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**HUMAN TRAFFICKING IN NIGERIA: DOMESTIC AND INTERNATIONAL LEGAL  
FRAMEWORK.**

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**ABSTRACT**

*The focus of this research paper is Trafficking In Persons with Nigeria as a case study. The research was conducted using the doctrinal legal research method. The findings revealed that Trafficking In Persons seems to be the new form of slavery in Nigeria and beyond, targeting mostly young people and especially women and children from poor rural societies. The study revealed that trafficked persons are usually exposed to several hazards such as prostitution, forced labour, forced marriage, slavery, organ harvesting, and other forms of exploitation after being lured with false promises of work, marriage, and generally a better life. While traffickers are meant to be prosecuted using the instrumentality of the legal system, the facts reveal further that in most instances, it is usually friends, family, and close associates that actually take advantage of these vulnerable individuals to lure unsuspecting victims into this vice by taking advantage of such existing close relationships. The study found that factors that cause trafficking in persons by making individuals vulnerable include, but are not limited to: ignorance, greed, armed conflict, unemployment, and poverty. It was concluded that although there exists both domestic and international legal frameworks for the regulation of the menace of trafficking in persons, the reality has been that several challenges still bedevil the regulation of this vice which are not unconnected with social justice, issues such as discrimination, inequality, labour migration challenges, and general lack of care by most countries in their treatment of migrants, particularly those perceived as “illegal”. This makes trafficked individuals both vulnerable and unable to access protective services and effective remedies. It was recommended inter alia that the Nigerian government through the judiciary should ensure vigorous investigation, persecution and convicting of traffickers and their accomplices, particularly by imposing stringent sentences involving years of imprisonment.*

*Keywords: Exploitation, Forced Labour, Migration, Slavery, Trafficking.*

**Introduction**

Trafficking in human beings has become a global phenomenon which has gained momentum in recent years. It is the modern-day equivalent of slavery. Trafficking in persons is the third largest form of organized crime after trafficking in arms and

drugs.<sup>225</sup> The crime of human trafficking for any purpose is both under-recorded and under-reported due to the fact that it is an activity of the informal sector and hence is not accounted for. Yet, at the International law level, the world has witnessed an unprecedented rise in trafficking in persons. According to an International Labour Organization Report, at least an estimated 600,000 to 800,000 women and children were being trafficked into commercial sexual exploitation business between 2006 and 2007.<sup>226</sup> Similarly, 2.4 million of the 12.4 million forced labour victims were trafficked. Of these, 6% are in Asia and the Pacific, 10% in Latin America and the Caribbean, 9.2% in the Middle East and North Africa, while 5.2% are in sub-Saharan countries. Altogether, about 161 countries are reported to be involved in trafficking by either participating as the country of source, transit or destination.<sup>227</sup>

At the regional level, women and children from Nigeria are trafficked across the border to parts of West and Central Africa, Europe, and the Middle East. There is an active trade in child labor, some of whom are “exploited” in **Cameroon, Gabon, Benin and Equatorial Guinea** to work in either agricultural enterprises or domestic services, while others are coerced into sex trade or given out for purposes of adoption.<sup>228</sup> Inter-trafficking from rural area to cities in Nigeria is common. It was found in a study conducted in 1996 that children from rural communities in **Cross-River, Akwa-Ibom, Benue, Kwara, Anambra, Ogun, et cetera** were trafficked to urban cities like Lagos, Kano, Port Harcourt, Ibadan, Kaduna, and so forth for purposes of domestic services, trading, house-keeping, nannies, and farming.<sup>229</sup>

Human Trafficking is a violation of human rights in the worst form and involves both criminal and social complexities<sup>230</sup> the impacts of which are far-reaching as 95% of trafficking victims experience physical and sexual violence. Many victims experience post-traumatic stress disorders, anxiety, depression, and disorientation. Lack of knowledge and awareness about legislation are challenging issues. Although Human Trafficking entails a number of different aspects dealt with separately by distinct legislations such as immigration law, labor law, criminal law, and the Childs Rights Act 2003, *et cetera*, yet a law was enacted to combat trafficking in person in Nigeria titled: the “Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003”. Notwithstanding the enhanced interest in combating human trafficking, its trend is still unabated. Hence a critique of the legal regulation of human trafficking both at the domestic and international levels is the objective of this research.

<sup>225</sup> United Nations Office on Drugs and Crime, (UNODC), 2000.

<sup>226</sup> San Joe, “Children and Adolescent Victims of Commercial Sexual Exploitation” A Care Model for Institutions and Organization; International Labour Organization (ILO), 2007, 1.

<sup>227</sup> E Mishra, ‘Combating Human Trafficking: A Legal Perceptive with Special Reference to India’, *Sociology and Anthropology Journal*, Vol. 1, No. 4, 2013, pp. 172-179

<sup>228</sup> WAO-Afrique, “Child Trafficking in West and Central Africa”, Submission to UN Working Group on Contemporary forms of Slavery, June 1999.

<sup>229</sup> S Oloko, “Sudden Rise of Internal Trafficking in Nigeria”, Nigeria Concord Newspaper, 2<sup>nd</sup> December, 1999.

<sup>230</sup> F Lenserini, “Trafficking of Human Beings; in Human Rights Culture of Rights and Dignity of the Person in the Age of Globalization” in M. Flores. (Ed, 2007) *Journal of the European Communities* 2007, p.12.

## History of Human Trafficking

Historically, human trafficking was similar to slavery that had existed for many years prior to 1200 AD and was common in everyday life worldwide. However, the 1400s saw the beginning of European with the Portuguese transporting people from Africa to Portugal and using them as slaves. During the 1600s, other countries became more involved in the European slave trade including Spain, North America, Holland, France, Sweden and Denmark.<sup>231</sup>

From **1700** AD, human trafficking for sexual purposes was first legally recognized by the term “White Slavery”. According to Kristina Kangaspunta, “White Slavery” refers to obtaining a white woman or girl with the use of force, drugs or by dishonest means for sex without the consent of the woman or girl. Kangaspunta has argued that International government began to discuss, “White Slavery” after the transatlantic slave trade was made illegal in the **1700s**. The United State was right behind Great Britain’s example by making the slave trade a crime that was punishable by death. In **1899** and **1902**, worldwide conferences to discuss white slavery were arranged. By **1904**, a worldwide agreement against the “White Slavery Trade” was created with a focus on migrant women and children.

By **1900**, women and young girl victims were used for sex, while men and young boys were forced to do manual labour for little or no pay. However, human trafficking of children is most common among king and queens in Europe. Eventually in **1910**, 13 countries signed the International Convention for the suppression of White Slave Trade to make this form of trafficking illegal. However despite the new laws, human trafficking still existed internationally.<sup>232</sup> In **1914** an international Agreement for the suppression of white slave trafficking, was signed. The agreement included combating the traffic of women and girls in their countries. Later on, 12 countries signed an international Convention for the suppression of white slave traffic as well.<sup>233</sup>

In **1923**, the British Colonial government in Hong Kong, passed a law banning the selling of girls as domestic slaves. Countries all over the world started signing the law banning the selling of people. Forced labour and sexual exploitation was at its all-time high during the **1900s**. In **1927**, after WW1 the league of Nations was founded. It had the goal of maintaining world peace and also focusing on international issues such as human trafficking.<sup>234</sup> The idea of White Slave Trade was changed to International Convention for the suppression of Trafficking in Women and Children so that everyone was included with no discrimination to race. Children of both genders were also recognized as victims of trafficking.

