

What you need to know about the Law of the Child

Key principles

4 key principles		Means that ...
Best interests	The best interests of the child shall be the primary consideration in all actions concerning a child.	All decisions that are made by public or private, social welfare institutions, courts or administrative bodies concerning children must consider first their best interests.
Freedom from discrimination	Children have a right to live free from any discrimination on the grounds of gender, race, age, religion, disability, health status, custom, ethnic origin, rural or urban background, birth, socio-economic status, being a refugee or of other status.	Children with disabilities are entitled to special care, treatment, affordable facilities for rehabilitation and equal opportunities to education and training wherever possible to develop their maximum potential and be self-reliant.
Right to an identity	All children have a right to a name and nationality.	Parents and guardians are responsible for the registration of the birth of his child to the Registrar-General.
Right to safety & security	All children have the right to live with parents or guardians and grow up in a caring and peaceful environment.	It is an offence for a primary carer to fail to supply the necessities for survival and development of a child. Failure to provide for the child means that s/he is liable to a fine of not less than Tsh500,000 and not more than Tsh5m, or to imprisonment for a term of not less than six months and not more than three years or to both.
Right to participate	All children have the right to form and express their opinion, to be listened to and to participate in decisions that affect his / her well being. Consideration must be made for the child's age, and views.	A person shall not deprive a child the right to participate in sports or in positive cultural and artistic activities or other leisure activities unless in the opinion of the parent, guardian or relative such participation or activity is not in the best interest of the child.

General protective measures

Protecting children from dangerous ...	The Law of the Child says	Penalties for non-compliance
Places	A child shall not be allowed into a discotheque, bar or night club.	A fine not less than one million shillings but not exceeding five million shillings or to imprisonment for a term not exceeding twelve months or to both.
Behaviours	A person shall not sell cigarettes, alcohol, any spirit, drugs or any intoxicating substance to a child.	
People	A person who has been convicted of an offence against children or any sexual offence shall not be employed in a day care centre or a crèche. The Commissioner of Social Welfare shall ensure that the manager, patron or matron or any other person operating or working in a day care centre or crèche is vetted by his office.	
Exposure	A person shall not publish any information or a photograph that may lead to the identification of child who is involved in any court case except with the permission of the court.	A fine of not less than two million shillings and not more than fifteen million shillings or imprisonment for a term not exceeding three years or both.
Exploitation	A person shall not deprive a child of reasonable enjoyment out of the estate of a parent.	

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Daycare centres & crèches

Protecting children in day care centres and crèches	The Law of the Child says	Penalties for non-compliance
A day care centre (or crèche)	Is any early childhood development establishment registered for the purposes of receiving and looking after children below the age of five years for the day or a substantial part of the day with or without a fee.	
Registration of day care centres	<p>All day care centres need to be registered by the Commissioner for Social Welfare after an inspection by the social welfare officer.</p> <p>In making a decision to register a day care centre the following are considered:</p> <ul style="list-style-type: none"> - Are the premises suitable for carrying on a day care centre and are the facilities appropriate and sufficient? - Does the applicant have sufficient financial and human resources to run a day care centre? - Is the ownership of the premises under dispute? - Would the programmes promote the development of children attending at the centre into cultured and good mannered persons? - Would the programmes provide a sound foundation for enabling the children to grow up into healthy and responsible citizens? - Would the facilities prepare children for pre-primary education? - Is the applicant disqualified in any other way from being registered, or a person whose registration has previously been cancelled? 	<p>The District Social Welfare Officer will keep and maintain registers of all registered day care centres and crèches and their registered owners or managers.</p> <p>The Register will be published in the Gazette and newspapers at least once each year with a list of all day care centres and crèches whose registration has been cancelled and those which have been newly registered.</p> <p>The Commissioner of Social Welfare shall inspect the premises, books, accounts and other records of the day-care centre or a crèche, an approved residential home or institution at least once in every six months and shall submit a report of the inspection to the Minister responsible for social welfare and a copy to the Minister responsible for children affairs.</p> <p>Where the inspection reveals that the day-care centre or a crèche is not being managed efficiently in the best interest of the children, the Commissioner shall suspend the permit and the owner or operator shall be ordered to make good any default within a stipulated time.</p> <p>Where the owner or operator fails to make good the default within the stipulated time the license shall be cancelled.</p> <p>Where the Commissioner has cancelled a license, he shall immediately make applications for an order of the court for the re-allocation of children and their relevant documents to another day-care centre, crèche or approved residential home or institution.</p> <p>Any day-care centre or crèche that operates without a registration shall be closed.</p>

