

# The Challenge of *Trokosi*: Ritual Servitude and the Framework of International Human Rights Law

---

Michael S. Talbot\*

## ABSTRACT

Non-western traditional practices often fail to fit precisely within the framing categories of contemporary international human rights law. Consequently, an appropriate analysis of these practices necessitates the application of multiple lenses and attentiveness to their overlapping and integrated nature. The practice of *trokosi*, a form of ritual servitude found in parts of West Africa, provides a case study for examining how multiple paradigms—including slavery, forced marriage, domestic violence, and religious tolerance—are inadequate when applied in isolation. It is only through a multi-perspectival analysis that one can begin to engage such practices and tailor a strategy for addressing those that do not fit neatly within the framing categories of international human rights law.

## I. INTRODUCTION

At times, human rights norms may appear to be at odds with non-western traditional practices, placing the universality of the human rights project in doubt. However, the complexity of cross-cultural interaction that is required to achieve a universal understanding of human rights demands a deeper analysis. The increasingly globalized nature of the world makes such cross-cultural interactions inevitable, and they are made all the more so within the context of the human rights project—an enterprise that claims to protect all peoples, both individually and collectively, via the perpetuation of universal norms that resonate within all cultures. It is an auspicious goal, but one that often faces accusations of moral neo-colonialism.<sup>1</sup> The veracity of these accusations warrants extensive analysis that is not feasible within the confines of this Article, but it is important to note both the perception of western bias within the human rights project and that the mechanisms of its implementation tend to draw from western legal sys-

---

\* University of Notre Dame.

1. See discussion *infra* accompanying footnote 174.

tems.<sup>2</sup> In these ways, the human rights project may appear to be at odds with some non-western traditional practices.

This paper seeks to provide a more nuanced understanding of the point at which human rights norms and traditional practices collide. Rather than a simple binary, which would see one system dominate or alternatively obscure the other or both, a more granular examination indicates the conflict's locus rests predominantly in the internal structure and classification of norms. The dispute is not necessarily about the universality of the human rights project as a whole; it is about the structure of analyses and the tendency to create categories that are more or less useful in specific cultural contexts. As a result, some cultural norms may appear inapposite to universal principles when what is actually needed is more in-depth analysis that cuts across the standard categories of human rights. As an example of this dynamic, this paper will examine the practice of *trokosi* in southeastern Ghana. Often described as religious or ritual slavery by those opposed to its practice, *trokosi* offers the opportunity to understand how two seemingly incompatible worldviews interact. Attempts to end the practice have had mixed results, often failing because of a reliance on western legal strategies that ignore or minimize *trokosi*'s distinct cultural foundation. If eradication of the *trokosi* system is their goal, abolitionists should instead adopt strategies that recognize the non-binary interaction of worldviews and engage the cultural norms supporting the practice. The *trokosi* abolitionist organizations that have proven most successful have done precisely this.<sup>3</sup>

In laying out the reasoning behind this argument, this paper will proceed as follows. First, there will be an overview of the *trokosi* system, its historical origins, and religious context. This account will incorporate the perspectives of current practitioners, former victims, and external critics. Second, there will be a brief discussion of the rationale for choosing *trokosi* as a case study and an analysis of international, regional, and domestic legal frameworks that attempt to address it. Included in this analysis will be an evaluation of the efficacy of these efforts in reducing the practice. Third, the paper will offer some strategies for pursuing its eradication. The success of these strategies requires the engagement and integration of local communities and former *trokosi* women. Finally, a brief conclusion will return to the broader theme of cross-cultural interaction of legal norms with the benefit of the *trokosi* case study.

---

2. See, e.g., JACK DONNELLY, UNIVERSAL HUMAN RIGHTS IN THEORY AND PRACTICE 75-81 (3d ed. 2013).

3. See, e.g., Yakin Ertürk (Special Rapporteur on Violence Against Women), *Report to Human Rights Council on Mission to Ghana*, ¶ 50, U.N. Doc. A/HRC/7/6/Add.3 (February 21, 2008) (discussing how ING has been successful at liberating *trokosi* "with the cooperation and consent of affecting communities.").

## II. TROKOSI: ORIGINS AND CONTEXT

The most common form of *trokosi* entails the attachment of a young girl to a religious site and the traditional priest who oversees it.<sup>4</sup> These girls, also known as *trokosi*,<sup>5</sup> are dedicated to the service of the religious site and its priest, performing domestic work that includes cooking, cleaning, farming, and general housework.<sup>6</sup> They do not receive the benefit of their labor and the crops they harvest belong entirely to the priest.<sup>7</sup> The *trokosi* remain reliant on their family or their own resourcefulness for food, clothing, and other necessities.<sup>8</sup> Once the *trokosi* reaches the age of puberty, the priest may engage in sexual relations with her.<sup>9</sup> Any children conceived from these encounters remain the responsibility of the *trokosi* woman.<sup>10</sup> In the best circumstances the *trokosi*'s family will help care for children, but often the *trokosi* is left on her own.<sup>11</sup>

*Trokosi* are given to a religious site as atonement for a sin committed by a family member.<sup>12</sup> As a result, the *trokosi* can be released only when the spiritual debt has been offset by their service, as determined by the priest.<sup>13</sup> Releases occur infrequently; this means women remain *trokosi* until they die, at which point the family is expected to provide a replacement.<sup>14</sup> Consequently, several generations can serve as *trokosi*, often because of a seemingly small offense committed by a distant relative.<sup>15</sup> Moreover, liberated *trokosi* face social stigma and have difficulty finding a husband.<sup>16</sup>

4. See STEPHEN AWUDI GADRI, *THE REVEALED MYTHS ABOUT TROKOSI SLAVERY: HUMAN RIGHTS VIOLATIONS* 24 (2010).

5. Given the potential for confusion, efforts will be made to distinguish the *trokosi* system and practice from the *trokosi* women when context does not make it clear.

6. See Robert Kwame Ame, *Traditional Religion, Social Structure, and Children's Rights in Ghana: The Making of a Trokosi Child*, in *VULNERABLE CHILDREN: GLOBAL CHALLENGES IN EDUCATION, HEALTH, WELL-BEING, AND CHILD RIGHTS* 239, 241 (Deborah Johnson, et al. eds., 2013).

7. See CORNELL UNIVERSITY PRESS, *TO PLEAD OUR OWN CAUSE: PERSONAL STORIES BY TODAY'S SLAVES* 68 (Kevin Bales & Zoe Trodd eds., 2008) [hereinafter Bales & Trodd].

8. See EMMANUEL KWAKU AKEAMPONG, *BETWEEN THE SEA AND THE LAGOON: AN ECO-SOCIAL HISTORY OF THE ANLO OF SOUTHEASTERN GHANA C. 1850 TO RECENT TIMES* 221 (2001).

9. See Ertük, *supra* note 3, ¶ 45.

10. See Benjamin Rinaudo, *Trokosi Slavery: Injustice in the Name of Religion*, CONFERENCE PROCEEDINGS OF THE AFSAAP: AFRICAN ON A GLOBAL STAGE (2003), at 2.

11. See Robert Kwame Ameh, *Reconciling Human Rights and Traditional Practices: The Anti-Trokosi Campaign in Ghana*, 19 CAN. J.L. & SOC. 51, 52 (2004). See also MEERA VENKATACHALAM, *SLAVERY, MEMORY, AND RELIGION IN SOUTHEASTERN GHANA, c. 1850- Present* 187 (J.D.Y. Peel et al. eds., 2015).

12. See VENKATACHALAM, *supra* note 11, at 187.

13. See Amy Small Bilyeu, *Trokosi – The Practice of Sexual Slavery in Ghana: Religious and Cultural Freedom vs. Human Rights*, 9 IND. INT'L & COMP. L. REV. 457, 472 (1999).

14. See SANDRA E. GREENE, *GENDER, ETHNICITY AND SOCIAL CHANGE ON THE UPPER SLAVE COAST: A HISTORY OF THE ANLO-EWE* 64 (1996).

15. See GADRI, *supra* note 4, at 27.

16. See Ame, *supra* note 6, at 241 (“The negative label attached to trokosis is a product of several factors. For one, how the shrines operate is shrouded in mystery, instilling much fear in the people. So community members would rather stay clear of anything that has to do with the shrine, including

Personal accounts of *trokosi* are startling. One former *trokosi*, who has adopted the name *Patience*, describes being brought to Ghana from her home in Togo at the age of ten to compensate for her relatives stealing land that belonged to someone else.<sup>17</sup> Several members of Patience's family died, which led to the fear that they were being punished by the gods and needed to offer a *trokosi* to make amends.<sup>18</sup> She was forced to leave school and describes a childhood spent farming the priest's land and gathering firewood in the bush.<sup>19</sup> She provided for her own sustenance with what she could find in the bush.<sup>20</sup> Occasionally, the priest would give her small amounts of money, which she saved to buy soap and other essentials.<sup>21</sup> When she reached puberty, she was given to the priest's brother, who repeatedly beat and raped her.<sup>22</sup> Patience remained with the priest's brother and ultimately gave birth to three of his children, for whom she was solely responsible.<sup>23</sup> Patience feared spiritual retribution if she were to flee and physical punishment if she were caught.<sup>24</sup> Eventually she summoned her courage and escaped, but was forced to leave her children behind.<sup>25</sup> She ultimately returned after she became ill and believed it was punishment for her escape.<sup>26</sup> Eventually she was liberated,<sup>27</sup> presumably released by the priest because the debt had been satisfied. Unfortunately, the only thing unique about Patience's experience of *trokosi* is that she was released. The abuses she describes recur in the stories of numerous other *trokosi* women.

Depending on who defines it, the term *trokosi* is alternately described as meaning "wife of the gods" or "slave of the gods."<sup>28</sup> Although it is most commonly practiced among the Ewe of southeastern Ghana, similar practices also exist in nearby Togo and Benin.<sup>29</sup> Throughout West Africa there are an estimated thirty thousand women and girls who are *trokosi*.<sup>30</sup> *Trokosi* is not *sui generis*; it echoes elements of religious practice found around the

---

*trokosis*. Second, *trokosi* girls are feared in the community because it is forbidden to have sexual relations with them. The family of anyone who has sexual relations with them must, as punishment, also provide a girl to serve in the shrine. This reinforces the negative perception community members have of *trokosis* to the extent that even those who are fortunate to be redeemed must often move away to other parts of the country in order to find partners for marriage.”).

17. CORNELL UNIVERSITY PRESS, *supra* note 7, at 67-69.

18. *Id.* at 68.

19. *Id.*

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.*

24. *Id.* at 68-69.

25. *Id.*

26. *Id.* at 69.

27. In reality, it is likely that an NGO interceded on her behalf offering payment to the priest in exchange for her release. However, Patience's account does not provide details about the reasons for her liberation.

28. Ame, *supra* note 6, at 240.

29. Rinaudo, *supra* note 10, at 1.

30. *Id.* at 6.

world. There are striking similarities to the *Devadasi* of southern India<sup>31</sup> and some parallels to Christian monasticism,<sup>32</sup> although in the latter instance the autonomous nature of the decision to enter the practice fundamentally changes its character. Such commonalities are an outgrowth of elements found in religious practice that resonate with the human experience in some palpable, if ineffable, way. It would be unfair, as well as unproductive, to disregard the religious belief or practice simply because it does not make sense to an external audience. This is not to overlook its harmful elements or suggest that all religion violates human rights, but simply to avoid exoticizing the practice and emphasize the importance of neutral framing.<sup>33</sup>

According to Stephen Awudi Gadri, the practice of *trokosi* dates back to the seventeenth century when pledges were made to the gods in exchange for the promise of victory in battle.<sup>34</sup> Sandra Greene believes the practice originated in the late eighteenth century.<sup>35</sup> Although they vary, historic accounts suggest that the practice of *trokosi*, in its current form,<sup>36</sup> neither predated interaction with European traders and eventual colonizers, nor remained static and unchanged for the length of its existence.<sup>37</sup> The variety of accounts reiterates the point that *trokosi* developed over time, rather than being handed down unaltered from time immemorial—a common yet fallacious presumption about many traditional practices.

