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## LEGAL CHALLENGES FACING COMPENSATION TO VICTIMS OF SEXUAL OFFENCES IN TANZANIA

BY

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### Abstract

The compensation to victims of sexual offences in Tanzania as portrayed in the Tanzanian legislation faces the obstacles and difficulties that victims that required to be improved on the effectiveness of compensation for victims of sexual offenses in Tanzania. The legal system in Tanzania makes it extremely difficult for victims of sexual offenses to get compensation. Because of cultural stigma and ignorance of their rights, victims may be deterred from reporting crimes. When crimes are reported, victims frequently experience inadequate investigation and prosecution of offenders, inadequate restitution and delays in the criminal justice system. The demands of victims may not be sufficiently addressed by legal frameworks and the process may become much more difficult if Government institutions do not coordinate.

The article concluded that Tanzania's legal framework is unworkable and ineffective in providing compensation to victims of sexual offenses. As a result, it is advised that the Government, Judiciary, Legislature, and all other relevant parties ensure that a special fund is established to provide effective compensation to victims of sexual offenses in Tanzania.

**Keywords:** Compensation, victim of crime, sexual offences and legal challenges

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## 1.0 GENERAL OVERVIEW

### 1.1 Introduction

Tanzania faces the complex issues of sexual violence, including rape, sexual assault, exploitation, and harassment. These crimes cause immediate physical and psychological harm, and their effects extend well beyond the victims themselves, impacting entire communities and families. These probably understate the actual prevalence because of stigma, underreporting, and fear of reprisals. Many victims choose to keep quiet out of social uncertainty about the effectiveness of judicial remedies. The legal system's essential components are the availability of compensation money, the procedures for filing claims, and the actual payment to victims. Access to restitution is frequently hampered by administrative roadblocks and victims' ignorance of their legal rights. In terms of survivor compensation, societal institutions and cultural norms are crucial. For policy initiatives to be effective, it is imperative to comprehend community perspectives.

Tanzanian sexual assaults necessitate a multipronged strategy that includes strong legal frameworks, efficient enforcement, and social transformation. Important steps toward justice and healing for survivors include improving the judicial system's responsiveness to victims' demands, guaranteeing sufficient compensation, and creating a supportive social environment. Therefore, the article examines at Tanzania's legal issues surrounding compensation for victims of sexual offenses.

### 1.2 Understanding of the Key Terms on Compensation to Victims of Sexual Offences

#### 1.2.1 Compensation

This is the act of providing compensation, such as paying someone for their services or providing a suitable benefit to make up for



someone's loss, damage or harm.<sup>1</sup> Compensation in criminal justice has changed, drawing from a variety of legal and philosophical traditions. The notion that criminals have an obligation to compensate for the harm they have inflicted dates back to ancient societies, when the criminal justice system frequently mandated restitution.<sup>2</sup> Compensation has evolved in the contemporary era and taken many different forms, such as community service, criminal fines, and victim restitution schemes. Numerous variables, such as changing perspectives on justice and the nature of criminal responsibility, as well as developments in victim rights and support, have influenced the current notion of compensation in criminal justice.<sup>3</sup>

Practically speaking, compensation has been applied through a number of methods, such as victim compensation funds, community work, criminal fines, and victim restitution. In order to give victims justice and discourage future criminal activity, these techniques are frequently incorporated into the criminal justice system. The idea of compensation is also strongly related to more general notions of social justice and the Government's responsibility in redressing wrongdoing. However, it can also be viewed as a kind of punishment that makes criminals answerable for their deeds and discourages similar behavior in the future.<sup>4</sup>

This compensation concept in criminal justice is complex and multifaceted, with various legal traditions and philosophical approaches contributing to its development. One important factor has been the influence of restorative justice,<sup>5</sup> which arose in response to the perceived flaws in conventional retributive justice models. Restorative justice places a strong emphasis on mending harm and reestablishing relationships between victims, offenders, and communities. As a result, new forms of compensation, like victim-offender mediation and reparative justice, have been developed that aim to address the harm caused by crime in a more comprehensive and community-focused manner.<sup>6</sup> Criminal Procedure Act has developed civil litigation as a way to seek compensation granted by the court. Provision 328 stipulates that compensation for victims of sexual offenses may be carried out by a warranty of levy and the provision states as follows. The money may be taken from the accused person's movable and immovable property by distress and the sale under warrant when a court orders an accused person, prosecutor, or complainant to pay money for a fine, penalty, compensation, costs, expenses, or other reasons. However, if the accused person shows enough movable property to satisfy the order, his immovable property will not be sold. Section

