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Anti-*Trokosi* Campaign: Proposals for the Re-Formulation of Legislative Solutions

*Cindy Tsz-Nga Ko*

I. INTRODUCTION

Throughout history, women and children have suffered appalling atrocities such as wartime rape, sex trafficking, and slavery due to their lower social status in society. The *trokosi* system, which bears all the hallmarks of slavery, is a cultural practice of ritual servitude that exploits vulnerable women and children on the preface of judicial necessity to appease the gods. Though proscribed in both international and regional legislation, this practice prevails in several regions of Ghana.\(^1\) It is estimated that there are approximately 10,000 girls who are forcibly held at the fetish shrines.\(^2\) In accordance to international customary law and widespread agreement within the international community, the cultural practice of *trokosi* is considered to be a form of modern slavery and gender based violence, and thus a violation of children’s and women’s rights.\(^3\) However, those against this notion contend that this practice is justified on the argument of cultural relativism.\(^4\) This essay seeks to examine the justifiability of the *trokosi* system based upon a cultural practice argument. It will be

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3 Sandra E. Greene, ‘Modern "Trokosi and the 1807 Abolition in Ghana: Connecting Past and Present’ (2009) 66 The William and Mary Quarterly 959, 960
contended that human rights are universal and thus should apply, despite the practice of *trokosi* being a cultural tradition. To begin with, the definition of *trokosi* and the roles of these victims will be outlined. I will then demonstrate how the *trokosi* system is framed as a human rights issue by examining legislative measures such as international human rights instruments, African regional instruments, and local legislation of Ghana taken to combat the prevalence of the practice. The claim that the *trokosi* system is a protected cultural practice will be analyzed to demonstrate the lack of justification to continue this observance. It will be examined why this system remains as a prevalent underground issue. Finally, suggestions to enhance legislative measures to effectively liberate all victims from the fetish shrines and facilitate a successful rehabilitation process will be offered.

**II. The *Trokosis’ Human Rights***

The *trokosi* system is mainly prevalent in the Volta Region of Ghana but also exists in other areas. As this practice was founded upon Ewe traditions, the term *trokosi* is composed of two Ewe words, ‘tro’ and ‘kosi’ which essentially translates to slave of a deity or a fetish slave. *Troquis* are virgin prepubescent girls who are typically offered to a war god or deity to redress offences performed by family members. This practice acts as a type of administrative justice to maintain law and order within the society. It was traditionally associated with promises made with divinity during wartime to seek victory. In the contemporary, the practice is primarily invoked to placate the gods during instances of reported offences to the fetish shrines. Parents may also voluntarily offer their children to the shrine due to the prestige of the deity and the professed benefits connected with shrine affiliation, as well as the acts of births of recovery of illness accredited to divine involvement. Depending upon the perceived severity of the committed crime, females may remain at shrines from a period of several years to a lifetime. In the majority of cases, upon the death of a *trokosi*, the family must find a replacement girl to continue serving the shrine.

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5 Gadri (n 1) 5
6 Parrot and Cummings (n 2) 51
7 Gadri (n 1) 23
8 Gadri (n 1) 12
9 Greene (n 3) 960
10 Gadri (n 1) 23
11 Gadri (n 1) 27
A. Trokosi - A Human Rights Issue

The trokosi system is considered to be a violation of universally established human rights. As the procedure is often performed on female children who lack consent in this matter, it is considered a violation of the rights of children. The framing of trokosi as a human rights issue is to deem this practice as a violation by governments and societies upon the moral and political claims of women and children. Provisions in the Charter of the United Nations\(^\text{12}\), the Universal Declaration of Human Rights\(^\text{13}\), the International Covenant on Economic, Social, and Cultural Rights (ICESCR)\(^\text{14}\), and the International Covenant on Civil and Political Rights (ICCPR)\(^\text{15}\) are deemed to support the notion that the trokosi system should be eliminated. While documents such as these general instruments do not explicitly condemn trokosi, they are interpreted to deem the practice as a violation of recognized human rights.