Critics of *trokosi* call the practice slavery, where women like Patience are forced to work without compensation against their will.<sup>38</sup> They believe that *trokosi* are sexually exploited and abused, and suffer significant physical, emotional, and psychosocial damages as a result.<sup>39</sup> To the extent that *trokosi* can be considered a mechanism for spiritual justice, the woman is being

31. See Ankur Shingal, *The Devadasi System: Temple Prostitution in India*, 22 UCLA WOMEN'S L.J. 107, 108 (2015) ("The devadasi practice is one in which low-caste girls, as young as five or six, are 'married' to a Hindu Goddess and sexually exploited by temple patrons and higher caste individuals.") (internal citations omitted).

32. See, e.g., BENEDICT OF NURSIA, ST. BENEDICT'S RULE FOR MONASTERIES (Leonard J. Doyle trans., 2015), <http://www.gutenberg.org/files/50040/50040-h/50040-h.html> [<https://perma.cc/Z52U-3P4Q>] (The Rule of St. Benedict dictates in detail the daily practices that should be observed by members of specific Christian religious orders, demanding adherents remain cloistered and observe obedience to the Rule and their specific religious order, and establishing guidelines for the expulsion and treatment of those who disobey).

33. To this end, *trokosi* is used in this paper as a neutral term in lieu of more pejorative descriptors such as ritual slavery or religious slavery. When other terms are used, it should be understood to represent the opinion of someone other than the author.

34. GADRI, *supra* note 4, at 12.

35. GREENE, *supra* note 14, at 64.

36. It should be noted that there is no singular contemporary version of *trokosi* as its practices can vary from shrine to shrine. Instead, the overview provided within this paper provides a general picture of the practice in its current state with the understanding that variations occur.

37. KODZOVI AKPABLI-HONU, FEMALE RITUAL BONDAGE IN GHANA: A STUDY OF TROKOSI SYSTEM AMONG THE EWES OF SOUTHERN VOLTA 33-42 (2014).

38. See Marleen de Witte, *Spirit Media: Charismatics, Traditionalists, and Mediation Practices in Ghana* 313 (May 21 2008) (Ph.D. dissertation, University of Amsterdam) (on file with author).

39. See *id.*

punished for an offense she did not commit. Even the guise of religion and traditional practice cannot excuse the enslavement of innocent girls.

Practitioners and defenders of *trokosi* paint it in a different light. They deny that the abuses described in Patience's story are commonplace.<sup>40</sup> *Trokosi* women are not usually beaten, abused, or raped and serve the religious site and priest willingly.<sup>41</sup> Moreover, they believe that criticisms of the practice are little more than neo-colonial efforts to impose western value systems on traditional communities.<sup>42</sup> Unsurprisingly, critics of *trokosi* find this defense less than compelling.

### III. TROKOSI WITHIN A HUMAN RIGHTS FRAMEWORK

The *trokosi* system serves as an excellent case study for examining the interaction of seemingly incompatible worldviews within the context of human rights because of the complexity of the practice. As an initial matter, its history refutes the narrative of a simple binary conflict between an exogenous legal framework and an ancient cultural norm. Instead, one is forced to recognize the dynamic and fluid nature of these perspectives and grapple with the ways in which they inform one another. Moreover, analysis of the practice requires engagement with several foundational norms of the human rights paradigm and, at times, places them at odds with one another. It is worth briefly inventorying these norms before proceeding to their legal frameworks in more depth.

The most glaring issue is the characterization of *trokosi* as a form of slavery. It seems to satisfy Kevin Bales' definition of "the total control of one person by another for the purpose of economic exploitation."<sup>43</sup> *Trokosi* involves sexual as well as economic exploitation. Although a precise dollar amount is not attached to a *trokosi* woman, their servitude is characterized as a mechanism of payment, albeit spiritual in nature, which is fungible to the extent that an individual woman can be readily replaced.<sup>44</sup> Given the transactional nature of the *trokosi*, it is not surprising that criticisms of the practice tend to center on the notion of slavery and human trafficking.

However, other human rights concepts come into play as well, overlapping and complicating the already difficult issue of human trafficking. Special Rapporteur on Trafficking in Persons, Especially Women and Children, Maria Grazia Giammarinaro, explained:

---

40. See, e.g., GNA, *Afrikania Mission Straightens Record on Trokosi*, MODERN GHANA (May 29, 2012), <https://www.modernghana.com/news/398477/afrikania-mission-straightens-record-on-trokosi.html> [<https://perma.cc/4QHD-NZBA>].

41. See *id.*

42. See De Witte, *supra* note 39, at 311-12.

43. KEVIN BALES, *DISPOSABLE PEOPLE: NEW SLAVERY IN THE GLOBAL ECONOMY* 6 (2012).

44. See *id.* at xxvi and 14-19 (Bales himself has become less inclined to use the term "new slavery," finding that it oversimplifies a contrast that is more of a continuum than a binary).

In the age of globalization, trafficking in persons cannot be examined in isolation from the broader socioeconomic realities that drive it, nor should it be tackled only from a criminal perspective. Factors such as poverty and inequality, lack of educational opportunity and access to health care, gender discrimination, including gender-based violence, racial inequality and migration are some of the underlying factors that cause/contribute to trafficking in persons.<sup>45</sup>

Likewise, a comprehensive analysis of *trokosi* must include discussions of gender, forced marriage, domestic violence, and child labor, but it should also examine issues related to the protection of religious and cultural practices. Throughout all of these issues one can see the interplay of individualistic and communal worldviews, which should begin to elucidate the complexity of the challenge facing the human rights project as it seeks to address traditional practices that constitute slavery within its paradigm.<sup>46</sup>

Understanding how to categorize *trokosi* is a necessary first step to addressing it. It can be viewed through multiple lenses, including as an issue of human trafficking, forced labor, domestic violence, forced marriage, or child abuse. Given the overlapping aspects of these issues, it is hardly surprising that *trokosi* includes elements that can be understood from multiple, interwoven perspectives. Consequently, a comprehensive understanding of *trokosi* requires the examination of all of them. Additionally, it is important to apply lenses that may be more sympathetic to the perspective of its practitioners, namely those of religious freedom and cultural rights. Of course, the application of these lenses does not necessitate the acceptance of the practice.

It is also useful to examine how these categories and lenses are embodied in international and domestic law. Particularly, if one wishes to promote the eradication of *trokosi*, one should be aware of the remedies available in law and understand how altering the perception of *trokosi* can affect the ability to pursue specific remedies. Aligning advocacy efforts and strategic litigation in this way can enhance the efficacy of both tactics. At the same time, examination of the legal framework highlights the shortfalls of the law and demonstrates the necessity of additional approaches. The examination of available frameworks below is necessarily cursory but it points to a criticism raised by Benjamin Lawrence, that “blanket” legislation, which “situates child trafficking within wider clandestine networks of human trafficking,” is often difficult to implement.<sup>46</sup> The failure is twofold, as such frameworks tend to ignore “autochthonous causes [of child trafficking generally], including complex social practices with historically rich tradi-

---

45. Maria Grazia Giammarinaro (Special Rapporteur on Trafficking in Persons), *Report to the Human Rights Council Twenty-ninth Session*, ¶ 8, U.N. A/HRC/29/38 (March 31, 2015).

46. Benjamin Lawrence, *From Child Labor ‘Problem’ to Human Trafficking ‘Crisis’: Child Advocacy and Anti-Trafficking Legislation in Ghana*, 78 INT’L LAB. & WORKING-CLASS HIST. 63, 77-78 (2010).

tions (like child fosterage, rearing, and labor)”<sup>47</sup> and the frameworks’ robust provisions often create “an expansive jurisprudence [that] criminalizes a spectrum of intermediaries as accessories.”<sup>48</sup> Given the entrenched nature of *trokosi* in some communities, labeling all of those connected as complicit in trafficking establishes an additional barrier to its prohibition. It is not difficult to see why local populations may view efforts to eliminate *trokosi* as neo-colonial.

### A. Slavery, Forced Labor, & Trafficking

Ghana has acceded to the 1926 Slavery Convention and the 1956 Supplemental Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery without reservation.<sup>49</sup> These treaties define slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”<sup>50</sup> This definition remains foundational to and pervasive throughout international law. In elucidating the notion of slavery, the Bellagio-Harvard Guidelines provide the 1926 definition with “conceptual clarity”<sup>51</sup> by focusing on possession and control:

slavery . . . should be understood as constituting control over a person in such a way as to significantly deprive that person of his or her individual liberty, with the intent of exploitation through the use, management, profit, transfer or disposal of that person. Usually this exercise will be supported by and obtained through means such as violent force, deception and/or coercion.<sup>52</sup>

In 2016, this approach was incorporated into international law via the Inter-American Court on Human Rights’ decision in *Fazenda Bravil Verde vs. Brazil*.<sup>53</sup> Through the use of physical violence, the *trokosi* system adds the exertion of emotional and psychological pressure based on spiritual beliefs, and thereby intensifies control. The compelling nature of a threat of spiri-

47. *Id.* at 64.

48. *Id.* at 78 (discussing Ghana’s Human Trafficking Act, art. 1, sub. 2-4).

49. See *Status of Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*, U.N. TREATY COLLECTION, [https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg\\_no=XVIII-4&chapter=18&Temp=mtdsg3&clang=\\_En](https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XVIII-4&chapter=18&Temp=mtdsg3&clang=_En) [https://perma.cc/9PZT-78HE] (last visited Feb. 20, 2018).

50. Slavery Convention art. 1.1, Sept. 25, 1926, 60 L.N.T.S. 263; Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery art 7(a), Apr. 30, 1957, 266 U.N.T.S. 43.

51. See Jean Allain, *Genealogies of Human Trafficking and Slavery*, in ROUTLEDGE HANDBOOK OF HUMAN TRAFFICKING 1, 4-5 (Ryszard Piotrowicz et al. eds., 2018).

52. RESEARCH NETWORK ON THE LEGAL PARAMETERS OF SLAVERY, BELLAGIO-HARVARD GUIDELINE ON THE LEGAL PARAMETERS OF SLAVERY, Guideline 2 (2012), <http://www.law.qub.ac.uk/schools/SchoolofLaw/FileStore/Fileupload,651854,en.pdf> [https://perma.cc/PF3Z-6MTH].

