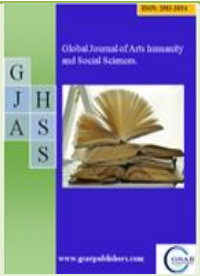


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CHALLENGES FACING THE EFFECTIVE PROTECTION OF PRISONERS' PROPERTIES IN TANZANIA: AN APPRAISAL OF THE LAW AND PRACTICE

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Abstract

Protection of prisoners' properties in Tanzania is one among of the human rights that is enshrined from the intentional conventions, regional and domestic laws. Prisoners are limited to enjoy some of the human rights including but not limited to the right to liberty in criminal justice system in order to maintain peace and order in society, to transform prisoners into better citizens and to make prisoners productive upon their return to the society through their release in lapse of their sentence or in case is the prisoners who are subject to the life sentence, then upon their release through the presidents' pardon after parole prerequisites will have been met. Prisoners retain other human rights that are not subject to the reason of incarceration including but not limited to the right to life, free from torture and inhuman degrading treatment and the right to own property and protection of such property held legally. The prisoners' right to own property and protection of such property held in accordance with the law is the main focus of this paper.

In Tanzania the principle and subsidiary legislations are crystal clear intended by the legislatures to protect prisoners' properties that can be stored conveniently in a prison safe custody. In albeit, the principle and subsidiary legislations are conspicuous not intended to protect the prisoners' properties that prisoners left in the society like cars, houses, animals and et cetera. The major challenges that face the effective protection of all prisoners' properties in Tanzania include but not limited to the silence of the law to provide the manner for protection of the said properties that cannot be protected by the prison safe custody, the silence of the law to grant court power to make order during conviction for proper arrangement of the prisoners' properties that cannot be protected under the prison safe custody and the silence of the law to impose duties to the members of the society that prisoners have entrusted them to manage their properties during incarceration period. Hence, there is a need to amend the current laws and the legislature to enact new Act that provides for the manner in protection of all prisoners' properties in Tanzania so that the end of the effective protection of all prisoners' properties can be achieved.

Keywords: Prisoner, Prison and Property.

INTRODUCTION

Many people in the world own properties that have acquired through different means such as through inheritance, purchasing and acquiring as a gift.ⁱ Any person may become tomorrows' prisoner in case he will violate any law of the land and found guilty by the competent court. Therefore, when a person is convicted before the competent court he may have some of his properties that

he has brought in prison and other properties that he has left in the society like cars, houses and animals that cannot be brought in prison for their protection under the prison service management via the prison safe custody.

The international community recognise that, prisoners retain some of their rights including but not limited to the right to own property enshrined by the different international conventions,ⁱⁱ hence the



international community has adopted conventions to recognise specifically the protection of prisoners' properties and to ensure their legal protection.ⁱⁱⁱ On the same token, Tanzania as a democratic country has imposed the legal protection of every persons' property that is legally held through its' constitution and through its' principle and subsidiary legislations in order to ensure effective protection of prisoners' properties in Tanzania during incarceration period via the Tanzania Prison Service.^{iv}

However, there are allegations in Tanzania society to some of the released prisoners about the so called ineffective protection of all prisoners' properties since some of the prisoners after their release from the prison upon the lapse of their sentence or through the pardon from the president after the parole prerequisites to have been met, they found their properties that they left in the society to be in a bad condition and other properties to have been disposed without their knowledge or consent.^v

One among of the conspicuous challenges that face the effective protection of prisoners' properties that prisoners left in the society is the silence of the law to provide for the manner in protection of the said properties that prisoners left in society under the custody of their family, relatives or friends. The intention of the legislatures in principle and subsidiary legislations is to protect prisoners' properties that can be stored in prison safe custody under the Tanzania Prison Service and left other properties in dilemma on their protection.^{vi} The silence of the law brings uncertainty and challenges regarding effective protection of all prisoners' properties in Tanzania. Hence, this legal gap should be solved in order to ensure the legal effective for protection of all prisoners' properties in Tanzania.

