 Socio-Demographic Characteristics of Respondents	33
4.2. Finding by category of respondents	35
4.3 Education Level of the Respondents	35
4.3.1 Nationality and Religion	37
4.4 Prevalence and Forms of Trafficking.....	38

4.5 Forms of human trafficking.....	39
4.6 Purposes of Human Trafficking	39
4.7 Experiences of selected trafficked human being	42
4.7.1 Deprivation of Basic Needs.....	42
4.8 Destinations	46
4.9 Conclusion.....	47
CHAPTER FIVE.....	49
CONCLUSION AND RECOMMENDATIONS	49
5.1 Conclusion.....	49
5.2 Recommendations	50
5.3 Areas of Further Research	57
REFERENCES	58

LIST OF TABLES

Table 1.1: Population of the study.....	8
Table 1.2: Sample size.....	10
Table 4.1 Respondents Education Level	36

LIST OF FIGURES

Figure 4.1 Frequency and percentage.....	33
Figure 4.2: Marital Status	34
Figure 4.3: Highest Educational level	36
Figure 4.4: Nationality and Religion	37
Figure 4.5: Occupation	38
Figure 4.6: Forms of human trafficking	39
Figure 4.7: Purpose for Human Trafficking	40
Figure 4.8: Factors Contributing to Human Trafficking	41
Figure 4.9: Destinations for Domestic Human Trafficking	46

CHAPTER ONE

1.0 Introduction

This study focuses on the experience of human trafficking in Tanzania. Trafficking of human being has many effects on victims, it deprives them of human rights and freedoms; it may also pose a public health risk. Historically, migration of people particularly those who are fostered by extended family is a long-standing customary practice in Tanzania, but the circumstances of fostering have changed, given increasing rural poverty and the impact of the HIV/AIDS crisis, this has not been well recognized in Tanzania society. The government of Tanzania enacted the Anti-trafficking Act,¹ and the Law of Child Act,²

The Acts were enacted following the widespread of trafficking in person practices, but persons who migrate are increasingly being exploited and abused; this has transformed specific cases from migration into trafficking. Very little research has been conducted on the phenomenon of trafficking in East Africa and it was difficult to find promising studies that dealt with the trafficking of human being.

1.1 Background to the study

The trafficking of human beings is an old tradition; it has been practiced in the form of slavery and the slave trade.³ At that time, trafficking meant 'trade'. It was later, towards the end of the same century that the word started to denote transit of illicit or disputable goods such as drugs. In the 19th century, the meaning of trafficking was broadened to include illicit trade in human beings and their displacement within the country or across borders⁴.

¹ 2008

² 2009

³ According to ILO-IPEC (2002), the term „trafficking“, appeared in literature as early as mid of the 16th century

⁴ Kangaspunta, K. “Mapping the inhuman trade: Preliminary findings of the human trafficking database”, consultative meeting on Migration and Mobility and How this Movement Affects Women, United Nations Division for the Advancement of Women (DAW), Malmö, Sweden at p 10.

In a bid to deal with trafficking in person globally, a number of legal instruments were adopted with specific provisions dealing with the practice.

According to article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children,⁵ also known as Palermo Protocol. it state that

Trafficking in persons, shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The above definition gives a reflection that this phenomena that human trafficking is a global problem,⁶ affecting every region in the world.

The movement of boys and girls from rural areas to urban areas is of such large proportion that it has taken on a life of its own and is almost considered the norm among the rural populace⁷. Domestic trafficking of children is a bigger problem in Tanzania than cross-border trafficking.

The Movement of children from their homes/communities over international borders. This form of trafficking is fast growing in Tanzania⁸ where children are trafficked to the United Arab Emirates, the Middle East, the United Kingdom and Asia for sexual exploitation and domestic service.

⁵ 2000

⁶ Laczko, F. "Introduction", in Laczko, F. and E. Gozdzia (eds), Data and Research on Human Trafficking: A Global Survey, IOM, Geneva. at p.7

⁷ UNICEF: Guidelines to the protection of child victims of trafficking, model bilateral agreement on Cooperation and mutual legal assistance in protecting children from trans-border trafficking at P.3

⁸ ILO/IPEC (2007), Rapid assessment on trafficking in children for the worst forms of child labor and child soldiers in Tanzania at P.7

Various researches have been conducted by The United Nations Children's Fund (UNICEF)⁹ found that trafficking is a recognized problem in African countries. Another author, Goliath, shows that 70% of trafficking cases are from West and Central Africa, whereas 30% of cases are from Southern and East Africa. Trafficking for domestic services is common among the countries of West Africa, in particular Benin, Burkina Fasso, Cameroon, Ivory Coast, Guinea, Ghana, Mali, Niger, Nigeria and Togo.¹⁰ According to Goliath¹¹ children are trafficked as twice the rate of women and 60% of trafficking victims are from rural to urban areas within and across borders.

In southern Africa, South Africa is the main destination of child trafficking for sexual exploitation¹². According to Kamidi¹³ the report of child trafficking published in 2000 by an organization known as Molo Songololo shows that between 28,000 and 38,000 children were trafficked for sexual exploitation. Kamidi¹⁴ affirms that in Cape Town, 25% of the prostitution services are offered by children coming from Angola, Botswana, DRC, Lesotho, Mozambique, Malawi, South Africa, Swaziland, Tanzania Zimbabwe and Zambia.¹⁵

According to UNICEF,¹⁶ internal trafficking affects the majority of African countries. UNICEF reports that in Eastern Africa and Tanzania in particular, most of the girls who are engaged in prostitution in urban centers come from rural areas. The report affirms that,

“Human trafficking happens often in our East African communities and families yet it remains unknown. Somehow, knowledge about international human trafficking seems much (sic) diffused (though also not well understood) than that of domestic human trafficking”.

⁹ UNICEF, Child prostitution thrives on Kenyan coast 2006 Nairobi: UNICEF, 2006. P

¹⁰ ILO-IPEC, 2001.

¹¹ Goliath, P. Human Trafficking: Southern African Perspective. Paper presented at the International Association of Women Judges, Panama, March 25-28.

¹² Kamidi, R. A Legal Response to Child Traffickers in Africa: A Case Study of South Africa and Benin. Cape Town: University of Cape Town.

¹³ <http://www.iawj.org/what/panama08/19.pdf> accessed on 05/04/2016

¹⁴ ibid

¹⁵ Trafficking in Persons Report 2014” (PDF). U.S. State Department. Retrieved 20 may, 2015 p.14

¹⁶ UNICEF, Child prostitution thrives on Kenyan coast 2006 Nairobi: UNICEF, 2006.p.5

The government of Tanzania ratified the Palermo Protocol and enacted The Anti-Trafficking Act.¹⁷ Together with the UN protocol above, the government of Tanzania has ratified other international conventions related to human and child rights. These include the United Nations Convention on the Rights of the Child (UNCRC),¹⁸

The African Charter on the Rights and Welfare of the Child (ACRWC),¹⁹ The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Pornography,²⁰ The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict,²¹ as well as the ILO Convention NO 182 on the Worst Forms of Child Labour of 1999.

However, Kamidi,²² reports that child trafficking is still widespread in Tanzania even if the country has accepted, and ratified international instruments condemning this practice.

According to the United States Department of State (USDOS)²³, Tanzania is said to be a source, transit route and destination of trafficking activities. The USDOS report²⁴ reveals that women and children are trafficked to South Africa, Saudi Arabia, the United Kingdom and Sweden, for domestic servitude and sexual exploitation. It further reports that Indian women who are trafficked to Tanzania to work as entertainers in restaurants and nightclubs are forced into prostitution. Other trafficked people to Tanzania come from Malawi, Burundi, Rwanda, Kenya and Uganda²⁵

The information provided by the International Organization for Migration (IOM) shows that in Tanzania 97% of cases of trafficking are internal involving youth between 12 and 17 years old; in terms of sex, 74 % of the victims are female. The girls are trafficked from

¹⁷ 2008

¹⁸ 1989

¹⁹ 1999

²⁰ 2000

²¹ 2000

²² Op.Cit note 12

²³ 2009

²⁴ IOM. (2010a). About IOM. Retrieved on the 25th November, 2015, from <http://www.iom.int/jahia/Jahia/about> iom/lang/en

²⁵ IOM. (2007). The IOM Handbook on Direct Assistance for Victims of Trafficking Geneva: IOM p.7.

Iringa, Morogoro, Singida, Dodoma and Kilimanjaro to Dar es Salaam and to the island of Zanzibar for domestic servitude. Upon entering the cities, trafficked girls fall victim to various vices. In tourist hotels trafficked girls are compelled into prostitution whereas some domestic workers fall prey to forced prostitution, while running away from employer's harassment IOM²⁶.

1.2 Statement of the problem

Various international instruments such as the United Nations Convention on the Rights of the Child (UNCRC)²⁷ and the United Nations Protocol to Prevent Child Trafficking²⁸ and other relevant laws were established to prevent and combat trafficking in persons. Apart from these international laws there are Regional instruments to such as The SADC Protocol on Gender and Development,²⁹ Maputo Protocol,³⁰ and Domestic instruments which establish some measures to prevent and combat trafficking in persons.

In Domestic level there is the Penal Code³¹ and The Tanzania Employment and Labour Relations Act³² which touch some aspects as far as trafficking in persons is concerned. Apart from the two mentioned domestic laws, Tanzania has a special law which deals with the Ant trafficking in Tanzania, that is Tanzania Anti Trafficking Act³³.

The Tanzania Anti Trafficking Act set out prohibitions of trafficking in person. However, such prohibitions do not par with the standards set out in the aforementioned International instruments which Tanzania signed and ratified. A good example is part IV of the

²⁶ IOM. (2005). Data and Research on Human Trafficking: Global Survey. Geneva: IOM. P.10

²⁷ United Nations Convention on the Rights of the Child (UNCRC) of 1989

²⁸ United Nations Protocol to Prevent Child trafficking of 2000

²⁹ 2008

³⁰ 2003

³¹ Cap 16 R.E 2002, where as section 139A, insists that, Any person who commits the offence of trafficking and is liable on conviction to imprisonment for a term of not less than twenty years and not exceeding thirty years and a fine of not less than one hundred thousand shillings and not exceeding three hundred thousand shillings or to both the fine and imprisonment and shall in addition be ordered to pay compensation of an amount to be determined by the court, to the person in respect of whom the offence was committed.

³² ELRA 2004

³³ Act No 6 of 2008

Tanzania Anti Traffic Act³⁴ which set for rescue, rehabilitation, protection and assistance to victims. Though this part provides for some noticeable measures but till to date no any effective measures are placed to implement the same which is purely contrary to article 9 of the protocol³⁵ which requires the state parties to establish comprehensive policies, programmes and other measures to curb the menace.

It is noticed that, in Tanzania there is lack of effective criminal record keeping in human trafficking a thing that has hampered crime prevention efforts. In its 2013 trafficking report, the U.S. State Department reports that, Tanzania continues to rely on the International Organization for Migration's "partial data for statistics about human trafficking," instead of compiling its own comprehensive and statistical data for trafficking. Record keeping would always facilitate law enforcement mechanisms contrary to what is done in Tanzania.

This study therefore, looks in deep as to what extent Tanzania has adhered with the international legal standards on human trafficking, whether our current laws reflect the international standards on human trafficking and the challenges emanating from the implementation of those international instruments in Tanzania with regard to human trafficking.

1.3 Objectives of the study

1.3.1 General objective

The overall objective of this study is to explore in depth the international obligations in preventing trafficking in person and examine how Tanzania has abided to them.

1.3.2 Specific objectives

- i. To examine the international laws which establish obligations in preventing human trafficking in Tanzania.

³⁴ *ibid*

³⁵ United Nation Protocol to prevent child trafficking,2000 and The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Pornography 2000;

- ii. To make an assessment on how the Tanzania anti trafficking Laws have curbed human trafficking.

1.4 Research questions

- i. What are the Tanzanian perception on Human Trafficking?
- ii. How is Tanzania abiding to International human Anti-Trafficking Standards?
- iii. Are Tanzanian Laws tough enough to curb human trafficking menace?

1.5 Significance of the study

This work shows the extent Tanzania has abided to international standards on human trafficking and suggested ways which may help to cure the deficiencies as far as human trafficking is concerned in the country.

1.6 Research design and methodology

This study is partly library research and partly a field research. The library research is done to review empirical literature and reports. The field research is undertaken for the purpose of collecting primary data concerning the insights and assessment of respondents on the theme of the study.

1.6.1 Research design

Research design is a blueprint that involves the arrangement of conditions for collection, measurement and analysis of data in a manner that aims to combine relevance purpose with in economic procedure.³⁶ It assists softly sliding of the various research operations which in turn make it more efficient as it produce maximal information with minimal expenditure of efforts time, money³⁷ and source of relevant information, approaches for gathering and analyzing data can be easily identified.

In this study, descriptive design is used to collect information by interviewing and administering questionnaires to a sample of individuals. Since this study intended to look

³⁶ C.K Kothari, Research Methodology: Methods and Techniques,2edition,New age International (p) Ltd,2004,P.31

³⁷ Ibid

on international obligation in preventing trafficking in person in Tanzania, descriptive research gives the researcher an opportunity to use both quantitative and qualitative data so as to find out data and characteristic about the population that is studied.

