

MEASURES AGAINST MIGRANT TRAFFICKING AND HUMAN TRAFFICKING.

INTRODUCTION

Human trafficking is a rights violation that brings high profits to traffickers through the acquisition and exploitation of human beings by improper means such as force, fraud or deception. Smuggling of migrants involves the facilitation of illegal entry of a person into a state of which that person is not a national or resident, for financial or other material benefit. In the context of the law of Liberia, migrant smuggling and trafficking in persons are jointly defined. In grading the offense, the law provides that trafficking in persons and migrant smuggling shall be a first degree felony.¹

Human trafficking and migrant trafficking are subset of transnational organized crime. The fight against transnational organized crimes in Africa can be successful if African nations employ stringent measures against human trafficking and migrant trafficking. To achieve this, African nations must coordinate and collaborate efforts aimed at enacting laws with enhanced penalties, alleviating conditions that precipitate Africans' desire to migrate, and creating more awareness about strategies and approaches traffickers employ in achieving their goals. It entails the creation of a conducive atmosphere with basic social services, and economically vibrant society that will discourage migration. This report attempts to discuss the progress of Liberia in the institution of measures against migrant trafficking and human trafficking, challenges and way forward.

BACKGROUND

According to the States Department of the United States, human trafficking and smuggling of migrants represent great challenges for West and Central Africa. They are obstacle to development, to the rule of law and a serious threat to human security as both crimes affect directly the lives of human beings. There are several different sub-regional patterns of trafficking and smuggling and the crimes are continuously changing as the traffickers and smugglers exploit the factors that make countries and persons vulnerable to the crimes.² It is noticeable that migrant trafficking and human trafficking are high in Africa because nations and governments of Africa have either failed or

¹ Penal Code of Liberia Chapter 14, Subchapter C, Section 14.55. Traffic in Person.

²<https://www.unodc.org/westandcentralafrica/en/newrosenwebsite/TIPSOM/Human-trafficking-and-smuggling-of-migrants.html>

neglected to create the enabling environment for the sustenance of their citizens resulting from acts discernible to corruption, bad governance as well as conflicts. In pursuit of better jobs, economic vitalization, and livelihoods, Africans see Europe and other continents as their safe haven in avoidance of socioeconomic hardship faced at home. They either move in as migrants or lured in by organized criminal syndicates in hope of improved lives. As a result, they are exploited and abused.

LIBERIA AGAINST TRAFFICKING IN PERSONS AND MIGRANT SMUGGLING

Liberia had initiated the fight against trafficking in persons for more than a century when enshrined in its first Constitution (1847) that there shall be no slavery within the Republic nor shall any resident deal in slaves directly or indirectly within or without the Republic.³ Although the terms trafficking in person and migrant smuggling might be a new phenomenon, that Constitution made slavery, which is an element of the current definition of trafficking in person, unconstitutional. Prior to the United Nations Convention on Transnational organized crime in 2000 and protocols and Liberia accession to that convention in 2004,⁴ Article 12 of the Constitution of Liberia (1986) also declares slavery illegal and unconstitutional.⁵

As measures geared towards tackling trafficking in persons, since 2005, the Government of Liberia amended the Penal Law of Liberia establishing trafficking in persons as a penal offense. This law defines trafficking in person⁶ and establishes maximum punishment of life imprisonment.⁷ Article II establishes the National Task Force for the Prevention of Trafficking. In 2012, the Legislature passed a legislation emending the Chapter 14 of the Penal Law thereby including trafficking in persons and migrant smuggling as a felony of the first degree.⁸ In addition to the passage of

³ Sec. 4th. Constitution, R. L. (1847)

⁴ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=en

⁵ *Article 12* No person shall be held in slavery or forced labor within the Republic, nor shall any citizen of Liberia nor any person resident therein deal in slaves or subject any other person to forced labor, debt bondage or peonage; but labor reasonably required in consequence of a court sentence or order conforming to acceptable labor standards

⁶ **"Trafficking In Persons" shall mean the recruitment, transportation, transfer, harboring or receipt of a person by means of the threat or use of force or other means of coercion, or by abduction, fraud, deception, abuse of power or of a position of vulnerability, or by 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.**