ORIGIN OF PROTECTION OF PRISONERS' PROPERTIES IN TANZANIA DURING COLONIALISM

The origin of the protection of prisoners' properties in Tanzania can be traced back during establishment of the prison system by the Germany during colonialism whereby through the establishment of prison system it is when people started to be limited to enjoy some of their human rights including but not limited to the right to own property and protection of such property held in accordance to the law.^{vii} The establishment of the prison service system by the Germany was intended to facilitate the colonial business in Tanganyika Territory and to achieve the end of maintaining peace and order during that time.^{viii} The people were just imprisoned when they breached the colonial contract via the Germany's Ordinance;^{ix} the breach of such contract was regarded as an offence by the colonial masters.^x

After the First World War in 1919, the Tanganyika colony was not the Germany's colony anymore; the colony was given to the British by the League of Nation as a trustee colony and British continued to use prison service system to facilitate their colonial affairs in Tanganyika colony against violators of their laws.^{xi} This circumstance continued to limit the enjoyment of the right to liberty to the prisoners imprisoned at that time that affected also

the protection of their properties that they left in the society.^{xii} The British colony imposed the policy and proclamation order to imprison any person that will have the element of ant colonialism in order to facilitate their affairs.^{xiii}

The Prison Ordinance was enacted in 1921 by the British in order to regulate the affairs of prison service and to separate the prison service system and police service system since before the enactment of this ordinance, the two services were coordinated together.^{xiv} In 1933 the Prison Ordinance was amended but it was aimed to facilitate the affairs of the British colonial regime and its traits are still continuing to exist in the post-independence. The main purpose of amending these laws did not serve the purpose to protect prisoners' rights specifically the prisoners' right to own property and protection of such property held in accordance to the law as the focus of this domain.^{xv}

THE PROTECTION OF PRISONERS' PROPERTIES IN POST WAR PERIOD

The international community during post wars period became the turning point to recognise the protection of every personal property and the protection of property(s) that is owned by more than one person through adoption of Universal Declaration of Human Rights in 1948.^{xvi} The law provides under Article 17 that every person has the right to own property and protection of that property either that properties is owned by a single individual or in association with other people.^{xvii} However, the UDHR was not a binding authority which led to the introduction of UDHR two protocols in 1966 in order to impose binding documents through commitment obtained via signatures among members state of the two protocols under the principle of pacta, sunt servanda.^{xviii}

The two protocols that were established in 1966 are the International Covenant on Civil and Political Rights (ICCPR)^{xix} and the International Covenant on Economic, Social and Cultural Rights (ICESCR).^{xx} Unfortunately, the two protocols did not recognise the protection of the right to own property since there was discourse about the ownership of properties to individuals between capitalist ideology and socialism ideology hence international community failed to enshrine the said right in one among of the two protocols above accordingly.^{xxi} However, among other things, the two protocols prohibits the discrimination to any person by the reason of property as one among of the grounds for discrimination under Article 2(1), 24(1) and 26 of ICCPR and Article 2(2) of ICESCR.^{xxii}

Inter alia, the Basic Principles for the Treatment of Prisoners Rights^{xxiii} was adopted by the United Nation General Assembly to provide for the fundamental principles to be observed by the states in treatment of prisoners and principle number five (5) imposes duty to the states to make sure that the human rights enshrined by various international conventions that are not subject to the limitations by the reason of incarceration, are enjoyed by the prisoners during incarceration period.^{xxiv}

Furthermore, the United Nation adopted the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson

Mandela Rules)^{xxv} formerly known as Standard Minimum Rules for the Treatment of Prisoners.^{xxvi} The rules provide for the standards to be observed in the treatment of prisoners. Rule 67 specifically provides for the protection of prisoners' properties by the prison service to the prison safe custody, the prisoners' properties information should be recorded in the inventory and should be witnessed by other prison officer for the future evidence in case a dispute will be arose and the inventory to be signed by a prisoner.^{xxvii} The same rule provides the duty to the prison service to keep in a good condition prisoners' properties.^{xxviii} Fortunately, Tanzania has enshrined many of the Mandela Rules under the Prisons (Prison Management) Regulation in 2002 and supplemented by the Prison Standing Orders of 2003.

