



*Prosecuting Human Traffickers in Ghana:
Challenges and Recommendations*

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Ending Human Trafficking. In both its Causes & Consequences

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“In late 2005, a police officer in a major European city noticed a young boy begging at the entrance of a large shop. The police officer tried unsuccessfully to communicate with the boy. All he would say was, "I'm a tourist, and I'm waiting for my father". The police officer decided to take the boy to a police station. There, he produced a bad copy of a foreign passport. With the help of a translator, a trained police interviewer established that the boy, named Krasimir, was living in the city with a "friend" and that his family was still in his home country. Based on this information, specialist investigators were tipped off. Three more boys were found and the "friend" was arrested. Interviews took place before an investigative judge and a defence lawyer so that the boys did not have to go to court. The interviews revealed that the boys had been forced into begging by the adult "friend," Two months later, the case went to court and the trafficker was sent to prison”.

Deducing from the preamble, to effectively address the issue of human trafficking the following points were identified:

1. Spotting the Signs of Human trafficking
2. Investigation
3. Gathering evidence
4. Witness and victim protection

Prosecution

Much of the work done by states must centre on strengthening national criminal justice systems. This means not only that human trafficking must be a criminal offence in the country where an act of trafficking is detected, but also that the law must be enforced. As in the case of Krasimir, successful convictions depend on the police and others making the right decisions. This can only happen if they have the knowledge and capacity to respond to human trafficking. Things can also go wrong: in some countries, for example, prosecutions are brought but, the police fail to protect the identity of witnesses or prevent intimidation of victims and court officials by defendants, lack of evidence to prosecute suspects of human trafficking etc.

Is that the case for Ghana?

Human Trafficking continues to be one of the banes of the Ghanaian society. Even though the political will to end human trafficking is evident in the Government of Ghana, Ghana still serves as a source, transit, and destination country for children and women trafficked for the purposes of forced labour and commercial sexual exploitation. Internal trafficking, especially of children, is more prevalent than trafficking of foreign migrants. Ghanaian boys and girls are subjected to forced labour within the country in fishing, domestic service, street hawking, begging, portering, gold mining and agriculture. Ghanaian girls, and to a lesser extent boys, are subjected to prostitution within Ghana. Child prostitution is prevalent in the Volta region and is growing in the oil-producing Western region. Ghanaian women and children are recruited and transported to other African countries, the Middle East, Europe, and the United States for forced labour and forced prostitution.

In recent times the Government of Ghana has chalked success in implementing programs and laws to end human trafficking. The enactment of its own national legislation in 2005, known as the Human Trafficking Act (Act 694) making human trafficking a criminal offence with perpetrators liable to at least five years of imprisonment. In July 2009, the Parliament enacted the Human Trafficking Amendment Act (Act 784), including several updated sections. In December 2015, the Parliament

enacted L.I 2219, titled human trafficking prohibition (Protection and Reintegration of Trafficked Persons) regulations, 2015. These three laws constitute the legal framework for combating human trafficking in Ghana and exist together with the 1998 Children's Act (Act 560), the 1960 Criminal Act (Act 29) and the 1960 Criminal Procedure Act (Act 30).

The 2005 Human Trafficking Act, amended in 2009 to align its definition of human trafficking with the 2000 UN TIP Protocol, criminalizes all forms of trafficking, essentially tracking international law in defining the crime as the use of force, fraud or coercion for the purpose of exploitation, to include forced labor and prostitution. It also provides that a defendant will be guilty of the crime of sex trafficking of a child if the child is induced to engage in prostitution without regard to the use of force, fraud or coercion.

In lieu of the above, in the 2017 Trafficking in Persons Report, under the theme "Enhancing Criminal Accountability and Addressing Challenges in Prosecution Efforts, Ghana was ranked as a Tier 2 Watch List country. This means Ghana has less number of traffickers held accountable for their crimes.

The low level of prosecution by the government is attributed to the absence of comprehensive statistics on its anti-trafficking law enforcement efforts. In the past five (5) years, governments anti human trafficking efforts have increased yet, with low level of prosecution. Below provide summarised details of the anti-trafficking efforts by the government of Ghana.

- The Ghana police service (GPS) anti-human trafficking unit (AHTU) reported conducting 118 investigations of potential trafficking crimes, compared with 238 investigations in 2015; of these, 114 were for labor trafficking and four for sex trafficking.
- The Ministry of Employment and Labor Relations (MELR) investigated three licensed recruitment agencies for suspected human trafficking and referred two cases to the AHTU for further investigation.
- The Ghana Immigration Service (GIS) reported investigating 20 cases of suspected cross-border trafficking, compared with 10 cases in 2015; of these, 18 cases involved suspected labor trafficking, one alleged sex trafficking, and another both sex and labor trafficking.
- The GPS reported initiating prosecutions against seven defendants, compared with 21 defendants in 2015. The GIS reported preparing for prosecution the case of one defendant in a case involving three Ghanaian children intercepted before being sent to Cameroon for suspected labor trafficking.
- The GPS also reported prosecuting at least 17 labor trafficking cases and three sex trafficking cases initiated in prior years that remained pending before the courts; many of these cases were reportedly stalled and an unknown number of pending cases were dismissed due to a lack of evidence, inability to locate the alleged perpetrator, or victims' reluctance to testify.
- The attorney general's (AG) department reviewed 217 open investigations of the Greater Accra AHTU and determined many cases were inadequately investigated and recommended only five cases for prosecution by state attorneys; however, these cases were not brought to trial during the reporting period. The government reported no convictions under the anti-trafficking act in 2016; however, the government reported seven convictions for offenses using other statutes that resulted in lesser penalties. For example, prosecution of a trafficker for the labor exploitation of a 15-year-old boy working on a fishing boat without pay on Lake Volta resulted in a sentence of a fine of 720 Cedis (\$170).