B. Gender Discrimination

The subjection of non-consenting females to this practice violates rights constitutes as an infringement of women’s right to be free from all forms of discrimination. Article 1 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) defines discrimination against women as ‘any distinction, exclusion, or restriction made on the basis of sex that hinders a women’s ability to enjoy her human rights equally with men’.\(^\text{16}\) Trokosi is deemed to be based on sex distinctions as only females are subjected to this practice. Furthermore, it results in the impairment of equal enjoyment of rights by women. In particular, the continuation of the trokosi system sends the message that the roles of women are restricted to serving the sexual and non-sexual whims of men, which reinforces women’s subordination in economic, political, social, and cultural realms. Thus, this practice can be considered as a form of gender discrimination. This is a reflection of the fundamental principle of the prohibition against gender discrimination set out in numerous human rights instruments including the CEDAW.

\(^{12}\) Charter of the United Nations, adopted 26 June 1945, entered into force 24 October 1945, 1 UNTS XVI

\(^{13}\) Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR)


\(^{15}\) International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR)

\(^{16}\) Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW) art 1
C. Infringement of the Right to Life and Physical Integrity

The Human Rights Committee of the United Nations has expressed the need for a broad interpretation of the right to life.\footnote{17 United Nations Human Rights Committee, General Comment 6: The Right of Life (Art. 6): 30 July 1982 HRI/GEN/1/Rev.9 (Vol. I) p.176} The protection of this article should extend to the imposition of a duty on states to adopt positive measures. The right to physical integrity incorporates other human rights standards such as the right to privacy, right to the inherent dignity of the person, and the right to liberty and security of the person.\footnote{18 Anika Rahman and Nahid Toubia, Female Genital Mutilation: A Guide to Laws and Policies Worldwide (Zed Books Ltd, London 2000) 23} As the trokosi system includes acts of violence that result in serious bodily harm in the form of non-consensual intercourse, this traditional system undoubtedly impedes a person’s right to life and physical integrity.\footnote{19 Gadri (n1) 26} Furthermore, it is implicit in the right of physical integrity that a person should have the ability to formulate independent decisions regarding one’s body. The liberty and security interests of women are violated as these principles are encompassed in the right to physical integrity. Even those females who have left the shrine may still be subjected to infringements upon their right to physical integrity due to a traditional demand called fiadomenyni.\footnote{20 Ibid. 26} This mandate requires even married trokosis who have left the shrine to return and have sexual intercourse with the new priest for a duration of three months upon the death of a priest and the enthronement of another. As trokosi is based upon the perception that the bodies of women are violable at the will of men, it does not respect women’s inherent dignity. Furthermore, the privacy rights of women are infringed upon as their sexuality is violated.

\[\text{D. Infringement of the Right to Health}\]

This cultural practice is a violation of the right to enjoy ‘the highest attainable standard of physical and mental health’ as set out in article 12 of the ICCPR.\footnote{21 ICCPR (n 15) art 12} Girls living at the shrines are forced to labor in harsh conditions in excess of 12 hours a day with minimal food and
Moreover, *trokosis* are subjected to depraving conditions including whippings and starvation when minor offences such as inability to perform farm labor and waking up late are committed. The enslavement of girls at the fetish shrines and forced sexual intercourse with priests constitutes as an infringement upon women’s right to enjoy a satisfying and safe sex life. As priests with more children are deemed to have a higher status, many *trokosis* are compelled to continually bear children starting at a young age. These forced pregnancies performed for the sole benefit of the priest is detrimental to the *trokosis* as child bearing is extremely strenuous for their bodies.

**E. Infringement of the Rights of the Child**

As children are deemed unable to protect themselves adequately, states are held responsible to safeguard the rights of children set out in the Convention on the Rights of the Child (CRC). Furthermore, article 3 asserts that governments shall be guided by the belief that ‘the best interests of the child shall be a primary condition’. These guarantees are breached as females as young as five years of age are reportedly forced to become *trokosis*. Slaves of the deity are denied the right to formal education, separated from their parents, subjected to sexual and physical violence, forced to perform ritual labor without compensation, stripped of their identity, and frequently deprived of adequate food and shelter.