THE PROTECTION OF PRISONERS' PROPERTIES IN TANZANIA IN POST-INDEPENDENCE PERIOD

In post-independence, in Tanzania through the Constitution of United Republic of Tanzania,^{xxix} the bill of rights were not included until 1984 whereby the bill of rights were enshrined under the Tanzania Constitution.^{xxx} Through the bill of rights, Article 17(1) provides for the right to freedom of movement but its exception is provided by the Article 17 (2) (b) that the freedom of movement is limited to the prisoners in order to execute a courts judgement or a court order.^{xxxi} This provision provides the manner in which a person can be limited his freedom of movement legally, however, this provision does not bar the prisoners' right to own property during incarceration period,^{xxxii} this right is protected under Article 24 of the same constitution that provides for the protection of the right to own property and protection of such property held in accordance to the law and in case of deprivation of the persons' property, deprivation should be implemented in accordance to the law that provides for procedure for such deprivation for public interest and such law should provide for fair and adequate compensation.^{xxxiii}

On the same token, the Prison Act^{xxxiv} under section 8(4) imposes the duty to the Prison-Officer-in-Charge to maintain the custody of prisoners' properties to the prison safe custody that a prisoner has brought in prison and such a prison officer should make sure that the prisoners' properties are in a good condition unless otherwise he will be responsible to anything that will happen in relation to the stored properties.^{xxxv} Moreover, the Prisons (Prison Management) Regulation^{xxxvi} under regulation 25 provides for the protection of prisoners' properties that can be stored conveniently under the prison safe custody.^{xxxvii} The law provides that, during admission of a prisoner in prison, a prison-officer-in-charge to record prisoners' properties information in inventory, the properties that a prisoner has succeeded to bring them in prison after he has been convicted by the competent court.^{xxxviii} Recording of the information regarding prisoners' properties to the inventory should be witnessed by other prison officers for the future dispute and such inventory to be signed by the said prisoner.^{xxxix}

Furthermore, the same regulation provides a room to the prison-officer-in-charge to refuse bulk articles in his discretion if he will

be deemed fit that the said articles cannot be conveniently stored to the prison safe custody; the regulation is silent on how those bulk articles can be managed.^{xl} Moreover, the Prison Standing Orders^{xli} that is made from section 5(2) of the Prison Act^{xlii} under order 484 provides the same information about protection of prisoners' properties that can stored conveniently in the prison safe custody, this order provides additionally about the only way that the bulky articles can be managed is through disposal by the way of sale through the consent in writing that will be signified by the prisoner and money to be kept in the prisoners' accounts.^{xliii}

Additionally, the order provides in general way that, the bulk articles can be disposed in whatever means a prisoner will wish to dispose his properties but the order does not provide the meaning of whatever means and the manner that prisoners' properties can be effectively protected by such whatever means of which is not certain.^{xliv} Therefore, the silence of the laws to provide the manner to protect other properties that cannot be protected by the prison safe properties creates uncertainty on how these properties can be protected effectively while prisoners are in incarceration, it is challenging to the prisoners to manage their properties that they left in the society while they are serving their sentence in prison. The silence of the law is one among of the big challenge that does not ensure the effective protection of all prisoners' properties in Tanzania. Hence, this gap must be covered in order to ensure the effective legal protection of all prisoners' properties in Tanzania.

KEY TERMS REGARDING PROTECTION OF PRISONERS' PROPERTIES IN TANZANIA

The Concept of Prisoner

Prisoner is a person who has underwent criminal prosecution before competent court and found guilty as a result the said court has convicted such a person in either a definite period of time to serve his sentence or the life imprisonment.^{xlv} For a person to acquire the prisoners' status there are procedures to be followed including but not limited to the investigation to the scene of the crime and connected areas when the crime is alleged to have committed in a specific area through report by any person to the nearby police station.^{xlvi} Arrest is conducted by the police officer when a criminal suspect is identified, the frame of charge is conducted before the competent court, preliminary hearing is conducted to determine many issues including but not limited to the plea taking, bail if the suspected has plead not guilty, the prosecution side mention the number of witness that they will rely upon.^{xlvii}

Furthermore, after the preliminary hearing the criminal case undergoes hearing and after the prosecution side has closed their case then the court determine prima facie case and in case there is a case to answer then the defence case mention their witness and after hearing of the defence case then the court will enter judgement and sentence to find if the accused person is guilty or not,^{xlviii} then if the accused person will be found guilty he is taken to the prison via the warrant of conviction as a result he becomes a prisoner without affecting his right to appeal subject to the limitation of time.^{xlix}

Moreover, the prisoners retain some of their human rights when convicted including but not limited to the right to life in case it is a country that does not impose death penalty, the right to be free from torture and inhuman degrading treatment, the freedom of speech, the right to worship in his religion choice and the right to own property(s) and protection of such property held in accordance to the law.^l Prisoner among other thing is limited to enjoy some of his human rights including but not limited to the freedom of movement for the reason of incarceration and the right to participate in public affair like to be elected as a leader if he is convicted in a certain period of time that disqualified a person to protest for an election, but this depends on the laws of a certain jurisdiction.^{li} Hence, many of the prisoners possess and own different properties that need effective protection during incarceration period so as they cannot be damaged or disposed without knowledge or wishes of a prisoner.

