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INVESTIGATING AND PROSECUTING TRAFFICKING IN PERSONS CASES IN THE BAHAMAS AND UGANDA: A COMPARATIVE ANALYSIS¹

INVESTIGANDO E PROCESSANDO CASOS DE TRÁFICO DE PESSOAS NAS BAHAMAS E EM UGANDA: UMA ANÁLISE COMPARATIVA

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ABSTRACT

The movement of human beings from one location to another through migration and or immigration is a fact of life. The voluntary and lawful movement of persons or involuntarily movement due to compelling circumstances is not a problem per se. It is problematic where the movement both within and without state borders is illegal and criminal. This has given rise to the phenomenon of trafficking in persons or human trafficking which has been alluded to as modern day slavery. It should be noted that trafficking in persons is a crime of exploitation and coercion, not movement. The international community through the United Nations, Regional bodies in general and states in particular have been enjoined to take measures to combat this vice. The Bahamas has been distinguished more as a conduit country for trafficked persons. On the other hand, Uganda a country with the youngest population of youth in the world is notorious for trafficking in persons especially those destined to the Middle East. This article analyses the efforts and measures taken by The Bahamas and Uganda to investigate and prosecute the perpetrators in trafficking in persons, with a view of preventing and mitigating this evolving trans-border crime.

Keywords: Investigating; Prosecuting; Trafficking in persons; The Bahamas and Uganda.

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1 INTRODUCTION

The 2020 Global Report on Trafficking in Persons issued by the United Nations Office on Drugs and Crime (UNODC) which is compiled using official figures from over 148 countries shows that in 2018 about 50,000 human trafficking victims were detected and reported. It was observed that female victims continue to be the primary targets. The Report shows that in 2018, 46 percent of detected victims were women and 19 percent girls. For male victims the Report shows that 20 per cent of detected victims were men and 15 per cent were boys. The report also indicates that over 90 per cent of the United Nations Member States have established a specific offence for the criminalization of trafficking, and the definition of trafficking in persons is almost universally based on the UN Protocol.³

According to the Trafficking in Persons Report from 2020, estimates determined that traffickers are currently exploiting 7,000 to 12,000 children through sex trafficking in Uganda and the country retained its tier 2 status.⁴ The report also outlines how human trafficking in Uganda primarily takes the form of forced physical labor and sexual exploitation. Poverty is the main cause of exploitation. It is further posited that other push-pull dynamics including rural-urban migration, armed conflict and global economic policies are placing many people in developing countries, including Uganda, at the risk of exploitation.⁵ Uganda is yet to attain the minimum standards for the elimination of trafficking but is making significant efforts to do so.⁶ The measures undertaken include identifying more victims and commissioning the National Referral Guidelines for Management of Victims of Trafficking in Uganda (NRG).⁷ Further measures were increased prosecutions of suspected traffickers and increased training to law enforcement personnel, investigated allegations of complicity in trafficking crimes, and the creation of human trafficking officer positions within the Ugandan Police Force (UPF) and the Criminal Investigative Department (CID).⁸ The government augmented awareness-raising campaigns and launched, funded, and implemented the National Action Plan for Prevention of Trafficking in Persons Uganda 2019-2024 (NAP). In 2019, the govern-

3 UNODC, 'Global Report on Trafficking in Persons 2020' at p.23. United Nations publication, Sales No. E.20.IV.3. Available at https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf. Accessed: 27/08/2021.

4 US Department of State, 2021 Trafficking in Persons Report: Uganda available at <https://www.state.gov/reports/2021-trafficking-in-persons-report/uganda/>. Accessed: 26/08/2021.

5 Jones, Loring, David W. Engstrom, Tricia Hilliard, and Mariel Diaz. "Globalization and human trafficking." *J. Soc. & Soc. Welfare* 34 (2007): 107. At p113.

6 Walton, S. Ernie. "The Trafficking in Persons Report: Recommendations for Uganda." *Available at SSRN 3392045* (2019). At p3-4.

7 Offia, Favour. "Human Trafficking in Uganda: Law, Policy and Practice." *Policy and Practice (December 2, 2019). Irish Centre for Human Rights Working Paper Series* (2019).

8 *Ibid* n2 .

ment prosecuted 73 cases involving 87 suspects in court. In 2020, courts convicted 11 traffickers under the anti-trafficking act in nine cases – six for sex trafficking and five for forced labor.⁹

The Bahamas is reported as a major transit country for migrants attempting to enter the US, and it is a transit and destination place for trafficked persons from the Caribbean and Central and South America.¹⁰ The magnitude of trafficking in the Bahamas is difficult to quantify, given low identification and prosecution by authorities. The government of The Bahamas established the National Trafficking Committee to coordinate its efforts. The Bahamas has retained its tier 1 status according to the US Department of State.¹¹ The government in 2018 approved a new national action plan from 2019 to 2023 and increased overall funding for anti-trafficking activities.¹² The Bahamas developed a four-pronged approach to deal with human trafficking. This is inclusive of a contemporary legislation; training and awareness campaigns; victim protection and recovery services and the successful prosecution and conviction of human traffickers.¹³ The government of The Bahamas investigated 16 potential traffickers, 11 for sex trafficking investigations and five for labor trafficking, compared to two new investigations in 2018 and 11 to 15 investigations annually in the preceding six years.¹⁴ Authorities reported initiating two prosecutions for sex trafficking during the reporting period, compared to one initiated in 2018. The government did not convict any traffickers during the reporting period, compared to one convicted trafficker in 2018 and one in 2017.¹⁵ It has been reported that human traffickers exploit domestic and foreign victims in The Bahamas, and traffickers exploit victims from The Bahamas in country and abroad.¹⁶ Traffickers recruit migrant workers, especially those from Haiti, Jamaica, the Dominican Republic, China, Costa Rica, Cuba, Colombia, Venezuela, the Philippines, and the United States through false offers of employment, both through advertisements in foreign newspapers and social media; upon arrival, traffickers subject them to sex trafficking and forced labor, including in domestic service and in sectors with low-skilled labor.¹⁷

This article is comprised of five sections. Part I focuses on international efforts un-

9 *Ibid*

10 Seelke, Clare Ribando. *Trafficking in persons in Latin America and the Caribbean*. Congressional Research Service, 2013. At p3.

11 US Department of State, 2021 Trafficking in Persons Report: The Bahamas, Available at <https://www.state.gov/reports/2021-trafficking-in-persons-report/bahamas/>. Accessed: 25/08/2021.

