

**THE LAW ON HUMAN TRAFFICKING AND ITS EFFECTIVENESS
ON CURBING THE CRIME IN UGANDA
A CASE STUDY- KAMPALA DISTRICT**

BY

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LAW OF KAMPALA INTERNATIONAL
UNIVERSITY**

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DECLARATION

I WAIBI ANTHONY MUTAASA declare that this is research entitled "The law on Human Trafficking and its effectiveness on curbing the crime in Uganda" is my original work and has never been submitted to any institution for my award what so ever.

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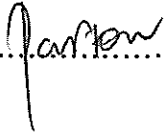
APPROVAL

This research entitled "The Law on Human Trafficking and its effectiveness on curbing the crime in Uganda", has been under my supervision and is due for submission.

NAME OF SUPERVISOR:

MS. TWIKIRIZE PARTON

SIGNATURE:.....



DATE:..20./...8.../..2012

DEDICATION

I dedicate my piece of work to the family of Mr. and Mrs. Waibi William of Kamuli District, Mr. Andrew Tumwine Kameraho - Director JAG Security Group Limited, Muyenga, Col. Dick Pritt Olumu of UPDF for their wonderful contribution in my Academic career.

ACKNOWLEDGEMENT

I owe my gratitude to all those who financially, academically and psychologically assisted me in carrying out this research. My special gratitude goes to my supervisor Ms. Twikirize Parton who tirelessly corrected and guided me. Thanks for the good criticism, patience and understanding.

I cannot fail to acknowledge my parents Mr. Waibi William and Mrs. Esther Waibi, my wife Nakayondo Rose Mutaasa and my daughter, patience Katono. for their prayers and great contribution in my academic career, not forgetting my brother Waibi William Mugowa and Sisters Kisakye Bena, Mirembe Juliet, Nambi oliver, Mr. Wakamale Godfrey, Ssalongo Abdu both of UPDF for their financial support and moral support.

I appreciate my dear classmates for their spiritual, moral and academic support during my stay at the University.

Finally, I greatly appreciate all the librarians, for Kampala International University , Foundation for Human Rights Initiative (FHRI), Kabalagala and OC CID Katwe for their great contribution towards the accomplishment of this work.

LIST OF STATUTES

Constitution of the republic of Uganda

The penal code Act Cap 120.

The prevention of trafficking in persons Act, 2009.

LIST OF INTERNATIONAL LEGAL INSTRUMENTS

Protocol to prevent, suppress and punish trafficking in persons, especially women and children supplementing the United Nations convention against transnational organized crime, 2000.

UN convention for the suppression of trafficking in persons and of the exploitation of prostitution of others, 1949.

Regional Legal Instruments.

The African Charter on the rights and welfare of the child, 1990.

LIST OF ACRONYMS

IOM	-	International Organisations for Migration
INTERPOL	-	International Police
PCA	-	Penal Code Act Cap 120
UNICEF	-	United Nations Children's Fund
PTIPA	-	Prevention of Trafficking in Persons' Act, 2009.
UWOPA	-	Uganda Women Parliamentary Association.
NGO	-	Non Governmental Organisation.
DPP	-	Director of Public Prosecution
CID	-	Criminal Investigation Department
DRC	-	Democratic Republic of Congo.
SAP	-	Slum Aid Project.
OC	-	Officer in charge.
UPDF	-	Uganda People's Defence Force
JLOs	-	Justice Law and Order Sector
ILO	-	International Labour Organization.

Palermo Protocol - Protocol to prevent, suppress and punish trafficking in persons, especially women and children supplementing the United Nations convention against transitional organized crime. (2000)

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CHAPTER ONE

Introduction

Human trafficking which goes beyond commercial sex slaves to include forced labour and modern day slavery is a modern day problem which needs to be addressed as victims of human trafficking are promised better standards of living better pay and live a more comfortable life, but when they reach their destination, neither one of the promises is fulfilled instead their travel documents are confiscated by the traffickers.

It can further be noted that human trafficking is a multi-billion dollars Global industry. In 2008, it is estimated that 12.8 million people were classified as “forced labourers”, bonded labourers or sex trafficking victims” with the commercial sex slavery alone accounting for almost 1.5 million people with almost all of them women¹.

Therefore in view of the growing concern about human trafficking, this dissertation discusses the issue of human trafficking in Kampala-Uganda, it highlights the extent of the problem, challenges faced by the government and the effectiveness of the law and policies on curbing human trafficking in Uganda.

This chapter forms the structure of the dissertation, defines key concepts and lays down the background of the study.

1.2 Background to the study

Despite the fact that slavery and slave trade have been abolished long ago, it seems to have remained to date since all the conducts of traffickers and the way the victims of trafficking are treated, it makes no difference between the

¹ The new Vision Friday 6th July 2012

two. Human trafficking is the modern day form of servitude. Some international organizations such as the United Nations Children's Fund (UNICEF) and the International Labour Organization (ILO) have spearheaded efforts to combat human trafficking. In countries like South Africa, Brothel trial is to start in October this year (2012)² in Malaysia, a Ugandan woman was sentenced to death³, because of practicing human trafficking for purposes of sexual exploitation.