⁷ **f) if a trafficked person dies as a result of the trafficking, the sentence shall be between 20 years and life imprisonment**

⁸ §14.55. Illicit Trafficking in Human Beings and Migrant Smuggling. An act to amend the penal law regarding extortion, environmental crime, and illicit trafficking in human beings and migrant smuggling, 2012.

legislations, the Liberian National Police (LNP), the Ministry of Labor (MOL), the Liberian Immigration Service (LIS), the Ministry of Justice (MOJ), and the Ministry of Gender, Children, and Social Protection (MOGCSP) agencies collaborating in the prevention, protection, investigation and prosecution of different forms of trafficking in persons and migrant smuggling in Liberia. LIS created a new Anti-Human Trafficking and Migrant Smuggling Unit with officers positioned at major ports of entry.

PROGRESS AND CHALLENGES

While the country continuously strives to ensure measures against trafficking in persons and migrant smuggling, there are still gaps and challenges in the implementation of the laws. The US States Department 2019 report on trafficking in persons in Liberia establishes that the Government of Liberia does not fully meet the minimum standards for the elimination of trafficking. The report recognizes that the Government of Liberia is making significant efforts to do so. The government demonstrated significant efforts during the reporting period by supporting victims during trial, providing transportation, security, and shelter; organizing public awareness events with high-level officials; and training more law enforcement officials on methods of identifying and investigating trafficking. The report also pointed out complicity and corruption inhibited anti-trafficking law enforcement action, and law enforcement officials continued to lack adequate resources and understanding of trafficking to effectively investigate and prosecute trafficking crimes. Shelter and services for victims remained limited, and the government did not allocate an operating budget to the anti-trafficking task force or its working-level body, the Trafficking in Persons Secretariat. Therefore Liberia remained on Tier 2 Watch List for the third consecutive year.⁹ Over the past 2018 and 2019 reporting periods, the government carried prosecuted six accused and obtained five convictions.

GAPS

Many officials continued to view internal trafficking, especially child domestic servitude, as a community practice rather than a crime and therefore did not often investigate or prosecute these cases. The government did not exert efforts to investigate, prosecute, or convict allegedly complicit officials.

⁹ <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/liberia/>

While the government had standard operating procedures to identify trafficking victims, law enforcement, immigration, and social services personnel lacked training on such procedures and, at times, identified some trafficking victims as victims of other crimes. Many officials continued to view internal trafficking, especially child domestic servitude, as a community practice rather than a crime. Due to this lack of awareness of trafficking among authorities and communities, as well as insufficient government resources to identify trafficking victims, most trafficking victims remained unidentified.¹⁰ Additionally, the law does not clearly state separate elements that constitute the crime of migrant smuggling from trafficking in persons.

CONCLUSION

Trafficking in persons and migrant smuggling are illegal acts with devastating effects on the African continent and its people alike. These acts lead to the violations of the rights of those trafficked and smuggled and undermine the development of the continent as well. While Liberia continues the enactment of laws against trafficking in persons and smuggling of migrants, prosecuting and convicting criminals, supporting victims, and creating awareness, more resources are needed for training of legal practitioners for the full implementation of these laws.

RECOMMENDATIONS

To achieve the fight against trafficking in persons and migrant smuggling, the following measures are recommended:

- a. Western countries must build industries/factories in African nations where resources are exploited to manufacture said resources such as petroleum, rubber, timbers, gold, iron ores, lead, bauxite, crude palm oil, etc. into finishing product for the creation of attractive employment opportunities for Africans.
- b. Enact legislations with enhanced penalties ranging from minimum of 10 years to life imprisonment for trafficking in persons and migrant smuggling.
- c. Develop a database and conduct biometric registration for residents of all African nations in order to monitor the movements of people within and without Africa.

¹⁰ <https://www.unodc.org/westandcentralafrica/en/newrosenwebsite/TIPSOM/Human-trafficking-and-smuggling-of-migrants.html>

- d. Recruit and train more immigration officers to monitor and regulate the proper entries and exits of people across African countries.