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Separation of Child Prisoners from Adult Inmates in Mainland Tanzania Prisons: A Human Rights Perspective

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Conflict with the Law.*

The continued practice of detaining children alongside adult inmates in places of detention in Mainland Tanzania presents a grave human rights concern. Despite Tanzania's ratification of key international instruments such as the Convention on the Rights of the Child (1989) and domestic efforts through legislation like the Law of the Child Act, [CAP 13 R.E 2019], children are frequently held in adult correctional facilities. This paper examines the historical and systemic roots of this practice as well as the legal frameworks that govern the separation of child offenders. It analyses various human rights violations associated with this practice, including physical abuse, deprivation of education, and psychological trauma. It also identifies institutional and legal challenges, such as the lack of juvenile facilities, definitional inconsistencies across various laws, and insufficient training of law enforcement officers. Drawing on reports from the Commission for Human Rights and Good Governance and international standards like the Beijing and Mandela Rules, the study recommends comprehensive reforms, including legal amendments, infrastructure investment, and the promotion of alternative sentencing for juveniles. In conducting this study, both Doctrinal and Non-Doctrinal (Socio-Legal) Research approaches were employed. Under doctrinal research, the study relied on statutes, international treaties and Conventions, while under non-doctrinal research, the author conducted interviews with stakeholders mainly from within the prison authorities and observations on prison infrastructures to explore the challenges facing the separation process. This combination ensures a comprehensive analysis of the legal framework while incorporating real-life experiences and practical challenges facing the total separation of children from adults in Mainland Tanzanian prisons. The paper concludes that the separation of children from adult inmates in prisons, is both a legal imperative and a foundational step toward rehabilitative justice and child rights protection in Tanzania. It finally provides various recommendations to address the issue of separation within prison premises.

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INTRODUCTION

In Tanzania, the detention of children alongside adult inmates raises a human rights concern. Despite international and national legal frameworks mandating the separation of children and adult inmates in places of detention, reports indicate that children are frequently held in adult prisons. This practice exposes them to significant risks, including physical abuse, psychological trauma, and deprivation of essential services.

The Commission for Human Rights and Good Governance, in its 2024 inspection, found that children were detained in adult facilities due to a shortage of juvenile detention centres and systemic challenges in law enforcement. The Objectives of this work were grouped into two categories, that is, general and specific objectives. Under general objectives, the study aimed to analyse the existing laws and policies relating to the separation of child prisoners from adult inmates in Tanzanian prisons. And under Specific Objectives, it is intended to assess how these laws are implemented in practice, focusing on the actual conditions within Tanzania prisons and the experiences of children in adult prison systems.

Background of Mixed Incarceration of Children and Adult Inmates in Mainland Tanzania

In Mainland Tanzania, the issue of mixed incarceration of children and adults in prisons has its roots in the colonial era. During that time, the prison system was primarily designed to control and suppress the indigenous population rather than focusing on rehabilitative measures. The colonial government established a prison system that did not consider the specific needs of juvenile offenders. Children who found themselves in conflict with the law¹ were often detained alongside adults and subjected to harsh conditions that violated their basic rights.

This practice continued even after independence in 1961, as the country's legal and prison systems inherited many of the colonial structures.² In the early years after independence, efforts to protect juvenile offenders were minimal, and the focus remained largely on adult prisoners. The Prisons Act³ provided a legal framework for the classification of prisoners based on gender, length of sentence, and age.

However, achievements have been noted on separation based on gender⁴ and between the length of sentences. The implementation of the provisions requiring the separation of children from adult inmates has been weak due to a lack of

¹ These are persons under the age of 18 years' old who are accused of or convicted of committing criminal offences. Due to their immaturity, children may fail to understand the consequences of their acts or omissions which may amount into crimes which are punished by the state.

²National Audit Office 'National Audit Report on the Implementation of Prisoners Rehabilitation Programs' (Controller and Audit General, 2024)⁷.

³ [CAP 58 R.E 2002].

⁴s.28 of the Prisons Act, [CAP 58 R.E 2002].

adequate resources and infrastructure, resulting in continuing mixed incarceration.

Over time, international human rights conventions, particularly the United Nations Convention on the Rights of the Child,⁵ called for the separation of children from adults in all settings, including places of detention such as prisons.⁶ This has influenced the Tanzanian law to align with these standards.

Despite legal reforms aimed at protecting children's rights, such as the enactment of the Law of the Child Act, 1999⁷, which emphasised the need to separate juveniles from adults in places of detention, challenges remain the same. The expansion of juvenile facilities has been slow, with the government struggling to meet the demand for adequate detention spaces for children and young prisoners.⁸ In some cases, where separate facilities do exist, they are often overcrowded, making them unable to provide proper care and rehabilitation for children.