The Concept of Property

There is no specific definition of the concept property but many scholars have made different attempts to construe the meaning of property.^{lii} To mention the few, Thomas Hobes argues that, the property is given to person to own as his belonging against any other person in the world,^{liii} Sir. Robert Filmer opines that, property is like things given by the father to his children and he can take back as he wants,^{liv} John Locke opines that, a property is a thing that a man owns against anyone^{lv} and last but not least Anderson and Parker define property to mean goods or service given to an individual or to the group of individuals by the society and it has bundles of rights including but not limited to the right to use and enjoy the property, right to control the property, right to exclude others from the property and the right to dispose such property.^{lvi}

Generally, basing from the above ideas, a property can be construed to mean a thing that is owned to a person and it is associated with a numbers' of rights including but not limited to the right to use that property, right to control others from that property, right to exclude others from property and right to dispose that property. Therefore, a prisoner may own a thing that associates with mentioned bundles of rights, hence, prisoners must be granted effective protection of their properties through the legal basis.

Furthermore, property is of different types such as the tangible and intangible property, corporeal or incorporeal property, movable and immovable property and personal or public property.^{lvii} A person can acquire property through different modes including but not limited to by way of sale, inheritance, lease and gift. Therefore, before a person is convicted and become a prisoner might have acquired property or properties through the mentioned modes that have involved costs hence the effective legal protection is necessary to protect prisoners' properties.

The Concept of Prison

Prison is the premises whereby it is used by the criminal justice system to keep prisoners to serve the sentence that they have been convicted by competent court.^{lviii} This is the place where convicted criminals live.^{lix} The main purpose to keep prisoners in prison is to

correct them under the management of the prison service management.^{lx} The prisoners under these premises they get chances to learn different things in order to be transformed to be better citizens so as to maintain peace and order in the society.^{lxi} The prisoners are admitted by the prison-officer-in-charge in prison via the warrant of conviction from the competent court and releases upon the lapse of their sentence or through the pardon from the president to both prisoners serve their sentence in a definite period of time or to the prisoners who have life sentence.^{lxii} Moreover, a prison is the place whereby there is a prison safe custody that some of the prisoners' properties are kept or stored.^{lxiii}

THE LEGAL FRAMEWORK REGARDING PROTECTION OF PRISONERS' PROPERTIES IN TANZANIA

The Constitution of United Republic of Tanzania, 1977 as Amended Time to Time

The constitution provides for the basis of limitations of human rights that establish how prisoners' can be limited their right to freedom of movement. Article 17(2) (b) provides for the limitation of the right to free movement of aa person in order to make sure the court order or the court judgement is executed.^{lxiv} Furthermore, Article 24 provides for the right to own property and protection of such property to every person held in accordance to the law and in case of deprivation of a certain property, there must be law that provides for the manner of deprivation for public interest, the fair and adequate compensation.^{lxv} The constitution does not limit the prisoners' right of property ownership, hence, to deny the protection of their property for the reason of acquiring the status of a prisoner amounts to the discrimination.^{lxvi}

Inter alia, Article 64 provides the power to the Parliament to legislate to the matters regarding the union matters and the mainland Tanzania affairs,^{lxvii} also Article 97(5) provides for the power to the parliament to delegate its powers to other government bodies and department and other entities to make by-laws and regulations so as to regulate different affairs.^{lxviii} The Constitution does not provide specifically about the prisoners' right to own property and its protection but the constitution is the standard to be observed by the Parliament and other bodies to impose laws specifically regarding protection of prisoners' properties in Tanzania.

Inter alia, Article 30(3) of the constitution provides for the redress in case human rights has violated, is going to be violated or is likely to be violated, the person who allege should institute proceeding before the High Court for redress. Hence, prisoners may bring suit before the High Court for redress in case the right to own property is violated, or is going to be violated or is likely to be violated in the United Republic of Tanzania.^{lxix}

The Prison Act, 1967

This Act establishes the Tanzania Prison Service under section 3,^{lxx} it provides for the affairs of prison officers and their rights and duties. It also provides for the power of Commissioner of Prison to oversee the prison officers in their daily activities.^{lxxi} The Act

further provides for the admission of prisoners via the warrant of conviction from a competent court under section 25^{lxxii} and the duty to the prison officer in charge to be responsible to the daily affairs of prison including but not limited to the admission of prisoners and to store their properties in safe custody and in case the prisoners' properties will be in a bad condition then the prison officer in charge will be responsible for that damage under section 8(4).^{lxxiii} The law is silent about the protection of other prison properties that cannot be stored in prison safe custody; hence, this exacerbates the challenge of ineffective protection of all prisoners' properties in Tanzania.

