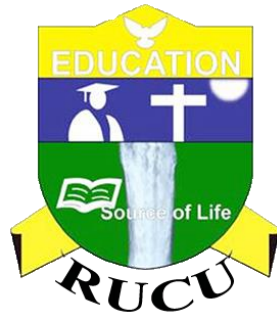


**RUAHA CATHOLIC UNIVERSITY**



**Faculty of Law**

**RESEARCH**

**“LEGAL PROTECTION OF CHILDREN AGAINST BURNING VIOLENCE IN TANZANIA**

**AT IKUNGI DISTRICT COUNCIL: An Examination of section 13 of the child Act**

**[Cap.13 R.E 2019]**

**A Research Paper Submitted in Partial Fulfillment of the Requirement for the awards of  
Bachelor of Law Degree (LL.B) At Ruaha Catholic University, Iringa, Tanzania.**

**By**

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**JULY, 2024**

## CERTIFICATION

The undersigned certifies that, he has read and recommends for acceptance by Ruaha Catholic University the research paper titled: *“LEGAL PROTECTION OF CHILDREN AGAINST BURNING VIOLENCE IN IKUNGI DISTRICT COUNCIL: An Examination of section 13 of the child Act Cap 13 R.E 2019”* submitted in a partial fulfilment of the requirement for award of bachelor of laws (LL.B) degree Ruaha Catholic University

.....

MR. KINEMO, R.

DATE.....

## DECLARATION

I Bibiana Marco, hereby declare that the content of this research is my own work for the best of my knowledge. Where different materials have been used, I acknowledged them and this work has not been submitted at any universities as similar.

Signed on.....day of.....year.....

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## **DEDICATION**

This study is dedicated to my family, Mr. and Mrs. Donkoli and my Brother Isaac Marco Donkoli who supporting me at all stages in academic issues.

## ACKNOWLEDGEMENT

I would like to say thanks to God for strength and salvation from the beginning to the end of this research paper ,also i like to thanks my family especially parents who they being with me at all moments during the time for collecting information to the study.

I sincere gratitude to my supervisor MR. ROSS KINEMO who supervision and advice at great percentage to me. May God bless you.

I like to appreciate all staffs at Faculty of Law at Ruaha Catholic University for their assistance which enable me to complete the study.

Lastly I thank my loved brother Isaac for his contribution to this study, May God bless you and protect you.

## **ABSTRACT**

This research is based on legal protection of children against burning violence in Ikungi District Council: An examination of S 13 of the law of the child Act Cap 13 R.E 2019. Where the laws of Tanzania have well prohibited burning practices to children by imposing punishment to the perpetrators but some societies in Tanzania still contradict this law by conducting inhuman practices to child which dehumanizes and degrading their wellbeing.

The research based on to examine Tanzania laws which governs children and find out the nature and extent in which they can humper the protection of children towards burning violence, to make examination on child policies and other problems towards burning of children.

The research is based doctrinal and non-doctrinal research depended on the nature of the study and type of data requires, it involve interview method, documentary review, sampling and questionnaires as qualitative technique of collecting data by researcher.

The researcher present the whole research by divided into five chapters, as chapter one which provide introduction on legal protection of Tanzania against burning violence, chapter two based on key terms related to title including concepts, definitions, forms and causes of the study, chapter three provide for legal and institution framework related to the study, chapter four provide for findings, analysis and presentation of data from the field related with study, chapter five as final provides for Conclusion and recommendations of the study by the researcher on what should be done to solve the problem.

## **LIST OF LEGISLATION**

International Covenant on the right of a child investigation forum, 2009.

Committee on elimination of discrimination against Women charter 1979 .

United Nations Convention on the Right of the Child, 1989.

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

African Charter on Human and Peoples Right, 1994

The Constitution of United Republic of Tanzania Cap 2 of 1977 amended time to time

Law of child Act Cap 13 RE 2019

The law of Marriage Act Cap 29 R.E 2019

The Penal Code Cap 16 R.E 2019.

The Employment and Labour Relation Act, 2004



## LIST OF CASES

Tumbo V. Tumbo [1983] TZHC

Rev. Mtikila v. Attorney General (2006) TLR 31 fundamental rights of human being protection

Amina Bakari vs Ramdhani Rajabu, [2023] (unreported)

R v. Jawila Ghalib (1984) TLR

**LIST OF ABBREVIATIONS**

ACRWC	African Charter on the Rights and Welfare of the Child
LHRC	Legal Aid and Human Rights Centre
CRC	Committee on the Rights of the Child
CEDAW	Committee on elimination of discrimination against Women
UNICEF	United Nations International Children Education Fund
SWO	Social Welfare Officer
CURT	Constitution of United Republic of Tanzania
LMA	Law of Marriage Act
LCA	Law of the Child Act
V	Versus
OAU	Organization of African Union
CAP	Chapter
TLR	Tanzania law Report.

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## CHAPTER ONE

### GENERAL INTRODUCTION

#### 1.0 Introduction

The word Burning means an injury caused by exposure to heat intentionally, it involve painful sensation in the muscles<sup>1</sup>. Burning of a child is an act of injury to the child body and it cause harm to child, historically burning of child was taken as one of method used to shape the behavior of child against theft, rape and so on in African societies.

Burning violence is considered as inhuman practices that are conducted in many African societies as provided under S13 of the law of child Act that burning was inhuman cultural practices involving use of fire against children<sup>2</sup>.

Burning of children has been reported in Africa countries<sup>3</sup> and occurs mainly in countries along from Senegal in West Africa, to Egypt in North Africa, Somalia in East Africa and Democratic Republic of Congo in Central Africa that burning it carried out as heritage of the past as ethnic identity, according to customary law most of tribes tend to practice it as belief to shape child behavior, burning of children is prevalent in many parts of the world particularly in Africa, middle East and Asia, Despite internationally recognized as violence ,but burning continues to be practiced due to societal and cultural beliefs.

Tanzania as an African country faces burning in many parts of region at Singida, Mara,

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<sup>1</sup> <https://www.dictionary.com/browse>. (accessed in 4 July 2023 10:06 am)

<sup>2</sup> Law of child Act CAP 13 R.E 2019 S 13(1)

<sup>3</sup> Y. Camila, and F. Yonathan. Human right issue: Effectiveness of the law against cultural practices in Tanzania, *Human law journal*. (2013).

Shinyanga, Dodoma, Geita and Kilimanjaro.

There are international laws, treaties and Domestic laws that prohibit burning practice and recognize it as violation as follows.

**The united Convention on the right of the child**, it prohibits any inhuman practice that is harmful to the health and development of child which includes burning as it provides measures to be taken by the state to prevent burning practice<sup>4</sup>for the health of children.

**The African charter on the right and welfare of the child.**<sup>5</sup> This was adopted by African union in 1990 prohibits burning as cultural practice and recognizes the right of the child to be protected from all forms of harmful practices, the charter imposes protection against cultural inhuman practices for these customs and practices degrading to the health of child.