348A of the Criminal Procedure Act<sup>7</sup> provides to the extent that where an offender fails or refuses to pay a fine imposed on him or her by the Court or compensate the victim the full amount ordered by the Court, the prosecutor may apply to the Court for a distress warrant to recover compensation from the movable or immovable property of the offender. In case the offender has no property or has insufficient property not capable of fully satisfying the amount of fine or compensation ordered, the Court may convert the fine or compensation to prison term. If the original commitment warrant does not address the conversion of fine and compensation to imprisonment, the Court will be required to issue a new warrant to specifically convert the fine and/or compensation to prison term in default to pay fine or compensation.

### 1.2.2 Victim of Crime

A victim of crime is defined as an individual or group of individuals who have suffered bodily, psychological or financial harm as a result of another person or entity's unlawful conduct.<sup>8</sup> There are various types of victims of crime such as direct victims, who are the main targets of the crime; indirect victims, who are the direct victim's family members or friends and may also be impacted by the crime; and community victims, who are members of the larger community who are impacted by the crime.<sup>9</sup> This concept of a victim of crime is influenced by various factors, including legal definitions, cultural norms, and societal values. Victims of crime can experience physical, emotional, and financial harm and may be classified into several categories such as direct, indirect, organizational, and secondary victims.<sup>10</sup>

The criminal judicial system frequently acknowledges and defends victims' rights, including the right to presence, information and impact statements. Victims of crime may be entitled to restitution, aid programs and compensation money in addition to their legal rights.<sup>11</sup> In addition to the categories of victims outlined above, there are also other types of victims, such as organizational victims, who are institutions or groups targeted by criminals, and secondary victims, who are people indirectly affected by a crime (e.g., witnesses, emergency responders, or medical professionals).<sup>12</sup> Other victims exist in addition to the ones mentioned above, including secondary victims who are impacted by a crime in an indirect way, such as witnesses, emergency personnel, or medical professionals and organizational victims, which are organizations or groups that criminals target.<sup>13</sup>

<sup>7</sup> Ibid

<sup>8</sup> Dearing, Albin. *Justice for victims of crime*. Springer International Pu, 2016.

<sup>9</sup> Ptacek, J. (2009), *Restorative justice, (2<sup>nd</sup> Ed) a social movement*, New York, NY: Oxford University Press, pp. 14-24.

<sup>10</sup> Walklate, S. L. (2015). *Victimology: A text/reader. (2<sup>nd</sup> ed., pp. 25-49)*. Los Angeles, CA: Sage Publications.

<sup>11</sup> Steiner B. (2013), *Victims' rights in criminal justice: A reference handbook*. Santa Barbara, CA: ABC-CLIO. pp. 50-90.

<sup>12</sup> Braithwaite, J., et al. (2008), *Organizational victims and restorative justice, Restorative justice and the future of criminal justice* New York, NY: Springer, p 64-76.

<sup>13</sup> Walklate, L. (2013), *Crime victims, (2<sup>nd</sup> Ed.)*, An introduction to victimology. Los Angeles, CA: Sage Publications. pp. 81-96.

<sup>1</sup> <https://www.collinsdictionary.com/compensation#googlevignette>, accessed June 2024.

<sup>2</sup> KONINGA, & Matthews R. (2018), (Eds.), *Compensation in criminal justice, Historical roots, contemporary practices, and future directions*. 158-184.

<sup>3</sup> Wright, R., & Zaletel, B. S. (1997), *Compensation in criminal justice, A study of practices in the United States*. *International Journal of Law, Crime, and Justice*, Vol. 25, No. 2, pp. 137-159.

<sup>4</sup> Siegel, L. J., et al. (2016), *Criminal justice, The essentials*.

<sup>5</sup> Dignan J. (2010), *Restorative justice in practice, International perspectives*, Cullompton, UK: Willan Publishing. pp. 157-175.

<sup>6</sup> Bazemore, G., & Walgrave, L. (2017). *The Oxford handbook of restorative justice*. Oxford, UK: Oxford University Press, pp. 135-160.