The Prison (Prison Management) Regulation, 1968

The regulation provides specifically about the rights of prisoners in Tanzania, how the prisoners should be treated in different angles,^{lxxiv} the regulation is specifically provides for the protection of prisoners' properties that can be stored conveniently in prison safe custody (regulation 25), the properties that a prisoners has brought in prison during his admission after the conviction from the competent court.^{lxxv} The regulation provides a room to the police-officer-in-charge to refuse the bulk articles that cannot be stored in prison safe custody conveniently in his discretion.^{lxxvi} The regulation does not provide the manner to protect the refused prisoners' properties that may be refused by the prison officer in charge.^{lxxvii} The regulation is silent also about recognition of other prisoners' properties that a prisoner has left in the society.^{lxxviii} The silence of the regulation brings uncertainty and exacerbates the challenge toward effective protection of all prisoners' properties in Tanzania.

The Prison Standing Orders, 2003

The order among other things provides for the treatment of different prisoners' properties.^{lxxix} It provides specifically about the protection of some of prisoners' properties in Tanzania that can be stored conveniently by the prison safe custody under order 484.^{lxxx} The order further provides for the refusal of bulk articles by the prison officer in charge in his discretion and in case such refusal causes difficulties to the prisoner, the order provides for the disposal of such property by the way of sale via the consent of prisoner in writing and the money will be deposited to the prisoners' account.^{lxxxi} The order further provides the prisoners' properties can be disposed in whatever means a prisoner will wish.^{lxxxii} The order is silent about the meaning of the property to be disposed in whatever means and the manner of protection of such properties that will be disposed in whatever means by the prisoner.^{lxxxiii} The order intends also to protect prisoners' properties that can be stored in prison safe custody. The silence of the order intensifies the challenge regarding effective protection of all prisoners' properties in Tanzania.

The Basic Rights and Duties Enforcement Act, 1994

The Act provides for the procedure to be followed in enforcing the human rights enshrined under the Constitution of United Republic of Tanzania.^{lxxxiv} Section 4 of the Act provides for the right to remedy to any person to institute case to the High Court in case he alleges that his human rights have violated or are likely to be violated that are enshrined from Article 12 to 29 of the Tanzania

Constitution.^{lxxxv} Section 5 of the Act provides the person who alleges should make petition by way of affidavit and supported by the chamber summons.^{lxxxvi} Section 4(4) of the Act further provides that, where allegation is brought against the President, Vice-President, the Prime Minister, the Speaker or Chief Justice then such application shall be brought against the Attorney General only.^{lxxxvii} Generally, prisoners may institute proceeding through this Act when the right to own property and protection of such property held in accordance to the law will have been infringed or will be likely to be infringed.

The Commission for Human Rights and Good Governance Act, 2001

The Act provides for the Commission of Human Rights and Good governance and its function. Under section 6, the Act provides for the function of the Commission to include but not limited to the promotion and protection of human rights and duties in Tanzania, to receive any allegation from any person in Tanzania regarding violation of human rights, to educate society about the human rights and to initiate proceeding before the competent about violation of human rights if necessary. Hence, prisoners may bring any allegation regarding violation of the right to own property to the commission.^{lxxxviii}

THE INSTITUTIONS CONCERNED IN PROTECTION OF PRISONERS' PROPERTIES IN TANZANIA

The institutions that are responsible as far as protection prisoner's' properties is concerned are the Tanzania Prison Service established under section 3 of the Prison Act^{lxxxix} that is responsible to manage prisoners and some of their properties, the judiciary that is established under Article 107A of the Constitution of United Republic of Tanzania^{xc} to be the organ of the final authority to determine and decide both criminal and civil cases and in case if a prisoner will have any allegation regarding his property, he may bring an action before the competent court in Tanzania.