**African charter on human and people's right**,<sup>6</sup> It adopted by the African countries responsible for promoting and protecting human rights in Africa, it established different commissions responsible for protection of people's right including child and women in Africa.

**The International covenant on civil and political rights**, this was adopted by the United Nations that prohibits torture, cruel and inhuman treatment including burning cultural practice.

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<sup>4</sup> UNCRC convention 1989 Article 2(2)

<sup>5</sup> The African Charter on Rights and Welfare of the Child, 1990 charter 1990 Article 21

<sup>6</sup> African Charter on Human and Peoples Right, 1994 1981 Article 30

**The Constitution of united Republic of Tanzania,**<sup>7</sup> provides for the equality before the law by making sure that No law enacted by any authority which discriminate child rather than protection and wellbeing of children in Tanzania.

**The Law of child Act,**<sup>8</sup> provides for the protection of child against burning as cultural practices done by African culture specifically in Tanzania mainland and anyone contravene with section commit an offence and liable for six months.

These are international treaties and domestic laws that cover the cultural practices on the right and welfare of the child and recognizes a privilege place in Africa for protection of child and prove it is violation.

### **1.1 Background of the problem.**

<sup>9</sup>Historically, Burning existed in 1893 that fire have burned and used to burn crops after harvest, also fire have been burned in African landscape for more than a hundred million years ago, it discovered first in Africa from the wonderwork cave site, in Northern cape of South Africa that fire used to shape behavior of child. It reported that under 28 countries in Africa as from Senegal in West Africa, Egypt ,Somalia and in Diaspora communities in North America and Europe as ancient practices, In 1924 The league of Nation passed the declaration of the right of child which was succeed by the declaration in 1959.

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<sup>7</sup> Constitution of URT 1977 Article 12

<sup>8</sup> Law of child Act Cap 13 RE 2019 S13

<sup>9</sup> <https://www.academic.ouo.com/article/abstract> (accessed 4july 13:35 pm)

In 1989 The convention impose obligation to the state to take measures to ensure child protection against any cultural practice and come into existence in 1990 after the obligation imposed to state, In 2009 Tanzania was among of African state had no specific law for child rather than law of marriage Act of 1971 and adoption of ordinance in custody of child as to the case of *Tumbo V. Tumbo*<sup>10</sup> under Judge lugangira that used into child proceedings.

In 2009 the law of child Act was enacted to improve the protection of child against all forms of violence involving cultural practices made by African culture as their belief to shape behavior of a child.

In Tanzania children face Discrimination from their parents due to cultural beliefs that the use of fire was best method to treat child but inside it affects many children physically, There are different Nations become into treaty to prohibit African cultural beliefs against burning of child through African charter and conventions, despite of all efforts there are still a problem of burning violence among tribes in Tanzania.

## **1.2 Statement of the problem.**

Burning of children is inhuman treatment which intended to shape the behavior of children within African societies. This punishment is inhuman and contravenes both national and international laws.

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<sup>10</sup> [1983] TZHC 4(19) January

Although Tanzania has enacted various laws, regulations and rules which prohibit burning as inhuman punishment to children as cultural method but the law does not insufficient in S 13 of the law of the Child Act in which many tribes in Tanzania continue practicing this inhuman and very degrading punishment to children because the law it fails to state and make updates of some provisions , Thus, this study intends to analyze burning violence laws and other problems facing the African countries also to find out the nature and extent in which these laws enhance or hamper the protection of children against burning practices in Ikungi District Council.

### 1.3 Literature review

There are some literatures which have tried to address the issue of child discrimination against children, but they are failed to show how the child Act tried to protect children against inhuman cultural practices.

Judge Lugakingira,<sup>11</sup> in the case of *Rev. Mtikila v. Attorney General* says that; fundamental rights are not gifts from the State, they are inherently in a person by reason of his birth and are therefore prior to the State and the law.

This authority used as a reference in this study to show that children being human beings their rights are there naturally, therefore the State has to protect them through courts which are vested that power, with that notion laws are there to protect children against all forms of discrimination.

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<sup>11</sup> (2006)TLR 31 fundamental rights of human being protection

Mashamba<sup>12</sup>, He made some important issues on the protection of children in general, that the law should include the definition of the word "child", "violence" discrimination" and shown their rights, punishment to perpetrators and remedies to victims. These study it helpful in developing this study because the researcher wants to make a finding on whether children are being adequately protected against burning by courts in Ikungi District.

Alison Cleland,<sup>13</sup> in her study on how children can be protected from all forms of abuse she suggested that strong legal mechanism should be developed in order to ensure safety to children. Also the author says that legal recognition of children protection should considered in wide.

This authority is useful for the researcher to make clear analysis with other state as that of Tanzania where there is the Law of Child Act of 2019

Fahamu Mtulya <sup>14</sup> Based to all member states, who are signatories to convention on the right of child, to prove that children are valuable group within societies and they need specific measures towards their protection and promotion of their rights to allow their full and health development because, child needs special care including legal protection before and after birth.

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<sup>12</sup> C.J. Mashamba, *Using the Law to Protect Children's Rights in Tanzania: An unfinished business* : Dar-es-Salaam : National Organization for Legal Assistance, (2004), pp. 10-12

<sup>13</sup> A. Cleland. *Child abuse, child protection & law* 1Ed. London Green & son Ltd, (2008). pp.10-20

<sup>14</sup> F.H. Mtulya, (2008). "Protection of children's right in Tanzania. The role of juvenile court in Administration of justice". *The open university law journal* vol.2.pp.147

Although this authority is relevant in this study so far as it advocates the protection of children, yet the author has not discussed the role of enacted law in protection of children against burning as cultural violence.

Jonathan Herring<sup>15</sup> Is of the view that, the impact of violence done by family members may itself harm the child. Indeed, one study of children who had suffered abuse showed that 39% of them had come from families. The author argues that burning violence is a major factor justifying the making of a care order in respect of the couple's child. He further provides that Section 5 of the Domestic Violence, Crime and Victims Act 2004 creates an offence of failing to protect a child who was at risk of death by considering burning violence in African culture it is an offence.

Republic vs. Eliza Odira<sup>16</sup> This case occurred in April 8 at Mara region a resident of rorya district convicted by injurious children with 2-6 years by burning them into hands and cause disability to children, the whole situation it seems that the burning of children still exist in African countries and contravened with Article 12 of Tanzania constitution and S 13 of child Act as any cultural practices involving burning is violation against children and more children still affected by such inhuman cultural practices.

#### 1.4 Hypothesis

It appears that, the laws governing child protection against inhuman burning practices it contradicted with tradition customs in Ikungi District council due to insufficient of the law.

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<sup>15</sup> S. Herring, *Family law*, 4 Ed. London. Longman, (2009) p.276

<sup>16</sup> [2023] (unreported)



## **1.5 Objectives of the study**

### **1.5.1 General objectives.**

To examine the child protection laws and find out the nature and extent in which they can enhance or hamper the protection of children against burning violence in Ikungi District.