53. See *Fazenda Brasil Verde v. Brazil*, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 318, ¶ 270-71 (Oct. 20, 2016).

tual punishment or reward can be a mechanism of control as significant (if not more so) as the threat of physical violence.<sup>54</sup>

Ghana is also a party to the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.<sup>55</sup> Under the Palermo Protocol, State parties commit to criminalize trafficking, to take actions to prevent it, and to protect its victims.<sup>56</sup> The Palermo Protocol defines trafficking in part as “the recruitment, transportation, transfer, harboring 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.”<sup>57</sup> The consent of the child does not affect whether an act constitutes trafficking under this definition<sup>58</sup> and the “gifting” of children falls squarely within the definition. The Palermo Protocol establishes an international obligation for the Ghanaian government to proactively address the practice of *trokosi*.<sup>59</sup>

Ghana has ratified fifty-one International Labour Organization (ILO) conventions dealing with forced labor and the rights of workers.<sup>60</sup> These include conventions that commit Ghana to suppressing forced labor,<sup>61</sup> set-

54. See discussion *supra* notes 4-16.

55. See *Status of Protocol to Prevent, Suppress, and Punish Trafficking in Persons*, U.N. TREATY COLLECTION, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12-a&chapter=18&lang=EN](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=EN) [<https://perma.cc/6UN3-XPXX>] (last visited Feb. 20, 2018).

56. See United Nations Convention Against Transnational Organized Crime and the Protocols Thereto, Annex II: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children art. 5, *opened for signature* Nov. 15, 2000, 2237 U.N.T.S. 319 [hereinafter Palermo Protocol] (“Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol [defining trafficking], when committed intentionally.”); *Id.* art. 9 (“States Parties shall establish comprehensive policies, programmes and other measures: (a) To prevent and combat trafficking in persons; and (b) To protect victims of trafficking in persons, especially women and children, from revictimization.”); *Id.* art. 6 (“Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of: (a) Appropriate housing; (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand; (c) Medical, psychological and material assistance; and (d) Employment, educational and training opportunities.”).

57. See *id.* art. 3(a).

58. See *id.* art. 3(b) (“The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article [defining human trafficking] shall be irrelevant where any of the means set forth in subparagraph (a) have been used.”).

59. Although the Palermo Protocol is nominally binding upon States party to it, its force is not uncontested. As Janie Chuang points out, “[t]o the extent the Palermo Protocol obliges states parties to provide assistance and protection to trafficked persons, it is mostly couched in aspirational terms rather than as a matter of hard obligation. Thus, ‘in appropriate cases and to the extent possible under its domestic law,’ states parties are to consider implementing measures providing for trafficked persons’ physical and psychological recovery and to endeavor to provide for their physical safety.” Janie Chuang, *The United States as Global Sheriff: Using Unilateral Sanctions to Combat Human Trafficking*, 27 MICH. J. INT’L L. 437, 448 (citing Palermo Protocol, *supra* note 56, arts. 6-8).

60. See Gulnara Shahinian (Special Rapporteur on Contemporary Forms of Slavery), *Report to the Human Rights Council Twenty-seventh Session*, Addendum 3 - Mission to Ghana, ¶ 10-11, U.N. Doc. A/HRC/27/53/Add.3 (Oct. 1, 2014).

61. See Abolition of Forced Labour Convention, Jun. 25, 1957, ILO No. C105 [hereinafter ILO No. 105].

ting a minimum age for child labor,<sup>62</sup> ending the worst forms of child labor,<sup>63</sup> and taking active steps “to promote the implementation of international labor standards.”<sup>64</sup> Ghana’s responsibilities under these treaties are progressive, calling for government action of varying urgency.<sup>65</sup> Notably, however, Ghana has not yet ratified ILO conventions intended to protect domestic laborers<sup>66</sup> or migrant workers,<sup>67</sup> both of which could be construed as applicable to *trokosi* (at least in some respects).

Regionally, Ghana is a party to the African Charter on Human and Peoples’ Rights (the Banjul Charter),<sup>68</sup> which prohibits “[a]ll forms of exploitation and degradation of man [sic] particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment.”<sup>69</sup> The language is not as precise as those international treaties focused specifically on slavery and trafficking, but the sentiment seems to be the same.

In total, these commitments suggest two points. First, the practice of *trokosi* falls within the internationally recognized definition of slavery and human trafficking. Second, and as a result, the Ghanaian government has made formal commitments to criminalize the practice and taken active steps toward its elimination. To that end, Ghana has implemented domestic law to prohibit and criminalize the practice.<sup>70</sup> However, *trokosi* remains actively practiced at as many as thirty-nine religious sites.<sup>71</sup> The question is whether it persists because of a lack of law enforcement or because the normative basis for the prohibition fails to resonate with those communities that practice *trokosi*. Like so many of the issues surrounding *trokosi*, these

62. See Minimum Age Convention, Jun. 26, 1973, ILO No. C138 [hereinafter ILO No. 138].

63. See Worst Forms of Child Labour Convention, Jun. 17, 1999, ILO No. C182 (1999) [hereinafter ILO No. 182].

64. See Shahinan, *supra* note 60, ¶ 11; See also Tripartite Consultation Convention, Jun. 21, 1976, ILO No. C144 [hereinafter ILO No. 144].

65. See, e.g., ILO No. 138 (“Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to *raise progressively* the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.”) (emphasis added). See *contra* ILO No. 182 (“Each Member which ratifies this Convention shall take *immediate and effective measures* to secure the prohibition and elimination of the worst forms of child labour *as a matter of urgency*.”) (emphasis added) (still stressing progress but emphasizing a shorter time period).

66. See *Ratifications of Domestic Workers Convention*, INT’L LAB. ORG., [http://www.ilo.org/dyn/normlex/en/f?pN°RMLEXPUB:11300:0::NO::P11300\\_INSTRUMENT\\_ID:2551460](http://www.ilo.org/dyn/normlex/en/f?pN°RMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:2551460) [https://perma.cc/DL32-5HP3] (last visited Feb. 20, 2018) (listing signatories to International Labour Organization, Domestic Workers Convention, Jun. 16, 2011, ILO No. C189).

67. See *Ratifications of Migrant Worker Convention*, INT’L LAB. ORG., [http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312288](http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312288) [https://perma.cc/935Q-Q56Z] (last visited Feb. 20, 2018) (listing signatories to International Labour Organization, Migrant Worker Convention, Jun. 24, 1975, ILO No. C143).

68. African Charter on Human and Peoples’ Rights art. 5, Jun. 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982) [hereinafter Banjul Charter].

69. See *Ratification Table: African Charter on Human and People’s Rights*, ORG. OF AFR. UNITY, <http://www.achpr.org/instruments/achpr/ratification/> [https://perma.cc/4G5S-Y5PG] (last visited Feb. 20, 2018).

70. See discussion *infra* at notes 72-82.

71. See GADRI *supra* note 4, at 18-19.

two factors are related. The political will needed to implement measures that overcome the community's reluctance to abandon its traditional practice must be rooted in that same community's desire to address the issues surrounding such practices.

Domestically, Ghana prohibits slavery and forced labor explicitly in its Constitution.<sup>72</sup> In addition, The Labour Act of 2003 prohibits forced labor and makes it an offense for an employer to exact, cause to be exacted, or permit the exaction of "work or service that is . . . under threat of a penalty and for which that person has not offered himself or herself voluntarily."<sup>73</sup> Although this definition emphasizes the mechanism of control, rather than the assertion of control itself, it remains consonant with the understanding of slavery presented in the Bellagio-Harvard Guidelines. The Labour Act briefly addresses the issue of forced labor, with one section criminalizing its practice and the next carving out exceptions to that prohibition.<sup>74</sup> In contrast to the robust provisions of the Human Trafficking Act discussed below, the Labour Act remains silent concerning strategies for rescuing or reintegrating the victims of forced labor.<sup>75</sup> Instead, the utility of the Labour Act is in its depiction of the characteristics of permitted labor practices, which provides a criterion against which to evaluate *trokosi*. However, defenders of *trokosi* would likely rebut the Labour Act's applicability, preferring to characterize *trokosi* as a religious practice rather than as a form of employment.

The Ghanaian Criminal Code of 1998 more directly addresses practices like *trokosi*. It prohibits customary slavery and criminalizes the "participat[ion] . . . in any ritual or customary activity in respect of any person with the purpose of subjecting that person to any form of ritual or customary servitude or any form of forced labour related to a customary ritual."<sup>76</sup> The statute criminalizes the practice of *trokosi*, although a minimum sentence of just three years indicates the perceived severity of the violation.<sup>77</sup>

72. See CONSTITUTION, Apr. 28, 1992, chp. 5 art. 16 (1-2) (Ghana). ("(1) No person shall be held in slavery or servitude, (2) No person shall be required to perform forced labour.")

73. Labour Act §§ 116-17 (Act No. 651/2003) (Ghana).

74. See *id.* ("Prohibition of forced labor: 116. (1) A person shall not be required to perform forced labour. (2) It is an offence for an employer to exact or cause to be exacted, or permit to be exacted, for his or her benefit forced labour from any worker. (3) Any employer convicted of an offence under subsection (2) is liable to a fine not exceeding 250 penalty units; Interpretation of 'forced labour': 117. In this part 'forced labour' means work or service that is exacted from a person under the threat of a penalty and for which that person has not offered himself or herself voluntarily, but does not include (a) labour required as a result of a sentence or order of a court; (b) labour required of a member of a disciplines force or service as his or her duties; (c) labour required during a period when the country is at war or in the event of an emergency or calamity that threatens life and well-being of the community, to the extent that the requirement of the labour is reasonably justifiable in circumstances of a situation arising or existing during that period for the purpose of dealing with the situation; or (d) labour reasonably required as part of normal communal or other civic obligations.")

75. See *id.*

76. Criminal Code § 314A (Act 646/2003) (Ghana).

77. See *id.* ("Whoever sends to or receives at any place any person; or participates in or is concerned in any ritual or customary activity in respect of any person with the purpose of subjecting that person to

The language of Ghana's Human Trafficking Act of 2005 closely mirrors the definition found in the Palermo Protocol, explicitly including forms of sexual exploitation, forced labor, and practices similar to slavery.<sup>78</sup> The Act establishes mechanisms for the prevention of slavery as well as for the support of its victims, and consequently serves as a critical resource for those who wish to eliminate the *trokosi* system. The Act further creates a duty for anyone with information to notify the police and establishes a procedure for doing so.<sup>79</sup> It outlines the steps the police must take in response to a report and provides for the protection, temporary care, counseling, and rehabilitation of the trafficked person.<sup>80</sup> Even more significantly, it establishes a fund which can be used to provide victims of human trafficking with financial assistance as they undergo readjustment.<sup>81</sup> Importantly, a criminal charge

---

any form of ritual or customary servitude or any form of forced labour related to a customary ritual commits an offence and shall be liable on conviction to imprisonment for a term not less than three years.”).

78. *See* Human Trafficking Act § 1 (Act 694/2005) (Ghana) [hereinafter Human Trafficking Act] (“(1) Human Trafficking means the recruitment, transportation, transfer, harbouring, trading or receipt of persons within or across borders by (a) the use of threats, force or other forms of coercion, abduction, fraud, deception, the abuse of power or exploitation of vulnerability, or (b) giving or receiving payments and benefits to achieve consent. (2) Exploitation shall include at the minimum, induced prostitution and other forms of sexual exploitation, forced labour or services, salary or practices similar to slavery, servitude or the removal of organs. (3) Placement for sale, bonded placement, temporary placement, placement as service where exploitation by someone else is the motivating factor shall also constitute trafficking. (4) Where children are trafficked, the consent of the child, parents or guardian of the child cannot be used as a defence in prosecution under this Act, regardless of whether or not there is evidence of abuse of power, fraud or deception on the part of the trafficker or whether the vulnerability of the child was taken advantage of.”).