12 *Ibid*

13 The Tribune, “People Traffickers Using Bahamas As Transit Route” 4th December, 2020. Available at <http://www.tribune242.com/news/2020/dec/04/people-traffickers-using-bahamas-transit-route/> Accessed: 20/08/2021

14 *Ibid* n9

15 *Ibid*

16 The Tribune, “People Traffickers Using Bahamas As Transit Route” 4th December, 2020. Available at <http://www.tribune242.com/news/2020/dec/04/people-traffickers-using-bahamas-transit-route/> at p47-8

17 Ribando Seelke, Clare. “Trafficking in persons in Latin America and the Caribbean.” (2010). At p4-5

dertaken by the global community under the auspices of the United Nations in combating trafficking in persons. Part II deals with regional approaches in the Caribbean Region and the East African Community, respectively, where are located the two countries that are the main focus of this study. Part III focuses on the national measures undertaken by The Bahamas in dealing with trafficking in persons. Part IV examines the national efforts embarked upon by the government of Uganda. Part V analyses the investigation and prosecution procedures for TIP offences in The Bahamas and Uganda. It also addresses the issues and challenges encountered by law enforcement agencies in dealing with TIP cases.

2 INTERNATIONAL APPROACHES TO TRAFFICKING IN PERSONS

2.1 United Nations Convention against Transnational Organized Crime (UNTOC)

The Convention exemplifies the global commitment in the fight against transnational organized crime and signifies the recognition by Member States of the significance of the problems posed by it, as well as the need to foster and enhance close international cooperation in order to tackle those problems.¹⁸ The United Nations Office on Drugs and Crime (UNODC) acts as custodian of the UNTOC and its protocols.¹⁹ The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children or the Palermo Protocol²⁰ (hereinafter referred to as the Trafficking Protocol) is the first global legally binding instrument with an agreed definition on trafficking in persons.

Article 3 of the Trafficking Protocol defines “Trafficking in persons” to mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of 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.’ It has been argued that the definition should include trafficking of persons for ransom.²¹ Exploitation is expounded to include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.²²

18 Clark, Roger S. “The United Nations Convention against transnational organized crime.” *Wayne L. Rev.* 50 (2004): 161.

19 Lindley, Jade. “Policing and prosecution of human trafficking.” In *Research Handbook on Transnational Crime*. Edward Elgar Publishing, 2019.

20 General Assembly resolution 55/25 of 15 November 2000.

21 Brhane, Mogos O. “Trafficking in Persons for Ransom and the Need to Expand the Interpretation of Article 3 of the UN Trafficking Protocol.” *Anti-Trafficking Review* 4 (2015). At p9-10.

22 Corliss, Cody. “Human Trafficking as” Modern Slavery”: The Trouble with Trafficking as Enslavement in International

Article 3 of the Trafficking Protocol clarifies that trafficking in persons has three constituent elements: (1) An act (what is done); (2) The means (how it is done); and (3) Exploitative purpose (why it is done). The prosecution must prove all of them in order to secure a conviction. The Bahamas and Uganda have enacted legislations that create offences that require proof of the elements under Article 3 of the Protocol. This discussion is under parts III and IV of this article.

3 REGIONAL APPROACHES

3.1 CARICOM Implementing Agency for Crime and Security (IMPACS)

The Caribbean Community (CARICOM) Implementation Agency for Crime and Security (IMPACS) was established on July 6th, 2006 via an Inter-Government Agreement from the 2006 CARICOM Heads of Government Conference.²³ IMPACS has since become the Region's premiere multilateral crime and security agency, designed to administer a collective response to the crime and security priorities of CARICOM. CARICOM IMPACS continues to provide Member States with the necessary tools and capabilities to combat transnational organized crime and address the security concerns of the region.²⁴

The Joint Regional Communication Centre (JRCC) is a sub agency of CARICOM IMPACS. It is mainly responsible for the operations and management of the Advance Passenger Information System (APIS)²⁵, which screens approximately forty (40) Million passengers annually, specifically those entering, and travelling within the CARICOM Region by air and sea ports.²⁶

The Regional Intelligence Fusion Centre (RIFC) is a sub agency in Trinidad and provides support to Member States in intelligence gathering, sharing and analysis.²⁷ Its current mandate is as follows:

1. To provide 24/7 support to the Joint Regional Communication Centre (JRCC) in Border Protection and Continuity of Operations

Law." *SCL Rev.* 71 (2019): 603.

23 Martinez, Jacqueline Laguardia, Georgina Chami, Annita Montoute, and Debbie A. Mohammed. "Regional Integration in the Caribbean." In *Changing Cuba-US Relations*, pp. 19-35. Palgrave Macmillan, Cham, 2020.

24 Kirchner, Emil J., and Roberto Dominguez. "The Caribbean Community's fourth pillar: The evolution of regional security governance." In *The Security Governance of Regional Organizations*, pp. 168-194. Routledge, 2013.

25 Pryce, Murphy G. *Security: The Fourth Pillar of the Caribbean Community. Does the Region Need a Security Organ.* US Army Command and General Staff College Fort Leavenworth United States, 2016.

26 Secretariat, C. A. R. I. C. O. M., and Guyana Turkeyen. "Strategic Plan for the Caribbean Community 2015-2019: Repositioning Caricom." *CARICOM: Turkeyen-Guyana* (2014).

27 Hill, Sheridan M., and Patrice K. Morris. "Drug Trafficking and Gang Violence in the Caribbean." In *Crime, violence and security in the Caribbean*, pp. 52-75. Routledge, 2017.

2. To Collect information that reveals the Plans, Intentions and Capabilities of Threat Entities and Provide the basis for decision
3. To produce timely analyses that provide Insight, Warning and Opportunity to the Decision Makers charged with Protecting and Advancing the Region's Interests
4. To provide Standardised Training and Major Event Support to Member States
5. To Establish Regional and International Liaisons in Support of the Intelligence Mandate

The CARICOM states continue to have joint law enforcement trainings and cooperation in TIP matters.

3.2 The East African Community (EAC)

The vice of human trafficking within the EAC region was engaged collectively following the enactment of the EAC Anti-Trafficking in Persons Bill, 2016.²⁸ The object of the Bill was to provide for a legal framework for the prevention of trafficking in persons, prosecution of perpetrators of trafficking in persons, provision of protection mechanisms and services for victims of trafficking in persons and development of partnerships for co-operation to counter trafficking in persons in the Community.²⁹ The Report of the Committee on Legal Rules and Privileges on the EAC Anti-Trafficking in Persons Bill, 2016 among other things, ascertained that the crime of trafficking in persons was prevalent in all EAC Partner States.³⁰ The member states have since enacted domestic legislations to that end.