### **1.5.2 Specific objectives**

- i. To examine S 13 of the child Act and find out the nature and extent in which they can enhance the protection of children against burning violence.
- ii. To examine child protection policies and find out the nature and extent in which they can enhance or hamper the protection of children against burning violence.
- iii. To examine other child protection problems and find out the nature and extent such problem can enhance the protection of children against burning violence.

## **1.6 Significance of the study**

Parliament, the research it helps to find effective ways to protect children by making some updates to the law of child Act from cultural beliefs in order to improve their physical and psychological well-being.

Community, the research it help to raise awareness to the community against the negative effects of burning cultural practice to children.

Researcher, this research it help to stop the continuation of inhuman practices to children must be after receiving and making education to the responses through seminars and medias.

## **1.7 Research methodology**

The study is based on empirical and doctrinal research depending on the nature of the topic and the type of data requires, empirical research involve data from field respondents through unstructured interviews, questionnaires, and doctrinal research involving legal materials and other documents.

### **1.7.1 Methods of data collection.**

#### **1.7.1.1 Primary method.**

##### **Interview method**

The researcher use interview in gathering data and information direct from the respondents, where the questions are asked by the researcher and answering by respondents. Unstructured interview is used to allow the researcher to get more detailed information from the respondents about the topic.

##### **Documentary Review**

The researcher conducted research through documentary review, by collecting data from published and unpublished legal materials from books, reports, newspapers, laws and websites, this method help the researcher to get more information on the problem and also to know what has been discussed by other researchers.

## **Questionnaires**

The researcher used questionnaires to collect data and information by design questions to the respondents where the question asked by the researcher help to get more detailed from the respondents about the study also method help to increase experience and awareness to the people for the effects of burning children as method to shape behavior especially in Ikungi District Council where it proven that the problem is widely developed.

### **1.7.2 Secondary method**

The study involve survey design as is conducted in some areas within Ikungi District, the researcher focuses in government institutions, parents, elders, police officers and other social welfare organizations, the researcher uses random sampling to reduce bias by selecting any person to give information. The total number is 35 respondents, 3 police officers, 10 social welfare officers, 15 parents, 2guardians, 3 magistrates and 3 elders.

### **1. 7.3 Data processing and analysis**

The study uses qualitative and quantitative technique where the researcher collected data through interviews, documentary review and analyze it qualitatively, through this enable the researcher to analyze various results from data and writings.

## **1.8 Scope and Limitation of the Research**

### **1.8.1 Scope of the research.**

The research is conducted within Ikungi District in Tanzania in order to examine how laws protect children from burning violence as inhuman cultural practice conducted by

Tanzania societies specifically Ikungi District is contradicted with their customs.

### **1.8.2 Limitation of the study**

The researcher faces several challenges during collecting of information like,

Difficult to get legal materials with updated information to the research example current documents, most of documents are old publications but the researcher has overcome this challenge by organizing some respondents who agreed to provide current copies of the documents related to the topic.

Difficult to conduct face to face interview, the researcher faces difficulties in getting information because some of respondents like police officers and social welfare officers some are difficult due to their tough activities and other respondents they unwilling to sit for face to face interviews.

### **1.9. Conclusion**

Generally, the aim of the study is on child protection against burning violence in Tanzania specifically at Ikungi District to examine how laws plays a role to protect child, because burning child as method uses to shape their behavior has increasingly to the point that children fail to enjoy their rights on mental and physical standard. It proven that this problem has less attention to the community because perpetrators feel free to inhuman children without facing clear legal sanctions. Therefore, the researcher decides to examine efforts taken by courts, community towards child protection against violence.

## CHARTER TWO

### CONCEPTUAL FRAMEWORK RELATING TO THE LEGAL PROTECTION OF CHILDREN AGAINST BURNING VIOLENCE IN IKUNGI DISTRICT COUNCIL

#### 2.1 Introduction

This chapter based on concepts relating to child protection from burning violence in Ikungi District Council, the chapter covers the definition, forms, causes and effects of burning cultural violence against children.

#### 2.2 Meaning of the word Child

According to section 4 (1), Article 1, and Article 2, defines the word child as a person below the age of eighteen years.<sup>17</sup> It is worth saying that a settled definition of the child by these legal instruments has expanded both the scope and the need for child protection from burning violence, It is argues that the LCA and International conventions have stated about a very progressive definition of the child.<sup>18</sup>

It must be noted that the study is concentrated on the definition of a child in matters relating to family law, that is, child protection against burning violence, definitions, case law in Tanzania contributed to the definition of a child in matters relating to family

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<sup>17</sup> The African Charter on Rights and Welfare Of The Child, 1990 Article 2

<sup>18</sup> The Law of the child Act 5 4(1) Cap13 RE 2019.

law.<sup>19</sup>The same view is expressed by Judge Lugangira, in the case of **Amina Bakari vs Ramdhani Rajabu**, the question as who is a child within a family life, including right to be protected from burning violence.<sup>20</sup>

### 2.3 Inhuman practices

Inhuman practices means an action done by people or group of people to another person or animal, it considered that any person make an action which is illegally and involve painful sensation to another he or she make inhuman and harmful action to that person, example to keep another person in terrible situation it termed as harmful action.<sup>21</sup> According to Tanzania laws, international and regional instruments it recognized that child marriage, female genital mutilation and other cruel practices involving cultural and traditional practices like cultural burning is among of harmful action to children, it provided to Tanzania law of child § 13(2) that any person practicing inhuman and other cultural practices make an offence, burning actions to child it practices as traditional and customs to different societies by kurya, nyaturu, jita, masai and Waha as their taboos to do so but it contradict with law.<sup>22</sup>

The burning of children it involves traditions which is different from child protection, example the right of women to control their own fertility it is a challenge faces by women due to traditional practices within society and it practiced secretly by family

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<sup>19</sup> J.C. Mashamba, *Introduction to family law in Tanzania*, (2010) pg. 81

<sup>20</sup> 1984 TLR

<sup>21</sup> <https://www.vocabulary.com/dictionary>. ( accessed in 14 January 2024 12: 44 pm)

<sup>22</sup> S. 13(2) The law of child Act Cap 13 R. E 2019

members.<sup>23</sup> It still prohibited and eliminated worldwide but some African societies still contradict with all laws protect the child, there is plans and strategies can be taken by the government to prevent the situation.<sup>24</sup>

- i) International instruments which protect children should be well drafted and aware to the community, laws and policies relating to child protection should be binding and known to the people for more consideration.
- ii) Governmental bodies should be created to implement the official policy which is adopted, all necessary policies prohibited discrimination to both child and women should be implemented to government bodies.
- iii) Legislations prohibiting inhuman practices should be also drafted.
- iv) Mobilization should be considered to the people contributed to eliminate discrimination to child health.
- v) Topics relating to traditional and cultural practices to child should be introducing into syllabus at primary and secondary education.

