



Uganda

The Current Trends and Challenges in Prosecuting Anti-Human Trafficking Cases in Uganda

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Introduction

Human trafficking refers to the process through which individuals are placed or maintained in an exploitative situation for economic gain. It affects most countries of the world, and in Uganda, the most affected population are the largely unemployed youth. The youth unemployment rate in Uganda has been estimated to stand at 64-70%, with an average of about 400,000 youths being released annually into the job market to compete for approximately 9,000 jobs (ACODE 2014). This has created a spirit of desperation for these youth to find ways of survival, and it is this desperation that has been exploited by the unscrupulous traffickers who promise them employment in and out of the country. Migrant women in domestic employment have been the most affected, especially because they work in isolated households. Concerns about the exploitation of Ugandan domestic workers in the Middle East date back to 2009, when a reported 148 girls were taken to Iraq. They subsequently lodged complaints with the Ministry of Gender citing denial of wages, gang rape, long working hours and torture at the hands of their employers. In January 2016 the Parliament of Uganda banned labor exploitation to the Middle East following a public outcry about the deplorable conditions under which Ugandans were working. The purpose of the ban was to pave way for creation of necessary checks and balances that would ensure that cases of human trafficking and migrant exploitation are reduced. Unfortunately, the ban was lifted in May that same year following demonstrations by the youth who regarded the ban as an attempt to keep them in abject poverty. According to the report by Uganda's Parliamentary Committee on Labour and Gender (2016/2017), about 50 Ugandan migrant workers, of whom 32 were women, died in the United Arab Emirates, and about 35 of these deaths were ruled as suicides resulting from the dreadful working conditions, and the fact that the travel documents of these victims had been confiscated either by their employers or the recruiting firms. It is therefore unfortunate that, despite the grotesque picture painted by the victims, many more youths are being trafficked to these countries.

Legal and policy framework

Uganda has a special domestic law that guides the handling of the crime. TIP is criminalized under a specific law called the Prevention of Trafficking in Persons (PTIP) Act, 2009 that guides the management of the criminal investigations, protection of the victims of the crime, preventive strategies against the crime and partnership among the stakeholders, at the national and transnational levels. However, given the dynamics of the crime in the country, some incidents related to trafficking in persons have also been handled under the Regulations for Labor recruitment and export of Migrant Workers and the Penal Code Act.

The PTIP Act defines 'trafficking in persons' as the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, or the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. The 2009 TIP Act prescribes punishment ranging from seven years to death. The punishments are sufficiently stringent and commensurate with those prescribed for other serious crimes like murder, rape and defilement.

Victim of trafficking includes a person who is being or has been trafficked. Exploitation includes at a minimum, sexual exploitation, forced marriage, child marriage, forced labour, harmful child labour, use of a child in armed conflict, use of a person in illegal activities, debt bondage, slavery or practices similar to slavery or servitude, human sacrifice, the removal of organs or body parts for sale or for purposes of witchcraft, harmful rituals or practices. It is important to note that consent of victim of trafficking or if a child, consent of her/his parents to the acts of exploitation, is immaterial. Liability extends to both natural and legal persons (corporations, commercial companies operating in labour recruitment, adoption etc.

Current trends in prosecuting human trafficking cases

Uganda is a source, transit, and destination country for trafficking in persons, including both transnational trafficking and domestic trafficking. There is very limited systematic data on the prevalence or prosecution of

TIP. The limited research, data, and subjective evidence indicates that the number of women, men, and children trafficked in or from Uganda is increasing. Most common means of recruitment include use of deception with promises of employment, care and education. Use of force not common; only related to human sacrifice.

Transnational Trafficking

Uganda is a source and destination country for forced labour and commercial sexual exploitation. Trafficking occurs between E.A countries, with adults and children from these countries trafficked to Uganda and adults and children from Uganda trafficked to the surrounding countries.

Trafficking of Ugandans to some Middle East countries like United Arab Emirates, Saudi Arabia, Qatar and Kuwait has also been on the rise in recent years. There's reported trafficking of women to China, India, Thailand, and Malaysia too. Recruiters include both licensed and unlicensed agencies/companies, employment agencies or individuals recruiting

Registered number of transnational victims per destination country in 2017

Oman.....69	Kenya.....35	Thailand.....31	DRC.....17	UAE.....13	Qatar.....9
Saudi Arabia.....7	Uganda.....4	USA.....3	Turkey.....2	Jordan.....2	India.....1
Unclear destination.....64					

Prosecution of Trafficking in Uganda

Cases of Human Trafficking are prosecuted by the International Crimes Division and the Gender, Children and Sexual Offences Department of ODPP, and any other ODPP field stations. Despite the statistical limitations, there has been an increase in prosecution of these cases.

