

# Tanzania

## National Child Protection Legislation

### National Legislation

- Age of Child – **Under the age of 18 years**

[Law of the Child Act, 2009](#)

#### **Part II (a) Right of a child**

##### **Art. 4 – Construction of “the child”**

(1) A person below the age of eighteen years shall be known as a child.

- Age of Consent – **18 years of age (female)**

[Penal Code](#)

##### **Art. 130 – Rape**

(1) It is an offence for a male person to rape a girl or a woman.

(2) A male person commits the offence of rape if he has sexual intercourse with a girl or a woman under circumstances falling under any of the following descriptions:

(e) with or without her consent when she is under eighteen years of age, unless the woman is his wife who is fifteen or more years of age and is not separate from the man.

##### **Art. 15 – Immature Age**

(3) A male person under the age of twelve years is presumed to be incapable of having sexual intercourse.

- Age of Marriage – **18 years of age**

[Law of Marriage Act, 1971](#)

#### **Part II – Marriage**

(b) Restrictions of Marriage

##### **Art. 13 – Minimum Age**

(1). No person shall marry who, being male, has not attained the apparent age of eighteen years or, being female, has not attained the apparent age of fifteen years.

- Age of Criminal Responsibility – **Under the age of 10 years**

[Penal Code](#)

##### **Art. 15 – Immature Age**

(1) A person under the age of ten years is not criminally responsible for any act or omission.

(2) A person under the age of twelve years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission he had capacity to know that he ought not to do the act or make the omission.

- **Extraterritoriality**

- [Penal Code](#)

- **Chapter III – Territorial Application of this Code**

- **Art. 6 – Extent of jurisdiction of local courts**

The jurisdiction of the Courts of Mainland Tanzania for the purposes of this Code extends to–

- (a) every place within Mainland Tanzania and within the territorial waters;
- (b) any offence committed by a citizen of Mainland Tanzania in any place outside Mainland Tanzania; and
- (c) any offence committed by any person on an aircraft registered in Mainland Tanzania.

- **Art. 7 – Offences committed partly within and partly beyond the jurisdiction**

When an act which, if wholly done within the jurisdiction of the court, would be an offence against this Code, is done partly within and partly beyond the jurisdiction, every person who within the jurisdiction does any part of such act may be tried and punished under this Code in the same manner as if such act had been done wholly within the jurisdiction.

- [The Extradition Act 1965](#)

- **Part II – The Surrender of Fugitive Criminals**

- **Art. 3 – Application of Part II**

- (1) Where an agreement has been made with any country with respect to the surrender to that country of any fugitive's criminal, the Minister may, by order published in the *Gazette*, declare that this Part of this Act shall apply in the case of that country subject to such conditions, exceptions and qualifications as may be specified in the order, and this Part shall apply accordingly;
- (2) An order made under this section shall recite or embody the terms of the agreement and shall not remain in force for any longer period than the agreement;
- (3) Every order made under this section shall be laid before the National Assembly.

- **Art. 4 – Liability of fugitive criminal to surrender**

Subject to the provisions of section 16, where this Part of this Act applies in the case of any country, every fugitive criminal of that country who is in or suspected of being in Tanzania, shall be liable to be arrested, detained and surrendered in the manner provided by this Part of this Act –

- (a) whether the crime in respect of which the surrender is sought was committed before or after the commencement of this Act or the application of this Part of this Act to that country; and
- (b) whether there is or is not any concurrent jurisdiction in a court in Tanzania over that crime.

- **Art. 5 – Requisition for surrender**

- (1) A requisition for the surrender of a fugitive criminal of any country who is in or suspected of being in Tanzania shall be made to the Minister by a diplomatic representative or consular officer of that country and, upon receipt of such requisition, the Minister may, by order under his hand, signify to a magistrate that a requisition has been made, and require the magistrate to issue his warrant for the arrest and detention of the fugitive criminal.