Furthermore, victims of crime have legal rights in many jurisdictions, including the right to information about their case, the right to witness specific phases of the criminal justice process like sentencing and the right to provide victim impact statements. Victims of crime may also be eligible for other types of compensation in addition to their legal rights including victim support programs, victim compensation funds and restitution which is monetary recompense from the criminal.<sup>14</sup> These forms of compensation aim to help victims recover from the harm caused by crime and restore their sense of well-being.

### 1.2.3 Sexual Offences

A group of crimes known as sexual offences comprise sexual behaviour that is deemed unlawful or damaging vary from unwanted sexual contact or advances to sexual assault, rape, and other types of sexual violence.<sup>15</sup> Understanding sexual offenses necessitates a holistic approach that considers variables including gender, power relations and societal views toward sexuality. Sexual offenses are a severe and complex issue. Victims, offenders and society at large may all be greatly impacted. Non-consensual sexual contact or penetration, sexual harassment, child sexual abuse, sexual exploitation and sexual assault are only a few examples of the multiple and intricate types of sexual offenses.<sup>16</sup> Intimate partner relationships, businesses, educational institutions and public areas are just a few of the settings where these offenses may occur. They can significantly affect victims' physical, emotional and psychological well-being and frequently entail power dynamics and unequal relationships between victims and perpetrators. The identification and comprehension of sexual offenses necessitate a comprehensive strategy that takes into account elements including gender, power relationships, and cultural perspectives on sexuality. Sexual offenses can have serious and enduring consequences for their victims. Social stigma, psychological stress, and physical harm can all have detrimental effects on victims' mental and physical health as well as their social and financial well-being.<sup>17</sup>

## 2.0 THE PROVISIONS OF LAWS GOVERNING COMPENSATIONS TO VICTIMS OF SEXUAL OFFENCES

The Constitution of the United Republic of Tanzania,<sup>18</sup> under article 12 and 13 provides that every person has right to recognition and protection of his dignity and equality before the law and thus victims of sexual offences can invoke this provision under the constitution where their dignity has been undermined

<sup>14</sup>Epp, C. R. (2008), *Compensating victims of crime*. In E. Martin, & K. Terry (Eds.), *Crime victims in the United States* New York, NY: Cambridge University Press, (pp. 84-105).

<sup>15</sup>Robinson, P. H., & Fields, T. L. (2014). *Sex crimes and the law*. New York, NY: Oxford University Press. (p. 28-45).

<sup>16</sup>Canter, D., & Armitage, M. (2012), *Sexual offending: An integrated approach*. Boca Raton, FL: CRC, Press. p. 46-60

<sup>17</sup>Kelly, L. (2016). *Gender, power, and sexual violence: Explorations in feminist theory*. London, UK: Routledge, p. 61-77.

<sup>18</sup>Cap. 2

through sexual offences. The Criminal Procedure Act<sup>19</sup> under section 348(1) provides that the court may order an offender convicted of a crime on sexual offence to pay compensation to the victims for any injury or loss suffered as a result of the crime. But also, the Law of the Child Act<sup>20</sup> under section 3, provides that the best interest of the child is paramount, this connotes that in cases where victims is a child on sexual offence, then the Judiciary is required to take into consideration the consequences of the child and ensure a proper measure is taken for the welfare of the child which may also include compensation. But more boldly section 18 of the Law of the child provides for compensation to child victims where the offender has been found guilty by the competent court including on the offence of sexual exploitation. However, the Substantive law on criminality which is the Penal Code<sup>21</sup> under section 170 gives the court a discretion to order compensation to victims of crime and thus including sexual offences and therefore compensation can be awarded in cases where the victims has suffered injury, financial loss and psychological trauma.

## 3.0 LEGAL CHALLENGES FACING COMPENSATION OF VICTIMS OF SEXUAL OFFENCES

### 3.1 Inefficiency in Legal Proceedings

The legal process for seeking compensation can be time-consuming and costly. Victims may have to navigate a lengthy and complex judicial system, which often discourages them from pursuing compensation. This inefficiency in legal proceedings undermines the victims' access to justice, as they may lack the financial resources or legal knowledge to sustain prolonged legal battles. Inefficiencies or legal proceedings are caused by various reasons such as delayed investigations such as understaffed police department of law enforcement agencies are underfunded or understaffed, leading to significant delays in investigating sexual offences cases. Backlogged forensic evidence where rape kits can take months or even years to process, delaying justice and weakening the evidence available for trial and hence delays the legal proceedings. But also, lengthy court procedures which often takes years to come to trial due to procedural delays.

