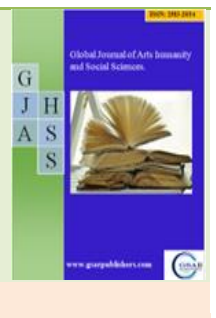


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LEGAL AND INSTITUTIONAL FRAMEWORKS GOVERNING THE USE OF DNA TESTING IN CASES OF IMPREGNATING SCHOOLGIRLS IN TANZANIA

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Abstract

In Tanzania, DNA testing has emerged as a crucial scientific tool in criminal and civil proceedings, especially in cases involving the impregnation of schoolgirls. The legal framework regulating DNA evidence is primarily established under the Human DNA Regulation Act No. 8 of 2009 and the Human DNA (General) Regulations of 2019. These laws provide for the collection, analysis, storage, and admissibility of DNA evidence. However, Tanzania's legal system, particularly under the Evidence Act [Cap. 6 R.E. 2002], does not confer upon DNA test results the status of substantive or paramount evidence in judicial proceedings. Rather, DNA evidence is treated as expert or corroborative evidence, meaning that while it can support a claim or allegation, it is not sufficient on its own to determine guilt, paternity, or liability. There is no express statutory provision that compels the court to treat DNA results as conclusive proof. As reflected in Tanzanian jurisprudence, courts retain discretion to assess the weight and reliability of DNA findings in the broader context of all presented evidence. Therefore, despite its scientific credibility, DNA testing in Tanzania is not legally recognized as standalone evidence, highlighting the need for legal reform to strengthen its evidentiary authority, particularly in cases affecting vulnerable minors.

Key words: DNA Evidence, DNA Profiling, DNA Sample, Schoolgirls pregnancy and Protection of Right to Privacy

1.1 Introduction

This chapter provides the legal and institutional frameworks that govern the use of DNA testing in Tanzanian criminal justice system, specifically in cases involving the impregnation of schoolchildren. DNA testing ensures fair trials by accurately identifying perpetrators and exonerating innocent individuals. However, in Tanzania, DNA testing is not a mandatory requirement in such cases, leading to potential gaps in justice. The chapter examines the laws that regulate DNA evidence, alongside the institutions responsible for its application. By analyzing these frameworks, the chapter examines the challenges that hinder the full utilization of DNA testing and its impact on delivering justice in cases of schoolgirls pregnancies.

1.2 DNA Evidence

Any information that can support or refute the criminal accusation in court is regarded as significant.ⁱ DNA evidence is regarded as an expert's opinion to be presented in court by a qualified and

experienced specialist who analyzed a criminal suspect's DNA sample in comparison to the field sample.ⁱⁱ DNA tests are regarded as legitimate evidence in court after the correct identification of the criminal suspects is established from the DNA sample. If a DNA test is relevant to the case and can either support the court's decision to convict or exonerate the accused, it is deemed relevant.ⁱⁱⁱ

1.3 Protection of Right to Privacy

The right to privacy guaranteed by international treaties including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and other regional accords, national laws, and particularly the constitutions of numerous nations, are connected to DNA.^{iv} Some people are worried that their privacy will be violated by the use of DNA profiling in DNA databases because their records will be kept there and may be used arbitrarily without their agreement. However, the DNA profiling technique is only used to store the genetic information of criminal offenders. Since human rights are limited to serve the public



interest, this is seen as an exception to restrict some people's right to privacy. Therefore, in this case, the public interest prevails to maintain a small number of people's genetic information via the DNA Profile system.

1.4 DNA Profiling

This system distinguishes the genetic information of the entire population from that of a single individual in a society based on the unique genetic information of that individual. When DNA samples are collected from crime scenes, it can be challenging to determine which sample belongs to which person. However, once a criminal suspect has had a DNA test and the results match the genetic information found in the field, DNA profiling is used to store the individual's genetic information that sets them apart from the entire population of a nation or the world.