Indeed human trafficking is a major issue of concern in this country (Uganda) in Africa, underlying factors such as poverty and weak justice systems have perpetuated human trafficking, Uganda on recognizing the organized crime's growth, enacted the prevention of trafficking in persons Act 2009. This dissertation examines the extent of the crime challenges and the effectiveness of the law to curb human trafficking.

1.3 Statement of the problem

The problem of human trafficking in East Africa is growing at a higher speed especially Uganda in comparison to other parts of Africa.

According to an article produced by Paul Busharizi⁴ indicates that Uganda has a rapid growth of human trafficking.

“Security officials fear that we (Ugandans) are becoming a hub for crime networks already our passports are being over checked unduly at foreign borders, not a good sign” noted Paul Busharizi this shows that Uganda and

² Human global incident map. com. Accessed on 2nd/08/2012

³ www.newvision.co.ug/mobile/detail. Accessed on 2nd/08/2012

⁴ The New Vision Friday 6th July 2012

East Africa as a whole has spoiled its image abroad because of the rampant growth of human trafficking.

We need to wake up to the potential dangers of this activity and go all out to nip it in the bud before it consumes our society. Countries where Ugandan girls are trafficked include China, Malaysia, Turkey, Thailand among others”.

It is estimated in Malaysia alone there are about 600 Ugandan women in forced prostitution over 200 Ugandan girls in their early 20s (twenties) have been sold to countries such as China, Thailand, Malaysia and South Africa”⁵

Therefore Ugandan and other African leaders have the responsibility to create efforts to combat the crime.

1.4 General objectives of the study

- a) To discover the extent to which the law has affected human trafficking
- b) To assess the life style conditions in the specific areas the victims are trafficked
- c) To discover the challenges faced by the government on controlling human trafficking
- d) To propose the measures of intervention to eliminate human trafficking.

1.5 Research questions

- a) How has the law affected human trafficking in Uganda?
- b) What conditions do the victims of human trafficking go through?
- c) What challenges are faced by the government in controlling human trafficking?
- d) What measures can be set up to eliminate trafficking in persons?

⁵ The New Vision Friday 6th July 2012

1.6 Hypothesis

This dissertation is premised on the following hypothesis.

That human trafficking in Kampala is of a great concern.

That it is perpetuated by African traditions of migration, poverty, traditional practices in Africa such as witchcraft which end up procuring human sacrifice and business people.

That there have been measures to combat human trafficking but they are weak.

1.7 Scope of the research

The study covers the period between 2002 to date. The longtime spin gives the researcher the opportunity to examine, firstly the growth in Human trafficking.

Secondly, whether the measures taken are effectively addressing the increase in human trafficking.

1.8 Description of the Study Area

Kampala is situated in Central Uganda it is the capital city of Uganda Kampala has 5 administrative units (Divisions) namely Kampala central, Kawempe, Nakawa, Makindye and Rubaga.

According to 2011 estimated population of Ugandan cities and Towns, Kampala's population is 1,659600 people.

Kampala is also an attractive destination for most of the Human trafficking victims from all from areas throughout Uganda.

1.9 Significance of the study

(a) To sensitize the public on awareness of human trafficking as a crime

(b) To help the police on discovering more methods and measures to combat human trafficking

(c) To help the researcher to discover the weaknesses of justice, law and order sector (JLOS) on combating human trafficking in Uganda

(d) To help the public to discover more knowledge on human trafficking in Uganda such as its causes and how it can be prevented

1.10 Operational key words

Trafficking in persons is defined “as the recruitment, transportation, transfer or receipt of persons by means of threatening, use of force or other forms of coercion, of fraud, of deception, of the abuse of position of vulnerability or of giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation.

Exploitation shall include at a minimum, the exploitation of the prostitution of other form of sexual exploitation, forced labour or services slavery or practices similar to slavery, servitude or the removal of organs.

“Child” means a person below the age of 18 years.

“Prostitution” means the activities of a prostitute” as defined in the penal code Act Cap 120, “A person who, in public or elsewhere, regularly or habitually holds himself other out as a vulnerable for sexual intercourse or other sexual gratification for monetary or other material gains.

“Human Sacrifice” means the killing, mutilation, removal of organs of body parts of a person for sale or for the purpose of witchcraft, rituals or any harmful human practices.

“Slavery” means the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

Aggravated trafficking in persons

A person commits the offence of aggravated trafficking in persons where:-

- a) The victim of the trafficking is a child.
- b) Adoption, guardianship fostering and other orders, in relation to children is undertaken for the purpose of exploitation.
- c) The offence is committed by a syndicate, or on a large scale
- d) The offender is an organization engaged in the activities of organizing, directing or protecting the vulnerable persons in society
- e) The offender is engaged in organizing or directing other person or persons to commit the offence.
- f) The offence is committed by a close relative or a person having parental care, authority or control over the victim or any other person.
- g) The offence is committed by a public officer.
- h) The offence is committed by military personnel or by a law enforcement officer.
- i) The person organizes, facilitates or makes preparations for the kidnapping, abduction, buying, selling vending bringing from or sending to receiving, detaining or confining of a person for person for purposes of harmful rituals or practices, human sacrifice, removal of any body part or organ or any other act related to witchcraft.
- j) The victim dies, becomes a person of unsound mind, suffers mutilation, gets infected with HIV/AIDS or any other life threatening illness and shall be liable to imprisonment for life.