Descriptive research presents a number of merits as it could provide a very multifaceted approach. This gives statistical information about an event or certain issue.

In order to achieve the purpose of this study, appropriate choice of methodology was made. The researcher's understanding of this section has therefore provided an outline of the research methodology employed in this study for collection of relevant data and also the analysis of such data.

1.6.2 Methodology

1.6.2.1 Population of the study

In order to have a comprehensive study, a sample of 145 respondents was purposively selected to get correct information from their practical experience and knowledge. The population contains Tanzanians of all races, sex, social-economic status, age groups, educational status i.e. advocates, lawyers, magistrates, registrars, clients, victims, judges and victims of cybercrimes cases. The study has been conducted in Tanzania. To accomplish this study, information furnished from respondents with different backgrounds led to the findings of this study.

Table 1.1: Population of the study

S/N	Category of Respondents	Number of Respondents
1.	children	28
2.	Judges	3
3.	Advocates	20
4	Victims of the trafficking incidences	42
5.	Immigration officials	23
6.	Police officers	17
7.	prosecutors	12
TOTAL		145

1.6.2.2 Sampling procedure and the sample size

Numerous resources such as time and money were saved by selecting a sample to be studied rather than attempting to study the whole population of the country. Obtaining data from the population of the problem under the study as well as analyzing and interpreting those data could be very difficult for the whole population in this instances therefore sample size is very important.

1.6.2.3 Sampling procedure

The exact number of items selected from a population to constitute a sample is what is called sample size (Kamuzora: 2008). There is no general rule as to which is the best method to be used in selecting a sample size in any study. Sampling methods vary depending on the objectives, nature, and prior information about the population being sampled of a particular study. As the result, in this study the researcher used a purposive sampling method to accomplish the objectives of this study.

1.6.2.4 Purposive sampling

This is sometime referred as judgmental selective or subjective sample; this method was employed in this study on the ground that the researcher was able to use his own knowledge to choose those elements which he believes that they are helpful to deliver the required data about the problem under investigation.

The method was used to select a group of judges, advocates, bankers, magistrates, officials from TCRA and Victims of human trafficking. Additionally, purposive sampling was used to sample out top management and heads of sections such as judge in charge, resident magistrate in charge, head of sections and others.

1.6.2.5 Sample size

The population size comprised of 145 respondents in total out of which the researcher used a sample size of 80 respondents.

Table 1.2: Sample size

S/N	Category of Respondents	Frequency	Percentage
1	Judges	3	50%
2	Advocates	20	50%
3.	children	28	50%
4	Victims of trafficking incidences	42	50%
5	Immigration officials	23	50%
6	Police officers	17	50%
7	Traffickers and proxy	12	50%
	Total	80	50%

1.6.2.6 Data Sources

Data were collected from both the primary and secondary sources.

1.6.3 Primary data Collection Methods

Primary data were collected in method described below:

1.6.3.1 In-depth Interviews

The researcher employed interview method in order to have an intensive discussion of the problem with the interviewees (respondents) and get in- depth data. Personal interview was used in collecting the information usually carried out in a structured way. This method of data collection helped the interviewer to get more information, which would have been impossible to get them if another method was used.

This involved oral questioning of respondents, both face to face and through telephone interviews was used in some situations such as those victims of the instances who are far or in scattered areas. This method was used for collecting data from judicial officers, police officers, victims of the trafficking incidences, immigration officers and some opinion from the senior advocates and judges.

1.6.3.2 Secondary Data collection Method

Secondary data were collected from such sources such as the ministry of constitution and legal affairs, national library, university of Dar es salaam library, high court of Tanzania library and court of appeal library where the researcher consulted a number of cases, text books and unreported cases, articles, journals, books, Tanzania Police Force register and websites.

1.6.4 Data Collection Instruments

1.6.4.1 Questionnaire

To ensure congruent response from all selected respondents, the researcher provided questionnaire to the respondents. The questionnaires were divided into two types as open ended questions and closed ended question. Open ended questions are those where a chance is given to the respondent to express his or her own opinion.

Close ended questions are those where respondents are not given a chance to express his or her self. Before constructing a questionnaire for this research, issues considered includes: types of respondents, nature of questions and responses needed, and time and privacy of respondents. The study comprised a type of mixed questionnaire including open-ended and closed-ended questions. This approach aims at helping this study to get as much accurate information as possible.

1.6.5 Data Processing and Analysis

The data were clearly edited, coded, and analyzed descriptively using both qualitative and quantitative aspects, to ensure completeness, accuracy, clarity, uniformity and finally presented to make them meet the objectives of the study and draw conclusions and recommendations.

Data editing helped to detect errors and omissions, completed questionnaires were edited to ensure accuracy and consistency of data with other facts collected. The editing process in this study involved inspection and correction of questionnaires. This served to ensure quality standard of the data. The coding technique was used as well in assigning numerals

and other symbols for further analysis. Furthermore, data obtained was classified to reduce the large amount of volume from raw data, as the way of creating homogeneous groups to reach into meaningful relationships.

Finally, the tabulation process was used in order to summarize collected raw data in a table to facilitate computation of various measures during data analysis. Having finished classifying data into those groups, the data were tabulated by arranging them in a logical order using the statistical packages for social science (SPSS) and Microsoft excel programs. The essential of these programs in data analysis is that they provide a wide range of choice in selecting variable option for detecting variables at various stages of the analysis.

1.7 Literature Review

Given the overall lack of primary research on human trafficking in most parts of Eastern Africa, the literature review also considers secondary research on human trafficking so as to cover, in this study, including “situation assessments” that contained reports of trafficking incidents; secondary research on human trafficking internationally and in Africa that included references to trafficking and migration in Eastern Africa; and primary and secondary research on labour, migration, and human rights abuses that might potentially be related to trafficking in the region.

Kamala et al,³⁸ in his study stated that the livelihood trafficking victims are seeking for their own benefit and sometimes it is to increase the income of the family through remittances or a flat fee upon recruitment. Women and children in particular may be working to provide income for their families especially in the case of children; it could be to benefit an adult relative. Parents may inadvertently facilitate the trafficking of their own children when their own means of livelihood fail, having the perception that sending their children away would be a better way to ensure that their children’s needs are met

³⁸ Kamala et al, *Tanzania Children in Prostitution: A rapid Assessment*, ILO-IPEC, 2001 Geneva p.56

Adepoju, A,³⁹ He further stressed that the particular vulnerability of women is also noted in relation to unemployment, though again this conclusion is based on anecdotal evidence rather than systematic analysis. Women may have fewer livelihood options (particularly as they may be less likely to have land and capital) and be paid lower wages, leading them to seek out opportunities to migrate. This, in combination with social/cultural practices that discriminate against women, may explain what is being called the “feminization of migration.”

Adepoju,⁴⁰ in his argument he propounded that the death of both parents is linked to more intense poverty, increased pressure on children to work, and dropping from school due to inability to pay school fees Being orphaned may also result in displacement as children migrate to live with extended family members and cope with less adult protection against exploitation, including by those meant to care for them.

UNICEF,⁴¹ Report that, while universal primary education may be protective, improvements in the quality of education are needed to increase retention. Vocational training opportunities in rural communities may also be important; in a Tanzanian study, almost the same percentage of surveyed children working in the informal sector cite “training” (14%), as cite “employment” (15%), as their reason for migrating.

Lack of educational and training opportunities in rural areas can of course be exploited by traffickers to lure people with false promises of both. the great population from several parts of Africa especially sub- Sahara Africa migrate in Europe merely for a sheer reason that they lack educational opportunities, however, is a more widely cited factor. Researchers suggest that while universal, compulsory primary education provides some protection, once children are no longer legally required to go to school they may become vulnerable to recruitment into commercial sexual exploitation. Further, secondary schools in rural areas may be unaffordable, unavailable, or full.

³⁹ Adepoju, A, Review of research and data on human trafficking in Sub-Saharan Africa”, in Laczko, F. and E. Gozdzik (eds), *Data and Research on Human Trafficking: A Global Survey*, P.32.

⁴⁰ Op.Cit note 39

⁴¹ Op.Cit note 16

UNODC's⁴² global report indicates that intraregional trafficking affects Nepal and Bangladesh as origins of trafficking victims and India as a destination country. The United States Department of State reports that Bangladeshi men and women willingly migrate to Middle Eastern and South Asian countries for work through recruiting agencies, and the recruitment fees contribute to the placement of workers in debt bondage or forced labor once overseas. Bangladesh and India also experience domestic trafficking.

Most of the trafficking victims reported are children in West and Central Africa³⁰ and adult women and children in Southern Africa. In West and Central Africa, children are trafficked for forced labor, such as slavery, domestic servitude, street begging and as camel jockeys. In Southern Africa, human trafficking forms include sexual exploitation, forced labor, slavery and domestic servitude. According to the TIP report, women, girls and boys are trafficked for sexual exploitation in many countries, and child sex tourism exists in the Gambia, Ghana, Kenya, Madagascar, Senegal and South Africa.

ILO,⁴³ in their report they found that the death of even one parent and divorce are also hypothesized to lead to problems. However, in general family problems, rather than the family's disintegration, are more frequently cited as a risk factor for trafficking. Parents may abuse alcohol or desert or neglect their children.

Children themselves may quarrel with their parents, contributing to family disharmony, and that, human trafficking is a community and social inclusion issue and it is necessary to address the spatial, economic and social exclusion processes that make particular social groups and regions vulnerable to the phenomenon. "The causes of trafficking are not only at the individual level, but also at the household, community, regional, institutional, and systematic levels that give rise to trafficking and allow it to flourish in specific localities and among specific groups.

⁴² 2009

⁴³ 2006

UNICEF,⁴⁴ in their findings found that the issue of divorce, girls and young women who are forced into marriages (early or child marriage) may migrate to escape their husbands or parents. Sexual abuse is frequently cited in the context of domestic workers abused by their employers or children abused while living on the street who end up being trafficked.

⁴⁴ Op.Cit note 41

CHAPTER TWO

CONCEPTUAL FRAMEWORK OF INTERNATIONAL OBLIGATION IN PREVENTING TRAFFICKING IN PERSON.

2.0 Introduction

This chapter explains the various key concepts on the topic at hand in relation to each other, international obligation in preventing trafficking in person. It seeks to explain different ways of human trafficking, international obligations in preventing the malice and effects to the society and human being in general. The chapter looks at international efforts made by international society in preventing trafficking in person.

2.1 Defining Trafficking

It is important at this point to understand the meaning of human trafficking. The most utilized definition of human trafficking is the one proposed by the United Nations. According to UN Procol,⁴⁵ article 3 (a) trafficking in persons is:

*The recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, or deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.*⁴⁶

Chaulagai⁴⁷ groups the definitions of trafficking into three categories. The first category of definition is associated with transporting, selling and buying of women and children for prostitution; the second category links trafficking with prostitution and coerced labour; and the third category, defines trafficking as recruitment, transportation, purchasing,

⁴⁵ Palermo 2000

⁴⁶ According to UN (2000:2) article 3 (a)

⁴⁷ Chaulagai, G. P. Trafficking Survivors in Nepal: An Exploratory Study of Trafficked Women's Experiences and Perceptions of their Reintegration Unpublished MPhl Gender and Development Thesis. Bergen University. 2009 p.72-73

selling, transferring, harbouring or receipt of persons in any form for the purpose of exploitation. The third category is the one which is widely accepted.⁴⁸

Following the UN Protocol above, in 2008 the Government of Tanzania enacted the Anti-Trafficking in Persons Act. Although the law does not precisely define trafficking, the article: 4.1 (a) stipulates that a person commits an offence of trafficking if that person:

In general, the Tanzanian Act is an interpretation of the UN Protocol in the Tanzanian context. For example, while the UN Protocol talks about, ‘for exploitation’, the Act specifies by including the means which are particularly used in Tanzania: ‘employment, training or apprenticeship’.⁴⁹

Also the Tanzanian Act elaborates more cases of trafficking by mentioning separately and specifically external trafficking (section b), trafficking under pretext of marriage (section c) and presents purposes of trafficking in separate sections: trafficking for tourism (section d) and for prostitution (sections e). The only minor difference is that the Tanzanian Act specifies the trafficking of children as „severe“ case while Palermo protocol does not.

Trafficking and migration are terms that are intertwined: it is sometimes difficult to draw a line between them. However, for the purpose of this work, child migration is understood as the movement from one place to another; these movements may be harmless, even beneficial for children, especially after they have reached a certain age (Lange, 2006). For example, migration may be useful when it involves moving away from a less favorable condition such as poverty, famine, conflict or war, to a more favorable condition.

The Palermo Protocol⁵⁰ defines “Trafficking in Persons” as: “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of

⁴⁸ All the categories are based on UN definitions given in UN 1949, 1994 and 2000 respectively (Chaulagai, 2009; Salah, 2001).

⁴⁹ (URT, 2008:6).

⁵⁰ On 15 November 2000, the United Nations General Assembly adopted the United Nations Convention Against Organized Crime, which came into force on 23 September 2003. To supplement the Convention,

force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control of another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” The Palermo Protocol further specifies that the use of any of the means described above renders any consent on the part of the victim irrelevant, and that the recruitment, transportation, harbouring or receipt of a child for the purposes of exploitation shall be considered “trafficking in persons” even if none of the means described are employed.