## 2.4 Burn

Means an injury caused by exposure to heat which involve painful sensation in the muscles.<sup>25</sup> It may be in way of direct heat, chemicals, electricity and the common causes of burn injuries are electric shock, lighting, Domestic accident and industrial accidents. It

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<sup>23</sup> <https://www.unicef.org.protection.harmful.com> (accessed in 14 January 2024)

<sup>24</sup> Convention on the Elimination of children against all forms of discrimination 1979 Article 5(a)

<sup>25</sup> <https://www.dictionary.com/browse>. (accessed in 19 January 2024 at 13:27 pm)

involves pain swelling redness and skin coagulation.<sup>26</sup> It occurs much physically from different parts of human body and may cause disability and death to a victim.

## 2.45 Violence

According to Black's law Dictionary the word violence means an assault or act committed by one member of household against another. But burning violence to a children means act done by the person within household which is inhuman to children, they uses as a method to control abusive behavior.<sup>27</sup> Burning violence to child, means the use of fire instruments like electricity and water to heat a child body, it is done by family members intentionally with knowledge that it is violence.

## 2.6. Types of Violence.

In order to identify violence it should categorized into domestic and cultural as preferred to child law,

### 2.6.1 Physical violence

Physical violence involves injuring, disabling or killing the human body; the perpetrator uses a weapon to heat body of the victim. Physical violence involves a variety of acts, to wit, punching, hiping or kicking and burning some body organs by locking inside the room, to carry warm tools and not allowing food, sleep, and medical care among

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<sup>26</sup> M. Ahmed, *Medic law and ethics in East Africa*, (2001), pg 217-248.

<sup>27</sup> B.A. Garner, *Black's law Dictionary* Retrieved from <https://www.thelawdictionary.org/article/violence.com> (13:19 pm.)



others.<sup>28</sup> Also physical violence it involve sexual elements like kissing, slapping unwilling to the different parts of child body termed as rape violence.<sup>29</sup>

### **2.6.2 Psychological violence.**

This is an intentional actions committed by one person to another and causes injury, it takes long time to forget, and that convey to a child the message that he or she is unloved, unwanted, endangered or only of value to meet someone else's needs.<sup>30</sup> Treating a child differently from others makes dangerous to their minds like unemotional support, isolation, neglect, terrorizing a child are some common forms of psychological violence.<sup>31</sup>

## **2.7 Causes of violence Against Children (why burning to children).**

### **2.7.1 Poverty**

Some families feel they have no choice but to sell their children to other individuals for sexual and domestic work in exchange with money or food. Although in most cases poverty creates an environment in which children are more likely to be subjected to

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<sup>28</sup> C. Montaldo, *The Different types of Domestic violence*, (2019). Retrieved from <https://www.thoughtco.com/domesticviolence> (Accessed on 20 Jan at 10:00am).

<sup>29</sup> T. Furniss, *Child Sexual Abuse by Pertrator*, London, (1991) Pg.89.

<sup>30</sup> Unlike emotional violence, psychological violence involves a series and pattern of actions which inject into a child's mind negative implications about himself and his parents which grow with him to his adulthood.

<sup>31</sup> Ibid.

violent crime from outside the family,<sup>32</sup> as a factor family members force their children to work for better life after receiving money, example most children suffered into different big regions like Arusha, Dar es salaam, Mwanza Dodoma and Kilimanjaro for Domestic works due to poor life and forces by family members.<sup>33</sup>

### 2.7.2 Culture and tradition

It is argued that harmful practices to children are widely, example early child marriage are common in those fewer than 16 years of age and lead to fistulae and death.<sup>34</sup> Burning of children is taken as culture in many African societies and heritage of the past ethnic identity after children making wrongful actions, also most children are forcing to engage into dangerous activities which were inhuman to them.<sup>35</sup> This aspect was relating to **Rebecca Gyumi case** that after the provisions of section 13 and 17 of LMA allows an infant girl to marry, and which in the face of it reflects an African tradition for kurya and sukuma tribes but the court did not consider on the ground that subjecting an infant to difficult matrimonial and conjugal obligations is against the best interest of a child.

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<sup>32</sup> Physical injury to abused child leads to death in most cases, LHCRC Report of 2015 at pg. 147 that, Hollo John killed her son aged 5yrs after quarrel with child's father at Urambo District in Tabora Region.

<sup>33</sup> J. Herring, *Protection and Reasons for Domestic abuse*, (2013), Pg. 594.

<sup>34</sup> L. Shivji et al, *Constitutional & legal system of Tanzania: A civil sourcebook* Dar es Salaam publisher Ltd. (2004)

<sup>35</sup> Y. Camila & F. Yonathan, *Effectiveness of the law against cultural practices in Tanzania*, (2013).

### 2.7.3 Discipline

In Tanzania excessive corporal punishment and child beating within the family have brought about complications on the physical and social welfare of many children.<sup>36</sup> Burning is one of the method taken to shape children behavior without considering how it may cause danger to children, it reported in case of **R v. Jawila Ghalib (2023) TLR**, were a child of 10years was injudicious by his step mother (Jawila Ghalib 28 years) after claiming he has stolen 500 shillings, the case was reported on December 28, 2023 at Mtakuja street at Geita.<sup>37</sup>

### 2.8 Effects of violence against children.

Children who are affected by burning violence experience negative impacts to their physical, psychological, emotional, social, behavioral and developmental functioning.<sup>38</sup>

Apart from death, burning of children affects the victims' education and other inhuman acts such as beats, insults, shouts, ignoring, denying food, sexual harassment, destruction of child personal property, threats and humiliation, among others may result in psychological harm, emotional harm, physical pain and injury, lack of self-confidence and lack of self-esteem to the victim.<sup>39</sup> Other suffered disability due to heat intentionally by family members.

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<sup>36</sup> UNICEF, *It is necessary to punish children to make them well but excessive beating and heavy punishment it leads death and affect their health.* (2017).

<sup>37</sup> TLR (2023).

<sup>38</sup> M. Mwale, *Effects of Domestic violence on children education*, pg. 45.

<sup>39</sup> G. Beuren, *The international law on the rights of the child*, (1995), pg. 16 &102.

## **2.9 Conclusion**

The chapter has provided for the conceptual frame work in relation to protection of children against burning Violence, it shows how child protection is taken and considered by different laws on the issue of burning, also the chapter does not dealt with a legal framework relevant to child protection but this aspect will be discussed in the next chapter.

## CHAPTER THREE

### THE LEGAL FRAMEWORK AND INSTITUTIONS OF CHILD PROTECTION AGAINST BURNING VIOLENCE IN TANZANIA MAINLAND

#### 3.1. Introduction

The chapter focuses on international laws, regional laws and Domestic laws towards child protection against burning violence in Tanzania specifically Ikungi District Council. The reason of chosen this area on burning cultural practice of children is that, many children in Tanzania has suffered much against such inhuman practices which is very degrading punishment to children. The analysis is based on how legal frameworks ensure child protection from inhuman practices conducted within families and societies.