**F. African Regional Human Rights Instruments**

Regional and national documents, such as treaties and legislative acts, take into account the sensitivities in that particular area and further explicate the protection of human rights already enshrined in international instruments. It is thusly a useful exercise to examine them in greater detail. The African Charter on Human and Peoples’ Rights (African Charter) contains

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22 Parrot and Cummings (n 2) 51
23 Gadri (n 1) 24
24 Ibid. 23
25 Parrot and Cummings (n 2) 51
27 Gadri (n 1) 2
similar provisions to international instruments that stress the protection of women’s rights such as the right to be free from gender discrimination, the right to life and physical integrity, and the right to health. The relevant provisions regarding the rights of children are set out in the African Charter on the Rights and Welfare of the Child (ACRWC). More specifically, article 5 regarding the elimination of harmful practices in the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa explicitly states that state parties to the treaty must proscribe and condemn all types of harmful practices that disadvantageously affect the human rights of women. According to the African Union, there are 53 countries that are eligible to sign the Charter. From these state parties, 38 are signatories and 15 have ratified this Protocol. These rights, which are also set out in international instruments, shall be protected by state parties.

**G. Local Legislation in Ghana**

All types of ritual labor have been banned in June 1998 with the passing of the Criminal Code of 1960. Moreover, section 314A of the current Criminal Code (Amendment) Act 2003 states:

(1) Whoever—
(a) sends to or receives at any place any person; or
(b) participates in or is concerned 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 commits an offence and shall be liable on conviction to imprisonment for a term not less than three years.

Thus, this legislation explicitly criminalizes the *trockosi* system. Other legislation such as the Children's Act 1998 supports the abolishment as the practice contravenes fundamental

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34 Criminal Code (Amendment) Act, 2003 (Act 646) s. 314A(1)
rights that children are entitled to under the national legislation.\textsuperscript{35} This Act proscribes that the best interests of children, who are persons under 18 years of age,\textsuperscript{36} must be the utmost concern in any relevant matters.\textsuperscript{37} Furthermore, children should be allowed to grow up with their parents\textsuperscript{38} and other such parental duties and responsibilities are set out in section 6 of the Act.\textsuperscript{39} The \textit{trokosi} system also interferes with other rights such as right to education and wellbeing,\textsuperscript{40} as well as the right to refuse betrothal and marriage\textsuperscript{41} which arguably applies as \textit{trokosi} are considered as the wives of the god.\textsuperscript{42} Children are entitled protection from exploitative labor\textsuperscript{43} and protection from torture and degrading treatment inclusive of any ‘cultural practice which dehumanises or is injurious to the physical and mental well-being of a child’.\textsuperscript{44} However, further amendments to the already comprehensive legislation will doubtfully extend protection to the victims of the \textit{trokosis} system if other aspects are unchanged.\textsuperscript{45}

### H. Universalism versus Cultural Relativism

For those who proclaim that human rights are not universal, \textit{trokosi} as a cultural practice is justified on the basis of cultural relativism. For example, Jacques Derrida, the founder of deconstructionism asserts that nothing is universal as there is no basic principle, no right or wrong, no rights, and no god.\textsuperscript{46} What genuinely exists is the reality that people experience. This theory is an antithesis to naturalism which avers that there are universal rights that people are entitled to on the basis of a common, shared humanity. Deconstructionism and legal positivism propose that people are only entitled to the rights explicitly protected by the