79. *See id.* § 9 (“(1) A victim of trafficking or a person with information about trafficking may file a complaint with the police or other security services at the place where (a) the offender resides, (b) the victim resides, (c) the trafficking occurred or is occurring, or (d) the victim is residing temporarily, if the victim has left his or her normal place of abode. (2) A child may be assisted by a next friend to file a complaint on trafficking. (3) Despite subsection (1), a complaint about trafficking shall be filed by a social welfare officer, probation officer, health care provider, teacher, district labour officer or any other person where the intervention is in the best interest of the victim. (4) Where a victim is for any reason unable to file a complaint personally, a member of the victim’s family or any person with knowledge of the offence may file a complaint on behalf of the victim. (5) Where a person who could have been a complainant under this Act has died, the complaint may be made by the next of kin or a person with knowledge of the offence.”).

80. *See id.* §§ 10-11 (“(1) A police officer shall respond to a request by any person for assistance from trafficking and shall offer protection in a case of alleged trafficking even where the person reporting is not the victim of the trafficking. (2) A police officer who fails to respond to a request for assistance shall on a report filed by the complainant to a superior officer be subject to Police Service disciplinary procedure. (1) Where a police officer receives a complaint, the officer shall (a) take a statement from the parties and witnesses, (b) record the complaint in detail and provide a copy of the written report to the victim, (c) assist the victim to obtain medical treatment where necessary, (d) assist the victim to a place of safety if the victim expresses concern about safety, and (e) inform the victim of his or her rights and any basic material support which may be available to assist the victim. (2) A police officer shall take a statement from a child in the presence of a next friend or a guardian.”).

81. *See id.* §§ 20-22 (“There is established by this Act a Human Trafficking Fund . . . The moneys of the Fund shall be applied as follows: (a) towards the basic material support of victims of trafficking; (b) for the skills training of victims of trafficking; (c) for tracing the families of victims of trafficking; (d) for any matter connected with the rescue, rehabilitation and reintegration of victims of trafficking in their best interest; (e) towards the construction of reception shelters for trafficked persons in the dis-

does not negate the ability of the victim to bring a civil claim against those responsible and receive monetary damages.<sup>82</sup>

By virtue of the Criminal Code, Labour Act, and Human Trafficking Act, Ghanaian law appears to comply with its international commitments under the Palermo Protocol, but this does not mean efforts to eliminate *trokosi* have been effective. According to Shahinian, “the practice has diminished [but] continues to persist in shrines in certain areas.”<sup>83</sup> The 2016 U.S. Department of State Trafficking in Persons Report described the Ghanaian Government as “not fully comply[ing] with the minimum standards for the elimination of trafficking.”<sup>84</sup> In part, this can be attributed to a lack of resources allocated to implementing the otherwise robust legal framework and ambitious mechanisms established by the Human Trafficking Act. In 2013, Shahinian noted few shelters for victims in the country, all of which were under-equipped.<sup>85</sup> In 2016, “the Human Trafficking Fund, which was established by the 2005 Human Trafficking Act to finance protection efforts was unfunded for the third consecutive year; shelters operated in seriously dilapidated conditions without the resources to make basic repairs, and government officials used donor and their own personal funds to assist victims.”<sup>86</sup> The dearth of resources allocated to implementing the provisions of the Human Trafficking Act suggests non-compliance with Ghana’s commitments under international law to take active steps toward the elimination of human trafficking.

Shahinian attributes the reluctance of local authorities to enforce the prohibition to a fear of disapproval from the community and the possibility of negative spiritual consequences.<sup>87</sup> These factors are compounded by a lack of anti-trafficking training for prosecutors.<sup>88</sup> The Special Rapporteur on Violence Against Women, Yakin Ertürk, noted that as of 2008 there had been no prosecutions of the practice.<sup>89</sup> In 2014, fifteen prosecutions, with an emphasis on cross-border cases, led to only seven convictions for all forms of human trafficking.<sup>90</sup> Transnational *trokosi* does occur,<sup>91</sup> but internal traffick-

---

tricks; and (f) for training and capacity building to persons connected with rescue, rehabilitation and reintegration.”).

82. *See id.* § 39 (“The institution of a criminal charge arising from acts of trafficking is in addition to and does not affect the rights of a victim to pursue a civil claim for damages.”).

83. Shahinian *supra* note 60, ¶ 64.

84. U.S. DEPT. OF STATE, TRAFFICKING IN PERSONS REPORT 167 (2015) [hereinafter U.S. Dept. of State].

85. Shahinian *supra* note 60, ¶ 24.

86. U.S. DEPT. OF STATE, *supra* note 84, at 168.

87. *See* Shahinian *supra* note 60, ¶ 64.

88. *See* U.S. DEPT. OF STATE, *supra* note 84, at 168 (“Although officials acknowledged prosecutors lacked training and resources to prosecute trafficking cases fully, no prosecutors have received specific anti-trafficking training since 2011.”).

89. *See* Ertürk *supra* note 3, ¶ 47.

90. *See* U.S. DEPT. OF STATE, *supra* note 84, at 167-68 (There were 94 total investigations opened for the year).

91. *See supra* text accompanying notes 17-26 (account of Patience trafficked from Togo).

ing is more common.<sup>92</sup> Estimates place the number of religious sites currently practicing *trokosi* between twenty-six and thirty-nine, and those NGOs which are engaged in efforts to liberate *trokosi* women report a gradual process that is unlikely to eradicate the practice within any reasonable timeframe.<sup>93</sup>

### B. Forced Marriage, Child Marriage & Domestic Violence

An international norm has emerged around the prevention of forced marriage and more generally the age of consent, both of which Ghana has incorporated into domestic legislation. Although Ghana is not a party to the international Convention on the Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages (1962),<sup>94</sup> which stipulates, “no marriage shall be legally entered into without the full and free consent of both parties,”<sup>95</sup> several other international conventions apply. The Universal Declaration of Human Rights also requires free and full consent of both parties entering a marriage.<sup>96</sup> As does the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa,<sup>97</sup> ratified by Ghana in 2007;<sup>98</sup> the UN Convention on the Elimination of all forms of Discrimination Against Women,<sup>99</sup> ratified by Ghana in 1986;<sup>100</sup> the International Covenant on Economic, Social, and Cultural Rights,<sup>101</sup>

92. See U.S. DEPT. OF STATE, *supra* note 84, at 167.

93. See Ertürk *supra* note 3, ¶¶ 47-50.

94. See *Status on Convention to Marriage*, U.N. TREATY COLLECTION, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XVI-3&chapter=16&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVI-3&chapter=16&lang=en) [<https://perma.cc/N5HB-8ZFJ>] (last visited Feb. 20, 2018).

95. Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages art. 1, Nov. 7, 1962, 521 U.N.T.S. 234 [hereinafter Convention on Marriage].

96. G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 16(2), (Dec. 10, 1948) [hereinafter UDHR] (“Marriage shall be entered into only with the free and full consent of the intending spouses.”).

97. Protocol to The African Charter on Human and Peoples’ Rights on Rights of Women in Africa art. 6(a), July 11, 2003 [hereinafter Protocol on Women in Africa] (“No marriage shall take place without the free and full consent of both parties.”).

98. *Ratification Table: Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa*, AFRICAN COMMISSION ON HUMAN AND PEOPLES’ RIGHTS, <http://www.achpr.org/instruments/women-protocol/ratification/> [<https://perma.cc/8U3L-R7S5>] (last visited Feb. 20, 2018).

99. Convention on the Elimination of all forms of Discrimination Against Women art. 16, Dec. 18, 1979, 1249 U.N.T.S. 13 [hereinafter CEDAW] (“States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: (a) The same right to enter into marriage; (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent.”).

100. *Status of the Convention on the Elimination of All Forms of Discrimination Against Women*, UNITED NATIONS TREATY COLLECTION, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en) [<https://perma.cc/C7FB-Z7CY>] (last visited Feb. 20, 2018).

101. International Covenant on Economic, Social and Cultural Rights art. 10(1), Dec. 16, 1966, S. Treaty Doc. No. 95-19, 6 I.L.M. 360 (1967), 993 U.N.T.S. 3 [hereinafter ICESCR] (“Marriage must be entered into with the free consent of the intending spouses.”).

ratified by Ghana in 2000;<sup>102</sup> and the International Covenant on Civil and Political Rights,<sup>103</sup> also ratified by Ghana in 2000.<sup>104</sup> In addition, the Convention on Marriage, which Ghana has not signed, requires that all State parties establish a minimum age for marriage.<sup>105</sup> However, the African Charter on the Rights of Welfare of the Child, which Ghana has ratified,<sup>106</sup> calls for States to prohibit child marriage and stipulates the age of consent as eighteen.<sup>107</sup> The Protocol on Women in Africa includes the same age of consent.<sup>108</sup> These standards are incorporated in domestic law via Ghana's Children's Act of 1998, which prohibits forced marriage of a child and establishes a minimum age of eighteen for consent to marry.<sup>109</sup>

In addition, Ghana's Domestic Violence Act of 2007 prohibits physical, sexual, emotional, verbal, and psychological abuse within the context of a domestic relationship.<sup>110</sup> Accounts of former *trokosi* women include many, if

102. *Status of the International Covenant on Economic, Social, and Cultural Rights*, UNITED NATIONS TREATY COLLECTION, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg\\_no=IV-3&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-3&chapter=4&clang=_en) [<https://perma.cc/S8SY-TJR4>] (last visited Feb. 20, 2018).

103. International Covenant on Civil and Political Rights art. 23(3), Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171 [hereinafter ICCPR] (“No marriage shall be entered into without the free and full consent of the intending spouses.”).

104. *Status of the International Covenant on Civil and Political Rights*, UNITED NATIONS TREATY COLLECTION, [https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtmsg\\_no=IV-4&chapter=4&lang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-4&chapter=4&lang=en) [<https://perma.cc/G4FR-GGHU>] (last visited Feb. 20, 2018).

105. *Status of Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages*, UNITED NATIONS TREATY COLLECTION, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg\\_no=XVI-3&chapter=16&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=XVI-3&chapter=16&lang=en) [<https://perma.cc/FR9L-X4PL>] (last visited Feb. 20, 2018); Convention on Marriage, *supra* note 95, art. 2 (“States Parties to the present Convention shall take legislative action to specify a minimum age for marriage.”).

106. *Ratification Table: African Charter on the Rights and Welfare of the Child*, AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS, <http://www.achpr.org/instruments/child/ratification/> [<https://perma.cc/8QG4-YD5T>] (last visited Feb. 20, 2018).

107. African Charter on the Rights and Welfare of the Child art. 21, July 11, 1990, CAB/LEG/24.9/49 [hereinafter African Charter on the Child] (“Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.”).

108. Protocol on Women in Africa, *supra* note 97, art. 6(b) (“[T]he minimum age of marriage for women shall be 18 years.”).

109. Children's Act (Act No. 560/1998) art. 14 (Ghana) [hereinafter Children's Act] (“(1) No person shall force a child—(a) to be betrothed; (b) to be the subject of a dowry transaction; or (c) to be married. (2) The minimum age of marriage of whatever kind shall be eighteen years.”).

