

**SEMINAR ON PROSECUTING TRAFFICKING
IN PERSONS IN THE SOUTH AFRICAN
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***TRAFFICKING IN PERSONS (TIP)
LEGISLATION AND PROSECUTIONS
IN UGANDA***

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PRESENTATION OUTLINE

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- FORMS/PURPOSES OF TIP IN UGANDA
- TIP LEGISLATION IN UGANDA
- PROSECUTION OF TIP CASES
- CHALLENGES IN PROSECUTION OF TIP CASES
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INTRODUCTION

- TIP is not a new phenomenon. It has however, proved a challenge to the Ugandan prosecutor because of its new trends and complex nature.
- TIP is defined by the *United Nations Protocol to prevent, Suppress and Punish Trafficking in persons, Especially Women and Children* (Article 3).
- Uganda has signed the protocol, but is yet to ratify and domesticate it.

THE FORMS/PURPOSES OF TIP IN UGANDA

- Sexual Exploitation/Prostitution
- Child Labour
- Military Conscription (Child Soldiers)
- Forced Marriages
- Illicit Adoptions
- Human Sacrifice
- Body Parts

FORMS/PURPOSES OF TIP CONT.

- Slavery
- Labour in Factories and Service Industries

N.B

- TIP may be carried out within the national borders, or across borders.
- The different methods used to recruit/lure victims include abduction, deceit, force, and beauty contests.

TIP LEGISLATION IN UGANDA

- Uganda has no specific legislation on TIP currently. The term “TIP” or “Human Trafficking” does not feature anywhere in our statutes.
- Cases involving Human Trafficking are however, prosecuted under the following offences:
 - Offences against morality e.g Defilement, Rape, Indecent assault, Incest, Procuring defilement, Detention with sexual intent, Living on the earnings of prostitution, Operating a brothel etc.

TIP LEGISLATION CONT.

- Offences involving liberty e.g Abduction, Kidnapping, Child Stealing, Unlawful confinement etc.
- Injuries to person e.g Assaults, Grievous harm etc.
- Homicide cases e.g murder, Manslaughter etc.

CHALLENGES IN PROSECUTION OF TIP CASES

- Lack of sufficient TIP laws.
- Ignorance of the law enforcement officers – They do not address issues of TIP in the investigation, prosecution, and deciding of criminal cases. As a result the traffickers may go unpunished, and sometimes the victims may be the ones prosecuted and punished.
- Unfair laws e. g prostitution - It punishes women only. They are also never considered to be victims of trafficking activities.

CHALLENGES CONT.

- Lack of cooperation from victims due to feelings of fear, guilt, or stigma.
- Lack of cooperation from other witnesses, who may sometimes be accomplices e.g the parents/guardians of the victim.
- Ignorance of the community – They are not bothered about suspected or actual cases of TIP because they are ignorant about the subject.

CHALLENGES CONT.

- Lack of laws on Mutual Legal Assistance, making gathering and presentation of evidence in prosecution of transnational trafficking cases difficult.
- Obsolete and limiting extradition laws, which make extradition of traffickers for prosecution complicated.

WHAT IS BEING DONE

- A draft TIP bill is in place, intended to domesticate the UN TIP protocol – by “Law and Advocacy for Women in Uganda (Law-Uganda)”.
- The draft addresses provisions of the protocol relating to criminalization of TIP, Protection and assistance to victims of TIP, Prevention of TIP, and Cooperation with other countries. It also creates an agency to coordinate, monitor and oversee implementation of TIP laws.

WHAT IS BEING DONE CONT.

- In addition the draft should address the following:-
 - A TIP definition and offences which address the local TIP circumstances e.g child sacrifice.
 - The role played by legal persons in trafficking.
 - Community responsibility to report cases of suspected or actual trafficking.

WHAT IS BEING DONE CONT.

- Exceptions to the hearsay rule in event of unwillingness of the victim to cooperate with investigators and prosecutors.
- Placing evidential burden on the suspect/accused to explain suspicious circumstances, or else a presumption of TIP will be made.

CONCLUSION

- TIP is a very fast growing industry which has evolved and is still evolving with more deadly venom than that of the 19th century slave trade, hence posing serious challenges to the prosecutor. It is a multi-dimensional and complex phenomenon whose legislation should seek to provide a framework for addressing it holistically if it is to have the desired impact.