1.5 DNA Samples

These items are removed from a crime scene in attempt to determine the genetic makeup of the perpetrator. Semen, blood, hairs, saliva, and three microgrammes of semen from a vaginal swab are among the materials taken from human bodies that have been separated from human bodies and taken from the crime scene.^v The investigator is usually interested to collect DNA Samples from the crime scene and not from anywhere since it can help them to ascertain the perpetrator of a crime.^{vi} DNA sample after their collection they are examined to determine their genetic information and later on they are compared to a certain criminal suspect in order to ascertain the exact individual who has committed the alleged crime.^{vii}

1.6 Schoolgirls Pregnancy

During pregnancy, a woman's egg cell fertilises with a man's sperm to create a zygote that will eventually give birth to a human child. There are two types of pregnancies: single pregnancies, in which a single formed zygote will result in the birth of a single human being, and multiple pregnancies, in which a woman's womb contains multiple zygotes that will eventually develop into multiple human babies and eventually give birth to multiple children..^{viii}

School girls are girls who go to school^{ix} whereby the school is an institution in whatsoever name that provides pre-primary education, primary education, secondary education or adult education to one or several individuals in a certain place at one time or different time.^x Schools girls' pregnancy therefore is the situation whereby a girl who is studying in primary or secondary school girl conceives a baby.^{xi} In relation to this study the girls' pregnancy is the circumstance that a girl from primary or secondary school conceives a baby.

2.1. Legal Frameworks

This section examines the legal instruments that relate to the use of DNA testing in the Tanzanian criminal justice system, especially in cases of impregnating schoolgirls and related sexual offences. The aim is to show what international, regional and domestic laws require, what they allow, and where they leave gaps that affect whether DNA testing becomes a routine or mandatory part of investigation and trial. The focus is on how specific provisions

interact with the right to a fair trial, the evidential rules that courts use, and the particular offence of impregnating a schoolgirl created by the Education Act and its amendments. Where a law has weaknesses that affect the study objectives, those weaknesses are discussed and linked to the questions raised in this research.

2.2 Domestic legal framework

The specific guidelines utilised in Tanzanian courts are provided by domestic legislation, including what evidence is accepted, how forensic or medical examinations may be mandated, and what offences exist and how they are proven. The Constitution, the Evidence Act, the Criminal Procedure Act, the Education Act as amended (section 60A), and the Penal Code are the most significant domestic tools for the question of whether DNA testing can or should be required in cases of schoolgirl impregnation. The way courts handle forensic evidence in practice is demonstrated by judicial rulings interpreting these laws.

2.2.1 Constitution of the United Republic of Tanzania

Article 13(6)(a) on a fair trial is one of the pertinent articles on fundamental rights included in the United Republic of Tanzania's 1977 revised Constitution. In addition to guaranteeing fundamental freedoms and right, the Constitution expressly mandates that decision-making bodies uphold the right to a fair trial while deciding on rights and obligations. In criminal cases where guilt or innocence is at issue, the procedural foundation of fair trial protections is established by Article 13 and related sub articles, which must be upheld. The greatest domestic normative foundation for arguing that processes and evidence must be sufficient to prevent erroneous convictions and to provide accused individuals a fair opportunity to refute allegations is provided by the constitutional right to a fair hearing.^{xii}

As read in conjunction with criminal procedure and evidence law, the Constitution offers a strong basis for requiring the employment of forensic techniques that significantly impact the accuracy of fact-finding as needed. In certain situations where DNA testing will significantly safeguard the accused or the victim, legislation or policy changes may be justified by the constitutional requirement to maintain fairness.

Although courts and institutions must uphold constitutional rights, this enforcement may be restricted in situations where courts accept evidence standards that primarily rely on witness testimony or in situations where institutions lack the capacity to conduct DNA testing. Forensic infrastructure cannot be fixed by the Constitution alone, thus institutional and statutory reform is necessary to uphold constitutional rights.