4 THE BAHAMAS

4.1 The Trafficking in Persons (Prevention and Suppression) Act (TIPA)

The Trafficking in Persons (Prevention and Suppression) Act 2008 criminalized sex trafficking and labor trafficking and prescribed penalties ranging from three years' to life imprisonment.³¹ Section 2 adopts the definition of 'trafficking in persons' and the elements of crime under Article 3 of the Protocol. It has been argued that the

28 The East African Legislative Assembly, 'The EAC Counter-trafficking in Persons Bill, 2016 by Hon. Dora C. Kana-bahita Byamukama' Available at

<https://www.eala.org/index.php?/documents/view/the-eac-counter-trafficking-in-persons-bill2016> Accessed: 20/08/2021.
29 *Ibid*

30 The East African Legislative Assembly, 'Assembly Enacts Anti-Trafficking in Persons Bill', <https://www.eala.org/index.php/media/view/assembly-enacts-anti-trafficking-in-persons-bill> Accessed: 24/08/2021.

31 Section 3 of the Trafficking in Persons (Prevention and Suppression) Act, 2008

definition under Article 3 of the Protocol is not exhaustive.³² The penalties under the TIP Act have been considered sufficiently stringent, and with regard to sex trafficking, commensurate with penalties prescribed for other serious crimes, such as rape.³³ In January 2016, there was a setback when The Bahamas Court of Appeal ruled that trafficking cases cannot be tried in the Supreme Court absent an amendment to Bahamian criminal procedure, quashing the Supreme Court's 2014 sentence of one convicted perpetrator of trafficking crimes to 15 years' imprisonment for trafficking in persons and seven years' imprisonment for withholding the victim's documents.³⁴ The government appealed the Court of Appeal ruling to the Privy Council in London and lost the appeal; meanwhile, it continued to prosecute cases in the Magistrates' Courts. The case of Hall is discussed further below.

4.2 The focal persons

The TIP Committee established under the government of The Bahamas funded and trained member agencies and ministries in their roles in identifying and protecting victims and making referrals as focal persons.

4.3 The Royal Bahamas Police Force (RBPF) TIP Unit

The RBPF established a TIP Unit to investigate and counter TIP activities. The unit coordinates with other agencies in combating the vice.

4.4 The Office of the Director of Public Prosecutions (ODPP) TIP Unit

The ODPP has a specialized TIP Unit which liaises with the RBPF TIP Unit during investigations and handles prosecutions both in magistrates' courts and the Supreme Court. The unit works closely with the US Department of Justice for training and sharing of information.

4.5 The Cases in The Bahamas

32 Allain, Jean. "No effective trafficking definition exists: Domestic implementation of the Palermo Protocol." *Alb. Gov't L. Rev.* 7 (2014): 111.

33 Swann, Christine E. "Migration: The Bahamas and the Caribbean: A Selective Bibliography." *International Journal of Bahamian Studies* 20, no. 1 (2014): 70-75.

34 Chevanese Sasha Gaye Hall v Attorney General SCCrApp Case #: 179 of 2014

*The Attorney General v Hall*³⁵

The respondent Chevaneese Sasha Hall was convicted before the Supreme Court on charges of people trafficking laid under sections 3 and 4 of the Trafficking in Persons (Prevention and Suppression) Act (Chapter 106) (“TIPA”). The Supreme Court in 2014 sentenced one of the convicted perpetrator of trafficking crimes to 15 years’ imprisonment for trafficking in persons and seven years’ imprisonment for withholding the victim’s documents. She had been brought before the court pursuant to a voluntary bill of indictment laid by the Attorney General. No point was then taken upon the validity of that form of process. However, on appeal she contended that there was no power to lay a voluntary bill. The Court of Appeal upheld that contention and quashed her convictions. The Attorney General challenges that decision by further appeal to the Board. The Privy Council *inter alia*, held that:

30. For all these reasons, the Board concludes that the TIPA offences contrary to sections 3 and 4 are indeed, as they say they are, triable either way. There is no right of election for the accused. The prosecution is entitled to ask the magistrate to proceed by way of preliminary inquiry, and will no doubt either do so or invite him to conduct a summary trial according to the gravity of the circumstances alleged to constitute the offence. Whatever they may ask the magistrate to do, s/he has the power under section 126 to determine that the offence is suitable for summary trial, and to proceed in that way.....

46. For these several reasons, the conclusions of the Board are these.
(a) The effect of the Criminal Procedure Code is not to limit offences for mode of trial purposes to the three categories postulated by the Court of Appeal.

(b) For the purposes of mode of trial, offences in the Bahamas may be categorised in four groups: (i) offences which are triable only by judge and jury in the Supreme Court, (ii) offences which are triable either way without the accused having any right to elect trial by jury, (iii) offences which are triable either way but in relation to which the accused has a right to elect trial by jury pursuant to section 214 and Schedule 3 of the Criminal Procedure Code and (iv) offences which are triable only summarily.

(c) Where an offence falls into category (ii) the prosecution may

35 [2016] UKPC 28

invite the magistrate to proceed either by way of summary trial or by way of preliminary inquiry with a view to committal to the Supreme Court for trial by judge and jury on information. The accused has no right to elect trial by jury. But the prosecution does not have unfettered power to decide the mode of trial. That power belongs to the magistrate, who may determine either that a case which the prosecution would be content to be tried summarily ought to be sent to the Supreme Court, or that an offence which the prosecution would prefer to go to the Supreme Court ought to be tried summarily. The magistrate will no doubt hear both parties before arriving at a decision as to mode of trial....

47. The Board will accordingly humbly advise Her Majesty that the appeal of the Attorney General ought to be dismissed.

The prosecution of most matters under TIPA in the Bahamas are being handled before the Magistrates courts in the aftermath of the Privy Council's decision.

5 UGANDA

5.1 The Prevention of Trafficking in Persons Act

The 2009 Anti-Trafficking Act criminalized sex trafficking and labor trafficking, and it prescribed punishments of up to 15 years' imprisonment for offenses involving adult victims and up to life imprisonment for those involving child victims.³⁶ Section 2 of the Act adopted the definition and elements of crime under Article 3 of the Trafficking Protocol. Efforts are still ongoing to effectively enforce the Act.³⁷ The penalties under the Act have been considered sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious crimes, such as kidnapping.³⁸ The law also criminalized the use of a child in any armed conflict and prescribed penalties of up to the death penalty.³⁹

5.2 The Department of Trafficking in Persons Ministry of Internal Affairs

In an effort to operationalize Section 21 of the Prevention of Trafficking in Persons

36 Section 3 of The Prevention of Trafficking in Persons Act.

37 Walton, S. Ernie. "The Trafficking in Persons Report: Recommendations for Uganda." *Available at SSRN 3392045* (2019).

38 Offia, Favour. "Child Trafficking in Uganda." *Irish Centre for Human Rights Working Paper Series* (2020).

39 Section 5 of the Act. See also Offia, Favour. "Human Trafficking in Uganda: Law, Policy and Practice." *Policy and Practice (December 2, 2019). Irish Centre for Human Rights Working Paper Series* (2019).