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\textsuperscript{35} Act of the Parliament of the Republic of Ghana Entitled the Children's Act 1998
\textsuperscript{36} (n 35) s. 1
\textsuperscript{37} Ibid. s. 2(1)
\textsuperscript{38} (n 35) s. 5
\textsuperscript{39} Ibid. s. 6; These responsibilities and duties rigorously apply with the exception of when the parent has surrendered his rights and responsibilities in accordance with law.
\textsuperscript{40} Ibid. s. 8
\textsuperscript{41} Ibid. s. 14
\textsuperscript{42} Gadri (n 1) 26
\textsuperscript{43} (n 35) s. 12, s. 87
\textsuperscript{44} Ibid. s. 13
The human rights regime was founded upon the principles of naturalism in the belief that human rights should be universally applied. In contrast, Derrida’s theory places primacy on cultural relativism and argues that universality is only a product of a certain world view which is determined through that particular cultural traditional region. He proclaims that the universal human rights regime is limited to its own cultural tradition and view. Consequently, the application of universal human rights is a type of cultural imperialism. Applying the argument of cultural relativism, Trokosi is considered valid and not as a violation of human rights as there is no such notion as basic rights. The ‘correctness’ of this practice would then be dependent on a cultural standpoint. However, the theory of cultural relativism is flawed as it is just as limited by provincialism. If everything is deemed to be governed by the local culture, then the universal oxymoron of ‘nothing is universal everywhere’ arises.

I. Right to Culture

Some advocates of trokosi assert that rights to continue this practice are enshrined in international human rights instruments. The right most contended by supporters is the right to culture. This right is protected in various human rights instruments such as the UDHR\(^{48}\) and the ICESCR\(^{49}\). The sense of community and the preservation of different cultures are very strong in Africa as many states were previously colonized. The African Charter is the only regional instrument that includes ‘people’s rights’ in the title as a cultural emphasis on communal rights. Articles 19 to 24 specifically address the rights of communal groups such as the right to individual culture free from interference.\(^{50}\) In addition, the Cultural Charter for Africa was created specifically to accentuate the importance of cultural rights.\(^{51}\) The preamble of the Charter states that it is ‘convinced that all the cultures of the world are equally entitled to respect just as all individuals are equal as regards to equal as regards free access to culture’.\(^{52}\)

\(^{47}\) Ibid.
\(^{48}\) UDHR (n 13) arts 27(1), 30
\(^{49}\) ICESCR (n 14) arts 5(1), 15(1)(a)
\(^{50}\) African Charter (n 29) arts 19, 20, 21, 22, 23, 24
\(^{52}\) ACRWC (n 30) preamble
It is noteworthy that rights recognized and promoted in the international human rights systems at times come in conflict. Even though the right of people to enjoy and develop their cultures is globally recognized, this right is restricted by the obligation of states to sustain other fundamental rights.\(^{53}\) The UDHR and the ICESCR contain general clauses that assert that no rights recognized should be construed to destroy any other right. International human rights documents subsequently created such as the Declaration of the Principles of International Cultural Co-operation\(^{54}\) and the Declaration on Race and Racial Prejudice\(^{55}\) affirm that cultural rights should be protected to the extent that they follow the principles of human rights and fundamental freedoms. Furthermore, article 29(7) in the African Charter avers to ‘preserve and strengthen positive African cultural values’, and not all cultural practices.

The *trokosi* system is widely considered to be a type of violence that infringes upon women’s and children’s rights, the right to health, and the right to physical integrity. Consequently, the right to participate in cultural life does not legitimize the protection of *trokosi*. The human rights regime is to dissuade people from adopting discriminatory practices and notions. The discourse of discrimination is naturalized as it is deeply entrenched in all aspects of society. This argument is exemplified in article 5 of CEDAW, which states that it is the obligation of the government to eradicate customary practices that formulated upon the notion of gender inferiority or superiority by changing social and cultural patterns of conduct.\(^{56}\)

### J. Rights of Minorities

Another right that may be proclaimed to support the maintenance of the *trokosi* system is the rights of minorities as some groups that are engaged in this practice are minority ethnic groups. In these instances, decisions to eradicate the system would be argued as a violation on the autonomy of minorities as they denied the ability to refute the majority’s decision.