Human trafficking is a global problem, affecting every region in the world. According to the US Department of State’s 2014 Trafficking in Persons Report, an estimated to be more than 600,000 to 800,000 individuals are trafficked across international borders, with millions more trafficked within their own countries, each year.

2.2 Forced Labour

According to International Labour Organization, it is compulsory work that takes different forms, including debt bondage, trafficking and other forms of modern slavery and the victims are often the most vulnerable women and girls. In many countries, it is legal for children to engage in light work. In fact, most national laws and international organizations recognize the legality of moderate forms of child labor. Today, there is a growing concern for the safety and well-being of children who are involved in the worst forms of child labor.⁵¹

the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, also known as the “Palermo Protocol,” was adopted.

⁵¹ Dessy, S. E. & Vencatachellum, D. Explaining cross-country differences in policy response to child labour. *Canadian Journal of Economics*, 36(1), 1.20.

The worst forms of forced child labor include instances when a child is subjected to debt bondage, servitude or slavery through extreme force, coercion or fraud. Any child, regardless of location or station in life, who is subjected to these unfortunate conditions, is a victim of human trafficking⁵²

Victims of forced labor trafficking are often recruited with a promise of work, generally through personal contacts and also through job advertisements on newspapers, television, billboards and the Internet. Some victims enter the country legally on work visas while others enter illegally.

The IOM reported in the case of labor trafficking of men in Belarus and Ukraine that recruitment generally mimicked legal migration. These male victims often made what they thought were legally binding agreements with reliable companies, employment agencies and recruiters. Confusion between trafficking in persons and smuggling of migrants prevents victims from receiving protection and support as their fundamental right.

2.3 Traffickers

Persons who engage in the criminal activity of trafficking human, this also refers to suspects, arrested and prosecuted persons who, through various means, have come to the attention of criminal justice system actors.

2.4 Human Smuggling

Human smuggling refers to the facilitation, transportation, attempted transportation or illegal entry of a person or persons across an international border, in violation of one or more countries' laws, either clandestinely or through deception, such as the use of fraudulent documents. Often, human smuggling is conducted in order to obtain a financial or other material benefit for the smuggler, although financial gain or material benefit are not necessarily elements of the crime.

⁵² Trafficking in Persons Report 2009 (2009). Retrieved January 6, 2010, from United States State Department: <http://www.state.gov/g/tip/rls/tiprpt/2009/index.htm>

For instance, sometimes people engage in smuggling to reunite their families. Human smuggling is generally with the consent of the person(s) being smuggled, who often pay large sums of money. The vast majority of people who are assisted in illegally entering for example in the United States are smuggled, rather than trafficked.

Smuggled persons may become victims of other crimes. In addition to being subjected to unsafe conditions on the smuggling journeys, smuggled aliens may be subjected to physical and sexual violence. Frequently, at the end of the journey, smuggled aliens are held hostage until their debt is paid off by family members or others. It is also possible that a person being smuggled may at any point become a trafficking victim.

For example in USA, The Immigration and Nationalization Act,⁵³ provides for criminal penalties under Title 8, United States Code,⁵⁴ , for acts or attempts to bring unauthorized aliens to or into the United States, transport them within the U.S., harbor unlawful aliens, encourage entry of illegal aliens, or conspire to commit these violations, knowingly or in reckless disregard of illegal status.

2.5 Protection

Providing victims of trafficking in persons with appropriate support and protection is central to an effective strategy to trafficking in persons, with special provisions and procedures appropriate for human. Protection of witnesses and those who report cases of trafficking in persons is vital to enhance collection of evidence and successful convictions. Appropriate legislation and laws will be put in place to protect victims both in their countries of origin and in destination countries.

Law and justice enforcers and immigration personnel will be sensitised to be supportive to victims and not to accuse or blame them. Special services will be established and strengthened to protect human trafficking. The privacy and identity of victims particularly children will need to be protected at all times.

⁵³ Section 274 (a) (1), (2)

⁵⁴ Section 132(4)

Section 139A (2) of Tanzania Penal Code

In this section “child” means a person of the age of eighteen years and less.

The spirit and letter of the above provision is reflected under the provisions of section 4 of the Anti- Trafficking in Persons Act which enumerates acts of trafficking in persons namely;

- Recruiting, transporting, transferring, harbouring, providing or receiving a person by any means, including those done under the pretext of domestic or overseas employment, training or apprenticeship, procuring persons for prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude or debt bondage;
- Arranging, offering, or contracting marriage with an alien with a view to acquire, buy, sell or trade the victim for prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary service or debt bondage;
- Organizing or operating sex tourism or clubs for sexual exploitation;
- Operating brothels for prostitution, sexual exploitation or pornography;
- Recruiting, hiring, adopting or transporting or abducting persons by using force, fraud, deceit, violence, coercion or intimidation for the purpose of removing or sale of organs of the person; or hiring children and disabled persons for conducting war activities;

Child trafficking is the recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation where exploitation includes at minimum, prostitution, and other forms of Sexual Exploitation, forced labour, slavery and / or practices similar to slavery, servitude or the removal of organs.⁵⁵

⁵⁵ Department of State USA (2009), Trafficking in persons report p.2

In order to respond with this alarming problem international and national responded very quickly in which for example, in Europe, the member countries of the European Union adopted in 2002, the Council framework decision on combating trafficking in human beings, followed by each country making its own internal law.

In the American continent, the Canadian government incorporated the anti-trafficking law in the Immigration and Refugee Act⁵⁶ while each state in USA voted for its own law (Federal/Provincial/Territorial Forum of Status of Women Senior Officials, 2010). In the Asian continent, Colombia enacted the *Colombia Law on Trafficking* in 2002 and Philippines in 2003. While in East Africa, according to Ochanda et al (2011), Tanzania passed the Anti-trafficking Law in 2008, Uganda in 2009 and Kenya in October 2010.

2.6 Theoretical Framework of the Study

A combination of theories could provide an integrated explanation of the occurrence of human trafficking in Tanzania. Bruckett and Parent⁵⁷ are of the opinion that apart from the description of the processes, practices, and routes of human trafficking there has been a lack of consistency regarding the theoretical framework for understanding human trafficking.

Conventional theory and methods suggest that strategies to conduct research on human trafficking require multi-disciplinary and interdisciplinary approaches, which at times may be divergent. The current study applied the Rational Choice, Victim Vulnerability Model and Modern Slavery theories complement each other in an attempt to explain human trafficking in Tanzania.⁵⁸

⁵⁶ 2001

⁵⁷ Bracket and Parent ,Human Trafficking in Africa.p.7

⁵⁸ Phinney, A. *Trafficking of women and children for sexual exploitation in the Americas* Washington, DC, Inter American Commission of Women (Organisation of American States), Global Alliance Against Traffic in Women, 2007.p.225

2.7.1 Rational Choice Theory

Rational choice theories postulate that criminals are rational beings who make decisions to commit crime based on the costs and benefits involved in the process of crime perpetration. Deterministic in nature, criminal decision making process is based on free will, which necessitates observation of opportunities, circumstances and situations that could affect the successful perpetration of the planned crime, that rational decision making pertaining to crime also involves the choice of the victims determined by the type of crime, modus operandi, where and when to commit it and what to do afterwards.

That means the criminals may first observe the accessibility to potential victims, location, the time at which they are at most vulnerable, the appropriate method that could provide entry with ease and how to safeguard their criminal activities from criminal justice authorities and other capable guardians.

However, some rational theorists have argued that criminals differ in the choices they make based on their perceptions, motives, skills and abilities to read opportunities as situations guide their decisions making processes. For the purpose of this study; rational decision making, free will, price tag and benefits are three variables that help to build an integrated framework to explain human trafficking for involuntary and voluntary form of human trafficking. The manner in which human traffickers select their victims is based on the gains they could get from the crime and vulnerability of potential victims.

2.7.2 Victim Vulnerability Model

Victim proneness and victim-offender interaction are two factors explaining the vulnerability of trafficked person for involuntary trafficking through maintaining a relationship with a criminal. There are three categories of victims that could be prone to victimization in human trafficking: the innocent, precipitating and provocative victims. By interacting with criminals innocently through no fault of their own or by walking alone in the dark some individuals could be seen as precipitating their own victimization. In addition, by exhibiting certain behaviours that could be seen as provocative by criminals, some men, women and girls and boys are prone to victimization.

The distance between the offender and the victim and the intentions of the offender and the nature of victim-offender interaction may increase the chances of victimization. It is known that, victims and the offender could have interacted closely before victimization occurred. Victim involvement in the events that led to victimization could be identified. Either the victim had provoked or precipitated the victimization incident.

However, it is a known fact that women and children are more likely to be victimized by a known person than by strangers. It remains to be seen whether young men, women and girls trafficked by close associates should be blamed or defended for the choices they have made. Victim proneness, precipitation and provocation will be used as the three factors which creates vulnerability of women and girls to human trafficking for involuntary prostitution.

The loss of agency from human trafficking as well as from modern slavery is the result of human vulnerability. As people become vulnerable to exploitation and businesses continually seek the lowest- cost labour sources, trafficking human beings generates profit and a market for human trafficking is created.

The formal structure for the integrated theory to explain human trafficking for voluntary and involuntary trafficking takes the form of multiple causality. Human trafficking for involuntary is an outcome of a combination of multiple factors, Decision making process will not occur without rational decision making which comprises of rational choice, the demand as well as victim vulnerability. Power and inequality, free will and lifestyle exposure are three concepts creating an opportunity for recruitment to occur.

2.7.3 Modern Slavery Theory

The Modern Slavery Theory propounded by Kevin Bales⁵⁹ is relevant in this study. The theory depicts different theoretical propositions relating to the trafficking process. The theory provides equivalent details into the dynamics of both sending and receiving country of human trafficking. The theory states that even though every case of human trafficking

⁵⁹ Kevin Bale, the modern slavery theory. 2009.p.73

is distinctive, each case of trafficking still shares related aspects. The factors that determine human trafficking occurrence in a country are governmental corruption, economic opportunity, availability of employment, economic well-being, and the demographic profile.

To examine these factors, the theory investigated the percent of the male population over the age of 60, governmental corruption, food production, infant mortality, and energy consumption per capita. The results indicated that the percent of the male population over 60, infant mortality, level of governmental corruption, and food production, were all major factors which determine trafficking into a country, while energy consumption per capita was not a significant factor.

The theory identified three underlying factors at work which promote human trafficking. The factors are identified as an endless supply of victims who are available for exploitation within the origin countries, endless demand for the services of the victims within the destination countries and organized criminal networks, some large and some small, that have been in charge of the economic “supply and demand” situation and exploit trafficked persons in order to acquire massive profits for themselves.

2.8 Conclusion

The Chapter has dealt with a number of concepts revolving the topic, by assigning the meaning which the author intended to be understood by readers in order to avoid negotiation of meaning and dealing with concepts in isolation..

CHAPTER THREE

LEGAL FRAMEWORK OF TRAFFICKING IN PERSON

3.0 Introduction

This Chapter deals with legal instruments ranging from International, Regional and Domestic with a view of making analysis on compliance by subsequent domestication.

3.1. International Legal Framework

International obligations for combating trafficking in persons can be found in instruments such as but not limited to:

(i) UN Convention against Transnational Organised Crime 2000 (UNTOC)

The Protocol on Trafficking in Persons is the first instrument to provide an internationally accepted or binding definition of trafficking in persons and to provide a comprehensive framework for addressing all aspects of trafficking in persons as well as addressing the transnational nature and effects of trafficking in persons.

Adopted at the Millennium Meeting of the UN General Assembly in November 2000⁶⁰ and entered into force on 25 December 2003, the Protocol on Trafficking in Persons pays particular attention to trafficking in women and children because these are most vulnerable and most at risk of falling victim of trafficking in persons, although its scope of application extends to any person, without restriction of gender and age.

Among Southern African countries Botswana, the Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania and Zambia have ratified the Convention and the additional Trafficking Protocol.

⁶⁰ United Nations General Assembly Resolution A/RES/55/25 of 25 November 2000.

(ii) The United Nations Convention on the Rights of the Child (CRC)

States party to the CRC have the obligation to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the CRC⁶¹ and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

More specifically, the CRC requires States parties to take all appropriate national, bilateral and multilateral measures to prevent the inducement or coercion of a child to engage in any unlawful activity; the exploitative use of children in prostitution or other unlawful sexual practices and prevent the exploitative use of children in pornographic performances and materials.⁶² With respect to trafficking in particular, the CRC requires States parties to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or the trafficking in children for any purpose or in any form.

(iii) ILO Convention No 182 on the Worst Forms of Child Labour

ILO Convention No 182 provides for the prohibition and the elimination of the worst forms of child labour, which include all forms of slavery or practices similar to slavery including trafficking.⁶³

(iv) Convention on the Elimination of All Forms of Discrimination Against Women

Article 6 requires State Parties to “take all appropriate measures including legislation to suppress all forms of trafficking in women and exploitation of prostitution of women

3.2 Regional Legal Framework

At the Continental level, there are quite a number of instruments that make reference to the issue of trafficking in persons, such as:

⁶¹ Article 4 of the CRC.

