



Overview of Juvenile Justice in Tanzania

A presentation for a Workshop
on Review of Crime and Criminal Justice in
Tanzania at Kilimanjaro Kempinski Hotel , Dar es
Salaam, 25th March, 2009



Précis

- This presentation seeks to describe and analyse juvenile justice system in Tanzania.
- The focus is on the key institutions and processes.
- The key institutions are police, courts and prisons.
- The processes are laws and policies in place.



Précis

- The criminal justice system in Tanzania is not different from what is found in most of countries in the world.
- The law tends to limit the criminal liability and blameworthiness of children and young people.
- In some instances children are totally exonerated from criminal liability whereas in other instances the criminal liability is only limited



Juveniles Vs Criminal liability

- A person under the age of 12 years is not criminally liable for any offence unless established that she knew that what s/he was doing was legally wrong.
- A person under the age of ten years is under absolute protection from criminal liability.
- There is a presumption that a juvenile ~~aged~~ 12 yrs is incapable of consummating as such can not be held liable for any sexual offences.



Why exonerate juveniles?

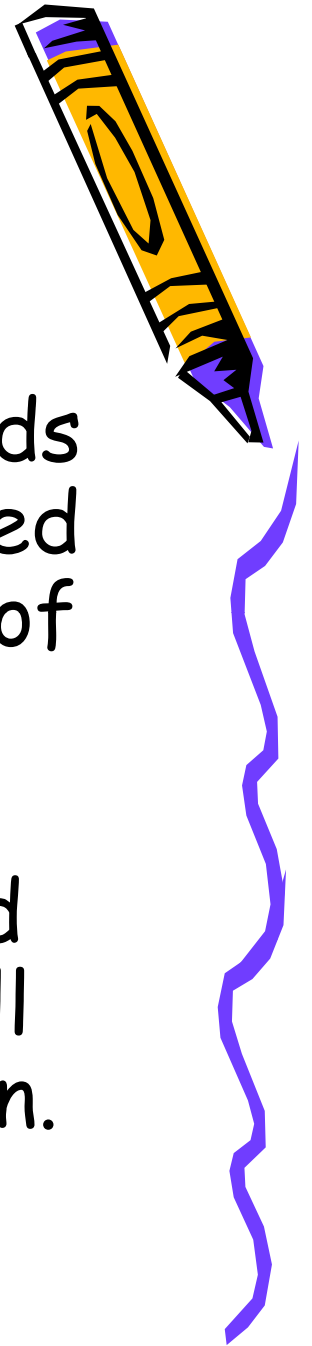
- Minds of juveniles may not be capable to understand societal standards of rights and wrongs.
- Criminal law essentially punishes the state of mind namely guilt mind.
- The standard of mind punishable by criminal law is that of a reasonable man.
- It would therefore be pointless to punish a person whose mental capabilities are not fully developed.



Records on juveniles perpetrated crimes

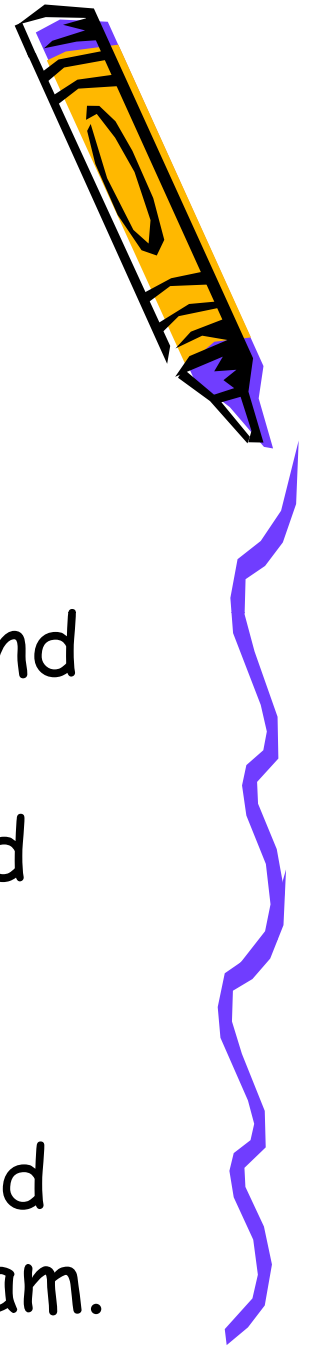
- There were neither specific records from Police on juveniles perpetrated crimes nor statistics on the ages of offenders.
- The probation Department of the Commission for Social Welfare and Kisutu Juvenile court were and still are the only sources of information.