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<sup>231</sup> K Kangaspunta, “History of Human Trafficking” @ <https://sexualexploitation.weebly.com/history-of-human-trafficking.html> Accessed, 17<sup>th</sup> November, 2024.

<sup>232</sup> *Ibid.*

<sup>233</sup> A. M. Venson, “Human Trafficking: A Historical Approach to the Concept” <https://www.scielo.br> Accessed, 13<sup>th</sup> November, 2024

<sup>234</sup> M C. Bassiouni, *Crimes Against Humanity in International Criminal Law*, (2<sup>nd</sup> edn.) Rev. Publishing Company, 1999, p. 349

### Conceptual clarification

The concept of Human Trafficking is intertwined with those of “migration” or **movement from place to place**” and “forced labour”. However, migration and forced labour are not necessarily related to trafficking. Indeed, most migration, whether regular or undocumented, is not the result of human trafficking. In the same vein, there are instances of forced labour that are not outcomes of trafficking. An individual could be forced into or become trapped in some form of labour without the other elements of trafficking such as movement or false promises of work.<sup>235</sup>

**Vulnerable Groups:** Vulnerable groups may be defined as “**Social groups who experience limited resources and consequent high relative risk for morbidity and premature mortality**”. This may include children, the aged, ethnic minorities, displaced populations, people suffering from chronic illness, women, and persons with disabilities.<sup>236</sup> Women and children especially, from poor rural societies with little or no education often constitute the greater percentage of trafficked persons in Nigeria. Traffickers exploit the vulnerability of the people in places where there is general poverty, lack of income generating opportunities and pervading ignorance, to source victims of trafficking. Vulnerability of rural dwellers becomes more visible in cases where the children and young people are not only from poor rural communities but are orphans or come from dysfunctional homes. In some cases human trafficking is facilitated or carried out with the active connivance of members of the victims’ families.

**Traffickers:** A trafficker is a person who trades in illegal goods, especially drugs, or who buys or sells people or makes money from work people are forced to do, such as commercial sex work.<sup>237</sup> Traffickers have many faces. They could be men or women members of organized criminal networks that traffic mostly women and young girls into forced prostitution. They could also be ordinary people who do not belong to criminal gangs but are relatives, neighbours or friends who are better off than the victims or their parents or guardians. They could be diplomats who “import” domestic workers and hold them in isolation and forced labour in their homes. Some of them are people who “import” foreign-born women, ostensibly for marriages but in reality for the purpose of holding them in servitude and subjecting them to sexual abuse. Others are families that “import” men, women, and children to work in forced labour in farms, factories, and homes, and subject them to sexual and physical assault. In effect, traffickers could be next-door neighbours, parents, relatives, or total strangers.<sup>238</sup>

Most traffickers that recruit women and girls for the sex industry of domestic work are women. Such traffickers in many cases may have previously been trafficked themselves or are currently sex workers. Recruitment could be done with the help of

<sup>235</sup> B. Olaateru-Olagbegi & A Ikpeme, “Review of Legislation and Policies in Nigeria on Human Trafficking and Forced Labour, Action Programme Against Trafficking and Forced Labour in West Africa, 2001, p. 5.

<sup>236</sup> J. H. Flaskerud and B. J. Winslow, ‘Conceptualizing Vulnerable Populations, Health-Related Research’ Vol. 93, Issue 9, *Journal of Academic Medicine*, 2018, pp.1263-1264

<sup>237</sup> Meaning of Trafficking in English, *Cambridge English Dictionary*, <https://dictionary.cambridge.org> Accessed 17<sup>th</sup> November, 2024.

<sup>238</sup> B. Osakue, and E, Okoojion, “Trafficking In Girls, The Way Forward” Report of a research in Edo and Delta States of Nigeria by Girls Power Initiative, 2002, p.3

their families. In some cases, community leaders and teachers are also reported to be involved in trafficking. In many cases, recruiters are relatives or acquaintances of the people who are trafficked and thus in a position of trust or known to the trafficked persons. They may even be parents and guardians themselves.<sup>239</sup>

Traffickers gain control of their victims in different ways. Sometimes the victims are kidnapped in one place and taken forcibly to another place, and in other cases they are lured with offers of well-paid jobs in foreign countries as hairdressers, restaurant attendants, domestic workers *et cetera* or with false promises of opportunities for education or marriage. After providing transportation and fake documentation to get victims to their destination, they subsequently charge exorbitant fees for those services, creating heavy debt burden under extreme terms and conditions. Some of the exploitative practices used include coercion of victims through seizure of travel documents, oath taking, threats, or physical violence on victims, threats to relations of victims, restriction of movement and communication by victims, seizure of earnings of victims and psychological pressure through guaranteeing silence and submission through ritual oaths.<sup>240</sup>

Human Trafficking has three elements: (a) The act, or what exactly has been done to the victim. Were they illegally recruited, transported or harboured? (b) The means, or how it has happened. Did they use coercion, force, blackmail, fraud, abduction or deception? (c) The purpose, or why it has happened. Were victims trafficked for exploitation, slavery or organ removal?<sup>241</sup>

### **Causes of human trafficking in Nigeria**

There are many reasons why people might get involved in human trafficking, both as victims and as perpetrators. Here are the five main causes of human trafficking:<sup>242</sup>

**Armed Conflict:** Given Nigeria's tumultuous situation presently, with Biafra agitation in the Southeast and Boko Haram insurgents in most parts of the North, it is no wonder that many citizens desperately want to get away from the country in line with the *Japa* syndrome. This, in turn, makes them extremely vulnerable to the perpetrators of human trafficking;

**Ignorance:** One of the main causes of human trafficking in Nigeria is the complete ignorance of the concept of Human Trafficking and disregard for human rights;

**Greed:** Among other causes of human trafficking, there is also the constant and inordinate search for wealth. Many people are dissatisfied with what they have, even if

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<sup>239</sup> K Siddharth., *Sex Trafficking; Inside the Business of Modern Slavery*, Columbia University Press, 2012, pg.12.

<sup>240</sup> ILO, "Action Programme Against Trafficking and Forced Labour in West Africa", Review of Legislation and Policies in Nigeria on Human Trafficking and forced Labour, 2006, p.7.

<sup>241</sup> K. William, "Understanding the Three Elements of Human Trafficking" [www.KCJ.US](http://www.KCJ.US) Accessed 17<sup>th</sup> November, 2024.