Many prisons are severely overcrowded, usually keeping up to nearly two times of their authorised accommodation. This situation results in issues such as violence, disease transmission, and mental health problems. Reports from human rights organisations, such as the Commission for Human Rights and Good Governance, highlighted the ongoing practice of mixed incarceration, with over 1,400 children being held in adult prisons as of 2021. This situation remains a serious concern as it exposes juveniles to increased risks of abuse, violence, and exploitation within adult prison facilities.⁹

The gap between policy and practice is evident in the persistence of child detention in adult prisons. In addressing this, it requires substantial investment in juvenile detention infrastructures, legal reforms, and stronger enforcement

mechanisms to ensure the protection of children's rights in Tanzania's prison system.

Legal Framework Governing the Protection of Child Prisoners in Tanzania

Tanzania is bound by several international and national laws that mandate the separation of child offenders from adult inmates. They include the following:

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

Under Article 37(c), it provides that children deprived of liberty be separated from adults unless it is in their "best interest" not to do so. Tanzania ratified the CRC in 1991, yet the practice of mixing children and adult prisoners persists. This indicates the gap between ratification and enforcement.

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), (1985)

The rules emphasise that juvenile offenders must be treated differently from adults, focusing on rehabilitation rather than punishment. However, the principles of the Beijing Rules are not fully integrated into national juvenile justice practices, leading to a continuing punitive rather than rehabilitative approach.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules), 2015

These rules provide a comprehensive framework for the humane treatment of incarcerated individuals and serve as an international benchmark for prison standards. Among the key principles is the emphasis on reasonable accommodation, particularly to ensure the equitable treatment of prisoners with special

⁵ It was adopted by the UN General Assembly in resolution 44/25 of 20 November 1989 at New York, USA opened for signature and ratification on 26 January 1990 and entered into force on 2 September 1990.

⁶ Articles 3(1) and 37(c) United Nations Convention on the Rights of the Child, 1989.

⁷ This Act was revised in 2019.

⁸ S.2 of the Prisons Act defines the term young prisoner to mean a person between the apparent age of sixteen and twenty-one years.

⁹ Robertson, O. (2022) *Children Imprisoned by Circumstances: Human Rights and Refugees Publications*, (The Quaker United Nations Office) 34.

needs, including those with physical or mental disabilities, the elderly, and other vulnerable groups.¹⁰ This means that prison authorities are obligated to make necessary adjustments in facilities, procedures, and treatment to avoid discrimination and to uphold the dignity of all prisoners.

Furthermore, the Mandela Rules explicitly address the issue of prison overcrowding, recognising it as a serious impediment to the realisation of humane conditions of detention. The Rules call upon states to adopt non-custodial measures wherever possible, especially for minor, non-violent offences, and to implement alternatives to pre-trial detention. This approach reflects the broader shift in international human rights law towards non-incarceration and the use of community-based sanctions.

In addition, the Rules underscore the necessity for reform in prison management and penal policies. They call for prisons to be administered in a manner that ensures safety, accountability, and respect for the inherent dignity of prisoners. This includes the professionalisation and training of prison staff, transparent grievance mechanisms, adequate healthcare provision, and regular independent inspections.¹¹ These Rules also promote rehabilitation and social reintegration as central goals of imprisonment. They urge states to design correctional programs that address the root causes of offending behaviour and prepare inmates for successful reentry into society.

The African Charter on the Rights and Welfare of the Child, 1990

It ensures special treatment for children in conflict with the law, including their separation from adult inmates.¹² Even though Tanzania is a signatory to this convention, its struggles to achieve full compliance are minimal, particularly in resource-constrained settings.

¹⁰ Rule 2.

¹¹ Rules 74–79.

¹² Article 17.

¹³ s.97–122.

¹⁴ Legal and Human Rights Centre (LHRC). (2022). *Tanzania human rights report 2021*.

The Law of the Child Act, [CAP 13 R.E 2019]

This Act domesticates international human rights provisions, emphasising the establishment of child-friendly justice mechanisms.¹³ The Act under part III provides for an avenue for the institution of cases against and the conviction of a child. However, the Act remains silent on the critical issue of separating children from adults within custodial settings. This legislative gap has contributed to the continued practice of mixed incarceration, where children are detained alongside adult offenders, in violation of both international and regional human rights obligations.¹⁴

The Prisons Act, [CAP 58 R.E 2002]

The Act regulates all matters about prison issues in Mainland Tanzania. It defines the term prisoner to mean “any person, whether convicted or not, under detention in any prison.”¹⁵ The Act requires the separation of prisoners, such as female and male prisoners, the sick prisoners, etc. But it is silent on the equipment of children who have been convicted in prison.