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Residential care

Protecting children in residential care	The Law of the Child says	Penalties for non-compliance
A residential care centre ...	Is a licensed home whereby a child is given a substitute temporary family care. This includes children's homes, retention homes, approved schools and crises centres.	
Registration	The Commissioner for Social Welfare must register all residential care centres. Upon approval by the Commissioner, the institution must obtain a license to operate from the Commissioner.	Where an approved residential institution fails to maintain the required standards, its license to operate may be cancelled or suspended by the Commissioner. The Commissioner will then make alternative care arrangements for the children resident in that care centre.
Care centre managers are responsible for ...	Assuming parental responsibility for the child while with the institution, Ensuring that the child's development, particularly his health and education is attended to, Encouraging the child's contact with parents, relatives and friends.	No child shall be referred to a residential care centre by a court unless the centre is approved and licensed by the Commissioner for Social Welfare.
Residential care for children is a last resort	No child should be in the care of a residential centre unless a judge has issued a care order. In making decisions about care of the child the judge will consider if: - It is preferable for a child to be with his parents except if his rights are persistently being abused by his parents, - The views of the child and if the views have been independently given, - It is desirable to keep siblings together, - The need for continuity in the care and control of the child.	

Foster care

The Law of the Child says

Fostering can take place when a child has been committed to an approved residential home or institution under a care or supervision order from the court, the social welfare officer, in conjunction with the manager of the approved residential home may make a recommendation to the Commissioner to place the child with a person who is willing to be a foster parent.
Permission to foster: A person who intends to foster the child shall make an application to the Commissioner for Social Welfare. The Commissioner shall, upon receipt of the application consider the application in the light with the recommendations made by the social welfare, officer, patron or manager. Where the Commissioner is satisfied that an applicant for foster parent is a person who can take care and maintain the child and is otherwise satisfied that the best interest of the child will be taken care, the Commissioner shall grant the permission for the child to be in the foster care of the applicant.
Responsibilities of foster carers: A foster carer under whose care a child is committed has the same responsibilities in respect of the child's maintenance as if he were the parent of the child.

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Children & violence & abuse

Protecting children who are victims of abuse, neglect & exploitation	The Law of the Child says	Important considerations & Penalties for non-compliance		
Abuse	"Child abuse" means contravention of the rights of the child that causes physical, moral or emotional harm. This includes beatings, insults, discrimination, neglect, sexual abuse and exploitative labour. Sexual offence means any sexual offence as defined by the Penal Code.			
Its against the law to ...	Subject a child to torture, or other cruel, inhuman punishment or degrading treatment, Participate in any cultural practice which de-humanises or is injurious to the physical and mental well-being of a child, Correct the child's behaviour in any way that is unreasonable or does not take into account the child's age, physical and mental condition, Punish the child in such a way that they are incapable of understanding the purpose of the correction, Degrade the child with the intention of humiliating or lowering his dignity.	A fine not exceeding Tsh 500,000 or imprisonment for a term not exceeding six months or both.		
Response to suspected abuse, neglect or exploitation	Where the social welfare officer has grounds to suspect child abuse or a child's need for care and protection s/he shall in the company of a police officer enter and search the premises where the child is kept in order to investigate. If after investigation it is determined that the child has been abused or is in need of immediate care and protection the social welfare officer accompanied by the police officer shall remove the child to a place of safety for a period of not more than seven days. Then the social welfare officer must bring the child before the court within fourteen days for an order to be made. Until the court determines the matter it may commit the child to an approved residential home or to the care of a social welfare officer or any fit person.			
The purpose	The court can make four types of order			
	Search and production order	Supervision order	Care order	Exclusion order
	To authorise the social welfare officer, with or without a police officer, to enter premises and to search for and remove to a place of safety, any child whom the social welfare officer believes or suspects is suffering or is likely to suffer significant harm.	To place or prevent any significant harm being caused to a child whilst s/he remains at his family home in the custody of his parent, guardian or relative. To do this by placing a child under the supervision of the social welfare officer or a fit person in the local community while the child remains in the custody of his parent, guardian or relative. The purpose of a supervision or care order is to:	To remove the child from any situation where s/he is suffering or likely to suffer significant harm To do this by transferring the parental rights to the social welfare officer.	To prohibit a named person from having contact with the child and persons looking after the child Before making an exclusion order the court shall be satisfied that the order is necessary for the protection of the child and to safeguard the child's best interests.