Records available largely relate to Dar es Salaam



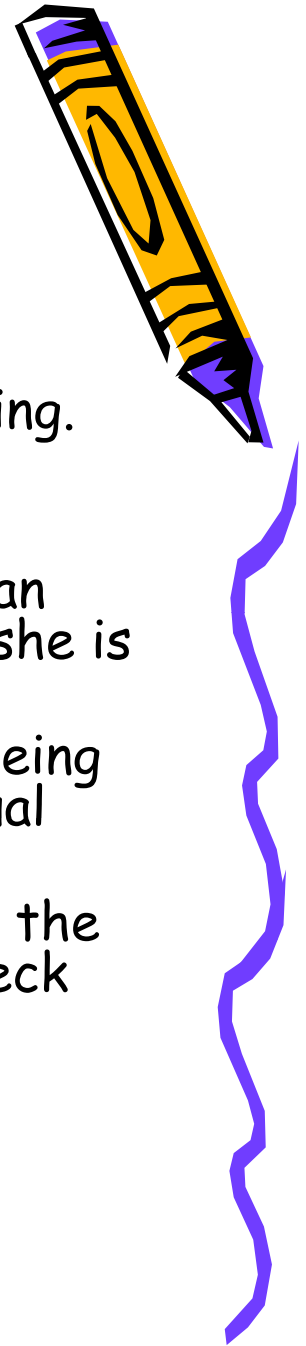
Records cont...

- The most prevalent juvenile-perpetrated crimes, in order of prevalence are stealing, assaults and grievous harm,unnatural offences, rape, possession of illicit drugs and burglary.
- From 2003-2005 there were 515 boys and 79 girls who were charged with various crimes in Dar es Salaam.



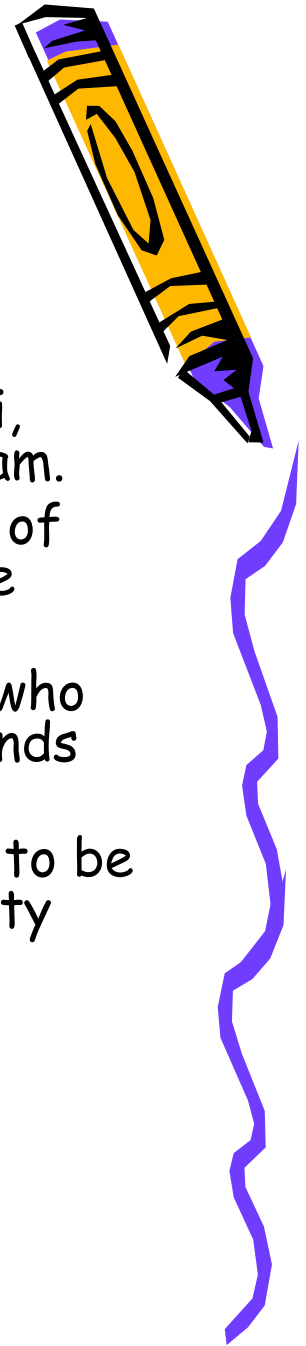
Records cont..