<sup>242</sup> V Falae, "What are the Major Causes of Human Trafficking in Nigeria", <https://www.legit.ng/11278cb> Accessed, 17<sup>th</sup> November, 2024.

they have fairly decent living conditions, and so they try to go out there in search of a better life. This is particularly so for majority of Nigeria's youth population, as many of them have this ideologue of getting rich fast. The Nigerian web is riddled with ads for earning money with little to no effort, and lots of people actually try them and end up in the hands of cybercriminals.

**Unemployment:** Despite the fact that Nigeria has one of the biggest and fastest growing economies in Africa, many of its citizens cannot find jobs. Many people are unable to afford quality education and acquire relevant skills in order to get proper jobs.

**Poverty:** As a result of unemployment, many Nigerian citizens struggle to keep their heads above water. Those who have huge debts can easily become victims of slavery and exploitation.

### **Purpose of Human Trafficking**

There are several reasons why people engage in human trafficking in Nigeria.<sup>243</sup> The following deserve attention. Sexual exploitation, Labour exploitation, Domestic work, Military conscription, Forced marriage, and recently, Organ Harvesting and Illicit adoption.

### **Legal framework for trafficking in Human Persons**

#### **(A) International Legal Framework.**

**Palermo Protocol** - A number of widely ratified international instruments provide the framework for addressing Trafficking in Human Person (TIP). The internationally accepted definition of TIP appears in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000, thus supplementing the United Nations Convention against traditional organized Crime<sup>244</sup> as follows:

Trafficking in person shall mean the recruitment, transportation, transfer, harbouring or receipt of people for the purpose of exploitation. Exploitation shall include forced labour, sexual exploitation, slavery, servitude or the removal of organs, *et cetera*.<sup>245</sup>

This was a major step that was taken by the comity of nations under the auspices of the United Nations to address the issue of human trafficking. Nigeria signed and ratified the Palermo Protocol and the Convention on 13<sup>th</sup> December, 2000 and 28<sup>th</sup> June, 2001 respectively. The Nigerian Government further domesticated it by an Act of the National Assembly signed into law in 2003 and known as the "Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (Ratification and Enforcement) Act 2003 and the United Nations Convention against Trans-national Organized Crime (Ratification and Enforcement Act), 2003.

The Protocol does not stand alone, but must be read and applied together with the principal Convention. The purposes of the Protocol as set out in Article 2 are: to

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<sup>243</sup> P. Adepeluni "The Root Causes and Purpose of Human Trafficking in Nigeria", African Centre for Advocacy & Human Development, 2015, p.2.

<sup>244</sup> Office of the High Commissioner Human Rights (OHCHR), "Protocol to Prevent, Suppress and Punish Trafficking In Person Especially Women and Children, 2000", Commonly referred to as the **PALERMO PROTOCOL**.

<sup>245</sup> *Ibid.*

prevent and combat trafficking, paying particular attention to women and children; to protect and assist victims of trafficking with full respect of their human rights; and, to promote international cooperation in order to meet the above objectives. The protection of, and assistance to victims is identified as a core purpose of the protocol and States are obligated to adopt domestic laws and policies to guarantee the protection and assistance in accordance with international human rights standards.

Incidentally, Nigeria is one of the first countries in Sub-Saharan Africa to ratify and domesticate the Palermo Protocol, which shows the political will of the Government to combat human trafficking in Nigeria. However, there are inherent dangers in the verbatim adoption of international instruments as domestic laws as some of the provisions may be inappropriate in the socio-political context of the country in question. While the Palermo Protocol extensively targets the relationship between State Parties in dealing with cases of human trafficking, the national laws target the particular country adopting the Instrument. Furthermore, the Palermo Protocol focuses on law enforcement that assumes the commission of crimes by crime syndicates.

In the Nigerian context, most crimes relating to human trafficking are committed by individuals who could be close relatives or neighbours and who may not be linked to sophisticated criminal networks. To that extent the verbatim domestication of the UN Palermo Protocol creates difficulties in implementation. Nonetheless the domestication of this UN Protocol strengthens the national legal framework in combating human trafficking and forced labour. The definition in the protocol has enabled the inclusion within the ambit of trafficking of acts committed by parents or guardians who give out their children to intermediaries who place them in exploitative labour or slavery-like conditions. In addition, as described later, since the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) Act deals mainly with trafficking for sexual purposes to the neglect of trafficking for other forms of labour, resort can be made to the domesticated protocol to cover these areas.

Similarly, since the NAPTIP Act does not provide for trafficking for begging or removal of organs, the domesticated Protocol can be employed to address such offences. More importantly, the Protocol offers more protection to the victims of human trafficking than the NAPTIP Act does; hence, its domestication bridges the gaps in the NAPTIP Act concerning this vital aspect. The Protocol in fact imposes obligations on State parties to protect and provide assistance to trafficked persons, to ensure that repatriation is voluntary<sup>246</sup> and in the case of children their interest and welfare should be of paramount consideration.<sup>247</sup> It is noteworthy that the Palermo Protocol also provides for the recovery of properties from the trafficker to redress the injustice suffered by the trafficked person. This provision is replicated in the NAPTIP Act<sup>248</sup> and its implementation will in no small measure assist victims in their rehabilitation.

One of the weaknesses in the Palermo Protocol is that its language is, in certain clauses not mandatory, particularly as regards the provision of protection and assistance to trafficked persons. The language of the protocol gives discretionary powers to State

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<sup>246</sup> Article 8 (2).

<sup>247</sup> Article 6 (4).

<sup>248</sup> Section 25 Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003.

parties through the use of words like “*appropriate cases*”, “*to the extent possible*”<sup>249</sup>, and “*each State party shall consider taking measures...*”<sup>250</sup>

**International Labour Organization (ILO) Convention** - The International Labour Organization (ILO), a specialized United Nations agency committed to the promotion of social justice and labour rights, has adopted several Conventions related to the elimination of human trafficking and its forced labour outcomes. Adopted as early as 1930 and ratified by more than 90% of Member States, the ILO Convention on forced Labour 1930 (No. 29) defines forced labour and commits Member States to eradicate forced labour and prevent its occurrence, with a specific mandate to protect the rights of migrant workers. The Migration for Employment Convention, 1949 (No. 97) sets standards to be allowed in dealing with migrants. The scope of this Convention is limited to persons regularly admitted as migrants for employment.<sup>251</sup> It requires states to provide adequate and free services including accurate information to migrants<sup>252</sup>; to take all appropriate steps against misleading propaganda relating to migration<sup>253</sup>; to ensure that immigrants are treated equally with nationals in terms of remuneration, conditions of work, accommodation and union membership<sup>254</sup>; and where migration between countries is sufficiently large, encourage competent authorities to enter into agreements to regulate matters of common concern in the application of the Convention.<sup>255</sup> Nigeria ratified this Convention on 17<sup>th</sup> of October, 1960 and is bound to adhere to the commitments under the Convention.

The increasing demand for cheap labour and the worsening vulnerability of migrants from poorer countries led to the adoption of the Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143). It is the first International Labour Organization Convention with specific provisions on trafficking which commits ratifying member States to prosecute the “*authors of manpower trafficking... whatever the country from which they exercise their activities*” and to “*systematically seek to determine whether there are illegally employed migrant workers on its territory and whether they depart from, pass through, or arrive in its territory, any movements of migrants for employment in which the migrants are subjected during their journey, on arrival or during their period of residence, and employment conditions contravening relevant international multilateral or bilateral instruments or agreements*’.