(PTIP) Act the then Minister of Internal Affairs designated a Coordination Office for Prevention of Trafficking in Persons (COPTIP), at the Ministry of Internal Affairs, in March 2013, to be responsible for coordination, monitoring and overseeing the implementation of the Act.⁴⁰ The COPTIP was responsible for compiling law enforcement data.

5.3 Uganda Police Force (UPF): Anti TIP Unit

In 2019, UPF announced the creation of the Anti-Trafficking in Persons Department within the Criminal Investigation and Crime Intelligence Department; however, the new anti-trafficking department had yet to receive final approval by end of that year.⁴¹ In 2020, UPF created seven human trafficking officer positions and the CID established human trafficking desk officers at border posts and at the Entebbe International Airport.⁴²

5.4 The ODPP TIP Unit

The government maintained a trafficking-specific desk in the Director of Public Prosecutions' office responsible for prosecuting trafficking crimes. The government, in partnership with an NGO, designated 136 Trafficking in Persons Focal Prosecutors across the country to gather and track human trafficking data.⁴³ In response to the pandemic lockdown, Office of the Director of Public Prosecutions created and implemented an electronic application to facilitate communication among 350 police (or police officers?) and prosecutors and to share resources on effective methods for human trafficking investigations and prosecutions across the country.⁴⁴

5.5 Ugandan Trafficking in persons Cases

Uganda has prosecuted a number of cases under the PTIPA, 2009. Below are two summaries to give an insight into the TIP offences.

5.6 Uganda v Orwothwun Martin⁴⁵

⁴⁰ *Ibid* n36

⁴¹ *Ibid* n2

⁴² *Ibid*

⁴³ *Ibid*.

⁴⁴ *Ibid*.

⁴⁵ (Criminal Session Case-2017/52) [2017] UGHCCRD 16 (07 August 2017).

The accused was charged with two counts of Aggravated Trafficking in Children c/s 5 (f) of The Prevention of Trafficking in Persons Act. For the accused to be convicted of Aggravated Trafficking in Children c/s 5 (f) of *The Prevention of Trafficking in Persons Act*, the prosecution must prove each of the following essential ingredients beyond reasonable doubt;

1. That the victim in each count was a child.
2. The victims were used or any of their body parts was used in witchcraft or harmful rituals and related harmful human practices.
3. That it is the accused who used the victims or any body parts of theirs in such practices.

In the final result, I find that the prosecution has failed to prove any of essential ingredients of the offence beyond reasonable doubt and I hereby find the accused not guilty and consequently acquit him of the offence of Aggravated Trafficking in Children c/s 5 (f) of *The Prevention of Trafficking in Persons Act* on both counts.

5.7 Uganda v Umutoni⁴⁶

Umutoni Annet (“the accused”) was charged on two counts of aggravated child trafficking and Human Trafficking contrary to sections 3(1) (a), 4 (a) and 5 (a) of the Prevention of Trafficking in Persons Act No.7 of 2009. The offence of Aggravated child trafficking which is the subject of each of the two counts in the indictment before court and each of which the prosecution has to prove beyond reasonable doubt has five ingredients:-

1. The victim was a child;
2. Transportation and transfer
3. By means of the use of threat or use of force or other forms of coercion, of abduction, of fraud, of deception....or of giving or receiving of payments or benefits....
4. For purposes of exploitation
5. Accused’s participation.....

In conclusion I find and hold that prosecution proved beyond reasonable doubt all the essential ingredients of the offence in count No.1 of the indictment.....Consequently, I find and hold the accused guilty on count No.1 as charged but acquit the accused of the offence she was indicted for in count No.2 of the indictment. Instead I find the accused guilty of the offence under section 3 (a) of the Act as charged.

After balancing the aggravating and mitigating factors and after considering the se-

46 (HCT-00-ICD-CR-SC-2014/3) [2014] UGHICD 1 (16 October 2014).

riousness of the offences and the maximum sentences of death for aggravated trafficking in children and fifteen years prison term for trafficking in persons, and finally considering that the convict has spent a total of twenty (20) months on remand I hereby sentence the convict to prison terms of eight (8) years on the count of aggravated child trafficking and five (5) years on the count of trafficking in persons. The two prison terms shall run concurrently.

The above two Ugandan cases had different outcomes, the one of *Orwothwum* which involved alleged witchcraft and ritual sacrifices being harder for the prosecution to discharge the burden. Whereas in the *Umutoni* case, the prosecution was able to discharge the burden as there was transportation and coercion of the victim for exploitation. The cases present the different challenges prosecutors and investigators face in executing their mandates in tackling TIP offences.

6 INVESTIGATION AND PROSECUTION OF TRAFFICKING IN PERSONS CASES IN THE BAHAMAS AND UGANDA

6.1 Investigations

Reactive: This is a victim-led approach, which is reliant on victim testimony. It consistently utilizes standard police criminal investigation methods, such as corroboration, identification parade, photo array identification and so forth.⁴⁷ *Proactive*: This is an intelligence-generated or police-led approach. The proactive approach does not depend solely on the victim's testimony or cooperation; rather, it relies on utilizing a combination of tools to collect evidence and build circumstances to aid prosecution.⁴⁸ Selected sources of intelligence highlighted in the previous session are obtained from this approach. *Disruptive*: This is a multi-agency alternative option which is generally used in the process of stopping illegal activities of trafficking breached. It is influenced by the initial risk assessment and it aims at ensuring victims are distinguished from criminals and rescued.⁴⁹

6.2 Dual Investigation Approach

Although trafficking cases are more easily prosecuted when victims cooperate with

47 David, Fiona. "Law enforcement responses to trafficking in persons: challenges and emerging good practice." *Trends and issues in crime and criminal justice* 347 (2007): 1-6.

48 *Ibid.*

49 Gallagher, Anne, and Paul Holmes. "Developing an effective criminal justice response to human trafficking: Lessons from the front line." *International criminal justice review* 18, no. 3 (2008): 318-343.

law enforcement, cooperation is generally limited in TIP in comparison with the cooperation of victims of other crimes, for a variety of reasons, including the traumatic experience of trafficking, which often renders victims untrusting, incapable or unwilling to be involved, especially in the short term.⁵⁰ It is therefore important to build a case through a proactive approach to find different sources of compelling evidence other than relying heavily on witness testimony/statements.

6.3 Evidence-gathering

To build a strong TIP case for prosecution, the evidence must be obtained in accordance with national law and the relevant chain of custody procedures should be followed to ensure admissibility within court.⁵¹ When collecting evidence during a TIP case investigation, the information below should be considered:

Understanding legal requirements: Evidence gathered should be relevant to the elements needed to prove the crime. In any criminal investigation, liability must be proven by determining both the actus reus (guilty act) and the mens rea (guilty mind) of the suspect.⁵² To specifically prove the criminal offence of TIP, the elements related to the act, means and purpose of exploitation should be ascertained by gathering various sources of evidence.