### 3.2 Inconsistent Application of the Law

The inconsistencies in the application of laws governing Compensation to victims of sexual offences undermine justice to victims, creates impunity for perpetrators and weakens public confidence in the criminal legal regime. These inconsistencies may result from numerous factors including but not limited to judicial discretion, corruption, lack of legal clarity, among others. These discrepancies can result in unequal treatment of victims and inconsistent outcomes, especially in under-resourced areas where police training and support are limited. In sexual offences, the legal framework may be interpreted differently by law enforcement officers, magistrates, prosecutors and judges hence leading to inconsistencies. Some cases may be taken so seriously and

<sup>19</sup>Cap. 20 [R.E 2022].

<sup>20</sup>Cap 13

<sup>21</sup>Cap 16 R.E 2022



prosecuted very rigorously while others are dismissed and others prosecuted very normal and giving subjective judgement.

### 3.3 Inadequate Training in Human Rights for Police Officers

Police officers often lack adequate training on handling sexual offence cases with a human rights perspective.<sup>22</sup> This can result in the mishandling of investigations, re-traumatizing victims, and undermining their dignity. Human rights activists emphasize the need for human rights-focused training to ensure justice is served without infringing on the rights of victims. Police officers who have little knowledge in human rights may mishandle evidences, mismanage investigations, or fail to collect vital testimonies from victims in a trauma sensitive manner. Through this mismanagement of evidence and other testimonials from the victims eventually hinders the proper legal administration and dispensation of justice that will lead the victim not get proper compensation that does not commensurate with the offence committed by the offender.<sup>23</sup> But also inadequate human rights training may not be knowledgeable about the services for sexual offence survivors such as counselling or legal aid.

### 3.4 Violation of Victims' Privacy and Dignity

Victims' privacy is frequently compromised during investigations and this always make victims whenever they are faced with sexual offence issues never want to expose to police for reporting. Police officers may inadvertently or negligently disclose sensitive information, which violates the victims' right to confidentiality. This breach of privacy undermines the trust in the investigative process and may deter other victims from coming forward requiring assistance of compensation. Public disclosure of personal information by media and the leaks of unauthorized of victim's names, image, names, or other details about their cases on social media platforms may lead to public shaming harassment and stigmatization. In other incidences police may leak confidential information about the victims through media and thus causing violations of victim's privacy and security. But also, victims of sexual offence often face inappropriate or judgmental questions that implies blame to the victims. however, these victims face multiple unnecessary interviews about traumatic details and thus affecting their psychological setup.

### 3.5 Reluctance to Report Crimes Due to Fear of Police

Victims are hesitant to report sexual offences due to fear or distrust of the police. This is especially common in rural areas, where police may be perceived as unapproachable or hostile.<sup>24</sup> Both groups recognize that this mistrust hampers proper investigations and makes it difficult to address sexual offences and issues of compensation effectively. The reluctance to report crimes to the relevant authority is often a significant challenge to victims due to deep social, psychological and systemic nature of the act itself. Failure to report the matter to the police may consequently

underrate the entire process of administration of justice and the perpetrators remain unaccountable due to the nature of sexual offence victim needs to be taken to the hospital for medical reports that will be used to determine the reliability of the admissibility of evidence that is later used as strong for conviction of the perpetrators. Additionally, victims always fear the retaliation of the perpetrators especially where the wrongdoer is a partner, family member, or someone in a political position or in authority in higher ranks. But more significantly victims lack faith in the Tanzania criminal justice system especially in courts especially in incidences of past cases where the offenders were later released from courts due to lack of evidence that may be technical at law but lay persons cannot understand the technical nature of operation of law.

### 3.6 Lack of Resources for Thorough Investigations

Inadequate resources such as forensic tools, personnel, and proper facilities to conduct thorough investigations makes collection of evidence difficult and finally makes the accused to be acquitted once the evidence does not collaborate in its required standard. Therefore, the respondents herein corroborated this finding, emphasizing that the lack of resources contributes to low conviction rates and denies victims their right to justice whereby according to section 348<sup>25</sup>.