Unfortunately, Nigeria has not yet ratified this particular Convention.

The desire to ensure that the recruitment of domestic and migrant workers is transparent and fair led to the adoption of the Private Employment Agency Convention, 1997.<sup>256</sup> This guides member States in the regulation of such agencies to ensure that they protect the rights of migrant workers who use their services and that they do not

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<sup>249</sup> Article 6(1) Ibid

<sup>250</sup> Article 11(5)

<sup>251</sup> Article 1 (1).

<sup>252</sup> Article 2.

<sup>253</sup> Article 3.

<sup>254</sup> Article 6.

<sup>255</sup> Article 10.

<sup>256</sup> No. 18.

engage in fraudulent recruitment or replacement in situations amounting to debt bondage or forced labour. Nigeria would gain from the ratification of this Convention given the intention of the Ministry of Labour to institute regulation of private employment agencies.

**Office of the High Commissioner for Human Rights (OHCHR) Recommended Principles and Guidelines on Human Rights and Human Trafficking** - The Recommended Principles and Guidelines on Human Rights and Human Trafficking presented by the United Nations High Commissioner in 2002, were developed to provide practical, rights-based policy guidance on the prevention of trafficking and the protection of victims of trafficking. Their purpose is to promote and facilitate the integration of a human rights perspective into national, regional and international anti-trafficking laws, policies and interventions.

These principles and guidelines essentially address the prevention of human trafficking, the protection and assistance of trafficked persons including compensation and reparation and the prosecution of traffickers. They prohibit the treatment of trafficked persons as accused persons or perpetrators of offences. Unfortunately, internationally trafficked persons are often treated as accused persons because of their undocumented status. In many destination countries, trafficked persons are arrested, detained, charged to court, convicted, and sentenced to terms of imprisonment under the immigration laws of these countries before they are eventually deported to their respective home countries in utter negation of these recommendations.<sup>257</sup>

It should be noted that many Nigerians trafficked to Europe experience inhuman treatment in the hands of the authorities before deportation. Most of them are arrested on the streets, treated as “illegal migrants”, detained, criminalized and eventually deported forcefully back to Nigeria. Apart from criminalizing victims, the destination countries do not assist the trafficked persons to get over the trauma of the abuse of trafficking by allowing them short or long term stay, neither are there adequate provisions for shelter and reintegration for the trafficked persons both in the countries of destination and in their home countries.

Nigeria equally does not fulfill its obligations in the provision of protective shelters for victims from other countries as well as her own returned trafficked citizens. This lack of adequate shelters or reception areas was manifested in 2003 when over 100 trafficked children from neighboring Benin Republic found in illegal stone quarries in Ogun State of Nigeria had to be in the custody of the police without any official arrangement for their upkeep. However, since the coming into operation of the National Agency for the Prohibition of Trafficking in persons and other related matters (NAPTIP), the Nigeria Government in collaboration with the International Organization for Migration (IOM) has set up shelters in Benin and Lagos, but these are clearly insufficient. This lack of facilities for trafficked victims was stressed in the report of the Walk Free on Global Slavery Index.<sup>258</sup>

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<sup>257</sup> Recommended Principles 7-11.

<sup>258</sup> Fiscal Transparency, “Nigeria Listed Among Countries Striving To End Modern Slavery”, [2019], <https://www.fiscaltransparency.org> Last Accessed, 13<sup>th</sup> November, 2024.

Another critical area in which the Human Rights Principles recommended by the Office of the High Commissioner for Human Rights deserves attention is the difficulty in both source and receiving countries or communities to investigate, successfully prosecute, and punish offenders for human trafficking. Despite efforts being made by NAPTIP in prosecution, very few convictions have been obtained and traffickers continue to operate with impunity.

**ECOWAS and the free circulation of persons** - As earlier stated migration, is not only from the South to the North, but includes intra-regional migration from one developing country to another richer developing country. Sometimes it is not the wealth of a country that attracts migrant but available opportunities to trade or for those escaping conflict situations, to take refuge in a more secure area. The countries of the West African region are characterized by essentially agrarian economies with some mineral resources and a low average per capita income below \$500. Equally significant and thus worthy of note is the growth in the economic relations of the member states in the West African Region States of the ECOWAS in relation to the Treaty and the Protocol relating to the free movement of persons, Residence and Establishment.<sup>259</sup>

The protocol for free movement provides among other things for the following rights to be enjoyed by all citizens of West African States: the right of entry and consequently the abolition of visas; right of residence and right of establishment which includes the right to employment. These rights are however conditional on the migrants acquisition of valid passport or identification certificate or travel documents, the possession of a valid international health certificate and the official record of the migrant's entry.

The initial grant of stay is for a period of 90 days, which may be renewed on application to the relevant authority of the host country. The Protocol also allows the free movement of vehicles, within the region and, subject to the possession of valid documents; they may remain in another country for a maximum period of 90 days and in case of commercial vehicles 15 days.

It is significant to note that in case of repatriation of a citizen of a member state, the protocol provides that the security of such a person and his/her family will be guaranteed by the host country and the person's properties will be protected and returned to him/her on departure. This provision is similar to OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking and ought to be implemented.

The ECOWAS Protocol is designed to facilitate free movement as a pre-condition to economic growth within the region. Its unintended negative effect has however been a rise in Trans-national crime. Firstly the corrupt and inept attitude of border officials in the different States has resulted in the poor implementation of the Protocol. Thousands of nationals have crossed various borders in the region without possessing (valid travel documents or any) documents for that matter. There is a poor, almost non-existent mode or recording movements especially at the land border posts. In addition with as

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<sup>259</sup> Adopted in Dakar on 29<sup>th</sup> May, 1979, and ratified by Nigeria as Protocol A/P.15/79 on 12<sup>th</sup> September, 1979.

little as 100 Naira or 200 CFA (less than 1\$) paid to the border officials or immigration officials, a citizen can cross the border to another country without any documents at all. This protocol, apart from allowing free passage to human traffickers to traffic their victims, has also made crime detection very difficult leading to an escalation in cross border crime since the protocol came into operation. In 2003, Interpol discovered that many of the vehicles stolen in Nigeria via armed robbery operations had been exported to neighboring countries of Benin and Togo through the Nigerian borders. This discovery led to the closure of the Seme and Idiroko land borders which led to a substantial loss of income for the countries affected.

At the National level, most countries have adopted Legislation to Criminalize Trafficking In Persons as a specific offence.<sup>260</sup> Usually domestic legislation also separately establishes the most common offences related to trafficking usually as physical, sexual, and psychological violence, abductions, threats to kill, unlawful imprisonment, or deprivation of freedom of movement, slavery, debt, bandage, servitude, forced marriage, facilitation of irregular immigration, creation and membership of organized criminal structures or groups; production, use and possession of forged and or fraudulent identity and travel documents; money laundering; bribery and corruption of public officials.