2.2.2 Evidence Act, (CAP 6 R.E. 2023)

The Evidence Act expressly recognizes expert opinion as relevant evidence. Section 47 allows the court to receive opinion evidence from persons possessing special knowledge, skill, experience or training.^{xiii} The Act also contains rules on burden of proof and on the weight to be attached to different kinds of evidence. Courts therefore have statutory authority to admit DNA expert evidence

and to consider its probative value when weighing the whole case.^{xiv}

The crucial point is that while the Evidence Act permits the use of expert testimony, it does not establish a legal need that any certain type of expert testimony be obtained in any given category of cases. To put it another way, the Act is not prescriptive regarding required testing, but rather liberal regarding expert testimony. The law acknowledges specialists but does not require DNA testing for particular offences, which is a crucial gap in the debate over whether DNA testing may be made mandatory.

The Evidence Act does not mandate standard operating methods for forensic collection, chain of custody, accreditation, or quality control for DNA analysis; instead, it concentrates on admissibility and weight. Courts might regard DNA results inconsistently or reject inaccurate testing in the absence of certain procedural requirements. Therefore, in order to make expert testimony trustworthy, international forensic guidelines must be incorporated into national laws and practices.^{xv}

Lastly, the Act's burden of proof regulations affirm that proof beyond a reasonable doubt is necessary for a criminal conviction. The Evidence Act and the constitutional principles of a fair trial together offer strong support for reform measures that make testing commonplace when it is required to arrive at trustworthy results if DNA evidence would significantly reduce reasonable doubt in specific circumstances. The Act does not mandate routine testing for any type of offences, which is the legislative gap.^{xvi}

2.2.3 Criminal Procedure Act, CAP 20 (R.E. 2023)

In accordance with Section 63, a magistrate may, upon request from a police officer, permit a medical official to examine a person in custody and to collect and study specimens if there are good reasons to think the examination or analysis will reveal information about the offence. Additionally, the Act permits judges to order witnesses or parties to undergo a medical examination.^{xvii}

In the real sense, this clause serves as the legal means of collecting medical records and biological samples, including specimens for DNA testing. Investigators and judges have the authority to request forensic analysis because a magistrate must provide permission upon request from a police officer. This permits forensic and medical exams under the law, but it does not require sample collection in any particular type of situations.^{xviii}

According to the report, this suggests that while the Criminal Procedure Act offers a way to get DNA evidence, magistrates and investigators have the last say. Even if DNA evidence could be extremely helpful, it will not be collected if police do not apply or if courts are cautious about requiring tests. Therefore, any proposal to make DNA testing mandatory would face legal challenges due to this discretionary nature; a legislation revision would be required to turn discretion into an obligation in specific circumstances.^{xix} But also, the Act assumes medical examiners and analysis capacity. Where laboratories are absent or under-resourced, courts cannot follow through on the authority in section 63.

2.2.4 Education Act, No. 25 of 1978 (Cap 353) as amended by Written Laws (Miscellaneous Amendments) Act (No.2) 2016

In order to safeguard children and deter adult sexual connections with schoolchildren, Section 60A of the law made it illegal to impregnate a primary or secondary school student. The legislation also established severe fines.^{xx} The provision therefore criminalises the act separately from general rape or sexual offences in the Penal Code and creates specific prosecutorial attention to schoolgirl pregnancy.^{xxi}

The issue with DNA testing is that while section 60A makes the behaviour illegal, DNA testing is not a necessary component of proving the violation. Testimony and medical reports have been used as evidence in convictions under section 60A. The lack of a statutory necessity for DNA testing increases the possibility that cases will be determined without the most trustworthy forensic evidence of paternity, which could result in erroneous convictions or acquittals because the Education Act creates a strong substantive offence with severe penalties. This gap is essential to the study's objectives.^{xxii}