(2) If the Minister is of the opinion that the offence is one of a political character he may refuse to make an order and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody.

▪ **Dual Criminality**

[Extradition Act of 1965](#)

**Art. 4 – Liability of fugitive criminal to surrender**

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- (b) whether there is or is not any concurrent jurisdiction in a court in Tanzania over that crime.

▪ **Mandatory reporting requirements**

[Law of the Child Act, 2009](#)

**Art. 59A – Obligation to report**

- (1) Every teacher, a craftsman and a trainer shall be under the general obligation to report evidence or concerns of abuse perpetrated on the child by any person to the appropriate social welfare officer.
- (2) Every teacher, a craftsman and a trainer shall have the duty to ensure that best interest of a pupil is of paramount consideration.

**Art. 95 – Duty to report infringement of child’s rights**

1. It shall be the duty of any member of the community who has evidence or information that a child’s rights are being infringed or that a parent, a guardian or relative having custody of a child who is able to, but refuses or neglects to provide the child with food, shelter, right to play or leisure, clothing, medical care and education, to report the matter to the local government authority of the area.

▪ **Obligations of Educational Institutions**

No information found.

▪ **Prohibition to hold certain positions**

[Law of the Child Act, 2009](#)

**Art. 148 – Prohibition of certain persons to operate day care centers**

- (1) A person who has been convicted of an offence against children or any sexual offence shall not be employed in a day care center or a creche.
- (2) For the purposes of subsection (1), the Commissioner shall ensure that the manager, patron or matron or any other person operating or working in a daycare centre or creche is vetted by the office of the commissioner.

- **Employment Law**  
[Employment and Labour Relations Act, 2004](#)

**Art. 36 - Interpretation**

- (a) Termination of employment includes –  
(1) A lawful termination of employment under the common law.

**Art. 37 – Unfair termination**

- (1) It shall be unlawful for an employer to terminate the employment of an employee unfairly,  
(2) A termination of employment by an employer is unfair if the employer fails to prove:  
(a) That the reason for termination is valid;  
(b) That the reason is a fair reason -  
i. Related to the employee's conduct, capacity or compatibility; or  
ii. Based on the operational requirements of the employer; and  
(c) That the employment was terminated in accordance with a fair procedure.

- **Criminal Law – Defamation**  
[Penal Code](#)  
**Chapter XVIII**  
Sections 187-194 on Defamation were repealed.

Sexual Offenses Against Children

[Penal Code](#)

**Art. 130 - Rape**

- (1) It is an offence for a male person to rape a girl or a woman.  
(2) A male person commits the offence of rape if he has sexual intercourse with a girl or a woman under circumstances falling under any of the following descriptions:  
(a) not being his wife, or being his wife who is separated from him without her consenting to it at the time of the sexual intercourse;  
(b) with her consent where the consent has been obtained by the use of force, threats or intimidation by putting her in fear of death or of hurt or while she is in unlawful detention;  
(c) with her consent when her consent has been obtained at a time when she was of unsound mind or was in a state of intoxication induced by any drugs, matter or thing, administered to her by the man or by some other person unless proved that there was prior consent between the two;  
(d) with her consent when the man knows that he is not her husband, and that her consent is given because she has been made to believe that he is another man to whom, she is, or believes herself to be, lawfully married;  
(e) with or without her consent when she is under eighteen years of age, unless the woman is his wife who is fifteen or more years of age and is not separated from the man.  
(3) Whoever–  
(a) being a person in a position of authority, takes advantage of his official position, and commits rape on a girl or a woman in his official relationship or wrongfully restrains and commits rape on the girl or woman;  
(b) being on the management or on the staff of a remand home or other place of custody, established by or under law, or of a women's or children's institution, takes advantage of his

- position and commits rape on any woman inmate of the remand home, place of custody or institution;
- (c) being on the management or staff of a hospital, takes advantage of his position and commits rape on a girl or woman;
  - (d) being a traditional healer takes advantage of his position and commits rape on a girl or a woman who is his client for healing purposes;
  - (e) being a religious leader takes advantage of his position and commits rape on a girl or woman.
- (4) For the purposes of proving the offence of rape–
- (a) penetration however slight is sufficient to constitute the sexual intercourse necessary to the offence; and
  - (b) evidence of resistance such as physical injuries to the body is not necessary to prove that sexual intercourse took place without consent.
- (5) For the purposes of this section spouses shall be deemed lawfully separated even if the separation is arranged by the family or clan members.