A number of domestic laws have also been enacted to encourage businesses to address human and labour rights violations, including human trafficking.

### **Criminalization of human Trafficking**

The definition contained in Article 3 of the Trafficking In Persons protocol is meant to provide consistency and consensus around the world on the phenomenon of trafficking in persons.

**Article 5** thereof requires that the conduct set out in Article 3 be criminalized in domestic legislation. Domestic legislation does not need to follow the language of the Trafficking In Persons Protocol precisely, but should be adopted in accordance with domestic legal systems to give effect to the concepts contained in the Protocol.

In addition to the criminalization of such trafficking under the Trafficking In Persons Protocol requires criminalization also of:<sup>261</sup> attempts to commit a trafficking offence; participation as an accomplice in such an offence; and, organizing or directing others to commit trafficking. National legislation should equally adopt the broad definition of trafficking prescribed in the protocol. The legislative definition should be dynamic and flexible so as to empower the legislative framework to respond effectively to trafficking which occurs: both across the borders and within a country and not just cross-border; is for a range of exploitative purpose and not just sexual exploitation; victimizes children, women, and men; and, takes place with or without the involvement of organized crime groups.

### **(B) Domestic Legal Framework against Human Trafficking**

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<sup>260</sup> According to UNODC's Global Report on Trafficking In Persons (2016), the number of countries that Criminalize most forms of Trafficking In Persons in line with the definition used by the Palermo Protocol increased from 33 countries in 2003 to 158 in 2016.

<sup>261</sup> United Nations Convention Against Trans-national Organized Crime (UNTOC) 2000.

## Nigerian Legislation

**The Nigerian Constitution** - In view of the fact that trafficking in persons involves the violation of fundamental human rights, it is important to consider the relevant provisions of the Constitution of the Federal Republic of Nigeria, 1999 that guarantee these fundamental rights. Chapter IV of the Constitution contains fundamental rights whilst Chapter II spells out the Fundamental Objectives and Directive Principles of State Policy. Human trafficking is against the freedom and dignity of human beings and is thus unacceptable under the Constitution. Section 34 of the Constitution guarantees the right to the dignity of the human person thus prohibiting the subjection of any person to slavery or servitude. It provides that:<sup>262</sup>

*“Every individual is entitled to respect for the dignity of the person and accordingly: No person shall be subjected to torture or to inhuman or degrading treatment; No person shall be held in slavery or servitude: and No person shall be required to perform forced or compulsory labour.”*

These rights are fundamental rights that are enforceable in the Nigerian courts. Section 46 of the Constitution provides that any violation of its fundamental human rights provisions is remediable. Other relevant provisions in the Constitution are those that safeguard the rights to movement<sup>263</sup>, personal liberty<sup>264</sup>, and those that prohibit torture and inhuman or degrading treatment, slavery, servitude and forced labour.<sup>265</sup>

Nigeria is a signatory to many treaties, conventions and bilateral and multi-lateral agreements, including the following, which contain provisions for the protection of the rights of trafficked persons:

- United Nations Slavery Convention 1927
- Convention for the Suppression of Trafficking In Persons and of the Exploitation of the Prostitution of others (1949)
- UN Convention against Trans-national Organized Crime and its Supplementary Protocol to Prevent, Suppress and Punish Trafficking In Persons, Especially Women and Children. 2000:
  - ILO Forced Labour Convention, 1930 (No. 29);
  - ILO Abolition of Forced Labour Convention, 1957 (No. 105).
  - ILO Worst Forms of Child Labour Convention 1999.

Other instruments to which Nigeria is party and which have provisions that can apply by extension to protection of the human rights of trafficked persons, include the following:

- The Convention on Elimination of all forms of Discrimination Against Women (1979): specifically Articles 2, 6, 9, 11, 12, 14, 15, and 16.
- The UN Convention on the Rights of the Child (1989): specifically Articles 7, 16, 19, 28, 31, 32, 34, 35, 36, 37, and 39

<sup>262</sup>Constitution of the Federal Republic of Nigeria 1999 (as amended).

<sup>263</sup> Section 41.

<sup>264</sup> Section 35.

<sup>265</sup> Section 34(1) (a) (b) and (c).

- The Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography (2000): specifically Articles 1, 2, 3, and 8.
- Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984): specifically Articles 1, 3, 13, and 14.
- The Convention on the Elimination of all forms of Racial Discrimination (1965): specifically Articles 2, 5, and 6
- The UN General Assembly Declaration on Violence against Women (1993): specifically Articles 2 and 3.
- The UN Convention on the Protection of the Rights of all Migrant Workers and their Families (1990): specifically Articles 10, 11, 16, 25 – 30, 40,41, and 68. And,
- ILO Convention 97 and 143 on Migrant Workers, and 181 on Private Employment Agencies.

Nigeria has ratified a good number of these Conventions, but Section 12 of the Constitution of the Federal Republic of Nigeria 1999 stipulates that all treaties ratified by Nigeria have to be passed into law by the National Assembly before they can have the force of law in Nigeria. This is called “domestication of treaties”. The international instruments that are yet to be domesticated therefore do not currently have the force of law in Nigeria.

**The Criminal Code** - Prior to the promulgation of specific anti-trafficking legislation in 2003, provisions relating to human trafficking and forced labour could be found scattered in the Criminal and Penal Codes and labour laws. The Criminal Code, promulgated on June 1, 1916 does not define what constitutes trafficking nor does it deal with the various forms of trafficking. However, it deals with the offences which may constitute external trafficking for prostitution and slavery. For example the Criminal Code makes it an offence to procure women and girls for prostitution in or outside Nigeria.

**The Penal Code** - The Penal Code, promulgated on 30<sup>th</sup> September 1960, is the criminal law applicable in the Northern part of Nigeria. It was fashioned after the Sudanese Criminal Code, which in turn was based on the Indian Penal Code. Sudan and Northern Nigeria have Sharia law.

Trafficking in women has been recognized as an offence in the Penal Code with special provisions according to the age of the victim. In general, there are stronger provisions against human trafficking related offences in the Penal Code than the Criminal Code, and while the Criminal Code treats some of these offences as mere misdemeanors, the Penal Code categorizes them as felonies and provides stricter punishments.

Under the Penal Code for instance, section 276 thereof provides for a maximum penalty of 10 years in prison and a time exists for anyone convicted of encouraging the prostitution of women and children, and it is an offence to import into Northern Nigeria a girl under the age of 21 for prostitution. Section 275 of the Penal Code for example provides as follows:

*“Whoever by any means whatsoever induces any girl under the age of 18 years to go from any place or to do any act with intent that such girl may be or knowing that*

*it is likely that she will be forced or seduced for illicit intercourse with another person shall be punished with imprisonment which may extend to 10 years and shall also be liable to a fine”.*

Both sections above describe the maximum penalty in addition to a fine but do not have a minimum penalty. This is a shortcoming as it is left to the discretion of the judge to impose any minimum, which may prove to be inadequate considering the gravity of the offence.