The low level of prosecution in Ghana could be attributed to lack of proper identification screening protocols, investigation, trafficking in persons law, direct assistance, etc. As indicated in the preamble above, all the aforementioned anti trafficking procedures were present. And this enabled a fruitful arrest and prosecution. For Ghana to achieve a higher rate of prosecution of suspects of human trafficking; it needs to strengthen the above mentioned anti trafficking procedures.

Spotting the Signs of Human trafficking:

Human trafficking is a hidden crime, and the first step to combating it is to identify victims so they can be rescued and help bring their perpetrators to justice. Government must build the capacity of law enforcement officials on spotting signs of human trafficking and responding appropriately.

Investigation:

Law enforcement officials play a key role when investigating cases of human trafficking. Frontline law enforcement officers are one of the groups more likely to encounter a potential or actual trafficked person during the course of their duties. In many situations however, the specialised skills required to investigate cases of trafficking in human beings are not taught to frontline law enforcement officials, beyond specialised anti-trafficking branches of law enforcement. The training manual must include introductory lessons on the difference between irregular migration and human trafficking, and spotting the indicators of trafficking. More advanced subjects must also be covered such as how to conduct screening interviews, the use of specialist investigative techniques for human trafficking investigations, supporting the needs of victims during investigative procedures, and conducting evidential interviews.

Interviews.

Gathering evidence:

In Ghana, many cases of human trafficking lacks evidence for prosecution. According to the Trafficking in Persons Protocol, the crime of human trafficking consists of three elements:

1. Acts such as transport, transfer, harbouring, receipt of a person,
2. Means of deception, coercion, abuse of a position of vulnerability
3. Purpose of exploitation, including sexual exploitation, labour exploitation, removal of organs.

Especially in the case of children in trafficking the means listed in point (2) are irrelevant. The possible consent of a child being considered irrelevant, regardless of the circumstances in which it may have been expressed. Therefore, in cases involving children, two elements (acts and purpose of exploitation) are sufficient to determine if a case constitutes trafficking in children. Trafficking in persons can also be seen as a process, usually consisting of the three stages of recruitment, transport and exploitation.

Witness and victim protection

The impact of crime on the people affected by it can be profound. Victims may suffer from physical, mental, emotional and financial harm, from which some may never recover. Injuries may be threatened or inflicted upon victims, witnesses or their families, and threats may even be made against lives. Human trafficking victims often escape with no resources, community connections, or means to obtain food and shelter, and therefore are in need of comprehensive and integrated services. Increasing government support for comprehensive trauma-informed care and reintegration services for children in government-operated shelters, including child sex trafficking victims; and also providing dedicated resources, including funding and implementation of the human trafficking fund.

Prosecution

Building a strong human trafficking case can be complex and unwieldy. In many instances, police officials begin an investigation with a single victim who often may be the only witness who can describe the force, fraud, or coercion experienced in the course of his or her victimization. Officials must then gather evidence to corroborate that testimony, which is often a challenging and time-consuming process. It is vital that law enforcement is sufficiently trained on how to corroborate the victim's testimony and how to gather evidence to prove a suspect's intent to exploit a person in forced labor or sex trafficking. In addition, investigators and prosecutors should work together during the investigation stage to ensure the necessary evidence is collected and any weaknesses in the case are addressed as early as possible. Inadequate or incomplete evidence is often to blame for the lack of successful trafficking cases in Ghana.

Conclusion

Human trafficking is an assault on human dignity and should be penalized accordingly. No government can hold human traffickers accountable or address the needs of victims without stringent and comprehensive human trafficking laws, strong law enforcement and prosecutorial capacity funded with adequate resources, and an informed judiciary. Victims of human trafficking deserve timely and meaningful access to justice through a system that respects rule of law and due process rights. Without these measures, human trafficking will continue to flourish. While governments cannot undo the pain and indignity victims face, they can seek to right those wrongs through official acknowledgment of injustice and by prosecuting, convicting, and sentencing traffickers and those complicit in human trafficking. In taking these measures, governments provide justice for victims, create more stable societies to keep the vulnerable safe, and work towards a world free from modern slavery.

We believe that the improvements in the following; spotting the signs of human trafficking, investigation, gathering evidence; witness and victim protection by Ghana would enhance its human trafficking prosecution efforts and thereby, improving its tier ratings in the incoming 2018 Trafficking in Person's Report by the US State Department.

Reference:

Eban Centre for Human Trafficking Studies Press Statement on the sale of a nine-year-old child by a 63-year old man 27th February 2018.

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<https://www.unodc.org/unodc/en/organized-crime/witness-protection.html> Assessed on 1 March 2018

The US Embassy Trafficking In Person's Report 2017