



Zambia

Experiences in Human Trafficking Cases

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Introduction

Human trafficking cases are quite prevalent in Zambia. I should also state that Zambia is used as a transit point for victims coming mainly from East and Central Africa going to South Africa, Europe and the United States of America. The perpetrators are both male and female and the victims are mostly male, between the age group of 25 to 38 years. In handling human trafficking cases there are a number of challenges, some of which are highlighted herein.

Common challenges in human trafficking cases

Lack of definition of some key terms in the Act

The law against human trafficking is contained in the Anti-Human Trafficking Act No 11 of 2008 of the Laws of Zambia (herein after referred to as the 'Act'). The Act does not define some key terms such as trafficking and smuggling. To establish whether there was trafficking or smuggling, assistance has to be sought from other materials which are sometimes not readily available. This results in delayed judgment delivery and miscarriage of justice if the magistrate is not properly guided.

Dereliction of duty

In some cases, investigations and preparation of evidence are not properly done. The prosecution leave gaps in the evidence which in most cases defeat justice. In the case of *The People V Zawadi Shonde William and Others*, Cause No. 25PA/011/2016, where one Tanzanian national and two Zambians were jointly charged for facilitating trafficking of 75 persons and being in charge of a conveyance which facilitates offences under the Act, the state in this case did not call the arresting officer to connect the pieces of evidence which were hanging and the accused persons to the offence. They also omitted to call some key witnesses in the case, which defeated justice.

Language impediment

Most of the victims of trafficking come from Ethiopia, Somalia, Democratic Republic of Congo and Tanzania. These countries are not English-speaking like Zambia. The Judiciary, in some instances, does not have interpreters for some of the languages and when outsourced, the interpreters are sometimes not available. This results in delayed conclusion of cases.

In the case of *Zawadi Shonde William* above, the victims were Ethiopians and could only speak Amharic. The Judiciary did not have an interpreter and the state had to outsource. The process of outsourcing took a long time and the case was adjourned on several occasions on that basis. This led to the witnesses who were housed in prison to proceed on a hunger strike. In some instances, interpreters of certain languages cannot be secured and this results in cases not being prosecuted at all.

In the case of *The People Versus Wenford Phiri and 27 Others*, Cause No. SSPB/061 of 2014, where 28 Somalis were charged with the offence of consenting to being smuggled, the state had to withdraw the case against the accused persons because they could not find an interpreter within a reasonable time.

Lack of housing facilities for witnesses who are victims

The Act in Section 40 provides for the establishment of centres for victims by the Minister in charge of social welfare. However no centre has been established. Due to lack of facilities, the victims who are key witnesses in most instances are kept in prison. Considering the harsh conditions in our prisons, the witnesses are usually impatient with the long trials which may compromise their evidence. All the witnesses want is to testify so that they can go back to their countries. The witnesses who are victims also get to interact with the accused persons who are remanded in custody due to failure to meet bail conditions. This also compromises the witnesses and defeats justice.

In the above case of Zawandi Shonde Williams, the witnesses were housed in the same prison with the accused persons before their release on bail. These witnesses complained of being threatened by the accused persons. Also, one of the victims was housed at a lodge and he escaped before he could be cross-examined by the defence. Consequently, justice was defeated.

In conclusion, there are a number of challenges in cases of trafficking in persons and there is need to put in place measures to ensure that justice is done.