Disciplinary or administrative school regulations regarding pregnancy and testing have historically resulted in practices that violate girls' rights to education and expose them to invasive procedures, creating a related policy tension. Mandatory pregnancy testing for schoolgirls and general prohibitions have drawn criticism from regional and international organisations, highlighting the need to strike a balance between safeguarding children and preventing prejudice or stigma. Therefore, any action to make DNA regular must be created in a way that safeguards the kid victim and does not stigmatize or punish her.^{xxiii}

2.2.5 Penal Code (Cap 16 R.E. 2022)

The Penal Code specifies factors that the prosecution must prove and gives the substantive legislation for rape and sexual offences. The law handles people under the age of 18 differently when it comes to crimes involving children, thus having sex with a child might be illegal with or without consent. In reality, the main tool used to prosecute cases of sexual assault is the Penal Code, which may potentially interact with the Education Act when a schoolgirls fall pregnant.

The Penal Code does not require DNA testing in any category of cases, so the availability and use of DNA depends on investigative decisions, prosecutorial strategy, and judicial discretion. This creates the possibility of inconsistent outcomes in similar factual cases. One important evidentiary reality is that courts frequently rely on witness testimony and medical examination reports when deciding sexual offence cases. DNA, when available, can conclusively identify biological relationship or contact and thus strengthen the prosecution's case or, conversely, clear the accused.^{xxiv}

Forensic infrastructure is not created just by the definitions included in the Penal Code and the framework for particular offences. The state must establish laboratories, sample collection procedures, and chain-of-custody procedures where the law

specifies offences and penalties in order to guarantee that DNA results are reliable and acceptable. Otherwise, the potential benefits of using DNA as a fact-finding technique are undermined by the lack of trustworthy forensic backing.^{xxv}

2.2.6 The Government Chemist Laboratory Authority Act, No. 8 of 2016

The Government Chemist Laboratory Authority Act, Act No. 8 of 2016, creates the Government Chemist Laboratory Authority (GCLA), which is in charge of forensic science and laboratory services in Tanzania, as a corporate body with perpetual succession, the ability to sue and be sued. The Authority is formally established as a legal entity in Section 4(1), which grants it the authority to conduct independent forensic operations. This part is important because it grants the Authority the legal authority to handle evidence, perform DNA testing, and provide expert reports in court—all of which are crucial in criminal cases like those involving schoolgirl impregnation. Because of its independence, forensic investigations can be carried out impartially and free from undue influence from other authorities.^{xxvi}

The Act's Section 5 describes the Authority's duties, which include conducting forensic examinations, keeping custody of exhibits, offering expert opinions in court, and advising the government on matters of chemistry, forensic science, and DNA testing; Section 6(1) gives the Authority the authority to establish laboratories throughout Tanzania; and Section 32 makes it illegal to tamper with forensic evidence or obstruct officers in their duties. These provisions strengthen criminal justice because they guarantee the Authority has the resources, accountability, and legal authority to conduct forensic work.

Despite these advantages, the Act has a significant flaw in that, although it establishes the Authority and gives it the authority to do DNA tests, it does not require DNA testing in all criminal cases involving sexual offences, such as impregnating students. Trials may proceed without scientific proof because courts and police have the ability to order DNA testing. Because the most trustworthy evidence was not employed, there is potential for a miscarriage of justice, in which an actual criminal may escape punishment or a suspect may be wrongfully convicted.

2.2.7 Deoxyribonucleic Acid (DNA) Act, 2009

The Deoxyribonucleic Acid (DNA) Act, 2009 governs the use, collection, storage, and admissibility of DNA material in Tanzania. Section 3 defines key terms including "DNA analysis," "DNA sample," and "DNA databank," providing clarity for law enforcement, laboratories, and courts. This section is important to the study because it standardizes the meaning of DNA-related processes, which ensures that investigators know how to handle evidence and that courts recognize it legally. In cases of school girls being impregnated, the clear definitions allow the evidence to be collected and interpreted scientifically and uniformly.

