



Botswana

Judge Priscilla Kedibone Israel

The Republic of Botswana is a signatory to the United Convention against Transnational Organised Crime (UNTOC) and its supplementing protocol to prevent, suppress and punish Trafficking in Persons, Especially Women and Children. As such, in order to domesticate or nationalise or incorporate in to our laws or to give effect to the convention and the protocol it enacted the Anti- Human Trafficking Act.

Anti-Human Trafficking Act is Act No. 32 of 2014 was enacted and it commenced on the 1st January, 2015. Our first case under the Act was registered by myself on the 24th December 2015. Before the enactment of the Act Botswana used sections of the Penal Code where used to address 'Trafficking in human beings and migrant trafficking'. This was not adequate but assisted to some extent. Further to that the Children's Act cap 28:04 also addressed the problem because it criminalises trafficking in children though during the prior period we had not charged any.

The act was recently amended by Amendment Act No 18 among other things to include the offence of smuggling. We note that human trafficking and smuggling are two different offences. Of course smuggling could be an underlying offence to human trafficking.

There are ongoing cases at Court and completed ones. Let me give an illustration on number of cases Botswana dealt with and the number of victims and traffickers and the kind.

- 12 defendants were charged with Trafficking in Persons
- 13 defendants charged with Promotion of Trafficking in Persons
- 1 defendant charged with Rape
- 14 defendants charged with Neglect and Ill-Treatment of Children.

There are convictions on Promotion of Trafficking in Persons.

Botswana is a source, transit, and destination country of Trafficking in Persons. We have noted that it is mostly used as a transit. The following victims were identified:

- i) 4 for Sexual exploitation
- ii) 3 for Child labour
- iii) 22 for labour (adults) (Mostly transit)
- iv) 2 for child laundering
- v) Victims are not penalized and accommodated at places of safety.

However we have noticed that there was a lot of illegal smuggling of children during holidays, especially in December. In December 2016 we conducted a campaign. We have had cases where children were smuggled and subjected to conditions which were unbearable. Imagine children aged 5 years hidden under a tonnie cover, crossing through Botswana. Over 32 children, ages ranging from 3 months to 15 years, were rescued and formally repatriated to the country of their origin during the period of December 2016 and February 2017.

The perpetrators were prosecuted and convicted of charges of Neglect and Ill-Treatment of Children. This was before we amended our Act to include Smuggling. This reduced the number of children transited through Botswana. Some of these children have no origin and are unclaimed. What does the law say about children? We have three cases where we have requested for mutual legal assistance trying to trace parents. We know that request takes ages to be executed. We run the risk of having this child attain the age of 18 years before it gets help. What then happens to this poor person? Is he abandoned just because he is no longer regarded as a child? This is one of the issues that need to be addressed internationally.