#### 3.2. International Legal Framework

Since 1990's, Tanzania has develop national and policies to promote the welfare of a child <sup>40</sup> that has ratified some of international human rights instruments on child protection such as Convention on the Rights of Child which is ratified on 10<sup>th</sup> July 1991 with its protocols, the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW) which was ratified on 21<sup>st</sup> August 1985. <sup>41</sup> Since that time Tanzania has been working to improve the environment to child and women rights.

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<sup>40</sup> Tanzania child rights forum,(2013).pg. 2

<sup>41</sup> C.J. Mashamba, *The law to protect children right in Tanzania*, (2004), pg. 7.

### 3.2.1. The UN convention on the Rights of Child of 1989.

This is the main law convention on the rights of the child which is adopted for the purpose of making protection to children against all kinds of discrimination, by requires all state members to take measures to their protection from all forms of violence.<sup>42</sup>The CRC it represents a very comprehensive value ability of children by, covering both the traditional as classified civil and political, economic, social and cultural rights on the other.<sup>43</sup>

For the purposes of protecting children against all forms of violence, States are obliged to enact laws specific for child protection and to take appropriate administrative strong measures to affect their enforcements.

### 3.2.2. The African Charter on the Rights and Welfare of Child of 1990.

Africa is the only continent with a regional treaty on the rights of the child, namely the African Charter on the Rights and Welfare of the Child (ACRWC) that was adopted by the Organization of African Unity (OAU) in July 1990. The ACRWC was adopted to provide for a specific and comprehensive mechanism for the protection and promotion of children's rights and welfare at the African regional level.<sup>44</sup>

The adoption of the ACRWC was a significant historical milestone that manifested the need for legal protection of children in an African context.<sup>45</sup> According to the adoption of African charter it obliged state to protect children from harmful social and cultural

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<sup>42</sup> United Nation Convention on the Right of the Child 1989 Article 2(2).

<sup>43</sup> Ibid.

<sup>44</sup> The African Charter on Rights and Welfare of the Child, 1990 charter1990Article 21

<sup>45</sup> C.J. Mashamba, *Children Protection Rights in Tanzania*, (2004), pg. 7

practices as punishment to shape their behavior, also before the adoption of the ACRWC, the OAU had recognized various children's rights in its programmer including child trafficking and child abuse. The adoption of this instrument was also a milestone for the implementation of A CRWC.

### **3.2.3 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).**

The CEDAW was adopted for the purpose of regulating women's rights.<sup>46</sup>The word woman under the instrument includes a girl child. CEDAW it provide the international legal framework to address the rights of women and children to all forms of cultural violence.<sup>47</sup>

In regard to child protection from inhuman practices, states are obliged to take necessary measures to eliminate discrimination against girl children. By doing so state parties are duty bound to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women.

The provisions of the convention are coached in such terms as to eliminate all forms of discrimination against girl children in all spheres of life. Children, being a venerable group are entitled to fully protection of their physical and psychological wellbeing from all forms of violence without discrimination on any ground, whether their sex or status<sup>48</sup>. However, like other international instruments, this convention presents a potential

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<sup>46</sup> The Convention on the Elimination of All Forms of Discrimination against Women charter 1979 Article 1.

<sup>47</sup>A.M. Khattab, *The elimination of all forms of violence to girl child*, (2006), pg3

<sup>48</sup> The Convention on the Elimination of All Forms of Discrimination against Women Convention Article 2

weakness when it comes to its enforcement, which depends mainly on the states' willingness.

### **3.3 Institutional Framework**

#### **3.3.1 Committee on the Rights of Child (CRC).**

As far as protection of children from all forms of violence as concerned, the committees operate child protection by monitoring mechanisms as state reporting, inquiry and communication procedure.<sup>49</sup> It is done through special bodies treaty as an instrument to protect child traditionally, the body it select an expertise from national states concern with human rights treaty.

#### **3.3.2 Committee on the Rights and Welfare of the Child**

This is a body of experts composed of 11 members of high moral standing, integrity, impartiality and competence in matters of the rights and welfare of the child.<sup>50</sup> The committee in its mandate may require states to submit through the General-Secretary reports on the measures they have adopted which give effect to the provisions of this Charter and on the progress made in the enjoyment of these rights.<sup>51</sup>

The Committee may receive communication, from any person, group or nongovernmental organization recognized alleging the violation of rights and welfare of a child by the state party.<sup>52</sup> In its own motion, the committee may make investigations

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<sup>49</sup> M. Kweka, *The Protection against all Forms of Violence*, (2016) pg. 30.

<sup>50</sup> The African Charter on Rights and Welfare of the Child, 1990 convention Article 33.

<sup>51</sup> The African Charter on Rights and Welfare of The Child, 1990 Article 42

<sup>52</sup> The African Charter on Rights and Welfare of the Child, 1990



into the violations of children's rights, prepare reports and make recommendations on it.<sup>53</sup>

### **3.3.3. The African Charter on Human and People's Rights.(1981)**

The court is established under Article 1 and it is covered with jurisdiction to receive and determine human rights complaints brought by an individual or Non- Government Organizations.<sup>54</sup>The African court is a proper forum for child protection and provided that local remedies are not available.<sup>55</sup> The court it protects children from violence by putting legal practice into practice but decision made by court and committees lack legal force and their implementation depends on the willingness.

## **3.4 Domestic laws**

The Government of the United Republic of Tanzania is committed to the protection and promotion of human rights as defined by the Constitution of the United Republic of Tanzania of 1977 and other regional and international instruments. This part highlights different laws in District which have been put in place for child protection from the burning violence specifically in Ikungi District Council.

### **3.4.1 The Constitution of United Republic of Tanzania.**

The Constitution it makes efforts to all human being to ensure good social services to all citizens as codified into Article 12 of the Constitution of United Republic of Tanzania.<sup>56</sup>

The principles of natural rights are explained from Article 12-29 of the Constitution

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<sup>53</sup> The African Charter on Rights and Welfare of the Child, 1990

<sup>54</sup> African charter on Human and Peoples Right, 1994 Article 1 of protocol.

<sup>55</sup> African Charter on Human and Peoples Right, 1994 Article 56(3).

<sup>56</sup> Article 12 The Constitution of United Republic of Tanzania Cap 2 of 1977

where basic rights and duties are outlined.<sup>57</sup> The Constitution does not directly protect children rights, rather it provides for indirect protection through the principles of equality of all people before the law as right to life, freedom from torture and degrading punishment and protection of dignity.<sup>58</sup>

To ensure that the basic rights are enjoyed by all people; Therefore, children are entitled to all rights and freedoms as per Article 12(1) and (2) to 24 of Constitution right of protection from violence and it is clear that, the Constitution as a top law of the land, other laws has to comply with provisions and any law contravene it declared void by the court of law.

