

Preventing Trafficking in Persons in Uganda: Critical reflections on the 11th anniversary of the Prevention of Trafficking in Persons Act

Trafficking in Persons remains a pervasive global issue with significant consequences for the physical and psychosocial wellbeing of victims/survivors. Pushed into trafficking situations by a wide range of circumstances, victims of human trafficking often end up in cycles of (forced) migration and (lethal) exploitation with far-reaching and often underestimated medical, psycho-social, economic and political consequences. Uganda, with its very youthful demographic profile,¹ has seen many of its young people (including boys and girls) trafficked to the Middle East and beyond under poorly regulated Externalisation of Labour Companies schemes.²

The Prevention of Trafficking in Persons (PTIP) Act was assented to by Ugandan President Yoweri T. K. Museveni on 01 October 2009. It came into full force commencement date twenty-two days later (23 October 2009). This 11 year old Act, inspired by and building on the ‘Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children’ (more commonly referred to as the “Palermo Protocol”), provides for, among other related matters, the creation of offences, prosecution and punishment of offenders, prevention of trafficking in persons, and protection of victims of human trafficking. Article 2 (r) of the PTIP Act sketches the contours of these trafficking offences: the giving and receiving of payment from the exploitation of trafficked persons, including all forms of sexual abuse, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs—whether from female or male, younger or older bodies.

As we celebrate a decade of implementation of this important legislation in Uganda, the Refugee Law Project invites all concerned stakeholders state and non-state, national and international to critically reflect on the state of the field when it comes to curbing trafficking in persons.

Awareness of trafficking in persons has gained traction worldwide following the entry into force of the Palermo Protocol on 25 December 2003, and in Uganda since the commencement of the PTIP Act on 23 October 2009. However, Uganda and the Republic of Congo are the only two member states of the International Conference of Africa’s Great Lakes Region that have not yet ratified the Palermo Protocol, despite being signatories to it.³ Perhaps this is part of the reason why, growing political and legal awareness of trafficking notwithstanding, the few available services barely meet the (basic) needs of survivors.⁴

¹ United Nations Department of Economic and Social Affairs (UNDESA), *World Population Prospects 2019*, p. 290.

² Coordinating Office for the Prevention of Trafficking in Persons (COPTIP), *Performance Report on Countering Trafficking in Persons in Uganda, 2018*.

³ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en

⁴ See, for example, the 2009 report jointly produced by London School of Hygiene and Tropical Medicine, the International Organisation for Migration and the UN Global Initiative to Fight Human Trafficking, *Caring for Trafficked Persons: Guidance for Health Providers*. Available online at https://publications.iom.int/system/files/pdf/cftp-guide_english_jan252013.pdf



It is also significant that, despite growing evidence in many humanitarian crises such as the rescues at sea of persons being trafficked across the Mediterranean from Libya⁵ suggesting that men and boys can comprise a sizeable proportion of particular trafficked populations, the emphasis of the global trafficking in persons discourse on 'women and children' continues to push aside 'boys and men' from both policy analysis and praxis. As with conflict-related sexual violence, the much-emphasised image of the trafficked person as female bodied occasions important outrage but leaves untouched patriarchal and heteronormative assumptions that men are invulnerable to such harms.

A further concern is with an excessive focus on prosecutions: The Department of International Crimes, responsible for international crimes including trafficking in persons, at the Directorate of Public Prosecutions (DPP) stands for prosecution-led investigations.⁶ In this, Uganda's PTIP Act takes its cues from the USA's bent towards prosecutorial justice. But while over 300 cases for human trafficking investigations have been registered by the DPP, only a handful of cases⁷ have resulted in convictions since the Act was commenced. Moreover, the patriarchal assumptions undergirding prosecution-led investigations at the DPP seem to have reinscribed a narrow and binary vision of female vulnerability and male dangerousness, and a totalising portrayal of victims of human trafficking (girls, women, boys and men) as utterly bereft of agency.⁸

Prosecutions as the silver bullet sent to eradicate the crime of human trafficking have so far brought meagre returns on investigative investments. Even in the USA which leads the world when it comes to prosecutorial justice for human traffickers⁹ the laments of investigators of human trafficking (involving sex exploitation) in the city of Baltimore¹⁰ speak to the need for a much broader approach to tackling human trafficking. Is the focus on prosecution of human traffickers truly beneficial to victims' protection and assistance across the gender divide? Isn't a more comprehensive social-justice approach to victims and survivors of human trafficking long overdue?