#### **Art. 131 - Punishment for Rape**

- (1) Any person who commits rape is, except in the cases provided for in the renumbered subsection (2), liable to be punished with imprisonment for life, and in any case for imprisonment of not less than thirty years with corporal punishment, and with a fine, and shall in addition be ordered to pay compensation of an amount determined by the court, to the person in respect of whom the offence was committed for the injuries caused to such person.
- (2) Notwithstanding the provisions of any law, where the offence is committed by a boy who is of the age of eighteen years or less, he shall–
  - (a) if a first offender, be sentenced to corporal punishment only;
  - (b) if a second time offender, be sentenced to imprisonment for a term of twelve months with corporal punishment;
  - (c) if a third time and recidivist offender, he shall be sentenced to life imprisonment pursuant to subsection (1).
- (3) Subject to the provisions of subsection (2), a person who commits an offence of rape of a girl under the age of ten years shall on conviction be sentenced to life imprisonment.

#### **Art. 131A - Punishment for Gang Rape**

- (1) Where the offence of rape is committed by one or more persons in a group of persons, each person in the group committing or abetting the commission of the offence is deemed to have committed gang rape.
- (2) Subject to provisions of subsection (3) every person who is convicted of gang rape shall be sentenced to imprisonment for life, regardless of the actual role he played in the rape.
- (3) Where the commission or abetting the commission of a gang rape involves a person of or under the age of eighteen years the court shall, in lieu of sentence of imprisonment, impose a sentence of corporal punishment based on the actual role played in the rape.

#### **Art. 135 – Sexual assault on persons and indecent assaults on women**

- 1. Any person who, with intent to cause sexual annoyance to any person utters any word or sound, makes any gesture or exhibits any word or object intending that such word or sound shall be heard, or the gesture or object shall be seen, by that other person commits an offence of sexual assault and is liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding three hundred thousand shillings or to both the fine and imprisonment;
- 2. Where the charge for sexual assault under this section related to a boy or girl under eighteen years; it shall be on defense to the charge that the boy or girl consented to the act constituting the assault.

**Art. 138A – Acts of gross indecency between persons**

Any person who, in public or private commits, or is party to the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person, commits an offence and is liable on conviction to imprisonment for a term of not less than one year and not exceeding five years or to a fine not less than one hundred thousand shillings and not exceeding three hundred thousand shillings; save that where the offence is committed by a person of eighteen years of age or more in respect of any person under eighteen years of age, a pupil of a primary school or a student of a secondary school the offender shall be liable on conviction to imprisonment for a term not less than ten years, with corporal punishment, and shall also be ordered to pay compensation of an amount determined by the court to the person in respect of whom the offence was committed for any injuries caused to that person.

**Art. 138B – Sexual Exploitation of Children**

(1) Any person who -

- (a) knowingly permits any child to remain in any premises for the purposes of causing such child to be sexually abused or to participate in any form of sexual activity or in any obscene or indecent exhibition or show;
- (b) acts as a procurer of a child for the purposes of sexual intercourse or for any form of sexual abuse, or indecent exhibition or show;
- (c) induces a person to be a client of a child for sexual intercourse or for any form of sexual abuse, or indecent exhibition or show, by means of print or other media, oral advertisements or other similar means;
- (d) takes advantage of his influence over, or his relationship to, a child, to procure the child for sexual intercourse or any form of sexual abuse or indecent exhibition or show;
- (e) threatens, or uses violence towards, a child to procure the child for sexual intercourse or any form of sexual abuse or indecent exhibition or show;
- (f) gives monetary consideration, goods or other benefits to a child or his parents with intent to procure the child for sexual intercourse or any form of sexual abuse or indecent exhibition or show,

commits an offence of sexual exploitation of children and is liable upon conviction to imprisonment for a term of not less than five years and not exceeding twenty years.