⁶² Article 34 of the CRC.

⁶³ Articles 1 and 2 of ILO Convention No 182.

3.2.1 The African Youth Charter, (2006)

In Article 23 (1) the Charter calls upon state parties to enact and enforce legislation that protect girls and young women from all forms of violence, genital mutilation, incest, rape, sexual abuse, sexual exploitation, trafficking, prostitution and pornography.

The SADC Protocol on Gender and Development (2008)

The SADC Protocol was adopted in August 2008 and still awaits ratification. The Protocol in Article 20 (5) a-e, makes specific reference to trafficking in persons, identifying obligations and responsibilities in addressing trafficking in persons by all state parties.

The Protocol to the African Charter on Human and Peoples' Rights on the rights of Women in Africa, called Maputo Protocol (2003);

The Protocol while complementing, the African Charter on Human and Peoples' Rights (1981); it provides for States' obligations to 'prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking and protect those women most at risk.'⁶⁴ In the particular circumstances of armed conflicts, States parties have the obligation to protect women from any form of sexual exploitation.⁶⁵

The U.N. Anti-Trafficking Protocol

In December of 2000, Tanzania signed the U.N. Anti-Trafficking Protocol,⁶⁶ a legally binding international treaty that calls on States Parties to enact "measures to prevent trafficking, to punish the traffickers and to protect the victims of such trafficking"⁶⁷ The Protocol went into effect on December 25, 2003 and Tanzania ratified it without reservations on May 24, 2006.⁶⁸ Under Article 5, States Parties are required to adopt anti trafficking legislation that criminalizes not only the forms of trafficking enumerated in

⁶⁴ Article 4(2)(g) of the African Women Protocol.

⁶⁵ Article 11 of the African Women Protocol.

⁶⁶ Lwando Mufune, *An Analysis of Human Trafficking in Southern Africa* (2010) (Unpublished Thesis), available at <http://www.wisis.unam.na/theses/mufune2010.pdf>.

⁶⁷ Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime, Preamble, p. 1, (2000) [hereinafter protocol], available at

http://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=XVIII-12-a&chapter=18&lang=en.

⁶⁸ Mufune, *supra* note 45.

Article 3,⁶⁹ but also “participating as an accomplice” to a trafficking offense or “organizing or directing another person to commit” a trafficking offense.⁷⁰ UNODC has clarified that a single offense of trafficking must be comprised of three elements:

- i. An act (recruitment, transportation, transfer, harbouring, trading, or receipt of persons);
- ii. Means (the use of threats, force, and
- iii. Purpose (for the purpose of exploitation).⁷¹

Article 6 of the Protocol lays out protective measures that States Parties “shall ensure [their] domestic legal or administrative system” provides to victims “in appropriate cases.”⁷² The protective measures include informing victims of “relevant court and administrative proceedings” and assisting victims at various stages of the judicial process.⁷³

States Parties shall also “consider implementing measures to provide for the physical, psychological and social recovery of victims,” specifically the provision of housing, counseling, “psychological

3.3 Domestic Legal Framework

3.3.1 Tanzania’s Anti-Trafficking in Persons Act

Prohibitions

Tanzania’s 2008 Anti-Trafficking in Persons 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

⁶⁹ *ibid* at Art. 5(1)

⁷⁰ at Art. 5 (2)(a)-(b)

⁷¹ protocol at Art. 3. See also Manda Sertich & Marijn Heemskerke, Ghana’s Human Trafficking Act: Successes and Shortcomings in Six Years of Implementation, 4 (2011), available at http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1779&context=hrbrief&seiredir=1&referer=http%3A%2F%2Fscholar.google.com%2Fscholar%3Fas_ylo%3D2009%26q%3Dtanzania%2Bhuman%2Btrafficking%26hl%3Den%26as_sdt%3D0%2C33#search=%22tanzania%20human%20trafficking%22.

⁷² *ibid*

⁷³ *Ibid* at Art. 6 (2) (a)-(b)

particular trafficking offense.⁷⁴ The first section of the act prohibits coercing, recruiting, or transporting a person by any means “for the purpose of prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude or debt bondage.”⁷⁵

A person may also be guilty of a trafficking offense if he or she “promotes, procures or facilitates the commission of trafficking in persons,” which includes creating or distributing “unissued, tampered or fake certificates, registration or stickers of any government agency” or leasing or subleasing any “house, building or establishment for the purpose of trafficking in persons.” Additionally, the Act enumerates “severe trafficking” offenses: trafficking involving children or disabled victims, adoption for sexual or labor exploitation, and offenses committed by crime syndicates, groups of two or more persons, religious leaders, or other authority figures.⁷⁶

Anyone who “buys or engages the services of trafficked persons for prostitution” must either pay a fine of one to thirty million shillings or serve a prison term of twelve months to seven years, or both. The Act allows judges to impose heavier penalties for second-time or multiple trafficking offenders.

Provisions for Investigation, Prosecution, and Conviction

The ATPA requires victims of trafficking to report any information known about “any person committing an offence of trafficking in persons elsewhere.”⁷⁷ A police officer who discovers a victim of trafficking must “assist the victim to obtain medical and psychological treatment,” get the victim to a safe place if necessary, and “inform the victim of his rights and any basic support which may be available”⁷⁸

A police officer may arrest a suspected trafficker without a warrant if the trafficking offense is committed “in the presence of that police officer,” if the police officer “is obstructed by the suspect from conducting investigation,” or if “a person is about to

⁷⁴ Ibid at page 5 (1)

⁷⁵ ibid

⁷⁶ ibid

⁷⁷ ibid

⁷⁸ Ibid at 11(2)(a)-(c)

commit an offence of trafficking in persons and there is no other way to prevent commission of the offence.

The Tanzania Penal Code

Section 14 of Act No. 4 of 1998 amended the Penal Code by adding section 139A which provides for a trafficking in persons offence which states inter alia:

139A. (I) any person who-

- i. Engages in the act of buying, selling or bartering of any person for money or for any other consideration;
- ii. For the purposes of promoting, facilitating or inducing the buying or selling or bartering or the placement in adoption of any person for money or for any other consideration-
 - Arranges for, or assists, a child to travel within or outside the United Republic without the consent of his parent or lawful guardian; or
 - Obtains an affidavit of consent from a pregnant woman for money or any other consideration, for the adoption of the unborn child of that woman; or recruits women or couples to bear children; or
 - Being a person concerned with the registration of births, knowingly permits the facilitation of any birth record or register; or
 - Engages in procuring children from hospitals, shelters for women, clinics, nurses, day care centres, or any other child care institution or welfare centres, for money or other consideration or procures a child for adoption from any such institution or centre, by intimidating the mother or any other person; or
 - Impersonates the mother or assists in the impersonation,
 - Commits the offence of trafficking and is liable on conviction to imprisonment for a term of not less than twenty years and not exceeding thirty years and a fine of not less than one hundred thousand shillings and not exceeding three hundred thousand shillings or to both the fine and imprisonment and shall in addition be ordered to pay compensation of an amount to be determined by the court, to the person in respect of whom the offence was committed.

The government's efforts to protect victims of trafficking during the reporting period were notable, though it continued to suffer from a lack of resources.

3.4 Conclusion

This part has set out various legal instruments varying from international, regional, sub-regional as well as in domestic level on Trafficking in Person. The sole purpose is to unveil the standards set at different levels other than domestic and point out the indicators in areas where Tanzania has complied with.

CHAPTER FOUR DATA ANALYSIS, FINDINGS AND DISCUSSION

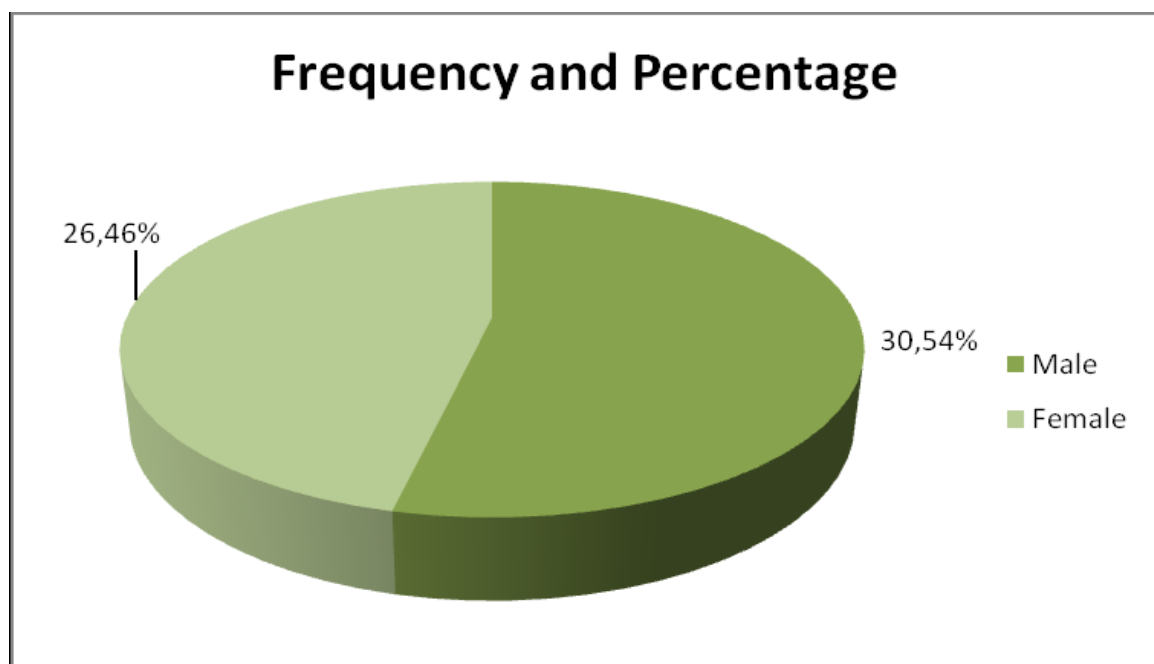
4.1 Introduction

This chapter discusses the findings that emanate from qualitative and quantitative data collected during field study. The findings are based on responses from respondents, where were key informants drawn from institutions interacting with the problem of human trafficking. The findings are presented in different forms such as table and figure. The analysis of quantitative data is done by use of Statistical Package for Social Sciences (SPSS) and excel. Statistical methods have been used to summarize data to give meaningful information. This has mainly been done by use of descriptive statistics.

4.2 Socio-Demographic Characteristics of Respondents and findings

A total of 145 sample respondents were interviewed comprising of 79 (54%) males and 66 (45%) females. Majority of the respondents 77% were aged between 18 to 59 years. Only 23% of the respondents were below and above the age stated.

Figure 4.1 frequency and percentage



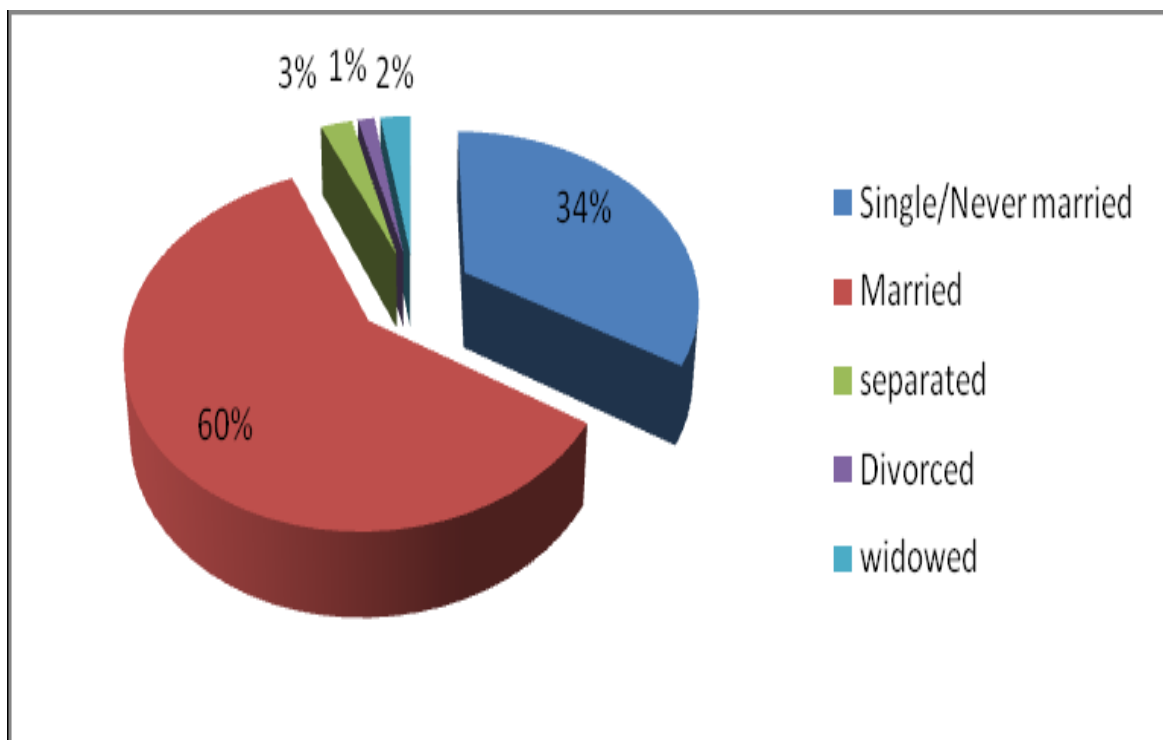
Source: Field data, 2015

Figure 4.1 above shows clearly that (54%) of the respondents who participated in the study were male whereas (46%) were females. It observed that, probably male are more confident to talk and express their feelings without fear than female because of several reasons i.e. cultural reasons and norms that are in favour of males and therefore lead female to be stereo typing and psychological tortures that limit their confidence hence failed to cooperate deeply in the study.