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53 Rahman and Toubia (n 18) 32
54 Declaration of the Principles of International Cultural Co-operation (adopted on 4 November 1966 General Conference of UNESCO at its fourteenth session, Paris) arts I(1), XI(2)
55 Declaration on Race and Racial Prejudice (adopted 27 November 1978 General Conference of UNESCO at its twentieth session, Paris) art 5
56 CEDAW (n 16) art 5
The protection of minority rights is preserved in the ICCPR\textsuperscript{57} and in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Rights.\textsuperscript{58} However, similar to cultural rights, the protection of minority rights must not contravene with other internationally established fundamental human rights.\textsuperscript{59}

**K. Right to Religious Freedom**

Stemming from long-standing custom, some communities in Ghana believe that the *trokosi* practice is a religious requirement to avert the wrath of gods.\textsuperscript{60} These communities then perceive abolishment movements as infringements upon their right to religious freedom. As noted in reference to rights to culture and the rights of minorities, the right to religious freedom does not validate the practice as the detriment posed to *trokosis* and their children outweighs this right. Religion is utilized to validate the sexual exploitation of *trokosis* stemming from their supposed inferior complex, the superseding desires of the family or community, and the need to exercise power over females.\textsuperscript{61} Females who do not wish to be deity slaves should be free to exercise their religious freedom and not be compelled by religious leaders to do so.

**L. Validity of Construing *Trokosi* as Rights**

The rights discussed above (right to culture and religious freedom, and the right of minorities) are not valid arguments for the continued practice of having *trokosi*. The international human rights regime has explicitly contended that while all rights are universal, they are not all absolute in their application to various cultures. Consequently, prescribed limitations are acceptable to protect rights that are more fundamental. To contend that the *trokosi* system should rightly be maintained to preserve cultural tradition despite the apparent harm it creates

\textsuperscript{57} ICCPR (n 15) arts 3, 27
\textsuperscript{58} Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (adopted 18 December 1992 UNGA Res 47/135) art 2(1)
\textsuperscript{59} Ibid art 8(2), ICCPR (n 15) art 5(1)
\textsuperscript{60} Gadri (n 1) 12
\textsuperscript{61} Parrot and Cummings (n 2) 48
for females is not a valid argument. There are universally accepted principles that the condemnation of female enslavement prevails over cultural tradition.

When considering how to resolve conflicting rights between those of cultural interests and individual human rights protection, it is crucial to recollect how the notions of community or cultural values are formulated. Community values, which may appear strong, homogenous, and uncontroversial, may only take on this façade as some people may have been ‘excluded from community debate, had their interests or claims discounted, or have been devalued in some other way’. The international human rights regime is oriented towards the protection of all persons in society. This is a balancing act where a hierarchy is established in which the protection of basic inviolable rights is prioritized. As such, customary international law is concerned with coercion methods used to illegitimately induce people to embrace, amend or discard a cultural practice for the purpose of saving, preserving or reinforcing a typically dominant culture. For instance, this principle is enshrined in article 18(2) of the ICCPR. Accordingly, the universal human right of individual sovereignty safeguards a female’s choice to reject any aspect of her culture that would compel the practice of trokosi.

III. WHY TROKOSI PREVAILS IN GHANA DESPITE LEGAL PROHIBITION

A. Claim to Protected Cultural Practice

As discussed above, cultural rights are of extreme importance in African nations. Many people are cautious against the effects of globalization, as they fear perceived attempts on altering their culture. Thus, they emphasize traditional practices and attempt to remain impervious to all outside influences, including international human rights norms that do not fit into their cultural framework. The lack of education of the local people is a crucial factor which led to the prevalence of the overriding harmful cultural practice. It was

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62 Ibid. preface xiii
63 Stephen A. James, ‘Reconciling International Human Rights and Cultural Relativism: the Case Of Female Circumcision’ (1994) 8(1) Bioethics 6, 22
64 Ibid. 22
65 ICCPR (n 15) art 18(2)
66 Aikman (n 73) 9
67 Gadri (n 1) 20
claimed that Troxovi, the god of the local people, disapproved of missionaries and forbade their entry into the community including the location of the shrines.