Section 276 of the Penal Code also prohibits trafficking of women into Nigeria, but does not provide for trafficking of women from Nigeria abroad. In addition, section 270 of the Penal Code prohibits forced labour, and imposes a penalty of imprisonment for a term that may extend to one year or a fine. Clearly this penalty is too small and the deterrent value is lost especially where the traffickers are offered the option of a fine.

### **Trafficking in Persons (Prohibition) Law Enforcement And Administration Act, 2003 -**

On July 14, 2003, the Federal Government of Nigeria promulgated a specific law against human trafficking titled the Trafficking In Persons (Prohibition) Law Enforcement and Administration Act, 2003<sup>266</sup> and set up a special Agency, the National Agency for the prohibition of Trafficking In Persons (NAPTIP), to oversee matters relating to human trafficking and related matters in 2004. This law is the first attempt to develop a national legal framework to combat the menace of human trafficking in Nigeria through legislation.

The Bill was initiated by Women Trafficking and Child Labour Eradication Foundation (WOTCLEF) a non-governmental organization founded by the wife of the erstwhile vice-president of Nigeria Mrs. Titi Atiku Abubakar. A 17 persons Committee, inaugurated on 28<sup>th</sup> June, 2000, drafted the Bill. The Committee was chaired by a judge of one of the states in the country and had representatives from the Ministry of Justice, the Police, Immigration and Customs. The terms of reference of the Committee included a review of existing legislation in the area of human trafficking and child labour and consideration of the provisions of relevant international Conventions and Treaties.

Although the NAPTIP Act is specific to trafficking and is one of the first such laws in sub-Saharan African, it is not a model, but rather a mixed bag of innovative provisions in some part of existing lacunae.<sup>267</sup> Evidently, the Palermo protocol influenced the drafting of the NAPTIP Act as can be seen from section 50 thereof which incorporates the universally accepted definition contained in Article 3 of the Palermo Protocol with some slight changes. The Act defines “Trafficking” as follows:

Trafficking includes all acts and attempted acts involved in the recruitment, transportation within or across Nigerian borders, purchase, sales, transfer, receipt or labouring of a person involving the use of deception, coercion or debt bondage for the purpose of placing or holding the person, whether for, or not in voluntary servitude which may be domestic, sexual or reproductive, in forced or bounded labour, or in slavery-like conditions.<sup>268</sup>

<sup>266</sup> Hereinafter referred to as the NAPTIP Act.

<sup>267</sup> Olateru Olagbegi, “Protection of Victims of Trafficking in Nigeria”, [2008], <https://www.refworld.org> Last Accessed, 21<sup>st</sup> November, 2024.

<sup>268</sup> Section 50, Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003

This definition goes beyond the Palermo Protocol definition in some aspects. The inclusion of the phrase..... “Attempted acts.....” makes it easier to preserve offenders who are caught in the act of trafficking without having completed the transaction. The Act also takes an innovative step in criminalizing commercial carriers who transport potential trafficking victims with knowledge of the trafficking transaction. However, the element of “guilt due to knowledge” may be difficult to prove in order to obtain conviction of a commercial carrier. In addition, the definition includes trafficking transactions involving “... transportation within and across the Nigeria borders....” thus recognizing internal trafficking as well.

There are however, some weaknesses in the definition contained in the NAPTIP Act which include the omission of trafficking for the “removal of body organs” as stated in the UN Protocol and which has limited the application of the law to the extent that people are trafficked for this purpose. No section has been prescribed for the whole act of “Trafficking” but rather for various acts like exportation and importation of persons, harbouring, transportation, *et cetera*. The sections for the acts vary from imprisonment of ten to fourteen years with or without the option of fine and even to life imprisonment.<sup>269</sup>

Examining the NAPTIP Act as a whole, one will find that the legislation is oriented towards the prosecution of traffickers than to the prevention of trafficking and protection of trafficked persons. Another major flaw is that the offences created by the NAPTIP law focus on trafficking for sexual purposes to the neglect of offences relating to trafficking for other forms of labour. The NAPTIP Act has, for the first time instituted severe penalties for the offence of human trafficking ranging from two years<sup>270</sup> to life imprisonment.<sup>271</sup>

In addition, it provides for a series of other penalties including the option of fines and confiscation of the properties of convicted traffickers and accomplices. It is noteworthy that penalties for trafficking offences related to sexual purpose and involving minors under the age of 18 are much stiffer rather other penalties.<sup>272</sup> The deficiencies in the NAPTIP Act regarding the protection of victims and witnesses has resulted in difficulty to effectively prosecute offenders due to the lack of co-operation from victims and witnesses who fear reprisals. In its first two years of existence only two cases were successfully prosecuted to conviction under the law despite the thousands of trafficking transactions taking place in Nigeria. To the extent that the NAPTIP Act lacks victims or witness protection, it has not complied with the internationally recommended human rights standard approach.<sup>273</sup>

The Nigerian government has taken a laudable step in strengthening the legislative framework to address human trafficking in Nigeria by the passage of the NAPTIP Act. There is, however, a need for law reforms to make the Act truly

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<sup>269</sup> *Ibid.*

<sup>270</sup> Section 29 (1) Trafficking in Persons (Prohibition) Law Enforcement and Administrative Act, 2003

<sup>271</sup> Section 11 – *ibid*

<sup>272</sup> Section 19 (1) (a-f) *Ibid*

<sup>273</sup> Global Alliance Against Traffic in Women (GATW) Human Rights Standard for the Treatment of Trafficked Persons, 1999.

comprehensive and to address the various issues and manifestations of human trafficking in Nigeria.

### **Nigerian Agencies Involved in Combating Trafficking**

The National Agency for the Prohibition of Trafficking In Persons and other Related Matters (NAPTIP) is the statutory agency specifically created to combat trafficking. It cooperates with anti-human trafficking units of the police and immigration services as well as with other concerned ministries, international organizations, and NGOs. NAPTIP therefore coordinates and enforces all laws on trafficking in persons, adopts measures to increase the effectiveness of eradication of traffic in persons, adopts witness protection measures, enhances effectiveness of law enforcement agents to suppress traffic in persons prescribes punishment for trafficking offenders, strengthens and enhances effective legal means for international co-operation in criminal matters for suppressing the international activities of trafficking in persons, takes charge, supervises, controls and co-ordinates the rehabilitation of trafficked persons, investigates and prosecutes traffickers, and, works in collaboration with other agencies or bodies to ensure elimination and prevention of the root causes of the problem of traffic in persons.