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Protecting children who are victims of abuse, neglect & exploitation	The Law of the Child says	Important considerations & Penalties for non-compliance
Social Welfare officers' duties	<ul style="list-style-type: none"> - Remove a child from a situation where he is suffering or likely to suffer significant harm, - Assist the child and those with whom he was living or wishes to live, - Examine the circumstances that led to the making of the order, - Take steps to solve or ameliorate the problem so as to ensure the child's return to the community. 	
The process	<p>The duties of a social welfare officer with respect to a care or supervision order are to:</p> <ul style="list-style-type: none"> - Advise and counsel the child and his family, - Hold regular reviews to plan for the future of the child in consultation with the child and his parents or guardian, - Apply to the court to discharge or vary the order if necessary, - Take necessary steps to ensure that the child is not subjected to harm by visiting the child at home or in care. - Prepare a social investigation report, after making a home visit and interviewing the parents, guardians or relatives of the child concerned and the child himself. 	<p>A care or supervision order may be discharged in the best interest of the child by the court on the application of:</p> <ul style="list-style-type: none"> - The child, through a next friend, - A social welfare officer, - A police officer, - A parent, guardian or relative of the child, - Any person with parental responsibility. <p>Prior to applying for a supervision or care order the social welfare officer shall take custody of the child and determine the most suitable place for the child which may be (e.g. an approved residential home, a fit person, an approved foster parent or at the home of a parent guardian or relative)</p> <p>An application for a care order or supervision order may only be made:</p> <ul style="list-style-type: none"> - After all possible alternative methods of assisting the child have been tried without success, - The significant harm from which the child is suffering or is likely to suffer requires his removal from where he is living, - The danger to which the child is exposed to is so severe as to require his immediate removal from where he is living.

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Protecting children who are victims of abuse, neglect & exploitation	The Law of the Child says		Important considerations & Penalties for non-compliance
	best interests.	<p>The court shall require a written social investigation report from the social welfare officer that contains matters relating to the best interests of the child and recommendations as to any action.</p> <p>Where an order of the court is not produced within fourteen days, the child may be admitted to an approved residential home pending a court order, which must be given within thirty days.</p> <p>Where the court is not satisfied with any recommendation made by the social welfare officer in the social investigation report it shall record the reasons for not complying with the recommendation.</p>	
		<p>A court may issue a supervision or interim supervision order that requires the person with whom the child lives to:</p> <ul style="list-style-type: none"> - Inform the social welfare officer of any change of his address - Allow the social welfare officer to visit the child at his home. 	
The duration		<p>Maximum duration is one year or until the child attains the age of eighteen.</p>	<p>Maximum duration is three years or until such time when the child attains the age of eighteen, whichever period is earlier.</p> <p>The court may specify the duration of the exclusion order.</p>
Penalties for non-compliance		<p>A care order or supervision order shall be reviewed at least once in each year.</p> <p>A child under a care order or supervision order whose parent, guardian or relative does not show an interest in the welfare of the child within a period stipulated by the court, may be put up for adoption, with foster parents or placed in the care of an approved residential home.</p>	<p>A fine not exceeding Tsh500,000 or imprisonment for three months or both.</p> <p>The court may make a further order that the parent, guardian or other person responsible for the child shall pay for the cost of maintaining the child.</p>

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Children in contact and / or conflict with the law