Contrary to perceiving trokosi as a harmful practice and constituting as a violation of several fundamental human rights, some argue that this practice is a vital cultural tradition that should be protected. Those who support the trokosi scheme aver that this practice dates back to the seventeenth century and commenced when the Ewe people first populated Ghana. Written and oral sources demonstrate that religious rituals involving punishment have existed and thus the judicial system of trokosi had been in place at that time.

Advocates of maintaining this system either interpret human rights instruments with an emphasis on the protection of cultural rights and human dignity, or concede that human rights are not universal. Essentially, this group is claiming the validity of the prevalent practice through the argument of multiculturalism. Multiculturalism is the coexistence of different cultures under a general scheme in the same society, and the peaceful observation of everyone’s right to be different within certain parameters. Advocates of the system, including Dr. Sammy Dartey-Kumordzie, Osofo Kofi Ameye and the African Renaissance Mission contend that this custom is a vital aspect of African Traditional Religion (ATR) and culture and its legitimacy originates from the Ghanaian Constitution. Consequently, the right to freedom of religion should be constitutionally upheld.

Furthermore, it is contended that people who are outside these realms do not have the right to impose their personal values upon other cultures. Supporters of ATR deem human rights as foreign concepts which contradict traditional African values which have a tendency to emphasize group values and overriding cultural customs. As the majority of previous campaigns that sought to eliminate the trokosi system were led by Christians, trokosi supporters claimed that these actions were religious attacks.

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68 Parrot and Cummings (n 2) 51
69 Gadri (n 1) 20
70 Ame (n 4) 53
71 Greene (n 3) 921
72 Ibid. 968
73 Peter Aikman, ‘Female Genital Mutilation: Human Rights Abuse or Protected Cultural Tradition?’ (2001) Health Science Journal 9
74 Ame (n 4) 53
75 Ibid. 54
B. Communal Fear

In communities where the *trokosi* system is practiced, the local people strongly contend that the observance is necessary to avoid the wrath of gods which may lead to mysterious deaths and misfortunes in their family. Religion is deeply entrenched in African society and permeates every aspect of peoples’ lives. It is considered a way of life as it plays a foundational role in culture, identity, and moral values. Hence, the abandonment of the *trokosi* system, which is a time-honored traditional religious practice, is met with resistance by the local community. Liberated *trokosis* may be compelled to return to the fetish shrines to continue their atonement for the acts of their forefathers. This perpetual fear thus enables the practice to continue despite legal prohibition.

C. Lack of Legal Enforcement

Prior to the criminalization of the *trokosis* system, non-government organizations (NGOs) would provide lavish compensation to priests, shrine owners, and elders for the liberation of females from the fetish shrines. As a result, many *trokosi* were successfully liberated. However, as a reaction to anti-*trokosi* legislation, these NGOs have abolished such support. Without such incentives, those who uphold the *trokosi* system are reluctant to abolish this traditional practice since such people reap economic benefits from the labor of *trokosis*. According to Robert Ame who has conducted interviews with representatives from NGO anti-*trokosi* campaigns, these NGOs believe that the success of their operations is not a result of the legislation. Although the law assists in negotiations to free the *trokosis*, this tactic has little effect as there have been no charges or prosecutions since the enactment of the legal prohibition. Since the enslavement of girls at shrines is generally known, the heart of the issue points to the lack of enforcement of the legislation. As discussed, extensive legislation has been passed to guarantee the abolishment of the practice. However, mere passage of these legislation have proven to be ineffective.

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76 Mensah and Godwyll (n 28) 39
77 Ibid. 42
78 Ame (n 4) 66
79 Parrot and Cummings (n 2) 51
80 Ame (n 4) 66
The lack of enforcement by responsible law officials and the transfer of responsibility to local NGOs largely stems from the perpetuated fear of retaliation by the Troxovi deity and the shrine. As politicians and officials at law enforcement agencies are also typically local citizens, they are also instilled with the same fear as ordinary citizens. Aside from this belief, politicians and academics may be biased from personal sentiments and publicly advocate for the maintenance of the practice due to its cultural significance. This is explicated by the fact that the first government official in support of the abolishment of the practice was a non-local person. Mr. Sylvester Clarke, who was the Major of Adidome, lacked the ingrained fear that plagued the local officials. Thus, only marginal efforts to eradicate the trokosi system have been taken by the Ghanaian government following the establishment of the legislation. Prosecuting bodies such as communal police officers are reluctant to enforce the law and arrest those suspected of continued engagement with the trokosi system. Moreover, there have been minimal attempts at ensuring the indefinite liberation or rehabilitation of the victims.