110. *See* Domestic Violence Act (Act No. 732/2007) art. 1 (Ghana) [hereinafter Domestic Violence Act] (defining domestic violence) (“Domestic violence means engaging in the following within the context of a previous or existing domestic relationship: (a) An act under the Criminal Code 1960 (Act 29) which constitutes a threat or harm to a person under that Act; (b) Specific acts, threats to commit, or acts likely to result in (i) physical abuse, namely physical assault or use of physical force against another person including the forcible confinement or detention of another person and the deprivation of another person of access to adequate food, water, clothing, shelter, rest, or subjecting another person to torture or other cruel, inhuman or degrading treatment or punishment; (ii) sexual abuse, namely the forceful engagement of another person in a sexual contact which includes sexual conduct that abuses, humiliates or degrades the other person or otherwise violates another person's sexual integrity or a sexual contact by a person aware of being infected with human immunodeficiency virus (HIV) or any other sexually transmitted disease with another person without that other person being given prior information of the infection; (iii) economic abuse, namely the deprivation or threatened deprivation of

not all, of these forms of abuse. Although *trokosi* defenders resist its classification as a form of labor or employment, the category of domestic relationship or marriage seems to align more closely with their framing. Even if it is not marriage in the technical sense, the Act applies to “relationship[s] in the nature of a marriage even if [the complainant and respondent] are not or were not married to each other or could not or cannot be married to each other.”<sup>111</sup>

An individual who violates this law may be fined, imprisoned for up to two years, or both. Additionally, as was the case with the Palermo Protocol, the existence of consent does not constitute a defense.<sup>112</sup> The court may also require the perpetrator to pay compensation to the victim.<sup>113</sup> Similar to the Human Trafficking Act, the Domestic Violence Act lays out a robust legal framework. There are mechanisms for notifying the police,<sup>114</sup> as well as provisions regarding protection orders,<sup>115</sup> free medical treatment,<sup>116</sup> the re-

---

economic or financial resources which a person is entitled to by law, the disposition or threatened disposition of moveable or immovable property in which another person has a material interest and hiding or hindering the use of property or damaging or destroying property in which another person has a material interest; and (iv) emotional, verbal or psychological abuse namely any conduct that makes another person feel constantly unhappy, miserable, humiliated, ridiculed, afraid, jittery or depressed or to feel inadequate or worthless.”); *Ib.* § 3 (prohibiting domestic violence) (“A person in a domestic relationship shall not engage in domestic violence.”).

111. *Id.* § 2(b).

112. *Id.* §§ 3–4 (“A person in a domestic relationship who engages in domestic violence commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both . . . The use of violence in the domestic setting is not justified on the basis of consent.”).

113. *Id.* § 3(3) (“The Court may in addition to imposing a fine or a prison term, order the offender in a case of domestic violence to pay compensation to the victim as the Court may determine.”).

114. *Id.* § 6 (“(1) A victim of domestic violence or a person with information about domestic violence may file a complaint about the domestic violence with the police. (2) A child may be assisted by a next friend to file a complaint on domestic violence. (3) Despite subsection (1) a social worker, probation officer or health care provider shall file a complaint about domestic violence where the intervention is in the interest of the victim. (4) A member of the victim’s family may file a complaint on behalf of the victim where the victim is for any reason unable to file a complaint personally. (5) A deceased person’s personal representative or a member of the deceased’s family or another person competent to represent the deceased may file a complaint where a person who could have been a complainant under this Act has died. (6) A complaint about domestic violence shall be filed with the police at the place where (a) the offender resides, (b) the victim resides, (c) the domestic violence occurred or is occurring, or (d) the victim is residing temporarily, where the victim has left his or her usual place of abode.”).

115. *Id.* § 12 (“(1) A person referred to in this Act as the applicant, may apply to a Court for a protection order to prevent (a) another person, referred to in this Act as the respondent, (b) a person associated with the respondent, or (c) both a respondent and a person associated with the respondent from carrying out a threat of domestic violence against the applicant or to prevent the respondent, an associated respondent or both from further committing acts which constitute domestic violence against the applicant. (2) The application may be filed in a Court situated where (a) the applicant resides, carries on business or is employed, (b) the respondent resides, carries on business or is employed, or (c) the act of domestic violence occurred or is occurring. (3) The application shall be made ex-parte, unless the Court otherwise orders it to be on notice. (4) A Court before which criminal proceedings in relation to domestic violence is pending may on its own volition, considering the circumstances of the case, or on an application by the victim issue a protection order in respect of the victim.”).

116. *Id.* § 8(3) (“A victim of domestic violence who is assisted by the police to obtain medical treatment under subsection (1) (c) is entitled to free medical treatment from the State.”).

tention of civil remedies,<sup>117</sup> and the establishment of a fund for the rescue, rehabilitation, and reintegration of victims.<sup>118</sup> Although her visit in 2008 was shortly after the implementation of the Domestic Violence Act, Special Rapporteur Ertürk expressed serious concern about the lack of resources being allocated to the implementation of its protections.<sup>119</sup> Victims of domestic violence were being charged for medical treatment and had limited access to follow-up visits and counseling. The assistance that was available typically came from NGOs.<sup>120</sup>

Even framed as a marriage rather than outright slavery, Ghana has an extensive legal framework in place to address the sort of abuse described by Patience and other former *trokosi* women. That being said, one should be hesitant to accept the premise that marriage and slavery are two entirely mutually exclusive categories. Forced marriage in particular would readily be recognized as slavery in other contexts. Special Rapporteur on the Human Rights Aspects of Trafficking in Persons, Sigma Huda, highlighted the topic of forced marriage in her 2006 annual report.<sup>121</sup> In it, she points out that Ghana considers forced marriage to be criminal in its own right, but bemoans that forced marriage can be so difficult to distinguish from arranged marriage.<sup>122</sup> Although theoretically the distinction between forced and arranged marriage rests on the consent of the individual entering the marriage, social expectations and other pressures frequently mean that consent is not freely given.

Arranged marriages have been defined as “a form of social construction that informs the girl from a young age of her expected familial duties and her understanding of what constitutes bringing ‘shame’ upon the family. If a young woman is bodily kidnapped the force is obvious but when a marriage is ‘arranged’ by her relatives’ trickery and stealth, she does not realize, often until

---

117. *Id.* § 27 (“Proceedings under this Act shall be in addition and shall not derogate from the right of a person to institute a civil action for damages.”).

118. *Id.* §§ 29–30 (“There is established by this Act a Victims of Domestic Violence Support Fund . . . The moneys of the Fund shall be applied (a) Towards the basic material support of victims of domestic violence, (b) For training the families of victims of domestic violence, (c) For any matter connected with the rescue, rehabilitation and reintegration of victims of domestic violence, (d) Towards the construction of reception shelters for victims of domestic violence in regions and districts, and (e) For training and capacity building of persons connected with the provision of shelter, rehabilitation and reintegration.”).

119. See Ertürk, *supra* note 3, ¶¶ 74–88.

120. See *id.* ¶¶ 86–87.

121. See Sigma Huda (Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons), *Report on Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled “Human Rights Council”*, ¶¶ 13–60, U.N. Doc. A/HRC/4/23 (Jan. 24, 2007).

122. See *id.* ¶¶ 20, 26.

it is too late, that an arranged and forced marriage amounts to much the same thing.”<sup>123</sup>

Arranged marriages do not need to entail the element of coercion that connects forced marriage to slavery, but in practice the distinction becomes difficult to identify. Huda explicitly lists *trokosi*, alongside *devadasi*, as a form of forced marriage.<sup>124</sup> As such, it is contemporary slavery according to the UN Working Group on Contemporary Forms of Slavery.<sup>125</sup>

Regardless of the tenuous distinction between arranged and forced marriages, and some practitioners insisting that *trokosi* women enter the system without undue pressure or threats, it remains a fact that most do so as children, and children under eighteen—the legal age of consent in Ghana—are incapable of providing free and full consent.<sup>126</sup> Consequently, “child marriage is forced marriage, and as such violates fundamental human rights standards and must therefore be strictly prohibited.”<sup>127</sup>

### C. Child Labor and Abuse

Involving children in domestic and household labor is a common practice in many places in Africa, particularly the rural areas, all the more so within the context of a family unit that relies on farming for subsistence.<sup>128</sup> However, *trokosi* is distinguishable because the girls forced to work in a priest’s field do not receive the benefits of that labor the way a child working on a family farm would.<sup>129</sup> Similarly, the sexual abuse that accompanies *trokosi* distinguishes it from most forms of familial labor. As such, *trokosi* appears to more closely resemble non-familial labor and employment, in which the failure to pay compensation or the exposure to physical and sexual abuse are typically seen as violations of the worker’s rights.

Ghana is a party to the Convention on the Rights of the Child,<sup>130</sup> which “recognize[s] the right of the child to be protected from economic exploitation and from performing any work . . . likely . . . to interfere with the

123. *Id.* ¶ 26 (quoting Carole Olive Moschetti, *Conjugal Wrongs Don’t Make Rights: International Feminist Activism, Child Marriage and Sexual Relativism* (Nov. 2005) (unpublished Ph.D. thesis, University of Melbourne, Political Science Dept., Faculty of Arts)).

124. *See id.* ¶ 28

125. *See id.* ¶ 33 (citing Commission on Human Rights: Sub-Commission on the Promotion and Protection of Human Rights, *Report of the Working Group on Contemporary Forms of Slavery on its twenty-eighth session*, U.N. Doc. E/CN.4/Sub.2/2003/31 (June 27, 2003)).

126. *See* Children’s Act, *supra* note 109, § 14(2) (“The minimum age of marriage of whatever kind shall be eighteen years.”).

127. Huda, *supra* note 121, ¶ 21.

128. *See* Jens Advig, et al., *Issues in Child Labor in Africa*, 5–12 (Africa Region Human Development Working Paper Series, September 2001).

129. Compensation does not need to be purely economical and children engaged in familial labor can be expected to receive the benefit of food, shelter, and other necessities as part of their membership to the family.

130. *Status of the Convention on the Rights of the Child*, UNITED NATIONS TREATY COLLECTION, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en) [https://perma.cc/J7NK-PPDD] (last visited Feb. 20, 2018).

child's education."<sup>131</sup> The Convention further stipulates a "best interest of the child" standard,<sup>132</sup> calls for the protection of children's rights,<sup>133</sup> and requires the protection of children from all forms of violence.<sup>134</sup> It also recognizes a right to education<sup>135</sup> and prohibits dangerous labor,<sup>136</sup> trafficking of children,<sup>137</sup> and sexual and other forms of exploitation.<sup>138</sup> The provisions of the Convention are robust, specifically addressing multiple issues at the core of *trokosi*. Its comprehensive provisions highlight the interwoven nature of human rights norms, as well as the unique vulnerability of children.

Ghana has also ratified the ILO Minimum Age Convention<sup>139</sup> and the ILO Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.<sup>140</sup> The former calls for "a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for . . . work to a level consistent with the fullest physical and mental development of young persons,"<sup>141</sup> and the latter calls for "immediate and effective measure to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency,"<sup>142</sup>

131. Convention on the Rights of the Child art. 32, Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter CRC].

132. *Id.* art. 3(1) ("In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.").

133. *Id.* art. 4 ("States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.").

134. *Id.* art. 19(1) ("States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.").

135. *Id.* arts. 28–29 ("States Parties recognize the right of the child to education . . .").

136. *Id.* art. 32 ("States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.").

137. *Id.* art. 35 ("States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.").

138. *Id.* arts. 34, 36 ("States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials. . . . States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.").

139. *Ratifications of C138 - Minimum Age Convention, 1973 (No. 138)*, INTERNATIONAL LABOUR ORGANIZATION, [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300\\_INSTRUMENT\\_ID:312283](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312283) [https://perma.cc/5Y66-ASS2] (last visited Feb. 20, 2018).

140. *Ratifications of C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)*, INTERNATIONAL LABOUR ORGANIZATION, [http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312327](http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312327) [https://perma.cc/YF3G-DGF7] (last visited Feb. 20, 2018).