### **3.4.2 The Law of the Child Act**

Tanzania it enacted the Law of the Child Act to ensure protection, maintenance and welfare of a child by making some amendments to other laws like sexual offences Act, Education Act, Evidence Act and the penal code as for the right of child against all discrimination.<sup>59</sup> Also it prohibits torture and inhuman punishment or treatment to any cultural practices which degrading children physical and mental ability.<sup>60</sup> The law created different mechanisms in order to protect children against inhuman practices to family members as,

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<sup>57</sup> Article 12 The Constitution of United Republic of Tanzania Cap 2 of 1977

<sup>58</sup> The Constitution of United Republic of Tanzania cap 2 of 1977, Article 12, 13.

<sup>59</sup> <https://www.violence.washibro.ac.uk.com>.

<sup>60</sup> The law of the child Act Cap 13 R.E 2019, 513

### 3.4.2.1 The Best Interest of the Child

Under the Act the best interest of a child is taken as primary consideration by public and other institutions example to the case of *Mariam Tumbo v Harold Tumbo* it was clearly that the opinion of a child above seven years shall not be discriminated and it prove that first consideration of child was the right to opinion and decision.<sup>61</sup>

### 3.4.2.2 Right to Non-discrimination

Protection of children against burning violence should be considered by the government as equal to all children.<sup>62</sup>The law provides that all children have equal status, to live in safe environment and if there any inhuman practices continued, government shall take it into consideration.<sup>63</sup>

### 3.4.2.3 Right to survival and development

The law provides that no person shall subject a child to torture, or other cruel, inhuman punishment or degrading treatment including practices which dehumanize or lead injurious to the physical and mental well-being of a child.<sup>64</sup>This is to ensure that a child is free from sexual abuse, domestic violence, cultural practices and other inhuman treatment which dehumanize the wellbeing of children selling of drugs, cigarettes, alcohol.<sup>65</sup> Also their family and own person shall preserve this right including privacy and protection from other residence.<sup>66</sup>

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<sup>61</sup> Cap 13 R.E 2019 S 4

<sup>62</sup> The Constitution of United Republic Of Tanzania 1977 Article 13

<sup>63</sup> Cap 13 R.E 2019 S 5

<sup>64</sup> The law of the child Act Cap 13 R.E 2019, S13(1)

<sup>65</sup> Cap 13 R.E 2019, S17

<sup>66</sup> The Constitution of United Republic of Tanzania 1977, Article 16

### **3.4.3 The Law of Marriage Act (LMA)**

It is the law governing marriage and family issues that it protects the right of child during the custody, in which the court may order a child to be under custody of his parent or other relative for taking care to child welfare.<sup>67</sup> So, for this law it ensures that children are not placed under the custody of parents or relatives who are treated them inhuman.

### **3.4.4 The Penal code.**

Under the law it provides that any person who tried to marry a child under eighteen years and attempt to have sexual intercourse with her whether with consent or without consent is liable for an offence of 10 years.<sup>68</sup> Also the persons having custody of children but treats, ill, or abandons or cause any physical injurious to that child health he/she commits an offence of inhuman to children.<sup>69</sup>

## **3.5 Institutions and policies.**

### **3.5.1 Labor Court.**

It protects the child rights by avoiding any dangerous labor to children because a child is a young person who still growing up physically, mentally and emotionally, they not being forced to work and participating in dangerous activities like selling drugs, alcohol at bar and participating in night clubs, also no person shall employ a child under fourteen

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<sup>67</sup> The law of Marriage Act Cap 29 R.E 2019, § 13

<sup>68</sup> Penal Code Cap 16 R.E 2019. § 138(1)

<sup>69</sup> The Penal Code Cap 16 R.E 2019. 169(1) A

years.<sup>70</sup> Any person employ or forces a child to conduct dangerous work will be liable for offences.<sup>71</sup>

### **3.5.2 Ministry of Health and Social Welfare officer.**

Under this institution government imposes the duties of ensuring the well-being of child in mental and physical treatment like a duty to take necessary steps to ensure that the child is not subjected to harm, also it empowered to take care custody of a child safety towards any violence done by family members.<sup>72</sup>

### **3.5.3 Police**

The law imposes police duties towards child protection with a duty to make investigation on the commission of offences and to prove that a crime has committed.<sup>73</sup> They required ordering summons, search warrant for the perpetrators of child abuse. All information towards child violence done by family and guardians it saved under gender desk (DAWATI LA JINSIA), responsible for hearing cases to child abuse and discrimination.<sup>74</sup>

### **3.5.4 Community**

Community members are part and parcel authority of child protection against violence conducted by society within a family.<sup>75</sup> In Tanzania, the parents and guardians they are

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<sup>70</sup> The Employment and Labour Relation Act, 2004 S 5

<sup>71</sup> The Law of the Child Act Cap 13 R. E 2019. S 12

<sup>72</sup> The Law of the Child Act Cap 13 R.E 2019. S 20

<sup>73</sup> Ibid. S 25

<sup>74</sup> Ibid. S 45

<sup>75</sup> The Constitution of United Republic of Tanzania 1977. Article 107A

provided a duty of care, protection and maintenance to a child.<sup>76</sup> That under LCA provides that every parent has a duty and responsibility to report any child discrimination, violence, abuse, to a police station or other organization responsible for child protection, by doing so it help to reduce inhuman practices to child.

### **3.5.5 Local government authorities**

The local government authorities (district and urban) has a duty to ensure welfare of children within its area by providing parental counseling to parents, guardians, relatives against effects of conducting cultural inhuman practices to child, this is for the purpose of promoting protection towards children.<sup>77</sup> Also authority has duty to report any infringement of children rights done by parents or relatives and the matter must be reported to the local government authority of the child area.<sup>78</sup>

### **3.3 Conclusion**

The chapter has mentioned laws, institution and policies towards the protection of children against burning Violence in Tanzania specifically at Ikungi District, were by most of societies get awareness from burning of children as method uses to shape child behavior, this is due to presence of local government authorities cooperation with social welfare officers, departments and courts.

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<sup>76</sup> The Law of the Child Act, Cap 13 R.E 2019. S 16&17

<sup>77</sup> Ibid. S 94

<sup>78</sup> Ibid. S 95

## CHAPTER FOUR

### RESEARCH FINDINGS, ANALYSIS AND PRESENTATION ON THE PROTECTION OF CHILDREN AGAINST BURNING VIOLENCE IN IKUNGI DISTRICT COUNCIL: An Examination of S 13 of the child Act Cap 13 R.E 2019.

#### 4.1 Introduction

This chapter aims to presents data which a researcher has collected from the field study in order to test the hypotheses and objectives from the first chapter. The field study involves visiting different places such as social welfare office, households, parents, guardians and police stations for more information. The researcher has focuses to respondents both male and female for interviews. The purpose was to obtain relevant information and data in relation to burning violence against children in Ikungi District to see how child laws in Tanzania play effective role in protecting children from burning violence. Therefore, some of respondents cooperated with the researcher during data collection this is due to most of respondents they are unwilling to sit face to face for interview.