This issue is recognized by the government as demonstrated in an official report issued in 2000 by the Ghanaian government. Upon being questioned about the application of the anti-trokosis law, the Minister of Social Welfare averred that education was more imperative than legal sanction. It was disclosed that the government agreed that NGOs would perform the majority of the work as they are better suited to resolve this issue. As acknowledged by the government, it is not anticipated that the legislation will play a big role in the eradication of the trokosi practice as the authorities lack the will to enforce the legislation. It seems like the enactment of the law was merely a response to public pressure and serves as an empty promise in which the government can assert that the issue has been addressed.

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81 Mensah and Godwyll (n 28) 42
82 Ibid. 76
83 Ibid, 42
85 Ibid.
IV. PROPOSED LEGISLATIVE IMPROVEMENTS TO ADDRESS TROKOSI

Legislation formulated for eradicating the *trokosi* scheme have only been nominally effective as most laws created were the result of external pressure. They do not adequately reflect the aspiration of local people to eliminate the cultural practice nor does the government have the willpower to enforce the law. It is contended that legislation and international sanctions that strictly forbid *trokosi* without imposing additional measures will merely assist in strengthening the resolve of the traditional justification while making the practice more secretive. Although the rights of minorities, the right to culture, and the right to religious freedom do not justify the allowance of offering prepubescent girls to fetish shrines, states need to demonstrate a sensitive awareness of possible detriment to these rights when planning strategies to eradicate the practice. It is suggested that a stronger focus should be placed on changing the conditions that foster the practice instead of emphasizing the imposition of criminal sanctions upon perpetrators. It is not implied that all cultural aspects should be altered. Instead, there should be an emphasis on formulating traditional support systems for women in the family and approaching the problem in a culturally appropriate manner.

Further legislation should be implemented to specifically target the lack of education on this issue. Government officials, shrine owners, priests, and *trokosi* victims should receive education in order to appreciate the harmful effects of the practice and how cultural traditions can still be maintained without the aspect of the *trokosi* system. As NGOs have proven to be competent in approaching the local people at a grassroots level, the government can collaborate with NGOs to ensure that such education and other services will be adequately provided. Another advantage of this collaboration would be the relatively low amount of government funding required to issue this project.

A reasonable timeframe should be established for the dismantlement of all fetish shrines. If shrines do not comply with the request within the designated time, sanctions should be imposed. More extensive collaboration with NGOs should be performed by the government to ensure that the practice is not being pushed underground and if so, how can

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86 Ame (n 4) 46
87 Ibid. 46
88 Ibid. 47
90 Ame (n 1) 71
these illegal shrines be located. Public emancipation rituals, which were previously advocated by NGOs, have been successful in ensuring the sustained liberation of *trokosi*.92 These rituals which may take the form of vows, prayers, and pledges are conducted by the priests of fetish shrines. They act as a public denouncement of the practice and assure the victim and their families that the *trokosi* are indefinitely liberated. Aside from granting physical freedom, the spiritual liberation of the *trokosis* is essential as many liberated *trokosis* are afraid that their actions would anger the gods. Without these liberation ceremonies, many *trokosis* would feel compelled to continue providing offerings to the fetish shrines. This act of commitment to abolishing the practice raises public awareness of the issue and the public can monitor the activities of the priests.

