



Ghana

Judge Sedina Agbemava

It is widely accepted that Human Trafficking constitutes a violation of human rights. The United Nations Office on Drugs and Crimes (UNODC) reports that it affects almost every country in the world, Ghana my home country, being no exception.

In the case of *Rantsev v Cyprus and Russia*, ECtHR Application no. 25965/04, a Human Trafficking case decided by the European Court of Human Rights, the Court stated that;

“There can be no doubt that trafficking threatens the human dignity and fundamental freedoms of its victims and cannot be considered compatible with a democratic society and the values expounded in the Convention”.

This statement underscores the seriousness attached to this practice and it is for this reason that it constitutes a serious offence in Ghana.[1]

The law in Ghana against combatting Human Trafficking is the Human Trafficking Act, 2005[2] and it defines Human Trafficking as the recruitment, transportation, transfer, harbouring, trading or receipt of persons for the purpose of exploitation within and across national borders by: use of threats, force or other forms of coercion, abduction, fraud, deception, the abuse of power or exploitation of vulnerability, or giving or receiving payments and benefits to receive consent. Exploitation includes at the minimum; induced prostitution and other forms of sexual exploitation; forced labour or services; slavery or practices similar to slavery; servitude or the removal of organs or the placement for sale, bonded placement, temporary placement, placement as service where exploitation by someone else is the motivating factor.

Ghana is seen as a source, transit and destination country, though the perception is that domestic trafficking in humans is more prevalent than international or transnational trafficking. This perception may be due to the fact that culturally and historically, children especially have been sent to live with other families (they may be relatives or not) mostly due to the inability of parents to take care of these children due to poverty.

I must state though that on my time on the Bench, when I dealt with human trafficking cases, more transnational cases involving Human Trafficking were prosecuted before me than domestic cases. In the only domestic case I recall adjudicating on, the charges could not be proved and hence it failed.

One report[3] though has identified that Ghanaian children in particular are exploited and subjected to forced labour such as fishing, domestic service, street hawking, begging, artisanal mining and providing labour in agricultural enterprises. The report also stated that girls are subjected to sex trafficking mostly prevalent in the Volta and Western Regions of the Country, though it exists nationwide.

With the practice of transnational human trafficking in persons, all forms of promises are made to the victims, mostly bordering on financial and economic gain. The driving force behind the gullibility of these victims happen to be poverty. In their desire to escape grinding poverty they find themselves in, and to forge a better life for themselves and their families, the victims fall prey to unscrupulous persons who end up trafficking them. In cases I dealt with in the Gender and Domestic Violence Court, I realised a trend where most of the victims who were trafficked were from the Delta State in Nigeria. Any person familiar with Nigeria will recognise Delta State as one of the oil-rich states in Nigeria, but despite the oil wealth, the majority of the citizens live in abject poverty. They are promised well-paying jobs in the Middle and Far East and told they would have to transit through Ghana. It however turns out to be a different story when they arrive in Ghana. They are trafficked as sex slaves and put to work as sex workers with no remuneration and just enough food for sustenance. Some of the victims were also trafficked from as far as Vietnam and Cambodia. Again, they were promised well-paying jobs in Europe but were trafficked into the sex trade on arrival in Ghana.

A giant step taken in the fight against human trafficking in Ghana was the enactment of the Human Trafficking Act, 2005. The enactment provides the legal basis for the prosecution of the offence and institution of sanctions where appropriate. The Legislative Instrument accompanying the Act LI 2219 was also passed about two years ago. The passage of this LI is a significant progress in the fight against Human Trafficking as the failure to draft and enact it over the years after the passage of the law had been one of the shortcomings in the implementation

of the Parent Act. This is because the passage of these regulations strengthens the Parent Act by standardising the procedures to be adopted under the Act by the various agencies designated to help combat this practice.

The Police Service also has a dedicated Unit, which is the Anti-Human Trafficking Unit. This is the Unit clothed with the responsibility of investigating and prosecuting allegations of Human Trafficking offences. Further, the Ghana Immigration Service also has a unit set up to train officials of the Service on how to detect cases of trafficking and smuggling of persons. The unit is also tasked with investigating and arrest of suspected offenders.

Even with all the significant achievements chalked in combating Human Trafficking, there still remain hurdles to overcome.

Unfortunately in Ghana there is a dearth of statistical information from the various agencies on the exact arrests and prosecutions from human trafficking. I would therefore be unable to cite any reliable data in this regard. I am however aware that some successes have been chalked in the area of arrests and prosecution. Given the pervasive nature of the practice however, these successes may be viewed as very limited but it can be said to have an impact on the fight against this scourge of trafficking in persons.

Ghana's Act, like that of most countries, comprises the three P's: Prevention, Protection and Prosecution. The National Plan of Action for the Elimination of Human Trafficking in Ghana[4] has an additional P for partnership and it does liaise with important partners like the United States, UNICEF etc.

There has been remarkable success in implementing the Preventive component of the Act. Law Enforcement agencies like the police and immigration officers have been trained through workshops and other seminars; there is widespread education of the citizenry country-wide on the dangers of human trafficking and how to avoid becoming a victim. Protection, however, poses a bit of a problem as the State lacks adequate resources to provide shelters, security and other necessary facilities for the victims of Human Trafficking. Provision of these facilities is resource-intensive, unlike prevention implementation strategies which are less expensive. Prosecution, as I have already stated, has chalked some successes but to make a much more significant impact, cases on human trafficking ought to be given much more priority to enable expedited prosecution. In addition to this, more specialised courts, mostly dedicated to the prosecution of these cases, ought to be established all over the country. The one factor mitigating against the realisation of these goals is the ever perennial problem of resources.

There is a strong will in Ghana to help stamp out human trafficking. To use the word "eradicate" sounds overly optimistic, but with the provision of adequate resources, the fight against Human Trafficking will be won.

END NOTES

[1] It is a second-degree felony and carries a term of imprisonment of not less than five (5) years.

[2] Act 694, 2005 as amended by Human Trafficking Act, 2009, Act 785.

[3] Department of State (US) Trafficking in persons Report 2016.

[4] National Plan of Action for the Elimination of Human Trafficking in Ghana by the Ministry of Gender, Children and Social Protection 2017-2021.