Under this Act, a person received in prison must be accompanied by an order or warrant of the court authorising the prison authority to receive and retain the person in question. The Act also recognises the situation where a child is not in conflict with the law, such as an infant child born in prison and that accompanying its mother, who may equally be received by the prison’s authorities¹⁶, so long as it is in their best interests to be there. However, it does not provide for the separation of these children from adult inmates, and consequently leads to the continued problem of mixed incarceration.

The Prison Standing Orders, 2003

These orders define the term child to mean a person under the age of twelve years.¹⁷ At the same

¹⁵ s.2.

¹⁶ s.25 of the Prison Act, [CAP 58 R.E 2002].

¹⁷ Part I Definition and Basic Principles.

time, it defines young prisoners to mean prisoners between the ages of sixteen and twenty-one years old. Under these orders, it is provided that “when young prisoners are received in prisons, they will at every prison, as far as conditions permit, *be separated from adults*¹⁸ and receive careful individual attention. The features of their rehabilitation will, as far as possible, be sustained work, physical, mental, and moral training to teach them self-discipline and careful arrangements for their future after discharge.”¹⁹

Also, under these Orders, children and young persons committed to prison or remand who are awaiting trial or pending transfer to the Approved School after conviction, are required to be segregated from other prisoners while detained in prison.²⁰ Officers in charge of prisons must use *their discretion*²¹ in this matter and will avoid, as far as possible, any tendency to solitary confinement in single cells. Any child or young person who is committed to prison pending transfer to the Approved School should be so transferred without delay.²² However, in many Tanzanian prisons, this goal has been for long been unattainable.

Human Rights Violated by this Practice

The mixed incarceration of children in adult correctional facilities constitutes a severe violation of the rights of the children. It exposes them to physical abuse, psychological trauma, deprivation of education, and denial of proper legal protection.

Physical Abuse

In many prisons, children are treated as adult inmates. They are subjected to prison regulations that regulate life within the prison. Those who are found to conflict with these rules are punished. They endure whippings (batons), confinement in separate or punishment cells, etc, for the purpose of maintaining discipline within the prison.

Forced Gangs and Slave-like Treatment

Often, children who enter adult prisons engage in gangs inside prison, and are made to act as “errand boys” for older inmates, forced to clean their cells, do their laundry, or provide other services in exchange for minimal protection. Failure to comply with gang rules can result in severe beatings or even death threats.²³

The hostile environment of adult prisons creates intense fear among child inmates. This is because exposure to violence, death threats, and isolation leads to high levels of stress, panic attacks, and anxiety disorders.

Overcrowding and Poor Sanitation

As mentioned earlier, almost all prisons are overcrowded, holding up to nearly two times their authorised accommodation. Many were built during colonial times when the total population was approximately 10 million, and crime rates were low. After independence, very few prisons have been built. Many districts still have prisons, necessitating prisoners to be sent to the neighbouring prisons, sometimes more than 100Km.

However, this is not sufficient to accommodate the increasing number of prisoners as criminal rates have increased following the growth of population, which is currently approximated to be 62 million as per the 2022 National Census Report.

Deprivation of the Right to Education

Children aged three years and above are expected to be in school pursuing different levels of education. This is the time their future and that of the nation is created. The Education Act, [CAP 353 R.E. 2009] requires regular attendance of all pupils enrolled at any school until they complete the period of instruction specified in respect of the level of education in which they were enrolled.²⁴

¹⁸ Emphasis added.

¹⁹ Prisons Standing Orders no 554.

²⁰ Prisons Standing Orders no 558.

²¹ Emphasis is added.

²² Rules 74-79.

²³ Robertson, O. (2022) *Children Imprisoned by Circumstances*: Human Rights and Refugees Publications, (The Quacker United Nations Office).

²⁴ s.35.

The incarceration of children and, more especially, long-term imprisonment makes it difficult for pupils and parents or guardians to comply with this provision, and therefore, it denies them the right to education.

Malnutrition and Starvation

Children in adult prisons suffer from malnutrition due to inadequate food rations. The Commission for Human Rights and Good Governance's 2024 report revealed that in some prisons, children and adult inmates were only given one meal per day, consisting of maize porridge with no protein or vegetables. Malnutrition weakens their immune systems, making them more susceptible to diseases.²⁵ However, the current situations show improvements in this area. Food supply is now satisfactory from the authority, and prisoners' relatives are encouraged to bring additional food from home during visiting days, especially those kinds of food that the authority cannot provide.