A great impede to justice by victims is the cost of forensic examination and thus victims face great impede when they try to access timely forensic medical examination especially in rural areas where the health infrastructure is still not in support of such and victims sometimes required to pay for such from their pocket and some may not afford and hence the evidence cannot be obtained for reliance in court. But also, victims lack proper legal representation due to victim may not be in the position of hiring an advocate. Limited training for law enforcement on trauma informed practices where inadequate support to victims is experienced and victims' cooperation with the investigative agencies and the prosecution service.

### 3.7 Gender Bias and Victim Blaming by Police Officer

The presence of gender bias among police officers when handling sexual offence cases is a great impede to justice by victims. police officers like any other member of the society holds stereotype views about women and men or non- binary individuals.<sup>26</sup> But more specifically judging the victim's behavior. The victims of sexual offence are judged based appropriate or inappropriate behavior emanating from alcoholism, attendance of social event engaging in casual dating. This judgement more specifically affects women and thus reinforcing a belief that they should behave modestly to avoid harm. Victim-blaming attitudes, where victims are perceived to be responsible for the crime, were noted as a significant barrier to justice. This bias discourages victims from pursuing legal action, and it compromises the integrity of investigations.

### 3.8 Failure to Protect Victims from Retaliation

<sup>22</sup> Johnson, R.E (2021). *Human Rights and Policing: Protecting Victims of Sexual Offenses*. Cambridge University Press. Pg. 35 - 38

<sup>23</sup> Johnson, R.E (2021). *Human Rights and Policing: Protecting Victims of Sexual Offenses*. Cambridge University Press. Pg 21 - 23

<sup>25</sup> Cap. 20 [ R.E 2022].

<sup>26</sup> Johnson, R.E (2021). *Human Rights and Policing: Protecting Victims of Sexual Offenses*. Cambridge University Press.



Both police officers and human rights activists identified the issue of inadequate protection for victims, particularly in cases where offenders or their associates retaliate.<sup>27</sup> Police officers often lack the resources or systems to provide long-term protection to victims, leaving them vulnerable to further harm or intimidation. Retaliation can take many forms including intimidation, harassment, threats losing of jobs by the offenders or even legal consequences orchestrated by the offender or those associated with them. Incases that involves well connected perpetrators, victims often face severe social, financial and emotional backlash. There the criminal justice system should have a legal protection mechanism that are designed to protect victims from retaliation such as whistleblowers protection law or specific provisions within sexual assaults statutes.

Failure to protect victims from retaliation arises only from institutional failures such as universities or law enforcement agencies sometimes fails to provide adequate protection. This can be due to inadequate policies, failure to take complaints seriously or even active complicity with the perpetrator.

### 3.9 Delays in Investigations and Prosecution

The delayed investigation and prosecution of sexual offenders in Tanzania are significant challenges that affects victims from getting compensation and thus this will make the conviction to delay. These delays emanate from a combination of systemic challenges, cultural attitudes and logistical problems within the legal and enforcement framework in the Tanzania legal framework.

Police officers explained that delays are often due to resource constraints, while human rights activists argue that such delays further traumatize victims and deny them timely justice. But also, lengthy procedural legal requirements slow down the process towards the conviction.

### 3.10 Use of Force or Coercion During Investigations

Use of force or coercion by some police officers during investigations particularly when dealing with suspects is a serious violation of human rights and can be devastating and an aggravating consequence that undermine justice.<sup>28</sup> The use of force by police officers undermines the trust in the criminal justice system and violates victims basic fundamental right such as the right to a fair hearing and often leads to false confession and compromised evidence that later makes the case to be quashed on technicalities of evidence but however if use of force is not used and a proper manner used the evidence obtained is credible and conviction is a matter of justice to the victim of sexual offenders towards compensation. Excessive force violates suspects' rights and may lead to false confessions, further complicating the justice process. Various effects arise from the forced coercion that is a violation of human rights such as physical abuse, psychological coercion, forced confession may lead the case to be quashed since there will technicality at law and therefore use of force and

<sup>27</sup> Smith, L. M. (2019). *The Impact Sexual Violence on Victims and Society*. Oxford University Press, Pg 70 -72

<sup>28</sup>Smith, L. M. (2019). *The Impact Sexual Violence on Victims and Society*. Oxford University Press, Pg 70 -72

coercion during investigation may impair credible evidence that will determine the verdict of the case.