Section 10(1) allows DNA samples to be collected from any person suspected of committing a criminal offence, while section 11 establishes a National DNA Databank to store DNA profiles for use in investigations. Section 14 makes DNA results from

authorized laboratories admissible in court as expert evidence when accompanied by certificates of analysis. These sections are strengths for the study because they create a structured, credible legal system for collecting and presenting DNA evidence. DNA testing can therefore provide conclusive proof in paternity disputes or sexual offence cases, reducing reliance on unreliable oral testimonies.

The gap in the DNA Act is its discretionary nature. While it allows DNA testing, it does not make it mandatory in every sexual offence case. Investigators or courts may decide not to request DNA analysis, even in serious offences like impregnating school girls. This discretionary approach can undermine the principle of proof beyond reasonable doubt and the accused person's right to a fair trial. The absence of a mandatory requirement means that even when scientific evidence is available and capable of preventing injustice, it may not be used.

2.2.8 Human DNA (General) Regulations, 2018

The DNA Act of 2009 is implemented in accordance with the Deoxyribonucleic Acid (DNA) Regulations, Government Notice No. 582 of 2019. DNA samples must only be taken by authorized authorities and in compliance with established protocols, according to Regulation 4(1). This guarantees that samples are collected, handled, and documented correctly. This rule ensures that evidence in schoolgirls cases is handled professionally, lowering the possibility of contamination and authenticity problems in court.^{xxvii}

While Regulation 10(1) mandates the GCLA create and submit DNA results to courts, Regulation 6 guarantees the preservation of the chain of custody. Regulation 14 preserves the privacy of suspects and victims by protecting the secrecy of DNA information. These rules ensure that courts can depend on scientific proof in criminal cases by bolstering the credibility of DNA evidence. Additionally, they aid to preserve accuracy and uniformity in forensic testing by standardizing techniques among laboratories.

The rules do not mandate that testing be done in every case of sexual crime; rather, they only apply when DNA testing has been authorized. Because of this procedural restriction, the use of DNA evidence is subject to discretion even in the presence of clear and trustworthy criteria. In actuality, this may lead to trials without DNA testing, which would make it more difficult to establish paternity or culpability in situations when schoolgirls are impregnated. This could jeopardize justice for both the guilty and the victims.

3.1 Institutional Frameworks

This section looks at the institutional frameworks that control DNA testing in Tanzania's criminal justice system, especially when it comes to situations when schoolgirls are impregnated. The organs that interpret, enforce, and carry out laws are called institutions. Institutions operationalize laws and make sure they are followed in practice, even when laws give the substantive requirements. Institutions like the Tanzania Forensic Bureau, the Ministry of Health, the National Prosecutions Service, the Police Force, the

Judiciary, and the Commission for Human Rights and Good Governance (CHREGG) are crucial in determining whether DNA evidence is successfully used to protect the rights of both accused and victims.

3.2 The Judiciary of Tanzania

In Tanzania, the judiciary is the branch of government tasked with enforcing the law. It was created in accordance with Article 107A (1) of the United Republic of Tanzania's 1977 Constitution, which states that the judiciary has the power to administer justice in the country. From Primary Courts to the Court of Appeal, the Judiciary is made up of several tiers of courts. Its duties include interpreting the law, defending constitutional rights, and settling conflicts. The judiciary makes ensuring that trials in criminal matters are fair and that verdicts are rendered in accordance with the law.

The admission and application of DNA evidence are decided by the judiciary. Section 47 of the Evidence Act [Cap 6 R.E 2022] states that expert opinions from those who are very knowledgeable in disciplines like science or medicine are admissible in court. This clause applies to DNA evidence since it is scientific in nature. When determining a child's paternity or connecting an accused individual to a crime, courts have the authority to accept DNA data as trustworthy expert testimony. These establish the judiciary as a key actor in guaranteeing that DNA evidence supports impartial trials.