Search warrants: These can be issued by a judge, magistrate or justice of the peace once there is a reasonable ground to suspect that a crime has been committed or is about to be committed.⁵³ Search warrants enable the police to obtain various sources of evidence which may include: records of financial transactions, IT equipment, identification documents, documentation relevant to the management of the illegal business (e.g. daily worksheets, payment schedules, price lists) and so forth. The strategic use of the search warrant is likely to significantly assist with evidence-gathering efforts.⁵⁴

Interviewing victims: The appropriate interviewing method should be followed with interviews being held in a suitable location and recorded in accordance with relevant guidelines.⁵⁵

50 Paavilainen, Marja. "Debate: Towards a Cohesive and Contextualised Response: When is it necessary to distinguish between forced labour, trafficking in persons and slavery?." *Anti-Trafficking Review* 5 (2015).

51 Jesrani, Tejal. "The use of electronic evidence to more effectively fight trafficking in persons." In *Human Trafficking and Exploitation*, pp. 208-219. Routledge, 2017.

52 Gallagher, ANNE T., and N. I. C. O. L. E. Karlebach. "Prosecution of trafficking in persons cases: Integrating a human rights-based approach in the administration of criminal justice." *Background Paper. Geneva: OHCHR* (2011).

53 Skinnider, Eileen, and Criminal Justice Policy. *Defining Organised Crime in Canada: Meeting Our Obligations Under the UN Convention Against Transnational Organised Crime and Its Protocols Against Trafficking of Persons and Smuggling of Migrants?*. International Centre for Criminal Law Reform and Criminal Justice Policy, 2006.

54 Walters, Jim, and Patricia H. Davis. "Human trafficking, sex tourism, and child exploitation on the southern border." *Journal of Applied Research on Children* 2, no. 1 (2011): 6.

55 Turkel, Allison, and Suzanna Tiapula. "Strategies for Interviewing Child Victims of Human Trafficking." (2008).

Statement recording: The statement should outline in a sequential order the events that occurred and must be signed by the witness. In some jurisdictions such as Malaysia, a deposition may be required.⁵⁶

Processing of the crime scene: This requires a thorough examination and analysis of the crime scene so as to gather all the relevant evidence in order to prosecute trafficking in person cases. This includes articles left behind by victims and suspects, documents, fingerprints and DNA opportunities.⁵⁷

Witness protection measures: Where a given witness or victim is in grave danger, the law enforcement is enjoined to take measures towards their protection. These measures may range from police protection, entry into a witness protection program, in court protection measures such a video-link testimony, voice distortion, use of protective screens, use of pseudonyms among others.⁵⁸ It should be recalled by law enforcement that in the execution of their mandate, not harm should be caused to the witnesses or victims.

Witness anonymity: The Bahamas enacted the Criminal Evidence (Witness Anonymity) Act 2011, which enables witnesses who feel or are deemed to be in grave danger if their identity was known by the accused or his/her associates would give their testimony under anonymity.⁵⁹ This ensures that the victim or witness does not suffer any harm.⁶⁰

6.4 Prosecution of Trafficking-in person's cases

Consultation with Investigators:

In The Bahamas, the RBPF investigators upon conducting investigations and compiling the case file, they submit the same with a memorandum or initial report to the Director of Public Prosecutions detailing their findings and recommendations. Upon receipt of the case file and initial report the officer in charge of consultation peruses the file to determine the cogency and admissibility of the evidence in light of the allegations and recommendations by the RBPF. The consulting officer will approve or disapprove the recommendations or make necessary recommendations to the police. In The Bahamas, the RBPF consults the ODPP but is not given directives. On the other hand in Uganda,

56 Ab Hamid, Zuraini, Norjihan Ab Aziz, and Noorshuhadawati Mohamad Amin. "Challenges encountered by Malaysian prosecutors in human trafficking." *International Journal of Asian Social Science* 8, no. 1 (2018): 21-27.

57 Ribaux, Olivier, Amélie Baylon, Claude Roux, Olivier Delémont, Eric Lock, Christian Zingg, and Pierre Margot. "Intelligence-led crime scene processing. Part I: Forensic intelligence." *Forensic Science International* 195, no. 1-3 (2010): 10-16.

58 Mofokeng, Jacob, and Adewale Olutola. "Expert reflections on challenges experienced to address human trafficking in South Africa prior to the implementation of the Prevention and Combating of Trafficking in Persons Act 7 of 2013." *Acta Criminologica: African Journal of Criminology & Victimology* 2014, no. 1 (2014): 114-135.

59 Section 8 of the Criminal Evidence (Witness Anonymity) Act, 2011

60 Bakibinga, David Baxter. "Witness protection in the criminal justice system of the Bahamas." *Revista Acadêmica Escola Superior do Ministério Público do Ceará* 12, no. 1 (2020): 167-194.

the DPP is mandated by the constitution to direct and control criminal investigations.⁶¹ Upon receipt of any complaint or information the CID conduct investigations and compile the file and submit the same for perusal and legal advice. In complex investigations, the DPP adopts the prosecution-led investigations where the prosecutor is involved in the inquiries from the onset.⁶² In Uganda, post-1995 the case files are not submitted with recommendations from the police as the decisions and directions are given by the DPP.

Cogency and admissible evidence

The ODPP Bahamas relies on the test of cogency and admissibility of the evidence at the consultation stage. This implies that all the assembled evidence must be factual and should tend to establish the truth or disprove it. The evidence must be essential and having probative value not impacted by any defence. Where the evidence passes the test, then the consultant is enjoined to approve the charges. On the other hand if the evidence does not pass the test, the consultant would make recommendations not to approve charges. In The Bahamas at the consultation stage, all investigations should have been concluded except for few complex inquiries such as pathologist and ballistic reports. In Uganda, the test at the perusal stage of the assembled evidence is a prima facie case. Prima facie evidence must support all the elements of the crime and must be relevant and admissible. In Uganda all preliminary investigations must be concluded before the case file is submitted for perusal. The exceptions are forensic reports from the Government Analytical Laboratory, Identification Bureau, and Document Analysts, which require more time to compile.

Appropriate charges

In The Bahamas the DPP advises on the appropriate charges at two levels, at the consultation stage and at the preparation of a Voluntary Bill of Indictment (VBI).⁶³ However for most summary offences, it is the Commissioner of Police who must ensure that the docket contains appropriate charges.⁶⁴ This parallel system has presented challenges in ensuring quality control in preferring of charges for both summary and charges on information. In some cases files are referred by police prosecution to DPP to handle appeals

61 Article 120(3)(a) of the Constitution of the Republic of Uganda Vol.1 Laws of Uganda 2000 Edition

62 'Best practices for Prosecution-led Trafficking in persons investigations in Uganda' The Human Trafficking Institute, June 2020 at p3 Available at <https://www.traffickinginstitute.org/wp-content/uploads/2020/06/HTI-Best-Practices-Manual-WEB-High-Res-1.pdf> Accessed: 28/9/2021.