Marital Status

The gender population in Tanzania indicates that women are slightly more than men as per the August, 2012 census report. Findings of this study indicates that 60% of respondents were married, 34% were single or never married while the separated, widowed and divorced were at 3%, 2% and 1% respectively as shown in Figure 4.2

Figure 4.2: Marital Status



4.2. Finding by category of respondents

Several categories of the respondents who were interviewed include victims of trafficking incidents, immigration officials, prosecution officials, children, advocates who represented people in the judiciary, both in the high court, court of appeal and subordinate courts, judges, magistrates and stakeholders of law.

The difference and similarities among these groups are interesting and signify the vested interest in the matter. The groups interviewed varied in number, the largest being the immigration officials. A total of 86 respondents were interviewed. This 86 was purposively selected and it included those within the private sectors such as advocates and ordinary citizen.

4.3 Education Level of the Respondents

Table 4.3 indicates that 44 (50%) of the respondents had Bachelor Degrees and 20 (25%) had Masters Degrees. Again, the survey shows that 8(10%) had a level of certificate education, and 12 (15%) had postgraduate degree.

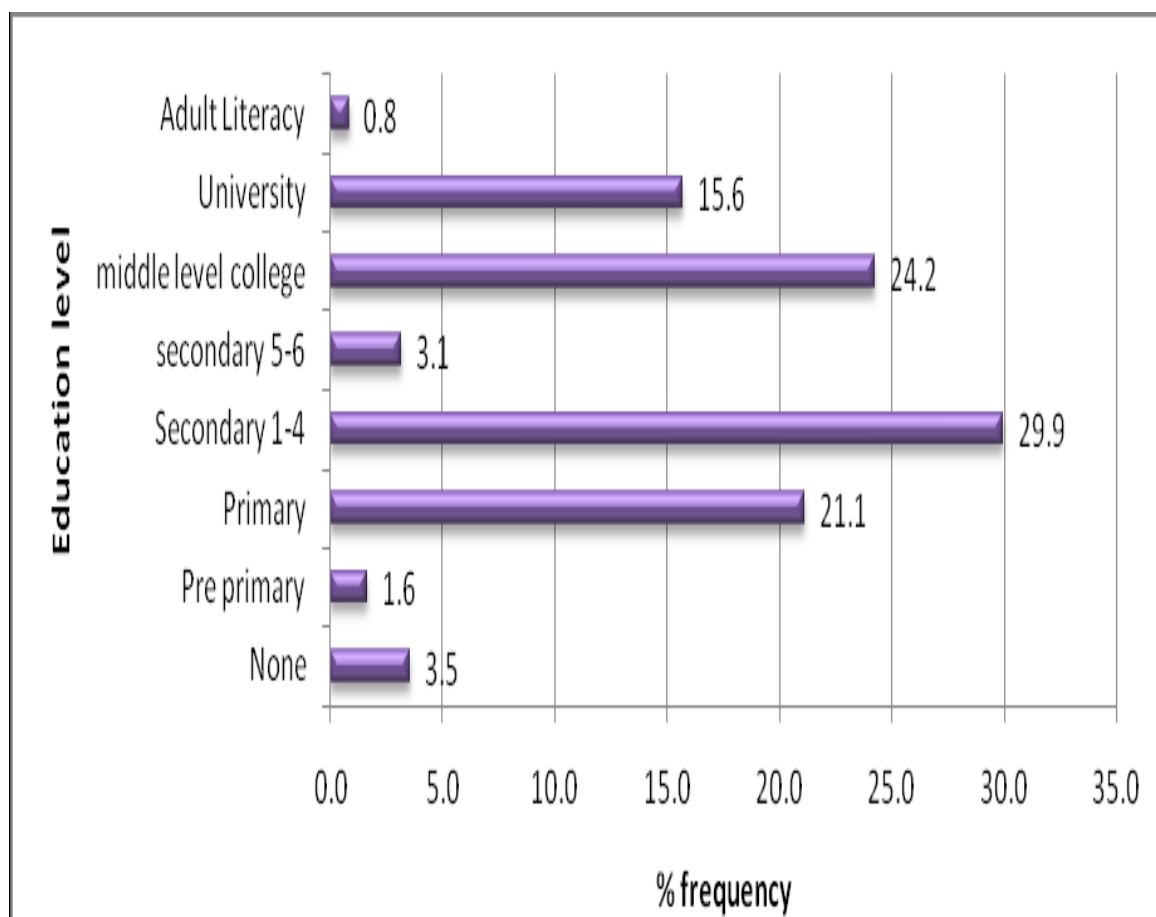
This helped the researcher to collect enough information with a desired quality 40 (50%) of the respondents had a masters" qualification, 12 (15%) of them had postgraduate education and only 8 (10%) of the units of interest had certificate education .This good knowledge of the respondents influenced and encouraged the collection of quality information about corruption and delay of cases in Tanzania.

Table 4.1 Respondents Education Level

Respondents	Frequency	Percentage
Certificate	8	10
Bachelor degree	44	50
Postgraduate degree	12	15
Master's degree	20	25
Total	86	100

Source: Field data, 2015

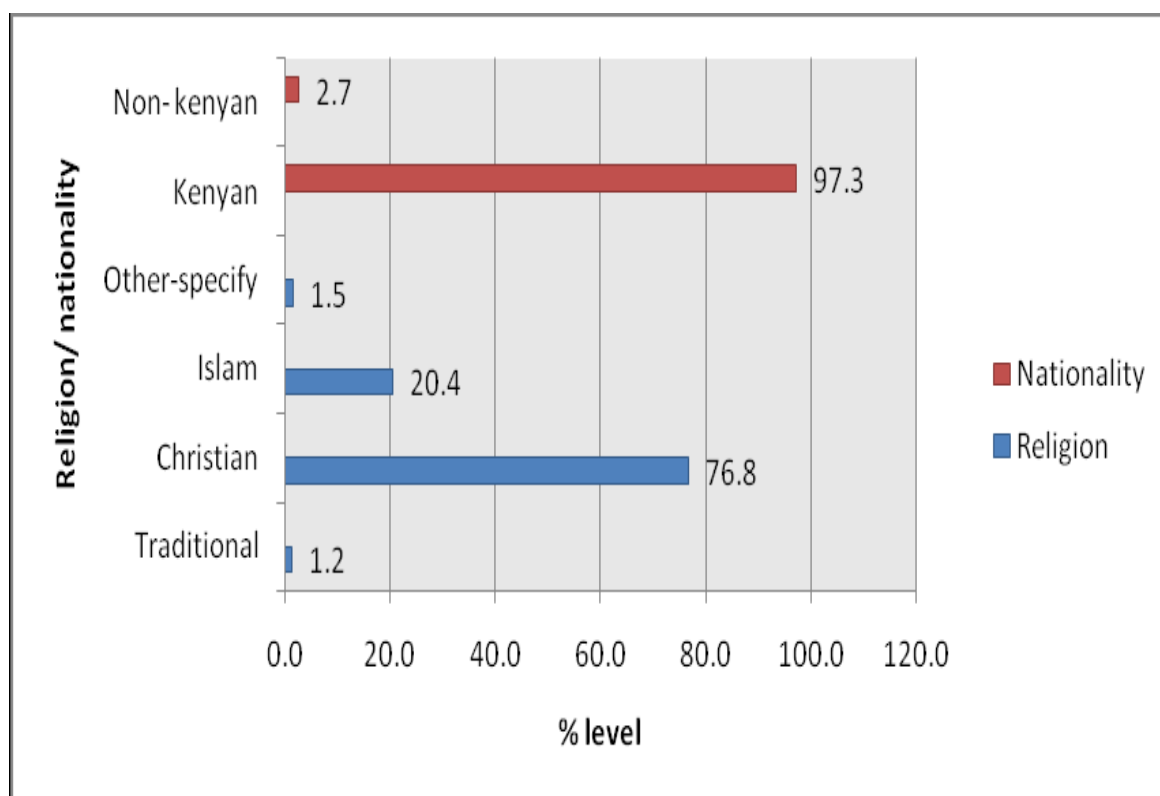
Figure 4.3: Highest Educational level



4.3.1 Nationality and Religion

The results of the study indicate that 97.3% of the respondents were Tanzania while 2.7% were non Tanzania. On religion, Christians comprised the majority (76.8%) while 20.4% were Muslims and 1.2% indicated that they were traditionalists as shown in Figure 4.3

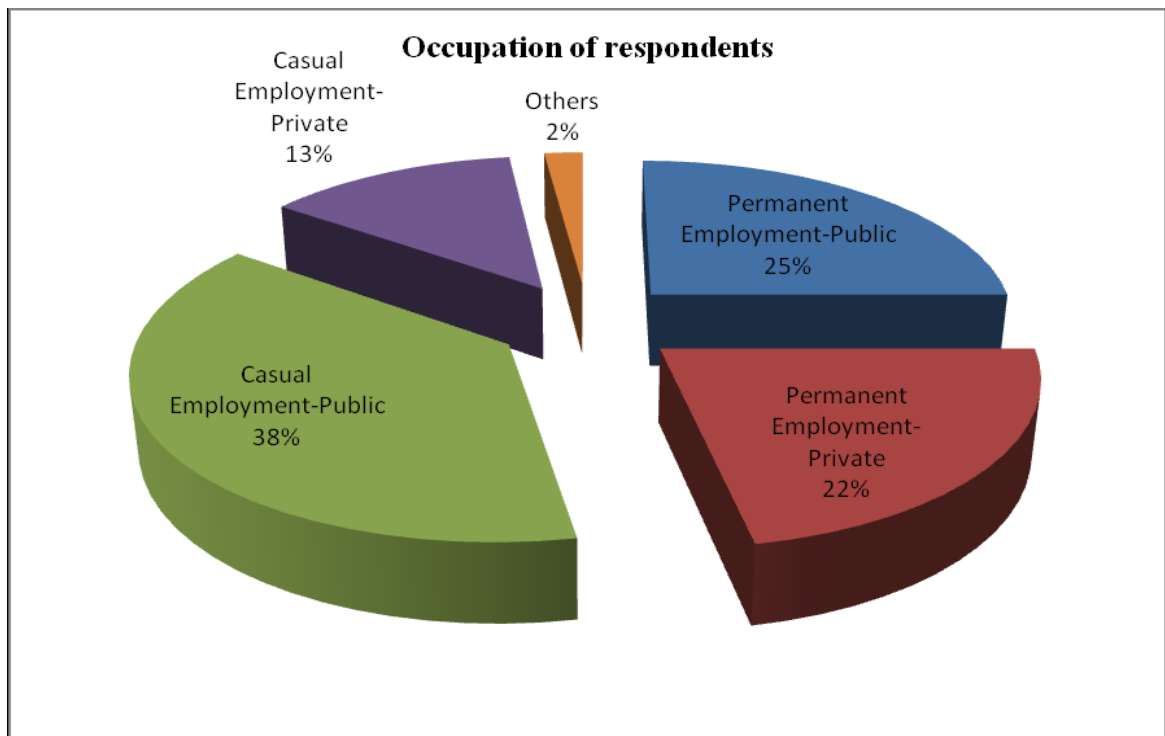
Figure 4.4: Nationality and Religion



4.3.2 Occupation

Majority of the respondents in the survey were in casual employment in public sector represented by 38% followed by those in permanent employment in public sector at 25%, those permanent employment in private sector at 22% and 13% were on casual employment in private sector and others represented by 2% shown in Figure 4.4 below.