141. ILO No. 138, *supra* note 62.

142. ILO No. 182, *supra* note 63, art. 1.

which explicitly includes slavery like conditions, compulsory labor, certain forms of sexual exploitation, and other harmful activities.<sup>143</sup>

Ghana is also a party to the African Charter on the Rights and Welfare of the Child, which includes nearly identical language on exploitation to the Convention on the Rights of the Child but without the explicit reference to education.<sup>144</sup> Domestically, the Children's Act implements Ghana's international commitments, including the prohibition of exploitative child labor, defined as that which "deprives the child of its health, education, or development."<sup>145</sup> The Act establishes fifteen as the minimum age for employment, but increases the age to eighteen for hazardous work and decreases it to thirteen for light work.<sup>146</sup> It seems unlikely that the labor associated with *trokosi* would qualify for the Act's definition of light work because it interferes with school attendance and performance.<sup>147</sup> More fundamentally, the Act establishes the "best interest of the child [as] paramount in any matter concerning a child,"<sup>148</sup> and creates a legal framework for the care and protection of children<sup>149</sup> and investigation<sup>150</sup> and punishment of child abuse.<sup>151</sup> The Act explicitly provides, "[n]o person shall subject a child to torture or other cruel, inhuman or degrading treatment or

143. *Id.* art. 3 ("For the purposes of this Convention, the term the worst forms of child labour comprises: (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.").

144. African Charter on the Child, *supra* note 107, art. 15(1) ("Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development.") (Arguably the explicit reference to the child's education may be redundant because the respective articles in each treaty include a right to mental development. However, the decision to omit this language from the African Charter was likely a conscious choice intended to indicate a difference).

145. Children's Act, *supra* note 109, § 87(1-2).

146. *Id.* §§ 89-91 ("The minimum age for admission of a child to employment shall be fifteen years . . . The minimum age for the engagement of a child in light work shall be thirteen years . . . The minimum age for the engagement of a person in hazardous work is eighteen years.").

147. *Id.* § 90(2) ("Light work constitutes work which is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or the capacity of the child to benefit from school work.").

148. *Id.* § 2(1).

149. *Id.* §§ 16-39 ("§ 16(1) A District Assembly shall protect the welfare and promote the rights of children within its area of authority and shall ensure that within the district, governmental agencies liaise with each other in matters concerning children. (2) The Social Welfare and Community Development Department of a District Assembly referred to in this Act as 'the Department' shall investigate cases of contravention of childrens [sic] rights.").

150. *Id.* § 19 ("(1) If the Department has reasonable grounds to suspect child abuse or a need for care and protection, it shall direct a probation officer or social welfare officer accompanied by the police to enter and search the premises where the child is kept to investigate.").

151. *Id.* § 15 ("Any person who contravenes a provision of this Sub-Part commits an offence and is liable on summary conviction to a fine not exceeding ₵5 million or to a term of imprisonment not exceeding one year or to both.").

punishment *including any cultural practice* which dehumanises [sic] or is injurious to the physical and mental well-being of a child” (emphasis added).<sup>152</sup> The language indicates application to practices like *trokosi* and, much like the Domestic Violence Act and Human Trafficking Act, the Children’s Act commits the Ghanaian government to the protection and promotion of the wellbeing of victims.<sup>153</sup>

The Children’s Act is difficult to enforce.<sup>154</sup> Siobhan Laird attributes these shortcomings in part to the flexible nature of a “best interests of the child” standard, which is influenced not only by the lack of infrastructure and resources, but also by the cultural values prevalent in a particular society.<sup>155</sup> Children are required to work, sometimes under difficult conditions or at the expense of their education, because the family needs extra help or income and the survival of the family is essential for the child’s well-being<sup>156</sup>—all the more so when there persists a community-focused worldview. As Philip Alston explains:

In more traditional societies, the links to family and the local community might be considered to be of paramount importance and the principle that ‘the best interests of the child’ shall prevail will therefore be interpreted as requiring the sublimation of the individual child’s preferences to the interests of the family or even the extended family.<sup>157</sup>

The application of this logic to the spiritual “best interests of the child” could be used to explain the persistence of practices like *trokosi*.

#### *D. Religious & Cultural Rights*

Up to this point, the analysis of *trokosi* has focused on human rights that emphasize the individualized nature of rights. Protection from slavery, forced marriage, and child labor highlight the primacy of the person and the potential for her interests to be subjugated by other individuals or the society as a whole. However, there is a collective perspective from which to view human rights as well. The right to religious practice taken up in this section and cultural rights taken up in the next cut both ways; they can be

152. *Id.* § 13(1).

153. *Id.* § 2(1) (“The best interest of the child shall be paramount in any matter concerning a child.”) and § 16(1) (“A District Assembly shall protect the welfare and promote the rights of children within its area.”).

154. Siobhan Laird, *The 1998 Children’s Act: Problems of Enforcement in Ghana*, 32 *BRIT. J. SOC. WORK* 893, 895 (2002).

155. *Id.* at 899-900 (quoting James R. Himes, *Forward*, in Philip Alston et al., *The Best Interests of the Child: Reconciling Culture and Human Rights*, 8 *INT’L J. L., POL’Y & FAM.* 1, 5 (1994)).

156. *Id.* at 898-900.

157. Philip Alston, *The Best Interests Principle: Toward a Reconciliation of Culture and Human Rights*, 8 *INT’L J. L., POL’Y & FAM.* 1, 5 (1994).

seen as protecting the individual as well as the collective.<sup>158</sup> According to Grimm, this is because “[r]eligion presupposes a community that is united in its belief in some truths of a transcendental nature and that develops common forms of worship and interaction.”<sup>159</sup>

*Trokosi* apologists often frame their arguments in terms of religious freedom and cultural preservation.<sup>160</sup> The International Covenant on Civil and Political Rights, to which Ghana is a party,<sup>161</sup> protects freedom of thought, conscience, and religion, which includes the right “either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”<sup>162</sup> Moreover, the ICCPR,<sup>163</sup> the Convention on the Rights of Children,<sup>164</sup> and the International Covenant on Economic, Social, and Cultural Rights,<sup>165</sup> all protect the right of parents to raise their children within the parameters of their religious belief and practice. The most prominent organization defending *trokosi*, Afrikania Mission, ostensibly exists to protect and promote traditional African religion.<sup>166</sup> It refutes the allegations of brutalities against *trokosi* women and claims that *trokosi* is a “valuable traditional cultural practice” premised on the right to freedom of religion guaranteed by their Constitution.<sup>167</sup> However, emphasizing religious freedom in this way suggests that it should be given priority even when in conflict with other rights.

Although one could argue that it would be a reasonable status for freedom of conscience, religious practice is not a trump card within international human rights law. Michael Perry argues, “the protection afforded by the right to religious and moral freedom is—and as a practical matter, it must be—only conditional protection; the protection is not absolute (unconditional).”<sup>168</sup> The ICCPR articulates this conditionality by subjecting

158. Dieter Grimm, *Conflicts Between General Laws and Religious Norms*, 30 CARDOZO L. REV. 2369, 2373–75 (2009).

159. *Id.* at 2373.

160. Rinaudo, *supra* note 10, at 3.

161. UNITED NATIONS TREATY COLLECTION, *supra* note 104.

162. ICCPR, *supra* note 103, art. 18(1).

163. *Id.* art. 18(4) (“The States Parties to present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.”).

164. CRC, *supra* note 131, art. 14(2) (“State Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.”) and art. 29(1) (“States Parties agree that the education of the child shall be directed to (c) The development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.”).

165. ICESCR, *supra* note 101, art. 13(3) (“The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to . . . ensure the religious and moral education of their children in conformity with their own convictions.”).

166. *See de Witte, supra* note 38, at 311–12.

167. *See id.*

168. Michael J. Perry, *A Right to Religious and Moral Freedom? A Reply to Rafael Domingo*, 12 INT’L J. CON. L. 248, 249 (2014).

the manifestation of religious beliefs “to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.”<sup>169</sup> In other words, for a restriction on religious practice to be acceptable under international law it must meet three requirements: (1) it must be legitimately prescribed by law, (2) it must be necessary without the possibility of an equally effective and less burdensome alternative, and (3) the interest the restriction protects must be greater than the right it negates.<sup>170</sup> The third requirement suggests that religious practices may be abridged only if they conflict with other rights that are significant enough to outweigh the importance of protecting freedom of religion and the specific practice in question.<sup>171</sup> The international conventions that articulate the right to religious practice establish caveats for the health, wellbeing, and fundamental rights of others.<sup>172</sup> *Trokosi* occupies the space where these rights collide, and international human rights law has given greater weight to individually focused rights in such instances.<sup>173</sup> Yet, this is precisely the critique of the Afrikania Mission, that the prioritization of individual rights in this way demonstrates the neo-colonial nature of the human rights project and does not reflect the value placed upon different rights by traditional communities.<sup>174</sup>

Cultural rights are similar to religious rights insofar as they include a personal as well as a communal aspect. The International Convention on Economic, Social, and Cultural Rights mentions both “[a]ll peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”<sup>175</sup> and “[t]he States Parties to the present Covenant recognize the right of everyone . . . to take part in cultural life.”<sup>176</sup> Cultural practices inform and support identity, allowing people to define how they interact with one another. Consequently, “adherence to rituals and customs are fundamental; they create a structure of distinctiveness and provide a dimension with which citizens can face the issues of day-to-day living in a

---

169. ICCPR, *supra* note 103, art. 18(3) (a similar provision can be found in CRC art. 14 (3)).

170. Perry, *supra* note 168 (Perry describes these requirements as the legitimacy condition, the least burdensome alternative condition, and the proportionality condition).

171. *Id.* (“The legitimate objective served by the government action must be sufficiently weighty to warrant the burden imposed by the government action.”).

172. *See, e.g.*, ICCPR, *supra* note 103, art. 18(3) (quoted *supra* in text accompanying note 170); CRC, *supra* note 131, art. 14(3) (quoted *supra* in note 169).

173. *See, e.g., id.*; UDHR *supra* note 96, art. 18 (“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief.”) (emphasis added).

174. *See, e.g., Trokosi: Some Traditionalists Defend System of Indentured Servitude in Ghana*, VOICE OF AMERICA (October 31, 2009), <https://www.voanews.com/a/a-13-2006-10-12-voa28/398073.html> [<https://perma.cc/7HTK-VA5P>].

175. ICESCR, *supra* note 101, art. 1(1).

176. *Id.* art. 15(1).

meaningful way.”<sup>177</sup> Foreign norms forcefully imposed can negate the autonomy of the human person to determine her own values and how they are expressed. The protection of cultural rights provides a paradigm for resisting the hegemonic tendencies of globalization. As such, cultural rights are far from inconsequential or secondary.