To enable it discharge its mandate effectively, the agency has established four regional offices in Lagos, Uyo, Benin and Kano. It also instituted a National Investigation Task Force (NITF) consisting of the Nigeria Police, Immigration, and the Directorate of State Services to effectively monitor, investigate, and respond to distress requests of victims and their families. NITF has set up small units in eleven States of the federation with the worst trafficking problems. The task force members were trained on the provisions of the anti-trafficking law, care of victims, Interpol standards, corruption and human rights issues.<sup>274</sup>

Since the inception of NAPTIP, several cases have been prosecuted so far with convictions in some of them. The task force is presently investigating some reported cases involving traffickers. One of the suspects being investigated was arrested when she came to collect her parcel at the post office from her partner in crime, in Spain. The parcel contained shaved pubic hair, used menstrual pads, cut finger nails and copies of the terms of engagement of the respective girls and their madam/masters. It is suspected that these items were sent for ritual purposes to subject the victims to psychological fear and intimidation. The woman has been found to be an active local partner of the Hainan in Spain.<sup>275</sup> Another interesting case is that of a deaf and dumb man who runs a ring of deaf and dumb kidnapers throughout the country. His mode of operation is to send his men out and find any deaf and dumb victim to be used as street beggars. Investigation into the case is on.<sup>276</sup>

The agency has investigated several cases so far from which quite a number of suspected traffickers were interrogated, and some have been charged to court. The cases being investigated vary. In the Kano axis, the most common is the trafficking of

<sup>274</sup> Olateru Olagbegi, "Protection of Victims of Trafficking in Nigeria", *Supra*.

<sup>275</sup> *Ibid*.

<sup>276</sup> The Nigerian Country Paper for the 11<sup>th</sup> UN Congress on Crime Prevention and Criminal Justice

persons under cover of the Hajj for the purpose of prostitution and for the commission of crimes, and this led the Kano State government to pass the Urn rah / Hajj Edict into law. The cases in the Edo State axis usually concern the trafficking of young girls for prostitution. NAPTIP officials have also been involved in awareness creation campaigns on the issue of trafficking and, particularly, the NAPTIP Act, targeting traditional leaders, students, parents, organizations like the National Union of Road Transport Workers, hotels, airline operators, and faith based groups. The agency has also made progress in assisting trafficked persons. They have provided shelter or referral to entities offering protection and assistance to several victims.

**The Nigerian Police Force** - The Nigerian Police Force (NPF) is designated by section 194 of the Constitution as the national police with exclusive jurisdiction throughout the country. The NPF performs conventional police functions and is responsible for internal security generally, supporting the Correctional Service personnel, Immigration, and Customs service, and for performing military duties within or outside Nigeria as directed. The mandate of the police concerning human trafficking includes investigating, apprehending and prosecuting traffickers as well as enlightenment of the public about the phenomenon.<sup>277</sup> The NPF, which have been handling the problem of human trafficking before the establishment of NAPTIP in 2004, established specialized Anti-Human-Trafficking Units (AHTUs) at headquarters and Juvenile Welfare Centres in twelve states of the federation.

In the past, the AHTUs has handled hundreds of cases of human trafficking with virtually all the victims being women or girls below the age of 12 years. The majority of the cases currently handled at the state police concern young adults, whereas few case of child trafficking are being handled at the federal level. Hundreds of victims, mostly children have so far been handed over to Benin Republic.

The police usually assists in receiving deported victims on their arrival in Nigeria, after which they are screened and documented. Victims are also provided temporary shelter, although such facilities are limited. The United States and Italian governments offer technical assistance to the police on identified areas of urgent need. The police worked with the International Organization on Migration (IOM) to develop a training programme to build the capacity of the police in handling the victims.<sup>278</sup> The constraints encountered by the police in carrying out its mandate in this area include the complicity of parents and guardians in the trafficking of their minor children and the need for trained psychologists within the force. Some victims do not view themselves as having been exploited. Indeed, they prefer to consider their situation as one of empowerment as they had the opportunity to earn income. As stated earlier, it is difficult to get people to testify as witnesses due to fear of reprisals. The biggest challenge that the police face, however, is lack of funds.<sup>279</sup>

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<sup>277</sup> Paper Presentation by Mrs. Dorothy Gimba, Assistant Commissioner of Police at the 11<sup>th</sup> UN Congress on Crime Prevention and Criminal Justice, 2009.

<sup>278</sup> *Ibid*.

<sup>279</sup> Dorothy *Ibid*.

**The Nigerian Immigration Service** - The Nigerian Immigration Service (NIS) works with the NAPTIP and other law enforcement agencies in the prevention of human trafficking. The Service is concerned with the issuance of travel documents and controlling of the country's borders. In 2003, the Immigration service created anti-trafficking units to help tackle the problem of trafficking in women and children,<sup>280</sup> following the increasing number of cases of human trafficking involving Nigerians. The first three such units were established in Edo, Kano, and Ogun States as these have been identified as sources / routes for trafficking. The Italian government provided some technical aid, including vehicles, equipment and materials to assist NIS in the human trafficking control programme. Several cases have been investigated since the creation of the units but they are not working at full capacity.

The following were highlighted as the various constraints affecting the services of NIS:<sup>281</sup> inadequate sensitization of relevant officers on the end results of trafficking; lack of capacity of detect victims and barons; inadequate training in the treatment of victims and baron; inadequate training in the detection of forged documents; inadequate data collection, improper documentation, and lack of logistics such as communication equipment, cameras, *et cetera*; victims do not report their exploiters to the police; lack of technical expertise due to inadequate training of field personnel; constraints in inter-agency relations between Police and Immigration Service. The need to train officers to detect and apprehend traffickers / barons with the support of the police was also pointed out.

### **Nigerian Cases on Trafficking in Persons**

#### ***i. Attorney General of the Federation v. Jean Adjai & 2 Ors***

Three suspected Human Traffickers, a Nigerian and two Beninese were charged on a 25-count charge in the High Court of Ilaro, Ogun State for importing from the Republic of Togo underage girls for purposes of prostitution in Nigeria. On 22<sup>nd</sup> of December, 2005 judgment was given on the above matter. The 1<sup>st</sup> and 2<sup>nd</sup> accused persons, to wit: Jean Adjai and Gilbert Ganysiode were convicted and sentenced on five counts out of 25 up to 7 years each to run concurrently while the third accused person Mrs. Alake Iroko was discharged and acquitted.

#### ***ii. Attorney General of the Federation v. Esther Eboreme***

The accused is alleged to have procured some girls from Nigeria, sometime in 2004, and sent them over to her collaborator in Spain for purposes of prostitution. One of the girls escaped from her "Madam" in Spain and called her parents in Nigeria to inform them of the predicament in which she found herself. In the meantime, her nude picture and those of the other girls were sent along with their pubic hair strands, finger nail clippings, smeared menstrual pads *et cetera* to Mrs. E. E. in Nigeria for onward transmission to a shrine in Ekpoma for the girls to be spiritually bonded to a deity as part of the rituals to perpetually keep the girls subservient to their "Madam" pending the payment of the agreed Euro 45,000 by each of the girls. The lady was arrested by a

<sup>280</sup> Vanguard Newspaper of January 6, 2003, Reporting an Interview with the Minister of Internal Affairs, Dr. Muhammed Shata in Abuja.

<sup>281</sup> Obetera Olagbegi, "Protection of Victims of Trafficking in Nigeria", *Supra*.

security operative at the post office and charged to court in Nigeria for organizing foreign travel that promotes prostitution, trafficking, *et cetera* while her collaborator in Spain also faced trial in Madrid, Spain for exploitation of the prostitution of those girls and others.