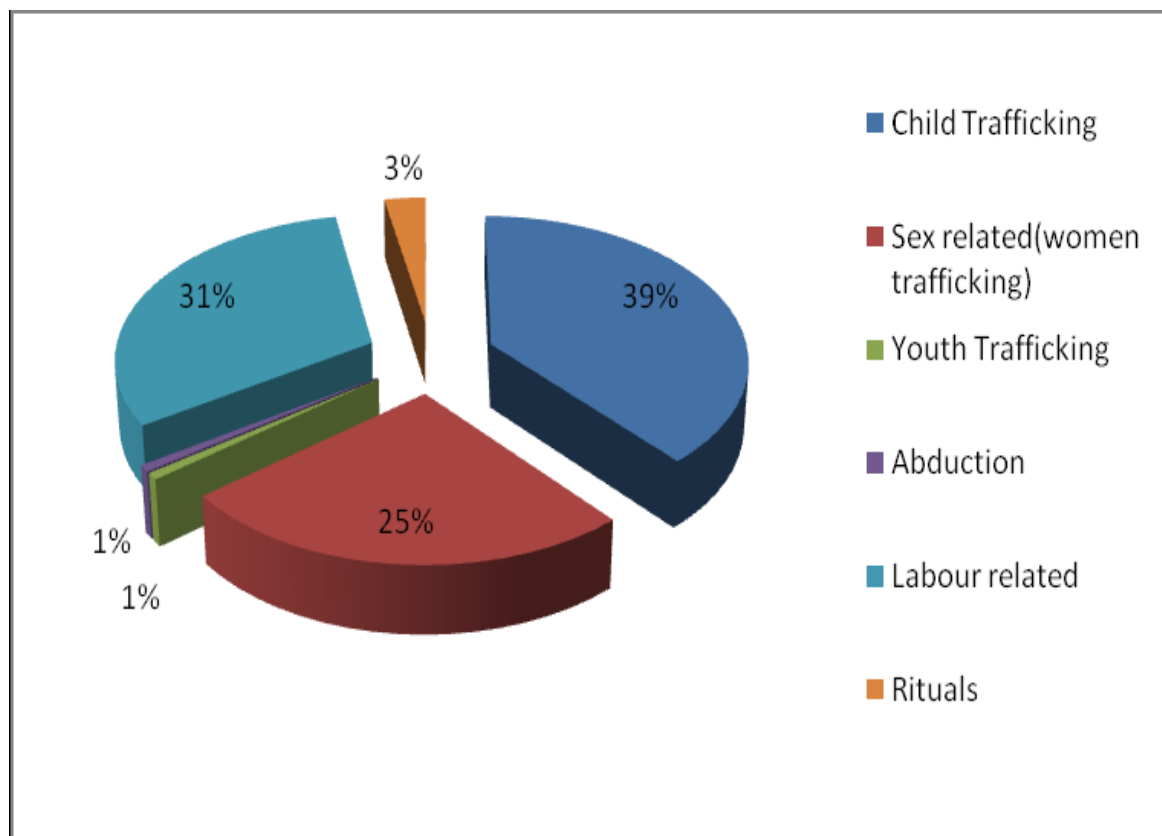
Figure 4.5: Occupation



4.4 Prevalence and Forms of Trafficking

Human trafficking featured as the most prevalent form of trafficking at 39% followed by trafficking for labour and for prostitution at 31% and 25% respectively as indicated in Figure 3.5 below. The prevalence of child trafficking illustrate findings of this survey where children are engaged in child labour in flower, coffee and tea plantation and fishing as mentioned in other sections this report.

Figure 4.6: forms of human trafficking



4.5 Forms of human trafficking

Children are at high risk of being trafficked. Children who are trafficked are separated from their families and may be more exploitable because they are less likely to have an adult advocating on their behalf for fair pay and acceptable work conditions. Children particularly young girls are highly prone to this menace as notes a Social Worker from Dar es salaam town:

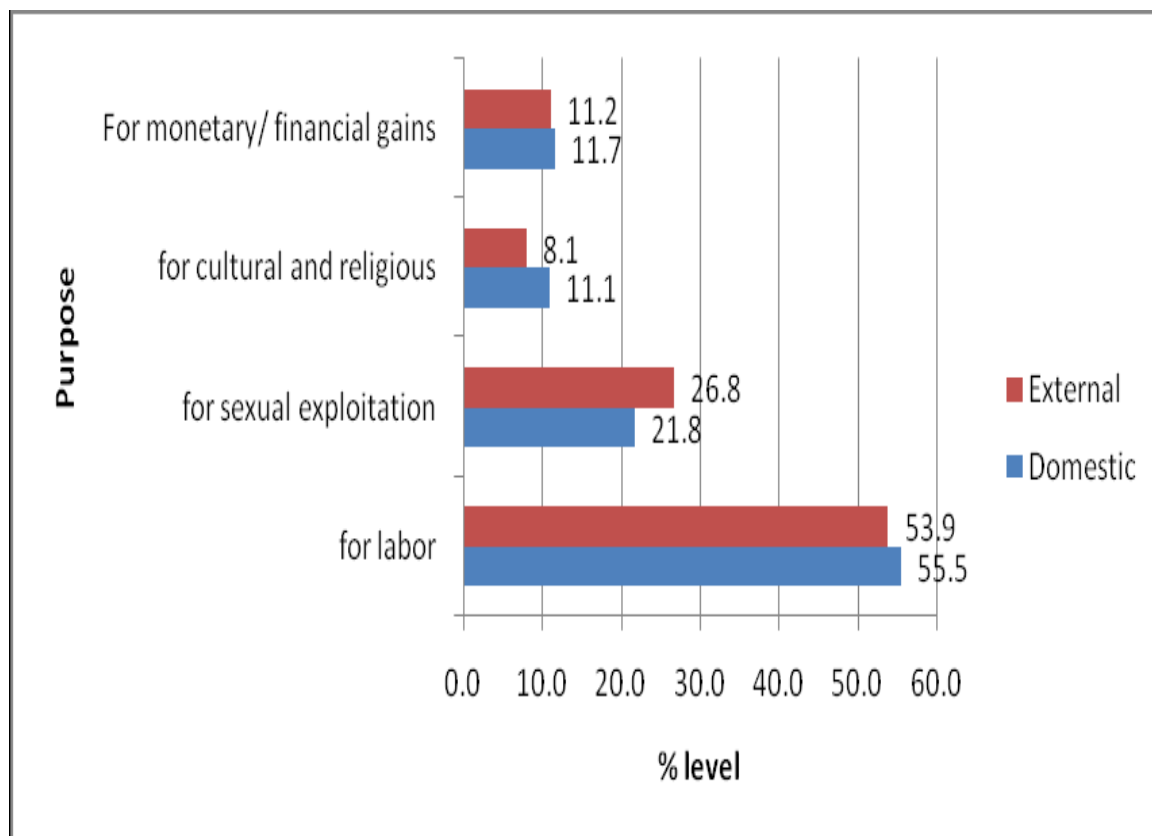
“Vehicles that transport miraa or bangi (khat) from Arusha to Dar es salaam return with young girls and women who end up in brothels and some are shipped to other parts of the world,”

4.6 Purposes of Human Trafficking

From the survey findings, the main purposes of both domestic and external are mainly for cheap labour. Domestic was rated at 55.5% and external at 53.9%. Sexual exploitation was the second and purposes of cultural and religious factors were rated third in both cases as in Figure 4.6 below.

Exploitation includes take advantage of victims for prostitution of others, sexual exploitation, forced labour, slavery or similar practices and the removal of organs for financial gain.

Figure 4.7: Purpose for Human Trafficking

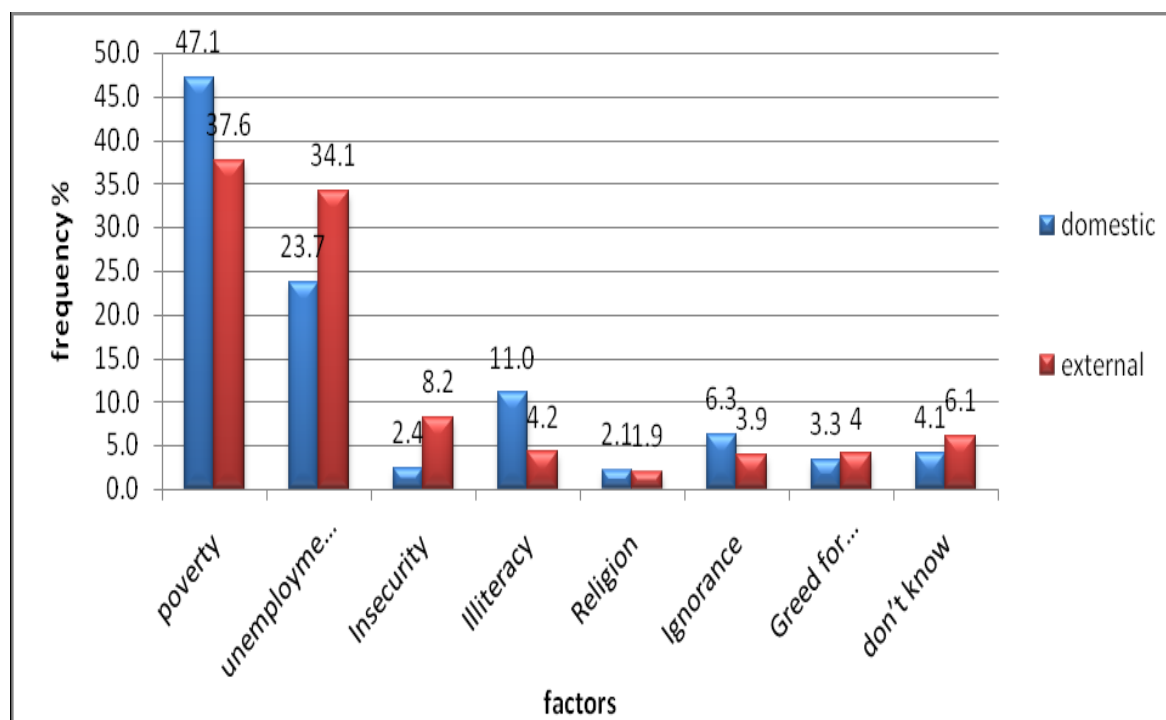


Factors Contributing to Human Trafficking

Poverty and unemployment are the main factors contributing to human trafficking. In domestic poverty was highest at 47.1% and external at 37.6%. Unemployment scored second highest at 34.1% in external and 23.7% in domestic as in Figure 4.6 below.

Several factors contribute to human trafficking and these include the personal characteristics and economic situation of the trafficked person, as well as characteristics of their family, peer networks and community. However, from findings of this study poverty and unemployment tends to push many victims into this underworld trade for both domestic and external trafficking.

Figure 4.8: Factors Contributing to Human Trafficking



From the above findings, it emerges that victims of human traffickers mainly originate from the poor households, where poverty was reported by 47.1 % of respondents as a contributory for domestic trafficking and 37.6% for external trafficking. Victims who lack of employment opportunities are motivated for trafficking was reported by 23.7% for domestic while external trafficking was 34.1%. A Children Officer in kijitonyama-Dar es salaam notes: *“Poverty has contributed to child trafficking because some parents want to give away children when they just see a small amount of money to reduce suffering”*.

Notably, parents accept the risk of their children being the victim of human trafficking, in exchange for a better opportunity to earn more income and attain the promised life opportunities in urban areas and developed countries, this may not be the case going by prevailing media reports that have highlight plight of Tanzanian at the hand of employers especially in the middle east. Insecurity, religion, ignorance illiteracy and greed for money are some of the factors contributing to human trafficking.

4.7 Experiences of selected trafficked human being

The trafficked girls experienced a range of restrictions. Some girls had some degree of freedom while others were strictly not allowed to talk even to neighbours. For instance, Sikuona from kijitonyama informed me that was prohibited from making phone calls or writing letters to her relatives.

But Sikuona Sondo informed me also that was totally isolated; she was prohibited from talking even to other members of the family in which she was living as well as sharing meals with them. However Sikuona was occasionally allowed to go to the church. Sikuona narrated:

In that house I was treated so inhumanly in such a way that I cannot tell you everything. The whole family isolated me. When eating I was not sharing the same table with others. If it happened that the food was not enough, it was me who was suffering; I was obliged to sleep without dinner. When I went to church I found all the food eaten. I slept in a bed without a mosquito net. They did not give me a bedsheet. When visitors came I was sleeping on the dining room seats. [...].

I was sometimes prevented from going to church; Mrs Mabagala (my employer) told me that there were many jobs to do. As I said, she was making a clear distinction between me and her children. I was told not to talk to anyone among her children or anyone who comes in the house.

4.7.1 Deprivation of Basic Needs

Whenever I reminded her about school, my aunt became very angry. Sometimes Aunt Chacha told me that there was no food to eat. I was forced to sleep without eating. Most of the time, I just ate a small portion and I was not satisfied. I was not given clothes; I put on the ones I came with from home village. I did not have bedsheets; I covered myself with kitenge or kanga. I was afraid to tell her that I was sick, because she told me that a young person like me cannot fall sick. Koku said.

The story above by Koku depicts deprivation of basic human needs such as food, shelter and clothes. Koku slept without having taken dinner, or ate just a small amount. Again she did not have clothes. At the same time she was not taken to a hospital when she was sick because her aunt ironically told her that she is too young to be sick.

On the issue of food, what girls experienced was not a question of deficit but it was deliberate deprivation because other members of the household were taking their meals as usual. The girls were left to stay without food or eat a small amount of food or the leftovers. In Koku's case for instance, she was told to take leftovers and eat in the kitchen after others had eaten.

Trafficker and proxy trafficker interviews

In this study the, actual traffickers and "proxy" traffickers both were identified and interviewed. While each of the sample sizes is too small to allow us to perform statistical analyses, the information gathered provides interesting insight into trafficking operations in Tanzania.

Trafficker interviews

Interviews were conducted with seven actual traffickers and eight "proxy" traffickers. The seven traffickers directly interviewed were all male. When asked how long they had been involved in this activity one declined to answer, one stated that he had been involved for one year, another for six years, and one for ten years.