63 Section 258 of the Criminal Procedure Code Act Ch. 91 Laws of the Bahamas

64 Section 58(7) of the Criminal Procedure Code Act Ch. 91 Laws of the Bahamas

premised on defective dockets and or duplex charges. The evolving practice now is that all cases from police should be consulted in order to ensure quality control and uniformity. In Uganda, it is the duty of the prosecutor to ensure that appropriate charges are preferred and the charge sheet and or indictment are proper.⁶⁵ Since both The Bahamas and Uganda are common law jurisdictions, the prosecution is enjoined to ensure that the charging documents are appropriately before court. Where the defects are incurable then the charges would be dismissed.⁶⁶ However if the defects are minor, the court can cause the prosecution to file amendments.⁶⁷

Application for protective measures:

The Criminal Evidence (Witness Anonymity) Act, 2011 of The Bahamas, to criminal investigations and criminal proceedings for qualifying offences including offences under the Trafficking in Persons (Prevention and Suppression) Act (Ch 106).⁶⁸ The Magistrates are enjoined to grant investigation anonymity orders in relation to a specified person, prohibiting the disclosure of information that leads to the identity of the specified person as a person who is or was able or willing to assist a qualified criminal investigation; or that might enable the specified person to be identified as such a person.⁶⁹ In the same vein the Commissioner of Police and the DPP are enjoined to make application for investigation anonymity orders.⁷⁰ The application is made *ex parte* and the magistrate may dispose of it without a hearing.⁷¹ The conditions under which an investigation anonymity order may be made include, a qualifying offence being committed; where the person in respect of whom the order is to be made is threaten or likely to suffer harm; where whom would be specified in the order is able to provide information that relates to a criminal investigations into a qualifying offence; and where the person is alleged to have committed a qualifying offence but was sixteen years or below at the time.⁷² These provisions in the Bahamian legislation ensure that the victims, witnesses or cooperation offenders in TIP investigations are protected at the earliest opportunity. It could be argued that this would boost their confidence when engaging with investigators. In Uganda on the other hand, law enforcement officers, prosecutors, judicial officers and

65 DPP Uganda, 'Prosecution Performance Standards And Guidelines 2014' at p7. Available at <https://www.dpp.go.ug/index.php/publications/send/20-prosecution-performance-standards/15-prosecutions-performance-standands-and-guidelines> Accessed on 20/8/2021

66 See *Ezekiel Kwihuja v The Republic* Criminal Appeal No. 559 of 2016, Court of Appeal, Tanzania at p11

67 See *Kastory Lugongo v. The Republic*, Criminal Appeal No. 251 of 2014, Court of Appeal, Tanzania

68 Section 4(1)(g) of the Criminal Evidence (Witness Anonymity) Act, 2011

69 Section 6, *ibid.*

70 Section 7, *ibid.*

71 Section 7 (2) and (4), *ibid.*

72 Section 8, *ibid.*

medical practitioners, as well as parties to the case, are enjoined to recognize the right to privacy and or confidentiality of the victim of trafficking at any stage of the investigation or trial of an offence under the Prevention of Trafficking in Persons Act, 2009.⁷³ The legislation in Uganda does not expressly provide for anonymity during investigation and there are not specific procedures for investigation anonymity orders. The legislation limits recognition of confidentiality to a victim of TIP and does not cover witnesses and cooperating offenders that may provide information.

Disclosure of the evidence:

In the Bahamas, the evidence obtained under the Criminal Evidence (Witness Anonymity) Act does not contain personal details or information that is likely to lead to the identification or location of the person subject to an anonymity order. This implies that during disclosure all the evidence handed over to the defence would contain only necessary facts and opinion or expert evidence. This ensures that the defence accesses all the evidence without the accused being prejudiced whereas the persons subject to the anonymity order are also protected. In Uganda, evidence obtained under the Prevention of Trafficking in Persons is redacted in order to ensure confidentiality. The evidence disclosed must contain only relevant facts and opinion or expert evidence. This ensures a balance of the rights of the accused person being able to have a fair trial and the rights of the victims of TIP.

Case strategy and planning

In the Bahamas after the case to be tried on information before the Supreme Court is scheduled for trial after arraignment, there will be a case management hearing where the prosecution will give an update on the readiness of the prosecution to proceed and if there are any outstanding inquiries so that the case is mentioned instead. It should be noted that forensic reports take a while to be concluded as some are dealt with abroad. If there are no outstanding issues then court will set the matter for a pre-trial hearing (PTR) and a hearing date. At the PTR all disclosures should have been made and both prosecution and defence can agree on uncontested evidence through stipulations for instance evidence of arresting officers. At this stage the prosecutor should have a well laid down strategy as to how he/she will be presenting their evidence. In the preparation one has to have a well articulated opening statement to given the court, the jury

⁷³ Section 13 of the Prevention of Trafficking In Persons Act No. 7 of 2009

and the defence the road map and the case theory for the prosecution. In Uganda when inquiries are concluded for indictable offence such as aggravated trafficking in persons, the indictment and summary of the case will be prepared for committal proceedings to the High Court.⁷⁴ When a session for the High Court is scheduled, the accused will be arraigned before the judge. After pleading to the indictment, if the offender pleads not guilty then the court conducts a preliminary hearing.⁷⁵ At the preliminary hearing both the prosecution and defence agree upon uncontested evidence.⁷⁶ A memorandum of agreed facts is then prepared and is endorsed by the prosecutor, the accused, the defence counsel and the judge.⁷⁷ The agreed evidence need not be formally proved further however the court may require a witness to appear in court to offer further insight into the evidence in the memorandum.⁷⁸

The most important thing is to start strong and ensure that their best evidence is entered and admitted into the record.⁷⁹ The prosecutor must prepare for objections and how to counter them. The defence relies on objections to lock out any evidence they deem inadmissible however compelling it is to the court or jury. The prosecutor must also prepare their witnesses for cross-examination and identification of exhibits.⁸⁰ The prosecutor must also prepare for the likely defences and lead evidence to negate them.⁸¹

Witness proofing

The prosecutors in the Bahamas and Uganda do meet witnesses prior to the commencement of the hearing with a view of preparing them for the proceedings. This process is referred to as ‘witness proofing’. “Proofing a witness” or “conferencing a witness” is the process of speaking to a witness, usually in person, about the substance of his or her evidence, going through the person’s statement and taking the witness to the documents or other proposed exhibits sought to be tendered through that witness.⁸² Meeting the prosecutor in advance or on the day of their appearance and having their questions answered can help a witness to feel prepared for their court experience and

74 Section 168 of the Magistrates Courts Act Chapter 16, Volume II, Laws of Uganda 2000 Edition.

75 Section 66(1) of the Trial of Indictments Act Chapter 23, Volume II, Laws of Uganda 2000 Edition.

76 *Ibid*.