### 3.11 Inconsistent Judicial Interpretations

The interpretation of compensation laws varies among judges and courts and some courts may award compensation, while others may deny it under similar circumstances.<sup>29</sup> This inconsistency in judicial rulings reflects a broader issue of uneven application of the law, contributing to the ineffective implementation of compensation practices.

### 3.12 Collaboration Between Police and Human Rights Organizations

There is importance of collaboration between the police and human rights organizations to improve the handling of sexual offence cases in order to ensure a more victim centered, right-based in handling such cases.<sup>30</sup> However, mistrust and differing approaches sometimes hinder this collaboration, making it difficult to achieve a unified strategy for addressing human rights issues during investigations. This comprehensive view highlights both the strengths and weaknesses in the current investigation practices in sexual offence cases, as perceived by police officers and human rights. Human rights organization are very vital in enhancing accountability and transparency and effectiveness of the law enforcement agencies. But other provides support and advocacy for victims of sexual offences.

### 3.13 Lack of Specific Provisions for Compensation that shows the threshold for compensation and criteria to be used in assessing

The Tanzanian laws does not provide on the mechanisms for the compensation of victims, there is a lack of specific and detailed provisions on the amount or the formulae to be applied in awarding compensation of sexual offences.<sup>31</sup> The absence of a clear framework makes it difficult to ensure consistent and effective implementation. Respondents showed their concern on the current legislation emphasizing that lacks clarity, leading to inconsistent outcomes in courts, whereby it is very uncertain as to when the said compensation is going to be paid while the accused is jailed for life imprisonment<sup>32</sup>. The criminal law statutes has no statutory provision that shows the amount of money that the victim has to be paid and thus this gives the judge or magistrates the power to decide on the amount to be paid without even having the structural stipulations to be used as a guideline for compensation.

### 3.14 Limited Use of Compensation Orders in Criminal Cases

The courts have the authority to grant compensation to victims of sexual offences, compensation orders are rarely issued as part of

<sup>30</sup> Brown, T. A (2020). *Collaboration Between Police and Human Rights Organizations: Building Trust and Accountability*. Palgrave Macmillan. Pg 123

<sup>31</sup> Smith, J. (2022). *Compensation Policies and Victims of sexual offences: An analysis of thresholds and challenges*. Academic Press

<sup>32</sup> Op. Cit



criminal proceedings.<sup>33</sup> Judicial officers may prioritize punitive measures such as imprisonment, over compensatory relief for victims. This imbalance reflects a focus on punishing offenders rather than providing victims with the financial support needed to recover from the harm inflicted, worse enough the orders of compensation which are given are just like a mere decoration for there is no uniformity as to how the victims are going to be paid.<sup>34</sup> Therefore, for the sake of justice to the victims its very paramount the courts to use compensation orders available than only using punitive measures. Then for the matter of precedence it is very fundamental a for courts to consider the injuries victims of sexual offences face and starts awarding compensation orders as the money will help victims to get medication and heal from any sought of trauma.

### 3.15 Practical Challenges in Enforcing Compensation Orders

Many offenders, particularly those serving long prison sentences, have no financial means to pay the ordered compensation.<sup>35</sup> Even when compensation is awarded, enforcement remains a major issue. Victims may therefore face significant challenges in receiving the awarded amount. Without an effective enforcement mechanism, victims are left with little recourse to obtain financial redress.

### 3.16 Underutilization of Civil Remedies

Victims have the option to file civil suits for damages. However, this avenue is severely underutilized. Many victims are either unaware of their right to pursue civil compensation, or they cannot afford the legal fees associated with civil litigation.<sup>36</sup> As a result, many victims are left uncompensated due to their inability to access this legal remedy. While criminal proceedings focus on punishing the offenders, civil remedies offer victims an opportunity to seek remedies are often overlooked or underutilized due to a variety of legal social and practical barriers such as lack of awareness due to limited knowledge.<sup>37</sup> Victims of sexual offences are unaware that they can pursue civil lawsuits instead of criminal proceeding. Legal presentation victims often lack access to advocates who have specialized in civil claims or related to sexual offenses and they may not be advised of this option by law enforcement or the criminal justice system. But complexity of civil claims has high burden of proof. However, the burden of proof in civil cases is a lower than in criminal cases, proofing damages in a civil suit are complex.