But the judiciary has also served as a forum for exposing the shortcomings of the existing legal system. The Court of Appeal ruled in *Hango Omary Hango v. Republic*, Criminal Appeal No. 8 of 2006 that a person accused of impregnating a schoolgirl is not required to undergo DNA testing in order to be found guilty or exonerated. According to this precedent, courts may proceed using testimony and circumstantial evidence in place of DNA evidence. The potential influence of DNA testing in guaranteeing justice is diminished in the absence of a legislative mandate.^{xxviii}

Article 13(6)(a) of the Constitution, which guarantees everyone the right to be heard by an impartial tribunal and to have their case decided on the basis of clear and trustworthy evidence, conflicts with this idea of a fair trial. Courts may rely on less trustworthy types of evidence when DNA testing is not required, which could result in injustices. Therefore, the lack of mandatory DNA testing standards in cases involving schoolgirl impregnation limits the judiciary's ability to administer justice.^{xxix}

3.3 The Police Force and Criminal Investigation Department (CID)

The Tanzania Police Force is one of the oldest institutions of the criminal justice system. It is established under section 5 of the Police Force and Auxiliary Services Act [Cap 322 R.E 2022], which provides for the establishment of the Police Force under the command of the Inspector General of Police. The Police are mandated to maintain law and order, prevent and detect crime, apprehend offenders, and enforce all laws of the country. Within the Police Force, the Criminal Investigation Department (CID)

plays a specialized role in investigating serious offences, including sexual offences involving schoolgirls.

The gathering of evidence, including biological samples that might be analyzed using DNA, is a direct responsibility of the police force. A police officer may request a medical examination of an accused person under section 63(1) of the Criminal Procedure Act [Cap 20 R.E 2022], and a magistrate may order a medical examination of a victim under section 203. These clauses provide the police the authority to start DNA testing as part of their investigations. Because of this, forensic evidence in criminal prosecutions is accessed through the police.^{xxx}

Despite this responsibility, dealing with cases of schoolgirl impregnation presents difficulties for the police. Many investigations rely on the testimony of victims, parents, or circumstantial evidence because DNA testing is not required by law. Police cannot always force a suspect to submit to a DNA test if he denies being responsible for a pregnancy. This weakens their investigation and may lead to the presentation of flimsy cases in court.

The absence of sufficient resources and training for police personnel to handle forensic evidence is another drawback. Officers may not even have access to DNA testing facilities in many remote regions, which makes it more difficult for them to obtain solid evidence. Improper handling of biological samples can occasionally result in contamination or make evidence inadmissible in court.

3.4 The National Prosecutions Service (NPS)

In the criminal judicial system, the National Prosecutions Service (NPS) is an essential organisation. The National Prosecutions Service Act, No. 27 of 2008, which operationalizes the Director of Public Prosecutions' (DPP) authority, established it. Section 8 of this Act gives the DPP the power to start, take over, carry out, or end criminal proceedings. The NPS makes ensuring that people accused of crimes are presented in court with adequate and trustworthy evidence.^{xxxi}

For criminal cases involving impregnating schoolgirls, the NPS relies on the principle that the prosecution must prove guilt beyond reasonable doubt, as provided under section 3(2) of the Evidence Act [Cap 6 R.E 2022]. DNA evidence, which has a 99.9% accuracy rate, is therefore one of the strongest tools available to the prosecution. By establishing biological connections with scientific precision, DNA tests can strengthen prosecutions and reduce the chances of wrongful acquittals.^{xxxii}

However, medical examinations and investigations are not under the NPS's jurisdiction. It depends on evidence gathered by law enforcement and examined by forensic or medical facilities. The NPS lacks the independent authority to order DNA testing if the police do not request it or if it is not accessible. This makes it more difficult for the prosecution to meet the high standard of proof needed in criminal proceedings. As a result, insufficient evidence

causes many court cases to fail. For instance, the lack of DNA evidence makes it challenging to discern between true and fraudulent accusations in rape and defilement cases. Victims frequently do not receive justice, and suspects are exonerated due to insufficient evidence rather than because they are innocent.