Denial of Proper Legal Protection

As it was pointed out earlier, many of our laws call for the protection of the rights of persons in places of detention such as prisons. However, their implementation is weak and therefore fails to meet the intention of the lawmaker. Failure to enforce legal protections is exacerbated by weak institutional accountability, under-resourced judicial and correctional systems, and a general lack of political will to prioritise the rights of detainees.

The denial of proper legal protection not only contravenes Tanzania's Constitution and other statutory laws, but also violates its commitments under international instruments such as the International Covenant on Civil and Political Rights and the United Nations Convention on the Rights of the Child, which the country has signed. Without genuine reforms to strengthen enforcement, improve oversight, and ensure

accountability, the legal recognition of prisoners' rights will remain largely symbolic and ineffective in practice.

Effects of Mixed Incarceration

Psychological Trauma

Children incarcerated in prisons, and more especially in adult prisons, are psychologically affected by life in these areas. The psychological effects are often severe and long-lasting, for they may continue even after they are released from prison. They include post-traumatic stress disorder (PTSD), anxiety, depression, withdrawal, aggression, and suicidal tendency.

Moreover, the stigmatisation that follows after release, together with a lack of structured support, hinders children from reintegrating into society, leading to a high risk of recidivism, homelessness, or social exclusion. In essence, mixed incarceration not only violates the child's rights under instruments such as the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, but also undermines their prospects for a productive and healthy future.

Development of Criminal Mindset

Instead of rehabilitation, imprisonment in adult facilities exposes children to hardened criminals.

The main goal of prison is to prevent prisoners from escaping and to rehabilitate them.²⁶ However, this goal is hard to achieve due to its inherent nature. The prison system inherited many of the colonial characteristics, including punishment rather than rehabilitation. Mixed incarceration of children and adults exposes children to adopting or learn criminal behaviours from hardened adult criminals. This increases their likelihood of becoming recidivists²⁷ upon their release. Therefore, instead of reforming, they

²⁵ Robertson, O. (2022) *Children Imprisoned by Circumstances: Human Rights and Refugees Publications*, (The Quacker United Nations Office)34.

²⁶ Prison Standin Orders, Principle iv of the Basic Principles Guiding the Prisons Services.

²⁷ Recidivism is the situation whereby a prisoner (convicted or awaiting trial) instead of rehabilitation after serving his sentence, develops into criminal behavior, thus reoffends, convicted and imprisoned. So, when a person is received in prison on such situation is where he is termed as a recidivist.

often leave prison criminally worse than when they entered.²⁸

Suicidal Tendencies

Many children incarcerated in prison lose hope and contemplate suicide due to the brutal conditions they experienced when they were in prison. The Commission for Human Rights and Good Governance's report (2023) noted that some child prisoners attempted suicide after they were released because they saw no way out of their suffering.²⁹

Moral Effects

Placing children alongside adults in the same place is morally not appropriate. In many civilised societies, and according to customs and traditions, children and adults do not share rooms in normal social settings. The reason is to protect children from learning bad conduct from adults. Researches show that people of the same age or status, when placed alone, tend to act as children regardless of their status. So adult inmates may equally behave childishly in front of the child prisoners, therefore lowering their credibility even after their release.

Challenges in Separating Child Offenders from Adult Inmates

There are several factors that contribute to the continued mixed incarceration of children alongside adults in Mainland Tanzania prisons; they include: -

Definitional Differences

Many laws that provide for the protection and welfare of the child define the term child differently. The Law of the Child Act defines it to mean a person under the age of 18 years. The Prisons Act does not specifically define it, but it defines the term young prisoner to mean a person between the apparent age of sixteen and twenty-

one years.³⁰ The Prison Standing Orders defines it to mean a person under the age of twelve years, and at the same time defines the term juvenile to mean any prisoner under the age of sixteen years.³¹

Such definitional differences create an obstacle to the enforcing officials in administering the separation process. There is a need to have a uniform definition of the term "child" in all legislation to avoid such unnecessary interpretational ambiguities. Alternatively, there should be added a provision in the Law of the Child Act (which is the law governing matters pertaining to children), to the effect that its definition must prevail when defining a child.

Lack of Juvenile Detention Centres

Mainland Tanzania has a limited number of juvenile detention facilities, leading to the placement of children in adult prisons. Currently, throughout the entire country, there is only one prison established for young offenders, that is "The Wami Prison for Young Offenders" located in Wami- Morogoro, one "Approved School" located in Mbeya, and a few retention homes located in Dar es Salaam and Arusha. Due to this small number with limited accommodation, it follows that only a few children and young offenders can be selected to go there, leaving a large number serving their imprisonment terms in adult prisons.