#### 4.2 Research findings.

The data and information was take place at Ikungi District through unstructured interview that deals with the topic of burning violence against children as the researcher want to examine how Tanzania child laws plays much role in protecting children from all inhuman practices done by Ikungi villagers relating with the objectives as.

- i. To examine the laws governing children and find out the nature and extent in which they can enhance or hamper the protection of children towards burning violence.
- ii. To examine S 13 of child Act and find out the nature and extent in which they can enhance or hamper the protection of children towards burning violence.
- iii. To examine child policies on protection of children against burning violence and find out the nature and extent in which they can enhance or hamper the protection of children towards burning violence.

To examine, other problems related the burning of child in which they can enhance or hamper the protection of children against burning violence. The research finding it based on the following discussion in relation with objectives.

#### **4.3 Examination of laws governing children and find out the nature and extent in which they can enhance or hamper the protection of children towards burning violence.**

In relation to findings make analysis on the laws which govern and secure the children against burning violence and find out the nature and extent in which they can enhance or hamper the protection of children. The Tanzania government has recognize the problem and come out with laws which should make changes towards all inhuman treatment to children.



### **4.3.1 The Constitution of United Republic of Tanzania of 1977**

The researcher from her finding as the Constitution of United Republic of Tanzania of 1977 it observed that as Constitution state direct that, all human being are born free and are all equal and respect of his dignity, as provided in Article 12(1).<sup>79</sup> Also the law recognizes that every person has right to live and to the protection of his life by the society.<sup>80</sup>

Therefore, the Constitution of United Republic of Tanzania has tried to ensure protection of all people from any violation but in real situation there is no protection of people specifically children who lives with people believe on customs.

### **4.4 The examination of S 13 of child Act Cap 13 R.E 2019 on the protection of children towards burning violence.**

#### **4.4.1 The strength and weakness of the law on the protection of children in Tanzania.**

The law of the child Act as main statute which governs the protection of children in Tanzania under S 13 and S 14 it clearly prohibits all kinds of inhuman punishment and other cultural practices which dehumanizes the physical and mental wellbeing of a child, but there are societies in Africa still contradicting with that law on protection of child that burning method uses to shape child behavior.<sup>81</sup>

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<sup>79</sup> The Constitution of United Republic of Tanzania Cap 2 of 1977 amended time to time Article 12.

<sup>80</sup> The Constitution of United Republic of Tanzania Cap 2 of 1977 Article 14.

<sup>81</sup> Cap 13 R.E 2019, S 13(1)

Also the same law under S 14 it provided for punishment for any person contravene with S 13(1) to be liable for fine not exceeding five million shillings or imprisonment not exceeding six months, but the law does not provide for the heavy punishment to person who is found practicing inhuman punishment to child as reason that many inhuman cultural practices still increasing and practicing freely by the people on the ground that it is their custom.<sup>82</sup>

#### **4.5. Examination of the policies on the protection of children against burning violence.**

##### **4.5.1 The policies on prohibition of child violence in Tanzania.**

##### **The National Health policy of 2007**

The policy recognizes the importance of improving health care to children against all forms of discrimination and inhuman practices conducted by family societies, it requires families, institutions, private organizations (NGO'S), police stations, social welfare offices and courts to declare protection to child by improving coordination and cooperation which can decrease the delaying of proceedings and other unequal judgment to a case related to child abuse. So the policy promote awareness and accountability to responsible offices by making clear management for quality protection of child, by doing so it contribute to the reduction of negative beliefs by the families on the use of fire as custom punishment to shape a child.<sup>83</sup>

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<sup>82</sup> Cap 13 R.E 2019 S 14

<sup>83</sup> Ministry of health, Community Development, Gender and Children: The national policy guidelines for child health care from inhuman practices in Tanzania, 2017.

#### **4.5.2 Women and child equality policy 1985**

It established at Nairobi (Kenya) for the prohibition and protection of women and child against all forms of discrimination in African countries, it adopted by Tanzania after faces many challenges to women and child towards their rights by looking to the case of *Rebecca gyumi* the famous case in Tanzania for the woman and child right. The policy was established specifically for prohibiting inhuman practices based on cultural, domestic, traditional and taboos to African societies, through the policy it help to the implementation of laws which should protect right to child.<sup>84</sup>

#### **4.6 Examination of other problems on protection of children against burning violence in Ikungi District Council focuses to S 13 of the Child Act Cap 13 R.E 2019.**

##### **4.6.1 Lack of proper coordination and cooperation system between police, courts and community in effective protection of child against burning violence**

The researcher makes face to face interview with police officer's respondents and they argued that, lack of a coordination system between the community, courts and other agencies it hampers laws efforts to protect children. The respondents come with the view that, the courts of law does not effectively protect children due to lack of a coordination system give the following reasons.

First, most of cases involving burning abuse against children does not reported to social welfare offices and at police station, were such cases at Ikungi are settled and end within the family Societies and leaving the perpetrator free from abusing children. They added

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<sup>84</sup> Community mobilization policy on women and child equality from discrimination in Nairobi, 1985.

that this situation makes impunity for perpetrators to feel free from abusing children, also some of authors argue that in Africa and India, beating and burning of children is a proper method of shaping those manners.<sup>85</sup> The other respondent argues that family members does not aware about consequences of burning violence and the channels of help is not well known by children. So Burning cases are not reported because other harmful practices like early child marriage are attached to the general cultural basis of a community, as stated during interview that,

*“Our statistic figures show that most of cases which are reported here were those cases concerning general adult criminal accusations. Child abuse cases like sexual abuse and burning are rarely reported due to family societies does not creating a friendly environment with police office when they facing a problem. Example in this year we received only 2 cases of child burning injury caused by society beliefs which we are still in investigation.”*

The respondents continued that burning violence cases against children are not shared with the police and social welfare officers because most of the perpetrators are parents, guardians and close relatives that they do not want to report each other.<sup>86</sup>

The effect of not cooperated with police, it explained by United Nations of International children Emergency Fund (UNICEF).<sup>87</sup> It is violence to the society practicing any abusive cultural practices to child also it stated that through communication child can be helpful in solving their issue of burning as discipline method used by society in different areas.

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<sup>85</sup> M.W. Janis, et al.,. *European Human Right Law*, 26(3d ed. 2008)

<sup>86</sup> Respondent no.1(police officers) at Ikungi station on August 6,2023 at 10:42 am

<sup>87</sup> UNICEF 11 Dec 1946, Report on comprehensive child protection system on healthcare, journal 2018.