1.11 Literature Review

The researcher made references to literature which specifically discussed human trafficking generally which include both women and children since they are the most affected victims.

According to the Gawaya in the manual for working with commercial sex workers state that in Uganda and Tanzania various other offences under the penal codes could be used to prosecute traffickers⁶.

Meanwhile, I agree with Gawaya because slavery is prohibited by the penal code Act and prostitution is also prohibited in the same Act. However I am of an opinion that it could be better if the offenders of trafficking in persons are prosecuted using the newly enacted law of prevention of trafficking in person's Act 2009. Since it was enacted to specifically deal with offence.

1.12 Methodology

Research methods and procedure

Data was collected through:

A complete documentary review of studies, reports and other publications produced about human trafficking in Uganda.

A review of national and international legal instruments regarding trafficking in persons that focuses on both women and child trafficking.

A compilation of Data available from relevant administrative bodies (police and court).

Interviews with various respondents selected from a long the key players in the field (district leaders, judicial authorities, police, NGOs to find out information about human trafficking.

And I made direct observation for example the Karamajong children who are trafficked from Karamoja sub region to Kampala to beg. Lastly I also made library research.

⁶ Gawaya .R. manual for working with commercial sex workers (CSWS),based on experiences of slum Aid project (SAP) (1995-1998) slum Aid project, Kampala October, 2002.

CHAPTER TWO
INTERNATIONAL, REGIONAL AND UGANDA LAWS/ LEGAL
INSTRUMENTS

2.1 Introduction

In spite of these international, regional and domestic legal instruments, human trafficking is still on the rise meanwhile the under mentioned instruments/laws are a base on the prevention and fight against trafficking in persons.

2.2 International Legal Instruments
Concerning human trafficking

Some of the international legal instruments that are in the fight against trafficking in persons include.

- a) Protocol to prevent, suppress and punish trafficking in persons, especially women and children supplementing the united nation convention against transitional organized crime (2002).
- b) The international labour organization convention 138 minimum admission to employment, 1973.
- c) The international labour organization convention 182 worst forms of child labour, 1999.
- d) The United Nations convention on rights of the child (CRC) 1989.
- e) The United Nations convention on the rights of the child optional protocol on the sale of children, child prostitution and child pornography, 2000.
- f) The United Nations convention for the suppression of the traffic in persons and the exploitation of the prostitution of others 1949.

However, upon the provisions that fight against or prevent the trafficking in persons, the researcher based majorly on the Palermo protocol 2000, since

these conventions almost have similar objectives and purposes of their statements.

2.21 The Palermo Protocol, 2000 Statement of the purpose⁷

The purposes of the protocol are:

- a) To prevent and combat trafficking in person, paying particular attention to women and children
- b) To protect and assist the victims of such trafficking , with full respect for their human rights
- c) To promote co-operation among state parties in order to meet objectives

Prevention, co-operation and other measures

Prevention of trafficking in persons⁸

1. States parties shall establish comprehensive policies, programmes and other measures
 - a) To prevent and combat trafficking in persons.
 - b) To prevent victims of trafficking persons especially women and children from re-victimization.
2. State parties shall end ever to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.
3. Policies, programmes and other measures established in accordance with these articles shall, as appropriate, include cooperation with NGOs, other relevant organizations and other elements of civil society.

⁷ Article 2 of the protocol. (Palermo) 2000.

⁸ Article 9

4. States parties shall take or strengthen measures, including through bilateral or multi-lateral cooperation to alleviate the factors that make persons especially women and children vulnerable to trafficking such as poverty under development and lack of equal opportunity.
5. State parties shall adopt or strengthen legislative or other measures such as educational; social or cultural measures including through bilateral and multilateral cooperation to discourage the demand that fosters all forms of exploitation of persons especially women of children that leads to trafficking.

Information exchange and training⁹

1. Law Enforcement: immigration or other relevant authorities of states parties shall, as appropriate cooperate with one another by exchanging information in accordance with their domestic laws to enable them to determine:-
 - a) Whether individuals crossing or attempting to cross an international border without travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons.
 - b) The type of travel documents that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons.

⁹ Article 10 *ibid.*

- c) The means and methods used by organized criminal groups for the purpose of trafficking in persons including the recruitment and transportation of victims, routes and links between and among individuals and groups engaging in such trafficking and possible measures for detecting teams.
2. States parties shall provide or strengthen training for law enforcement immigration and other officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking procreating the trafficking and protecting the rights of the victims.

Border measures¹⁰

1. Without prejudice to international commitments in relation to the free movement of people, states parties shall strengthen; to the extent possible such border controls as may be necessary to prevent and detect trafficking in person.
2. Each states party shall adopt legislative or other appropriate measures to prevent: to the extent possible means of transport operated by commercial carriers from being used in the commission of offences established in this protocol.
3. Where appropriate and without prejudice to applicable law to applicable international conventions, such measure shall include establishing the obligation of commercial carriers.
4. Including my transportation company among others. Other relevant provisions that are combating trafficking in persons in this protocol include.

¹⁰ Article 11 *ibid*

Article 12 security and control of documents.

Article 13 – legitimacy and validity of documents among others.