### 3.17 Limited Legal Aid and Support Services for Victims

<sup>33</sup> Doe, A.B. (2019). *The Limited Role of compensation Orders in Criminal Justice System: Barriers and Implications*. Justice Press. Pg 26

<sup>34</sup> Doe, A.B. (2019). *The Limited Role of compensation Orders in Criminal Justice System: Barriers and Implications*. Justice Press p.53

<sup>35</sup> Smith, L. M. (2019). *The Impact Sexual Violence on Victims and Society*. Oxford University Press, Pg 70 -72

<sup>36</sup> Jones, C.D. (2024). *The Underutilization of civil remedies for victims of sexual offences: Challenges and Perspectives*. Legal Insights Publishing

<sup>37</sup> Smith, L. M. (2019). *The Impact Sexual Violence on Victims and Society*. Oxford University Press, Pg 70 -72

Victims particularly in rural areas, are unaware of the legal process or lack the resources to hire legal representation. Without adequate legal aid and support services, victims are often unable to navigate the legal system effectively, leading to a failure in the implementation of compensation laws. Limited legal aid and support services for victims of sexual offences are very critical problem that can significantly hinder their ability to seek justice and access the necessary resources for recovery. These limitations create barrier to pursuing both criminal and civil remedies and they exacerbate the emotional, financial, and psychological difficulties faced by victims. the challenges that face that thereof may include but not limited to inadequate access to legal representation due to high cost of legal services and limited availability of free or low cost of legal aid.

### 3.18 Cultural and Social Barriers

Cultural and social factors such as stigma and victim-blaming often deter victims from seeking compensation.<sup>38</sup> In some cases, victims may be pressured by their families or communities to avoid legal battles, particularly when compensation is seen as a secondary issue to the offender's punishment. This reluctance to pursue compensation reflects deep-seated cultural norms that view financial redress as inappropriate or unnecessary in the context of sexual offences.

## 4.0 Recommendations

This study through the field study has unveiled various strategies and recommends to Legislature, Government, prosecutors, and human rights activists that will impact the entire criminal justice system for an effective law and practice to victims of sexual offences as provided here as follows:

- The Government should establish a comprehensive legal framework that ensures victims of sexual offenses receive appropriate compensation. This framework should include specific provisions for financial reparations, medical care, and psychological support. Additionally, the Government should allocate sufficient funding to support victim assistance programs. The Government should establish a comprehensive victim's scheme and the scheme should include the provisions for financial support, healthcare, psychological counselling and legal aid to victims of sexual offences. But more significantly the simplicity of the application process to ensure victims can easily apply for the compensation and reduce some sought of bureaucratic delays and complexities. But the comprehensive compensation scheme should be expanded to cover medical expenses, counselling costs, lost wages, relocation expenses and future care needs.
- The Parliament should amend the Criminal Procedure Act to include explicit compensation mechanisms for victims of sexual offenses. The amendment should be made to make more efficient to claims process, ensuring

that victims can access compensation without unnecessary delays. Furthermore, parliamentary committees should conduct regular reviews of compensation policies to ensure they meet the evolving needs of victims. Through compensation legislation enactment, the parliament should have a wide and broad definition of victims including direct survivors as well as families of the survivors in case of death of the victims or incapacitation.