- The most prevalent female- perpetrated crime is stealing.
- Among reported crimes which is of interest is rape by juveniles.
- The law defines rape to be a sexual intercourse by a man with a girl or woman with or without her consent when she is under 18 years of age.
- This results in a substantial number of male juveniles being prosecuted and convicted of rape, even where the sexual act was consensual and between two young persons.
- However Probation Officers normally do recommend to the court probation in such cases and after background check



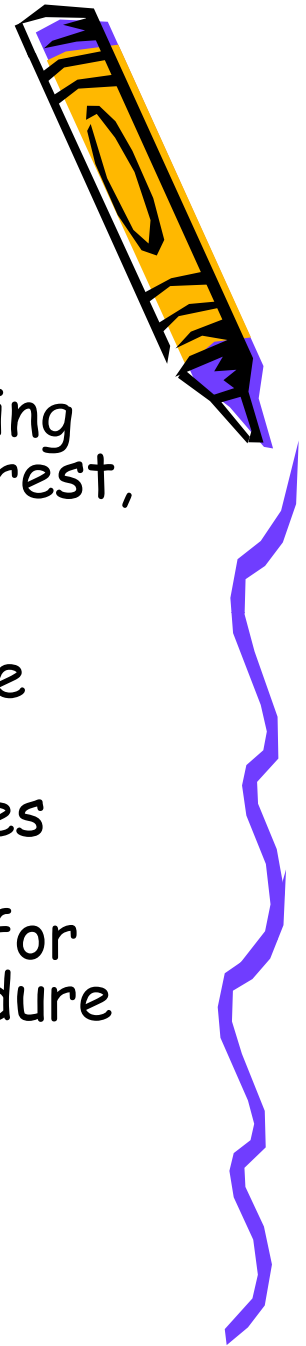
Record cont..

- Most juvenile offenders come from Manzese, Kinondoni, Tandale, Kariakoo and from the streets of Dar es Salaam.
- These areas have highly concentrated population, most of them are unplanned and the surrounding populations are poor.
- Many of the juvenile offenders are also child-workers who sell scrap metals and plastic bottles, collect and sell sands and act as porters for passerby for little pay.
- The environment in which the juvenile operate appears to be a breeding ground for anti-social behaviour such as petty crimes and drug use.



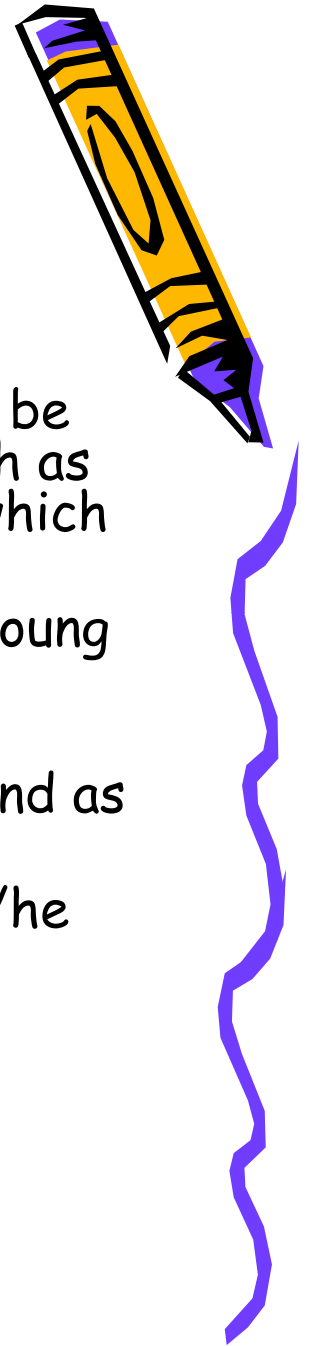
Juvenile Proceedings

- The main law that governs procedures of dealing with juveniles in conflict with the law from arrest, trial to sentencing is the Children and Young Persons Act.
- There is other laws also which governs juvenile justice system.
- The Children's and Young Persons Act embodies the basic principle of juvenile justice which require a fundamentally different procedure for dealing with juvenile from the ordinary procedure employed when dealing with adult criminals.