The UN convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others, 1949.

This convention contains important provisions that are relevant for addressing the issue of human trafficking

The convention prohibits, criminalizes and publishes acts relating to trafficking in persons for purposes of sexual exploitation.

The convention ¹¹ there of, states parties to the convention agree to punish any person who, to gratify the passions of another commits any of the following offences: procures, entices a lends away; for purposes of prostitution another person, even with the consent of that person.

2.3 Regional laws prohibiting trafficking in persons.

2.31 The African charter on the rights and welfare of the child (1990)

This is one of the regional legal instruments the regional legal instruments that prohibit trafficking in person especially children.

Sexual exploitation¹²

The provision states that stats parties to the present charter shall undertake to protect the child from all forms of sexual exploitation and sexual abuse ad shall in particular take measures to prevent:-

- a) The inducement , coercion or encouragement of a child to engage in any sexual activity

¹¹ Article 1 of UN convention for the suppression of traffic in persons and the exploitation of the prostituting of other.

¹² Article 27 African charter on rights and welfare

- b) Use of children in prostitution or other sexual practices.
- c) Use of children in pornographic activities; performances and materials.

Sale, Trafficking and Abduction ¹³

States parties to present charter shall take appropriate measures to prevent:-

- a) The abduction. The sale of or traffic in children for any purpose or in any form: by any person including parents or legal guardians of the child.
- b) The use of children in all forms of begging.

2.4 Domestic/ Ugandan laws that prohibit trafficking in persons.

There are a number of domestic in Uganda and these include:-

- a) The constitution of the republic of Uganda, 1995.
- b) The prevention of trafficking in person Act 2009 laws of Uganda.
- c) The penal code Act Cap 120 laws of Uganda those mentioned above are the major laws that the courts of law base or rely on to prosecute the suspects of the crime.

Other domestic laws with relevant provisions in prohibiting trafficking in persons include:-

- a) The immigration Act Cap 63
- b) The legal registration birth and death Act 309
- c) The passports Act, 1982, Cap 64
- d) The Extradition Act, 1964 Cap 117 among others.

¹³ Article 29 of the child 1990

2.41 The constitution of Republic of Uganda, 1995.

The constitution¹⁴ is the supreme law of the country and for this case it is Uganda.

The constitution provides for protection from slavery, servitude and forced labour:-

1. No person shall be held in slavery or servitude.
2. No one shall be required to perform forced labour.

Therefore, since some of the purposes of trafficking is to practice forced labour upon the victims and slavery since they are always confined like commodities as it will be exposed in chapter three of this dissertation the constitution of the republic of Uganda, 1995 plays a great role in the fight against trafficking in persons.

2.42 The penal code Act Cap 120, laws of the Republic of Uganda. Buying, etc of any person as a slave¹⁵

Any person who imports, exports, removes, buys sells or disposes of any person as a slave ; or accepts receives or detains against his will any person as a slave, commits a felony and is liable to imprisonment for ten years.

Habitual dealing in slaves¹⁶

Any person who habitually imports, exports, removes, buys, sells, traffics or deals in slaves commits a felony and is liable to imprisonment for fifteen years.

Inducing a person to give up himself after self as a slave¹⁷

¹⁴ Article 25 of the constitution of Uganda

¹⁵ Section 249 of the PCA

¹⁶ Section 250 PCA

1. Any person who induces another person to give up himself as a slave commits a felony and is liable on conviction to imprisonment for ten years.
2. Any person who attempts or conspires with another person to induce person to give up himself or herself as a slave or is a necessary there to commits a felony and is liable on conviction to imprisonment for five years.

Unlawful compulsory labour¹⁸

Any person who unlawfully compels any person to labour against the will of that person commits a misdemeanour.

Kidnapping or abducting in order to subject person to grievous harm, slavery etc¹⁹.

Any person who kidnaps or abducts any person in order that such person may be subjected to grievous harm or slavery or to the unnatural loss of any person, or knowing it be likely that such person will be so subjected or disposed of, commits a felony and is liable to imprisonment for fifteen years.

Section 241 of the penal code defines abduction as to by force compelling or by any deceitful means inducing any person to go from any place.

All the above provisions of the penal code is relevant in the fight against human trafficking domestically.

¹⁷ Section 251 ibid

¹⁸ Section 252 ibid

¹⁹ Section 245 of the P C A.

2.43 The prevention of trafficking in persons Act, 2009, laws of the Republic of Uganda.

This is a newly enacted law, and it was enacted specifically in persons in Uganda. Already one of the important provisions is section 4 of the Act which has already been discussed in the operational key words in chapter one of this dissertation

Other relevant provisions that combat human trafficking include.

Trafficking in children ²⁰

Any person who:

- a) Does any act referred to in section is to in relation to a child.
- b) Uses a child in any armed conflict.
- c) Removes any part; organ or issue from the body f a child for purposes of human sacrifice.
- d) Uses a child in the commission of a crime.
- e) Abduction a child outside Uganda.
- f) Uses a child or any body part of a child in witchcraft, ritual and related practices commits an offence of aggravated trafficking in children and may be liable to suffer death.
- g) Engaging the labour or services of a victim of trafficking in person²¹

Any person who while knowing or having person to believe that a person is a victim of trafficking, engages the labour or services of that victim in that status, commits an offence and is liable to imprisonment for ten years.