77 *Ibid* Section 66(2).

78 *Ibid* section 66(3).

79 Gallagher, Annett., and Nicole. Karlebach. “Prosecution of trafficking in persons cases: Integrating a human rights-based approach in the administration of criminal justice.” *Background Paper. Geneva: OHCHR* (2011). At p10.

80 Davy, Deanna. “Justice for victims of human trafficking in Australia? Issues associated with Australia’s criminal justice response to trafficking in persons.” *Contemporary justice review* 20, no. 1 (2017): 115-131.

81 Moskowitz, Albert. “Challenges and priorities in prosecuting and adjudicating trafficking in persons cases.” In *Trafficking in Persons Research and Data Forum*, pp. 3-4. 2008.

82 Wheatcroft, Jacqueline M., and Louise E. Ellison. “Evidence in court: Witness preparation and Cross Examination style effects on adult witness accuracy.” *Behavioral sciences & the law* 30, no. 6 (2012): 821-840.

able to give their best evidence. We should seek to help all witnesses who are called to court in this way, taking into account their needs and the amount of interaction they wish to have. Providing assistance before and at court is especially important where witnesses are vulnerable and/or intimidated.⁸³ One measure which should be considered for all such witnesses is a pre-trial special measures meeting.⁸⁴ This gives the prosecutor an opportunity to introduce him/her and to help the witness to make a properly informed decision about which special measures might assist them to give best evidence in advance of the day at court. It can also be used to inform the witness about the matters covered in this guidance. Even for those witnesses who are not identified as vulnerable/intimidated and do not have a special measures meeting, it is important that they are aware of what is likely to happen during their time at court.⁸⁵

Preparation of submissions or legal arguments

A submission or a written legal argument usually in a format prescribed by the courts, stating the legal reasons for the case/suit based on statutes, regulations, case precedents, legal texts, and reasoning applied to facts in the particular situation.⁸⁶ Both the Bahamas and Uganda are common law jurisdictions. The procedural laws provide for two stages when legal arguments can be made, that is, a submission for a no case to answer and closing arguments or final submissions. The prosecutor is enjoined to conduct adequate research and get a good grasp of the evidence so as to persuade the jury, assessors and the judge as the case may be.⁸⁷

6.5 Issues and challenges

Summary v Jury Trials

In the Bahamas the offences under the TIP legislation can be tried both under summary proceedings and on information. Some of the cases are handled before magistrates under summary trial and those tried on information by a jury are before the Supreme

83 Boccaccini, Marcus T., Trina Gordon, and Stanley L. Brodsky. "Effects of witness preparation on witness confidence and nervousness." *Journal of Forensic Psychology Practice* 3, no. 4 (2004): 39-51.

84 Wheatcroft, Jacqueline M., and Sarah Woods. "Effectiveness of witness preparation and cross-examination non-directive and directive leading question styles on witness accuracy and confidence." *The International Journal of Evidence & Proof* 14, no. 3 (2010): 187-207.

85 Gous, Georgina, and Jacqueline M. Wheatcroft. "Directive leading questions and preparation technique effects on witness accuracy." *SAGE Open* 10, no. 1 (2020): 2158244019899053.

86 Jackson, John, and Sean Doran. "Judge and jury: towards a new division of labour in criminal trials." *Mod. L. Rev.* 60 (1997): 759.

87 Lubet, Steven. "The Trial as a Persuasive Story." *Am. J. Trial Advoc.* 14 (1990): 77.

Court. However in *Hall v A.G.*, the Privy Council held that the A.G could not prosecute offences under section 5 on information and that such cases could only be tried summarily before the magistrates courts. The PC upheld the decision of the Court of Appeal to quash the conviction and set aside the sentence of years.⁸⁸ The practice in the ODPP Bahamas now is to prosecute the TIP offences summarily.

In Uganda the PTPA provides for both summary (cases triable by magistrates) and indictable offences.⁸⁹ The trials of indictable offences before the High Court are tried by a judge assisted by assessors.⁹⁰ The ODPP has prosecuted tens of cases before magistrates' courts and a couple before the High Court.⁹¹ Critics argue that prosecutors in Uganda opt for lesser charges under the Penal Code to avoid the rigors of dealing with TIP which they perceive as more tedious to prosecute.⁹²

The covid-19 pandemic

The impact of the covid-19 pandemic was global. One of the sectors that bore the brunt was the criminal justice sector. The lockdowns meant that victims, witnesses, jurors, assessors, recorders, court clerks among others could not travel to the temples of justice. This meant that trials could not proceed. The heads of the judiciaries issued guidelines in conformity with the Emergency Orders to guide the justice actors.⁹³ The law enforcement resources were also diverted in order to enforce the lockdowns and curfews, this impacted on investigations. The offenders spent time on remand without trial. The courts were compelled to grant bail in deserving cases to ease on the prison congestion.

Lack of cooperation of victims

The victims in TIP are very vulnerable and susceptible to manipulation. Since many place their hope in the perpetrators, they may not be desirous to antagonize them for fear of retribution.⁹⁴ The traffickers are always ruthless when it comes to dissent. The victims

88 [2016] UKPC 28

89 Sections 3,4 and 5 of the Act

90 Section 3 of the Trial on Indictments Act Chapter 23 Vol. II Laws of Uganda, 2000 Edition

91 Walton, S. Ernie. "The Trafficking in Persons Report: Recommendations for Uganda." Available at SSRN 3392045 (2019).

92 Ahimbisibwe Winfred, 'The Current Trends and Challenges Prosecuting Human Trafficking Cases in Uganda' Available at <http://www.casinapiovv.va/content/accademia/en/publications/scriptavaria/africanwomenjudges2019/ahimbisibwe.html> Accessed on 28/08/2021

93 The Judiciary Covid-19 Protocols, Available at <https://www.bahamasjudiciary.com/covid-19-protocols/> Accessed on 26/08/2021

94 Newton, Phyllis J., Timothy M. Mulcahy, and Susan E. Martin. *Finding victims of human trafficking*. Bethesda, MD: University of Chicago, National Opinion Research Center, 2008. At p44

often in a state of hopelessness and in unfamiliar territory and having no confidence in their authorities are not desirous to cooperate with law enforcement.⁹⁵ Many victims have belief that the traffickers will come through for them.