It is not a coincidence, therefore, that the language of cultural rights is frequently employed to defend *trokosi*.<sup>178</sup> Because of the practice’s religious foundation, it has become integrally connected to practitioners’ understanding of the world and their place in it. Consequently, efforts to eliminate *trokosi* are perceived as the negation of their identity.<sup>179</sup>

Similar issues emerge around female genital cutting (“FGC”), making it a useful analogy for understanding *trokosi*. Although the methods of FGC vary widely, the physically harmful nature of the practice is well established.<sup>180</sup> Despite strong evidence that FGC leads to an increased likelihood of maternal mortality and morbidity, related health risks, and lasting pain, many communities cling to its practice.<sup>181</sup> In some instances, it is connected to religion whereas in others it is purely cultural.<sup>182</sup> Regardless, FGC is a rite of passage by which a child becomes an adult and a full member of the community. It forms a central element of self-identity, becoming the connective tissue by which an individual is tied to the group and the group is tied together.<sup>183</sup> Brittany Kühn explains, “social pressures to conform to traditional rituals, particularly ones that demonstrate a transition into adulthood and indicate societal membership, are extremely powerful.”<sup>184</sup> Often the primary proponents of FGC are women who have undergone it themselves<sup>185</sup> and the girls who anticipate it.<sup>186</sup> Much like forced marriage as described by Huda,<sup>187</sup> FGC elicits consent that is

177. Brittany Kühn, *Universal Human Rights vs. Traditional Rights*, TOPICAL REVIEW DIGEST: HUMAN RIGHTS IN SUB-SAHARAN AFRICA 59 (2009), <https://www.du.edu/korbel/hrhw/researchdigest/africa/UniversalHumanRights.pdf> [<https://perma.cc/ZA4P-J2GL>].

178. De Witte, *supra* note 38, at 311-12.

179. *Id.*

180. POPULATION REFERENCE BUREAU, ENDING FEMALE GENITAL MUTILATION / CUTTING: LESSONS FROM A DECADE OF PROGRESS (Charlotte Feldman-Jacobs ed., 2013). [Hereinafter Population Reference Bureau].

181. *Id.*

182. *Id.* at 6.

183. Kühn, *supra* note 177, at 61.

184. *Id.*, at 61.

185. I witnessed this myself on more than one occasion among the Tukolor women of the Senegambia region. Even Wolof women, who often prided themselves on not practicing FGC, would commonly insist that their daughters’ undergo the practice when they were the product of intermarriage with a Tukolor (or other Fula ethnic sub-group), Mandinka, or Jahanka. This desire was explained to me as wanting to ensure that their daughters would be perceived as full members of the community in which they lived.

186. When these girls are very young, their desire to receive FGC is likely less relevant given the inability of young children to provide consent for such acts.

187. *See supra* text accompanying notes 121-125.

founded on significant societal pressures to conform and the threat of societal exclusion if one fails to do so. In this context, consent is largely illusory.

Cultural rights, whether individual or collective, do not supersede fundamental individual rights in the international human rights system.

No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.<sup>188</sup>

Cultural practices that are communal in nature apply significant social pressure on individuals to comply with expectations set by others.<sup>189</sup> As a result, the individual decision to engage in a cultural practice may not be freely made, which undermines the self-identifying function of the practice.<sup>190</sup> Participation by compulsion is not protected under international human rights law.<sup>191</sup>

#### IV. RESPONDING TO *TROKOSI*

Regardless of the lens through which one chooses to examine *trokosi*, so long as the practice is non-consensual and abusive, it runs afoul of international human rights norms. As described by Patience and other former *trokosi* women,<sup>192</sup> it violates strongly embedded mores that prohibit slavery, forced labor, forced marriage, forms of domestic and sexual abuse, child marriage, child labor, and trafficking. Even applying considerations for religious freedom and cultural rights, the practice remains impermissible under international standards because of its non-consensual nature. Yet practitioners and apologists remain ardent in their belief that *trokosi* should continue, and appeals to international human rights fall on deaf ears.<sup>193</sup> As a result, those working to eliminate the practice should consider the efficacy of their chosen tactics.

A discussion of tactics warrants a brief digression as prelude. Norms, whether they are traditional and customary or western and exogenous, are not static.<sup>194</sup> The human rights project has morphed over time, expanding to include more categories of rights and apply to more expansive groups of

188. ICESCR, *supra* note 101, art. 5(2).

189. *See, e.g.*, Huda, *supra* note 121, ¶ 26.

190. *See, e.g., id.*

191. UDHR, *supra* note 96, art 18 (“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief.”) (emphasis added).

192. *See supra* text accompanying notes 17-27 (account of Patience). *See also* GADRI, *supra* note 4, ¶¶ 27-35 (interviews with multiple *trokosi* women).

193. De Witte, *supra* note 38, at 311-13.

194. *See* Cristina Bicchieri, *The Grammar of Society: The Nature and Dynamic of Social Norms* (2005).

people. At the same time, it has developed greater nuance in the application and interaction of rights—how to prioritize and enable coexistence of seemingly disparate rights.<sup>195</sup> The prohibition against slavery provides a clear example of this. The taboo against its practice has grown over time and spread to a point of near universal recognition.<sup>196</sup> The norm is now so entrenched that the word slavery is pejorative and even those who practice it prefer to refer to it by another name. Yet, despite this evolution, the application of the norm is at times inconsistent.<sup>197</sup> Traditional norms, even those that underlie *trokosi*, are no different. They are fluid and subject to change. At the same time, the realities of life do not always directly align with the values people express.

This gives reason for optimism. The fluidity of norms means change can happen in the long term and the inconsistency of their application suggests those currently suffering need not wait for tectonic shifts to occur. But orchestrating the evolution presents a challenge. The collision of two normative systems can be either confrontational or cooperative. If it is confrontational, then the frameworks tend to solidify and resist the influence of external forces—they change by looking inward.<sup>198</sup> But if the collision is cooperative, there is the opportunity to become entangled and mutually informed. Eliminating *trokosi* requires the second manner of interaction, which means human rights advocates must engage traditional practitioners with openness, respect, and a willingness to have their own normative framework adjusted. It is a matter of strategic engagement rather than a need to fundamentally alter core values.

Based on best practices identified by the UN High Commissioner for Human Rights and scholars like Marleen de Witte, strategies aimed at addressing *trokosi* should incorporate the four following elements. First, they must establish legal frameworks for prosecution.<sup>199</sup> As demonstrated above, these are largely in place. However, in addition to existing statutes there must also be sufficient political will to motivate government officials to

195. See e.g., ICCPR, *supra* note 103; ICESCR, *supra* note 101; Karel Vasek, *Human Rights: A Thirty Year Struggle*, 30 UNESCO COURIER 11 (Nov. 1977); ROLAND BURKE, *DECOLONIZATION AND THE EVOLUTION OF INTERNATIONAL HUMAN RIGHTS* (2010); PAUL GORDON LAUREN, *THE EVOLUTION OF INTERNATIONAL HUMAN RIGHTS* (3d ed. 2011). See also *Sawhoyamaya Indigenous Community v. Paraguay*, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 146 (Mar. 29, 2006) (finding a collective right to property within the individual right articulated in the American Convention on Human Rights thereby expanding its jurisprudence).

196. Jessica Bell, *Contemporary Slavery & International Law*, TOPICAL REV. DIG.: HUM. RTS AND CONTEMP. SLAVERY 35 (2008) (July 24, 2016), <https://www.du.edu/korbel/hrhw/researchdigest/slavery/law.pdf> [<https://perma.cc/7N2C-MTQ9>].

197. *Id.*

198. For an overview of the research around resistance to the modification of beliefs based on external data, see Elizabeth Kolbert, *Why Facts Don't Change Our Minds*, THE NEW YORKER (27 Feb. 2017) (reviewing HUGO MERCIER & DAN SPERBER, *THE ENIGMA OF REASON* (2017)).

199. Mary Robinson (High Commissioner for Human Rights), *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, ¶ 12, U.N. DOC. E/2002/68/Add.1 (May 22, 2002) (“States shall adopt appropriate legislative and other measures necessary to establish, as criminal offences, trafficking, its component acts and related conduct.”).

utilize the legal framework by prosecuting practitioners.<sup>200</sup> Cultivating this political will is closely linked to the second element. Namely, prohibiting *trokosi* in a way that resonates with its practitioners and local communities. If its prohibition continues to be perceived as neo-colonial and disconnected from local values, then any legal framework or efforts at prosecution will be considered illegitimate and ultimately fail.<sup>201</sup> Third, there should be resources for assisting women liberated from *trokosi* and strategies to ensure they are not replaced.<sup>202</sup> As discussed above, there exists a significant legal framework for the former, but the political will to fund and administer it is lacking. The assistance promised by law must be made real in practice. Finally, there must be the opportunity for former *trokosi* to pursue remedies that address their own personal grievances.<sup>203</sup> A mechanism for such remedies should be broad enough to satisfy the variety of claims a former *trokosi* might have, be they financial, physical, psychological, or social. The sections below will examine these elements in closer detail. Given the interrelated nature of these issues and that such aspects were previously discussed, the first two and second two will be approached in tandem.

#### A. *Prevention and Elimination*

Based on accounts of special rapporteurs and *trokosi* abolitionists, lack of political will and the perception of exogenous pressure are the primary impediments to eliminating the practice.<sup>204</sup> The legal architecture already exists in the form of the Human Trafficking Act, Labour Act, Domestic Violence Act, Children's Act, and the Criminal Code. The creation of additional legislation would be equally ineffective if it was expected to operate within the same cultural *zeitgeist*. Instead, efforts should prioritize increasing the political will for the enforcement of existing law. Three strategies for addressing modern day slavery highlight local engagement in a way that

---

200. *Id.* at ¶ 13 (“States shall effectively investigate, prosecute and adjudicate trafficking, including its component acts and related conduct, whether committed by governmental or by non-State actors.”). Lack of training is also a significant hurdle that must be overcome, but one that connects to political will. See U.S. DEPT. OF STATE, *supra* note 84, at 168 (“Although officials acknowledged prosecutors lacked training and resources to prosecute trafficking cases fully, no prosecutors have received specific anti-trafficking training since 2011.”).

201. See de Witte, *supra* note 38, at 311-12.

202. Robinson, *supra* note 199, ¶¶ 8-9 (“States shall ensure that trafficked persons are protected from further exploitation and harm and have access to adequate physical and psychological care. Such protection and care shall not be made conditional upon the capacity or willingness of the trafficked person to cooperate in legal proceedings. Legal and other assistance shall be provided to trafficked persons for the duration of any criminal, civil or other actions against suspected traffickers. States shall provide protection and temporary residence permits to victims and witnesses during legal proceedings.”).

203. *Id.* at ¶ 17 (“States shall ensure that trafficked persons are given access to effective and appropriate legal remedies.”).

204. Lawrance, *supra* note 46, at 63-88. (“The Ghanaian law, however, is of limited effectiveness because it ignores autochthonous social practices with historically rich traditions, and it enjoins a narrow, economic model for the proliferation of trafficking.”).

might be useful for *trokosi* opponents: the strategy proposed by Kevin Bales and Free the Slaves, the strategy of Special Rapporteur Sigma Huda focusing on forced marriage in particular, and the strategy of International Needs Ghana—an NGO highlighted by Special Rapporteur Yakin Ertürk in her report on violence against women in Ghana. Anti-FGC campaigns demonstrate how such efforts can succeed.

In *Disposable People*, Kevin Bales suggests that the global economy has altered the nature of slavery and human trafficking, decreasing the value of individual slaves and rendering them easily replaced.<sup>205</sup> *Trokosi* women are also fungible, but based on more subtle economic factors—spiritual debt has not been globalized in the same way as most other interactions. Consequently, some of Bales suggestions for combating human trafficking seem less relevant. However, in terms of the role of *trokosi* women in their own liberation, his insight is astute. Bales argues, “[m]ost slaves have to look to themselves for salvation. In the fight to eradicate slavery, we must consider the action of slaves freeing themselves.”<sup>206</sup> Westerners can contribute to abolishing *trokosi* but they cannot drive the process. *Trokosi* women and former *trokosi* women must be the primary force behind the effort. External advocates need to support these women rather than focus on their own efforts. Only women like Patience can speak with the authority of experience and cultural legitimacy. Moreover, the leadership of those who have personally experienced *trokosi* highlights the autonomy regained in their liberation and serves as an example of the feasibility of alternatives to the practice. Other efforts are easily labeled neo-colonial or unrealistic and cast aside. Bales also highlights the need to assist liberated slaves in the transition to freedom and the numerous psychological, financial, and emotional issues it entails.<sup>207</sup> This is as true for *trokosi* women as for any other victims of different types of slavery. The following section will address these issues.