Year 2015, 108 Cases Investigated, 15 Cases Prosecuted, 3 Convictions

Year 2016, 125 Cases Investigated, 25 Cases Prosecuted, 12 Convictions

Year 2017, 177 Cases Investigated, 45 Cases Prosecuted, 17 Convictions

Challenges encountered in prosecution TIP offences

High levels of youth unemployment and poverty has contributed to the high vulnerability of many Ugandans who become easy prey to the deception, manipulation and fraud of the traffickers. Enforcement agencies have a challenge of identifying the real victims before they leave the country, because most of the trafficked persons are coached to tell lies. Given the porous nature of the Ugandan borders, it has not been easy to effectively stop illegal crossings across borders.

Belief in witchcraft and lack of clear national guidelines for operations of the traditional healers has contributed to the incidents of child sacrifice.

Existence of other un-registered forms of trafficking eg child labour through domestic/casual employment; child sexual abuse including child prostitution and child marriages; and reports of trafficking activities among the refugee communities, mainly for sexual and labour exploitation.

There is a lack of specialized training to address the unique challenges posed by such cases and in detection methods and identifying victims. Training needs to suit the current/ high technological trend of commission of offences. There is a lack of proper Victim Protection and Support Mechanisms. Witnesses are unwilling to testify, sometimes due to fear of reprisals from their traffickers, and sometimes due to compromise/bribery by the traffickers. Challenge of cases taking too long in the system.

Extra territorial challenges

Difficulties and unnecessary delays with the communication and exchange of information about transnational HT reported cases.No MLA agreements with most Arab countries where HT is prevalent.Challenges of extradition of perpetrators who ought to be prosecuted with or in addition to the domestic co-perpetrators.Limitations of the capacity and finances of Uganda police to carry out effective investigations abroad.Lack of stringent monitoring of foreign employment companies.

Charging challenges

Trafficking cases are not always prosecuted under the PTIP due to lack of knowledge about the PTIP Act and the victim benefits presented therein. Offences under PCA are more straightforward or easier to prove. There is no centralized ODPP data collection system that aggregates Human Trafficking cases and the appropriate courts. Aggravated trafficking charges that carry up to a life imprisonment may be brought in either the High Court or before a Chief Magistrate.

Key responses/interventions

Continued awareness sensitization of the public and sharing of relevant information on safe migration and identification of victims of trafficking. Enhanced training and capacity support of stakeholder action agencies on effective application of the Prevention of Trafficking in Persons Act, in order to enhance their respective capacities to be able to prevent the crime, identify and protect the victims and prosecute the perpetrators of the crime more effectively. Deliberate multi-agency coordinated operations against illegal recruitment agents as a way of prevention of the crime. Increased interceptions of actual and potential victims at the exit/entry points as another measure to protect victims and prevent the crime. Further improvement of the legal and policy frameworks by concluding the development of the Regulations for the PTIP Act and carrying out negotiations for the establishment of Bilateral Labour Agreements with more targeted foreign countries. Keenness by members of the public to report incidents of suspected illegal recruitment and human trafficking as a result of continued awareness of the trend of the crime. Timely followup of registered reports of suspected incidents of trafficking in persons by the more conscious Police Officers. Better-organized and coordinated ways of rescuing victims from abroad and providing them with the required temporal assistance. Outreach programmes to sensitize the population about this vice. Victim sensitization to reduce vulnerabilities that lead to trafficking in persons. We also need sensitization programs for law enforcement officers, judicial officers, prosecutors, defence lawyers, and social workers. Need for better data management and database for jurisprudence. Stringent monitoring of foreign employment companies. There is need to strengthen border control with neighbouring countries to successfully stop illegal exportation of migrant workers through such transit routes. This calls for strengthening of the regional, institutional and technical capacities to implement the international, regional and national Migration Policy Framework, and to improve inter-state and intra-regional cooperation on migration management among countries of origin, transit and destination.