Furthermore, the Commission for Human Rights and Good Governance is another institution that is established by the same constitution of United Republic of Tanzania^{xcii} under Article 129 that is engaged in among other things, to oversee the promotion and protection of human rights, to receive allegation regarding violation of human rights and to institute proceeding before the competent court if necessary to protect the human rights. Hence, if a prisoner will have any allegation that affects his property he may submit to the CHRAGG.

CHALLENGES REGARDING EFFECTIVE PROTECTION OF PRISONERS' PROPERTIES IN TANZANIA

The Silence of the Law to Protect Prisoners' Properties that cannot be Stored in the Prison Safe Custody

The Constitution of United Republic of Tanzania is crystal clear provides for the right to own property and protection of such property held in accordance with the laws of the land.^{xciii} The Constitution provides a road map to the principle and subsidiary



legislations to provide specifically about the right to own property and protection of such property to the prisoners.^{xciii} The Prison Act, the Prison (Prison Management) Regulation and the Prison Standing orders are clearly provides for the protection of prisoners' properties that can be conveniently stored in a prison safe custody, therefore these laws are intended to protect the said properties that can be stored in the said safe custody. These legal regimes in Tanzania are conspicuous silent about protection of other properties that cannot be stored in prison safe custody; hence, this is a big challenge that faces the effective protection of prisoners' properties in Tanzania that is supposed to be cured.]

The Silence of the Law to Grant Court Power to Make Order During Conviction For Proper Arrangement of the Prisoners' Properties that Cannot be Protected Under the Prison Safe Custody

The Prison Act, the Prison (Prison Management) Regulation and the Prison Standing orders are conspicuous silent to give the court power to make order during conviction in order for the convicted prisoner to cooperate with prison officers to make proper arrangement for the effective protection of their properties that are not subject to the protection under the prison service management through the prison safe custody. Prisoners are just convicted and serve the sentence while left their properties in society to their family, relatives or friends without proper arrangement of their management. This is another challenge that is supposed to be solved.

Lack of Legal Provision to Imposes Duty to the Society toward Protection of Prisoners' Properties in Tanzania

The Prison Act, the Prison (Prison Management) Regulation and the Prison Standing orders have not only failed to recognise the properties that prisoners left in society and their protection but also the mentioned laws have also failed to impose duties to the people that prisoners have entrusted them to protect and manage their properties as a result some of the released prisoners find their properties in a bad condition or to have been disposed without their knowledge or wishes. Hence, this is also another challenge that is supposed to be solved.

There is no Specific Act that regulates the Protection of All Prisoners' Properties in Tanzania

There is just the Prison Act, the Prison (Prison Management) Regulation and the Prison Standing orders that regulate many affairs of prison, prison officers and prisoners and these laws recognise few properties that can be protected and stored in a prison safe custody and left other properties to be in a dilemma on the manner of their protection. The Prison Standing Order recognise bulk articles to be disposed by the way of sale via the consent in writing by the prisoner or in whatever manner a prisoner will wish to dispose his property. The order is silent to define such whatever manner and in case a prisoner property will be disposed by other means other than sale, the law is silent about the manner of the protection in the so called whatever manner. Therefore, the lack of specific Act to recognise and to protect all prisoners' properties in Tanzania is another challenged to be solved.

RECOMMENDATION AND CONCLUSION REGARDING EFFECTIVE PROTECTION OF PRISONERS PROPERTIES IN TANZANIA

The Prison Act to be Amended to Provide for the Protection of Prisoners' Properties that cannot be Stored in the Prison Safe Custody

The Parliament should amend the current Act that provides for the duty to the prison-officer-in-charge to be responsible for the properties that are stored in prison safe custody only, the Act should extend the power of the Tanzania Prison Service to be responsible for the cooperation with a convicted prisoner to make proper arrangement regarding protection and management of their properties and the law should provide a duty to the prison service to oversee those people in society that manage the prisoners' properties in Tanzania and to intervene by the way of initiating proceeding before the competent in case there will be suspicious about the poor management and protection of prisoners' properties in Tanzania.

The Parliament should amend the Prison Act to Impose duty to the Society about Protection of Prisoners Properties in Tanzania

The Prisoners when convicted they left their properties under the management of their family, relatives or friends. The silence of the law does not ensure the effective protection of these properties to the society; hence the Prison Act should be amended to commit society in protection of prisoners' properties and penalty should be provided by the law in case the said people in community failed to manage the prisoner's properties in a good condition or dispose the prisoners' properties without a certain prisoners' knowledge.