Covert nature of crime

TIP offences are carried out in a covert manner. In many instances there is a façade of legitimacy either a marriage, a relative, a child, employment, further studies among others.⁹⁶ In most instances the victims have their own dreams for a better life, unknown to them the perpetrators also have their own dreams to fulfill. The victims are often the underdogs since the perpetrators have the mastery of the vice. When the victims are ensnared, they have little or no space to maneuver. In circumstances where law enforcement or citizens do not see any red flag raised, it renders it difficult to intervene.⁹⁷

Identification of victims

In TIP many a time there are efforts to take advantage of any global or national crisis so as to migrate. The victims on their own or on the advice of the perpetrators assume different identities to facilitate their travel. Many a time victims may travel on passports, national identifications of different countries perceived to be credible before their intended destination not being the victim's nation of origin.⁹⁸ This renders efforts of law enforcement officers to obtain the true identity of victims rather insurmountable.⁹⁹

Securing admissible evidence:

Given the covert nature of TIP offences, law enforcement relies on intelligence so as to penetrate into the criminal groups.¹⁰⁰ Most of the intelligence gathering may not conform to the laws of evidence hence there would be need to turn it into a form that would be admissible before courts of law.¹⁰¹

95 Ibid

96 Hepburn, Stephanie, and Rita J. Simon. "Hidden in plain sight: Human trafficking in the United States." *Gender Issues* 27, no. 1 (2010): 1-26.

97 Farrell, Amy, and Brienne Kane. "Criminal justice system responses to human trafficking." *The palgrave international handbook of human trafficking* (2020): 641-657.

98 Clawson, Heather J., and Nicole Dutch. *Addressing the needs of victims of human trafficking: Challenges, barriers, and promising practices*. Washington, DC: Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, 2008. At p3

99 Clawson, Heather J., and Nicole Dutch. "Identifying victims of human trafficking: Inherent challenges and promising strategies from the field." *Washington, DC: US Department of Health and Human Services (HHS)* (2008). At p3

100 Rankin, Glynn, and Nick Kinsella. "Human trafficking—The importance of knowledge information exchange." *In Intelligence Management*, pp. 159-180. Springer, London, 2011.

101 Meyer, Leah F., and Louise I. Shelley. "Human Trafficking Network Investigations: The Role of Open Source In-

Cooperation with other law enforcement agencies:

In investigating and prosecuting TIP offences, there is need for cooperation with other agencies of government including the Department of Immigration, Internal Security Organization, and External Security Organization. These agencies regularly collect intelligence concerning citizens and residents in and out of the country. Such intelligence is vital in identifying victims and perpetrators.¹⁰² If ODPP and the police do not cooperate with other agencies crucial information would be missing in the investigations.¹⁰³ In case of cross border migration, the Department of Immigration would have travel details where the victims and perpetrators used official entry ports. In cases of illegal entry, their intelligence on illegal migrants would be of help.¹⁰⁴

Corruption and complicity of public officials:

Corruption and complicity of public officials across government institutions or agencies is reported to be one of the factors impacting on the effective prosecution of TIP offences.¹⁰⁵ The TIP and smuggling migrants is reported to be a multibillion dollar industry.¹⁰⁶ To this end the perpetrators have the money to bribe their way around the system. The money is a great incentive for the public officials who are often under or poorly paid. This renders efforts to combat TIP offences more challenging.¹⁰⁷

7 CONCLUSIONS AND WAY FORWARD

The Bahamas and Uganda continue with efforts to combat TIP albeit with different levels of success due to peculiar circumstances of the respective countries. What is evident is that law enforcement efforts and prosecutions are on the right trajectory. The

telligence and Large-Scale Data Analytics in Investigating Organized Crime.” *International Journal on Criminology* 7, no. 2 (2020). At p94-5

102 Mofokeng, Jacob, and Adewale Olutola. “Expert reflections on challenges experienced to address human trafficking in South Africa prior to the implementation of the Prevention and Combating of Trafficking in Persons Act 7 of 2013.” *Acta Criminologica: African Journal of Criminology & Victimology* 2014, no. 1 (2014): 114-135. At p128

103 Bello, Paul Oluwatosin. “Criminal justice response to human trafficking in Nigeria and South Africa: suggestions for better performance.” *Contemporary Justice Review* 21, no. 2 (2018): 140-158.

104 Usman, Usman Mikail, Raja Noriza Raja Ariffin, and Azmah Binti Haji Othman. “Implementing the Anti-Human Trafficking Policy in Nigeria: Trials and Tribulations.” *Journal of Contemporary Issues in Business and Government* 27, no. 1 (2021): 1147-1155.

105 Farrell, Amy, and Brianne Kane. “Criminal justice system responses to human trafficking.” *The palgrave international handbook of human trafficking* (2020): 641-657.

106 Smith, Katherine Taken, Hannah M. Martin, and L. Murphy Smith. “Human trafficking: a global multi-billion dollar criminal industry.” *International Journal of Public Law and Policy* 4, no. 3 (2014): 293-308. At p293-4.

107 Kendall, Virginia M. “Greasing the palm: An argument for an increased focus on public corruption in the fight against international human trafficking.” *Cornell Int'l LJ* 44 (2011): 33. At p36-8.

Bahamas has to harmonize its legislation regarding jurisdiction before magistrates and the Supreme Court to avoid futile prosecutions. The Bahamas is still a popular transit and destination country due to its proximity to the US. More efforts are required by the government of Uganda as Ugandans are still trafficked in their thousands especially to the Middle East. The prosecution agency has and continues to conduct multi agency trainings for the justice law and order sector actors on TIP. Periodic reviews will be needed in future to determine how the two countries continue in their quest to combat TIP.

INVESTIGANDO E PROCESSANDO CASOS DE TRÁFICO DE PESSOAS NAS BAHAMAS E EM UGANDA: UMA ANÁLISE COMPARATIVA

RESUMO

O deslocamento de seres humanos de um local para outro através da migração e/ou imigração é um fato da vida. O deslocamento voluntário e legal de pessoas ou o deslocamento involuntário devido a circunstâncias persuasivas não é um problema em si. É problemático quando o movimento dentro e fora das fronteiras do estado é ilegal e criminoso. Isso desenvolveu o fenômeno do tráfico de pessoas que tem sido apontado como uma escravidão moderna. Deve-se notar que o tráfico de pessoas é um crime de exploração e coerção, não de deslocamento. A comunidade internacional através das Nações Unidas, organismos regionais em geral e estados em particular têm sido chamados para tomar medidas para combater esse vício. As Bahamas tem sido caracterizadas mais como um país canal para pessoas traficadas. Por outro lado, Uganda, um país com a população de jovens mais nova do mundo, é notório pelo tráfico de pessoas, especialmente aquelas destinadas para o Oriente Médio. Este artigo analisa os esforços e medidas tomadas pelas Bahamas e por Uganda para investigar e processar os acusados de tráfico de pessoas, com objetivo a prevenir e mitigar este crime em evolução que atravessa fronteiras.

Palavras-Chave: Investigando; Processando; Tráfico de pessoas; Bahamas e Uganda.

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