For the case of anybody promoting²²

²⁰ Section 5 prevention of Trafficking in person Act 2009

²¹ Section 6 prevention of Trafficking in person Act 2009

Trafficking in persons the punishment is five years.

2.5 Human trafficking as a crime and human right violation

A number of international and domestic legal instruments have described human trafficking as a crime and if it is practiced in more than one state, then it becomes an organized crime and its punishments have been prescribed for example

The prevention of trafficking in person Act 2009, prescribes the various punishments of the crime it is also contrary to so many legislations including the penal code Act, immigrations Act among others.

Inspite of being a crime, human trafficking is also a violation of human right both at national and international levels.

National level

Protection of rights to life²³

- 1) No person shall be deprived of life intentionally except in execution of a sentence passed in a fair hearing “ but some of the victims of trafficking end up being mutilated, sacrificed for purposes of medical and witch craft, hence their right to life being violated.
- 2) Other s include article 44 (b) which provides for freedom slavery or servitude of which the victims are subjected to.

²² Section 7 prevention of trafficking in persons Act 2009

²³ Article 22(1)

CHAPTER THREE

THE ORIGIN OF HUMAN TRAFFICKING AND THE EFFECTIVENESS OF THE LAW

3.1 Introduction (Origin of Human Trafficking)

Uganda is a source; destination country for men, women and children trafficked for the purpose of forced labour and sexual exploitation.

Ugandan children are trafficked within the country as well as to Canada, Egypt, the United Arab Emirates and Saudi Arabia for forced labour and commercial sexual exploitation Karamoja women and children are sold in cattle markets or by intermediaries and forced into situations of domestic servitude, sexual exploitation, herding and begging²⁴.

Security companies in Kampala recruit Ugandans to serve as security guards in Iraq where at times their travel documents and pay have reportedly been withheld as a means to prevent their departure. These cases may constitute Human Trafficking²⁵.

Pakistani, India, Indonesians and Chinese workers are reportedly trafficked to Uganda and Indian networks traffic Indian children to the country for sexual exploitation.

Children from DRC, Rwanda and Burundi are trafficked to Uganda for agricultural labour and commercial sexual exploitation. Until August 2006,

²⁴ US Department of state 2008

²⁵ Ibid

the terrorist rebel organisation Lord's Resistance Army (LRA) abducted children and adults in northern Uganda to serve as soldiers, sex slaves and porters while no more further abductions of Uganda have been reported. At least 300 additional people mostly children were abducted during the reporting period in the Central African Republic of Congo²⁶ (DRC)

According to the US Department of State 2010, trafficked victims are generally brought to Kampala where demand for services of such victims is high and the market is good for those involved in human trafficking business. It is also from Kampala that some of the trafficked persons are taken across the border into other countries within East Africa namely Kenya, Sudan and Tanzania. "There are also instances of persons taken to certain countries in Europe"²⁷

Furthermore, according to Hon Martia Kasaija Minister of state for internal affair, The North East of Uganda particularly Moroto, Kotido and Nakapiripiri districts in the Karamoja sub region and Katakwi and Soroti in Teso sub region is an important source of persons for the international and domestic Human Trafficking trade in Uganda said Minister Kasaija.

"Apart from the above districts, there have also been reports of persons being sold at markets in Busia, Tororo, Mbale, Iganga, Mbarara and Jinja districts in Uganda"²⁸.

²⁶ US Department of state 4th June 2008

²⁷ US Department of State 2010

²⁸ Minister of state for internal Affairs

Eventually trafficked persons end up victims of the worst forms of exploitation ranging from human sacrifice, child labour and pornography to prostitution.

Currently, human trafficking is on the rise as exposed in the Articles below:

“Government asked to return sex slaves”²⁹ Parliament has asked the government to assist women tricked and trapped into forced sex slavery in Malaysia and China to return home.

This was after two parliamentary committees on foreign affairs and equal opportunities reported that there were hundreds of Ugandans engaging in forced commercial sex activities in Malaysia and China who are willing to return but have no travel documents.

Investigations by Members of Parliament who travelled to China and Malaysia said most of the victims’ documents were confiscated by their “bosses”.

“Many Ugandans in the trade have demonstrated an interest in returning home. They have many times approached the consulates requesting for assistance to return home unfortunately we were informed that the consulates do not have the financial capacity to help them”.

Foreign affairs committee chairman, Alex Byarugaba told the parliament.

The girls were reportedly forced to pay US dollar 8000 about Shs. 20 millions to the individuals who facilitated their one way travel to China or Malaysia.

²⁹ The New Vision Thursday 26th 2012 page 5

Equal opportunities chairperson Anifa Kawoya told the parliament that the girls are forced to sleep with more than four men per night in order to raise the money. This is modern day slavery as the victims are always confined and treated like commodities said Kawoya.

“Bwaise man accused of Human Trafficking cases. (500 Ugandans)”³⁰

The Uganda Police and the International Police (Interpol) are hunting for a man suspected of trafficking about five hundred Ugandans to several countries. The suspect Achileo Kalinga of Linyana marketing agencies in Bwaise is said to have taken over 500 people to Zambia, South Africa, Swaziland and Dar-es-salaam.