Three of them claimed to no longer be involved in trafficking activities, and all four claimed to instead/also be working as legitimate businessmen. Six were Tanzanian citizens, while one was a Kenyan born in Asia. Four of them stated that they had arrest records: one for drug abuse, one for theft and robbery, and one for assault and assisting drug traffickers. The latter stated that he had served two terms in prison for his crimes.

Two claimed that they had received a college or university level education, while the remaining two stated that they had secondary level education. When asked about their recruitment methods, the first stated that he met his victims on his own or through friends, or he abducted them.

The second met his victims on his own or through friends, or through newspaper advertisements. The third recruited his victims through an agent, and the fourth met his

victims on his own, through friends, or through introductions by a member of the victim's family.

The types of promises made to their victims were of good jobs (namely as waiters/waitresses, salespeople, flight attendants, entertainers, plan supervisors, nannies and babysitters, domestic workers, bar staff, and the opportunity to run their own business), improved living conditions, and the chance to earn good money, both in Tanzania and abroad.

One of the traffickers claimed that he had recruited at least ten victims and had abducted three. Another stated that he recruited victims "all the time", while one stated that he could not remember because the agent was the one doing the recruiting.

The final trafficker stated that he had recruited twice. One of the traffickers said that the approximate age of his victims was between 18 and 22 years of age. The second stated 18 to 30 years, the third 14 to 21 years, and the others did not answer the question.

With regards to transportation, all them of the traffickers reported that transportation costs were paid either by themselves or, in the case of one trafficker, the agent. All used buses to transport their victims, two used Lorries, two used aircraft, two used trains, one used ships, and one used ferries.

When asked about the conditions for their victims, all reported using threats to coerce their victims. Four of the traffickers stated that they allowed their victims to retain only a portion of their earnings, while the other did not answer the question.

Four of the seven stated that their victims were forced to endure excessive working hours, with one trafficker specifying that victims worked 17 hours a day. The 5th trafficker did not answer the question. Three said that their victims' freedom of choice was limited. When asked if their victims had to repay a debt to them, two of the four answered yes.

One specified an amount of 130,000 TSH (120.26 USD) and the other specified an amount of 30,000 TSH (33.67 USD).

In the findings above most of the informants were working as house girls. Child domestic workers are children (under 18 years) who are doing domestic chores, caring for children and related activities in other people's households⁷⁹ In other words child domestic work is a form of child labour which is only confined to domestic work. Some children employed in this sector "*perform duties in conditions similar to slavery; they are exposed to physical abuse and violence, are sexually abused and constantly subjected to psychological torture*"⁸⁰

After enactment of the laws we could expect a high level of child rights protection but this is not the case.

However, in Kenya, the study by Mildred and Plummer (2009) shows that child protection strategies continue to be violated because of poverty, the AIDS pandemic, lack of education and child labour. The situation in Tanzania is not different from that of Kenya, Therefore, besides legal measures, there is a need to address other issues like increasing vulnerability.

According to the respondent and available literature review Law enforcement systems may fail to prevent trafficking, punish traffickers, and protect those who are trafficked. In general the failure of law enforcement officials to ensure security, particularly in the context of conflict, means that traffickers can act extremely violently with impunity.

The Tanzania government's inability to stop abduction is an extreme example of these Criminal organizations trafficking arms and drugs, as well as a less formalized criminal cultures, have grown in Tanzania in the absence of effective law enforcement. These

⁷⁹ Blagbrough, 2008 child trafficking around the world p.10

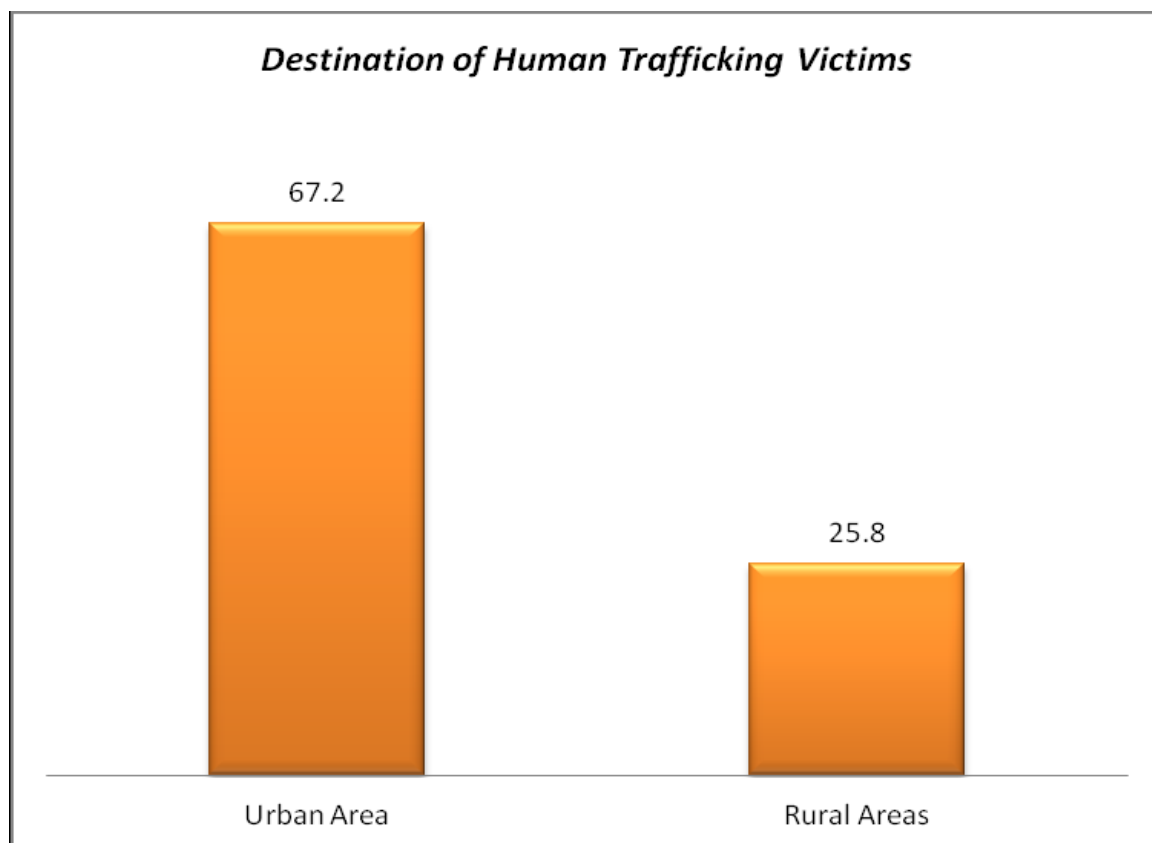
⁸⁰ Ondimu, (2007) Dimension of rural to urban migration at p.39

criminal institutions and mores may nourish human trafficking and other forms of irregular migration.

4.8 Destinations

In domestic human trafficking, most of the victims are destined in urban areas by 67.2% while those going to rural areas were at 25.8% as indicated in Figure 4.8.1 below. Most victims of domestic human trafficking end up in urban areas of Dar es salaam, Mwanza, Arusha, Mbeya among other urban centres where they seek employment as domestic workers, hawking, bars and beauty and massage parlours and commercial sex. Those victims who end up in rural areas work flower farms, coffee, tea, tobacco and sisal plantations and as herds boys.

Figure 4.9: Destinations for Domestic Human Trafficking



4.9 Conclusion

With this study, most respondents in Tanzania agreed that human trafficking was happening in their region due to a number of reasons as enumerated hereinabove, although the percentage of people reporting that people in their area knew what trafficking was varied greatly among samples.

In one or more of our samples presented in this study, certain individual, family, and community characteristics were found to be associated with one's likelihood of being trafficked from one area to another. This included non-residence in one's country of birth or citizenship, lower levels of education for women and girls in the some parts of the country i.e. Iringa, Dodoma etc., coming from a family that practices fostering in Tanzania, death of one's father particularly, death of both parents in Tanzania, and proximity to a tarmac road in the Tanzania is also recommended as a key causative.

Victims identified family members, friends, and people living in their area, employers, and employment agencies as their traffickers. It was found that both men and women operate as traffickers, although usually in same-gender groups. Most victims reported that, to their knowledge, there were only small numbers of individuals involved in their trafficking incident.

Information from traffickers or proxy traffickers reflect the information provided by victims: they admitted that deception is commonly used, that they used threats to control their victims, and that the people they trafficked faced difficult conditions such as excessive working hours and limited freedom of choice.

A number of factors that may have a broad impact on trafficking were examined. These included migration, labour forces such as levels of income and employment, aspirations to certain livelihoods, conflict, governance and law enforcement, and gender roles and gender based violence. Internal and regional migration is common and entrenched in the region.

While the majority of surveyed respondents reported that labour migration is common in their home areas, in Tanzania this was truer for trafficked than non-trafficked respondents.

This indicates an association either between being trafficked and coming from an area where labour migration is common or between being trafficked and perceiving labour migration to be a common practice in one's home area, though it was less true in Kenya.

With regards to source communities, we found that in Uganda, those who came from source areas were more likely to be unemployed, confirming our hypothesis that these communities may have on average higher rates of unemployment.

In Tanzania, however, lower income levels in home areas, rather than lower levels of employment, were found to be associated with trafficking, confirming our hypothesis that source communities may have lower income levels, pushing trafficking victims out. Several parts were affected based on economic, social and cultures factors.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

While this academic study is an important contribution to our knowledge of human trafficking in Tanzania, the study has advocated more on the reasons for, effect thereto and way forward or what to be done to reduce or even eliminate the challenges of human trafficking in Tanzania.

That being said, a number of conclusions can be drawn. Firstly, the research confirms that human trafficking is in fact occurring in Tanzania. A number of broad factors, such as labour migration, income and employment levels, and personal aspirations were found to be associated with trafficking in one or more of our samples.

Most respondents in Dar es Salaam agreed that human trafficking was happening in their region, although the percentage of people reporting that people in their area knew what trafficking was varied greatly among the other regions say Iringa ,Arusha, Mwanza and Mbeya.

The variation has been caused by a number of reasons ie economic and socio culture. In one or more of our samples, certain individual, family, and community characteristics were found to be associated with one's likelihood of being trafficked.

There are many sectors that contribute, knowingly or unknowingly, to trafficking and forced labour. Transport companies, travel agents, airlines, hotels and other sectors contribute in facilitating the existence of human trafficking.

Tanzania has is affected by both internal and external human trafficking. Findings indicate that individual characteristics such as poverty, gender, socio-economic status, education, employment, and personal aspirations may be related to an individual's likelihood of being trafficked. Family factors such as family size, death of one or both parents, and divorce are potentially relevant factors, as are community characteristics such as access to

services, employment, or education and training opportunities. The demand for trafficked labour has been documented in many industries such domestic work, agriculture, mining, services, and prostitution. People have also reportedly been trafficked for military service, forced marriage, and ritual purposes.

Tanzanian are voluntarily migrating to other East African nations, South Sudan, Europe, the United States, and the Middle East particularly Saudi Arabia, but also to Qatar, Kuwait, the United Arab Emirates (UAE), Lebanon, and Oman in search of employment, where they are at times exploited in domestic servitude, massage parlours and brothels, or forced manual labour. Young men and women are lured from universities with promises of overseas jobs, only to be forced into prostitution in Qatar and the UAE.

5.2 Recommendations

General

- Ensure that all counter-trafficking work takes a gender-sensitive and child-friendly approach and addresses the situations of men as well as children and women. In our sample, while gender roles have a powerful influence over the type of work females and males engage in, they are not absolute.
- Explore possibilities of engaging these sectors in efforts to prevent trafficking. The vast majority of victims in our survey were transported using public means.
- Ensure universal birth registration and an effective identify registration system. Lack of documentation establishing identity may facilitate trafficking, particularly international trafficking.

To the Ministry responsible for education

- Incorporate teaching on trafficking in persons into the education curriculum to increase knowledge and awareness amongst children.

- In Tanzania, increase the educational attainment levels of girls and boys by developing a strategy to keep children in school longer. In our sample, a higher percentage of trafficked girls and women had lower levels of education and a lower percentage had higher levels of education. Though we do not know if this is because education is protective or because those who are trafficked are denied educational opportunities, girls' education has been found to be protective in many other contexts.
- In Tanzania, implement prevention programming at communities where incomes are low and where there is known to be high volumes of departing labour migrants. This is based on the association in our sample between trafficking, labour migration, and relatively low incomes in communities. In Tanzania, pay particular attention to creating higher income employment opportunities rather than solely on reducing unemployment.

To the Ministry responsible for child welfare

- In Tanzania, target prevention programming at orphans and children of single mothers who, as in our study, are at a higher risk of being trafficked.
- In Tanzania, explore mechanisms to promote non-exploitative fostering, perhaps within the context of child labour and child welfare interventions for younger children and safer migration for older adolescents.

To the Stakeholders in Crime prevention and Civil Society:

Prevention

- Enact strong, comprehensive, and clear legislation that follows through on international commitments to address trafficking and closes loopholes.
- Work towards harmonizing legislation of countries in the region and ensure that regional agreements trade and migration agreements protect migrants from trafficking.