Although legislation already criminalizes ritual servitude and the role of soothsayers in section 314A(1)(a) of Ghana’s Criminal Code (Amendment) Act,93 it seems that there have been no prosecutions of such people.94 Soothsayers who are instilled with the power to decide on appropriate measures to combat mysterious deaths and calamities in a family should be prosecuted.95 As they make initial contact with families who seek the opinion of the divine, and proscribe the entity of reparation, which is typically a girl for the purposes of becoming a *trokosi*, soothsayers play a crucial role in maintaining the cultural practice. It is postulated that there are an abundant number of soothsayers whom may operate in a league. The solution proscribed by one soothsayer is always followed by other soothsayers whom a family may consult. It is proposed that as these shrines may be located at a further distance from the homes of families that are considering seeking advice on resolving mysterious misfortunes, the prosecution of soothsayers would effectively deter the offering of prepubescent girls to fetish shrines. Families may choose to seek alternative methods to deal with the issue or their disastrous situation may improve prior to consulting a fetish shrine.

Affirmative action which entails preferential treatment for disadvantaged groups in society96 with the ultimate aim of fairness97 may be enacted for the *trokosis*. These actions

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92 Mensah and Godwyll (n 28) 55
93 Criminal Code (Amendment) Act, 2003 (Act 646) s. 314A(1)(a)
94 Mensah and Godwyll (n 28) 76
95 Ibid 37. This knowledge was obtained by the authors through a personal interview with Mr. Tsatsu Badagbor, a North Tongu District Assembly member from Mepe in the Volta Region of Ghana.
which will only be temporary measures limited in time and scope\textsuperscript{98} should be endorsed to combat the previously disadvantaged position of the liberated female slaves. Equal treatment policies, irrespective of their particular form, are necessary to ‘promote the redistribution of opportunity’.\textsuperscript{99} These special measures are sanctioned by the international community as demonstrated in article 4 of CEDAW.\textsuperscript{100} As discussed above, those victimized by the practice endure lasting consequences as they were denied the right to education and suffer from social stigmatization, thus impeding their future education and employment prospects. Many liberated \textit{trokosi} must raise their children, whom are the offspring of their shrines’ priests, without any support system. NGOs have largely been providers of services and facilities such as counseling sessions, vocational skills training programs, and rehabilitation packages to assist in the rehabilitation of \textit{trokosis}.\textsuperscript{101} Although these efforts have eased the reintegration of \textit{trokosi} into society, it fails to place the victims on equal footing with others when competing for admission into educational institutions and job positions. Accordingly, affirmative action is a necessary and justified legislative policy to rehabilitate \textit{trokosi} victims.

\textbf{V. CONCLUSION}

The abolishment of the \textit{trokosi} system incites much contention as the rights of individuals decreed by the human rights regime challenge deeply entrenched cultural practices. The usefulness of construing the \textit{trokosi} system as a human rights issue is supported in this article. The argument of this tradition as a protected cultural practice fails as the rights that supposedly safeguard this operation are in conflict with other inalienable rights. It is unfortunate that despite a large number of human rights instruments, both local and regional, that profess for the elimination of the system, the practice prevails.

In light of the appalling situations that \textit{trokosis} continue to suffer, the Ghanaian government has done little to effectively abolish this practice. A lack of political will to

\textsuperscript{98} Sowell (n 96) 3
\textsuperscript{100} See CEDAW (n 16) art 4. CEDAW art 4(1) states: ‘Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.’
\textsuperscript{101} Mensah and Godwyll (n 28) 47
enforce legislation is cited as the fundamental problem. The mere criminalization of the practice with no proposals of supporting legislation or operative alternatives has muddled efforts to transform this system. 102 Accurate statistics of deity slaves and their children who are still held at fetish shrines are needed to correctly evaluate and document the situation of the victims. 103 An elaborate methodology based on multidisciplinary research would facilitate the accurate determination of financial grants and allocation of government resources to tackle this issue. It is suggested that further collaborations with local NGOs and legislative reforms with an emphasis on prosecution of offenders and the rehabilitation of trokosis should be implemented in order to fulfill the recognition that this system is an abhorrent violation of internationally recognized human rights norms.

103 Mensah and Godwyll (n 28) 52
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