3.5 The Ministry of Health

The Executive Agencies Act, No. 30 of 1997, which gives the government the authority to establish executive agencies and ministries to carry out particular tasks, gave rise to the Ministry of Health. The Ministry is in charge of managing the health sector, which includes hospitals, labs, and medical staff who perform forensic testing and medical examinations.^{xxxiii} In criminal cases, the Ministry's role is highlighted under section 203 of the Criminal Procedure Act [Cap 20 R.E 2022], which allows magistrates to order medical officers to examine suspects or victims. Medical officers under the Ministry of Health therefore act as expert witnesses when they conduct DNA tests and submit their findings in court.^{xxxiv} Their reports form part of the expert evidence admissible under section 47 of the Evidence Act.

Because DNA testing necessitates specialized laboratories and qualified workers, the Ministry of Health's cooperation is essential. DNA sample collection, analysis, and interpretation would not be feasible without the Ministry's facilities. This implies that the Ministry's ability directly affects how well DNA evidence is used in criminal prosecutions.^{xxxv} However, the Ministry is severely constrained. In many areas, samples must be transferred to Dar es Salaam or even abroad for analysis because many government hospitals lack state-of-the-art DNA testing equipment. This raises expenses and postpones justice. Furthermore, many medical personnel do not prioritize DNA testing unless a magistrate specifically orders it because there is no legal requirement to do so in cases of schoolgirls impregnation.

3.6 The Commission for Human Rights and Good Governance (CHRAGG)

CHRAGG is an independent national institution established under Article 129(1) of the Constitution of the United Republic of Tanzania, 1977.^{xxxvi} The Commission for Human Rights and Good Governance Act, No. 7 of 2001, outlines its authority and duties. The Commission's duties include investigating human rights abuses, promoting and defending human rights, and advising the government on matters of justice and good governance.^{xxxvii}

Although indirect, CHRAGG plays an important function in DNA testing. It guarantees the criminal justice system respects the rights of both accused individuals and victims. DNA testing offers victims a dependable and scientific method of identifying criminals and ensuring justice. Mandatory DNA testing could shield accused individuals from erroneous convictions, protecting their fundamental right to a fair trial under Article 13(6)(a) of the Constitution.

Despite this mandate, CHRAGG has limitations. It does not have prosecutorial or judicial powers.

It cannot compel the police, courts, or medical personnel to take action or mandate DNA testing. It only has the authority to supervise, counsel, and suggest. This means that CHRAGG cannot directly affect trial results in situations of schoolgirl impregnation; instead, it can only point out infractions. CHRAGG is likewise reliant on citizen complaints. Many victims of sexual crimes, particularly rural schoolgirls, might not be aware of their rights or how to file a complaint with the Commission. This makes it more difficult for the Commission to step in or point out flaws in the legal system.

3.7 The Tanzania Forensic Bureau

Within the Tanzania Police Force is a specialized organisation called the Tanzania Forensic Bureau. It was founded in accordance with the Police Force and Auxiliary Services Act [Cap 322 R.E. 2022], which gives the police the authority to develop specialized units to assist with criminal investigations. The Bureau is in charge of carrying out forensic investigations, which include toxicology, fingerprinting, and DNA analysis.^{xxxviii}

DNA testing directly involves the Forensic Bureau. It has the labs and knowledge needed to examine biological samples taken from victims or suspects. According to section 47 of the Evidence Act, the Bureau reports are admissible in court as expert opinions. This indicates that when DNA evidence is used in criminal cases, the Bureau supplies the scientific foundation.^{xxxix} However, since DNA testing is not mandatory in cases of impregnating school girls, many cases are never referred to the Bureau for analysis. This reduces its impact on the justice system, as only a small number of cases benefit from DNA testing.^{xl}

As a result, the organisation most qualified to offer DNA testing services in Tanzania is the Tanzania Forensic Bureau. However, the lack of laws mandating DNA testing undermines its efficacy. This lessens its ability to adequately support justice in situations where schoolgirls are impregnated.