It is also important to remember that human traffickers reap dividends from the exploitation sexual, labour, body parts of victims across age, racial, ethnic, national, religious, class, sexual, and gender lines. Can the PTIP Act now 11 years of age in its pursuit of the organised criminals responsible (both nationally and transnationally), still afford to be silent about or blind to victims of human trafficking (extant and potential), who do not necessarily identify themselves in gender-heteronormative terms? Shouldn't the National Referral Guidelines for victims of human trafficking, whose design and

⁵ <https://www.thenewhumanitarian.org/news-feature/2020/08/05/missing-migrants-Libya-forced-returns-Mediterranean>

⁶ <https://www.dpp.go.ug/index.php/about-dpp/divisionss/management-support-services-2/international-crimes>

⁷ <https://ulii.org/search/ulii/Prevention%2520of%2520Trafficking%2520in%2520Persons%2520Act?page=1>

⁸ See the recent case brought before the Civil Division of the High Court of Uganda at Kampala: C&11 Others v. Attorney General and Another. Judgement available online at <https://ulii.org/ug/judgment/hc-civil-division-uganda/2020/55>

⁹ See for instance the 20th edition of the US Report on trafficking in persons. Available online at <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>

¹⁰ Amanda Rodriguez, a lawyer who spent years prosecuting human trafficking cases in the Baltimore area, shared her professional opinion with an Aljazeera reporter: "[human] trafficking is also related to socioeconomics... We have [in Maryland] a lot of poverty, and it's right next door to a lot of wealth, so you end up with people who can buy sex and people who are desperate. See

<https://www.aljazeera.com/features/2020/7/30/inside-baltimores-human-trafficking-industry#:~:text=Baltimore%2C%20Maryland%20is%20a%20hotspot,human%20trafficking%2C%20according%20to%20experts.&text=These%20neighbourhoods%20experience%20gun%20violence,Black%20man%20named%20Freddie%20Gray>



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implementation fall within the cardinal mandate of the DPP, address themselves to *all* persons trapped in deplorable situations fertile for human trafficking? Isn't the crime of human trafficking, after all, too complex a matter to be left in the hands of police's criminal investigators and officers of the DPP alone?

Lastly, and most importantly for Refugee Law Project as an organisation focused on the realities of forced migration in general and refugees in particular, the nexus between forced migration and trafficking in persons is yet to be fully appreciated, let alone taken as a productive area of focus for policy intervention. As we celebrate today the milestones borne of PTIP Act, the siloing of human trafficking and (forced) migration into separate fields of endeavour seems likely to exacerbate rather than alleviate the plight of both trafficked persons and forced migrants. The need to bring these two fields into critical conversation cannot be over-emphasised. After all, viewing victims of trafficking in persons (found in a place different from their country of origin) exclusively as migrants (and not possible asylum seekers) robs them of their compounded vulnerabilities. The artificial wall currently separating the humanitarian field of forced migration and the more legally focused field of trafficking in persons is detrimental to the promises augured by the Palermo Protocol and, most significantly, plays into what is already becoming visible in Europe: asylum seekers-turned-trafficked persons excluded from regimes of care under international refugee law.

We thus invite all concerned stakeholders, in unison with the Directorate of Public Prosecutions, to step forward in pursuing the inextricable links between the fields of human trafficking and forced migration, not least for the sake of Uganda's significant refugee population.

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