



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KITUI**

**CRIMINAL APPEAL NO. 37 OF 2014**

**TOM LOKI NDIVE.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**(Being an appeal from the original conviction and sentence in Tawa Senior Resident magistrate's Court Criminal Case No. 1 of 2013 by Hon. H.M. Ng'ang'a , RM on 20/2/14)**

**JUDGMENT**

1. **Tom Loki Ndive** was charged and convicted of the offence of **defilement** of a child contrary to **Section 8(1)** as read with **subsection (3)** of the **Sexual Offences Act No.3 of 2006**. He was sentenced to fifteen (15) years imprisonment. .
2. Being dissatisfied with the decision of the court on the sentence meted out, he now mitigates on the same. In his Petition he states that he is 35 years old and the eldest son in their family bearing the responsibility of taking care of his parents and siblings. That he is under the Rehabilitation Programme in prison therefore he is fit to take part in building the nation.
3. According to the law, a person who defiles a child aged between sixteen and eighteen (18) years is liable to imprisonment for a term not less than fifteen years. The trial magistrate alluded to that fact prior to imposing the sentence. This being the case the sentence meted out was within the law.
4. Consequently, the appeal lacks merit. Accordingly, it is dismissed.
5. It is so ordered.

**DATED, SIGNED and DELIVERED at KITUI this 12<sup>TH</sup> day of FEBRUARY, 2015.**

**L.N. MUTENDE**

**JUDGE**