**Art. 138C – Grave sexual abuse**

(1) Any person who, for sexual gratification, does any act, by the use of his genital or any other part of the human body or any instrument or any orifice or part of the body of another person, being an act which does not amount to rape under section 130, commits the offence of grave sexual abuse if he does so in circumstances falling under any of the following descriptions, that is to say-

- (a) without the consent of the other person;
- (b) with the consent of the other person where the consent has been obtained by the use of force, threat, or intimidation or putting that other person in fear of death or of hurt or while that other person was in unlawful detention;
- (c) with the consent of the other person where such consent has been obtained at a time the other person was of unsound mind or was in a state of intoxication induced by alcohol or any drugs, matter or thing.

(2) Any person who-

- (a) commits grave sexual abuse is liable, on conviction to imprisonment for a term of not less than fifteen years and not exceeding thirty years, with corporal punishment, and shall also be

ordered to pay compensation of an amount determined by the court to the person in respect of whom the offence was committed for the injuries caused to that person;

- (b) commits grave sexual abuse on any person under fifteen years of age, is liable on conviction to imprisonment for a term of not less than twenty years and not exceeding thirty years, and shall also be ordered to pay compensation of an amount determined by the court to any person in respect of whom the offence was committed for injuries caused to that person.

#### **Art. 139 – Procuration for Prostitution**

(1) Any person who –

- (a) procures, or attempts to procure, any person, whether male or female or whatever age, whether with or without the consent of that person, to become, within or outside, the United Republic, a prostitute;
- (b) procures, or attempts to procure, any person under eighteen years of age, to leave the United Republic, whether with or without the consent of that person, with a view to the facilitation of prohibited sexual intercourse with any person outside the United Republic, or removes, or attempts to remove from the United Republic, that person, whether with or without the consent of that person, for that purpose;
- (c) procures or attempts to procure, any person of whatever age, to leave the United Republic, whether with or without the consent of that person, with intent that that person may become the inmate of, or frequent a brothel elsewhere, or removes or attempts to remove, from the United Republic any such person, whether with or without the consent of that person, for that purpose;
- (d) brings, or attempts to bring, into the United Republic, any person under eighteen years of age with a view to prohibited sexual intercourse with any other person, inside or outside the United Republic;
- (e) procure, or attempts to procure, any person of whatever age, whether with or without the consent of that person, to leave that person’s usual place of abode in the United Republic, that place not being a brothel, with intent that that person may for the purposes of prostitution become the inmate of, or frequent, a brothel within or outside the United Republic;
- (f) detains any person without the consent of that person in any brother or other premises with a view to prohibited sexual intercourse or sexual abuse of that person,

commits an offence of procuration and is liable on conviction to imprisonment for a term of not less than ten years and not exceeding twenty years or to a fine of not less than one hundred thousand shillings and not exceeding three hundred thousand shillings or to both the fine and imprisonment.

#### **Art. 139A – Trafficking of Person**

(1) Any person who -

- (a) engages in the act of buying, selling or bartering of any person for money or for any other consideration;
- (b) 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 considerations
  - (i) arranges for, or assists, a child to travel within or outside the United Republic without the consent of his parent or lawful guardian; or
  - (v) engages in procuring children from hospitals, shelters for women, clinics, nurseries, day care centres, or any other child care institutions or welfare centres, for money or other consideration or procures a child for adoption from any such institution or centre, by intimidation of the mother or any other person

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.