**iii. *Attorney General of the Federation v. Ekundayo Eduyemi & Anor.***

This is a case involving physically impaired (deaf and dumb) traffickers and victims in Jos, Plateau State wherein the 1<sup>st</sup> accused person (M) procures girls from Jos and uses them for street begging and thereafter collects the proceeds and sometimes has sexual intercourse with them. The father of one of the victims petitioned NAPTIP alleging that the 1<sup>st</sup> accused procured his daughter with the assistance of Miss Murna (F), the 2<sup>nd</sup> Accused. Both were charged with 6 counts in the Jos High Court of Plateau State. When the case came up for hearing, the 2<sup>nd</sup> accused person declared to the court that she was induced by the investigating officers into making the statement. The court ruled that there had to be a trial within a trial to determine whether the statement was made voluntarily, without the influence of the investigators.

**iv. *Attorney General of the Federation v. Monday Aikhomu***

The accused was arrested in Kano in 2004 with 3 girls on their way to Zinder in Niger Republic for onward transmission to Spain. The accused was arraigned on a 9-count charge in Benin City High Court. The victims refused to show up to testify despite repeated efforts by the Agency. In the final analysis the prosecution was unable to produce the victims with whom the accused person was allegedly traveling to Zinder in Niger Republic. At the close of the trial the judge discharged and acquitted the accused person on the ground that the victims of the alleged offences were not brought before him.

**Challenges in combating Trafficking in Persons (TIP)**

Global anti-trafficking effort by states, international organization and NGOs, have used “3p” paradigm of prevention, protection and prosecution established by the 2010 UN National Global plan of action to combat trafficking in persons.<sup>282</sup> Despite these collective efforts, however, there is no reason to believe that human trafficking is any less prevalent today than it was when the Palermo Protocol was adopted in 2000. The Palermo protocol, contrary to human rights oriented instruments, was accompanied by strong emphasis on criminal justice responses to TIP. While the criminal justice approach has helped drive a legislative change at national level, the eradication of TIP requires a much greater force on social justice issues, such as discrimination and inequality and labour migration opportunities. In particular, responses to trafficking face the following key challenges:

**Prevention:** while protection frameworks for victims of trafficking have been stressed in recent years, less progress has been made in preventing exploitation from occurring in the first place. Far too often public awareness campaigns are targeting potential victims, highlighting the risk of trafficking instead of promoting safe alternatives, either at home or through safe migration channels. By contrast, the responsibility of the industries and

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<sup>282</sup> United Nations General Assembly, United Nations

customers demanding sexual services, cheap labour and cheap goods are sold as cheaply as they are because of the poor and irregular payment of migrant workers in global supply chains. Addressing the demand side of trafficking and exploitation requires the engagement of those creating the demand, including consumers themselves and the private sector. Campaign to shift individual citizen behavior in their role both as consumers and as conscientious members of the society should be expanded, and efforts to sensitize, encourage, assist, or obligate companies to clean up their supply chains should be enhanced.<sup>283</sup>

**Protection:** Considerable progress has been made in creating legal frameworks that better protect those identified as victims trafficking. In many countries, registered victims have access to temporary residence, safe accommodation, medical and psychological support, assisted voluntary return and reintegration opportunities, as well as integration opportunities and support. However, the number of people benefiting from these protection schemes remain small when compared to estimated millions who continue to be exploited. In reality, the line that separate a trafficked person from many exploited or abused migrants is blurred at best, and difficult to distinguish for front-line responders such as police officers, border officers, and healthcare staff. At present, identifying a person as a victim of trafficking means that he or she may be eligible for a period of stay and various forms of assistance in many countries. But many male migrants working illegally do not fit the stereotype of a victims of trafficking, and thus are unlikely to be screened and identified as such.

In addition, many victims are unable to access protective services and effective remedies. Too often, victims are detained for offences committed while they were trafficked, and too few incentives exist for victims to want to assist in the investigation and prosecution of their traffickers. Indeed, most victims need more than basic humanitarian assistance as many of them want to work to earn an income for family back at home.

**Prosecution:** In spite of the large body of laws at national, regional, and international levels that prohibit TIP, the criminal justice response to trafficking remains inadequate. Efforts to prosecute the criminals behind trafficking networks have had limited impact and additional approaches to the criminals behind trafficking networks have had limited impact and additional approaches to secure justice for victims must be sought. Often, this also requires reinforcing and promoting the rule of law as mentioned above, the criminal justice response is also insufficient to eradicate TIP.<sup>284</sup>

Finally, more investment is needed to learn from anti-trafficking interventions, and to draw on the experience and expertise acquired by the anti-trafficking community and others such as the labour rights movement, to inform future anti-trafficking responses.<sup>285</sup> While the amount of trafficking cases increases every year, there is very little standardization, which limits opportunities to compare response or understand whether 'best practices' are replicable. Anti-trafficking actors should find ways to

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<sup>283</sup> *Ibid.*

<sup>284</sup> *Ibid.*

<sup>285</sup> *Ibid.*

overcome obstacles around sharing data within a framework of strict confidentiality and appropriate safeguards to protect individuals' personal data.

### **Conclusion**

The research explicitly dealt with the growing trend of Trafficking In Persons. It explored the history of human trafficking otherwise known as modern day slavery; as well as insight into conceptual clarification of the phenomenon of "Human Trafficking", vulnerable groups, and the actual traffickers. It further considers the root causes of human trafficking in Nigeria together with the purpose for human trafficking. The intolerable reality of the impact of human trafficking has spurred a number of international legal instruments. For instance, the International Labour Organization (ILO), the United Nation Office on Drugs and Crime (UNODC), the Palermo Protocol and other organizations have invested significantly in combating Trafficking in Human Persons (TIP).

The Global Anti-Trafficking efforts at the international plane has been complimented by National Domestic Laws. In Nigeria, we have the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Nigeria Criminal and Penal Codes, and very recently, the Trafficking In Persons (Prohibition) Law Enforcement and Administration Act, 2003. All aimed at preventing, persecuting traffickers, and protecting victims. Despite these collective efforts, there still exist the subtle wave of human trafficking in Nigeria. It is in view of this recurring decimal that the following recommendations are proffered in this paper.

### **Recommendations**

- i. The Nigeria government through the judiciary should ensure vigorous investigation, persecution and convicting of traffickers and their accomplices, particularly by imposing stringent sentences involving years of imprisonment.
- ii. Nigeria government should further increase funding for NAPTIP, particularly to prosecute offenders in appropriate cases, and implement preventive measures.
- iii. Increase the training of judges on the legal framework, specifically the provision prohibiting the issuance of fines in lieu of imprisonment.
- iv. Trafficking victims to be allowed to obtain employment and move freely in and out of NAPTIP shelters.
- v. Police and Immigration training should include identifying trafficking victims among vulnerable populations such as women in prostitution and young females traveling with non-family members.
- vi. Adequate information should be provided at the pre-departure hall for migrants on how to find assistance if exploited abroad.

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