3.8 The Government Chemist Laboratory Authority

DNA analysis and forensic tests in Tanzania are handled by the Government Chemist Laboratory Authority, which was founded by the Government Chemist Laboratory Authority Act, No. 8 of 2016. The Act's functions, which include gathering, evaluating, and reporting forensic evidence, are described in Section 5. The National DNA Databank, which was created in accordance with section 11 of the DNA Act of 2009, is likewise overseen by the Authority. Because it guarantees that DNA evidence is handled correctly and has legal credibility for court proceedings, it is essential to criminal investigations, especially in cases involving schoolgirls.^{xli}

In accordance with section 47 of the Evidence Act [Cap 6 R.E. 2022], the Authority gathers samples from victims, suspects, or other pertinent parties, examines them, and produces findings that are admissible as expert testimony in court. Because of this, DNA testing is quite trustworthy for verifying or ruling out suspects in schoolgirl impregnation instances. By offering unbiased, scientific

proof and ensuring that trials are founded on evidence rather than just testimony or conjecture, the Authority's work improves criminal justice. Additionally, the databank is useful for comparing samples from various cases or connecting repeat offenders.^{xlii}

Nonetheless, the Authority's discretionary application and accessibility are lacking. It is challenging for victims in rural areas to obtain prompt DNA testing because laboratories are concentrated in Dar es Salaam. Furthermore, the Authority must wait for directives from law enforcement or courts before beginning DNA collection on its own. This gap restricts the practical use of DNA testing in all situations involving sexual offences, which could lead to trials that lack scientific validation and diminish the possibility of impartial and exact justice.

4.0 Conclusion

The Judiciary, Police Force, National Prosecutions Service, Ministry of Health, Commission for Human Rights and Good Governance, and Tanzania Forensic Bureau comprise Tanzania's institutional structure for DNA testing. Each of these organizations has a distinct function in the criminal justice system and a well-defined legal foundation. Together, they establish a framework for the administration of justice, the gathering of evidence, and the enforcement of the law.

However, as this chapter has demonstrated, the lack of a mandated legal necessity for DNA testing in cases of schoolgirls pregnancy is a common issue that limits all these institutions. This restriction makes it more difficult for institutions to guarantee justice for victims, safeguard the rights of those who are accused, and maintain impartiality.

ⁱ MOLETSANE, Rearabetsoe, 2022, *The Role of DNA Evidence in Criminal Proceedings*, Dissertation in Partial Fulfillment of the Requirements for the Degree Masters' of Laws University of Pretoria, pg.11-13

ⁱⁱ Ibid

ⁱⁱⁱ Ibid

^{iv} The Law Report Commission of Tanzania, [2008], *The Report on the Establishment of the Legal Framework for the Application of Human DNA Technology in Tanzania*, pg. 67-69

^v Ibid

^{vi} Ibid

^{vii} Ibid

^{viii} THOMAS, Liji, 2020, *An Overview of Pregnancy*, available at <http://www.news-medical-net/health/An-overview-of-pregnancy.aspx> accessed on 26th August 27, 2025

^{ix} <http://dictionary.cambridge.org/dictionary/english/schoolgirl> accessed on 26th August, 2025

^x See section 2 of Education Act, CAP 353 [R.E. 2023]

^{xi} <http://www.legalwise.co.za/news/pregnancies-schools> accessed on 26th August 2025.

^{xii} Constitution of the United Republic of Tanzania of 1977 art13 (6) (a).

^{xiii} Evidence Act, (CAP 6 R.E. 2019)s47.

^{xiv} Ara N. Gender discrimination in education – a barrier in development of female education at higher secondary level. *Interdisciplin J Contemporary Res Bus* 2012;4(5):330-339.

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