Protecting children in contact with and / or conflict with the law	The Law of the Child says	Important considerations
Detention with adults	The police officer shall make arrangements for preventing a child while in custody associating with an adult charged with an offence.	Children must not be detained with adults in the lock-up.
Avoidance of court	<p>The officer in charge of the police station will release the child on an agreement being entered into by himself or by his parent, guardian or relative. This is unless:</p> <ul style="list-style-type: none"> - The charge is one of homicide or an offence punishable with imprisonment for a term exceeding seven years, - It is necessary in the best interest of that child to remove him from association with any undesirable person, - The officer has reason to believe that the release of that child would defeat the ends at justice. 	The police officer shall not bring a child to the court unless investigation has been completed or the offence requires committal proceedings.
Juvenile courts	<p>The Chief Justice may by notice in the Gazette designate any premises used by a primary court to be a Juvenile Court. A Resident Magistrate shall be assigned to preside over the juvenile Court. The Juvenile Court shall have power to hear and determine:</p> <ul style="list-style-type: none"> - Criminal charges against a child, - Applications relating to child care, maintenance and protection, 	<p>The Juvenile Court shall wherever possible sit in a different building from the building ordinarily used for hearing cases by or against adults. Where a child is charged with any offence the Juvenile Court may in its discretion require the attendance of his parent, guardian, relative or a social welfare officer and may make such orders as are necessary for procuring their attendance. Medical evidence and or collection of blood for the purpose of DNA from the child should be conducted in the presence of a social welfare and / or a community development officer.</p>
Protecting children's best interests in court	<p>In the juvenile court:</p> <ul style="list-style-type: none"> - Proceedings shall be held in camera. Apart from members and officers of the Juvenile Court only parties to the case, their advocates, witnesses and other persons directly concerned in the case can be present in the court. - Proceedings shall be informal as possible without exposing the child to adversarial procedures, - A social welfare officer shall be present, - Parents, guardians or a next of kin have a right to be present, - The child shall have a right to representation by an advocate, - The right to appeal shall be explained to the child, - The child shall have a right to give an account and express an opinion. 	<p>Where a child is brought before the Juvenile Court for any offence other than homicide, the case shall be disposed by that court on that day. Where a Juvenile Court remands a child or commits a child for trial before the High Court and the child is not released on bail, the Juvenile Court may instead of committing the child to prison, order him to be handed over to the care of the Commissioner, fit person or institution named in the order. The child shall remain in the custody of that person or institution during the period mentioned in the order and shall be deemed to be in legal custody during that period.</p>

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<p>Testimonies</p>	<p>After explaining the particulars of the alleged offence the Juvenile Court shall ask the child to make a statement on whether he has a reason why he should not be convicted.</p> <p>Where the child does not admit the offence, or where the court does not accept the statement of the child the court shall proceed to hear the evidence of the witnesses for the prosecution.</p> <p>At the close of the evidence of each witness the Juvenile Court shall put to the witnesses such questions as appears to be necessary or desirable, either for the purpose of establishing the truth or the facts alleged or to test the credibility of the witness.</p> <p>Where after the prosecution witnesses have given evidence and the Juvenile Court is satisfied that the evidence before it established a prima facie 'case against the child the Juvenile Court shall hear the witnesses for the defence and any further statement which the child may wish to make in his defence.</p>	<p>A Juvenile Court must explain to the child explain in simple language the particulars of the alleged offence.</p> <p>The parents, guardian, relatives or social welfare officer may, with the prior consent of the court, assist the accused child in the conduct of his case and in particular, the examination and cross-examination of witnesses.</p> <p>In any criminal proceedings involving sexual offence the only independent evidence is that of the child or victim of the sexual offence. The courts receive the evidence on its own merits, notwithstanding that such evidence is not corroborated.</p>
<p>Diversiory judgements</p>	<p>Where a child is convicted of any offence punishable with imprisonment the court may discharge the child without making any order or it may:</p> <ul style="list-style-type: none"> - Discharge the offender conditionally to be of good behaviour during such period not exceeding three years with the condition that the child be under the supervision of parent, guardian, relative or social welfare, if that person is willing to undertake the supervision. - If a child has demonstrated good behaviour then that child shall be presumed to have served the sentence. - Impose a fine, compensation or costs (with or without any other punishment) to be paid by the parent, guardian or relative of the child instead of by the child. - Order the child to be repatriated at the expense of Government to his home or district of origin if it is within Tanzania, - Order the child to be handed over to the care of a person or institution if the person or institution is willing to undertake such care. 	<p>Where a child is convicted of an offence other than homicide the child shall not be sentenced to imprisonment.</p>
<p>Approved school order</p>	<p>Where a child is convicted of an offence which if committed by an adult would have been punishable by a custodial sentence, the court order that child be committed to custody at an approved school.</p> <p>An approved school order will not be made unless the patron of the approved school to which the child is to be committed has informed the Juvenile Court that he has a vacancy.</p>	