- Increase the effectiveness of the law enforcement and judicial system through training, implementing anti-corruption measures, and improving the skills of law enforcement officials in order to reduce crime and improve overall security.
- Ensure that law enforcement and the judicial systems do not re-victimize those trafficked, particular those trafficking into criminal or criminalized occupations.
- Build human trafficking awareness and skills amongst law enforcement and judicial officials.
- Ensure that prosecutorial efforts account for the possibility that trafficking organizations may be small or large;
- Victims may be responsible for arranging their own transportation and public transportation may be used; and
- Trafficking victims may have their freedom of choice and movement restricted by traffickers and employers.
 - i. Increase awareness about human trafficking in source and destination areas:- Disseminate information, education and communication messages (*posters, stickers, leaflets, billboards e.t.c.*).
 - ii. Sponsor anti-trafficking campaigns (media forums and community education activities) through corporate responsibility.
 - iii. Write articles for newspapers, E-mails, journals, web-sites, reports and magazines.
 - iv. Sponsor and discuss human trafficking issues on televisions, radios and both public and community dialogues.
 - v. Address the root causes of child trafficking in source areas (such as household poverty, HIV/ AIDS, conflicts, ignorance, school drop-outs and unemployment among others).

Victims of human trafficking are at risk of forced labour, sexual exploitation among others and must be offered safer opportunities to improve their lives. Hence, awareness-raising about the risks of trafficking should be matched with concrete and attractive opportunities that are better than those offered by the traffickers.

Stakeholders in fight against human trafficking should embrace new technology in tracking and detecting the culprit, establish inter-link between local and international investigating agencies and training of investigators to be enhanced

Service providing organizations and the Ministry responsible for health and social welfare

Ensure victims' services account for our findings those victims:

- May have their freedom of choice and movement restricted by their traffickers and employers requiring proactive approaches to rescue;
- May be at a higher risk of being unemployed;
- May have been sexually assaulted;
- May have a series of mental and physical health symptoms;
- May have been threatened or exposed to physical violence;
- In Tanzania, women and girls may be at a higher risk of having lower levels of education; and
- May actually be earning on average higher incomes, perhaps because of their engagement in illicit work.
- Ensure that case follow-up is carried out to avoid re-trafficking.

To the Office of Director of Public Prosecutions:

This refers to the country criminal proceeding in which an accused person is tried.

Interventions may include:-

- i. Adequately equip law enforcement officers with the tools (information, skills, equipment and funds) to effectively enforce the law and handle children's cases in friendly ways.

- ii. Improve capacity for proper record keeping and tracking of human trafficking crimes.
- iii. Increase and improve transnational cooperation.

Increase efforts to enforce the 2008 Anti-Trafficking in Persons Act by prosecuting and convicting trafficking offenses, and applying stringent penalties including jail time, as appropriate to convicted trafficking offenders; implement the act's victim protection and prevention provisions, including by allocating resources to the victim assistance fund; establish policies and procedures for government officials to identify and interview potential trafficking victims including adults among vulnerable groups proactively and transfer them, as appropriate, to local organizations providing care; begin compiling trafficking specific law enforcement and victim protection data at the national level.

Provide training to judges, prosecutors, and police to clarify the difference between human trafficking and alien smuggling; allocate a budget for the anti-trafficking committee and anti-trafficking secretariat to implement the national action plan; provide additional training to law enforcement authorities on the detection and methods of investigating human trafficking crimes; and institute standard operating procedures for trafficking victim identification and victim care provision for labor officials and diplomatic personnel working at Tanzanian missions overseas.

There is need to apply the anti-trafficking law to investigate and prosecute trafficking offenses, and convict and punish trafficking offenders, including government officials suspected of complicity in human trafficking; Prosecutors to widely use the Counter-Trafficking in Persons Act. As guidelines for implementing the victim protection provisions of the anti-trafficking statute have yet to be developed, the government continued to lack a formal mechanism for identifying victims of trafficking among vulnerable populations.

The Tanzanian government made modest anti-trafficking law enforcement efforts during the reporting period. The 2008 Anti-Trafficking in Persons Act outlaws all forms of trafficking and prescribes punishments of one to 10 years' imprisonment, a fine, or both; penalties which are sufficiently stringent, but not commensurate with those prescribed for other serious crimes, such as rape.

However, a provision allowing offenders to pay a fine in lieu of serving prison time allows for a penalty that is not proportionate to the crime and such a fine does not provide an adequate deterrent to potential perpetrators of trafficking offenses. Authorities reported initiating investigations into four cases under the 2008 Act over the last year. Seven trafficking cases were prosecuted, including two new cases and five which continued from the previous year. Three of these prosecutions were withdrawn or dismissed due to lack of victims' testimony, and three others resulted in convictions of four individuals for international labor trafficking.

However, punishments imposed on the convicted offenders were inadequate for the serious nature of the crimes committed; all four received fines without jail time. One case, in which a group of children between the ages of eight and 15 were recruited from rural regions and rescued in Zanzibar while en route to the Middle East by boat, remained ongoing at the close of the reporting period.

Despite the government's progress in holding some traffickers accountable, law enforcement and judicial officials' lack of understanding continued to create an environment in which trafficking occurred with impunity or was classified as a minor offense.

The government did not allocate funding to provide specialized anti-trafficking training to officials during the year; as a result, training that had occurred in previous years for newly-hired officers were reportedly discontinued. The government made no progress in compiling trafficking-specific law enforcement and victim protection data at the national level, instead relying upon IOM's partial data for statistics about human trafficking.

The Government of Tanzania did not report any investigations or prosecutions of public officials for alleged complicity in trafficking-related offences during the reporting period.

To the Attorney General:

There is need to amend existing laws to ensure that sentences match the severity of the crime. Trafficking and forced labour is an illicit and dangerous practice both for the victims and witnesses. The likelihood of cases being brought to light is directly linked to the protection and support offered to trafficking victims and informants.

Similarly, victims and those that give evidence need assurances that they will not be immediately deported. Informants also need assurances that their identities will not be revealed. Laws are weak. In fact, from analysis of secondary data, it is notable that criminalization of aspects of trafficking is scattered across penal codes, labour and immigration laws. Sealing off loopholes across national laws is necessary.

To the general public:

Local communities should be empowered technically and financially to care for and protect their children. Millions of children are left without parents and main carers due to HIV and AIDS or conflicts, while other children have parents who lack the capacity to provide for them. Either way, guardians should be supported to take care of such children. Although some communities are aware that they are losing children to trafficking and forced labour, they lack the capacity to take organized action.

On parenting, both in supporting parents to take an interest in their children's movements and safety and providing sensitization on issues regarding trafficking, the exploitation of children and the importance of education. Promises of education and other agreements should be well discussed, researched and some level of contact agreed to prior to the child being placed in the extended family. This would make it more difficult for those wishing to exploit children and combined with greater awareness should assist parents to make better decisions regarding their children's future.

There are need efforts to identify and protect all victims; male, female and child trafficking victims. Protection for adults was unavailable, including for the increasing number of victims in the overseas migrant worker population. Neither the Ministry of Gender nor any other ministry received a specific budget allocation for anti-trafficking activities. Efforts to reduce poverty and unemployment should be quickened to curb human trafficking especially of children and women. Efforts should be geared towards protection, prevention and capacity development for the public particularly those in low income areas, with illiteracy and unemployed.

5.3 Areas of Further Research

There is need to examine structural factors that create an environment conducive to trafficking. The triggers to migration include widespread impoverishment and severe levels of debt and structural adjustment exercises, but the precise effects and how to mitigate are not always well understood.

While studies and available data highlight a broad range of ‘push’ and ‘pull’ factors, none have examined in any detail what role law enforcement personnel play in trafficking, or how factors such as corruption, societal attitudes and demand may create a market for trafficked individuals in Tanzania.

Training and educational awareness cannot be seen as a panacea to solve all omissions, failures and misunderstandings on human trafficking. Research is needed into what training works and why; how it is best delivered and by whom; where, and in what circumstances. Could the training and education materials be inadequate in raising awareness to curb human trafficking?

REFERENCES

Books

- Adepoju, A. (2005) “*Review of research and data on human trafficking in Sub-Saharan Africa*”, in Laczko, F. and E. Gozdziaik (eds), *Data and Research on Human Trafficking: A Global Survey*, IOM, Geneva.
- Chin, K. (1999). *Smuggled Chinese: Clandestine Immigration to the United States*. Philadelphia: Temple University Press.
- Follmat-Otto, P., (2009). & Rabe, H. *Human Trafficking in Germany: Strengthening Victim's Human Rights*. Institute for Human Right Berlin: German .
- ILO (2003a) *Trafficking in Human Beings: New Approaches to Combating the Problem: Special Action Programme to Combat Forced Labour*, ILO, and Geneva
- Kamala, E., E. Lusinde, J.Millinga,J.Mwaitula, M.J.Gonza,M.G.Juma, et al. 2001 *Tanzania Children in Prostitution: A rapid Assessment*, ILO-IPEC, Geneva.
- Kothari, C. R., 1999 *Research Methodology: Methods and Techniques*, 2nd Revised Edition, New Age International Publishers: New Delhi
- Ruth S.Kempe, C.Henry Kempe1984. *The common secret: Sexual abuse of children and adolescents*. S: Freeman

OTHER SOURCES

Report

- Ahluwalia, Sheela (2009). *Human Trafficking and Gender in Sub-Saharan Africa*. Internal Draft. Washington, DC: The World Bank.

Daniel, M. (2008). *Report on Humanitarian Aid to Vulnerable Children in Makete and Iringa, Tanzania*. Bergen: Research Centre for Health Promotion, University of Bergen

Tanzania”. Trafficking in Persons Report 2008. U.S.Department of State (June 4, 2008).

The United States Department of State (2009). Trafficking in Persons Report 2009. Washington, DC. The United States Department of State. <http://www.state.gov/g/tip/rls/tiprpt/2009/>

Trafficking in Persons Report 2014” . U.S. State Department. Retrieved 20 January, 2016

UNODC (2009). *Anti-human Trafficking Manual for Criminal Justice Practitioners*. Vienna: UNODC. <http://www.unodc.org/unodc/en/humantrafficking/anti-human-traffickingmanual.html>

Websites

Batliwala, S. (1993). *Empowerment of Women in South Asia: Concept and Practice* New Delhi: FAO.

Dottridge, M. (2002). Trafficking in Children in West and Central Africa. In R. Masika (Ed.), *Gender, Trafficking, and Slavery* . Oxford: Oxfam

GAO, (2006). The United States Government Accountability Office Human Trafficking. Better Data, Strategy, and Reporting Needed to Enhance U.S. Antitrafficking EffortsAbroad.Washington,DC: GAO. <http://www.gao.gov/new.items/d06825.pdf>

Government of Tanzania (2001) *Draft Tanzania National Plan of Action for Orphans and Other Vulnerable Children*, The United Republic of Tanzania Prime Minister’s Office, Republic of Tanzania.

ILO (2005). A Global Alliance against Forced Labor. Geneva: ILO.

<http://www.ilo.org/public/english/standards/relm/ilc/ilc93/pdf/rep-i-b.pdf>

accessed on 5th march, 2016

International Labour Organization (ILO) (2009). The Cost of Coercion. Geneva: ILO.

http://www.ilo.org/wcmsp5/groups/public/---ed_norm/

relconf/documents/meetingdocument/wcms_106230.pdf

The Office to Monitor and Combat Trafficking in Persons, the United States Department

of State: <http://www.state.gov/g/tip/> accessed on 3rd January, 2016

The United Nations Children's Fund: <http://www.unicef.org/protection/index.html>

accessed on 20th day of April, 2016

The United Nations Global Initiative to Fight Human Trafficking:

<http://www.ungift.org/ungift/index.html> accessed on 20th day of April, 2016

UNICEF, Child prostitution thrives on Kenyan coast 2006 Nairobi: UNICEF, 2006.

United Nations Office on Drugs and Crime (UNODC) (2008). Human Trafficking: An

Overview. Vienna, Austria. UNODC. [http://www.ungift.org/docs/ungift/pdf/kno](http://www.ungift.org/docs/ungift/pdf/knowledge/ebook.pdf)

<wledge/ebook.pdf> accessed on 22nd day of june,2016

Paper

Goliath, P. (2008). *Human Trafficking: Southern African Perspective*. Paper presented at

the International Association of Women Judges, Panama, March 25-28. Retrieved

on 20th august 2015 from <http://www.iawj.org/what/panama08/19.pdf>

Koettl, Johannes (2009). "Human Trafficking, Modern Day Slavery, and Economic

Exploitation." *Social Protection Discussion Paper*. Washington, DC. The World

Bank. <http://go.worldbank.org/3G952TICB0> accessed on 16 march,2016

Magoke-Mhoja, M. E. (2006). *Child-widows Silenced and Unheard: Human Rights Sufferers in Tanzania*. Dar es Salaam: Children's Dignity Forum.

Moore, H.1994 .Is there a crisis in the family? Occasional Paper No.3, World Summit for Social Development, UNRISD, Geneva

Perez Solla, M. Fernanda (2009). "Slavery and human trafficking international law and the role of the World Bank." Social Protection Discussion Paper. Washington, DC. The World Bank. <http://go.worldbank.org/RLT3SQR7H0> accessed on 20th april,2016