#### 4.6.2 Existence of patriarchal system of society

The other respondent explain that the issue of burning to children as method uses by Ikungi members to shape behaviors it still conducted secretly due to inadequate of uniform laws in matter of burning practices, the respondent elaborate that due to existence of patriarchal system of society which does not recognize the right of children to be protected, one elder stated that,

*“The issue of burning practices to children after committing an offence or any other bad behavior it started and practiced for many years ago from generation to generation and all members within a society realizing to use as method to shape behavior as an order from the chief, also continued to state that at that period woman and children has no right to say anything against such inhuman practices although other members has knowledge that it is unequal to do so but they still silence to fear heavy punishment from the chief order”<sup>88</sup>*

#### 4.6.3 High level of corruption led to delay of proceedings to child protection.

From the respondent, proven that child violence against burning cases do not have special endless due to long delays of cases ,the respondent continues that the main reason for delaying of cases is high level of corruption done by police officers that cases delays to reach before the court for proceedings.<sup>89</sup> The situation cause a victim continues to experience violence at home and society.

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<sup>88</sup> Respondent no.3 (elder age 89 years old) at Matongo village at 11 September 2023 at 02:45 pm.

<sup>89</sup> Respondent no.4 (woman age 44 years old) at Mpetu village at 11 September 2023.

#### **4.6.4 The reasons for the existence of inhuman practices to children in Ikungi District council.**

##### **4.6.4.1 There is no proper mechanism on public education advocacy on negative customs to children.**

A researcher on her finding and analysis on social welfare organization on protection of children found that there is no proper mechanism to advocant child from such violation.<sup>90</sup> Government has recognize the problem by educating means and woman from being away from old generation of treated children negatively, also different committees were established for reporting all forms of discrimination against children, example the Committee against torture (CAT) that established to review the implementation against torture and other inhuman cruel, Committee on the right of the child as Tanzania ratified this.<sup>91</sup> The situation has been clearly presented by making identification help line channels to children and says NO to negative customs within society.

## **4.7 Conclusion**

Ikungi is among of district which faces the challenge of burning violence as conducted mostly by family members as method used to shape child behavior, but in legal concept it is violence, as according to our constitution child need protection in order for next generation to grow well and responsible citizens with

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<sup>90</sup> Tanzania child rights forum, (2013). Tanzania reports on child rights.

<sup>91</sup> International Covenant on the right of a child investigation forum 2009.

knowledge that burning and other inhuman practices involving customs is irrelevant to national laws and domestic laws.

## CHAPTER FIVE

### CONCLUSION AND RECOMMENDATIONS

#### 5.1 Introduction

This chapter covers conclusion and recommendations in respect of the findings of the study, that children shall be effectively protected against the burning violence by families, community and the courts, and shall be reduced to the largest extent if not eradicated.

#### 5.2 Conclusion

Burning violence against children is a large problem that affects children to their whole life and is experienced by children in all societies and their cultures. The study intends to examine how Tanzania laws has tried to prohibit inhuman cultural practices against children but customs still conduct it, the study based on S 13(1) of the child Act, policies and other problems. Violence in general it takes various forms, as physical violence which involves beating, burning some parts of a body, emotional violence as well as sexual violence taking the form of rape and sexual assault and the perpetrators are parents, guardians and close relatives to children.

From the information obtained by the researcher it is clear that international, regional and domestic laws have effectively prohibited inhuman practices involving burning actions to children and it provided for the punishment to person contravene the law.



According to that situation the researcher has found that for the people to be away from negative customs beliefs to children, government must consider under what challenges which hinder and hamper the protection of children against burning practices.

### **5.3 Recommendation**

By looking on research objectives, researcher comes with the following recommendations.

Under the study is clearly received by the society and they declared that they did not conduct it again after knowing that it is illegal and violence according to law, also children they declare that they have right to complain and say No about any violence through happens to them. Due to the situation a researcher recommends on following.

#### **5.3.1 Government**

The judicial personnel that deals with child violence cases they need a special training on how to deal with violence facing children before sitting in courts, the reason is to enable magistrates, judges, prosecutors and other judicial officers to specialize in the field and master the relevant situations facing children, also government has a role to make enforcement of that laws concern to children and it should be applied into different areas depending on child custody.

### **5.3.2 Right to be heard by Police officers and other institutions**

Child as other persons has the right to be heard at all circumstances they facing from parents and other close relatives, that police officers shall build friendly environment with children so that they can be free to explain everything happens as one of method for them to make investigation.

### **5.3.3 Education**

Awareness and self-control should be provided to people on negative effects of burning violence to children, this should be done through seminars, medias, schools and universities, leaders should told them under what other methods can be used to discipline children apart from burning their body.

### **5.3.4 Implementation of the Laws**

The laws deals with children issues should be well understood and implemented in the community and make sure they are relevant with the current situation to the country as well as there are must have Updates of laws on time in order to help the affected groups.

#### **5.4 General Conclusion of the study**

Therefore, in order to archive protection of children against burning practices, the researcher need the government to use this research paper to get key points that will help to reduce the continuation of problem in other way like to make implementation to the punishment, public education to the people, so as to ensure that those areas which still conduct' it will be well harmonized by other knowledge's to ensure children remains safe and free.

## APPENDICES

### APPENDIX 1: QUESTIONNAIRES

A: Introduction.

Dear respondents, this are questions for research asked by the researcher to respondent so as to get more details about such topic, so your cooperation is more important and usefully.

B: Questions.

Tanzania laws against child protection it requires all members to abolish child burning practices which is conducted by most of African societies includes Singida, Geita, Mara, Kilimanjaro, Arusha as method to shape child behaviour without known that it is inhuman to physical and mental capacity of a child standard.

### QUESTIONS

1. Before coming of laws which governing child, during your age or period under which methods were uses to shape child behaviour after committing an offence?
2. So, now we have laws and policies which prohibit inhuman practices to child, what are the reasons at Ikungi District still contradicting with such laws?
3. For your own experience at work how many cases were reported at your police station concerning burning violence.
4. How child were affected due to such inhuman practices at your area.

5. Is there any records of child violence apart from burning practices?.
6. Do you think what should be done to remove such burning customs in order to promote good discipline.
7. Do you realizing that child at your area are directly violated in humanly by their family members? What steps did you taken to remove it( special for Ikungi district offices)
8. What are the benefits to the community after removing or stop from uses burning method to child at your area?

## APPENDIX 2: DATA COLLECTED FROM DIFFERENT GROUPS IN IKUNGI DISTRICT COUNCIL

Table 1: Shows the number of Respondents who answered the researcher questions to prove the problem from villages.

RESPONDENTS			TOTAL NUMBER OF RESPONDENTS
Village	No. of Legal Personnel's	Non Legal Personnel's	Total
Matongo	2 Magistrate	15 parents	17
Unyahati	10 Social Welfare officer	2 guardian	12
Ikungi center	3 Police Officers	3 elders	6
TOTAL			35

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Physical injury to abused child leads to death in most cases, LHCRC Report of 2015 at pg. 147 that, Hollo John killed her son aged 5yrs after quarrel with child's father at Urambo District in Tabora Region.

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