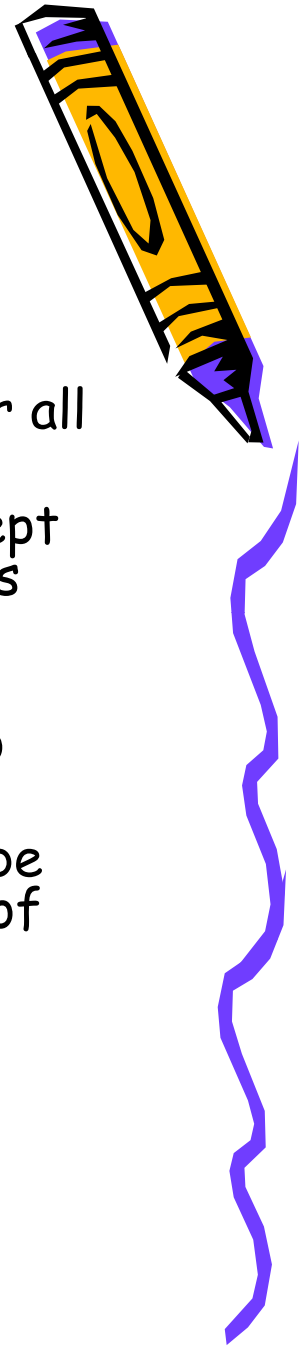
Juvenile proceedings cont..

- The law requires that all children and young persons to be tried in juvenile courts and that juvenile courts as much as practicable shall sit in a different building or room in which ordinary sittings of the court are held.
- The law also requires trial which relates to rape of a young person to be held in camera.
- A juvenile may not be sentenced to death and may be sentenced to custodial term only in exceptional cases and as a last resort.
- Where a young person is sentenced to imprisonment s/he should be separated from adults.



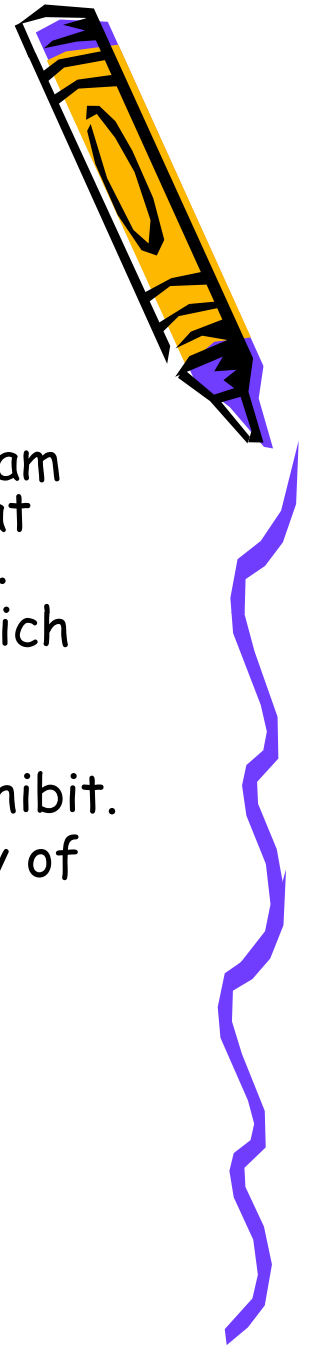
Findings

- In practice the criminal justice system does not deliver all the protections in reality.
- The country has no court rooms for juvenile court except one for Dar es Salaam namely Kisutu and this endangers juveniles in regions where there are juvenile courts.
- Juvenile in other regions are left to be dealt with mainstream court system without probation officers to assist.
- Juveniles appearing in mainstream courts are likely to be subjected to disadvantages such as lack of protection of dignity, privacy and other interests of juveniles participating in judicial proceedings.



