



## Sierra Leone

### Human Trafficking – Maritime Laws and Rules in Sierra Leone

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Human trafficking and organized crime are not new phenomena, but have developed over the years and increased to a very alarming proportion. Sierra Leone is a developing country in West Africa, which has enacted several local legislations in line with international conventions, amongst which are the Anti Human Trafficking Act 2005, (AHTA), The Child's Rights Act 2007 (CRA), The Domestic Violence Act 2007 (DVA), The Sexual Offences Act 2012 (SOA) and the Anti-Money Laundering and Financing of Terrorism Act 2012 (AMLFTA).

Trafficking of persons including children is not novel in Sierra Leone, though there are few reports of cases and convictions. Sierra Leone has a thriving fishing industry and has been used as a transit point to North Africa and the Middle East.

The AHTA Act of 2005 enacts a task force mandated with ensuring Human Trafficking is combated. By S. 2 it is an offence to engage in human trafficking and it can be done by either recruiting, transporting, transfer, harbouring or by means of the threat or use of force; or other forms of coercion; of abduction, of fraud, of deception, of abuse, of power or position of vulnerability. By S. 3 exploitation includes keeping a person in a state of slavery; or subjecting them to slavery practices; sexual servitude illicit removal of human organs and exploitation during armed conflicts. From the aforesaid, the offence of human trafficking and exploitation is very wide and the list is exhaustive.

Part IV of the AHTA deals with the prosecution of offenders and the Court has jurisdiction to try persons who are Sierra Leoneans in any part of the world; crime committed wholly or partly in Sierra Leone, by a person on board a vessel or aircraft, Section 14. Consent is a determinant factor. A request for extradition can also be made subject to the Extradition Act 1974, Section 15. The penalty is Le 50m or imprisonment of 10 years or both, Section 22. Court can order restitution/forfeiture, Section 23/24.

It has been argued that the penalty for trafficking, which is 10 years maximum, is not commensurate with an offence like rape, in which the penalty is life imprisonment. Indeed, that is the present position of law. It may be time to have the AHTA enacted in 2005 reviewed. The SOA is more recent and enacted in 2012. Indeed, there are fewer prosecutions in human trafficking than in other offences, like offences against the person; offences against property; sexual offence etc. This is because there are fewer reports of human trafficking.

Most police stations do have an FSU Unit where most sexual or domestic offences are reported. But there is no such unit to deal with human trafficking. The non-reporting of this offence is due to several factors. Firstly, there is unawareness of such offence. There is need for more education and outreach through NGOs and the press on the nature and penalty these offences carry. Secondly, in the case of children being trafficked, their parents/guardians are wrongly informed by traffickers that these children will get a better education and brighter future once they leave Sierra Leone, which is not the case. Parents/guardians knowingly allow their children to leave their homes on the pretext of these false promises.

This also applies to women and men being trafficked. They rely on the promises of the traffickers; they leave the jurisdiction and later realize that they have not accomplished their hopes and dreams. They end up in drugs, prostitution and used as sex slaves.

With the CRA 2007, a child is a person below age of 18. Children are protected from exploitative labour and from torture and degrading treatment. See: SS 32. This includes depriving the child of its health, education or development or imposing on the child corporal punishment. Many children do forced labour, as mentioned, because of their economic status, as most of the families are poor. In some cases, children are forced to work and exploited as they are wards or children from extended families. Most of them do migrate from rural to urban areas in search of better education. The minimum age for betrothal or marriage is now 18 years old, though some children are married off earlier with the consent of their parents. It provides the minimum standards and the type of work children can do. Of interest is S. 128, which provides for the minimum age of 18 for hazardous employment, which includes going to sea; mining; manufacturing etc. Children are sent off to boats and trafficked even when they are below 18 years old. Procedures for repatriating 40 Sierra Leonean

women are under way from Kuwait and Lebanon, and 9 women subjected to forced labour in Kuwait have been repatriated.

Part VIII of the CRA deals in detail with the employment of children – See SS. 125-141 thereof. Trafficking commences from rural migration to the urban areas. Women and children are the victims. Women move into the urban areas looking for employment. They are mainly engaged in petty trading or domestic work. Whilst working in the latter, they may be promised greater and better employment out of Sierra Leone and in the process are being trafficked out of Sierra Leone and are used as sex slaves. The women and children are trafficked to countries either within the West Coast en route to Europe, North Africa or the Middle East. Children do migrate from the rural areas on the pretext of having better education, or move to a place where a parent or guardian is gainfully employed. Most of the children do domestic work at their places of residence; or they sell in the streets when they are not attending school. For e.g. if a child is attending the afternoon shift in his school he carts water; helps in the cooking; does housework and probably sells in the street. He does all of these in the morning and attends school in the evening, by which time he is tired and sleeps throughout his classes.

Trafficking occurs for various reasons including: sexual exploitation, prostitution, marriage, labour, domestic, mining, fishing, vending, agriculture, begging, petty crime, etc. The causes vary, and they include: economic causes such as poverty, material aspiration; political/legal factors such as war, corruption, porous borders; cultural factors such as normative migration, child labour, early marriage; social conditions such as limited education, violence in the home; individual characteristics such as rebellion and peer influence.

Sierra Leone has not ratified the 2000 UN TIP Protocol. To combat human trafficking efforts must be made to strengthen the Act by amendment in Parliament; train law enforcement; coordination with NGOs and various outreach programmes.

The judiciary is being blamed for not having convictions, but its role is not investigative but to adjudicate on the evidence before it, and it should adjudicate in the interest of justice. When no or paltry evidence is available or adduced in respect of a crime of trafficking, the Court will have no option but to acquit, as the burden of proof is very high and it lies on the prosecution, which is beyond reasonable doubt. Any doubt is cast in favour of the accused.

There is need for more awareness of the offence; country-wide campaigns through assistance of NGOs; education in schools; a unit in each police station handling this offence; stricter immigration controls as the borders are porous, making it easy to traffic persons from Sierra Leone to Guinea or Liberia; raiding brothels and drug bases.

The AMLCT Act. 2012 is an act enacted, inter alia, to criminalizing money laundering and financing of terrorism and is closely related to human trafficking. By S.15 a person commits the offence of money laundering when he acquires, converts, possesses, or uses property acquired from an unlawful activity. "Unlawful activity" by Webster's Law Dictionary means "behaviour that is not authorized by law; commission of or participation in an activity that violates criminal or civil law". By the use of phrase "unlawful activity", the offence of human trafficking can be committed in money laundering offences. It can include using women and children for forced labour; sex slaves and prostitution.

The penalty for money laundering offences is a term of imprisonment not more than 7 years, and for a corporate body Le 30 million. See Section 15 (6) AMLCT Act 2012. It is also an offence to finance terrorism whether done by a person; or by attempting; or by conspiring or participating as an accomplice. The penalty is 15 years or Le30 million for a corporate body.

Sierra Leonean flag cargo vessel Ezadeen set sail to Turkey in 2015 with persons on board including 62 minors. This vessel landed in Italy and was later impounded by the Italian authorities. It was licensed to carry livestock only. In Sierra Leone flags of convenience are used and there is a plan to review all vessels registered here. The license of the Ezadeen which had been registered in 2010 is now suspended.

Thank you very much for your attention