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Children & employment

Protecting children from exploitation	The Law of the Child says	Penalties for non-compliance
Exploitative labour is...	<p>Any activity that:</p> <ul style="list-style-type: none"> - May be harmful to the child's health, education, mental, physical or moral development, - Deprives the child of his health or development, - Exceeds six hours a day, - Is inappropriate to his age, - Where the child receives inadequate remuneration. 	<p>A person shall not employ or engage a child in any kind of exploitative labour. Doing so is an offence with a fine not exceeding Tsh 500,000 or imprisonment for a term not exceeding six months or both.</p>
Forced labour ... Work is hazardous if it ...	<p>Includes bonded labour or any other work exacted from a person under the threat of a penalty. Poses a danger to the health, safety or morals of a person It includes:</p> <ul style="list-style-type: none"> - Going to sea - Mining and quarrying - Porterage of heavy loads - Manufacturing industries where chemicals are produced or used - Work in places where machines are used - Work in place such as bars, hotels and places of entertainment <p>A child shall not be engaged in any work or trade that exposes the child to activities of sexual nature, whether paid for or not. It is illegal to:</p> <ul style="list-style-type: none"> - Induce or coerce a child to engage in any sexual activity, - Involve children in prostitution or other unlawful sexual practices, - Involve children in pornographic performances or materials. 	<p>Any person who procures, demands or imposes forced labour to a child, commits an offence. It is unlawful to employ or engage a child in any hazardous work. An offender will receive a fine of not less than Tsh 1 million and not more than Tsh 500 million or imprisonment for a term of not less than one year and more than twenty years or both.</p>
Children has the right to work if ...	<p>They are fourteen years old or over, The work is "light" and is not harmful to their health or development and does not affect their attendance at school, participation in vocational training programmes or their capacity to benefit from school work.</p>	<p><u>Important considerations:</u> A child has a right to be paid remuneration equal to the value of the work done. The child shall not work at night between the hours of eight o'clock in the evening and six o'clock in the morning. Every employer shall ensure that every child is protected against any discrimination or acts which may have negative effect on him.</p>
Regulation of work places	<p>A labour officer shall enter any premises and to inspect them and to satisfy himself that the provisions of this Act are complied with. For these purposes the Labour Officer may interrogate any person as may be necessary. An employer in any industrial undertaking shall keep a register of children</p>	<p>Where the Labour Officer is reasonably satisfied this Act are not being complied with he shall serve a non-compliance order and report the matter to the Social Welfare Officer and the nearest police station who will investigate and take any appropriate steps to protect the child.</p>

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	employed or engaged by him and the dates of their births if known, or their apparent ages if their dates of birth are not known.	
Apprenticeships	A child shall have a right to acquire vocational skills and training in the form of apprenticeship. The minimum age at which a child may commence an apprenticeship with a craftsman shall be fourteen years or after completion of primary school education.	.
The obligations of a craftsman towards an apprentice under his care are to:	Train and instruct the apprentice in a trade to the best of his ability, skill and knowledge and to the best ability of the apprentice or cause the apprentice to be trained in a trade under his supervision, Be responsible for any harm caused to the apprentice in the course of his training, Provide a safe and healthy environment for the apprentice, Prepare morally an apprentice to lead his independent life, Protect the best interest of the apprentice.	
Apprenticeship agreements shall ...	Be entered into between the parent, guardian or relative of an apprentice and the craftsman, Be in accordance with the custom which pertains to the specific trade, but shall not include the performance of any induction ceremony which may conflict with the rights of the child under the Law of the Child, Contain matters agreed upon by the parties and may include provisions about who shall bear the cost of protective clothing and the basic tools for the training of the apprentice, whether the craftsman will provide shelter for the apprentice and whether the craftsman is to give the apprentice an allowance of not less than half the sectoral minimum daily wage for his daily sustenance, if the apprentice generates income. Be in writing and shall contain provisions in the best interest of the parties and the apprentice.	Any disputes arising out of the apprenticeship agreement shall be referred to the Labour Officer of the district. Where a party to the agreement contravenes its terms the agreement shall immediately lapse unless there is a contrary intention in the agreement.
Release of the Apprentice	The conditions of the release of an apprentice shall upon the completion of his training not be exploitative and shall be in accordance with the best interest of the child. The craftsman shall on completion of a period of apprenticeship issue proof of release from the apprenticeship.	