

WOMEN'S AND GIRLS' RIGHTS IN KENYA

ENDING SEX TRAFFICKING

UNIVERSAL PERIODIC REVIEW - PRE SESSION 35

ISSUE:

Kenya is a source, transit and destination for trafficking for sexual exploitation. The majority of trafficking of persons into coastal Kenya and other tourist destinations is for the purpose of sex tourism.⁽²⁾ 30% of teenage girls in the tourist coastal region are victims of sex tourism⁽³⁾, and 45% of them have been trafficked from other parts of Kenya⁽⁴⁾. Women and girls become victims of sexual exploitation as a result of vulnerabilities arising from poverty and gender based discrimination. Often starting in childhood and continuing into adulthood, vulnerable girls and women become trapped in a vicious cycle of sexual exploitation.



PROGRESS SINCE KENYA'S LAST UPR:

Kenya adopted a National Action Plan for Combating Human Trafficking (2013-2017) which has provisions for addressing sex trafficking and sex tourism. The Government consulted a wide range of stakeholders including civil society in the development of the National Action Plan (2019-2023). The Government also increased the capacity of police and courts to investigate and prosecute cases of sex trafficking and sexual exploitation, including establishing an Anti-Human Trafficking and Child Protection Unit in 2019.

2 - IOM Assessment Report on the Human Trafficking Situation in the Coastal Region of Kenya, May 2018, Page 11

3 - UNICEF and the Government of Kenya, The Extent and Effect of Sex Tourism and Sexual Exploitation of Children on the Kenyan Coast (Nairobi, 2006).Ibid

4 - Ibid



CHALLENGE:

There are gaps and inconsistencies in some laws relating to sexual exploitation and trafficking in persons such as the Counter Trafficking in Persons Act, the Children Act and the Sexual Offences Act (5). Only 19 people were convicted of trafficking offences between 2015 and 2017(6), and only 15 victims of sex trafficking were detected during 2016 and 2017(7). The Government is yet to establish and effectively implement a comprehensive programme for the protection of victims of sex trafficking including providing shelters, psycho social support and holistic integration into the community.

RECOMMENDATION:

The Government should

- Review and harmonize provisions between the Children Act, the Sexual Offences Act and the Counter Trafficking in Persons Act, with a preference to uphold penalties that are stiffer and more deterrent.
- Extend protection from sex tourism beyond children, and review the Penal Code's provisions that criminalize living off the earnings of prostitution so as not to criminalize women in prostitution, and clarify the responsibility and liability of those who buy sex.
- Continue to strengthen efforts to arrest and prosecute exploiters and ensure that affected women and girls access social and legal services and protection including compensation through the National Assistance Trust Fund for Victims of Trafficking in Persons.

5 - For example: The definition of child trafficking in the proposed Draft Children Bill does not meet the requirements of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; The crime of "sex tourism" provided in Section 14 of the Sexual Offences Act applies only to children as victims, and does not take into account that vulnerable adults, especially women, are also exploited and require protection; and Children Act and the Counter Trafficking in Persons Act respectively provide for different penalties and custodial sentences for comparable trafficking offences.

6 - UNODC Trafficking in Persons Global Report 2018, https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP_2018_SUB-SAHARAN_AFRICA.pdf

7 - Ibid