According to the coordinator of anti trafficking at the internal affairs ministry, Eunice Kitembo, speaking at a workshop for Uganda Women Parliamentary Association on the implementation of the prevention of trafficking in persons Act 2009, the domestic violence Act 2010, at Imperial Royal Hotel in Kampala on 31st July 2012 Kitembo said Kalinga (the suspect) was arrested in May in Bwaise a Kampala suburb, granted bail which he subsequently jumped “we have complaints exceeding eighty and a number of documents of potential “victims” we found when we searched his office all those cases are under investigation.

Furthermore the coordinator revealed that between April and July 2012, immigration intercepted 68 cases of suspected human trafficking of which 55 were young women, she said that the majority of them were Muslim girls. Trafficking in persons has now shifted from Entebbe to Busia and Malaba.

³⁰ The New Vision Wednesday August 1st 2012

Between February to June 2012 14 victims were repatriated from Zambia, China and Malaysia and these were handled together with the international organisation for migration.

3.2 Effectiveness of the law and other measures on curbing the crime

The government of Uganda does not fully comply with the minimum standards for the elimination of trafficking; however the existing laws and measures/efforts have had an effect on the elimination of the crime, as explained hereunder:-

The constitution of the republic of Uganda provides for protection from slavery, servitude and forced labour.

1. No person shall be held in slavery or servitude.
2. No person shall be required to perform forced labour³¹.

This Article fully protects persons from doing slave related activities and it is put in practice in Uganda, hence eliminating human trafficking.

a case in point is of recent a “Uganda woman who was charged over selling girls to china. She was charged in court for allegedly trafficking unsuspecting Uganda women to various Asian countries as sex slaves”³²

“The Penal Code Act provides for kidnapping or abducting in order person to grievous harm, slavery, etc

³¹ Article 25

³² The New Vision, Wednesday July 4th 2012.

Any person who kidnaps, abducts any person in order that person may be subjected or may be so disposed of as to be put in danger of being subjected to grievous harm, or slavery or to the unnatural lust of any person will be so subjected or disposed of, commits a felony and is liable to imprisonment for 15 years³³.

There are elements of trafficking in persons in this provision and before the coming into force of the Prevention of Trafficking in Persons Act 2009. This is one of the provisions the JLOs relied on to prosecute offenders and still to date it prosecutes traffickers most especially in child trafficking. Therefore the law is in practice.

“The Act also provides for buying, etc., of any person as a slave.

Any person, who imports, exports, removes, buys, sells or disposes any person as a slave; or accepts, receives or detains against his will, any person as a slave, commits a felony and is liable to imprisonment for ten years”.³⁴

While dealing with this provision, a case in point is still a Ugandan woman who was charged over trafficking girls “the woman identified as Nasasira Karango, allegedly first ships her victims to China, where she is said to operate a brothel and after some time ships them off to other destinations where her accomplices operate similar ventures”³⁵

This act constitutes the importing and exporting of persons. Just as the section prohibits the activity hence the law is in practice in the fight against human trafficking.

³³ Section 254 PCA Cap 120

³⁴ Section 249 PCA

³⁵ The New Vision, Wednesday July 4th 2012.

“The penal code also provides for habitual dealing in slaves.

Any person who habitually imports, exports, removes, buys, sells traffics or deals in slaves commits a felony and is liable to imprisonment for 15 years”³⁶

This provision is also an anti trafficking in persons law since it prohibits and criminalizes trafficking in persons for purpose of carrying out slavery activities.

“Furthermore, the penal code also provides for unlawful compulsory labour.

Any person who unlawfully compels any person to labour against the will of that person commits a misdemeanour.³⁷

Since most of the trafficking victims are promised better jobs and better pay abroad, but when they reach there instead their documents are confiscated and forced into commercial sex, which is against their will, this act constitutes unlawful compulsory labour and this one of the critical elements JLOS relies on to prosecute the traffickers in this country.

Other relevant provisions are found in the prevention of trafficking in persons Act 2009, as provided here under.

“The Act provides for duty to report trafficking in persons;

1. Every member of the community, who knows that a person has committed or intends to commit an offence under this part of this Act, shall report the matter to police or other authority, for appropriate actions.

³⁶ Section 250 PCA

³⁷ Section 252 PCA

2. Any person who knowing or having reason to believe that a person has committed or intends to commit an offence and does not report to the police or other relevant authority commits an offence and is liable to a fine of 5,000 currency points or imprisonment for six months³⁸.

A case in point here is that of a Bwaise (Kampala suburb) man known as Achileo kalinga was arrested and charged of human trafficking. This was successful after a number of persons reported to police about the matter just as the story is narrated below.

“We have complaints exceeding eighty and a number of documents of potential victims we found when we searched his office. All these cases are under investigations”³⁹, said the coordinator of anti trafficking in persons at the internal affairs ministry 9”, *unice Kisembo*

“The Act further provides for promoting trafficking in persons.

Any person who;

- a) Knowingly leases or sub-leases, uses or allows to use any house, building or establishment for the purpose of exploitation.
- b) Produces, prints, issues or distributes any document or information or any government agency, which relates to immigration, for purpose of trafficking.
- c) Tampers with or falsifies any government or agency’s document or information relating to the immigration, regulations or requirements.
- d) Utters or aids any person to utter any false document relating to immigration for the purpose of facilitating that person’s entry or stay in Uganda, or exit from Uganda of any person.