- Through the enactment of legislation there should be creation of National Compensation Fund to provide financial support to the survivors and the fund should be sustained through the Government allocation of funds through National budgetary programs, fines from offenders and contribution from corporate civil society organizations. The parliament should establish a fast-track system for providing interim compensation to victims immediately after the offence has been reported which will have to wait until the conclusion of the criminal proceedings receive financial support. In this manner interim compensation can help victims to cover immediate needs by the victims such as medical treatments, psychological support and other important safety measures.
- The Police officers should receive specialized training on handling cases of sexual offenses, emphasizing the importance of sensitivity and support for victims. They should be instructed on the procedures for documenting evidence related to claims for compensation of the victims and ensuring that victims are informed of their rights to seek compensation from the state throughout the process of the case. The police officer should inform the victims pertaining their rights for compensation early in the commencement of the case.
- The police department as a key stakeholder in the criminal justice system should create a victim centered reporting Unit and process that is responsible in handling sensitive victims' cases of sexual offences. But also, in these cases police should be able to minimize Re-traumatization during the entire process of obtaining evidence and this should only be done by specialized unit within the police department. It includes the number of times the victim needs to recount their experience and provides victims with emotional support in the entire duration of time. The police department should be able to provide support to the vulnerable and marginalized victims and pay special attention to children, individuals with disabilities and members of the marginalized communities and ensuring that they receive the necessary support throughout the compensation process. But however, the police officers should assist vulnerable victims to obtain additional documentation or support that may be needed for compensation purposes such as proof of disability, financial hardship and other important help necessary.
- The Prosecutors should be mandated to include discussions of potential compensation during legal proceedings for sexual offenses. They should be trained to advocate for victim rights, ensuring that compensation claims are pursued alongside criminal charges. Prosecutors should have the collaborative efforts with victim in the whole process of making follow up of the compensation claims so as to avoid legal technicalities that the victim might face.
- The prosecutors should be the key champion on the advocacy for victims' compensation during Sentencing. Prosecutors should be making compensation request orders and this stance prosecutor should actively request compensation for victims as part of sentencing when presenting their prosecution during trial. This can be emphasized through embodying section 348(1) of the Criminal Procedure Act that allows the court to order compensation for injuries or losses resulting from the commission of the offence.
- The prosecutors during court trials should actively highlight the need for compensation to victims of sexual offences as compensation is needed to meet special medication and other relevant impacts that has resulted from the offence. But more importantly to collect and present detailed evidence of harm incurred by victims of sexual offences that should justify the ground of compensation and the urgent need to be taken to offer interim compensation to victims of sexual offences in order to help them get medical attention and also obtain psychological counselling.
- Human rights activists should continue to raise awareness about the rights of victims of sexual offenses and the importance of compensation to the community. They can play a vital role in advocating for policy changes, providing support to victims in navigating the compensation process, and ensuring that the Government is held accountable for fulfilling its obligations to victims.
- Human rights activist should be able to advocate for comprehensive Legal Reforms for pushing on stronger compensational laws within the Tanzania criminal law system. And this can only be achieved by lobbying Government to strengthen or introduce comprehensive laws that guarantees victims with the right to compensation. But very vitally human rights activists should be able to raise awareness and concern on victims' rights to compensation as an international human rights standard that is recognized in the major international human rights' legal instruments.
- Human rights activists should be able to work with the Media and Civil Society collaboratively to amplify the message and ensure information about compensation to victims of sexual offences is widely spread in both rural and marginalized societies. By implementing these recommendations, Tanzania can enhance its support for

victims of sexual offenses and ensure that their rights to compensation are upheld effectively.

### 5.0 Conclusion

This study has provided a comprehensive analysis on compensation mechanisms available for victims of sexual offenses in Tanzania, highlighting the multifaceted challenges and legal frameworks that shape their experiences. Through the presentation of quantitative data and qualitative insights gathered from Key in several critical findings have emerged. The inadequacies in the legal framework and the inconsistent implementation of laws significantly impede victims' access to compensation. The lack of clarity in legal provisions, coupled with differing interpretations among legal practitioners, creates an environment of uncertainty that discourages victims from pursuing their rightful claims. Additionally, the burden of proof placed on victims, alongside the lengthy judicial processes, further complicates their pursuit of justice and compensation.

Furthermore, many victims are unaware of their rights to compensation, exacerbating the challenges they face. Lack of

victim support services, legal representation, and public awareness significantly undermines the effectiveness of existing laws aimed at facilitating compensation. Geographic barriers, particularly for those in rural areas, also pose substantial obstacles to accessing justice. The pressing need for reforms within the legal system to address these challenges. The clarity and comprehensiveness of compensation laws, providing standardized training for legal practitioners, and expanding support services for victims. Public awareness campaigns aimed at educating both victims and the broader community about compensation rights are also essential.

However, the existing legal framework for compensation in Tanzania has the potential to support victims of sexual offenses, significant barriers remain. Addressing these challenges requires a concerted effort from policymakers, legal practitioners, and civil society to ensure that victims receive the justice and compensation they deserve. By implementing the recommended reforms and fostering a more supportive legal environment, Tanzania can take meaningful steps toward enhancing the rights and experiences of victims of sexual offenses.