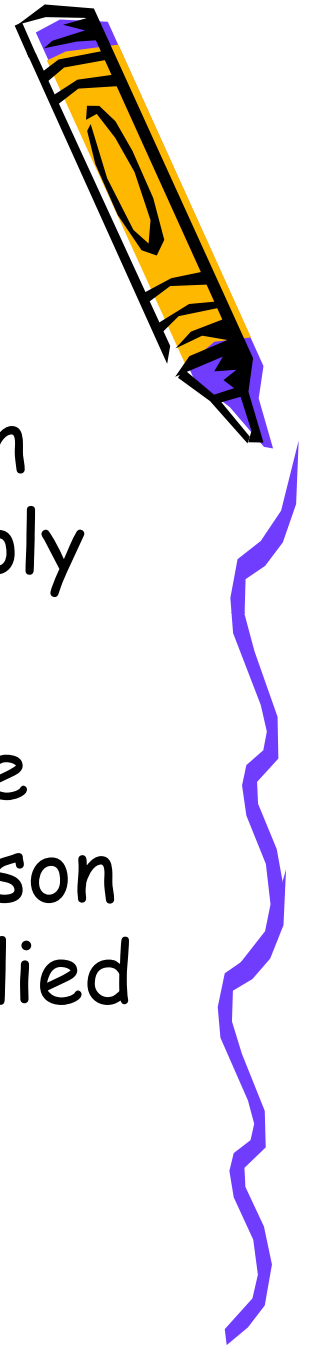
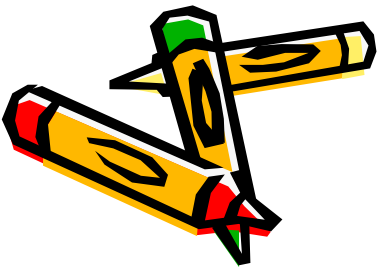
Findings

- Children before juvenile court at Kisumu are relatively comfortable than those appearing before the mainstream courts since police officers and the public prosecutor at juvenile court are not usually attired in police uniforms.
- Lack of clarity on the important question of the law which regulates the sentencing of juveniles.
- The Children and Young Person Act prohibits prison sentence to children while the Penal Code does not prohibit.
- The two statutes does not have a clause on the primacy of either.



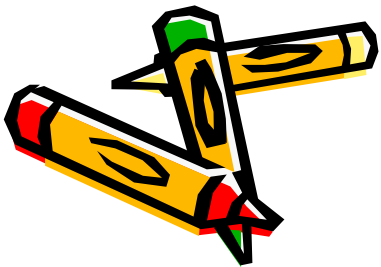
Findings

- Most magistrates have been left in dilemma as to which statute to apply when dealing with juvenile cases.
- Some magistrates have never come across the Children and Young Person Act and, therefore, had never applied it in sentencing juveniles.



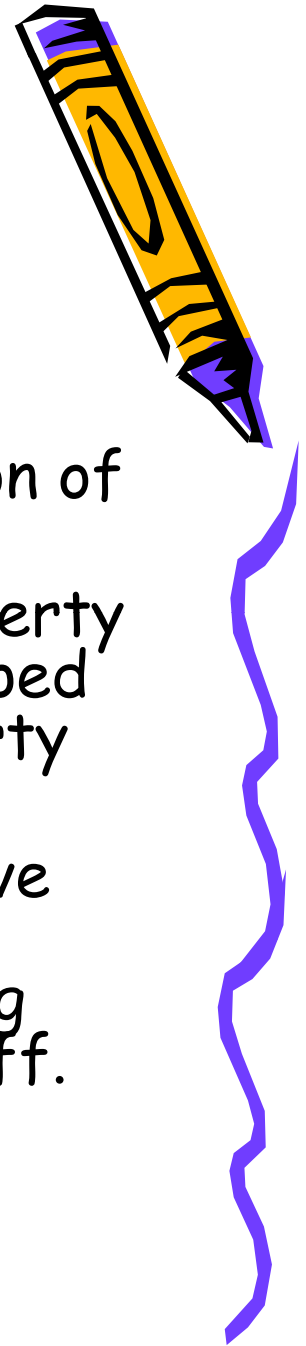
Recommendations

- The Children and Young Persons Act and the Penal Code should be harmonised to ensure consistency in dealing with cases involving juveniles.
- The judiciary should sensitise magistrates on the provisions of the Children and Young Persons Act.
- There is need to harmonise children related laws with provision of the CRC and ARCWC.



Recommendations cont..

- There is an urgent need to provide special separate court rooms and minimize intimidation of juveniles in all the courts in the country.
- There is need to work on a comprehensive poverty alleviation strategy for youths who have dropped out of school to minimize incidences of property crimes.
- The Social Welfare Department should improve its capacity to assist juveniles by establishing more facilities for holding juveniles, increasing the provision of specialised training to its staff.



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