³⁸ Section 10 preventing of trafficking of persons Act 2004(PTIPA)

³⁹ The New Vision, Wednesday August 1st 2012

- e) Gives or facilitates the giving of false information to any authority for the purpose of enabling the entry, stay in Uganda, or exit from Uganda of any person.
- f) Advertises, publishes, prints, broadcasts, distributes or causes the advertisement, publication, printing, broadcasting or distribution of any means including the use of information technology and the internet of any pornography or other material intended or likely to facilitate trafficking in persons.
- g) In any way engages in the selling or buying of persons.
- h) Recruits, transports, harbours, receive, a child for any purpose without authority of the parents or guardians of such a child, except that this provision shall not apply where the recruitment, transportation, transfer, harbouring or receipt is done lawfully, in good faith and the best interests of the child.
- i) Abandons a child in circumstances likely to cause fear, isolation, injury, pain or other harm or facilitates the trafficking of that child.

Commits an offence and is liable on conviction to a fine not exceeding one hundred and twenty currency points, or to imprisonment for five years or both such imprisonment and a fine and on subsequent conviction for the same offence is liable to imprisonment of seven years, without the option of a fine”⁴⁰

Except for the aggravated trafficking in persons, most of the trafficking in persons related crimes and related crimes are charged under this provision, meanwhile it's not so much relied on since the Act is not yet fully implemented.

⁴⁰ Section PTIPA

“The Act further provides for offences related to trafficking in persons, any person who;

- a) Attempts to trafficking in persons.
- b) Conspires with another person to do an act of trafficking in persons.
- c) recruits , transports , transfers , harbours, provides, or receives a person for domestic or oversees employment or training or apprenticeship with the intention of trafficking .
- d) Recruits a person below 16 years in any form of employment for the purpose of exploitation.
- e) Introduces or matches any person to another for the purpose of sexual exploitation.
- f) Confiscates, conceals or destroys a passport, travel document or other personal documents or belongings of a person for the purpose of unlawfully denying that person freedom of movement, or access to any public services.
- g) Adopts or facilitates the adoption of a person for illicit purposes, commits an offence and is liable on conviction to imprisonment for 5 years or fine of 120 currency points or to both such imprisonment and fine on subsequent conviction for the same offence is liable to imprisonment of 7 years without the option of fine”⁴¹.

This provision is also applied during the prosecution of the traffickers since it prohibits confiscating of victims’ passports and other travel documents. and this is a common practice (the confiscating of documents) by the traffickers therefore the provision is in practice, most of the incidents in confiscating of victims’ passports and other travel documents have already been explained and narrated.

⁴¹ Section 8 PTIPA

“Another relevant provision in the elimination of trafficking in persons is the designation of prevention of trafficking in persons office.

1. The minister shall designate an office to be responsible for the coordination, monitoring and overseeing the implementation of this Act.
2. The designated office shall have the following functions:-
 - a) To formulate a comprehensive and integrated program to prevent and suppress trafficking in persons.
 - b) To prepare an annual national plan of action on prohibition of trafficking in persons.
 - c) To develop measures and polices to protect ,assist and support victims of trafficking taking particular consideration of the age , gender and special needs of victims of trafficking in persons.
 - d) To propose rules and regulations to the minister as may be necessary to effective implementation of this Act.
 - e) To carry out other activities as are necessary or expedient for the full discharge of all any of the functions conferred on it under this Act”⁴².

Already an office has been established under the ministry of internal affairs called anti trafficking in persons which is coordinated by Mrs. Eunice Kitembo.

Other anti-trafficking in persons related office, include the anti –human sacrifice and trafficking task force which is located in Kibuli CID headquarters.

The Act also provides for extradition.

⁴² Section 21 PTIPA

a person charged with an offence under this net shall be liable to extradition under the extradition existing laws⁴³.

The provision is also in practice.

Much as the existing laws are in practice, there are some weaknesses within the justice, law and order sector which end up hindering the main objectives of the law as discussed below;

Ignorance by some police officers regarding the law of anti trafficking in persons.

The inadequate funding to the department of anti trafficking in the ministry of internal affairs affects response to the cases of poverty, law education and under developments which are the key factors to the rise of human trafficking since the victims will need survival.

Still there is no enough sensitization to the community members and local leaders about the human trafficking as a crime; this has given the offenders to widen the business.

There Is also a challenge of judicial officers not understanding that human trafficking is a capital offence which needs much attention when prosecuting but they take it lightly so the suspects end up defaulting after being granted bail. Others if they hear about the information that they are being wanted by police they run away. This weakness is caused by lack of enough training in the justice, law and order sector.

⁴³ Section 20 PTIPA

Another weakness is that although the prevention of trafficking in persons Act 2009 was enacted, it has not been vigorously implemented, instead most human trafficking offences have been prosecuted under the penal code Act, however, even if the penal code is the criminal legislation. There are some challenges presented by charging suspects who commit offences arising from situation of human trafficking in Uganda with offences found under the Penal Code Act. it has not led to the desired outcome in terms of addressing the justice needs of the trafficking victims, their families and the community for example some cases of human sacrifice that have been prosecuted as murder cases in Uganda have not led to convictions due to some weaknesses that have been identified by court in the way they were investigated and prosecuted. As a result such offenders have sometimes been acquitted by the courts of law due to inadequate evidence adduced against them at the times of trials.