Overcrowding in Prisons

In Mainland Tanzania, most prisons are overcrowded, often holding up to twice their authorised capacity. This makes it difficult to maintain order, provide adequate services, or ensure the safety of inmates. Vulnerable groups, including children, suffer the most under these conditions. Overcrowding limits access to healthcare, rehabilitation, and meaningful separation of inmates based on age or risk. It also

²⁸Moseley, E. (2019) *Incarcerated Children of Parents in Prison Impacted*; Nairobi University Press (Vol 23, No3)43.

²⁹ Isaya, F. *Perspectives of Children and Young People with a parent in Prison*; Dar es Salaam University Press, Vol. 2 No. 12, 45.

³⁰ s.2 of the Prison Act [CAP 58 R.E 2002].

³¹ Part I-Definition and Basic Principles.

undermines compliance with international standards like the Nelson Mandela Rules. In this situation, the prison environment becomes punitive rather than corrective.

Many prisons lack separate wings for children, and where they exist, they are often insufficient. As a result, children are sometimes detained with adults, exposing them to abuse and trauma. This violates both domestic laws and international standards such as the CRC and the ACRWC. The lack of separation prevents age-appropriate rehabilitation and support. Children's psychological development is severely affected, and the harm often continues even after release. These failures weaken the juvenile justice system's purpose of rehabilitation and reintegration.

Limited Training for Law Enforcement Officials

Reports show that many officials in the criminal justice and rehabilitative systems lack specialised training in handling juvenile offenders. The curriculum for training them does not provide materials relevant to the treatment and welfare of the child. As a result, they tend to treat them just like adult persons and thus undermine their rights.

Societal Perceptions and Stigma

Prevailing attitudes may support the harsh treatment of child offenders, complicating advocacy for humane detention conditions.

CONCLUSION

Separation of children from adults in places of detention and prison, in particular, is a legal, ethical, and developmental necessity. It can foster a positive impact on the rehabilitation process, reducing the chances of abuse of children's rights and negative influences from adult inmates. To this end, it is expected that the recidivism rates will be lowered and the incarcerated children will be able to reintegrate their society upon their release.

Recommendations

The issue of separating children from adults in prison in Mainland Tanzania is crucial for child protection, human rights, and criminal justice reforms. Urgent reforms are needed to ensure the complete separation of juveniles from adult offenders, as well as the provision of child-specific facilities and services aimed at rehabilitation and reintegration. Here are some recommendations to address this issue.

Strengthening Legal Framework and Enforcement

The Prison Act, 1967, should be amended by adding a provision to recognise the separation of children from adult prisoners within prison premises. The Act has recognised the separation of female prisoners from male prisoners and those who are sick, but the Act is silent on the separation of children from adults. The law should make it mandatory for the Officer in Charge of Prisons to make sure that children are separated from adults within prison premises. Currently, this issue is handled at the discretion of the Officer in Charge of the Prison in almost all prisons, and more especially where there are inadequate infrastructures.

Establishment of Separate Juvenile Facilities

The Tanzanian government should increase the number of juvenile detention centres. It should invest in dedicated juvenile rehabilitation centres to accommodate children in conflict with the law. This can be done by establishing in every prison a separate wing for children, as is now for women prisoners, also by improving the existing Remand Homes.

Ensuring a Child-Centred Rehabilitation Environment

Prisons are intended to provide a temporary but protective environment for children in conflict with the law, especially those awaiting trial or sentencing. However, in many regions of Mainland Tanzania, these facilities suffer from neglect, underfunding, and a lack of coordination with broader juvenile justice objectives. To

effectively separate children from adult inmates and uphold their rights, it is essential to improve the standards and conditions within retention homes.

Implementation of Diversion and Alternative Sentencing

Courts should resort to expanding the use of alternative punishment to imprisonment and the fast dissolution of cases involving children. They should, in particular, apply community service,³² probation and counselling for children who commit minor offences rather than sentencing them to imprisonment. Those who commit major offences should be imprisoned for their security and societal peace. Therefore, when children and young persons are sentenced to imprisonment, the magistrate who commits them to prison must have some good reasons for doing so.³³

Other organs in the rehabilitative justice, such as the Community Service, the Probation Officers and Social workers should work in close cooperation with the court and other organs in the criminal justice system to ensure that children in conflict with the law do not enter into prison or receive an alternative sentence immediately after they are received in prisons. This can be achieved by engaging families and communities of the victims in rehabilitative justice.

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³² Community Service means a rehabilitation program administered under the Community Service Act, 2002.

³³ Prison Standing Orders no. 556.