**Art. 158 – Incest by Males**

- (1) Any male person who has prohibited sexual intercourse with a female person, who is to his knowledge his granddaughter, daughter, sister or mother, commits the offence of incest, and is liable on conviction –
  - (a) if the female is of the age of less than eighteen years, to imprisonment for a term of not less than thirty years;
  - (b) if the female is of the age of eighteen years or more, to imprisonment for a term of not less than twenty years.
- (2) It is immaterial that the sexual intercourse was had with the consent of the woman.
- (3) A male person who attempts to commit an offence under this section commits an offence.

**Art. 160 – Incest by Females**

Any female person of or above the age of eighteen years who with consent permits her grandfather, father, brother or son to have carnal knowledge of her (knowing him to be her grandfather, father, brother or son as the case may be) commits the offence of incest and is liable to imprisonment for life or for imprisonment of not less than thirty years and shall, in addition, be ordered to pay compensation of an amount determined by the court to the victim in respect of whom the offence was committed:

Provided that if the male person is below the age of ten years, to imprisonment of not less than thirty years.

**Art. 160A – Punishment for Sexual Offences**

Where any person is convicted of any sexual offence specified under Chapter XV of this Code, as amended by the Sexual Offences Act, the court shall sentence such person to imprisonment for a term prescribed under the Chapter.

[Criminal Procedures Act](#)

**Art. 348A – Compensation in cases of sexual offences**

- (1) Notwithstanding the provisions of section 348 of this Act, when a court convicts, an accused person of a sexual offence, it shall in addition to any penalty which it imposes make an order requiring the convict to pay such effective compensation as the court may determine to be commensurate to possible damages obtainable by a civil suit by the victim of the sexual offence for injuries sustained by the victim in the course of the offence being perpetrated against him or her.
- (2) For purposes of this section “sexual offence” means any of the offences created in Chapter XV of the Penal Code.

[Cybercrimes Act 2015](#)

**Part I - Art. 2 – Application**

In this Act, unless the context otherwise requires – “child pornography” means pornographic material that depicts presents or represents: (a) a child engaged in a sexually explicit conduct; (b) a person

appearing to be a child engaged in a sexually explicit conduct; or (c) an image representing a child engaged in a sexually explicit conduct.

### **Part II – Art. 13 – Child Pornography**

- (1) A person shall not –
  - (a) publish child pornography, through a computer system; or
  - (b) make available or facilitate the access of child pornography through a computer system
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction, to a fine of not less than fifty million shillings or three times the value of undue advantage received, whichever is greater, or to imprisonment for a term of not less than seven years or to both.
- (3) A person who is convicted for an offence under this section may, in addition to any other punishment, be adjudged to compensate a person injured by the offence.

### [Law of the Child Act, 2009](#)

#### **Art. 83 – Prohibition of Sexual Exploitation**

- (1) A child shall not be engaged in any work or trade that exposes the child to activities of sexual nature, whether paid for or not.
- (2) For avoidance of doubt, it shall be unlawful for any person to use –
  - (a) inducement or coercion in the encouragement of a child to engage in any sexual activity;
  - (b) children in prostitution or other unlawful sexual practices; and
  - (c) children in pornographic performances or materials.
- (3) Any person who contravenes the provisions of this section commits an offence and shall on conviction be liable to a fine of not less than one million shillings and not more than five hundred million shillings or to imprisonment of a term of not less of one year and not more than twenty years or to both.

#### **Art. 158 – General Prohibitions**

- i. No person shall:
  - (a) Perform or cause to be performed female genital mutilation to a child;
  - (b) Publish, produce, show or cause to be published, produced or showed a photograph or a picture of a child or a dead child containing brutal violence or in a pornographic posture;...
- ii. A person who contravenes any of the provisions of subsection (1) commits an offence and shall on conviction be liable to a fine of not less than five hundred thousand shillings or to imprisonment for a term of six months or to both.