Other weaknesses of relying on the penal code Act to charge perpetrators of human trafficking in Uganda are that the Act does not address the issue of exploitation fully and all often fail to address critical elements and stages of the crime of human trafficking namely recruitment, transportation, transfer or harboring and receipt of the victim for purpose of exploitation. Some situations of human trafficking such as debt bondage are not covered and situations of trafficking in persons that are charged under the penal code Act do not fetch sentences that are commensurate to the gravity of the offence committed. Oftentimes like victims of human trafficking are not protected under this law.

In addition, the penal code has limited jurisdiction in matter such as extradition for offences arising out of human trafficking that are committed outside Uganda.

Conclusion

Although human trafficking is on the rise in Uganda, both domestically and internationally the pieces of legislations and other measures set up have tried to affect the crime through warnings during workshops, public awareness through press, through arrests of the suspected traffickers, through charging the suspects and detaining them. This can also threaten or deter others from conducting the activity or committing the crime.

CHAPTER FOUR

OVERVIEW, RECOMMENDATIONS AND CONCLUSION

4.1 Overview

According to the Malaysian Diplomat to Uganda atleast 600 Ugandan girls have been forced into Malaysian sex trade.

Hajah Noraihan the Malaysian consul to Uganda noted the constant flow of victims from Uganda had grown from 30 in 2008 to the current figures. Despite her country's warning to the ministry of foreign affair in 2008.

"A number of Uganda women have been arrested over prostitution in several Asian countries. A sizeable number is also in jail in Asian countries including China for drug trafficking. The desperate women are allegedly lured into the risky illicit trade by drug barons"⁴⁴.

In order to overcome obstacles to the implementation of trafficking protocol, greater coordination is required amongst and between non-governmental organisations and government agencies.

4.2 Recommendations

Recommendations to strengthen the legal framework in Uganda.

In order to combat human trafficking in Uganda, it is important that the law prohibiting trafficking be vigorously implemented.

⁴⁴ The New Vision , Wednesday July 4th 2012

.This means that the public must understand that human trafficking is a crime so that they can register complaints, the police must be able to identify human trafficking crimes in order to thoroughly investigate and the DPP must prosecute the offenders under the new net and judges must render appropriate heavy penalties only with this type of coordinated enforcement, will the effort to fight human trafficking bear results.

The government should train officers of the justice, law and order sector institutions to recognize and respond to cases of trafficking in accordance with the provisions in the prevention of trafficking in persons Act 2009.

The government should distribute copies of date of implementation of the prevention of trafficking in persons Act 2009 with the Justice, law and order sector institution and should encourage each institution to prioritize its implementation.

The government should coordinate relevant actors to lobby the minister of internal affairs to designate an office to be responsible for the coordination, monitoring and overseeing of the implementation of the prevention of trafficking in persons Act 2009.

In addition to strengthening the domestic legal framework governing human trafficking in Uganda, it is also important that Uganda ratifies the Palermo Protocol. This would reinforce the provisions of the domestic legislation as well as send a message to the international community about its commitment to eradicate human trafficking both domestic and across borders.

The government should coordinate interested stakeholders to lobby it to nullify the Palermo Protocol.

In order to successfully prevent human trafficking and protect vulnerable persons, it is essential that the laws prohibiting trafficking in persons be fully enforced. It is essential that identified cases of human trafficking be referred to the police for proper investigation and follow up by holding traffickers accountable for their actions. The justice, law and order sector will be sending a message that impunity is no longer tolerated and that human trafficking is a serious crime with repercussions for officials.

The government should strengthen links between Kampala City Council Authority, civil society organisations and the justice, law and order sector so that all suspected cases of human trafficking are reported to the police and investigated seriously.

The government should lobby and follow up on all cases of suspected trafficking to make sure that they are investigated and prosecuted under the domestic Act rather than under other pre-existing legislation.

The government should encourage the relevant justice, law and order sector institutions to collect data on suspected human trafficking cases in order to accurately evaluate its prevalence and measure the response in future years.

4.3 Conclusion

The Uganda government has under taken remarkable measures and has been collaborating with other stakeholders to combat human trafficking. However, the magnitude of the problem calls for further measures. The recommendations made in this chapter emphasize the need for all appropriate efforts to curb human trafficking. The government took the first major step in enacting the prevention of trafficking in persons Act 2009 which as of now is the one being relied onto specifically prosecute human traffickers.

BIBLIOGRAPHY

Books

PR Gandhi, Blackstone's Human Rights documents: 4th edition, Oxford University Press, 2004.

Gawaya R, Manual for working with commercial sex workers (CSWs), Based on the experience of Slum Aid Project (SAP) (1995-98) , Slum Aid Project Kampala Oct 2002.

Report

Foundation for Human Rights Initiative, baseline survey report on child trafficking in Soroti, katakwi and Kampala Districts June 2010.

Newspaper

The New Vision; a local newspaper in Uganda, (2012).