The Parliament should amend the Prison Act to Grant Court Power to Make Order during Conviction for Proper Arrangement of the Prisoners' Properties that cannot be protected under the Prison Safe Custody

The court power will impose compulsory duty to the institution concerned specifically Tanzania Prison Service through prison officers to cooperate with prisoners during their admission in prison after their conviction by the competent court to cooperate on how their properties will be manged in society and by whom. This will enable prisoners to have a good chance to select people on their wishes without pressure to decide well to who their properties will be under the custody for the proper management; hence this will help to ensure effective protection of prisoners' properties in Tanzania.

The Parliament to enact specific Act that recognises and ensure protection of all Prisoners' properties in Tanzania

This Act should recognise all prisoners' properties that can be stored in prison safe deposit custody and other properties that cannot be stored in the said deposit. The law should provide the manner of protection of the properties that cannot be stored under the prison safe custody so as to ensure their effective legal protection. The law should also provide for the institution that will be responsible to oversee the management and protection of prisoners' properties that are in society which are under the

custody of the few people that have entrusted by the prisoners. Hence, this will help to ensure effective protection of all prisoners' properties in Tanzania.

CONCLUSION

Generally the legal framework in Tanzania intends to protect prisoners' properties in Tanzania that can be stored in prison safe custody as the big challenge that facing the effective protection of all prisoners' properties in Tanzania. Furthermore, other challenges facing the effective protection of all prisoners' properties in

Tanzania are; there is no specific act that regulates the protection of all prisoners' properties in Tanzania, the silence of the law to grant court power to make order during conviction for proper arrangement of the prisoners' properties that cannot be protected under the prison safe custody and lack of legal provision to imposes duty to the society toward protection of prisoners' properties in Tanzania. Therefore, these challenges should be solved

ⁱ Prof. HIRADE, G., (2020), Property Law and Easement ,Pg. 23-25

ⁱⁱ United Nations Office on Drugs and Crime, (2008), *Handbook on Prisoner File Management*, New York, United Nations Publication pg. 2

ⁱⁱⁱ Ibid

^{iv} The Prisons (Prison Management) Regulation, Government Notice 19 of 1968

^v <https://www.mwananchi.co.tz/mw/habari/kitaifa/habari-maalumu-miaka-32-ya-maisha-jela-ndugu-waliamini-alishanyongwa-3917138> accessed on 22nd, August, 2025

^{vi} The Prisons (Prison Management) Regulation, Government Notice 19 of 1968

^{vii} JEREMY, Sarkin (2008) *Prisons in Africa: An Evaluation from a Human Rights Perspective*. Sur, International Journal on Human Rights, Vol.5:9, pg. 22-51

^{viii} Ibid

^{ix} Ibid

^x Ibid

^{xi} MOHA (2012) *Tanzania Prisons Service: Historical Background/About the Department*, Retrieved from <http://www.moha.go.tz/index.php/prisons-service/prisons-dept-background> (Accessed on 11/02/2025)

^{xii} Ibid

^{xiii} Ibid

^{xiv} Ibid

^{xv} Ibid

^{xvi} The Universal Declaration of Human Rights, 1948 (U.N.G.A. Res. 217A (III))

^{xvii} Ibid

^{xviii} <https://www.lawteacher.net/free-law-essays/international-law/the-two-un-covenants-on-human-rights-international-law-essay.php> accessed on 15th August 2025

^{xix} The Internal Covenant On Civil And Political Rights, 1966 (U.N.G.A Res. 2200A (XXI))

^{xx} The International Covenant On Economic, Social And Cultural Rights, 1966 (U.N.G.A Res. 2200A (XXI))

^{xxi} HOWARD-HASSMANN, Rhoda, (2013), *Reconsidering the Right to Own Property*, *Journal of Human Rights*, V. 12, available at <http://www.tandfonline.com/doi/full/10.1080/14754835.2013.784667?croll=top&needAccess=true#d1e110> pg. 181-183

^{xxii} Loc cit

^{xxiii} The Basic Principles for the Treatment of Prisoners Rights, 1990 (U.N.G.A 45/111)

^{xxiv} Ibid

^{xxv} The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), 2015 (U.N.G.A 70TH SESS: 2025-2016)

^{xxvi} Standard Minimum Rules for the Treatment of Prisoners, 1955 (E.S.C.R 663 C (XXIV) of 1957 and 2076 (LXII) of 1977)

^{xxvii} Loc cit

^{xxviii} Loc cit

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