Sigma Huda’s 2007 report argues that combating forced marriage, including practices like *trokosi*,<sup>208</sup> must involve more than criminalization.<sup>209</sup> “In order to eradicate forced marriages in the context of trafficking in persons, especially women and girls, it is essential to target the demand for . . . sexual exploitation, forced labour or services, slavery or practices similar to slavery.”<sup>210</sup> The Palermo Protocol calls on States to “adopt or strengthen legislative or other measures . . . to discourage the demand”<sup>211</sup> and the Beijing Platform urges States “to address the root factors” of such prac-

205. See BALES, *supra* note 43.

206. *Id.* at 253.

207. See *id.* at 252-58.

208. Huda, *supra* note 121, ¶ 28.

209. See *id.* ¶ 63 (including recommendations intended to minimize the demand for forced marriages and campaigns aimed at highlighting its harmfulness).

210. *Id.* ¶ 49.

211. Palermo Protocol, *supra* note 56, art. 9(5).

tices.<sup>212</sup> But it is unclear precisely what this would look like in the Ghanaian case. How does one address the root factors of a practice that is situated within a firmly held religious belief without undermining the validity of such belief? There are economic and sexual aspects to the practice, as well as strong notions about atonement and sin rooted in a distinct worldview. It is hard to imagine altering these notions without fundamentally transforming the metaphysical construct on which they rest. Yet, if there is the potential to find alternative mechanisms for satisfying the spiritual needs of the community and which resonate within their worldview, the practice of *trokosi* might seem less essential.

Yakin Ertürk describes the NGO, International Needs Ghana (“ING”), as operating with the “cooperation and consent of affected communities.”<sup>213</sup> According to their own website, ING is a Christian organization focused on community development, including the elimination of *trokosi*.<sup>214</sup> As Ertürk explains, the organization rewards communities that participate through other development projects, including schools and boreholes.<sup>215</sup> In addition, they try to present alternative mechanisms for atonement. Rather than requiring the provision of young girls, ING urges priests to accept other forms of payment—livestock or cash.<sup>216</sup> When a *trokosi* woman is liberated, they perform a ritual to mark the occasion and signify the end of her spiritual bondage.<sup>217</sup> It provides a tangible praxis that resonates within the community’s traditional worldview. As of 2003, ING claimed to have successfully secured the freedom for nearly three thousand *trokosi* women, making a sizeable dent in Ghana’s *trokosi* population.<sup>218</sup> The success of ING has less to do with the strong legal framework that Ghana has put in place than with their willingness to engage local communities and address the endogenous roots of the practice. It implicitly recognizes the fluid nature of traditional practices and the possibility of reframing them to comply with human rights norms while still retaining their resonance within the local framework.

Again, FGC is instructive. International efforts to combat FGC provide insight into which strategies are most effective in reshaping traditional practices. In 2013, the Population Reference Bureau, a U.S. based NGO working on population and health issues, examined numerous strategies used in the campaign against FGC and highlighted a number of particu-

---

212. Beijing Declaration and Platform for Action ¶ 130(b), Sept. 15, 1995, endorsed by G.A. Res. 50/203 (Dec. 22, 1995).

213. Ertürk, *supra* note 3, ¶ 50.

214. See *About*, INTERNATIONAL NEEDS GHANA, [http://internationalneedsggh.org/gh/?page\\_id=1797](http://internationalneedsggh.org/gh/?page_id=1797) [<https://perma.cc/D2LQ-Y4Y3>] (last visited Feb. 14, 2018).

215. See Ertürk, *supra* note 3, ¶ 50.

216. See *id.*

217. See *id.*

218. See Rinaudo, *supra* note 10, at 5–6 (It is estimated that between six and seven thousand *trokosi* women inhabit the Volta region of Ghana and some thirty thousand live in all Ghana, Togo, and Benin.).

larly effective tactics.<sup>219</sup> Among these were establishing alternative rites of passage, employing positive deviance, and creating safe houses for girls fleeing the practice.<sup>220</sup> Corollaries to these strategies exist within the fight against *trokosi*. ING in particular has attempted to provide alternative rituals capable of replacing the practice, as well as providing safe houses and rehabilitation for former *trokosi* women.<sup>221</sup> Such practices can serve as examples for religious sites that abandon the practice in the future or families who refuse to offer their daughters as *trokosi*. In addition, the Population Reference Bureau identified several emerging strategies with significant promise.<sup>222</sup> They clustered around three broad categories:

[1] The centrality of social norms—what communities believe and how they act and expect the members of that community to act . . . [2] A wide range of actors play pivotal roles in the abandonment of FGM/C—men, women, grandmothers, boys, girls, and community, religious, and political leaders. [and] [3] The focus must be holistic, integrated, multisectoral approaches that bring together the advocacy, policy-level work, and community-level transformation of social norms.<sup>223</sup>

Such strategies succeeded despite the tension between international human rights norms and traditional practices because they focused on addressing the issue in a way legal frameworks cannot. Furthermore, they suggest that meaningful engagement with local communities could be similarly effective for combatting *trokosi*.<sup>224</sup>

### B. Remedies & Resources for Victims

In addition to eliminating the practice of *trokosi*, efforts should also be made to assist those women recently liberated. The Human Trafficking Act requires the government to “provide temporary basic material support for the care and protection of a rescued victim of trafficking.”<sup>225</sup> Additionally, the government is directed to provide counseling and rehabilitation, including job training and starting capital.<sup>226</sup> To pay for these services, the Act establishes a fund that draws on the financial support of governmental

219. See POPULATION REFERENCE BUREAU, *supra* note 180.

220. See *id.* at 8-9.

221. See Ertürk, *supra* note 3, ¶ 50.

222. See POPULATION REFERENCE BUREAU, *supra* note 180, at 9-15.

223. *Id.* at 10.

224. Another example of how to successfully address cultural practices that negatively affect women, is the campaign against footbinding in China—a historically well-established practice. Opponents were able to virtually eliminate the practice within a generation through engagement with its practitioners. See generally Gerry Mackie, *Ending Footbinding and Infibulation: A Convention Account*, 61 AM. SOC. REV. 999 (1996).

225. Human Trafficking Act, *supra* note 78, § 15(1).

226. *Id.* §§ 16 and 18.

allocations, external donations, and seized property.<sup>227</sup> Similarly, the Domestic Violence Act establishes a fund to be used for the “basic material support” and “rescue, rehabilitation, and reintegration of victims of domestic violence.”<sup>228</sup> However, Special Rapporteur Gulnara Shahinian indicates that the capacity to satisfy these promises is limited; the few government shelters and services available tend to be ill-equipped.<sup>229</sup> It is unclear if this is due to a lack of government funding or to the diversion of resources to other activities. Private NGOs seem to be having greater success providing these services.<sup>230</sup> Their success is due, at least in part, to a holistic approach, ensuring “all people in need and their communities have meaningful participation, inclusion, equality, security and dignity.”<sup>231</sup> Which leads one to wonder if the Ghanaian government would be better off simply channeling resources to these organizations.

Beyond rehabilitation, former *trokosi* women are also entitled to compensation. The Human Trafficking Act explicitly provides for restitution “in addition to any other punishment.”<sup>232</sup> The language of the statute suggests that compensation is mandatory,<sup>233</sup> yet instances of a court awarding restitution or even convicting a *trokosi* practitioner are difficult to find.<sup>234</sup> Arguably, pressure could be applied to the Ghanaian government to prosecute and convict more perpetrators because the practice is explicitly criminalized in domestic law.<sup>235</sup> In 2016, the Ethiopian government was ordered to pay \$150,000 USD to the victim of a forced marriage by the African Commission on Human and Peoples’ Rights.<sup>236</sup> Woineshet Zebene Negash had been kidnapped, raped, and forced to marry her captor.<sup>237</sup> The perpetrator was initially convicted but the ruling was later overturned based on the erroneous reading of Ethiopian law to require Woineshet to establish that she was a virgin at the time of the rape.<sup>238</sup> The African Commission determined that Ethiopia had “failed to provide a ‘decent system of justice’” and must compensate Woineshet as a result.<sup>239</sup> One wonders if the African Commission could be used to apply similar pressure on the Ghanaian government.

---

227. *Id.* §§ 20-22.

228. Domestic Violence Act, *supra* note 110, § 31.

229. *See* Shahinian, *supra* note 60, ¶ 24.

230. *See, e.g.*, Rinaudo, *supra* note 10, at 5-6.

231. *Id.* at 6.

232. Human Trafficking Act, *supra* note 78, § 19(3).

233. *See id.* § 19(1) (“A person convicted of the offence of trafficking *shall* be ordered by the court to pay compensation to the victim of the trafficking.”) (emphasis added).

234. *See* This could be due in part to the limited prosecution. *See supra* text accompanying notes 87-90.

235. *See* Criminal Code, *supra* note 76, Art. 314 and 314A.

236. Faiza Jama Mohamed, *Ethiopia To Pay \$150,000 in Landmark Case of Girl Abducted and Raped 15 Years Ago*, THOMSON REUTERS NEWS (Mar. 10, 2016), <http://news.trust.org/item/20160310084946-lv4fy> [<https://perma.cc/RH8B-A7YS>].

237. *Id.*

238. *Id.*

239. *Id.*

Regardless of the Ghanaian government's pursuit of criminal charges, former *trokosi* are entitled to seek damages from offenders. The Human Trafficking Act states, "[t]he institution of a criminal charge arising from acts of trafficking is in addition to and does not affect the rights of a victim to pursue a civil claim for damages."<sup>240</sup> The Domestic Violence Act also explicitly allows for civil damages.<sup>241</sup> The assistance of NGOs and pro bono lawyers would make the possibility of a successful civil claim more realistic and potentially establish a mechanism to pay for the costs of reintegration that the Ghanaian government is either unwilling or unable to provide.

### CONCLUSION

The example of *trokosi* provides insight into the tension that can exist between human rights frameworks and traditional practices, as well as the challenge for reconciling individual and collective rights. When human rights fail to resonate and take hold in communities that undertake traditional practices, it may not necessarily be due to the incompatibility of fundamental values. Instead, it may be the result of the frameworks used to understand those values. If this is the case, the universality of the human rights project remains possible. However, it will remain impotent to address traditional practices harmful to women and children unless it learns to adapt its method of analysis to adequately engage the norms and values of the communities that value these traditional practices. The establishment of domestic law, even if robust and extensive, will not suffice if it lacks political will and legitimacy in the communities in which it is intended to operate. Instead, the measured success in combatting *trokosi* by organizations like ING is a testament to the potential efficacy of a more nuanced engagement.

---

240. Human Trafficking Act, *supra* note 78, § 39.

241. Domestic Violence Act, *supra* note 110, § 26 ("The institution of a criminal charge arising from acts of domestic violence shall be in addition to and shall not affect the rights of an applicant to seek a protection order under this Act.") and § 27 ("Proceedings under this Act shall be in addition and shall not derogate from the right of a person to institute a civil action for damages.").